

In the Matter of CAROLINE MILLS, INC. *and* TEXTILE WORKERS UNION
OF AMERICA, CIO

Case No. 10-C-1658.—Decided October 15, 1945

DECISION

AND

ORDER

On April 11, 1945, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the respondent filed exceptions to the Intermediate Report and a supporting brief. On September 13, 1945, the Board, at Washington, D. C., heard oral argument in which the Union and the respondent participated.

The Board has reviewed the Trial Examiner's rulings made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the additions hereinafter set forth.

In agreement with the Trial Examiner, we shall order the respondent to cease and desist from the unfair labor practices found and from in any manner interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act. Our cease and desist order is also predicated upon the following findings: Shortly after the Union began to organize the respondent's employees, the respondent embarked upon a campaign to defeat its employees' self-organizational efforts. By various statements and activities continuing over a period of several months, as more fully revealed in the Intermediate Report, the respondent interfered with, restrained, and coerced its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, and to bargain collectively through representatives of their own choosing. These illegal activities, climaxed by the discriminatory discharge of Wilder,

conduct which "goes to the very heart of the Act,"¹ disclose a purpose to defeat self-organization and its objects among the respondent's employees. Because of the respondent's unlawful conduct and its underlying purpose, we are convinced that the unfair labor practices found are persuasively related to the other unfair labor practices proscribed and that danger of their commission in the future is to be anticipated from the respondent's conduct in the past.² The preventive purpose of the Act will be thwarted unless our order is coextensive with the threat. Therefore, in order to make effective the interdependent guarantees of Section 7, to prevent a recurrence of unfair labor practices, and thereby to minimize strife which burdens and obstructs commerce, and thus effectuate the policies of the Act, we shall order the respondent to cease and desist from in any manner infringing upon the rights guaranteed in Section 7 of the Act.

As further recommended by the Trial Examiner, we shall also order the respondent to offer Wilder immediate and full reinstatement to his former or a substantially equivalent position and to make him whole for any loss of pay he may have suffered by reason of the respondent's discrimination against him. Since it appears from the record that Wilder may have already been reinstated to a substantially equivalent position, our order shall not be construed to require the respondent to take any affirmative action which it has already taken and which is in compliance with the terms of our order.

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 respondent, Caroline Mills, Inc., Carrollton, Georgia, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Textile Workers Union of America, CIO, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or by discriminating in any other manner in regard to their hire or tenure of employment, or any term of condition of their employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the rights 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

¹ *N. L. R. B. v. Entwistle Mfg. Co.*, 120 F. (2d) 532, 536 (C. C. A. 4); see also *N. L. R. B. v. Automotive Maintenance Machinery Company*, 116 F. (2d) 350, 353 (C. C. A. 7), where the Court observed:

No more effective form of intimidation nor one more violative of the N. L. R. Act can be conceived than discharge of an employee because he joined a union * * *

² See *N. L. R. B. v. Express Publishing Company*, 312 U. S. 426.

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) Offer W. B. Wilder immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority and other rights and privileges;

(b) Make whole W. B. Wilder for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to the amount which he normally would have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings during said period;

(c) Post at its plant at Carrollton, Georgia, copies of the notice attached to the Intermediate Report herein, marked "Exhibit A."³ Copies of said notice, to be furnished by the Regional Director for the Tenth Region, shall, after being duly signed by the respondent's representative, be posted by the respondent immediately upon the 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;

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

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

INTERMEDIATE REPORT

Mr. Dan M. Byrd, Jr., for the Board.

Mr. Shirley C. Boykin, of Carrollton, Ga., for the respondent.

Mr. Horace White, of Atlanta, Ga., for the Union.

STATEMENT OF THE CASE

Upon a charge duly filed by Textile Workers Union of America, CIO, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Tenth Region (Atlanta, Georgia), issued its complaint, dated February 5, 1945, against Caroline Mills, Inc., 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 (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat.

