In the Matter of WESTBROOK ENTERPRISES, INC., EMPLOYER *and* LOCAL JOINT EXECUTIVE BOARD OF THE HOTEL AND RESTAURANT EMPLOYEES AND BARTENDERS INTERNATIONAL UNION, AFL, PETITIONER

Case No. 5-RC-89.—Decided September 28, 1948

DECISION
AND
ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization named below claims to represent certain employees of the Employer.

3. The Petitioner seeks a unit of all dining room and kitchen employees, including waitresses, waiters, cashiers, bus employees, cooks, dishwashers, kitchen helpers and other kitchen employees working at the Employer's restaurant located at 2015 14th Street, N. W., Washington, D. C. The Employer contends that the appropriate unit should be system-wide embracing all its restaurants located in the Greater Washington area, including the restaurant located in Alexandria, Virginia. There is no collective bargaining history.

The Employer is engaged in the general restaurant business [1] and had in operation at the time of the hearing five restaurants, four in

*Chairman Herzog and Members Houston and Reynolds.

[1] The general business of the Employer is conducted from a central office which is also the headquarters for four supervisors who, together with officers of the Employer, circulate among and supervise the operations of various restaurants operated by the Employer.

the District of Columbia and one in Alexandria, Virginia.[2] Each restaurant has a working manager who is bound by Employer policy as laid down by the central office. While each restaurant must be individually licensed, such license is in the name of the corporation rather than in the name of the manager of each establishment. The Employer has an arrangement with a local employment agency to furnish all needed employees, and only in emergencies can a manager hire other than through this agency, and then such action is subject to review and approval by the central office. Likewise, any discharge of an employee by a manager is subject to final determination and action by the central office. The job classifications and wage scales in all restaurants are generally the same and the pay roll for all restaurants is made up at the central office. The Employer has one workman's compensation policy and one public liability insurance policy covering all its operations.

The foregoing indicates that the Employer's operations are conducted on a closely integrated, highly centralized basis, with substantially all authority emanating from its main office. There appears to be uniformity in personnel policy, wages, hours, working conditions, with frequent interchange of employees and common ultimate supervision. All these factors have generally been considered as criteria favoring a multi-plant unit.[3]

The only factor appearing in this case in support of a single-operation unit is the extent of the Petitioner's organization among the employees involved herein. As the National Labor Relations Act, as amended, specifically forbids the use of the extent-of-organization factor as controlling in the determination of an appropriate unit,[4] we find that the Petitioner's proposed unit is inappropriate.[5]

Upon the basis of the above findings of fact and the entire record in the case, we find that no question affecting commerce exists con-

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[2] The Employer is in the process of closing one of the four restaurants in the District of Columbia and opening two new restaurants at other locations within the District. The policy of the company has been to man a new restaurant with experienced personnel taken from its other restaurants.

[3] *Matter of Welfare Association of U. S. Department of Agriculture,* 45 N. L. R. B. 285; *Matter of Eisner Grocery Company,* 72 N. L. R. B. 721; *Matter of Geneva Forge, Inc.,* 76 N. L. R. B. 497; *Matter of Charles Eneu Johnson & Company,* 77 N. L. R. B. 41.

[4] Section 9 (c) (5) provides: "In determining whether a unit is appropriate for the purposes specified in subsection (b) the extent to which the employees have organized shall not be controlling."

[5] *Matter of Montgomery Ward & Co., Incorporated,* 77 N. L. R. B. 1363. The Board has found that chain stores located in the District of Columbia and within a 25-mile radius thereof constitute a single appropriate unit. See *Matter of Giant Food Shopping Center, Inc.,* 77 N. L. R. B. 791; *Matter of The Great Atlantic & Pacific Tea Company,* 69 N. L. R. B. 463.

cerning the representation of employees of the Employer in a unit appropriate for purposes of collective bargaining. We shall, therefore, dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Westbrook Enterprises, Inc., 14th Street restaurant, Washington, D. C., filed by Local Joint Executive Board of the Hotel and Restaurant Employees and Bartenders International Union, AFL, be, and it hereby is, dismissed.