

In the Matter of HUNTER PACKING COMPANY and INDUSTRIAL BUTCHERS' AND LABORERS' UNION, LOCAL NO. 305

Case No. R-181.—Decided July 23, 1937

Meat Packing Industry—Election Ordered: controversy concerning representation of employees: rival organizations; substantial doubt as to majority status—*Unit Appropriate for Collective Bargaining:* eligibility for membership in both rival organizations; production employees on hourly rate basis—*Certification of Representatives.*

Mr. David C. Shaw for the Board.

Mr. Henry Driemeyer, of East St. Louis, Ill., for the Company.

Mr. William Stiw, of St. Louis, Mo., for Industrial Butchers' and Laborers' Union, Local No. 305.

Mr. E. W. Jimerson, of East St. Louis, Ill., for Amalgamated Meat Cutters and Butcher Workmen of N. A.

Mr. Howard Lichtenstein, of counsel to the Board.

DECISION

STATEMENT OF CASE

On April 22, 1937, Industrial Butchers' and Laborers' Union, Local No. 305, herein called the Industrial Union, filed with the Regional Director for the Fourteenth Region (St. Louis, Missouri), a petition alleging that a question affecting commerce had arisen concerning the representation of the production and maintenance employees of the Hunter Packing Company, East St. Louis, Illinois, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 26, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the Regional Director to conduct an investigation and provide for an appropriate hearing. On June 1, 1937, the Regional Director issued a notice of hearing to be held at St. Louis, Missouri, on June 14, 1937.

Pursuant to the notice, duly served, a hearing was held in St. Louis, Missouri, on June 14 and continued on June 15, 1937, before E. G. Smith, the Trial Examiner duly designated by the Board. At the hearing the Board, the Company, and the Industrial Union were

represented by counsel, and the Amalgamated Meat Cutters and Butcher Workmen of North America, having been served with notice and herein called the Amalgamated, by its vice president. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issue was afforded to all parties. Objections to the introduction of evidence were made during the course of the hearing by counsel for the parties. The Board has reviewed the rulings of the Trial Examiner on motions and objections and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hunter Packing Company, a domestic corporation, is engaged in the meat packing business in East St. Louis, Illinois. The plant, covering seven and one-half acres, consists of ten buildings and is situated on a siding of the Pennsylvania Railroad. The Company employs between 750 and 800 employees, of which approximately 30 are truck drivers, 581 are hourly workers engaged in the production of meat products, and the remainder are supervisory employees, office employees, other salaried employees, and salesmen.

The meat packing industry ranks first among all manufacturing industries of the United States in the value of its products, and 13th in the number of wage earners employed.¹ In size and volume of business, the Company is approximately the 21st largest of all the meat packers in the country. Its gross volume of business totaled \$13,500,000 in 1936, when it handled 100,000 cattle, 100,000 calves, 300,000 hogs, and 60,000 lambs.

Seventy-five per cent of the live stock used by the Company is purchased in Illinois, the greater percentage of cattle and calves, and 50 per cent of the hogs and lambs being secured from the National Stock Yards in East St. Louis. The National Stock Yards in turn secure most of their live stock from the States of Missouri, Arkansas, Mississippi, Kentucky, Oklahoma, and Texas. Live stock not purchased from the National Stock Yards is secured through contract buyers and shipped to the Company on trucks and over the Missouri Pacific and Wabash Railroads from various western and southwestern States.

The operations of the Company's plant are closely coordinated, the processes of manufacture consisting of progressive steps in the production of the meat products. Live stock is slaughtered, skinned, dressed, cooled, and quartered in successive operations in different

¹ Board's Exhibit No. 5.

parts of the plant. The Company also manufactures sausages and bacon, and recovers grease, tannage, and tallow as by-products of its production. Testimony indicates that the Company considers the plant as a single productive unit, consisting of dependent operations or processes, rather than as a series of independent departments.

Since the Company's meat products are shipped outside of Illinois, they are subject to federal inspection. Eighteen per cent of its entire output is transported to St. Louis, Missouri, in 28 company-owned trucks. The remaining 72 per cent of its products sold outside Illinois are shipped to New York, Pennsylvania, Massachusetts, Maryland, and the District of Columbia.

II. THE ORGANIZATIONS INVOLVED

A. The Industrial Union

The Industrial Butchers' and Laborers' Union, Local No. 305, is a labor organization, membership in which is limited to the hourly employees of the Company, exclusive of office employees, supervisory employees, and truck drivers.² On April 7, 1937, it received a charter from the International Union of Mine, Mill and Smelter Workers, an affiliate of the Committee for Industrial Organization, pending the establishment by that Committee of an international organization for the meat packing industry.

B. The Amalgamated

Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, is a labor organization affiliated with the American Federation of Labor. As in the case of the Industrial Union, membership in this local of the Amalgamated is limited to hourly employees of the Company, exclusive of office employees, supervisory employees, and truck drivers.

