

IN THE MATTER OF BETHLEHEM STEEL COMPANY, SHIPBUILDING DIVISION,
AND BETHLEHEM-SPARROWS POINT SHIPYARD, INC. *and* INDUSTRIAL
UNION OF MARINE & SHIPBUILDING WORKERS OF AMERICA, CIO

Case No. 4-CA-15

ORDER

May 19, 1950

On April 12, 1950, the Board issued its Decision and Order¹ in this case, finding that the Respondents, in violation of Section 8 (a) (5) and (1) of the Act, had refused to bargain with the Union, and directing that the Respondents, among other things, cease and desist from refusing to bargain with the Union.

On May 17, 1950, the Board received from the Respondents a Motion to Vacate and Set Aside the Decision and Order of the Board and to Dismiss the Complaint. The Respondents contend that the Board had no jurisdiction to issue any complaint or decision in this case because at the time of the issuance of the complaint the Congress of Industrial Organizations, the parent body of the Union herein, had not complied with Section 9 (h) of the Act.² The Respondents cite the recent decision in the *Postex Cotton Mills* case,³ in which an order of the Board directing the employer in that case to bargain with the Textile Workers Union of America, C. I. O., was denied enforcement by the court solely because at the time the complaint was issued the Congress of Industrial Organizations was not in compliance with Section 9 (h).

The Court in the *Postex* case rejected the considerations on which the Board had relied in *Northern Virginia Broadcasters, Inc.*⁴ There the Board found that noncompliance by the American Federation of Labor with the filing requirements of Section 9 of the amended Act did

¹ 89 NLRB 341.

² The complaint in this case issued on June 29, 1948. The Congress of Industrial Organizations did not comply with Section 9 (h) of the Act until December 22, 1949.

³ *N. L. R. B. v. Postex Cotton Mills, Inc.*, 181 F. 2d 919 (C. A. 5).

⁴ 75 NLRB 11.

89 NLRB No. 210.

not bar the Board from investigating a representation question raised by an international union affiliated with the American Federation of Labor, that affiliate having complied with the filing requirements of Section 9. In reaching that result, the Board concluded that Congress did not intend that complying labor organizations affiliated with parent federations such as the American Federation of Labor and The Congress of Industrial Organizations should be denied the processes of the Board because of the failure of such parent federations to comply with Section 9 of the Act. With due respect for the opinion of the Court of Appeals for the Fifth Circuit, the Board is constrained to adhere to the Board's original view until the Supreme Court of the United States has had an opportunity to pass on the question. Accordingly, the Respondent's motion herein will be denied.

ORDER

IT IS ORDERED that the Respondents' Motion to Vacate and Set Aside the Decision and Order and to Dismiss the Complaint in this case be, and it hereby is, denied.

Dated, Washington, D. C., May 19, 1950.

By direction of the Board:

FRANK M. KLEILER,
Executive Secretary.