

WE WILL NOT interrogate our employees concerning their organizational activities in a manner violative of Section 8(a)(1) of the Act.

WE WILL NOT threaten employees with elimination of jobs, less desirable working conditions, or other economic reprisals, if the employees select the Union.

WE WILL NOT solicit employees to engage in surveillance of the union activities of other employees or of union meetings.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce, our employees in the exercise of their right to self-organization, to form labor organization, to join or assist United Steelworkers of America, AFL-CIO, District 31, Sub-District 4, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection guaranteed in Section 7 of the Act, or to refrain from any and all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

NATIONAL CAN CORPORATION,
Employer.

Dated----- By-----
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 881 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Illinois 60604, Telephone 828-7597.

Libby, McNeill and Libby, Employer-Petitioner and United Packinghouse Food and Allied Workers, Local 247, AFL-CIO and United Steelworkers of America, AFL-CIO. Case 13-UC-7.
June 17, 1966

DECISION AND ORDER CLARIFYING CERTIFICATION

On October 20, 1944, the National Labor Relations Board, in Case 13-R-2530, certified the United Packinghouse Food and Allied Workers Union, Local 247 (herein called the Packinghouse Workers), in a unit of "all production and maintenance, service and cafeteria employees of the Company at its Chicago Meat Canning Plant" with exclusions not involved herein.¹

On April 3, 1961, the Board, Case 13-RC-7433, certified the United Steelworkers of America, AFL-CIO (herein called the Steelworkers), in a unit of "[A]ll production and maintenance employees at the Employer's can manufacturing plant," with exclusions not involved herein.²

On November 2, 1965, the Employer filed the instant petition for unit clarification seeking clarification of the placement of certain

¹ 58 NLRB 231, 233

² 130 NLRB 267, 269.

employees in the previously certified unit in Case 13-R-2530, requesting a declaration that the Packinghouse Workers' certification extends to certain work heretofore performed by employees in the Steelworkers' unit, but which has been moved into the geographic area covered by the Packinghouse Workers' certification. On January 27, 1966, the Steelworkers filed a motion to quash notice of hearing and to dismiss petition, alleging *inter alia* that the Steelworkers have a collective-bargaining contract covering production and maintenance employees at the Chicago can manufacturing plant including the employees involved herein; that the contract provides for the arbitration of grievances; that the Steelworkers has filed a grievance; and, that it has made a demand for arbitration which has been refused by the Employer.³ Relying on the arbitration clause, the Steelworkers requested the Board to dismiss the petition in its entirety or, in the alternative, to postpone the hearing herein pending a hearing and decision by the arbitrator in the arbitration case. On February 2, 1966, the Regional Director for Region 13 denied the Steelworkers' motion.⁴

On February 14, 1966, 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. Thereafter, all parties filed briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel [Members Fanning, Brown, and Jenkins].

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

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The Packinghouse Workers and the Steelworkers are labor organizations claiming to represent certain employees of the Employer.
3. This proceeding involves the Employer's Chicago, Illinois, canning and can manufacturing plants, where it is engaged in the manufacture of cans and the processing and canning of food products.

³ On November 5, 1965, the Steelworkers filed a complaint in the U.S. District Court, Northern District of Illinois, Eastern Division, to compel arbitration. This proceeding, which is opposed by the Employer, is presently pending, no hearing date has been set.

⁴ We find no merit in the Steelworkers' contention that the Board defer to the arbitration procedures invoked by the Steelworkers. First, no purpose would be served at this time by deferring to arbitration in view of the fact that the Steelworkers' suit to compel arbitration has been held in abeyance pending the outcome of the instant case; and second, we note that the resolution of the Steelworkers' claim through arbitration would not be binding on the Packinghouse Workers who are not a party thereto.

As noted above, the Packinghouse Workers have represented the food canning employees since 1944, while the Steelworkers have represented the can manufacturing employees since 1961. The history of this plant shows that, shortly before 1961, the Employer constructed a large plant in Chicago for the purpose of housing both the canning operation and the new can manufacturing operation. Upon completion of the building, the canning operation moved in from its previous quarters, and the Employer started its can manufacturing operation. Shortly after can manufacturing operations began, the Steelworkers organized the can manufacturing employees and petitioned for an election. The Packinghouse Workers intervened, claiming that the manufacturing operation was an accretion to their existing unit of canning employees. The Board found that the manufacturing operation was a completely new operation and not a mere accretion and that, in view of this total separation between the two operations, a unit limited to the production and maintenance employees of the can manufacturing operation was appropriate. Following the election, the Steelworkers was certified as the collective-bargaining representative for the employees of the can manufacturing operation.⁵

