

In the Matter of HENRY FORD TRADE SCHOOL and FORD INDUSTRIAL
EDUCATION ASSOCIATION

Case No. 7-C-1403.—Decided September 25, 1945

Mr. David Citrin, for the Board.

Mr. I. A. Capizzi, of Detroit, Mich., for the respondent.

Mr. Keith Glassley, of Detroit, Mich., for the Union.

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge duly filed on January 26, 1945, by Ford Industrial Education Association, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Seventh Region (Detroit, Michigan), issued its complaint, dated May 10, 1945, against Henry Ford Trade School, 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, 49 Stat. 449, herein called the Act. Copies of the complaint accompanied by Notice of Hearing were duly served upon the respondent and the Union.

With respect to the unfair labor practices the complaint alleged in substance: (1) that all employees of respondent including employees of the School who work in the training school, Naval Training School, Ford Apprentice School and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining; (2) that a majority of the employees in the

63 N. L. R. B., No. 175.

aforsaid appropriate unit designated the Union as their representative for the purposes of collective bargaining at an election conducted by the Board on November 21, 1944; (3) that on December 1, 1944, the Board certified the Union as the exclusive representative of all employees in said unit for the purposes of collective bargaining; (4) that at all times since December 1, 1944, the Union has been the exclusive representative of all employees in said unit; (5) that on and after December 20, 1944, the respondent, upon request, has refused and still refuses to recognize and bargain with the Union; and (6) that by such refusal, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and that such acts constitute unfair labor practices affecting commerce within the meaning of Section 8 (1) and (5) and Section 2 (6) and (7) of the Act.

On May 19, 1945, the respondent filed an answer in which it denied that it was engaged in commerce within the meaning of the Act, that the unit was appropriate, and that it had engaged in or was engaging in any unfair labor practices, but admitted the allegations with respect to its refusal to bargain and the proceedings of the Board leading to the Union's certification.

On June 7, 1945, the respondent, the Union, and counsel for the Board entered into a Stipulation and Agreed Statement of Facts, for the purpose of avoiding the necessity of a formal hearing before a Trial Examiner. Pursuant to the stipulation, the parties agreed to waive a hearing upon the complaint, the issuance of an Intermediate Report by a Trial Examiner or the issuance by the Board of proposed findings of fact, proposed conclusions of law, or a proposed order, and other further proceedings before and of the Board, provided that the respondent and the Union might, within 20 days after the date of the stipulation, file briefs with the Board and apply for leave to argue orally before the Board. The parties further agreed that the Stipulation and Agreed Statement of Facts, the affidavits attached thereto, the charge, the complaint, the notice of hearing, and the answer of the respondent, together with the entire record in the representation proceedings, shall constitute the entire record in this proceeding.

On July 30, 1945, the respondent filed a brief in support of its position with the Board at Washington, D. C. No request for oral argument before the Board was made, and none was held. The Board has considered the brief submitted by the respondent, and, insofar as the contentions therein are inconsistent with the findings of fact, conclusions of law, and order set forth below, finds them to be without merit.

Upon the entire record in the case and upon the respondent's brief, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Henry Ford Trade School, is a non-profit Michigan corporation with its principal office and place of business in Dearborn, Michigan, where it operates a vocational school for teen age boys wherein the students receive, without charge, academic and shop instruction and training.¹ All students receive scholarships and free meals at noontime. The respondent also operates Camp Legion, in which academic and shop instruction and training are given, without charge, to discharged veterans of World War II. The respondent has furnished instructional service to the Naval Training School which was operated by the Ford Motor Company, a Delaware corporation herein called the Company.² The Naval Training School was closed on December 22, 1944. The respondent also furnishes instructional service to the Ford Apprentice School wherein employees of the Company are given instruction and training. The respondent employs approximately 300 persons of whom approximately 232 are instructors, 34 are maintenance employees, and 22 are clerical employees.

The respondent leases floor space, machinery, and equipment from the Company. The respondent is engaged in the processing, repair, and servicing of tools and equipment³ solely for the Company. The work involved in the processing, repairing, and servicing of said tools and equipment is performed by the respondent's students under the direction and supervision of the instructors. The work is performed pursuant to an agreement between the respondent and the Company

¹ The respondent's articles of incorporation set forth the purposes for which it was formed as follows: "To give gratuitous training for mechanical trades and/or in agriculture and instruction in technical, scientific and agricultural subjects related thereto."