³ Said notice, however, shall be, and hereby is, amended by striking from the first paragraph thereof the words "Recommendation of a Trial Examiner" and substituting in lieu thereof the words, "A Decision and Order."

449. herein called the Act. Copies of the complaint and 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 the respondent by statements, inquiries, and threats of denial of privileges as to working conditions expressed disapproval of the Union and discouraged membership therein, (2) that the respondent, on or about January 1, 1945, discharged W. B. Wilder, its employee, because of his union and concerted activities; and (3) that by these acts the respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act

The respondent duly filed its answer admitting the nature and interstate character of its business, but denying all allegations of unfair labor practices.

Pursuant to notice, a hearing was held on February 21, 1945, at Carrollton, Georgia, before the undersigned Trial Examiner, duly designated by the Chief Trial Examiner. The Board and the respondent were represented by counsel and the Union by a lay representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties¹. At the opening of the hearing, counsel for the respondent moved for the dismissal of certain allegations in the complaint, urging as grounds, his contention that the said allegations were indefinite, vague, uncertain and too general. The motion was denied. At the completion of the Board's case, respondent's counsel moved that the case be dismissed for lack of evidence. The motion was denied. At the close of the hearing, the undersigned rendered ruling upon a motion by counsel for the respondent to dismiss the complaint in its entirety for lack of proof. The motion is hereby denied. At the close of the hearing, counsel for the Board and the respondent argued orally before the undersigned, the arguments appearing in the official transcript. None of the parties availed themselves of the privilege, extended to them, of filing briefs with the undersigned.

Upon the entire record in the case, and from his observation of the witnesses, the undersigned makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Caroline Mills, Inc., is a Georgia corporation having its principal office and place of business at Carrollton, Georgia, where it is engaged in the manufacture, sale, and distribution of novelty and plain yarns. The respondent in the conduct of its business operations at its Carrollton plant purchases, apparently on an annual basis, more than \$25,000 worth of materials from sources outside the State of Georgia and of its manufactured products, sells and ships, apparently on an annual basis, approximately \$600,000 worth to points outside the State of Georgia. The respondent concedes 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 affiliated with the Congress of Industrial Organizations, admitting to membership employees of the respondent.

¹ At the completion of respondent's case, Mr. White, union representative, requested leave to withdraw from the hearing. His request was granted.

III. THE UNFAIR LABOR PRACTICES²A. *Interference, restraint, and coercion*

Organizational activities of the Union among the respondent's employees, began on or about July 28, 1944³. Thereafter, about the middle of August 5, employees⁴ met with a representative of the Union at the home of one of the employees and there constituted themselves as an organizing committee.⁵ In the organizational activities which followed, Wilder, one of the employees, took a leading role. Thus, he wore a union button in the plant while working, and solicited and signed up from 50 to 75 employees from among approximately 200 working in the plant.⁶

It was the accepted custom for employees who "caught up with their work" to retire for a few minutes to the office of James P. McGlon, night superintendent, where they would smoke and chat.⁷ During the months of November and December 1944, on three or four occasions when Wilder was thus engaged in talking with his section man, Render Hendrix,⁸ at Wilder's bench, McGlon came over and joined in these conversations. According to Wilder, McGlon stated on these occasions that, "we [respondent] was getting along mighty fine without a union," and that if a union came into the plant, "it would cut out all our privileges that we [employees] had then."

During the latter part of November, Wilder went to McGlon's office to obtain some stamps used for tagging yarns. McGlon and Wilder's brother, Joe M. Wilder, were in the office at the time. McGlon, upon seeing Wilder, said, "Here is a union man. Sit down and tell us about the Union." McGlon then asked Wilder how the employees were getting along with the Union. When Wilder told him they were getting along "fine," McGlon told Wilder that he (McGlon) had had a chance to work for the Union and could have been its field representative, but that he would not take the position because he "didn't want to work against his friends." Also that he would rather work for the "man that had the money, the one that could help you financially." McGlon stated further that "the Union don't trust anybody. They have the money took out of your check on you."