III. THE APPROPRIATE UNIT

As indicated above, the Company employs between 750 and 800 employees. Of this number, approximately 581 are hourly production employees, exclusive of truck drivers, supervisory employees, office employees, and other salaried employees. As stated, both the Industrial Union and the Amalgamated limit their membership to these employees. Both stipulated, and we find that, in order to insure to the Company's employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, the production employees, exclusive of

²Neither the Industrial Union nor the Amalgamated claims jurisdiction over the truck drivers who are members of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, and who are not involved in the issue presented by this proceeding.

truck drivers, supervisory employees, office employees, and other salaried employees, constitute a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.³

IV. QUESTION CONCERNING REPRESENTATION

Both the Industrial Union and the Amalgamated claim the right to represent the employees in the appropriate unit designated above. In April 1937, Angelo Verdu, an organizer for the Industrial Union, requested Frank A. Hunter, president of the Company, to negotiate with the Industrial Union as the exclusive representative of such employees. During the same month, Walter C. Gamlin, an organizer for the Amalgamated, also requested Hunter to negotiate with his union. Both organizers submitted application cards to the Company, which, upon comparison with its pay roll list, indicated that many employees had applied for membership and many had become members of both unions. The Industrial Union thereupon appealed to this Board, prior to considering action by way of a strike.

It was stipulated by the unions at the hearing that the Industrial Union had 377 membership applications, and the Amalgamated 352 membership applications from the Company's production employees. It was further stipulated that 169 employees had filed applications with both unions.

We find that a question has arisen concerning the representation of the hourly production employees of the Company, exclusive of office employees, supervisory employees, and truck drivers. This question can best be resolved by the holding of an election by secret ballot to determine which of these unions the employees involved desire to represent them.

V. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONDUCT OF ELECTION

The testimony indicates that the unions are in disagreement over their designation on the ballots. We believe that the election will most fairly proceed, and give the employees a clear choice without

³ The Company did not raise objection to this stipulation when it was introduced in the record.

confusion, by the following designations: The Industrial Union shall appear on the ballot as "Industrial Butchers' and Laborers' Union, Local No. 305, International Union of Mine, Mill, and Smelter Workers, affiliated with the C. I. O." The Amalgamated shall appear as "Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, affiliated with the A. F. of L."

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. All hourly production employees employed by the Hunter Packing Company, except supervisory employees, truck drivers, office employees, and other salaried employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the employees in the aforesaid unit, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

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 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with the Hunter Packing Company, an election by secret ballot shall be conducted within 15 days from the date of this Direction, under the direction and supervision of the Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations, among all the hourly production employees of the Hunter Packing Company on its pay roll during the work week of April 22, 1937, except truck drivers, supervisory employees, office employees, and other salaried employees, and those who since have quit or have been discharged for cause, to determine whether they desire to be represented by Industrial Butchers' and Laborers' Union, Local No. 305, International Union of Mine, Mill, and Smelter Workers, affiliated with the C. I. O., or by Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, affiliated with the A. F. of L., for the purposes of collective bargaining.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

August 17, 1937

On April 22, 1937, Industrial Butchers' and Laborers' Union, Local No. 305, herein called the Industrial Union, filed with the Regional Director for the Fourteenth Region (St. Louis, Missouri), a petition alleging that a question affecting commerce had arisen concerning the representation of the production and maintenance employees of the Hunter Packing Company, East St. Louis, Illinois, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 26, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the Regional Director to conduct an investigation and provide for an appropriate hearing. On June 1, 1937, the Regional Director issued a notice of hearing to be held at St. Louis, Missouri, on June 14, 1937.

Pursuant to the notice, duly served, a hearing was held in St. Louis, Missouri, on June 14 and continued on June 15, 1937, before E. G. Smith, the Trial Examiner duly designated by the Board. At the hearing the Board, the Company, and the Industrial Union were represented by counsel, and the Amalgamated Meat Cutters and Butcher Workmen of North America, having been served with notice and herein called the Amalgamated, by its vice president. All parties participated in the hearing.

On July 23, 1937, the Board issued a decision in which it found that a question affecting commerce had arisen concerning the representation of all the hourly production employees of the Hunter Packing Company, except supervisory employees, truck drivers, office employees, and other salaried employees, and that such employees constituted a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment. In its decision the Board directed that an election be held among such employees to determine whether they desired to be represented by the Industrial Union or the Amalgamated.

Pursuant to the Board's Decision, an election by secret ballot was conducted on August 2, 1937, by the Regional Director for the Fourteenth Region among the employees of the Company constituting the

bargaining unit found appropriate by the Board. On August 4, 1937, the Regional Director issued and duly served upon the parties to the proceeding her Intermediate Report on the ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot the Regional Director reported :

Total number eligible.....	581
Total ballots cast.....	543
Total number of blank ballots.....	0
Total number of void ballots.....	2
Total number of challenged ballots.....	8
Total number of ballots cast for Industrial Union.....	243
Total number of ballots cast for Amalgamated.....	290

Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, having been selected by a majority of the hourly production employees of the Hunter Packing Company, except supervisory employees, truck drivers, office employees, and other salaried employees, as their representative for the purposes of collective bargaining, is, by virtue of Section 9 (a) of the Act, the exclusive representative for the purposes of collective bargaining of all of such employees, and we will so certify it.

Now, THEREFORE, 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 8 of National Labor Relations Board Rules and Regulations—Series 1. as amended,

IT IS HEREBY CERTIFIED that Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, has been selected by a majority of all the hourly production employees of the Hunter Packing Company, except supervisory employees, truck drivers, office employees, and other salaried employees, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the National Labor Relations Act, Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 530, is the exclusive representative of all of such employees of the Hunter Packing Company for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.