

In the Matter of COLLINS & ALKMAN CORPORATION *and* TEXTILE  
WORKERS UNION OF AMERICA, C. I. O.

*Case No. 5-C-1513.—Decided March 24, 1944*

DECISION

AND

ORDER

On January 3, 1944, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices affecting commerce, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter the respondent filed exceptions to the Intermediate Report and a supporting brief. Pursuant to notice, a hearing for the purpose of oral argument was held before the Board in Washington, D. C., on February 22, 1944, in which the respondent and the Union participated.

The Board has considered the rulings of the Trial Examiner made at the hearing, and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the exceptions and additions noted below:

1. The Trial Examiner found that in 1937 the respondent violated Section 8 (1) of the Act by questioning an employee about the Union and by urging all the machinists not to join the Union. The respondent contends that this finding is remote and unconnected with the principal unfair labor practices involved in this proceeding. We find some merit in this contention, since there is no evidence of any unfair labor practice during the 5-year interval between 1937 and 1942, when the events occurred which gave rise to this proceeding.<sup>1</sup> Accordingly, we do not base an unfair labor practice finding on the 1937 incidents. However, we do consider the occurrences as properly

---

<sup>1</sup> The original charge in this proceeding was filed in May 1943.

cognizable to establish the respondent's background of hostility to union organization.<sup>2</sup>

2. The Trial Examiner found, and we agree, that the respondent engaged in surveillance of the union activity of its employees during a 2- or 3-week organizational period in July 1942, in that Plant Manager Ford, Departmental Manager Currier, and other supervisors admittedly made it their business to keep watch over such activity at the drug store in the company-owned village. The respondent assails this finding, on the ground that the store was open to the public, including management representatives as well as rank-and-file employees; that the presence of management representatives was not surreptitious; that management took no other overt action to obstruct the union activity of its employees; and that the presence of management representatives was for the purpose of preventing any disorder or violence which might result. We find no merit in these contentions. The respondent's representatives admitted that their purpose in visiting the drug store was to keep watch over the organizational activities of the employees. Whether such conduct be carried out openly or surreptitiously, it constitutes surveillance proscribed by the Act.

3. Like the Trial Examiner, we find that the respondent discriminated against Hanks for the purpose of curbing his union activities, in violation of the Act. We have found above that the respondent's representatives engaged in surveillance of the union activities of its employees during the organizational campaign of July 1942. The record clearly shows that they had ample opportunity to, and did, observe Hanks taking a prominent part in these organizational activities at the drug store.

The Trial Examiner found without merit the respondent's contention that Hanks was discharged for "insubordination, misconduct, and poor work." We concur in this finding for the additional reason that, although the respondent claimed that Hanks' work had been poor for a period of 3 months, it does not appear that he was ever warned or reprimanded about his work. We also agree with the Trial Examiner's finding that the argument between Hanks and his foreman just before the discharge, viewed in its setting, may not reasonably be regarded as amounting to insubordination or misconduct. Moreover, even if it were to be so regarded, we find that it was not the motivating cause for Hanks' discharge.

## ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations

---

<sup>2</sup> *Matter of Green Colonial Furnace Company*, 52 N. L. R. B. 161

Board hereby orders that the respondent, Collins & Aikman Corporation, Roxboro, North Carolina, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) In any manner and for any purpose keeping under surveillance the activities of its employees in or on behalf of Textile Workers Union of America, C. I. O., or any other labor organization of its employees;

(b) Discouraging membership in Textile Workers Union of America, C. I. O., or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or by discriminating in any other manner in regard to their hire or tenure of employment or any term or condition of their employment;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, 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, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer Arthur A. Hanks immediate and full reinstatement to his former or a substantially equivalent position, without prejudice to his seniority or other rights and privileges;

(b) Make whole Arthur A. Hanks for any loss of pay he has suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to the amount which he normally would have earned as wages during the period from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings during such period;

(c) Post immediately in conspicuous places throughout its plant at Roxboro, North Carolina, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a), (b), and (c) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2 (a) and (b) of this Order; and (3) that the respondent's employees are free to become and remain members of Textile Workers Union of America, C. I. O., or any other labor organization, and that the respondent will not discriminate against any employee because of his membership or activity in such organization;

(d) Notify the Regional Director for the Fifth Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

AND IT IS FURTHER ORDERED that the complaint, insofar as it alleges that the respondent has engaged in unfair labor practices within the meaning of Section 8 (3) of the Act with respect to Huey M. Pearce and Samuel Seamester, be, and it hereby is, dismissed.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Order.

