

In the Matter of SYDNEY BLUMENTHAL AND COMPANY, INC., and TEXTILE WORKERS OF AMERICA (CIO)

*Case No. 5-R-1617.—Decided November 18, 1944*

DECISION  
AND  
ORDER

On June 29, 1944, pursuant to a Stipulation for Certification upon Consent Election, entered into June 15, 1944, by Sydney Blumenthal and Company, Inc., Caromount Division, Rocky Mount, North Carolina, herein called the Company, and Textile Workers of America (CIO), herein called the Union, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Fifth Region (Baltimore, Maryland). Immediately thereafter, a Tally of Ballots was furnished by the Regional Director to the Company and to the representative of the participating union.

The Tally indicated that of the approximately 613 eligible voters, 575 cast valid ballots of which 260 were for the Union and 315 were against the Union. One void ballot was cast; 7 ballots were challenged.

On July 1, 1944, the Union filed Objections to conduct affecting the results of the election. On September 13, 1944, following an investigation, the Regional Director issued a Report on Objections to the election, in which he found that the Objections raised material and substantial issues. Thereafter, on September 26, 1944, the Company sent a letter to the Regional Director which the Board accepts as Exceptions to the said Report. In the letter, the Company (1) agreed to the holding of a new election but demanded that it be held immediately; (2) admitted the issuance of certain speeches and letters as recounted by the Regional Director in the Report but claimed privilege to issue such utterances. The Company did not deny the Regional Director's findings concerning certain acts of its supervisors.

Upon the entire record in the case, including the Objections, the Report on Objections, and the Exceptions thereto, the Board makes the following:

## FINDINGS OF FACT

The Union began organizing in the Company's plant on or about May 1, 1944. On May 9, 1944, the Company called its employees together and read them two letters emphasizing the benefits which the Company had afforded the employees in the past,<sup>1</sup> and suggesting that the management would take it as an affront if the employees chose a union to represent them. On June 15, 1944, the Company entered into the Stipulation for Consent Election. Thereafter, on the 16th, 23rd, 27th, and 28th of June, the Company sent letters to employees warning that the employees were "walking into a trap from which there was no escape," i. e., "Union Security," the danger being that employees who tired of the Union would lose their jobs. The letters also pointedly implied that benefits presently sponsored by the Company would be discontinued if the Union should win the election.<sup>2</sup> Similar letters were issued to the employees of the Company at Wilson, North Carolina. The Company had never issued bulletins or news letters to its employees in this manner before.

The Company's contention that these utterances were privileged by reason of the First Amendment to the Constitution is without basis. They clearly go beyond the exercise of the privilege of free speech and they improperly injected the Company into the election campaign as a party interested in the defeat of the Union.<sup>3</sup> Coercion was implicit in the threats to discontinue benefits.<sup>4</sup> Moreover, the acts of supervisors in the plant make evident the fact that the letters were part of a deliberate scheme of coercion and intimidation engaged in by the Company in an effort to affect the results of the election. It is undisputed that supervisors approached employees with such statements as "Of course the Company don't want the union and I am for the Company" and, in a conversation relative to the probability that a union man would lose his job, "You wouldn't know how we got rid of you." Similar threats were made by another employee who, according to the Regional Director's undisputed finding, has a favored position in the plant and occupies a position which would lead the employees reasonably to believe that he is a representative of management.<sup>5</sup> This same individual suggested that employees would lose privileges if the

<sup>1</sup> Among the benefits listed was a request made by the Company to the War Labor Board for wage increases. The Regional Director reported that the request was made the day the speech was given.

<sup>2</sup> "Is the Union going to lend you money to buy you coal at the price you are now paying? Is the Union going to pay the difference between the cost of your insurance and what you now pay? . . . The Union is promising you a lot of changes. There will be plenty of changes if they win, but will they be to your advantage?"

<sup>3</sup> See *Reliance Manufacturing Co. v. N. L. R. B.*, 143 F. (2d) 761 (C. C. A. 7).

<sup>4</sup> See *N. L. R. B. v. American Tube Bending Co.*, 134 F. (2d) 993.

<sup>5</sup> See *International Ass'n of Machinists v. N. L. R. B.*, 311 U. S. 72; *Matter of Engineering and Research Corp.*, 55 N. L. R. B. 137.

Union should come into the plant. One of the employees was asked to use his influence in the plant to get other employees to vote against the Union.

We are not satisfied, therefore, that the results of the election represent the free choice of the employees who participated therein, and we shall set it aside. The Company agrees to cooperate in the holding of another election but refuses to comply with the request of the Regional Director that it take steps to dissipate the effect of the above-mentioned activities. Consequently, we shall not, as the Company suggests, hold a new election at this time but we shall do so when the Regional Director advises us that the time is appropriate.

#### ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby vacates and sets aside the election held in this proceeding June 29, 1944.