On or about the night of December 11, McGlon invited Wilder into his office, asked him to lock the door,⁹ and then told him he wanted to talk to him about the Union. McGlon then told Wilder that there had been talk going on about him and the Union that was going to hurt him (Wilder); that he (McGlon) had

² The following findings are based on admitted facts or credible testimony which, except where otherwise indicated, was not substantially contradicted.

³ On this date, W. B. Wilder, an employee of the respondent, whose alleged discriminatory discharge is hereinafter discussed, signed an acceptance of membership card.

⁴ These were W. B. Wilder, Render Helton, Claud Johnson, Paul Roberts and Weyman Jacobs. Of these Helton, Johnson and Roberts left the employ of the respondent prior to January 1, 1945.

⁵ The members of this committee each received a book of blank membership cards to enroll employees as union members.

⁶ W. B. Wilder testified that there were from 125 to 150 employees working in the plant. The finding in this regard is based upon the statement made by respondent's counsel.

⁷ This finding is based upon the testimony of James P. McGlon, the night superintendent.

⁸ Render Hendrix testified that his duties were "to keep up the machinery and see after the help" in the discharge of which duties he had authority to permit employees working under him to take time off from their work, to report them to McGlon for refusal to take orders from him (Hendrix) and to transfer such employees. The undersigned finds that Hendrix is a supervisory employee.

⁹ Ray Hendrix, an employee, not to be confused with the section man, Render Hendrix, testified credibly that he had "caught up" on his job that night and went down to McGlon's office to talk with him. He saw Wilder and McGlon in the office. He tried the door, saw that it was locked, turned around and went back to his job.

been asked to get Wilder to change his mind about the Union; that if the Union was successful in getting into the plant one of Wilder's best friends would have to go,¹⁰ and employees would be deprived of their privileges.¹¹ After first pointing out to Wilder that the respondent had loaned money to Wilder "when he was in a tight"¹² (sic) McGlon stated that Mr. P. L. Shaefer, vice president and treasurer of the respondent "never would feel the same toward [Wilder] any more if [he] continued to work for the union." McGlon also told Wilder to "make up [his] mind and let him know" to which Wilder answered that his mind was already made up.¹³ When, finally, Wilder was about to leave the office, McGlon said, "Don't mention this to nobody . . . I am just talking to you as a friend"¹⁴

McGlon denied having made the statements ascribed to him by Wilder. Although he admitted having had several conversations with Wilder he stated that he did not speak to him about the Union but talked instead about different "problems about the mill." McGlon's denials in this regard were not convincing. He not only failed to elaborate as to the nature of these conversations about the mill, but testified incredibly regarding the conversation with Wilder in his office when the door was locked. In this respect, McGlon stated that it was usual for him, when speaking to employees in his office, to lock the door to prevent interruption. On the other hand, this testimony was inconsistent with his further testimony that employees casually wandered into his office from time to time to talk and smoke. The undersigned does not credit McGlon's version as to the reason for the locking of the door. From his demeanor on the witness stand, McGlon impressed the undersigned as an unreliable witness. Wilder's testimony was straightforward and in the main was supported by convincing detail. The undersigned does not credit the denials of McGlon and finds that the statements attributed to him were made substantially as testified by Wilder.

On December 29, 1944, a hearing on the Union's petition for investigation and certification was held at Carrollton.¹⁵ A group of respondent's employees¹⁶ were sitting in the hearing room. P. L. Shaefer, respondent's vice president, who was also present, approached the group and after first inquiring of Wilder about members of his family, said "Wilder, are you mixed up in this Union?" Wilder admitted that he was, whereupon Shaefer said, "What are you doing about it?" Shaefer then asked if Wilder had repaid the money loaned him by the respondent. Wilder answered that he had.¹⁷

James Henry Reeves, an employee of respondent for 11 years and a member of the Union was also in the hearing room on December 29, as above indicated. Shaefer asked Reeves how he and his crippled son were getting along. He then asked Reeves if he was a member of the Union. Reeves replied that he was. Thereupon, Shaefer asked Reeves to identify the persons he was sitting with and to tell him where they worked. Reeves was able to identify two of the

¹⁰ McGlon did not identify this friend although requested by Wilder to do so.

