

In the Matter of SWIFT AND COMPANY and PACKING HOUSE WORKERS  
UNION, LOCAL No. 563

*Case No. R-398.—Decided January 10, 1938*

*Meat Packing Industry—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; controversy as to appropriate bargaining units—*Unit Appropriate for Collective Bargaining:* production employees in two separate plants operated by employer; proposed consolidation of two plants; similarity of wage scales and working conditions; organization of business; interchangeability of employees—*Order:* dismissing Petition for Investigation and Certification of employees in one plant only.

*Mr. David Persinger*, for the Board.

*Gibson, Dunn & Crutcher*, by *Mr. J. Stuart Neary*, of Los Angeles, Cal., for the Company.

*Mr. F. A. Kosky*, of Los Angeles, Cal., for Local No. 563.

*Voorhees & Voorhees*, by *Mr. J. P. Voorhees* and *Grace A. Voorhees*, of Los Angeles, Cal., for Local No. 1.

*Mr. Henry H. Foster, Jr.*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On July 12, 1937, Packing House Workers Union, Local No. 563, herein called Local No. 563, filed with the Regional Director for the Twenty-First Region (Los Angeles, California) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Swift and Company, Chicago, Illinois, herein called the Company, at its Vernon, California, plant, 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 September 29, 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, or-

dered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 11, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon Local No. 563, and upon the Packing House Workers Union of Los Angeles, Local No. 1, herein called Local No. 1, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on November 18, 1937, at Los Angeles, California, before Clifford D. O'Brien, the Trial Examiner duly designated by the Board. The Board, and Company, and Local No. 1 were represented by counsel and participated in the hearing. Local No. 563 appeared by its authorized representative. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

Swift and Company is an Illinois corporation with its general offices at Chicago, Illinois. It maintains approximately 375 branch houses located throughout the United States. It is engaged in the general business of acquiring and slaughtering livestock; processing and marketing products produced or derived from livestock; acquiring, processing and marketing poultry, butter, cheese, margarine, ice cream, milk products, and eggs; tanning, preparing, and marketing hides and skins; acquiring and marketing wool; manufacturing and marketing vegetable oils; and operating facilities for storage, refrigeration and transportation of some of the above-mentioned products.<sup>1</sup>

Advertising by the Company is conducted on a national scale and directed from the general offices in Chicago. The industrial relations policy of the Company is fixed on a nation-wide basis through an industrial relations committee with headquarters in Chicago. Through its branch houses and distributing plants the Company distributes its products throughout the United States.

In the Los Angeles area the Company operates two plants, called the Vernon plant and the First Street plant. At the Vernon plant cattle are slaughtered, edible meats and other edible and inedible

<sup>1</sup> Board's Exhibit No. 2

products are processed, hams and bacons are smoked, and sausage is manufactured. These products, and also eggs, butter, and other produce, are distributed from the Vernon plant.

The First Street plant is primarily a storage and distributing plant. Productive processes such as candling of eggs, printing of butter, manufacturing of sausage, smoking of meats, and the slicing of bacon are, however, also carried on at the First Street plant.

During the Company's fiscal year of 1937, 1,027,601 pounds of product of the value of \$127,890.24 were shipped from the Vernon plant to points outside the State of California, out of total shipments from the Vernon plant of 34,584,654 pounds of the value of \$4,924,318. The shipments from the Vernon plant to points outside of California consisted of glands, casings, pelts, hides, and tallow, all inedible byproducts of the killing and packing process.

Apart from inedible products shipped from the Vernon plant, substantially all the products manufactured, processed or warehoused at the Vernon and First Street plants are distributed in the southern part of California.

Ninety per cent of the meat products handled at the First Street plant come from other plants of the Company in the Middle West and East, and thirty to forty per cent of the total sales value of products handled at both plants consist of meats shipped in from the East. Raw materials handled at both plants originate as follows: eggs and butter from Idaho and California; cheese, dairy and poultry items from Oregon; livestock from Idaho, Oregon, Nebraska and California. The record in this case does not disclose what percentage of the raw materials are derived from points within California and what percentage are derived from states other than California.

## II. THE ORGANIZATIONS INVOLVED

Packing House Workers Union, Local No. 563, is a labor organization affiliated with the Amalgamated Meat Cutters and Butcher Workmen of North America, an affiliate of the American Federation of Labor, admitting to its membership all production employees of the Company at the Vernon plant, including working foremen, but excluding clerical employees, supervisors, and truck drivers. Other local affiliates of the Amalgamated admit to membership similar classifications of employees working at the First Street plant.

Packing House Workers Union of Los Angeles, Local No. 1, is an independent labor organization. It admits to its membership all employees of the Company working at the Vernon and First Street plants, exclusive of time-study employees and persons having the power to hire, fire, or discipline.

## III. THE APPROPRIATE UNIT

Local No. 563 claims that the production employees of the Vernon plant, excluding supervisory and clerical employees, truck drivers, and truck drivers' helpers, constitute a unit appropriate for the purposes of collective bargaining. Local No. 1 contends for a bargaining unit comprised of all employees of both the Vernon and the First Street plants, exclusive of supervisory and time-study employees. The Company also urges a unit composed of employees at both plants.

It was disclosed at the hearing that the Company has completed plans for the consolidation of the First Street and Vernon plants. The First Street plant, which is approximately two miles from the Vernon plant, is to be abandoned and the Vernon plant enlarged to permit all of the Company's operations to be carried on at one plant. A Company official testified that the Company anticipated that the enlargement of the Vernon plant would be completed within a year.

Wages and working conditions are substantially the same at both plants, and both plants are under the supervision of one superintendent. It also appears that the employees are subject to transfer from one plant to the other, and that, with the exception of employees on the killing floor at the Vernon plant, transfers have been made from one plant to the other.

We are of the opinion on the basis of the record in this case that a unit composed solely of employees or a group of employees of the Vernon plant is not appropriate for the purposes of collective bargaining. Since the only petition filed in this proceeding relates solely to employees at the Vernon plant of the Company, it is not necessary to determine what would be the appropriate unit if the petition were broader in scope.

## IV. THE QUESTION CONCERNING REPRESENTATION

The petition in this case, as pointed out in Section III above, relates solely to employees of the Company at its Vernon plant. We have found in Section III that a unit composed solely of employees or a group of employees of the Vernon plant is not appropriate for the purposes of collective bargaining. We find, therefore, that no question has arisen concerning representation of employees of the Company at its Vernon, California, plant.

We do not at this time determine whether any question concerning representation or any question affecting commerce would arise if Local No. 563, Local No. 1, the Amalgamated Meat Cutters and Butcher Workmen of North America, or Local No. 563 together with locals affiliated with the Amalgamated, petitioned for an investigation and certification of representatives of employees both at the Vernon and the First Street plants.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSION OF LAW

No question concerning the representation of employees of Swift and Company, at its Vernon, California, plant, exists within the meaning of Section 9 (c) of the National Labor Relations Act.

#### ORDER

Upon the basis of the foregoing findings of fact and conclusion of law the National Labor Relations Board hereby dismisses the Petition for Investigation and Certification filed by Packing House Workers Union, Local No. 563.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Decision and Order.