² The Ford Motor Company owns and operates manufacturing plants in Michigan, California, New York, Missouri, Tennessee, Ohio, Minnesota, and various other States of the United States, where prior to the war, it was engaged in the manufacture of automobiles, trucks, and tractors, and parts and accessories thereof. Since shortly after the entry of the United States into the war, all of the Company's manufacturing facilities have been devoted principally to the manufacture of various war materials. The Company's various plants annually use raw materials valued in terms of hundreds of millions of dollars, a substantial percentage of which is transported to the plants in Interstate Commerce; they annually manufacture hundreds of millions of dollars worth of finished products, a large portion of which is sold and transported in interstate commerce. None of the parties deny, and the Board has previously found in numerous cases involving the Company, that the Company is engaged in business affecting commerce within the meaning of the Act.

³ Said tools and equipment consists of dies, jigs, fixtures, conveyor parts, cutters, drills, reamers, end mills, side mills, convex mills, form tools, globe valves, gate valves, pipe wrenches, screw drivers, dial gauges, and other equipment.

whereby the Company furnishes all the necessary raw materials from its stocks at its Rouge Plant in Dearborn, Michigan,⁴ and the Company pays the respondent a certain specified rate per hour for all such work completed by the respondent. All the tools and equipment processed, serviced, and repaired by the respondent are delivered by the respondent to the Company at its Rouge Plant, where they are commingled with other similar products purchased and manufactured by the Company. These commingled products are destined for use in the Company's various plants throughout the United States, including the Rouge Plant. During the years 1943 and 1944, the Company paid to the respondent \$2,400,000 and \$2,700,000, respectively, for processing, repairing, and servicing tools and equipment for the Company. In addition to processing, repairing, and servicing tools and equipment for the Company, the respondent publishes and sells several trade books. One such book, "Shop Theory," is also published and sold by McGraw Hill Company; the respondent receives royalties from those sales. Receipts from books sold by the respondent in the year 1943 amounted to about \$26,000 and in 1944 to about \$16,000, approximately 75 percent of which represents the value of books shipped to customers outside the State of Michigan. The royalties received by the respondent during 1943 amounted to \$11,667.

The respondent contends, in its answer and brief, that it is not engaged in commerce or in any activity which affects commerce within the meaning of the Act, but that it is primarily an educational institution incorporated for the purpose of teaching students in so-called shop practice and other practices, processes, and means and ways of producing tools, equipment, and machinery to be used in manufacturing establishments, and that the production of tools and equipment is merely incidental to its educational activities. The respondent further argues that the amount of tools and equipment produced by the respondent which enter into the flow of commerce between the States is too infinitesimal to affect commerce within the meaning of the Act. It is also the respondent's asserted position, based on the affidavit of the Company's production manager, that any interruption in the manufacturing activities of the respondent would in no way affect the manufacturing operations of the Company. We considered the respondent's contentions in the representation proceeding and found them to be without merit. There is nothing in this record to lead us to a different conclusion.⁵

⁴ The Company obtained a substantial portion of these raw materials, amounting to over \$10,000,000 during the years 1943 and 1944, from outside the State of Michigan.

⁵ See *N. L. R. B. v. Gulf Public Service Company*, 116 F. (2d) 852 (C. C. A. 5); *Polish National Alliance v. N. L. R. B.*, 322 U. S. 643, aff'g 136 F. (2d) 175 (C. C. A. 7), enf'g as mod. 42 N. L. R. B. 1375

II. THE ORGANIZATION INVOLVED

Ford Industrial Education Association is an unaffiliated labor organization admitting to membership employees of the respondent.

III. THE UNFAIR LABOR PRACTICES

A. The appropriate unit and representation by the Union of a majority therein

On October 30, 1944, the Board issued a Decision and Direction of Election,⁹ rejecting the respondent's contention that instructors employed by the respondent should not be included in a bargaining unit comprised of its employees; and finding, *inter alia*, that all employees of the respondent, including employees of the respondent who work in the training school, Naval Training School, Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

On November 21, 1944, an election was held pursuant to said Direction of Election. On December 1, 1944, the Board certified the Union as the representative of the employees in the unit heretofore mentioned, for the purposes of collective bargaining.

