

In the Matter of PAULUS BROS. PACKING Co. and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 324, AFL

*Case No. 19-R-1500.—Decided July 7, 1945*

*Mr. Ralph R. Bailey*, of Portland, Oreg., for the Company.

*Messrs. Green & Landye*, by *Mr. James Landye*, of Portland, Oreg., for the Union.

*Mr. Jack Mantel*, of counsel to the Board.

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehouseman and Helpers of America, Local 324, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Paulus Bros. Packing Co., Salem, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Salem, Oregon, on April 25, 1945. The Company and the Union 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. 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.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Paulus Bros. Packing Co., an Oregon corporation, is engaged in the processing and packing of fruit and vegetables in Salem, Oregon. During

the year 1944, the Company's finished products were valued at approximately \$3,000,000, of which 95 percent was shipped to points outside the State of Oregon. About 50 to 60 percent of the finished products is sold to the United States Government.

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 324, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE ALLEGED APPROPRIATE UNIT

The Union seeks a unit comprised of the Company's warehousemen, shipping and receiving clerks, loaders, truck helpers, labeling machine operators, and working foremen, asserting that these employees constitute a homogenous group, and that it has limited its organizational activities to them.<sup>1</sup> The Company claims that the unit sought is inappropriate, and that an appropriate unit should include all of its employees on a plant-wide basis.<sup>2</sup>

The Company's operations are carried on in seven different buildings within the city of Salem, Oregon. In one, referred to as the cannery, the raw fruits and vegetables are received, processed, and canned, and then transferred to the others, referred to as the warehouses, where the canned goods are labeled, procoated,<sup>3</sup> cased, loaded, and shipped. During the busy season at the cannery, labeling is performed there, and some of the warehouse employees may be required to work as labeling crews at the end of the cannery production line. In order to provide year-round employment for a nucleus of 35 to 40 keymen, during the slack season the Company transfers many of such employees from the cannery to the warehouses, where they work on labeling and loading crews, repair machinery, and perform general maintenance duties. The wage rates of all employees are fixed in accordance with the amount of experience, skill, and manual labor involved in each job, without regard to whether the work is performed in the warehouses or the cannery. All employees who are included in the unit sought by the Union are not employed solely at the warehouses, as receiving clerks work regularly at the cannery where they

<sup>1</sup> The Union points to the failure of the Cannery Workers Union, AFL, to win an election in a plant-wide unit held in 1942, and calls attention to the fact that a recent petition alleging a similar unit to be appropriate, which was filed by the same union, was dismissed by the Regional Director because of failure to present evidence of substantial representation.

<sup>2</sup> The Company and the Union have a bargaining contract covering truck drivers, a group which is not in dispute.

<sup>3</sup> Procoating is a process whereby cans are treated to prevent spoilage caused by salt water.

receive incoming shipments of raw fruits and vegetables, and, when occasions arise, shipping clerks and loaders also work at the cannery.

Despite the physical separation of the cannery and the warehouses, the record indicates that the integration and interrelation of the Company's operations, coupled with substantial interchange of its employees, preclude the establishment of a unit restricted to warehouse employees, much less a unit which also includes several, but not all, workers at the cannery. That a union has limited its organizational activities to an arbitrary grouping of employees does not justify the creation of a separate bargaining unit for such workers, where, as here, they are but an integral part of a larger appropriate unit.<sup>4</sup> Accordingly, we find that the unit proposed by the Union is inappropriate for the purposes of collective bargaining, and we shall dismiss the petition filed herein.<sup>5</sup>

### III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since the bargaining unit sought to be established by the petition is inappropriate, as stated in Section III, above, we find that no question has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the National Labor Relations Act.

### ORDER

Upon the basis of the foregoing findings of fact, and the entire record in this proceeding, the National Labor Relations Board hereby orders that the petition for certification of representatives of employees of Paulus Bros. Packing Co., Salem, Oregon, filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 324, AFL, be, and it is hereby dismissed.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Order.

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<sup>4</sup> Moreover, the record indicates that collective bargaining in the canning industry in Salem, Oregon, and the Pacific Northwest has been conducted on a plant-wide basis

<sup>5</sup> See *Matter of California Packing Company*, 59 N. L. R. B. 941, *Matter of Libby, McNeill & Libby*, 59 N. L. R. B. 864, and *Matter of Eugene Fruit Growers Association*, 51 N. L. R. B. 835 wherein we found plant-wide units to be appropriate in the Pacific Northwest canning industry