#### INTERMEDIATE REPORT

*Mr. George H. O'Brien*, for the Board

*Mr. William B. Umstead*, of Durham, North Carolina, and *Mr. R. P. Burns*, of Roxboro, North Carolina, for the respondent.

*Mr. Harold Griffiths*, of Spray, North Carolina, for the Union

#### STATEMENT OF THE CASE

Upon a third amended charge filed September 27, 1943, by Textile Workers Union of America, C. I. O., herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Fifth Region (Baltimore, Maryland), issued its complaint, dated November 30, 1943, against Collins & Aikman Corporation, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and notice of hearing thereon were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint as amended at the hearing alleges, in substance (1) that the respondent has urged its employees not to become or remain members of the Union, questioned them concerning their Union membership, kept under surveillance its employees' meeting places to ascertain their Union activities, and transferred and threatened to transfer its employees to less desirable working shifts to discourage their Union activities; (2) that the respondent discriminatorily discharged Arthur A. Hanks on August 1 and Huey M. Pearce and Samuel Seamester<sup>1</sup> on August 7, 1942, because of their Union activities; and (3) that by these acts the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed to them in Section 7 of the Act.

On December 10, 1943, the respondent filed its answer in which it denied having engaged in any unfair labor practices. Affirmatively, the answer alleges that Hanks was discharged for good cause, and that Pearce and Seamester<sup>2</sup> were laid off because of lack of work.

Pursuant to notice, a hearing was held in Roxboro, North Carolina, on December 17 and 18, 1943, before C. W. Whittemore, the Trial Examiner duly designated by the Chief Trial Examiner. The Board and the respondent were represented by counsel, the Union by the Director of its Bi-County Joint Board. All parties participated in the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues.

<sup>1</sup> Without objection the complaint was amended at the opening of the hearing to include the allegation as to the discharge of Samuel Seamester.

<sup>2</sup> The answer was similarly amended to cover the allegation, in the amended complaint, as to Seamester.

At the close of the hearing the Trial Examiner granted a joint motion by counsel for the Board and for the respondent to conform the pleadings to the proof in minor particulars. Also at the close of the hearing ruling was reserved upon a motion by counsel for the respondent to dismiss the complaint. Disposition of the issues raised by this motion is made hereinafter.

Following the receipt of all evidence and testimony, counsel for the Board and for the respondent argued orally before the Trial Examiner, the argument appearing in the official transcript of the proceedings. Opportunity was afforded to all parties to file briefs with the Trial Examiner. A brief has been received from the respondent.

Upon the entire record in the case and from his observation of the witnesses, the Trial Examiner makes the following:

#### FINDINGS OF FACT

##### I THE BUSINESS OF THE RESPONDENT

Collins & Aikman Corporation is a Delaware corporation, having its principal office in New York City. It owns and operates a textile mill situated in Roxboro, North Carolina, where it is engaged in the manufacture, sale and distribution of textile products.

Its principal raw materials include wool top, worsted and cotton yarns and dyestuffs. The value of such raw materials amounts annually to about \$5,000,000, of which about 70 per cent originates in States other than North Carolina. Its finished products include serge for Army uniforms, duck for Army and Navy use, worsted yarns for uniform materials, and upholstery fabrics. The annual sales value of such products is between \$7,000,000 and \$8,000,000, all of which is shipped to points outside North Carolina.

The respondent employs about 1,100 persons at its Roxboro plant.

##### II. THE ORGANIZATION INVOLVED

Textile Workers Union of America, C. I. O., is a labor organization admitting to membership employees of the respondent.

##### III THE UNFAIR LABOR PRACTICES

###### A. *Organizational efforts in 1937; interference, restraint, and coercion*

Sometime in 1937, during organizational activities among the respondent's employees at its Roxboro mill, Plant Engineer Warren called to his office employee B. F. Wright, who was soliciting Union memberships, and asked him about the organization. Soon after this occurrence Warren summoned all of the machinists to his office and told them that if they joined the C. I. O. they would be working for and taking orders from the Union, and that the company could not afford to let this labor organization run the plant.<sup>3</sup>

B. *Organizational efforts of the Union in 1942; the discharge of Arthur A. Hanks and layoff of Huey M. Pearce and Samuel Seamester; interference, restraint, and coercion*

###### 1. Surveillance of organizing meetings by the respondent's officials

The record contains no evidence of Union activity among the respondent's employees after the above-described incident in Warren's office until July, 1942.

