

In the Matter of ARMOUR FERTILIZER WORKS, DIVISION OF ARMOUR & COMPANY and LOCAL 207, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, C. I. O.

Case No. 15-C-1114.—Decided June 25, 1946

Mr. John H. Garver, for the Board.

Mr. Paul E. Blanchard, of Chicago, Ill., for the respondent.

Mr. C. J. Meske, of New Orleans, La., for the Union.

Mr. Sidney Grossman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge duly filed on February 5, 1946, by Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Fifteenth Region (New Orleans, Louisiana), issued its amended complaint, dated May 11, 1946, against Armour Fertilizer Works, Division of Armour & Company, Shrewsbury, Jefferson Parish, Louisiana, 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 Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, as amended, and notice of hearing thereon were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint, as amended, alleged in substance that the respondent from on or about December 1, 1945, to the date of the amended complaint (1) urged, persuaded, threatened, and warned its employees to refrain from soliciting on behalf of the Union during the employees' non-working time on the respondent's premises and to refrain from distributing union literature among employees during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises; (2) advised and warned its employees that such solicitation

on behalf of the Union or such distribution of union literature might result in the discharge of employees engaging in such activities; (3) prohibited union literature from being brought to its employees during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises; (4) prohibited solicitation of union memberships and solicitation and collection of funds in behalf of the Union among its employees on the respondent's premises during non-working time; and (5) threatened, intimidated, and warned its employees and their representatives that they would be arrested if they continued to distribute union literature or solicit in behalf of the Union during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises. The complaint, as amended, further alleged that the respondent engaged in the foregoing acts and conduct in order to discourage, inhibit, limit, and prevent its employees from assisting and supporting the Union, or receiving and disseminating information concerning the Union and union activities, or fully and properly carrying on union business and affairs, or engaging in other concerted activities for the purposes of collective bargaining or other mutual aid or protection; and that, by such acts and conduct, the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act. On May 11, 1946, the respondent filed its amended answer in which it admitted the allegations contained in the amended complaint.

On May 11, 1946, the respondent, the Union, and the attorney for the Board entered into a written stipulation which provided, among other things, in substance (1) that the respondent expressly admits and concedes the truth of all the allegations contained in the amended complaint; (2) that the stipulation, together with the charge, the pleadings, and the notice of hearing shall constitute the entire record herein and may be admitted into evidence by filing them with the Chief Trial Examiner of the National Labor Relations Board; (3) that the Board may make findings of fact and conclusions of law on the basis of the stipulation and the admissions contained therein; (4) that such findings of fact and conclusions of law, when made, will sufficiently and fully support and justify the proposed Order of the Board set forth in the stipulation; (5) that such Order of the Board, when entered, shall have the same force and effect as if made after a full hearing, presentation of evidence, and the making of findings thereon; and (6) that all parties expressly waive the taking of testimony or the submission of further evidence before a Trial Examiner in this matter, the making of findings of fact and conclusions of law by the Board, or any other or further procedure before the Board, other than as provided for in the stipulation. The stipulation, to-

gether with the formal documents mentioned therein, having been duly filed as provided therein, is hereby approved and made part of the record.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Armour Fertilizer Works, Division of Armour & Company, is an Illinois corporation with its principal office at Atlanta, Georgia. It operates manufacturing plants in various parts of the United States, including a plant in Shrewsbury, Jefferson Parish, Louisiana, where it is engaged in the manufacture, sale and distribution of sulphuric acid, superphosphate, mixed fertilizers, and related products. The respondent annually purchases approximately 50,000 tons of raw materials for use in the manufacture of its products at its Shrewsbury plant, of which in excess of 75 percent is secured from sources outside the State of Louisiana. Of approximately 25,000 tons of products that the respondent annually manufactures at its Shrewsbury plant, it supplies, delivers, and transports in excess of 40 percent to points outside the State of Louisiana.

The respondent admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local 207, International Longshoremen's and Warehousemen's Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the respondent.

