

In the Matter of OVAL WOOD DISH CORPORATION and PLAYTHINGS,
JEWELRY AND NOVELTY WORKERS INTERNATIONAL UNION (CIO)

Case No. 3-C-727.—Decided July 4, 1945

Mr. Peter J. Crotty, for the Board.

Messrs. Kaufman and Cronan, by *Messrs. H. Robert Gallop* and *Jesse Climenko*, of New York City, for the respondent.

Mr. Theodor Bowman, of New York City, for the Union.

Miss Kate Wallach, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon an amended charge duly filed by Playthings, Jewelry and Novelty Workers International Union (CIO), herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Third Region (Buffalo, New York) issued its complaint, dated June 8, 1944, against Oval Wood Dish Corporation, Tupper Lake, New York, 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 (2) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing thereon, were duly served upon the respondent, the Union, and Oval Wood Dish Woodworkers Association, herein called the Association, alleged in the complaint to be a company-dominated labor organization.

With respect to the unfair labor practices, the complaint alleged in substance: (1) that on or about January 1, 1944, and thereafter, the respondent caused the issuance of statements and made speeches designed to defeat the Union in an election conducted by the Board's agents to designate representatives for the purposes of collective bargaining; threatened discharge or other disciplinary action if the Union should win the

election; and disparaged the Union and encouraged and assisted a committee of its employees in its efforts to defeat the Union in the election;¹ and (2) that the respondent fostered, encouraged, dominated, and interfered with the formation and administration of the Association, and contributed financial and other support thereto. The respondent filed an answer in which it admitted certain allegations of the complaint as to the nature of its business but denied that it had committed any unfair labor practice.

Pursuant to notice, a hearing was held at Tupper Lake, New York, on July 13-15, 1944, before William J. Isaacson, the Trial Examiner duly designated by the Chief Trial Examiner. The Board, the respondent, and the Union were represented and participated in the hearing. The Association did not appear. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. At the conclusion of the Board's case, counsel for the Board moved to amend the complaint to conform to the proof. The motion was granted without objection. At the conclusion of the Board's case and at the conclusion of the hearing, the respondent moved to dismiss the complaint. Ruling on the motion was reserved by the Trial Examiner, and disposed of in his Intermediate Report as hereinafter indicated. During the course of the hearing, the Trial Examiner made rulings on other motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner made during the course of the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.

On November 15, 1944, the Trial Examiner filed his Intermediate Report, copies of which were duly served upon the respondent, the Union, and the Association, finding that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1) and (2) of the Act, and recommending that the respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. In disposing of the respondent's motion to dismiss the complaint, the Trial Examiner denied the motion as to certain allegations of the complaint and granted it as to others, as more fully indicated in the margin.² Thereafter, the respondent filed exceptions to the Intermediate Report and a supporting brief. Pursuant to notice, and at the request of the respondent, a hearing for the purpose of oral argument

¹ Upon motion of the respondent, a bill of particulars was filed by the Board's attorney with respect to the allegations above.

² The Trial Examiner found that the evidence supported the allegations of the complaint as to statements and speeches made by the respondent designed to defeat the Union and as to domination and interference with the formation and administration of the Association; he dismissed the allegation that the respondent threatened union adherents with discharge and made no findings with respect to the remaining allegations of the complaint, namely, that the respondent disparaged the Union and encouraged and assisted a committee of its employees in its efforts to defeat the Union in the election.

was held before the Board at Washington, D. C., on June 5, 1945. The respondent appeared and participated in the argument. The Association and the Union did not appear.³

The Board has considered the Intermediate Report, the exceptions and briefs, including a brief filed by the respondent with the Trial Examiner, and the entire record in the case, and finds that the exceptions have merit.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Oval Wood Dish Corporation, a Delaware corporation, is engaged at Tupper Lake, New York, in the manufacture, sale, and distribution of wooden utensils and other products, including lumber. The respondent employs about 465 employees. During the year 1943, the respondent manufactured products valued in excess of \$500,000, of which more than 50 percent was shipped to points outside the State of New York. During the same period, the respondent used in its operations certain raw materials, a slight percentage of which was obtained from points outside the State of New York.⁴

II. THE ORGANIZATIONS INVOLVED

Playthings, Jewelry and Novelty Workers International Union is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the respondent.