<sup>3</sup>The above findings rest upon the undisputed testimony of Wright. Warren is dead. The respondent called no witness to refute Wright's account of the mass meeting of all

On July 13 Union organizer Fred Pearce came to the mill village, near Roxboro, at the request of his brother Huey M. Pearce, then employed by the respondent. After Huey Pearce signed an application card, he and his brother went to the home of Arthur A. Hanks, a loom fixer who also lived in the mill village adjacent to the plant. Hanks and the organizer then went to the mill village drug store, situated on company-owned property, and began to solicit Union memberships among employees gathered there awaiting the next shift.

The respondent's officials were at once informed of the organizer's presence and the Union activity. Resident Manager Stewart M. Ford testified that he learned of the activity from the personnel manager on July 14. Ford admitted that thereafter and until organizational activity ceased two or three weeks later he made it his business to be present each evening among the employees at the drug store. He declared that he went there because he "feared there might be some disorder or violence," but admitted that he saw neither. After two or three weeks he ceased to spend his evenings at the drug store, according to his testimony, "because the organizer had left and there seemed to be no further discussion about either him or anything else, so I just dropped back to my usual habits." George Currier, manager of the respondent's dyeing and finishing departments in July 1942, admitted that he also attended the employees' gatherings at the drug store. He stated that he was there "just out of curiosity, for one thing; and another thing, I was afraid there might be a flare-up, so I went there. Quite possibly I thought I might be of some assistance, and curiosity, as well as anything else." W. G. Bradsher, assistant resident manager, and other management officials also were at the drug store meetings. The Trial Examiner finds that the respondent's officials thus engaged in surveillance of union's activities.

## 2. The discharge of Arthur A. Hanks

### (a) Events leading up to his discharge

Despite the presence of management officials at the drug store, Hanks continued to solicit Union memberships and to pass out application cards among the employees during the evening before going to work on the 11 p. m. to 7 a. m. shift. Hanks was a loom fixer, and had been employed by the respondent since 1929. A few days after he began assisting the Union organizer at the drug store, Hanks was informed by W. D. Carver, one of the two foremen of his shift, that he was to be transferred to another shift and that the order came from "higher up"<sup>4</sup>. Hanks went to consult Currier, above identified, who was in charge during Bradsher's absence. Hanks protested that since his wife also worked at the mill, transfer to another shift would deprive him of the opportunity of ever getting a home-cooked meal. Currier agreed to look into the matter. Later the same day he came to Hanks' home, in the mill village, and told him that arrangements had been made for him to stay on the third shift. At the same time he asked the employee, "Why pay for something that you can get for nothing?" Hanks replied that the employees were asking only for the right to organize.<sup>5</sup>

---

machinists called by the plant engineer, nor did it claim that other machinists also employed in 1937 were now unavailable as witnesses.

<sup>4</sup> This finding rests upon the undisputed testimony of Hanks. Counsel for the respondent stated that Carver is no longer in the respondent's employ, he had been unable to ascertain his present whereabouts. E. W. Dickerson, the other foreman on Hanks' shift, was a witness but was not questioned about the transfer.

<sup>5</sup> This finding is based upon Hanks' credible testimony. Currier denied making the last statement attributed to him, but admitted the occasion and the accuracy of Hanks' testimony as to other remarks made by him. The Trial Examiner does not accept his denial as true.

As a loom fixer, Hanks had charge of keeping in repair a section of 12 looms. Operating these looms at this time was one experienced weaver, running four looms, and four inexperienced weavers, each of whom was running two looms.<sup>6</sup> At about 4 a. m. August 1, 1942, Hanks and one of the weavers were called by Foreman Dickerson to the cloth room, where they were shown certain pieces containing defects. The foreman accused Hanks of not having checked the run of cloth for three months, and declared that he did nothing but stand around and eat and drink Coca Cola. Hanks replied that he checked the cloth whenever he had an opportunity, and added that he had come into the world eating and drinking and expected to continue. When Dickerson remarked that he was supposed to eat during the 10-minute rest period, Hanks replied that "Mr. Ford plainly said that was a smoking period and not a lunch period." Hanks then inquired whether Dickerson himself ate during the rest period. The latter answered that he ate "when he was good and ready." Hanks retorted, "Brother, I do the same." Dickerson thereupon told the loom fixer to "mark off his picks" and come in on Monday, the next working day, for his pay.<sup>7</sup> On Monday Hanks was told by Ford that the discharge "goes as it lays." The manager also remarked to the employee that he "often wondered what goes on in a man's head when he signs a union card."<sup>8</sup>

Hanks thereafter obtained employment at a plant in Durham, North Carolina. Sometime in the spring of 1943, while visiting at the home of one of Hanks' fellow workers at the Durham plant Dickerson inquired how Hanks was getting along, and remarked that he had hated to fire him, but had been "told to do it."<sup>9</sup>

