

In the Matter of WILSON & Co., INC. and AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN OF NORTH AMERICA, LOCAL #142, A. F. of L.

Case No. 18-R-1002.—Decided June 16, 1944

Mr. M. R. Swanson, of Chicago, Ill., for the Company.

Mr. Sam Twedell, of Sioux Falls, S. Dak., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Meat Cutters and Butcher Workmen of North America, Local #142, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson & Co., Inc., Eagle Grove, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Eagle Grove, Iowa, on May 17, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Wilson & Co., Inc., is a Delaware corporation with its principal offices at Chicago, Illinois. We are here concerned with its produce plant and hatchery at Eagle Grove, Iowa. The Company purchases for use at its hatchery about 40 to 50 tons of feed annually, all of which

is shipped to it from points outside the State of Iowa. All the poultry and eggs processed at the produce plant are shipped to the Company from points within the State of Iowa. Approximately 90 percent of all products processed at the plant is shipped to points outside the State of Iowa. The Company purchases 3 to 4 carloads of wooden boxes annually for use at its produce plant, all of which are shipped to it from points outside the State of Iowa.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act at its Eagle Grove operations.

II. THE ORGANIZATION INVOLVED

Amalgamated Meat Cutters and Butcher Workmen of North America, Local #142, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On April 25, 1944, the Union requested the Company to recognize it as exclusive bargaining representative of its employees at Eagle Grove, Iowa. The Company refused this request until such time as the Union is certified by the Board.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union urges that all employees of the Company at Eagle Grove, Iowa, including hatchery employees and truck drivers, but excluding supervisors, clerical employees, and the government inspector, constitute an appropriate unit. The only controversy with respect to the unit concerns truck drivers, hatchery employees, and six alleged working foremen. The Union would include all such employees in the unit, while the Company would exclude them.

The Company employs three truck drivers who are carried on its pay roll. They drive throughout the State of Iowa purchasing poultry and eggs. The record indicates that the truck drivers frequently are

¹ The Trial Examiner reported that the Union submitted 51 membership application cards, bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of April 27, 1944. There are approximately 86 employees in the appropriate unit.

employed in the plant in addition to their driving activities. Under the circumstances we shall include them in the unit.

The Company's hatchery is located about a block and a half from its produce plant and is an integral part of the Company's Eagle Grove operations. The hatchery is under the supervision of the plant manager and the hatchery employees are carried on the same pay roll as the plant employees. Employees working at the hatchery do so only from February 1 to June 1 of each year, and spend the remainder of their time working at the plant. We shall include them in the unit.

The Company has six employees² classified by it as foremen. They are in charge of various departments and have the authority to make effective recommendations with respect to the hire and discharge of their subordinates. We find that they are supervisory employees and, as such, we shall exclude them from the unit.

We find that all employees at the Eagle Grove operations of the Company, including hatchery employees and truck drivers, but excluding clerical employees, the government inspector, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson & Co., Inc., Eagle Grove, Iowa, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighteenth Region, acting in this matter

² Woodward, Hill, Wright, Clyde Pohlman, Summers, and Brauman.

as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees of the Company in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Amalgamated Meat Cutters and Butcher Workmen of North America, Local #142, A. F. of L., for the purposes of collective bargaining.