Oval Wood Dish Woodworkers Association is an unaffiliated organization admitting to membership employees of the respondent.⁵

III THE ALLEGED UNFAIR LABOR PRACTICES

A. Preelection events

So far as appears, there was no union activity among the respondent's employees prior to January 1944. The Union started its organizational drive among the respondent's employees in January 1944. Theodor Bowman, the Union's representative, first communicated with the respondent by letter, dated January 25, 1944, in which Bowman claimed that an employee, Albert Perry, had been discharged because of his union activities. Gerald Hull, the respondent's president, replied, by letter dated January 26, 1944, that Perry had been discharged for cause, but that

³ In view of our decision to dismiss the case, the respondent's request for reargument is hereby denied.

⁴ In its answer, the respondent admits that it is engaged in interstate commerce.

⁵ The complaint erroneously refers to the Association as "Oval Wood Dish Woodcutters Association."

he, Hull, would be glad to discuss the matter further with Bowman.⁶ In addition, Hull stated in his letter that he would be glad to furnish Bowman, upon his request, with a list of the respondent's employees, introduce Bowman to them, and have Bowman meet them on company property after working hours; and that he, Hull, would assure the employees that they would not be discriminated against in case they "desired to join the Union, form a union of their own, or select any other union."⁷

When Bowman visited President Hull for the first time at the respondent's plant on January 27, 1944, Hull renewed his offer to give Bowman a list of the employees and to show Bowman the plant. Bowman accepted both offers. He was furnished a complete list of the respondent's employees and was accompanied through the plant by President Hull and one of the employees.⁸ Thereafter, during the course of the union campaign which ensued, Bowman was permitted by the respondent to distribute union literature in the clock house on company property.

Thereafter, Bowman complained twice to the respondent that two of its foreladies, Beulah Delair and Pearl Jolie, had interrogated employees about their union affiliations. The first complaint was made to President Hull either in the last week of January 1944, or the first part of February 1944.⁹ On that occasion, Bowman was assured by Hull that if such conduct had occurred, he would put an immediate stop to such activities. According to Hull's testimony, which we credit, President Hull told his brother, Vice-President William Hull, that Bowman had complained about interference by the foreladies, and William Hull promised that he would instruct the foreladies to refrain from engaging in such activities.¹⁰

On January 29, 1944, the respondent posted a notice on its bulletin board calling attention to the organizational drive of the Union and to the respondent's attitude toward the Union.¹¹ Also, as stated above, the

⁶ Perry was reinstated but thereafter again discharged allegedly for theft of company property. The complaint contains no allegation that Perry was discriminatorily discharged at any time, or any other allegation with respect to Perry.

⁷ A copy of this letter was posted on the respondent's bulletin boards on January 29, 1944.

⁸ Bowman had requested that one of the employees accompany Hull and Bowman through the plant.

⁹ The testimony as to when Bowman approached President Hull about the foreladies is conflicting. While President Hull testified that he believed that Bowman made his first complaint before the plant inspection which took place on January 27, 1944, Bowman testified that the conversation took place between January 31 and February 7, 1944. We find it unnecessary to determine the exact date of the conversation since it is not material to any issue in the case.

¹⁰ Vice-President Hull was not called as a witness.

¹¹ The notice contained statements to the effect that the respondent was not for or against a union, that it wished to be courteous to the union organizer merely because it wished matters decided in a friendly manner without strikes, lock-outs, or unpleasantness of any kind; that the employees had a right to join a union of their own, or not to join a union, or any other form of organization; that the employees should ask themselves whether they could get the same services the union would furnish at less cost and whether they could get as good advice and representation through department groups or through a union composed of, and operated by, their fellow employees. In the notice, the respondent also advised the employees that for the past 3 months it had engaged engineers for the purpose of drafting a new wage schedule with the objective of increases which, so it hoped, would meet with the approval of the National War Labor Board.

respondent posted a copy of President Hull's first letter to Bowman and, in addition, portions of President Roosevelt's Executive Orders 9250 and 9381, relative to stabilization of wages and salaries.