(b) Contentions of the respondent as to Hanks' discharge

Dickerson testified that he had discharged Hanks for his "bad work," for "hanging around off his job," and for "flying up and getting mad." As to bad work, the foreman stated that for two or three months before Hanks' discharge it was "gradually getting worse," and that "it looked like he wasn't trying to do his job as he had been, just gradually falling off a little at a time." No records were produced by the respondent to corroborate Dickerson's testimony, although the foreman testified that they were made and should be available. The only incident of "flying up and getting mad" has been described above. Dickerson admitted that other weavers and loom fixers has gotten "mad" before, but that he had never fired any of them. Dickerson admitted that there was no special time allotted for employees to eat, and that other loom fixers did not confine their eating and drinking to the single ten-minute rest period provided on the shift.

The foreman further admitted that Hanks had served under him as a loom fixer for about 5 years, and that during this period no other loom fixer had been discharged for any cause.

<sup>6</sup> This finding rests upon Hanks' testimony. Dickerson, his foreman, testified that the loom fixer had two experienced weavers operating four looms each. He admitted, however, that the four inexperienced weavers named by Hanks might have been working under him at the time.

<sup>7</sup> The testimony of both Hanks and Dickerson is in substantial agreement on this event.

<sup>8</sup> The finding as to Ford's remark is based upon Hanks' credible testimony. The manager admitted the conversation, and that Hanks had expressed the belief that he was being discharged because of the Union, but denied having made the above-quoted remark. In view of Ford's admitted concern about and surveillance of the union organizational meetings, the Trial Examiner does not accept his denial as true.

<sup>9</sup> The above finding is based upon the credible testimony of T. G. Crowder, the Durham employee at whose home Dickerson visited. Dickerson denied making the statement, but admitted having been at Crowder's home. The Trial Examiner does not accept his denial as true.

## (c) Conclusions as to the discharge of Hanks

The reasons for Hanks' discharge, appearing on his separation slip, were recorded as "insubordination, misconduct and poor work." No evidence was adduced by the respondent as to acts of Hanks which may reasonably be viewed as having constituted either insubordination or misconduct. Dickerson's lame explanation that Hanks, by his remark about eating, "left the impression that he was going to continue to do as he had been doing" fails to convince the Trial Examiner that the foreman's individual sensitivity was seriously offended or that he considered his supervisory powers to be challenged. No order was given and no order disobeyed. He admitted that other loom fixers continued to do what Hanks had said he would continue to do, and that none but Hanks was discharged. A machine dispensing Coca Cola is located near Hanks' section, available to all employees at any time. The record contains much testimony of other loom fixers establishing that the production of defective cloth is not uncommon, and that all of them have had varying amounts deducted frequently from their pay because weavers under them have spoiled pieces. Hanks had served the respondent for many years as a loom fixer, and there is no evidence that his work had ever been such as to place his job in jeopardy. At the time of his discharge four of the five weavers operating his looms were inexperienced. It is reasonable to believe that their work would contain more defects than that of experienced weavers. The Trial Examiner concludes and finds that the respondent's contentions as to Hanks' discharge are wholly without merit.

Ford's concern about the Union organization was admitted by him. He was plainly well aware of Hanks' leadership in seeking members. The threat to transfer him to another shift failed to curb his Union activity. Within a few days he was summarily discharged. The Trial Examiner is convinced and finds that Hanks was threatened with transfer and thereafter dismissed because of his Union activities.

## 3 The layoff of Huey M. Pearce and Samuel Seamester

## (a) Events leading up to the layoffs

During the brief organizational campaign of the Union in 1942 Huey Pearce and Samuel Seamester<sup>10</sup> were working in the respondent's maintenance department under the supervision of Master Mechanic J. E. Spake. The quality or quantity of their work is not in issue.

Pearce aided his brother and Hanks in their Union activities at the drug store. Both Pearce and Seamester carried Union application cards in their shirt pockets while at work. Spake admitted that he believed Pearce was a Union member. In view of the above-described surveillance of the employees by the respondent's officials it is reasonable to believe and the Trial Examiner finds that management was also aware of Seamester's Union activities.

During the latter part of July Pearce was transferred from the third shift to the second. Spake's testimony is unchallenged that the transfer was made because of lack of work for the few mechanics on the third shift. There is no evidence that any other employee took Pearce's former place on the third shift.

