

In the Matter of JOHN MORRELL & Co. and UNITED PACKING HOUSE
WORKERS, LOCAL INDUSTRIAL UNION No. 32

Case No. R-283.—Decided December 6, 1937

Meat Packing Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; refusal by employer to recognize union as exclusive representative—*Unit Appropriate for Collective Bargaining:* eligibility for membership in both rival organizations; production and maintenance employees; stipulation, no controversy as to—*Election Ordered—Certification of Representatives.*

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On June 28, 1937, United Packing House Workers, Local Industrial Union No. 32, herein called the United, filed with the Regional Director for the Thirteenth Region (Chicago, Illinois) a petition alleging that a question affecting commerce had arisen concerning the representation of employees at the Ottumwa, Iowa, plant of John Morrell & Co., Ottumwa, Iowa, 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 August 19, 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 September 8, 1937, the Acting Regional Director issued a notice of hearing, copies of which were duly served upon the Company, the United, and the Amalgamated Meat Cutters and Butcher Workmen of North America, Local Union No. 236, herein called the Amalgamated, a labor organization purporting to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held at Ottumwa, Iowa, on September 16 and 17, 1937, before William P. Webb, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel,

the United by the Regional Director of the Committee for Industrial Organization, and the Amalgamated by a general organizer and special representative. All participated in the hearing.

During the first day of the hearing, Employees Association of John Morrell & Company, of Ottumwa, Iowa, herein called the Association, appeared by counsel and moved to intervene in the proceeding. Over objection, the Trial Examiner granted the motion, and thereafter the Association, represented by counsel, participated in the hearing. Attached to the motion to intervene was a Petition of Intervention, in which the Association made two motions upon which the Trial Examiner reserved ruling: first, that the petition for an election be dismissed; second, that the members of the Association be given an opportunity by ballot to express their disapproval of having any group or organization represent them for the purposes of collective bargaining with the Company. The first motion is hereby denied. The second motion will be granted to the extent discussed hereinafter in Section VI.

At the conclusion of the hearing the Amalgamated made a motion that the Petition of Intervention be dismissed. The Trial Examiner reserved ruling on the motion. The motion is hereby denied.

Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded to all parties. The Board has reviewed the rulings of the Trial Examiner on the motions and objections to the introduction of evidence made during the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

After examining the record in the case, the Board concluded that a question affecting commerce had arisen concerning the representation of employees at the Ottumwa plant of the Company. On the basis of such conclusion and pursuant to Section 9 (c) of the Act, and Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Board issued a Direction of Election,¹ subsequently amended on October 21, 1937,² in which it found that the production and maintenance employees at the plant who were employed by the Company as of June 12, 1937,³ excluding all clerical help, superintendents, foremen and sub-foremen, and all others in a supervisory capacity, machinist clerks, watchmen, firemen, policemen, truck and tractor operators, timekeepers, storeroom clerks, and stockyard workers, and excluding also those employees who had since quit or been discharged for cause, constitute a unit appropriate for the purposes of collective bargaining. In order to

¹ 3 N. L. R. B. 815.

² 3 N. L. R. B. 816.

³ The date of June 12, 1937, was incorrectly given as July 12, 1937, in the Direction of Election issued on October 14, 1937. The Amended Direction of Election specifically superseded the Direction of Election previously issued.

expedite the conduct of the election and thus to insure to such production and maintenance employees of the Company the full benefit of their right to collective bargaining at as early a date as possible, the Board directed the election without issuing at the same time a decision embodying complete findings of fact and conclusions of law. The election directed was to determine whether the employees in the unit found appropriate desired to be represented by the United, the Amalgamated, or by neither, the Association having stated at the hearing that it did not wish to have its name appear upon the ballot.

Pursuant to the Board's Amended Direction of Election, an election by secret ballot was conducted on October 28, 1937, by the Acting Regional Director for the Thirteenth Region among the employees of the Company within the bargaining unit found appropriate by the Board. Full opportunity was afforded to all parties to this investigation to participate in the conduct of this secret ballot and to make challenges. On November 3, 1937, the Acting Regional Director issued and duly served upon the parties to this proceeding his Intermediate Report on the secret ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot, the Acting Regional Director reported the following:

Total number eligible to vote-----	1764
Total number of ballots cast-----	1558
Total number of ballots cast for United Packing House Workers, Local Industrial Union No. 32-----	991
Total number of ballots cast for Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 236-----	241
Total number of ballots cast rejecting both of the above organiza- tions-----	315
Total number of blank ballots-----	8
Total number of void ballots-----	2
Total number of challenged ballots-----	1

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY ⁴

John Morrell & Co. is a Maine corporation having its principal offices and place of business in Ottumwa, Iowa. The business of the Company is meat packing, including the slaughter of cattle, calves, hogs, and sheep, and the processing, manufacture, and canning of various beef, pork, and mutton products and by-products.

The Company is qualified to do business in 31 states, controls two

⁴The facts concerning the business of the Company are taken from Board Exhibits Nos. 3 and 4 and a stipulation between the Board and the Company, which was introduced into evidence as Board Exhibit No. 2.

American subsidiaries, and owns four subsidiary companies in England. Its three principal processing plants in the United States are located at Ottumwa, Iowa, Sioux Falls, South Dakota, and Topeka, Kansas. It maintains 14 branches in the United States, nine of which are managed from the Ottumwa office.

In volume of business the Company ranks among the 20 largest meat packing companies. Net sales of the Company and its subsidiaries during the most recent fiscal year were in excess of \$82,000,000.00.