¹¹ Wilder testified that the reference to privileges made by McGlon was understood by him to be the employee's right to go out of the plant to smoke.

¹² Wilder's uncontradicted testimony indicates that the respondent maintained a fund from which he had borrowed when his brother had been involved in a fatal automobile accident, a loan which Wilder thereafter repaid.

¹³ Wilder testified that he knew that McGlon was talking about his membership in the Union.

¹⁴ This conversation lasted about 45 minutes. Wilder made several attempts to leave during that time, but at each attempt was told by McGlon to "sit back down."

¹⁵ Case No. 10-R-1383.

¹⁶ In the group were W. B. Wilder, Weyman Jacobs, James Reeves and several others.

¹⁷ In essential details, Weyman Jacobs, an employee in the respondent's card room corroborated Wilder's testimony as to Shaefer's conversation with Wilder. Shaefer sweepingly denied any conversations with respondent's employees with respect to the Union, but made no specific denial as to the conversation testified to by Wilder and Jacobs. The undersigned credits Wilder's version of the conversation with Shaefer.

persons, but knew only the first name of one of them. He stated that they worked in the card room. That afternoon, when Reeves reported at the plant for work, Shaefer again questioned Reeves with regard to the second name of the employee whom Reeves had previously identified by his first name. Reeves was unable to supply it. Shaefer thereupon told Reeves that he had been unaware of any union in the plant until the day before the hearing, and hoped "Nothing would come in the mill to disturb it, cause it to shut down, they was getting along there mighty well there now."¹⁸

The undersigned finds that by the statements and conduct of its vice president and night superintendent in questioning its employees concerning their union affiliations; in making statements disparaging and disapproving of the Union; in urging and persuading its employee, W. B. Wilder, to refrain from engaging in union activities; by warning and threatening that privileges as to working conditions would be denied the employees if they organized; and by advising the employees that the Union was not needed; and by the totality of such statements and conduct, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8 (1) of the Act.

B The discriminatory discharge of W. B. Wilder

W. B. Wilder was an employee of the respondent for approximately 2½ years, until January 1, 1945.¹⁹

Wilder was a yarnman, whose duties were to remove yarn from the winder, place it in a tray, tag it with a number, ply number and name, and deliver it to the packing room. He also was required to oil the winder. Wilder was responsible to Render Hendrix, section man, and to James P. McGlon, night superintendent.

Prior to his discharge, Wilder's rate of pay was increased from 40 cents to 48 cents an hour.²⁰ Render Hendrix testified that Wilder was a satisfactory employee. In fact, Wilder occasionally was given the added responsibility of placing the employees in his section and of changing a "hand" from one winder to another.²¹ Also McGlon testified that he had occasion to give Wilder "right smart" of praise about the way he was handling his yarn job, keeping it straight.

On July 28, 1944, Wilder signed a union acceptance of membership card. Thereafter, as found in the prior section of this Report, Wilder, in the middle of August 1944, became a member of the Union's organizing committee, wore a union button in the plant, and solicited the membership of approximately 50 to 75 employees. Shortly thereafter, in November and December 1944, McGlon questioned Wilder about his union activities, made statements to him derogatory of the Union; urged him to abandon his efforts in its behalf; and made veiled threats of reprisal if he should fail to desist in his organizational activities.

On December 29, 1944, Wilder was present at a hearing conducted by the Board in a representation proceeding. P. L. Shaefer, the respondent's vice president, seized this opportunity to apprise Wilder that he was interested in his union activities.

On the afternoon of December 29, after the hearing, Wilder reported for work at 2 p. m.²² He had sties on both eyes and testified that he was also suffering from a cold and a headache. That Wilder was in fact afflicted with sties.