In 1965, the Employer decided to move certain depalletizing equipment from the can manufacturing plant to the canning plant. In support of this decision, the Employer asserts that this move is necessary from both an economical and operational point of view in that the placement of the depalletizing equipment in the canning plant will increase the efficiency of that operation as well as reduce costs and eliminate many of the production bottlenecks attributed to the function of supplying cans to the production line for filling. Following this decision, the Employer moved three of the automatic depalletizers from the manufacturing plant to the canning plant. As a result of this move, the Steelworkers claims that the work of operating these machines, as well as the remaining machines that will be moved at a later date, belongs to its members, regardless of where the machines are physically located. The Packinghouse Workers claims that the operation of these three machines has become part of their unit and that when the remaining machines are moved into the canning plant the operation of these machines will also accrete to their unit. The Employer, in agreement with the Packinghouse Workers, contends that the work has become part of the canning plant unit and seeks a clarification of that unit to specifically include the job function of depalletizer operator.

⁵ Footnote 2, *supra*.

Prior to the dispute herein, the depalletizing of cans for the canning plant involved the taking from storage cans previously palletized, delivering them to the automatic depalletizers where they are removed from the pallets and inserted into the cable system that carries them from the can manufacturing plant over into the canning plant. Although this has been the procedure since 1961, the testimony show that the depalletizing machines were placed in the can manufacturing area principally as a matter of space or plant design, but, at the same time, "as close as possible to the canned meat plant to make the runways as short as possible." The record also shows that the canning plant only takes 25 percent of the can manufacturing plant's production, that cans are produced in lots large enough to maintain 1-year inventories for the canning plant, and that the canning plant receives cans from other sources, some of which are, where necessary, depalletized by canning plant personnel. At the same time, almost all of the production of the can manufacturing plant is palletized and stored for future delivery to other canning plants of the Employer, and the *only* instance where can manufacturing plant personnel perform the depalletizing operation is on those cans going to the Chicago canning plant, all other cans being shipped to the other canning plants.

The record, as noted above, shows that since 1961 the Employer's Chicago operations have been carried on in two separate units and that, in 1961, the Board found that the can manufacturing operation was a separate appropriate unit because of the substantial differences in the operations and functions of the two plants, the geographic separation (although under one roof), and the almost total absence of any integration either on a functional or operational basis. The record also shows that, as of the date of the hearing herein, this almost complete division of operations and authority continued to exist at the Chicago facility. This is clearly evidenced by the fact that when there is a breakdown in cables supplying cans to the canning line, it must first be determined where the trouble is before it will be known whether maintenance employees from the canning plant of the can manufacturing plant will make the repairs, depending on which side of the wall the breakdown occurs. In addition, the current practice of supplying palletized cans to the canning plant, requiring that the fork truck driver from the can manufacturing plant deliver the palletized cans to the doorway in the wall where they are picked up by fork truck drivers from the canning plant unit and carried to the depalletizing machines, evidences the separateness of the operations and functions in the plant. Other factors, such as dif-

ferent holidays, starting and stopping times, and vacations only further emphasize the fact that these two plants operated completely separate from each other.

Upon the entire record, we find and conclude that the depalletizing of cans is now one of the first steps in the canning process rather than the last step in the can manufacturing operations, that the transfer of the function of depalletizing cans to the canning plant area caused that function and the job classification to become part of the canning plant unit, and that employees assigned to the work of depalletizing cans in the canning plant are included in the production and maintenance unit for which the Packinghouse Workers was certified as exclusive bargaining representative in Case 13-R-2530.⁶ Accordingly, we shall amend the Packinghouse Workers' certification to include the depalletizing operation.

[The Board clarified the certification in Case 13-R-2530 by specifically including therein the job category of "depalletizer operator" when the work of depalletizing is being performed in the Employer's Chicago, Illinois, canning plant.]

⁶ *Ross-Meechan Foundries*, 147 NLRB 207.

White Front San Francisco, Inc., d/b/a White Front South San Francisco, Inc. and Building Service Employees Union, Local 81, AFL-CIO,¹ Petitioner. *Case 20-RC-6693. June 20, 1966*

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Elizabeth M. Bianchi, of the National Labor Relations Board. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Petitioner, the Intervenor,² and the Employer each filed briefs with the Board.

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

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purpose of the Act to assert jurisdiction herein.
2. The labor organizations involved claim to represent certain employees of the Employer.

¹ Herein called the Building Service Employees.

² Retail Clerks Union, Local 775, Retail Clerks International Association, AFL-CIO, herein referred to as the Retail Clerks or the Intervenor, was permitted to intervene on the basis of a card showing among the employees involved.