Early in August, according to Spake's uncontradicted testimony, he requested the personnel department to send him a list of the six most recently hired mechanics. On August 7 he laid off three of the six men named on this list;

<sup>10</sup> Seamester was in the U. S. Army at the time of the hearing and was not a witness.

Pearce, Seamester and another. A few days later a service mechanic, also on the list, was laid off, together with a carpenter and a tinsmith's helper. Spake's testimony that these layoffs were necessary because of lack of work in the department is unrefuted. No new employees have been hired in Spake's department since these layoffs.

There is no evidence that any of the employees thus laid off, except Pearce and Seamester, were Union members or active on its behalf.

#### (b) Conclusions as to the layoffs

In selecting men for layoff Spake stated that he kept but one machinist with less seniority than the three let go on August 7. This individual operated the milling machine. Spake stated that none of those laid off could operate the milling machine. Pearce admitted that he had never run this machine and there is no evidence in the record to refute Spake's conclusion as to Seamester's lack of experience on it.

The Trial Examiner concludes and finds that the evidence does not support the allegation in the complaint that Pearce and Seamester were discriminatorily laid off on August 7, or that since that date they have been discriminatorily refused reinstatement. Nor does the evidence warrant a finding that Pearce's transfer to the second shift, above described, was discriminatory.

#### 4 Conclusions in general

The Trial Examiner concludes and finds that by the above-described conduct and remarks of Warren in 1937 and of Ford, Currier, Bradsher and other management officials in 1942 the respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed to them by Section 7 of the Act.

It is further found that by the discharge of Hanks because of his Union membership and activity the respondent discouraged membership in that organization and thereby interfered with, restrained, and coerced its employees in the exercise of rights guaranteed to them by Section 7 of the Act.

The Trial Examiner also concludes and finds that Pearce and Seamester were not laid off on August 7, 1942, or thereafter refused reinstatement, because of their activity on behalf of the Union.

#### IV THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent, set forth in Section III above, occurring in connection with the operation of the respondent's business described in Section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Since it has been found that the respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that the respondent discriminated in regard to the hire and tenure of employment of Arthur A. Hanks by discharging him on August 1, 1942. Therefore it will be recommended that the respondent offer him immediate and full reinstatement to his former or substantially equivalent position. It will be further recommended that the respondent make him whole for any loss

of pay he may have suffered by reason of the discrimination by payment to him of a sum of money equal to the amount he would normally have earned as wages during the period from the date of the discrimination against him to the date of the offer of reinstatement, less his net earnings<sup>11</sup> during such period.

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

#### CONCLUSIONS OF LAW

1. Textile Workers Union of America, C. I. O., is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of Arthur A. Hanks, thereby discouraging membership in Textile Workers Union of America, C. I. O., the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

5. In laying off Huey M. Pearce and Samuel Seamester the respondent has engaged in no unfair labor practice within the meaning of the Act.

#### RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned Trial Examiner recommends that the respondent Collins & Aikman Corporation, its officers, agents, successors and assigns shall :

1 Cease and desist from :

(a) Discouraging membership in Textile Workers Union of America, C. I. O., or any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to the hire and tenure of employment or any terms or conditions of their employment ;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, 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 as guaranteed in Section 7 of the Act.

2 Take the following affirmative action which the undersigned finds will effectuate the policies of the Act :

(a) Offer to Arthur A. Hanks immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority or other rights and privileges ;

<sup>11</sup> By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, 311 U S 7

(b) Make whole Arthur A. Hanks, in the manner set forth in the section entitled "The remedy," for any loss of pay he may have suffered ,

(c) Post immediately in conspicuous places in its plant at Roxboro, North Carolina, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is recommended that it cease and desist in paragraphs 1 (a) and (b) of these recommendations; (2) that the respondent will take the affirmative action set forth in paragraphs 2 (a) and (b) of these recommendations; and (3) that the respondent's employees are free to become or remain members of Textile Workers Union of America, C. I. O., and that the respondent will not discriminate against any employee because of membership in or activities in behalf of that organization ;

(d) Notify the Regional Director for the Fifth Region in writing within ten (10) days from the date of the receipt of this Intermediate Report, what steps the respondent has taken to comply herewith.

It is further recommended that unless on or before ten (10) days from the receipt of this Intermediate Report, the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid

It is further recommended that the complaint be dismissed as to the allegation that the respondent has engaged in unfair labor practices with respect to Huey M Pearce and Samuel Seamester

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 3, effective November 26, 1943, any party or counsel for the Board may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D C, an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing within ten (10) days from the date of the order transferring the case to the Board.

C. W. WHITEMORE,  
*Trial Examiner.*

Dated January 3, 1944