In the Matter of ITASCA COTTON MANUFACTURING COMPANY *and* TEXTILE WORKERS' UNION OF AMERICA, CIO

Case No. 16–C–1304.—Decided October 19, 1948

DECISION

AND

ORDER

Upon charges duly filed by Textile Workers' Union of America, CIO,[1] herein called the Union, the General Counsel of the National Labor Relations Board, by the Regional Director for the Sixteenth Region (Fort Worth, Texas), issued a complaint dated June 17, 1948, against Itasca Cotton Manufacturing Company, 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 (5) and Section 2 (6) and (7) of the National Labor Relations Act, herein called the Act, and Section 8 (a) (1) and (5) and Section 2 (6) and (7) of the Act, as amended by the Labor Management Relations Act, 1947.[2]

With respect to the unfair labor practices, the complaint alleges in substance: (1) that the Respondent, through its officers, agents, and supervisory employees, from on or about November 15, 1945, to date, has vilified, disparaged, and expressed disapproval of the Union; has interrogated its employees concerning their union affiliation; and has urged, persuaded, threatened, and warned its employees to refrain from assisting, becoming members of, or remaining members of the Union, and has inquired into the activities of the Union and the concerted activities of its employees; and (2) that on or about July 17, 1945, and at all times thereafter, the Respondent refused to bargain

[1] The original charge was filed on January 4, 1946; a first amended charge was filed on April 19, 1946; a second amended charge was filed on June 20, 1947; a third amended charge was filed on January 20, 1948; and a fourth amended charge was filed on June 14, 1948.

[2] So far as here material, the provisions of Section 8 (1) and (5) of the Act are continued in Section 8 (a) (1) and (5) of the amended Act. Likewise, the following provisions of the Act, mentioned herein, are substantially reenacted in corresponding section numbers of the amended Act: Section 2 (5), (6), and (7), Section 7, Section 9 (a) and (b), and Section 10 (c). The Act and the amended Act are hereinafter jointly called the Acts.

collectively with the Union as the exclusive collective bargaining representative of all the employees in a specified appropriate unit, although a majority of said employees had selected the Union as their collective bargaining representative.

On or about June 22, 1948, the Respondent filed an answer, admitting certain allegations of the complaint, but denying that it had engaged in any unfair labor practices. The Respondent also moved that the complaint be dismissed, on the ground that it was based upon alleged unfair labor practices which occurred more than 6 months prior to the filing of "the charge" and service of a copy thereof upon the Respondent, within the meaning of Section 10 (b) of the amended Act. For the reasons stated below, the motion is hereby denied.

Thereafter all the parties, being desirous of obviating the necessity of a hearing herein, entered into a stipulation which set forth an agreed statement of facts. The stipulation provided that the parties waived their right to a hearing before a duly authorized Trial Examiner; that the Board might make findings of fact and conclusions of law, and issue an Order, based upon the agreed facts; and that the charges, the complaint, the answer, the stipulation, and certain other documents should constitute the entire record. The stipulation further provided that on June 26, 1947, copies of all charges filed herein were duly served on the Respondent. The stipulation also provided that it should not in any way operate to prevent the Respondent from resisting enforcement of the Order in any Court, by reason of the provisions of Section 10 (b) referred to herein.

The stipulation is hereby accepted and made a part of the record herein, and, in accordance with Section 203.51 of National Labor Relations Board Rules and Regulations—Series 5, as amended, the proceeding is hereby transferred to and continued before the Board.

Upon the basis of the aforesaid stipulation, and the entire record in the case, the Board [3] makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Itasca Cotton Manufacturing Company, a Texas corporation, manufactures cotton cloth at its plant in Itasca, Texas. During the year 1947, the Respondent purchased approximately $57,000 worth of supplies, 75 percent of which was shipped to it from points outside

[3] Pursuant to the provisions of Section 3 (b) of the amended Act, the National Labor Relations Board has delegated its powers in connection with this proceeding to a three-man panel consisting of the undersigned Board Members [Chairman Herzog and Members Murdock and Gray].

the State of Texas. During the same period the Respondent manufactured products valued at approximately $1,006,000, 89 percent of which was shipped to points outside the State.

The Respondent admits, and we find, that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

Textile Workers' Union of America, CIO, is a labor organization which admits to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

A. *The motion to dismiss*

As already noted, the Respondent moved to dismiss the complaint, because of the limiting language in Section 10 (b) of the amended Act, which provides as follows:

> . . . no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made. . . .

