

In the Matter of ARMOUR & COMPANY and UNITED MEAT WORKERS  
INDUSTRIAL UNION, LOCAL NO. 214, AFFILIATED WITH THE COMMITTEE  
FOR INDUSTRIAL ORGANIZATION

*Case No. R-937.—Decided August 29, 1938*

*Meat Packing Industry—Investigation of Representatives:* controversy concerning representation of employees: employer's refusal to recognize union as exclusive representative—*Unit Appropriate for Collective Bargaining:* production, maintenance, and distribution employees at two plants, excluding supervisory employees, clerical employees, and salesmen—*Representatives:* proof of choice: membership in union; comparison of employee list with stipulation relative to membership—*Certification of Representatives:* upon proof of majority representation.

*Mr. Frank A. Mouritsen, for the Board.*

*Gibson, Dunn & Crutcher, by Mr. J. Stuart Neary and Mr. Henry B. Ely, of Los Angeles, Calif., for the Company.*

*Mr. Rutherford W. Luke, of Los Angeles, Calif., for the United.*

*Entenza & Cramer, by Mr. A. P. Entenza, of Los Angeles, Calif., and Mr. G. W. Roach, of Los Angeles, Calif., for the Amalgamated.*

*Mr. Guy Farmer, of counsel to the Board.*

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On February 14, 1938, Packinghouse Workers Organizing Committee, Local No. 214, herein called the United,<sup>1</sup> filed with the Regional Director for the Twenty-first Region (Los Angeles, California) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, Los Angeles, California, 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 June 21, 1938, the United filed an amended petition for the purpose of clarifying and correcting the

<sup>1</sup> At the hearing, upon motion of the United, the pleadings were amended to designate the petitioning union as United Meat Workers Industrial Union, Local No. 214.

original petition. On June 6, 1938, 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 June 21, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the United. Pursuant to the notice, a hearing was held on June 27 and 30, 1938, at Los Angeles, California, before V. P. Lucas, the Trial Examiner duly designated by the Board. At the beginning of the hearing Amalgamated Meat Packers and Butcher Workmen of North America, affiliated with the American Federation of Labor, herein called the Amalgamated, appeared and moved for leave to intervene, alleging that it represented employees directly affected by the investigation. The motion was granted by the Trial Examiner.

The Board, the Company, the United, and the Amalgamated were represented by counsel but only counsel for the Board and for the Company actively 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 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

Armour & Company, an Illinois corporation, is engaged in purchasing and slaughtering of livestock, and processing and distributing meat products and byproducts. It also processes and sells poultry, eggs, dairy products, and other allied products, and manufactures and distributes soap, toilet articles, fertilizer, margarin, vegetable oils, wool, and leather. The Company is one of the four largest meat packing houses in the United States, operating 31 packing plants in 24 States, and approximately 300 branch houses throughout the United States. Some of these operations are conducted by the Company directly, and others through subsidiaries. Its gross sales for the fiscal year ending October 30, 1937, were \$788,279,704.97.

The plants here in question are located at Los Angeles, California, one within a few blocks of the other. Of these, the Hauser plant

operated by Armour & Company of Delaware, a subsidiary of the Company, is engaged in meat packing and distributing, while the Morris Butterine Company plant, herein called the Morris plant, is engaged exclusively in the manufacture of margarin. The plants together maintain approximately 290 production, maintenance, and distribution employees, exclusive of supervisory employees, clerical employees, and salesmen. The Hauser plant distributes, in addition to its own products, most of the products of the Morris plant.

In the fiscal year ending October 30, 1937, the Hauser plant purchased and slaughtered more than 152,000 animals, valued at approximately \$3,900,000, of which 66 per cent originated within California, the remainder coming from other States. Purchases of raw material and supplies, other than livestock, for the two plants for the same period totaled \$1,080,000, 40 per cent of which were made outside California. The approximate total value of the combined products of both plants for the same fiscal year was \$8,800,000. Ninety-seven per cent of the output was sold within the State; the remaining three per cent in other States.