During President Hull's absence from the plant, on February 16, 1944, Bowman complained to Vice-President Hull that Foreladies Delair and Jolie had interrogated employees about signing union membership cards. In the presence of Bowman, William Hull asked the foreladies about such interrogation. The testimony with respect to the answers of the foreladies is conflicting. Bowman testified that Forelady Jolie had denied that she had engaged in such conduct and that Forelady Delair had admitted that she had done so in the past but had discontinued such interrogation upon instruction from either William or Gerald Hull. Gerald Hull testified that, according to his brother's report upon Gerald's return to the plant, both foreladies had denied that they had interrogated employees about their union affiliation and had stated that they had been instructed not to engage in such activities. Unlike the Trial Examiner who credited Bowman's version of this incident, we deem it unnecessary to resolve such conflicting testimony in view of the fact that neither the complaint nor the bill of particulars refers to such specific activity on the part of supervisory employees.

On February 25, 1944, about a week after Bowman's second complaint, and soon after President Hull's return to the plant, the respondent explained again by way of posted notices to its employees its attitude toward the Union. The contents of the notice were approved by Bowman before it was posted.¹²

On March 2, 1944, Bowman told President Hull that a majority of the employees had signed membership cards and asked President Hull to recognize the Union as their bargaining agent on the basis of a Board check of union membership applications. President Hull refused to agree to a card check, asserting that a number of the employees had been coerced into signing applications under threat of losing their jobs or of having to pay considerably higher dues should the Union be installed as bargaining agent.¹³ Hull agreed, however, to a consent election.

On March 14, 1944, a discussion concerning procedure for the con-

¹² In the notice, the respondent stated in substance that it did not consider union membership a cause for discharge; and that employees should not believe any statement by any management official, if made, to the effect that an employee would be discharged for membership or non-membership in a labor organization, as the case may be. In addition, the respondent stated in the notice that any such statement, if made would be false; that the employees were the sole judge as to whether they should join or not join a union, and that they should not be influenced in their decision with respect to affiliation or non-affiliation by any threat of loss of their jobs

¹³ Bowman admitted in his testimony that on March 2, in the course of this conversation, he stated that, "some of the boys might have spoken a little out of line" Bowman did not deny, as Hull testified, that Bowman offered on that occasion to withdraw a number of membership cards which might have been obtained in the manner indicated by Hull. We credit Hull's testimony in this respect.

sent election was had at the respondent's plant in which President Hull, Bowman, the Board's Regional Director, and the Board's attorney participated. During the course of the discussion, President Hull announced that he would inform his employees by speech and letter of the coming election and of the respondent's position with regard thereto. The Board's Regional Director warned President Hull that any statement made by Hull before the election might be viewed by the Union as an unfair labor practice and might cause the Union to file charges with the Board, but nevertheless, on March 15, the day before the election, President Hull and his brother addressed the employees in groups and thereafter distributed to all employees copies of a letter having substantially the same content as the speech.¹⁴

On the morning of the election, March 16, 1944, before the beginning of the first shift, employee Kenneth Lamoy and his son distributed anti-union leaflets printed and paid for by a "Representing Committee against any CIO Union" of which the elder Lamoy was a member. The record does not show that the respondent had any connection with the Committee. Plant Superintendent A. A. Bradley observed Lamoy's son distribute the leaflets at the clock house, on company property, without interfering with such distribution.

Theresa Brusso, a 16-year old part-time employee, testified that, on the day of the election, Forelady Delair asked several girls in the rest room whether they had voted and, upon receiving a negative reply, urged them to vote; that Forelady Jolie, who was also present on that occasion said: "You know girls what you are voting for as well as I do"; but that Forelady Jolie did not advise the girls how to vote. Neither Forelady Jolie nor Forelady Delair were called to testify. Employee Evelyn Calnon, called as a witness by the Trial Examiner, testified that the conversation in question took place before a change of shift; that Forelady Jolie advised the girls that they should vote on their own time before the beginning of their shift because, thereafter, the polls would be closed; that, after Forelady Jolie had left, employee Brusso urged the girls to vote for the Union. Like the Trial Examiner, we credit Calnon's testimony and find that none of the foreladies urged the employees to vote against the Union.