The Board has heretofore ruled that this provision "imposes no limitation upon the issuance of complaints in any case in which the charges were filed and served *within six months after August 22, 1947*, the effective date of the amendments" to the Act.[4] The Respondent was served within this period with copies of charges previously filed with the Board, alleging a refusal to bargain since about December 17, 1945, and interference, restraint, and coercion by "this and other acts and conduct." We find that the unfair labor practices alleged in the complaint are likewise alleged, in substance, in these charges. The Respondent's motion to dismiss is therefore denied.

B. *Interference, restraint, and coercion*

The parties stipulated, and we find, that since on or about November 15, 1945, and on numerous dates thereafter, the Respondent, through its duly authorized agents and representatives, has interrogated its employees concerning their union affiliation, and has threatened and warned its employees to refrain from assisting, becoming members of, or remaining members of the Union. We further find that such activities of the Respondent interfered with, restrained, and coerced its

[4] *Matter of The Electric Auto-Lite Company*, Cases Nos. 13–C–3058 and 13–C–3247, Order of May 13, 1948. Emphasis supplied.

employees in the exercise of the rights guaranteed in Section 7 of the Acts.[5]

C. *The refusal to bargain*

1. The appropriate unit; representation by the Union of a majority therein

The parties stipulated, and we find, in accordance with our earlier decision,[6] that all production and maintenance employees of the Respondent at its Itasca, Texas, plant, excluding plant-protection employees, clerical employees, and supervisors, constitute a unit appropriate for the purposes of collective bargaining.

We also find, in accordance with the stipulation of the parties, that since on or about July 17, 1944, the Union has been the exclusive representative of all employees in the above-described unit for the purposes of collective bargaining with the Respondent.

2. The refusal to bargain

The parties stipulated, and we find, that since on or about July 17, 1945, and at all times thereafter, the Respondent has refused to bargain collectively with 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 its operations 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

Having found that the Respondent has engaged in certain unfair labor practices, we shall order that it cease and desist therefrom and that it take certain affirmative action which will effectuate the policies of the amended Act.

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

[5] See *Matter of Morrison Turning Co., Inc.*, 77 N. L R. B. 670, and cases cited therein.
[6] 56 N L. R. B. 1581.

CONCLUSIONS OF LAW

1. Textile Workers' Union of America, CIO, is a labor organization, within the meaning of Section 2 (5) of the Acts.

2. All production and maintenance employees of the Respondent at its Itasca, Texas, plant, excluding plant-protection employees, clerical employees, and supervisors, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Acts.

3. Textile Workers' Union of America, CIO, was on July 17, 1944, and at all times thereafter has been, the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Acts.

4. By refusing on or about July 17, 1945, and at all times thereafter, to bargain collectively with Textile Workers' Union of America, CIO, as the exclusive representative of all employees in the aforesaid appropriate unit, the Respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (5) of the Act and Section 8 (a) (5) of the amended Act.

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

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

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Itasca Cotton Manufacturing Company, Itasca, Texas, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Textile Workers' Union of America, CIO, as the exclusive collective bargaining representative of all its production and maintenance employees at its Itasca, Texas, plant, excluding plant-protection employees, clerical employees, and supervisors;

(b) Interrogating its employees as to their union affiliation;

(c) Threatening or warning its employees to refrain from assisting, or becoming or remaining members of, Textile Workers' Union of America, CIO;

(d) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Textile Workers' Union of America, CIO, 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, as guaranteed in Section 7 of the Acts.

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

(a) Upon request, bargain collectively with Textile Workers' Union of America, CIO, as the exclusive representative of all its production and maintenance employees at its Itasca, Texas, plant, excluding plant-protection employees, clerical employees, and supervisors, and if an understanding is reached, embody such understanding in a signed agreement;

(b) Post at its plant in Itasca, Texas, copies of the notice attached hereto marked "Appendix A." [7] Copies of said notice, to be furnished by the Regional Director for the Sixteenth Region, shall, after being duly signed by the Respondent's representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

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

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL NOT interrogate our employees as to their union affiliation.

[7] In the event that this Order is enforced by decree of a Circuit Court of Appeals, there shall be inserted in the notice, before the words: "A DECISION AND ORDER," the words: "A DECREE OF THE UNITED STATES CIRCUIT COURT OF APPEALS ENFORCING."

WE WILL NOT threaten or warn our employees to refrain from assisting, or becoming or remaining members of, Textile Workers' Union of America, CIO.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist Textile Workers' Union of America, CIO, 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. All our employees are free to become or remain members of this Union, or any other labor organization.

WE WILL BARGAIN collectively upon request with the above-named Union as the exclusive representative of all employees in the collective bargaining unit described herein, and if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All our production and maintenance employees at the Itasca, Texas, plant, excluding plant-protection employees, clerical employees, and supervisors.

ITASCA COTTON MANUFACTURING COMPANY,
Employer.

By _____
(Representative) (Title)

Dated _____

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