¹⁸ This finding is based on the testimony of employee Reeves whom the undersigned credits.

¹⁹ Wilder was in the armed service from November 16, 1942 to December 18, 1942 when he received a medical discharge and thereafter returned to the respondent's employ.

²⁰ All employees received an increase in pay at the same time. Some received 4 cents an hour, others 6 cents, and the largest increase was 8 cents an hour.

²¹ It was not claimed that Wilder was a supervisory employee.

²² Wilder was regularly employed on the 2 p. m. to 12 midnight shift.

was corroborated by the testimony of Grady Bass and O. B. Wilder, employees of the respondent.²³

At about 2:10 p. m., Wilder approached McGlon, who was then on the working floor, and asked McGlon to get someone to replace him. McGlon answered that he would get such a replacement. Wilder continued to work until 4 p. m. when McGlon again appeared on the floor. Wilder repeated his request to McGlon, who again assured Wilder that he was getting someone to take his place.

At about 5:30 p. m., Wilder went to Grady Bass, who was then acting as section man in place of Render Hendrix²⁴ and reported that he was not well, that he had spoken to McGlon about obtaining a replacement for him and that McGlon had apparently made no effort to do so, and asked Bass to get someone in his place. Bass answered that he was not in a position to comply with the request but suggested that Wilder see McGlon again. Wilder told Bass that he would work at least until 6 p. m.

Upon leaving Bass, Wilder again went to McGlon and, for the third time, during a period of approximately 3½ hours, asked McGlon to let him off. McGlon's sole response was that someone would be there to take his place but failed to state specifically as to the length of time Wilder would have to wait. Wilder thereupon told McGlon he would work until 6 p. m. but that then he would have to go home.

At about 6 p. m. Wilder took his coat, told Bass that he was going, and left the plant.

McGlon, testifying in contradiction of Wilder's version of the occurrences on that day, stated that Wilder made his request to be replaced for the first time at about 4 p. m. He admitted that Wilder told him that he wanted to get off because he "felt worse than hell." He testified further that he told Wilder that he would make every effort to get a replacement and that he left the mill for about 1 hour looking for someone to take Wilder's place. That upon his return, Wilder, sometime after 5 p. m., again asked him whether he had been successful in getting a replacement and that he told Wilder that he had obtained a promise from Ray Hendrix,²⁵ a boy who was employed by the respondent and who was not working that day, to take his place, but that he did not know whether he would report for work. Shortly thereafter, he saw Wilder take his hat and coat and leave the mill.

According to McGlon, at about 7:30 p. m. when Ray Hendrix appeared at the plant to take Wilder's place, McGlon found that Wilder's job had been filled by Faulkner, an employee in the twister room, that Ray thereupon refused to take Faulkner's place in the twister room when he (McGlon) declined to return Faulkner to his position there.

The undersigned does not credit McGlon's testimony in this regard. As already indicated in the preceding section of this Report, McGlon's testimony was generally contradictory and unconvincing.²⁶

²³ Render Hendrix who did not work on December 29, also testified that on the preceding day he had seen Wilder, had observed sties on his eyes and that Wilder had complained that his eyes were hurting.

²⁴ Hendrix, as indicated above, was away from work that day, caring for a sick child at his home.

²⁵ Render Hendrix's son.

²⁶ McGlon when confronted with a prior statement signed by him with respect to the foregoing events, admitted that Wilder might have approached him for the first time earlier than 4 p. m. Furthermore, Ray Hendrix, a credible witness, testified that it was not until 7 p. m. when he came to the plant to return a borrowed car, that he was asked by McGlon to work until the end of the shift, at the "yarn job," at which time he told McGlon that he would go home for supper and then return, and that prior thereto he had not seen McGlon since 2 p. m. of that day. The undersigned credits Wilder's testimony with respect to the incidents above set forth.