The Union lost the election.¹⁵ It did not file objections to the election.

¹⁴ In the letter and speech, the respondent clearly expressed its preference for dealing directly with its individual employees. It pointed to the futility of selecting a union in wartime when the Union would be unable to obtain greater benefits for the employees than the respondent had granted to them in the past without the assistance of "total strangers." It contrasted the negative aspects of union membership with the respondent's past generosity in its dealings with its employees; and, although it made no promise to continue such generous treatment in the future, it did not threaten discontinuance of such generosity in case the Union won the election, nor did it make any other threat.

¹⁵ Of 359 valid votes cast, 113 were for the Union, 246 against the Union. 2 ballots were void, and 13 were challenged.

B. *The Association*

On March 17, 1944, the day after the election, President Hull called employees of two departments together for the purpose, as President Hull testified without contradiction, of answering a question about vacations which had been asked by an employee in one of these departments on the day before the election and which President Hull had declined to answer at that time because of the pending election.¹⁶ On March 17, Hull thanked the assembled employees for their vote of confidence; he assured them that "you can get just as much dealing directly with the company through your own representatives and individually as you could have gotten through the union representative"; he commented that the votes cast in the election indicated that some employees had grievances and he advised the employees to bring such grievances to the respondent's attention "either as individuals or through groups of their own choosing or in any manner they wished to meet with the management."¹⁷

By letter dated March 20, 1944, addressed to Vice-President Hull, employee Kenneth Lamoy, who had been a member of the anti-CIO committee and had distributed anti-union leaflets on its behalf on the day of the election, asked that the respondent confer with a group of representatives from different parts of the plant for the purpose of talking about wages, vacations, and "things of that kind."¹⁸ On March 22, 1944, President Hull replied that he would be glad to meet with a small group or "just as large a group as they wanted."

On March 29, 1944, after working hours, a meeting was held in President Hull's office which was attended by about 18 or 20 employees, including Kenneth Lamoy and William David Boushie.¹⁹ According to Hull's uncontradicted testimony, which we credit, he told the group that he was gratified with the result of the election; that the election had disclosed some sore spots in the plant; that some employees seemed to hesitate to come to management on some of their problems and "clear grievances up",

¹⁶ The question was whether the employees could secure vacations with pay

¹⁷ Employee Clara Robinson, who was present when Hull talked to the employees as stated above, testified that President Hull said, in addition, that "if we wanted a union of our own that we could select a group in our own department and vote them in; and if we had any complaints" he would provide a box to place them in. The Trial Examiner relied in part upon Robinson's testimony related above as indicative of the fact that Robinson construed Hull's statements as an invitation to form an unaffiliated organization and found that President Hull thereby suggested formation of a company union. For the reasons more fully discussed below, we disagree with the Trial Examiner's conclusion.

¹⁸ Except as stated above, the record does not disclose that the respondent prompted Lamoy's request.

¹⁹ The record does not disclose how the employees present at the meeting had been selected or that the respondent had any part in their selection. Neither does the record disclose how many departments there were, nor how many departments were represented. Boushie, who thereafter became chairman of the Association, was an employee in the sawmill. Lamoy gave no testimony with respect to this meeting. Boushie testified that he had been asked by Lamoy and another employee, Ed Stone, to attend the meeting in Hull's office.

that he would actually like to put the cards on the table and discuss matters with the employees; that the meeting was held at the request of the assembled employees and that he would like to hear their grievances if there were any; and that, thereafter, vacations, rates of pay, and other matters, such as rest rooms, were mentioned. Hull further creditably testified without contradiction that he told the group that, if they felt hesitant as individuals, he would be willing to meet with any committee representing any department; that there was some talk as to forming committees in the various departments, as well as "forming a complete factory group in which each department would be represented"; that he told the group assembled at the meeting that "if there was going to be a group representing the entire factory to discuss working conditions generally, management could not participate in any way in the formation of that group," but that "on any specific matter [management] could meet with any group"; and that "if they were going to form a group to discuss these things among themselves and then come in and talk about them, they [the employees] would have to form the group without any help of the management and without having any foreman or supervisory employees on their committee."²⁰