III. THE UNFAIR LABOR PRACTICES

From on or about December 1, 1945, to the date of the amended complaint herein, the respondent urged, persuaded, threatened, and warned its employees to refrain from solicitation on behalf of the Union during the employees' non-working time on the respondent's premises and to refrain from distributing union literature among employees during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises, and advised and warned its employees that such solicitation on behalf of the Union or such distribution of union literature might result in the discharge of employees engaging in any such activity. During the same period, the respondent prohibited union literature from being brought to its employees during the employees' non-working time on the parking lot and other non-working areas on the respond-

ent's premises, prohibited solicitation of union memberships and solicitation and collection of funds in behalf of the Union among its employees on the respondent's premises during non-working time, and threatened, intimidated, and warned its employees and their representatives that they would be arrested if they continued to distribute union literature or solicit in behalf of the Union during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises. The respondent engaged in each of the foregoing acts and the entire course of conduct in order to discourage, inhibit, limit, and prevent its employees from assisting and supporting the Union, or receiving and disseminating information concerning the Union and union activities, or fully and properly carrying on union business and affairs, or engaging in other concerted activities for the purposes of collective bargaining or other mutual aid or protection. By each of the foregoing acts, and the totality thereof, the respondent 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) thereof.

We recognize the right of an employer to regulate the conduct of his employees by such written or oral rules or instructions as are reasonably necessary to safeguard production and to maintain proper plant discipline.¹ However, absent such extenuating circumstances, and none are shown here, restraints of the type imposed by the respondent upon the employees' own freedom to engage in normal union activities on the respondent's premises are *per se* violative of the Act insofar as they are applicable to the employees' non-working time inasmuch as such restraints unreasonably impede self-organization of the employees.²

In addition to imposing restraints upon the employees' own union activities, the respondent prohibited generally the bringing of union literature to the employees during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises and the solicitation of union memberships and solicitation and collection of funds in behalf of the Union among the employees on the respondent's premises during non-working time, and threatened, intimidated, and warned employee representatives that they would be arrested if they continued to distribute union literature or solicit in behalf of the Union during the employees' non-working time on the parking lot and other non-working areas on the respondent's premises. The respondent imposed these general restraints, as well as those imposed upon the employees themselves,

¹ See, for example, *Matter of Peyton Packing Company, Inc.*, 49 N. L. R. B. 828, *enfd* as mod. 142 F. (2d) 1009 (C. C. A. 5), certiorari denied 323 U. S. 730.

² *Republic Aviation Corporation v N. L. R. B.*, 324 U. S. 793; *N. L. R. B. v. Le Tourneau Company of Georgia*, 324 U. S. 793.

in order to prevent its employees from assisting and supporting the Union, as more fully set forth hereinabove. We recognize the normal right of an employer to exclude strangers from its premises. However, in the present case, the respondent excluded from its premises persons other than employees, including union representatives, not as a normal exercise of its rights as a property owner, or to protect any other legitimate interest, but for the purpose of interfering with the employees' right of self-organization. In view of such unlawful motive, we are of the opinion that the respondent's general prohibitions and threats, referred to in this paragraph, constitute unfair labor practices within the meaning of Section 8 (1) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

We find that the activities of the respondent set forth in Section III, above, occurring in connection with the operations of the respondent set forth 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

We have found that the respondent violated Section 8 (1) of the Act by forbidding its employees to engage in solicitation on behalf of the Union on the respondent's premises during their non-working time and to distribute union literature on the parking lot and other non-working areas of the respondent's premises during their non-working time, by prohibiting the solicitation of union memberships and the solicitation and collection of funds on behalf of the Union among its employees on the respondent's premises during their non-working time and the distribution of union literature among its employees during their non-working time on the parking lot and other non-working areas of the respondent's premises, by warning and advising its employees that their participation in such activities might result in their discharge, and by threatening its employees and their representatives with arrest for the continuance of such activities.