The respondent contends that the complaint should be dismissed on the ground that, *inter alia*, a bargaining unit comprised of its employees which includes instructors is not appropriate for the purposes of collective bargaining. In support of this position, the respondent asserts (1) that instructors are, in effect, supervisory employees because they carry out policies of the respondent and because they supervise and instruct the students, and (2) that there is a dissimilarity between the duties and working conditions of instructors and those of the other employees, maintenance and clerical personnel, who comprise the unit heretofore found to be appropriate. The same position was maintained by the respondent in the representation proceeding.

We considered the respondent's contentions in the representation proceeding and found them to be without merit. There is nothing in this record to lead us to a different conclusion.

⁹ *Matter of Henry Ford Trade School*, 58 N. L. R. B. 1535.

We find, in accordance with our previous determination, that all employees of the respondent, including employees of the respondent who work in the training school, Naval Training School (if any), Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute, and at all times material herein constituted, a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. We further find that, on and at all times after December 1, 1944, the Union was the duly designated bargaining representative of a majority of the employees in the aforesaid appropriate unit, and that, pursuant to the provisions of Section 9 (a) of the Act, the Union was on December 1, 1944, and at all times thereafter has been, and is now, the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

B. The refusal to bargain

In its answer to the Board's complaint, the respondent admits the allegation that at all times since on or about December 20, 1944, it has refused the Union's request to bargain. The stipulation of June 7, 1945, shows that on December 11, 1944, the Union requested the respondent to bargain collectively with it with respect to the employees comprising the above-found appropriate unit; that on December 13, 1944, the Policy Committee of the Union met with the respondent's superintendent, who informed the Union's representatives that he had no authority to sign a bargaining contract and referred them to the respondent's attorney; and that on or about December 20, 1944, and continuously thereafter, the respondent has refused to confer and negotiate with the Union.

We find that the respondent, on or about December 20, 1944, and at all times thereafter, has refused to bargain collectively with the Union as the exclusive representative of its employees in an appropriate unit and has thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

We find, contrary to the respondent's contention, that the activities of the respondent set forth in Section III, above, occurring in con-

nection with the operations of the respondent 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 and is engaging in unfair labor practices, we will order it to cease and desist therefrom, and to take certain affirmative action designed to effectuate the policies of the Act. We have found that the respondent has refused to bargain collectively with the Union as the exclusive representative of the employees in an appropriate unit. We shall, therefore, order that the respondent, upon request, bargain collectively with the Union.

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

CONCLUSIONS OF LAW

1. Ford Industrial Education Association is a labor organization, within the meaning of Section 2 (5) of the Act.

2. All employees of the respondent, including employees of the respondent who work in the training school, Naval Training School (if any), Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. Ford Industrial Education Association was on December 20, 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 Act.

4. By refusing on or about December 20, 1944, and at all times thereafter, to bargain collectively with the Ford Industrial Education Association as the exclusive representative of all its 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.

5. 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 affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law and 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 respondent, Henry Ford Trade School, Dearborn, Michigan, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Ford Industrial Education Association as the exclusive representative of all its employees, including its employees who work in the training school, Naval Training School (if any), Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action;

(b) Engaging in any like or related acts or conduct interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Ford Industrial Education Association, 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 Act.

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

(a) Upon request, bargain collectively with Ford Industrial Education Association as the exclusive representative of all employees of the respondent, including employees of the respondent who work in the training school, Naval Training School (if any), Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, in

respect to grievances, labor disputes, rates of pay, wages, hours of employment, and other terms and conditions of employment;

(b) Post immediately at its place of business in Dearborn, Michigan, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Seventh 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 Seventh Region in writing, within ten (10) days from the date of this Order, what steps it has taken to comply herewith.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Order.

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, we hereby notify our employees that:

We Will Not refuse to bargain with Ford Industrial Education Association as the exclusive representative of our employees in the bargaining unit described herein;

We Will Not engage in any like or related act or conduct interfering with, restraining, or coercing our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the above-named 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 bargaining unit described herein with respect to rates of pay, hours of employment or other conditions of employment, and if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is: All employees of Henry Ford Trade School, Dearborn, Michigan, including employees of the School who work in the training school, Naval

Training School (if any), Ford Apprentice School, and Camp Legion, assistant department heads, and instructors, but excluding employees located in the office of the School superintendent, personnel department employees, the School superintendent, shop superintendent, assistant shop superintendents, department heads, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

HENRY FORD TRADE SCHOOL
(Employer)

Dated:----- By -----
(Representative) (Title)

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