About 1 or 2 weeks after the meeting of March 24, 1944, the exact date not appearing in the record, the employees conducted an election for representatives in two departments on company property during the lunch hour in the absence of supervisory employees, and in one department, the sawmill, during working hours.²¹ Employee Brusso testified that, on the morning of the election, she overheard Vice-President Hull ask employees Georgianna Pilon and Helen Josephine Forkey "if they would help out" with the election. Pilon denied that she ever had a talk with Vice-President Hull about the election. Forkey testified that she had a conversation with Vice-President Hull after the election at which time Vice-President Hull asked her whether she and two other employees had been elected to a committee. There is no testimony corroborating Brusso's version of the alleged conversation. The Trial Examiner credited Brusso's testimony upon his observation of the witnesses, coupled with the fact that Vice-President Hull was not called by the respondent to testify. We disagree with the Trial Examiner's resolution of the conflict. Although we have not heard or seen the witnesses, the record discloses that Brusso was an immature part-time employee who worked solely during school vacation periods at the respondent's plant; the respondent's two witnesses, partici-

²⁰ Boushie, the only other witness to testify concerning what occurred at this meeting, testified that Hull inquired "whether [they] would want to have a group to talk different things over. That is all I remember."

²¹ According to credible testimony of employee Helen Josephine Forkey, the employees who had attended the meeting with President Hull on March 24, 1944, arranged for the election of the committee. The record does not disclose whether any supervisory employee was present when the employees in the sawmill elected their representatives

pants in the alleged conversation, had been in the respondent's regular employment for more than 10 years. In view of their denial, and the fact that Brusso was not a participant in the alleged conversation, we do not attach controlling significance to the fact that William Hull did not testify. We find that Vice-President Hull did not ask Pilon or Forkey to help with the election for selection of employee representatives.

The exact details of the polling do not appear in the record. In any event, about 2 weeks after March 24, 1944, the representatives chosen by the various departments held their first meeting at which Boushie was elected chairman and two other employees were elected as president and secretary, respectively. The name of the Association was determined and subjects for future discussions, such as wages, vacations, and insurance, selected. The representatives held a total of four meetings, all of which took place on company property after working hours.²³ No constitution or bylaws were adopted; no dues were collected; no membership cards issued; and no further meetings with the respondent were held.

The last meeting of employee representatives, at which 10 or 12 of the 18 or 20 representatives were present, was held in the early part of May 1944. Upon invitation of Chairman Boushie, an insurance agent discussed a group insurance plan. The record does not show that the respondent had any part in the insurance plan and it does not appear that such a plan was ever adopted. Toward the end of the meeting, a Field Examiner of the Board appeared in the meeting room and questioned the chairman about the functions of the Association. According to Boushie's uncontradicted testimony which we credit, thereafter the employees lost interest in the Association and it has since become dormant.

Concluding findings

In the Union's organizational drive among the respondent's employees, the respondent aided the Union by furnishing a list of the employees to Bowman, the Union's representative, by introducing him to the employees, and by permitting use of company premises for distribution of union literature. Thereafter, the respondent made itself readily available for meetings with Bowman upon his request. Twice, following complaints by Bowman, the respondent posted notices, in substance, informing its employees, that they were free to join or to refrain from joining the Union without fear of loss of their jobs. Indeed, no employee testified that any management representative made any statement threatening discharge or other disciplinary action in the event of union victory at the election, as the

²³ The employee representatives used for their meetings a room in the respondent's recreation building which, according to Boushie's uncontradicted testimony, which we credit, had been at the disposal of the employees without prior permission from the respondent for such purposes as parties, dances, sports, and safety meetings.

complaint alleges. The Trial Examiner recommended dismissal of the complaint as to such allegation. We concur.

