

In the Matters of DANAHY PACKING COMPANY, KLINCK PACKING COMPANY, INC., JACOB DOLD PACKING COMPANY and UNITED BUTCHERS, MEAT CUTTERS AND PACKERS LOCAL 105

Cases Nos. R-224, R-225 and R-226

Meat Packing Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize union as exclusive bargaining agent—*Strike—Unit Appropriate for Collective Bargaining:* eligibility for membership in petitioning union—*Election Ordered—Certification of Representatives.*

Mr. Norman Edmonds for the Board.

Mr. John W. Ryan, of Buffalo, N. Y., for Danahy Packing Company.

Mr. Michael M. Cohn, of Buffalo, N. Y., for Klinck Packing Company, Inc.

Falk, Phillips, Twelvetrees & Falk, by *Mr. Frederic R. Twelvetrees*, of Buffalo, N. Y., for Jacob Dold Packing Company.

Mr. Daniel B. Shortal, of Buffalo, N. Y., for United Butchers, Meat Cutters and Packers Local 105.

Mr. Howard Lichtenstein, of counsel to the Board.

DIRECTION OF ELECTIONS

August 20, 1937

The National Labor Relations Board, having found that a question affecting commerce has arisen concerning the representation of the production and maintenance employees of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, Buffalo, New York, respectively, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers and sheeters, and that such employees, in the case of each company, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act, 49 Stat. 449,¹ and acting pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of said Act, and pursuant to Article III, Section 8 of the National Labor Relations Board Rules and Regulations—Series 1, as amended, hereby

¹ This Board is considering whether truck drivers shall be included within this unit, and we shall direct that for the purposes of this election truck drivers shall be permitted to vote and their ballots be separately cast and counted pending a final decision by the Board

DIRECTS that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, at their Buffalo, New York, plants, elections by secret ballot shall be conducted within a period of ten (10) days after the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Third Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among the employees of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers and shecters, who were employed in the Buffalo, New York, plants of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, as of the week prior to July 22, 1937, respectively, to determine whether they desire to be represented by the United Butchers, Meat Cutters and Packers Local 105. It is further directed that the ballots of those employees classified as truck drivers be kept separate and apart from all other ballots.

MR. EDWIN SMITH took no part in the consideration of the above Direction of Elections.

[SAME TITLES]

SUPPLEMENT TO DIRECTION OF ELECTIONS

August 25, 1937

On August 20, 1937, the National Labor Relations Board issued a Direction of Elections in the above-entitled case, directing that elections be held among the employees of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers and shecters, who were employed in the plants of these companies, respectively, as of the week prior to July 22, 1937.

Thereafter the Union petitioned the National Labor Relations Board to amend and modify the Direction of August 20, 1937, by striking therefrom the words "as of the week prior to July 22, 1937," in so far as they apply to Danahy Packing Company, and substituting the words "as of July 1, 1937," for the reason that on or about July 1, 1937, Danahy Packing Company temporarily laid off approximately 40 of its employees.

Upon the basis of this petition, the National Labor Relations Board, acting 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,

FURTHER DIRECTS that under the supervision and direction of the Regional Director for the Third Region, those employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and shecters, claimed to have been laid off by Danahy Packing Company on or about July 1, 1937, participate in the election directed to be held among the designated employees of Danahy Packing Company. It is further directed that the ballots of such employees claimed by the Union to have been laid off or discharged on or about July 1, 1937, be kept separate and apart from all other ballots.

MR. EDWIN S. SMITH took no part in the consideration of the above Supplement to Direction of Elections.

[SAME TITLES]

AMENDED SUPPLEMENT TO DIRECTION OF ELECTIONS

August 26, 1937

On August 20, 1937, the National Labor Relations Board issued a Direction of Elections in the above-entitled case, directing that elections be held among the employees of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers and shecters, who were employed in the plants of these companies, respectively, as of the week prior to July 22, 1937.

Thereafter, on August 25, 1937, the National Labor Relations Board issued a Supplement to Direction of Elections, in which it directed that those employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and shecters, claimed to have been laid off by Danahy Packing Company, on or about July 1, 1937, participate in the election to be held among the designated employees of Danahy Packing Company, the ballots of such employees claimed by the Union to have been laid off or discharged on or about July 1, 1937, to be kept separate and apart from all other ballots.