Wilder reported for work on Monday, January 1, 1945.²⁷ He was standing near the drinking fountain waiting for the change of shifts, when Render Hendrix told him that McGlon wanted to see him. According to the testimony of Wilder which the undersigned credits, McGlon came up on the work floor where the following conversation ensued:

I says, "Do you want to see me?" He [McGlon] said, "I do." "What about?" He says, "I am going to have to lay you off." I says, "What for?" He said, "For going home Friday night." I said, "That ain't no excuse for laying me off." I said, "Haven't I always kept up my job?" I said, "Didn't I work regular?" He said, "Yes, sir." I said, "It seem like to me you laid me off on account of the Union." He says, "I have got to lay you off, anyhow." We went on downstairs. He asked me, "Do you want a release?" I said, "That is up to you." I asked him, "What are you going to put on it?" He says, "I will put anything you want me to put on it." I told him I wasn't having nothing to do with it. He was the one having it fixed . . .²⁸

Wilder and McGlon thereupon went to McGlon's office where Wilder received his release; his separation notice was sent through the mails and was not received by him until the following Monday, January 8.

On January 3, the Union filed a charge with the Board, claiming the discharge of Wilder. On February 6, Wilder was reinstated by the respondent. The record does not reveal the job to which Wilder was reinstated, nor his rate of pay.

Conclusions as to W. B. Wilder's discharge

The respondent denied in its answer that it discharged W. B. Wilder, and averred that he quit. In addition, the respondent contends that because Wilder left the plant at 6 p. m. on December 29, the shifting of Faulkner to fill Wilder's job caused a shut-down in the operation of twistere, and resulted in a loss of production.

The testimony is clear that Ray Hendrix came back to the mill at 7:30 p. m. on the evening of December 29, explicitly to take over the yarn job, but found Faulkner working in the job. McGlon admitted on cross-examination that all he would have had to do to start the twistere again, was to put Faulkner back in his regular job, and place Ray Hendrix in the yarn job. He did not do this because as he explained, he "would have had to make a two-way change there . . ." thereby losing the services of Ray Hendrix for the evening, who refused to work when he found he could not take over the yarn job. It is unnecessary to decide if there was any loss of production. It is apparent, nevertheless, that the respondent by its own acts participated in causing the loss of production if such was the case.

The testimony establishes that it was the custom for an employee to remain at home or to go home when he was sick, and to return to the plant when he was well enough to work. In several instances employees took time off from work for

²⁷ The 2 p. m. to 12 midnight shift does not work on Saturdays.

²⁸ McGlon, in his version of this conversation, testified that at about 2:00 o'clock he saw Wilder at the drinking fountain on the work floor and Wilder said, "Do you want to see me?" McGlon said, "Not particularly. Why?" Wilder told McGlon that Render Hendrix told him to see McGlon. McGlon then said to Wilder, "What made you walk out on me Saturday night? I had a boy promised to get here that would come later." According to McGlon, Wilder then said, "I know you don't like it. If you don't you can give me my time." McGlon told Wilder he did not think he had been treated right by him. Whereupon Wilder said, "A lot of people felt like they wasn't treated right." McGlon then told Wilder to come to the office to get his time. As heretofore noted, the undersigned did not find the testimony of McGlon generally, to be credible and does not credit his version of this conversation with Wilder.

reasons, other than sickness, and were permitted to return to work.²⁹ There is no evidence that any employee was refused time off because of illness.

It is clear from the record and from the explanation in the Notice of Separation sent to Wilder, that he did not quit on January 1, 1945. For all practical purposes, McGlon, when he instructed Render Hendrix to have Wilder see him (McGlon), had already decided to discharge Wilder upon his return to the mill on January 1.³⁰ Nothing remained for McGlon to do but to notify Wilder formally of the existence of an accomplished fact.

Upon the record as a whole the undersigned is convinced and finds that Wilder did not quit on January 1, 1945. It is clear that the respondent viewed with antipathy Wilder's union activities, and that McGlon made it a special point to talk with Wilder on several occasions endeavoring to get Wilder to abandon his efforts in behalf of the Union. Finding, however, that Wilder's "mind was already made up," the respondent took advantage of the occasion when Wilder left the plant sick, and used this as a pretext for discharging him.