The complaint also alleged that the respondent disparaged the Union, and encouraged and assisted a committee of its employees in its efforts to defeat the Union in the election. Although the Trial Examiner found that the evidence did not support these allegations of the complaint, he refrained from dismissing them. The respondent has excepted to the Trial Examiner's failure to dismiss the complaint as to these allegations. There is no evidence that management representatives made any disparaging statement about the Union. None of the members of the anti-union committee were shown to be representatives of management. So far as appears, the respondent did not suggest formation of the anti-union committee or give it any greater support, if as great, than it gave to the Union. Accordingly, we do not attribute the activities of the anti-union committee to the respondent. We shall dismiss these allegations of the complaint.

The remaining allegation of the complaint dealing with a direct violation of Section 8 (1) of the Act, apart from a violation of any other section of the Act, relates to the respondent's statements, notices, letters, and speeches calculated to defeat the Union in the election. By such statements, notices, letters, and speeches, the respondent expressed a preference to deal directly with its employees rather than through an outside organization. However, the respondent made no threat of any sort and coupled its statement of preference with clear expressions assuring the employees that the respondent would not resort to reprisal to retaliate against any exercise of any right guaranteed in the Act. Under the doctrine of the *American Tube Bending* case,²³ such conduct falls within the constitutional guaranty of free speech and is not a violation of the Act. We agree therefore with the Trial Examiner that the respondent's preelection announcements of whatever description, standing alone, were privileged.

After the election, the respondent suggested to its employees that they bring grievances to its attention either individually, or through their chosen representatives, or in any manner that they chose. Afterwards, an employee asked the respondent by letter to meet with employee representatives. The record does not disclose that the letter was prompted by the respondent; nor does the record show how representatives were chosen for the purpose of attending such a meeting with officials of the respondent. In the meeting, the respondent told the assembled representatives that, if they wanted to form a committee representing all the employees, neither the respondent nor any of its supervisory employees could participate in the formation of such a group or have any part in its administration. Thereafter, an election for representatives in one department was

²³ *N. L. R. B. v. American Tube Bending Co.*, 134 F. (2d) 993 (C. C. A. 2), cert. denied 320 U. S. 768.

held on company property, and, in the sawmill, during working hours. So far as appears, these activities did not take place in the presence of any management representative. The chosen representatives held four meetings, but no meeting with the respondent. Thereafter, the employees lost interest in the organization and it has ceased to have an active existence.²⁴

The Trial Examiner found that, before and after the election, the respondent suggested to its employees that they form a union of their own and that the respondent thereby illegally assisted in the formation of the Association. In its statements, before and after the election, as stated above, the respondent expressed a preference for dealing with its employees individually but made it clear that the respondent would deal with them through any form of representation that they might care to choose. In view of the fact that the record does not disclose any other acts or interference with the organizational activities of the employees, in view of the respondent's assistance to the Union during its campaign and management's repeated assurances against reprisal for union activity, and the further fact that the statements made by the respondent fall within the protection of the constitutional privilege of free speech under the *American Tube Bending* doctrine, as stated above, we find that the respondent has not unlawfully interfered with the formation or administration of the Association and has not contributed unlawful support thereto. We shall, therefore, dismiss the complaint in its entirety.

CONCLUSIONS OF LAW

1. The respondent, Oval Wood Dish Corporation, Tupper Lake, New York, is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

2. Playthings, Jewelry and Novelty Workers International Union (CIO) and Oval Wood Dish Woodworkers Association are labor organizations, within the meaning of Section 2 (5) of the Act.

3. The respondent has not engaged in unfair labor practices, as alleged in the complaint, within the meaning of Section 8 (1) or (2) of the Act.

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the complaint against Oval Wood Dish Corporation, Tupper Lake, New York, be, and it hereby is, dismissed.

²⁴ The respondent excepted to the Trial Examiner's finding that the Association is a labor organization on the ground that the Association had no formal organization, had no constitution and bylaws, did not collect dues, and did not issue membership cards. The exception is not well taken. Since the Association proposed to discuss wages, vacations, and grievances, it is clearly within the statutory definition of a labor organization as defined in Section 2 (5) of the Act.