Upon further consideration and due deliberation, the National Labor Relations Board hereby amends the Supplement to Direction of Elections dated August 25, 1937, and

IT IS HEREBY DIRECTED that the Regional Director for the Third Region provide for the reopening of the hearing in this case, upon due notice, for the purpose of receiving testimony with respect to the eligibility of those employees of Danahy Packing Company claimed to have been laid off on or about July 1, 1937, to participate in the election among the designated employees of Danahy Packing Company and report to the Board regarding such rehearing.

AND IT IS FURTHER DIRECTED that the holding of the aforesaid election in the case of Danahy Packing Company shall be postponed until further direction of the National Labor Relations Board.

MR. EDWIN S. SMITH took no part in the consideration of the above Amended Supplement to Direction of Elections.

[SAME TITLES]

SECOND AMENDED SUPPLEMENT TO DIRECTION OF ELECTIONS

September 13, 1937

On August 20, 1937, the National Labor Relations Board issued a Direction of Elections in the above-entitled case, directing that elections be held among the employees of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, who were employed in the plants of these companies, respectively, as of the week prior to July 22, 1937.

Thereafter the Union petitioned the National Labor Relations Board to amend and modify the Direction of August 20, 1937, by striking therefrom the words "as of the week prior to July 22, 1937," in so far as they apply to Danahy Packing Company, and substituting the words "as of July 1, 1937", for the reason that on or about July 1, 1937, Danahy Packing Company temporarily laid off approximately 40 of its employees.

Upon the basis of this petition, the National Labor Relations Board issued a Supplement to Direction of Elections, and thereafter, on August 26, 1937, an Amended Supplement to Direction of Elections, which directed that the elections in the case of Danahy Packing Company be postponed, and that the Regional Director for the Third Region provide for the reopening of the hearing in this case for the purpose of receiving testimony with respect to the eligibility of those

employees claimed to have been laid off on or about July 1, 1937, to participate in the election among the designated employees of Danahy Packing Company.

Pursuant to notice duly issued and served, the hearing was reopened at Buffalo, New York, on September 8, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. The Board, Danahy Packing Company, and the Union were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issue was afforded to all parties. Counsel for the Company moved to dismiss the petition of the Union. The motion is hereby denied. At the commencement of the hearing, the Union moved to amend its petition to modify the Direction of Elections by alleging the lay-off of 26 employees instead and in place of 40 as originally alleged. The Trial Examiner granted this motion without objection by the Company.

Testimony introduced at the hearing clearly sustains the petition of the Union that the 26 employees were laid off and not discharged on July 6 and 7, 1937. The evidence establishes that on July 6, the Company closed down its hog killing department and laid off its employees therein with the promise that operations would be resumed within a few weeks. The Company did not attempt to prove its contention that these employees were discharged, and that the employer-employee relation was severed.

We conclude that the 26 employees listed in Appendix "A", attached hereto, were laid off, and not discharged on July 6 and 7, 1937. Consequently we find that they have retained their employee status and are accordingly eligible to vote in the election to be conducted among the designated employees of Danahy Packing Company.

Upon consideration of the additional facts elicited at the reopening of the hearing in this case, the National Labor Relations Board hereby issues its Second Amended Supplement to Direction of Elections, and

IT IS HEREBY DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Danahy Packing Company, an election by secret ballot shall be conducted within a period of ten (10) days after the date of this Second Amended Supplement to Direction of Elections, under the direction and supervision of the Regional Director for the Third Region, acting in this matter as the agent of the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among the employees of Danahy Packing Company, as of the week prior to July 22, 1937, including the 26 employees listed in Appendix "A" herein, but excluding executives, supervisory employees, office em-

ployees, salesmen, licensed engineers, and sheeters, to determine whether they desire to be represented by the United Butchers, Meat Cutters and Packers Local 105.

CHAIRMAN MADDEN took no part in the consideration of the above Second Amended Supplement to Direction of Elections.

