

In the Matter of P. LORILLARD COMPANY, LOUISVILLE PLANT and UNITED CANNERY, AGRICULTURAL, PACKING AND ALLIED WORKERS, IN BEHALF OF TOBACCO WORKERS ORGANIZING COMMITTEE

Case No. 9-R-1440.—Decided October 18, 1944

*Mr. Todd Wool*, of New York City, for the Company.

*Messrs. Leider, Witt & Camer*, by *Mr. Nathan Witt*, of New York City, for the C. I. O.

*Messrs. Oldham Clarke* and *R. J. Petree*, of Louisville, Ky., for the Tobacco Workers.

*Mr. Wm. E. Fredenberger*, of Louisville, Ky., for the Firemen.

*Mr. Ben Grodsky*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by United Cannery, Agricultural, Packing and Allied Workers, in behalf of Tobacco Workers Organizing Committee, herein called the C. I. O., alleging that a question affecting commerce has arisen concerning the representation of employees of P. Lorillard Company, Louisville Plant, Louisville, Kentucky, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Louisville, Kentucky, on August 18, 1944. The Company, the C. I. O., the Tobacco Workers International Union, herein called the Tobacco Workers, and International Brotherhood of Firemen and Oilers, Local #320, herein called the Firemen, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing the Company and the Tobacco Workers moved to dismiss the petition on various grounds. One of the grounds stated by the Tobacco Workers was the inappropriateness of the unit sought by the C. I. O. For this reason, as discussed in Section III, *infra*, the Tobacco Workers' motion is granted. The Trial Examiner's rulings made at the hearing are

free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board. After the close of the hearing the C. I. O. moved to place certain documents in evidence. The motion is granted.<sup>1</sup>

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

P. Lorillard Company is a New Jersey corporation with its principal offices and place of business at New York City. Among other enterprises it maintains and operates manufacturing plants at Jersey City, New Jersey; Richmond, Virginia; Danville, Virginia; Middletown, Ohio; and Louisville, Kentucky. Its principal business is the purchase, processing, manufacture, sale, and distribution of tobacco products. At its Louisville plant, during 1943, the Company purchased raw materials, principally tobacco, which had a value in excess of \$6,000,000, 70 percent of which was shipped to the Louisville plant from points outside the State of Kentucky. During the same period the Company manufactured finished products at its Louisville plant valued in excess of \$7,000,000, 95 percent of which was shipped to points outside the State of Kentucky.

The Company admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

United Cannery, Agricultural, Packing and Allied Workers of America, in behalf of Tobacco Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Tobacco Workers International Union and International Brotherhood of Firemen and Oilers, Local #320, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

#### III. THE ALLEGED QUESTION CONCERNING REPRESENTATION; THE ALLEGED APPROPRIATE UNIT

On May 5, 1944, the C. I. O. wrote to the Louisville office of the Company stating that it had on that date filed a Petition for Investigation and Certification of Representatives with the National Labor

<sup>1</sup> The documents in question consist of an interchange of correspondence between Conrad Espe, executive vice president of the C. I. O., and Todd Wool, vice president of the Company. All parties were served with copies of the C. I. O.'s motion and no objection was made thereto.

Relations Board. On May 11, 1944, the Company advised the C. I. O. that the Company had recognized for bargaining purposes other unions previously certified by the Board at its Louisville plant and, by inference, rejected the C. I. O.'s demand. Both the Company and the intervening unions, the Tobacco Workers and the Firemen, contend that no question concerning representation has arisen herein because the unit requested by the C. I. O., restricted in scope to the employees of the Louisville plant, is inappropriate.