## II. THE ORGANIZATIONS INVOLVED

United Meat Workers Industrial Union, Local No. 214, is a labor organization affiliated with the Committee for Industrial Organization through Packinghouse Workers Organizing Committee. It admits to membership production, maintenance, and distribution employees of the Company in the Hauser and Morris plants, excluding supervisory employees, clerical employees, and salesmen.

Amalgamated Meat Packers and Butcher Workmen of North America is a labor organization affiliated with the American Federation of Labor. Although claiming to represent employees directly affected by the investigation, the Amalgamated presented no evidence with respect to its membership or jurisdiction and took no active part in the proceedings.

## III. THE QUESTION CONCERNING REPRESENTATION

On March 18, 1938, A. J. Shippey, representative of the Packinghouse Workers Organizing Committee, acting for the United, conferred with E. G. Hinton, general manager of the Hauser plant. Shippey, claiming that the United represented a majority of the production, maintenance, and distribution workers in the plants involved, requested recognition of the United as sole collective bargaining agency for the workers specified. In reply, Hinton requested and was granted a week in which to communicate with the Company before giving a final answer. At the second conference, one week later, Shippey repeated his request for recognition, and stated that

he was ready and willing to offer proof of a majority. Hinton, however, did not accept the offer of proof and refused to grant the requested recognition.

We find that a question has arisen concerning the representation of employees of the Company in its Hauser and Morris plants.

#### 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 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.

#### V. THE APPROPRIATE UNIT

The United claimed that the production, maintenance, and distribution employees in the Hauser and Morris plants, excluding clerical employees, supervisory employees, and salesmen, constitute an appropriate unit for collective bargaining. The Company did not object directly to this unit although it submitted evidence that drivers, in addition to their regular delivery duties, take orders and make collections. These facts, however, afford no proper reason for excluding drivers from the appropriate unit. Moreover, the record establishes that of the 39 drivers employed at the plants, 33 are members of the United, the president of the United, himself, being a driver. Such clear evidence of the drivers' own desires as to the appropriate unit cannot be ignored in the absence of any convincing evidence for their exclusion.

We find that the production, maintenance, and distribution employees of the two plants of the Company, excluding supervisory employees, clerical employees, and salesmen, constitute a unit appropriate for the purposes 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

At the hearing, a list of the employees within the appropriate unit on May 27, 1938, was authenticated by Hinton and introduced in evidence. A company witness testified that five persons, whose names were on the list, had since left the Company's employ. The corrected

list contains 289 names. In the course of the hearing a recess was taken during which the Company was permitted to check the signatures on the United's membership cards and to examine its dues book. It was then stipulated by the Company and the United that of the 289 employees within the appropriate unit, 156 had signed membership cards or petitions designating the United as their representative, and, according to the dues book, were paid-up members in good standing. It was also stipulated that an additional 27 employees had signed application cards. Of these, 13 were paid-up members in good standing according to the dues book and the uncontroverted testimony of the financial secretary. In addition to the above stipulations, the United claimed and the Company disputed the membership of a number of other employees. Since clear evidence indicates that a majority have designated the United as its bargaining agent, it is not necessary to determine the true status of the disputed membership.

We find that the United 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 the representation of employees of Armour & Company, in its Hauser and Morris Butterine Company plants, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production, maintenance, and distribution employees of the Company in its Hauser and Morris Butterine Company plants, excluding clerical employees, supervisory employees, and salesmen, 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 Meat Workers Industrial Union, Local No. 214, 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 Meat Workers Industrial Union, Local No. 214, has been designated and selected by a majority of the production, maintenance, and distribution employees of Armour & Company, in its Hauser and Morris Butterine Company plants, Los Angeles, California, excluding clerical employees, supervisory employees, and salesmen, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Meat Workers Industrial Union, Local No. 214, 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.

Mr. EDWIN S. SMITH took no part in the consideration of the above Decision and Certification of Representatives.