APPENDIX "A"

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|-----------------------|--------------------|
| Antoni Ben Szyrkowski | John Bielec |
| Anna Vorowiak | Kate Wasiuleski |
| Mary Sztmanek | Joe Scnabel |
| William Fleckowski | Mike Scnabel |
| Vincent Jasczynski | Pete Herman |
| Kasper Szczepaniak | Margie Poleszak |
| George Semran | Adolph Kuszyanski |
| Jack Gurczak | Edmund Kuscynski |
| Joe Gurczak | Valentine Szymanek |
| Joseph Ralinski | Edward Burmeister |
| Louis Hinkofer | Mathew Wlosinski |
| Steve Movos | William Przybylak |
| Edgar Millrath | Walter Turek |

[SAME TITLES.]

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

September 17, 1937

STATEMENT OF THE CASE

On July 8, 1937, United Butchers, Meat Cutters and Packers Local 105, herein called the Union, filed a petition with the Regional Director for the Third Region (Buffalo, New York) alleging that a question affecting commerce had arisen concerning the representation of the employees, except supervisory and clerical employees, of Danahy Packing Company, Buffalo, New York, and requesting the National Labor Relations Board, herein called the Board, to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On August 3, 1937, the Union filed similar petitions with respect to Klinck Packing Company, Inc. and Jacob Dold Packing Company, both of Buffalo, New York.¹ On August 6, 1937, the Board, acting pur-

¹ The Jacob Dold Packing Company also maintains a packing house at Wichita, Kansas, to which the issues in the proceeding do not apply.

suant to Section 9 (c) of the Act, and Article III, Sections 3 and 10 (c) (2) of the National Labor Relations Board Rules and Regulations—Series 1, as amended, issued an order consolidating the above cases for the purpose of hearing, and authorizing the Regional Director to conduct an investigation and to provide for an appropriate hearing. On August 7, 1937, the Regional Director issued a notice of hearing to be held at Buffalo, New York, on August 12, 1937, copies of which were duly served upon the companies and the Union.

Pursuant to the notice, a hearing was held at Buffalo, New York, on August 12, 1937, before Robert M. Gates, the Trial Examiner duly designated by the Board. The Board, Danahy Packing Company, Klinek Packing Company, Inc., Jacob Dold Packing Company, and the Union were represented by counsel and participated in the hearing. 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.

On August 20, 1937, after examining the record in the case, the Board concluded that questions affecting commerce had arisen concerning the representation of the employees of the respective companies, and on the basis of such conclusion, and acting pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it issued a Direction of Elections designating the Regional Director as its agent to conduct elections among the production and maintenance employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters of each company, which the Board found to be the unit appropriate for the purposes of collective bargaining in the case of each company, within the meaning of Section 9 (b) of the Act.² For the purpose of expediting the elections and thus to insure to the employees of each company the full benefit of their right to collective bargaining as early as possible, the Board directed the elections without at the same time issuing a decision embodying complete findings of fact and conclusions of law.³

² The Direction of Elections required the segregation of the ballots of truck drivers of each company pending the decision of this Board with respect to a final determination of the appropriate unit of each company.

³ On August 25, 1937, the Board issued a Supplement to Direction of Elections, and on August 26, 1937, an Amended Supplement which directed that the election in the case of the Danahy Packing Company be postponed, and that the hearing be reopened with respect to that Company in order to determine the eligibility to participate in the election of those employees claimed by the Union to have been laid off on or about July 1, 1937.

Pursuant to the Board's direction, elections by secret ballot were conducted on August 27, 1937, by the Regional Director for the Third Region among the employees of Klinck Packing Company, Inc. and Jacob Dold Packing Company, respectively, in the unit found appropriate by the Board. On August 30, 1937, the Regional Director issued and duly served upon the parties to the proceeding his Intermediate Report on the ballots. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot the following is a summary of the Regional Director's Intermediate Report:

KLINCK PACKING COMPANY, INC.