Sometime in 1940 several unions affiliated with the American Federation of Labor were certified by the Board or designated by its Regional Director as the bargaining agents of various groups of employees in the Company's manufacturing plants at Jersey City, New Jersey; Richmond, Virginia, and Louisville, Kentucky. The unions certified were the following: In the Jersey City plant the Tobacco Workers and Federal Labor Union 19897 (subsequently renamed General Warehousemen's Union Local 892); in the Richmond, Virginia, plant, the Cigarette Workers International Union, the International Association of Machinists, and the Firemen; and at the Louisville plant, the Tobacco Workers. Representatives of the Company and these unions met in Washington, D. C., with a member of the United States Conciliation Service, and drew up and signed a master agreement effective June 1, 1940. Sometime thereafter the Firemen was certified as the bargaining agent for a small craft unit in the Louisville plant and was then made a party to the master agreement of June 1, 1940, by a supplemental agreement. On July 1, 1941, the same parties entered into another master agreement applicable to the employees in the same plants. This agreement was to run until July 1, 1944, and was to continue thereafter unless terminated by either party on 60 days' written notice. Sometime in September or October 1942, the Firemen and the Tobacco Workers were separately certified as the collective bargaining agents for employees in the Company's Danville, Virginia, plant. Thereupon the Company and these unions entered into a supplemental agreement, dated October 1, 1942, incorporating the Danville plant into the master agreement of July 1, 1941. On July 1, 1944, the Company and all the unions which were parties to the July 1, 1941, master agreement, as supplemented,<sup>2</sup> entered into a supplemental agreement modifying the vacation provision and the termination provision of the master agreement and extending its term to July 1, 1947. Both master agreements contain uniform provisions for all the plants covered regarding hours, overtime, holidays, vacations, seniority rights, and grievance procedures.

<sup>2</sup> Federal Labor Union 19897 had become General Warehousemen's Union Local 892 in the interim.

All bargaining between the unions and the Company on general matters, including wage rates, has been conducted in Washington between the international and local officers of the unions involved and the executive officers of the Company and the various plant managers. The master agreements resulted from these negotiations. In addition, annual wage conferences have been held between the parties in Washington. The grievance procedure specified in the master agreements provides for referral of grievances arising in any plant which are not settled at lower levels to the international officers of the union involved and the New York executive officers of the Company.

The C. I. O. contends that these master agreements do not establish a 4-plant unit because the unions involved have been certified at different times; because they apply to different unions at different plants; because by their own phraseology they show that they are not intended to change the units theretofore found appropriate by the Board;<sup>3</sup> and because bargaining for wages is on a local level and is not specifically covered by them.<sup>4</sup>

We have considered similar contentions on substantially similar facts in the *Bethlehem-Fairfield Shipyard, Incorporated* case<sup>5</sup> and have found them without merit. There being actual bargaining on a multi-plant basis, stabilized by agreement, the actual mechanics of the plan underlying such bargaining are unimportant.<sup>6</sup> Bargaining in the instant case unquestionably has been on a multi-plant basis, including the Louisville plant, since 1940. We find, therefore, for all the reasons stated in the *Bethlehem-Fairfield Shipyard, Incorporated* case, that the unit requested by the C. I. O. is inappropriate. We further find that no question concerning the representation of employees of the Company in an appropriate bargaining unit has arisen within the meaning of Section 9 (c) of the Act. Accordingly, we shall dismiss the petition.

### ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders

<sup>3</sup> The preamble to each agreement states, in part, "This agreement . . . by . . . the P. Lorillard Company . . . and the following enumerated unions . . . (each union representing only such unit of employees at such plant of the Company as it has heretofore been designated to represent by the National Labor Relations Board) . . ."

Sec 2 of each agreement reads as follows "The Company recognizes each of said Unions as authorized to negotiate with the Company for such units of employees at such plant of the Company as said Union has been designated to represent, pursuant to respective certifications of the Unions by the National Labor Relations Board . . ."

<sup>4</sup> This last contention is not consistent with the facts as developed in the record since, as above noted, all wage rates have been set at conferences in Washington

<sup>5</sup> 58 N L R B 579, issued September 27, 1944

<sup>6</sup> *Matter of Bethlehem-Fairfield Shipyard, Incorporated, supra*, and cases cited therein.

that the petition for investigation and certification of representatives of employees of P. Lorillard Company, Louisville plant, Louisville, Kentucky, filed by the United Cannery, Agricultural, Packing and Allied Workers, in behalf of Tobacco Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, be, and it hereby is, dismissed.