

In the Matter of ARMOUR AND COMPANY and UNITED MEAT PACKING
WORKERS, LOCAL No. 117

Case No. R-611.—Decided April 15, 1938

Meat Packing Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize petitioning union as exclusive representative—*Unit Appropriate for Collective Bargaining:* production employees and truck drivers; no controversy as to—*Representatives:* proof of choice: union membership cards—*Certification of Representatives:* upon proof of majority representation.

Mr. Lester M. Levin, for the Board.

Mr. Walter C. Kirk, for the Company.

Mr. James Robb, for the United.

Mr. Harry E. Selekman, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On July 28, 1937, United Meat Packing Workers, Local No. 117,¹ filed with the Regional Director for the Eleventh Region (Indianapolis, Indiana) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Armour and Company, Indianapolis, Indiana, 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 December 14, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On January 28, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and

¹At the hearing the petitioner moved to amend its petition by substituting United Packing House Workers Industrial Union, Local No. 566, herein called Local No. 566, for United Meat Packing Workers, Local No. 117, herein called Local No. 117. The motion was allowed over the objection of the Company. This question will be further discussed in Section III, infra.

upon Local No. 117. Pursuant to the notice, a hearing was held on February 17, 1938, at Indianapolis, Indiana, before Charles Whittemore, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, Local No. 566 by its official. All participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing, the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner 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 ²

Armour and Company, an Illinois corporation, operates a plant at Indianapolis, Indiana, where it is engaged in the slaughtering of livestock and processing of various products. It purchases approximately 15 per cent of the livestock from points outside the State of Indiana and ships approximately 43 per cent of its finished products outside Indiana. During the fiscal year ending October 30, 1937, it purchased and slaughtered over 168,000 animals, amounting to a total value of \$6,572,000. During the same period, the plant shipped out of the State approximately 71,500,000 pounds of product, with a total value of \$10,400,000.

II. THE ORGANIZATION INVOLVED

United Packing House Workers Industrial Union, Local No. 566, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all production employees and truck drivers of the Company, excluding supervisory employees, watchmen, salesmen, and office workers.

III. THE QUESTION CONCERNING REPRESENTATION

During April and May 1937, the plant was organized by a representative of the United Automobile Workers Union, and application cards of United Automobile Workers of America, Local No. 226, were signed by 236 employees of the Company. On June 8, 1937, a charter was granted by the Committee for Industrial Organization to United Meat Packing Workers, Local No. 117, conferring juris-

² The facts set forth in this section are taken from Board Exhibit No. 4, a stipulation entered into by the Company and the Board.

diction over the employees of the Company, the Kingdon Meat Packing Company, and the Wadley Poultry Company. On June 20, the financial secretary of Local No. 226 transferred the application cards signed by employees of the Company to Local No. 117. On June 21, Local No. 117 claimed to represent a majority of the employees of the Company, demanded recognition as the exclusive bargaining agent for such employees, and submitted a contract to the Company. Negotiations regarding the contract were continued until July 29, 1937, at which time the Company stated to Local No. 117 that it would not sign any contract with Local No. 117 and refused to recognize Local No. 117 as the bargaining agent except for its own members.

In September 1937, the Committee for Industrial Organization granted to Local No. 566 a charter conferring jurisdiction over employees of the Company and at the same time limited the jurisdiction of Local No. 117 to employees of the Kingdon Meat Packing Company. At the hearing, the Company contended that since Local No. 117 rather than Local No. 566 had requested exclusive bargaining rights no question concerning representation had arisen. The Company also objected to an amendment changing the name of the petitioning union to United Packing House Workers Industrial Union, Local No. 566, claiming that such an amendment created an entirely new proceeding. These contentions of the Company are without merit. The evidence shows that membership of Local No. 566 is composed of employees of the Company who were, prior to September 18, included within the membership of Local No. 117; that both Local No. 566 and Local No. 117 are affiliated with the Committee for Industrial Organization; and that the committee of Local No. 117 which negotiated with the Company was acting on behalf of the same employees which Local No. 566 now represents. The evidence also shows that at the hearing Local No. 566 claimed that it represented a majority of the employees of the Company.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operation 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.

V. THE APPROPRIATE UNIT

The Company and Local No. 566 stipulated at the hearing that the appropriate unit should consist of production employees and truck drivers of the Company, excluding supervisory employees, watchmen, salesmen, and office workers.

We find that the production employees and truck drivers of the Company, excluding supervisory employees, watchmen, salesmen, and office workers, constitute a unit appropriate for the purpose of collective bargaining and that said unit will insure to employees of the company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

The Company introduced in evidence its pay roll as of February 12, 1938, showing 287 employees within the unit which we have found to be appropriate. The financial secretary of Local No. 566 testified at the hearing that the total number of members of Local No. 566 on February 15, 1938, was 252. The Company did not dispute this. Local No. 566 introduced in evidence United Packing House Workers Industrial Union cards signed on February 15 and 16, 1938, by 163 employees of the Company. The evidence indicated that a greater number would have been signed but for the fact that a large number of employees had recently been laid off because of a seasonal drop in production. The Company objected to the introduction of these cards, on the ground that they did not name Local No. 566 but merely designated United Packing House Workers Industrial Union and the Committee for Industrial Organization as bargaining representatives for those signing the cards. Since Local No. 566 is a local of the United Packing House Workers Industrial Union, an affiliate of the Committee for Industrial Organization, we find the contention of the Company to be without merit. It was thereafter stipulated that a list compiled from the names on these cards should be substituted in evidence in place of the original cards. A comparison of the membership list and the pay roll of February 12, 1938, reveals that of the 287 employees in the appropriate unit, 149 were members of Local No. 566.

We find that Local No. 566 has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning representation of employees of Armour and Company, Indianapolis, Indiana, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production employees and truck drivers of the Company, excluding supervisory employees, watchmen, salesmen, and office workers, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Packing House Workers Industrial Union, Local No. 566, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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 United Packing House Workers Industrial Union, Local No. 566, has been designated and selected by a majority of the production employees and truck drivers of Armour and Company, Indianapolis, Indiana, excluding supervisory employees, watchmen, salesmen, and office workers, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, United Packing House Workers Industrial Union, Local No. 566, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.