Upon the entire record, we infer and find that the respondent's illegal activities referred to disclose a purpose to defeat self-organization and its objects and an attitude of opposition to the general purposes of the Act.³ Because of the respondent's unlawful conduct and the underlying purposes manifested thereby, we are convinced

³ In addition, the terms of our Order, hereinafter set forth, coincide with the terms of the proposed Order set forth in the stipulation of May 11, 1946.

that the unfair labor practices found are persuasively related to the unfair labor practices proscribed by the Act, and that danger of commission in the future of any or all of the unfair labor practices listed in the Act is to be anticipated from the respondent's conduct in the past. The preventive purpose of the Act will be thwarted unless our Order is coextensive with the threat.⁴ In order, therefore, to make effective the interdependent guarantees of Section 7, to prevent a recurrence of unfair labor practices, and thereby minimize industrial strife which burdens and obstructs commerce, and thus effectuate the policies of the Act, we shall order the respondent to cease and desist not only from the unfair labor practices herein found, but also from in any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and to take certain affirmative action designed to effectuate the policies of the Act.

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

CONCLUSIONS OF LAW

1. Local 207, International Longshoremen's and Warehousemen's Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the respondent.

2. 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, within the meaning of Section 8 (1) of the Act.

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

ORDER

Upon the entire record in the case, including the stipulation, dated May 11, 1946, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Armour Fertilizer Works, Division of Armour & Company, Shrewsbury, Jefferson Parish, Louisiana, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Threatening to take economic reprisals against its employees because they engage in union activities and in soliciting among respondent's employees on its property during the employees' non-

⁴ See *N L R B v Express Publishing Company*, 312 U S. 426, *May Department Stores Company v N L R B*, 326 U S 376

working time in behalf of Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., or any other labor organization;

(b) Threatening to take economic reprisals against its employees because they engage in distribution of union literature among employees during the employees' non-working time on the parking lot or any other non-working area on the Company's premises;

(c) Prohibiting, preventing, and threatening to prevent, representatives of the Union from bringing union literature to its employees and soliciting in behalf of Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., among its employees during the employees' non-working time on the parking lot or any other non-working area on the Company's premises;

(d) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., or any other labor organization, to bargain collectively with the 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) Rescind immediately its no-solicitation rule insofar as it prohibits its employees from engaging in union solicitation on company property during the employees' non-working time;

(b) Rescind immediately the rule against distribution of literature insofar as it prohibits distribution of union literature by employees and representatives of Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., or any other labor organization, during the employees' non-working time, on the parking lot or any other non-working area on the Company's premises;

(c) Post at its Shrewsbury plant copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director of the Fifteenth 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 other material;

(d) Notify the Regional Director for the Fifteenth Region (New Orleans, Louisiana) in writing, within ten (10) days from the date of this Order, the steps taken by the respondent to comply herewith.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to an 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 threaten to take economic reprisals against our employees because they engage in union activities or in soliciting among our employees on company property during the employees' non-working time in behalf of Local 207, International Longshoremen's and Warehousemen's Union, C. I. O., or any other labor organization.

WE WILL NOT threaten to take economic reprisals against our employees because they engage in distribution of union literature among our employees during the employees' non-working time on the parking lot or any other non-working area on the company's premises.

WE WILL NOT prohibit, prevent, or threaten to prevent, representatives of the above-named union, or any other labor organization, from bringing union literature to our employees and soliciting in behalf of the afore-mentioned union, or any other labor organization, during the employees' non-working time on the parking lot or any other non-working area on the company's premises.

WE HEREBY RESCIND our no-solicitation rule insofar as it prohibits our employees from engaging in union solicitation on company property during their non-working time.

WE HEREBY RESCIND our no-distribution rule insofar as it prohibits our employees or representatives of the above-named union, or any other labor organization, from distributing union literature to employees during the employees' non-working time on the parking lot or any other non-working area on the company's premises.

All our employees are free to become or remain members of the above-named union or any other labor organization.

ARMOUR FERTILIZER WORKS
DIVISION OF ARMOUR & COMPANY,
New Orleans, Louisiana,
Employer.

By _____
(Representative) (Title)

Dated _____

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