The total number of employees of the Company and its subsidiaries is approximately 5,500. At Ottumwa there are employed approximately 2,300 office and plant employees.

For the fiscal year ending October 1, 1936, the Company slaughtered and processed at its Ottumwa plant 126,463 cattle, approximately 85 to 90 per cent of which were purchased in Iowa; 23,505 calves; 733,981 hogs, approximately 90 per cent of which were purchased in Iowa; and 178,403 sheep, approximately 45 per cent of which were purchased in Iowa. The remainder of the livestock was in part purchased in other states from producers, buyers, and truckers, in part at public markets in Kansas City and St. Joseph, Missouri, and in part at various other places in states other than Iowa.

Not less than 95 per cent of the products of the Ottumwa plant are sold to purchasers outside the State of Iowa and in foreign countries. The Company has several registered trade-marks and advertises in several periodicals with a nation-wide circulation.

II. THE ORGANIZATIONS INVOLVED

United Packing House Workers, Local Industrial Union No. 32, is a labor organization, affiliated with the Committee for Industrial Organization. It admits to membership, with certain exceptions, the Company's production and maintenance employees at the Ottumwa plant.

Amalgamated Meat Cutters and Butcher Workmen of North America, Local Union No. 236, is a labor organization, affiliated with the American Federation of Labor. It admits to membership substantially the same classifications of the Company's production and maintenance employees as does the United.

Employees Association of John Morrell & Company is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 11, 1937, a committee from the United met with the management of the Company and asked that the United be recognized as

exclusive bargaining representative of the Company's production and maintenance employees at the Ottumwa plant. The Company stated that it could not recognize the United as such representative until the United had been so designated by a majority. This attitude on the part of the management appears in part to have been due to the membership of some production and maintenance employees in the Amalgamated.

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

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

At the hearing the United, the Amalgamated, and the Company stipulated that the pay roll of June 12, 1937, introduced as Board Exhibit No. 6, in evidence, which listed the production and maintenance employees at the Ottumwa plant, excluding all clerical help, superintendents, foremen and sub-foremen, and all others in a supervisory capacity, machinist clerks, watchmen, firemen, policemen, truck and tractor operators, timekeepers, storeroom clerks, and stockyard workers, constituted a list of the employees eligible to vote in an election, if one were ordered.

We find that the production and maintenance employees of the Ottumwa plant of the Company, as listed in Board Exhibit No. 6, excluding all clerical help, superintendents, foremen and sub-foremen, and all others in a supervisory capacity, machinist clerks, watchmen, firemen, policemen, truck and tractor operators, timekeepers, storeroom clerks, and stockyard workers, 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 collective bargaining, and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

At the hearing the United, the Amalgamated, and the Association failed to prove that any one of them had been designated by the Company's production and maintenance employees at the Ottumwa plant

as their exclusive bargaining representative. We find, therefore, that the question of representation can only be resolved by means of an election by secret ballot.

In determining the date of eligibility we are governed in this matter by the stipulation referred to previously. We find that June 12, 1937, constitutes an appropriate date for determining the production and maintenance employees of the Company at the Ottumwa plant eligible to vote in the election.

In accordance with previous decisions we have permitted the employees in the appropriate unit to vote upon the selection of the United, or the Amalgamated, or to express their preference for neither.⁵ The motion of the Association that the members of the Association be given an opportunity by ballot to express their disapproval of having any group or organization represent them for the purposes of collective bargaining is granted to this extent only.

The election by secret ballot, which was held in conformity with the above findings and pursuant to the amended Direction of the Board, resulted in a vote for the United by a majority of the employees in the appropriate unit.

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.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact, and upon the entire record in the proceeding, the Board makes the following conclusions of law:

1. A question affecting commerce has arisen concerning the representation of employees of John Morrell & Co., Ottumwa, Iowa, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company at its Ottumwa, Iowa, plant, excluding all clerical help, superintendents, foremen and sub-foremen, and all others in a supervisory capacity, machinist clerks, watchmen, firemen, policemen, truck and tractor operators, timekeepers, storeroom clerks, and stockyard workers, constitute a unit appropriate for the purposes of collective bargaining,

⁵ *Matter of American France Line et al and International Seamen's Union of America*, 3 N L R B 64; *Matter of Pennsylvania Greyhound Lines et al and The Brotherhood of Railroad Trainmen*, 3 N L R B 622; *Matter of Ohio Foundry Company and International Molders Union of North America, Local No. 218, Amalgamated Association of Iron, Steel, & Tin Workers of North America, Local No. 1596, and Industrial Workers of the World, Metal & Machinery Workers' Industrial Union, No. 440*, 3 N. L. R. B 701.

within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Packing House Workers, Local Industrial Union No. 32, 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, Local Industrial Union No. 32, has been designated and selected by a majority of the production and maintenance employees, excluding all clerical help, superintendents, foremen and sub-foremen, and all others in a supervisory capacity, machinist clerks, watchmen, firemen, policemen, truck and tractor operators, timekeepers, storeroom clerks, and stockyard workers, of John Morrell & Co., at its Ottumwa, Iowa, plant as their representative for the purposes of collective bargaining and that, pursuant to Section 9 (a) of the National Labor Relations Act, United Packing House Workers, Local Industrial Union No. 32, is the exclusive representative of all such employees of John Morrell & Co. for the purposes of collective bargaining in regard to rates of pay, wages, hours of employment, and other conditions of employment.