The undersigned finds that Wilder was in fact discharged on January 1, 1945, because of his activities on behalf of the Union, and that the respondent by thus discharging Wilder, discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Union and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8 (3) of the Act.

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 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 certain unfair labor practices the undersigned will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that the respondent discriminatorily discharged W. B. Wilder. Although the respondent has reinstated W. B. Wilder, the record does not disclose that he was reinstated to his former substantially equivalent position. In these circumstances, the undersigned will therefore recommend in order to effectuate a full and complete remedy and the policies of the Act, that not disclose that he was reinstated to his former or substantially equivalent position without prejudice to his seniority and other rights and privileges. It will be further recommended that the respondent make whole W. B. Wilder for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to that which he

²⁹ Thus on December 29, both Render Hendrix and his son Ray did not report for work because of the illness of another Hendrix child, a year and a half old, despite the fact that the testimony reveals that the child's mother was at home to take care of him. There is also testimony that Dura Lyles, an employee, stopped her machine and left the plant early one day to attend a movie with a boy friend, no disciplinary action was taken against her, and she was permitted to return to work the next day.

³⁰ Weyman Jacobs, a rebuttal witness, testified credibly, that McGlon told him after Wilder was discharged, that "he hated to do what he did but he had to."

would normally have earned as wages from the date of his discharge to the date of his reinstatement, less his net earnings³¹ during that period.

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

CONCLUSIONS OF LAW

1. Textile Workers Union of America, CIO, affiliated with the Congress of Industrial Organizations, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of W. B. Wilder thereby discouraging concerted activities and membership in the Union, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (3) of the Act.

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

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

RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law the undersigned recommends that the respondent, Caroline Mills, Inc., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging concerted activities and membership in Textile Workers Union of America, CIO, or any other labor organization of its employees, by discriminating in regard to the hire and tenure of employment of its employees on any term or condition of employment;

(b) 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 purposes 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 undersigned finds will effectuate the policies of the Act

(a) Offer W. B. Wilder full reinstatement to his former or substantially equivalent position, without prejudice to his seniority and other rights and privileges;

(b) Make whole W. B. Wilder for any loss of pay he may have suffered by reason of the respondent's discrimination against him, by payment to him a sum of money equal to the amount which he would normally have earned as wages from the date on which he was discharged to the date of his reinstatement;

(c) Post at its plant at Carrollton, Georgia, copies of the notice attached hereto (marked Exhibit A). Copies of said notice, to be furnished by the Regional

³¹ By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, 311 U. S. 7.

Director for the Tenth Region, after being signed by the respondent's representative, shall be posted by the respondent immediately upon the 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;

(d) Notify the Regional Director for the Tenth Region in writing within ten (10) days from the date of the receipt of this Intermediate Report what steps the respondent has taken to comply therewith.

It is further recommended that unless on or before ten (10) days from the date of the receipt of this Intermediate Report, the respondent notify said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board—Series 3, as amended, effective July 12, 1944, any party may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D C, an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of the order transferring the case to the Board.

SIDNEY LINDNER,
Trial Examiner.

Dated April 11, 1945.

EXHIBIT A

NOTICE TO ALL EMPLOYEES

PURSUANT TO THE RECOMMENDATIONS OF A TRIAL EXAMINER

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 in any 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.

We will offer to the employees named below immediate and full reinstatement to their former or substantially equivalent positions without prejudice to any seniority or other rights and privileges previously enjoyed, and make them whole for any loss of pay suffered as a result of the discrimination.

W. B. WILDER

All our employees are free to become or remain members of the above-named union or any other labor organization. We will not discriminate in

regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

CAROLINE MILLS, INC.

Dated _____

By _____
(Representative) (Title)

NOTE.—Any of the above-named employees presently serving in the armed forces of the United States will be offered full reinstatement upon application in accordance with the Selective Service Act after discharge from the armed forces.

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