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|---|-----|
| Total number eligible..... | 199 |
| Total ballots cast..... | 191 |
| Total number of ballots cast for Union..... | 111 |
| Total number of ballots cast against Union..... | 79 |
| Total number of blank ballots..... | 0 |
| Total number of void ballots..... | 1 |
| Total number of challenged ballots..... | 0 |

JACOB DOLD PACKING COMPANY

| | |
|---|-----|
| Total number of eligible..... | 851 |
| Total ballots counted..... | 752 |
| Total number of ballots cast for Union..... | 591 |
| Total number of ballots cast against Union..... | 161 |
| Total number of blank ballots..... | 2 |
| Total number of void ballots..... | 2 |
| Total number of challenged ballots..... | 2 |

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

FINDINGS OF FACT

I. THE COMPANIES AND THEIR BUSINESSES

A. Danahy Packing Company

Danahy Packing Company, incorporated in New York in 1898, is engaged in the meat packing business in Buffalo, New York, where it employs some 170 employees, of whom approximately 130 are classified as production and maintenance employees, exclusive of supervisory employees.

The Company processes on an average of from \$130,000 to \$150,000 worth of livestock per month, approximately 50 per cent of which is purchased at Buffalo stockyards from commission dealers who receive the livestock on consignment principally from points outside the State. The remaining 50 per cent, purchased from commission dealers in States other than New York, is shipped to the Company by rail and received on a railroad siding which adjoins the plant.

The livestock, consisting of cattle, lambs, and calves, are placed in pens, slaughtered, dressed, and sold to retail merchants in New York and Pennsylvania. About 90 per cent of its total sales are made within the State of New York, and the greater portion of its shipments in interstate commerce are made to the State of Pennsylvania.

B. *Klinck Packing Company, Inc.*

Klinck Packing Company, Inc., has been engaged in the meat packing business in Buffalo, New York, since 1919, when it was incorporated under the laws of the State of New York. On July 17, 1937, the Company's pay roll listed 298 employees of whom approximately 200 were production and maintenance employees, exclusive of supervisory employees.

During the month preceding July 17, 1937, the Company purchased 1,305,876 pounds of livestock in New York State at a cost of \$110,000. During the same period it purchased 592,540 pounds in other States at a cost of \$50,158. These figures were offered by the Company as reflecting, in general, the extent of its purchases for monthly periods during the past year and a half. As in the case of the Danahy Packing Company, purchases within the State are made from commission dealers at the Buffalo stockyards where livestock is received chiefly from points outside the State. Purchases made directly from States other than New York are shipped by rail and unloaded at a siding on the property of the Company.

For the two weeks ending July 17, 1937, the Company sold 848,954 pounds of its products, valued at \$156,949, within the State, and 330,655 pounds, valued at \$58,922, to points outside the State. Sales are made to jobbers and retail merchants, and the Company owns and operates 18 trucks used for the shipments to its customers.

C. *Jacob Dold Packing Company*

Jacob Dold Packing Company, incorporated in New York in 1888, is likewise engaged in the meat packing business in Buffalo, New York. In addition to its Buffalo plant, the Company maintains a packing house in Wichita, Kansas, and through stock ownership controls the Dold Packing Company of Omaha, Nebraska, a Delaware corporation. The operations of the three plants are entirely distinct and separate, and any business carried on among them is negotiated as among unaffiliated entities.⁵

The Company, as a meat packer and provision dealer, operates a wholesale market in addition to its packing plant, and on July 17, 1937, its pay roll listed a total of 1,139 employees, including ap-

⁵ All references herein are to the Buffalo plant of the Company.

proximately 850 production and maintenance employees, 35 foremen, and 64 salesmen.

From January 4 to July 31, 1937, the Company purchased 278,856 head of livestock, consisting of hogs, cattle, calves, and sheep valued at \$7,562,676.55. Approximately 43 per cent, or 119,406, were purchased within New York State, and 56 per cent, or 159,450, were procured from points outside the State. These purchases amounted to \$3,854,601.39 and \$3,708,075.16, respectively. As in the cases of the other two companies, purchases are made from commission dealers.

During the same period the Company sold 81,257,593 pounds of its products amounting to \$12,111,738.74, of which 46,315,515 pounds valued at \$6,985,996.72 were sold within the State, and 34,942,078 pounds valued at \$5,125,742.02 were sold outside the State.

II. THE ORGANIZATION INVOLVED

United Butchers, Meat Cutters and Packers Local 105 is a labor organization which received its charter from the Committee for Industrial Organization on May 28, 1937. Membership is open and limited to all employees of the three companies, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers and sheeters.⁶

III. THE APPROPRIATE UNITS

The Union contended at the hearing that the appropriate bargaining unit in each plant consists of all the employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters. This unit embraces the classes of employees eligible for membership in the Union, and is not contested by the companies. We find that, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of the Act, all of the employees exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, of the Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, respectively, constitute units appropriate for the purposes of collective bargaining.⁷

IV. QUESTIONS CONCERNING REPRESENTATION

During the months of June and July, 1937, both Clarence La Motte, president and business agent of the Union, and Hugh Thompson,

⁶ "Sheeters" is the term used during the hearing for the Hebrew, "Shochtim"—persons who slaughter livestock in accordance with Hebrew ritual for the preparation of kosher meats.

⁷ We find nothing in the evidence which would justify our exclusion of truck drivers from the appropriate unit here determined.

regional director for the Committee for Industrial Organization, claiming that a majority of the maintenance and production employees of each of the companies had become members of the Union, attempted to negotiate with the companies, individually, as the representative of all of such employees of each company. In each case, the company refused to negotiate with the Union as the exclusive bargaining agent, and draft agreements proposed by the Union were rejected. Following a conference between the Union and representatives of the companies in which efforts to have the Union recognized as the exclusive representative for the maintenance and production workers were unavailing, a strike was called against the Danahy Packing Company on July 21, 1937. On the following day the strike was extended to the Klinck Packing Company, Inc., and the Jacob Dold Packing Company. The strike is still in progress, and the record indicates that no settlement can be effected without a certification by the Board.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

The strike has effectively curtailed production of the three companies and has practically eliminated shipments of the companies in interstate commerce. On August 12, 1937, the date of the hearing in this case, only 30 of the 170 employees of Danahy Packing Company were working. The killing and manufacturing departments were completely shut down, and no livestock had been purchased outside the State since the commencement of the strike. Henry Hoffner, the Company's office manager, testified that business had fallen off to five per cent of the normal activity current prior to July 22.

Only 60 of the 298 employees of Klinck Packing Company, Inc., were working on August 12, 1937. The killing and manufacturing departments had been shut down, and no cattle had been purchased since July 22.

The pay roll of Jacob Dold Packing Company had fallen from 1,139 employees on July 17, 1937, to approximately 150 after the commencement of the strike. Since July 22, 1937, the Company had not made any purchases, none of its departments was engaged in normal operations, and shipments outside the State had decreased markedly.

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

CONCLUSIONS OF LAW

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

1. Questions affecting commerce have arisen concerning the representation of the employees, excepting executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, respectively, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the Act.

2. All employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, of Danahy Packing Company, Klinck Packing Company, Inc., and Jacob Dold Packing Company, constitute a unit, in the case of each company, appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. United Butchers, Meat Cutters and Packers Local 105 having been selected for the purposes of collective bargaining by the majority of the employees in the aforesaid unit in the cases of Klinck Packing Company, Inc., and Jacob Dold Packing Company, respectively, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the employees in each such unit for the purposes of collective bargaining with each company in respect to rates of pay, wages, hours of employment and other conditions of employment.

CERTIFICATION OF REPRESENTATIVES

(Cases Nos. R-225 and R-226)

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Butchers, Meat Cutters and Packers Local 105 has been designated and selected by a majority of all the employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, of Klinck Packing Company, Inc., and Jacob Dold Packing Company, respectively, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, United Butchers, Meat Cutters and Packers Local 105 is the exclusive representative of all such employees of each company for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

[SAME TITLES]

CERTIFICATION OF REPRESENTATIVES

*(Case No. R-224)**October 1, 1937*

On July 8, 1937, United Butchers, Meat Cutters and Packers Local 105, herein called the Union, filed a petition with the Regional Director for the Third Region (Buffalo, New York) alleging that a question affecting commerce had arisen concerning the representation of the employees, except supervisory and clerical employees, of Danahy Packing Company, Buffalo, New York, and requesting the National Labor Relations Board, herein called the Board, to conduct 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 August 3, 1937, the Union filed similar petitions with respect to Klinck Packing Company, Inc., and Jacob Dold Packing Company, both of Buffalo, New York. On August 6, 1937, the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Sections 3 and 10 (c) (2) of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued an order consolidating the above cases for the purpose of hearing, and authorizing the Regional Director to conduct an investigation and to provide for an appropriate hearing. On August 7, 1937, the Regional Director issued a notice of hearing to be held at Buffalo, New York, on August 12, 1937, copies of which were duly served upon the companies and the Union.

Pursuant to the notice, a hearing was held at Buffalo, New York, on August 12, 1937, before Robert M. Gates, the Trial Examiner duly designated by the Board. The Board, Danahy Packing Company, Klinck Packing Company, Inc., Jacob Dold Packing Company, and the Union were represented by counsel and participated in the hearing. 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.

On August 20, 1937, after examining the record in the case, the Board concluded that questions affecting commerce had arisen concerning the representation of the employees of the respective companies, and on the basis of such conclusion, and acting pursuant to Article III, Section 8 of National Labor Relations Board Rules and

Regulations—Series 1, as amended, it issued a Direction of Elections designating the Regional Director as its agent to conduct elections among the production and maintenance employees of each Company, as of the week prior to July 22, 1937, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, which the Board found to be the unit appropriate for the purposes of collective bargaining in the case of each Company, within the meaning of Section 9 (b) of the Act. For the purpose of expediting the elections and thus to insure to the employees of each Company the full benefit of their right to collective bargaining as early as possible, the Board directed the elections without at the same time issuing a decision embodying complete findings of fact and conclusions of law.

Thereafter the Union petitioned the National Labor Relations Board to amend and modify the Direction of August 20, 1937, by striking therefrom the words "as of the week prior to July 22, 1937," in so far as they apply to Danahy Packing Company, and substituting the words "as of July 1, 1937", for the reason that on or about July 1, 1937, Danahy Packing Company temporarily laid off approximately 40 of its employees.

Upon the basis of this petition, the National Labor Relations Board issued a Supplement to Direction of Elections, and thereafter, on August 26, 1937, an Amended Supplement to Direction of Elections, which directed that the election in the case of Danahy Packing Company be postponed, and that the Regional Director for the Third Region provide for the reopening of the hearing in this case for the purpose of receiving testimony with respect to the eligibility of those employees claimed to have been laid off on or about July 1, 1937, to participate in the election among the designated employees of Danahy Packing Company.

Pursuant to notice duly issued and served, the hearing was reopened at Buffalo, New York, on September 8, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. The Board, Danahy Packing Company, and the Union were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issue was afforded to all parties.

On September 13, 1937, the Board issued its Second Amended Supplement to Direction of Elections, in which it found that on July 6 and 7, 1937, Danahy Packing Company laid off 26 employees, that these employees had retained their employee status, and were eligible to participate in an election among the employees of this Company. Accordingly, the Board directed that these employees participate in an election ordered to be held among the previously designated employees of the Company, within ten days

after the date of the Second Amended Supplement to Direction of Elections.

Pursuant to said Second Amended Supplement to Direction of Elections, an election by secret ballot was conducted on September 22, 1937, under the direction of the Regional Director for the Third Region, among the employees of Danahy Packing Company constituting the bargaining unit found appropriate by the Board.¹ On September 23, 1937, an Intermediate Report on the ballot was issued and duly served upon the parties to the proceeding. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot, the following was reported:

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|---|-----|
| Total number eligible..... | 144 |
| Total ballots counted..... | 112 |
| Total number of ballots cast for Union..... | 73 |
| Total number of ballots cast against Union..... | 39 |
| Total number of challenged ballots..... | 20 |

United Butchers, Meat Cutters and Packers Local 105, having been selected by a majority of the employees of Danahy Packing Company, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, 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 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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Butchers, Meat Cutters and Packers Local 105 has been designated and selected by a majority of all the employees, exclusive of executives, supervisory employees, office employees, salesmen, licensed engineers, and sheeters, of Danahy Packing Company, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, United Butchers, Meat Cutters and Packers Local 105 is the exclusive representative of all such employees of Danahy Packing Company for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

¹ On September 17, 1937, the Board issued its Decision and Certification of Representatives in which it certified the Union as the representative of the employees in the designated bargaining unit of Klhnek Packing Company, Inc. and Jacob Doid Packing Company, respectively, after elections had been conducted among such employees of these companies.