

In the Matter of CRADDOCK-TERRY SHOE CORPORATION *and* UNITED
SHOE WORKERS OF AMERICA, C. I. O.

Case No. 5-C-2087

ORDER DENYING MOTION

March 4, 1948

On May 29, 1947, the National Labor Relations Board issued a Decision and Order in this proceeding, finding that the Respondent, Craddock-Terry Shoe Corporation, had refused to bargain collectively with the Union, United Shoe Workers of America, C. I. O., within the meaning of Section 8 (5) of the National Labor Relations Act, and ordering the Respondent to cease and desist from its unfair labor practices and to bargain collectively with the Union upon request. By motion and supplemental motion dated February 24 and March 3, 1948, respectively, the Respondent has requested the Board (1) to reopen the record; (2) to enlarge the record; (3) to issue subpoenas; and (4) to set aside or modify its Decision and Order of May 29, 1947. The Union has filed a reply opposing the Respondent's initial motion and requesting that the relief demanded be denied in all particulars.

The Respondent contends that certain officers of the Congress of Industrial Organizations, with which the Union is affiliated, have failed to file non-Communist affidavits required by Section 9 (h) of the Labor-Management Relations Act. It requests that, in order that a judicial determination may be had concerning the necessity for the filing of such affidavits as a condition precedent to the processing of the Union's case, the Board should reopen the record and, on its own motion, introduce a list of the officers of the C. I. O. who have filed such affidavits, and a list of those who have not so complied. The Board finds no merit in this proposal. The reasons why the Board considers the filing of such affidavits by officers of the Congress of Industrial Organizations immaterial in a case such as this are fully stated in the opinions issued in the *Matter of Northern Virginia Broadcasters, Inc.*, 75 N. L. R. B. 11, decided on October 7, 1947.

The Respondent further contends that the persons who were the officers of the Union prior to January 20, 1948, were unable or unwilling to execute the affidavits required by Section 9 (h) and that

76 N. L. R. B., No. 120.

as a consequence, on or about that date, they conducted a referendum among the members of the Union on a proposed change in its constitution so as to provide for only two national officers, who alone thereafter filed the required affidavits, although other former officers continued in *de facto* status. The Respondent alleges that this referendum was undertaken with the intent of circumventing the provisions of Section 9 (h). It urges that the Board reopen the record for the purpose of receiving evidence to this effect, which it claims will show that the Union is not in compliance.

The contentions made by the respondent illustrate the possibility under existing law that unions, by abolishing offices under their constitutions but assigning identical duties to officials who shall no longer be denominated as "officers," may frustrate the Congressional intent to drive Communists from positions of leadership in the labor movement. As the Board reads the statute, however, these considerations cannot properly deter it from processing a case when the statutory requirements have been met.

The provisions of Section 9 (h) require only that there shall be on file with the Board affidavits executed by each officer. The Board additionally requires an affidavit identifying the officers of the labor organization involved (Section 203.13 (b) (1), National Labor Relations Board Rules and Regulations, Series 5). In the instant case there is on file an affidavit identifying the officers of the Union, and non-Communist affidavits signed by each officer so identified. It is not the purpose of the statute to require the Board to investigate the authenticity or truth of the affidavits which have been filed. Persons desiring to establish falsification or fraud have recourse to the Department of Justice for a prosecution under Section 35 (a) of the Criminal Code. The evidence sought to be adduced under this allegation is accordingly immaterial.

The Respondent further asserts that the Union has reached an agreement with the International Fur and Leather Workers Union, a non-complying labor organization, for joint organizational drives in various plants including those of the Respondent. The Union denies this allegation. The Board finds it to be immaterial.

Finally, the Respondent asserts that in January and February 1948 the Union, in an effort to reach agreement with the Respondent, has in substance abandoned the bargaining unit comprising the Respondent's three Lynchburg plants, for which the Union has hitherto been certified and which is the subject of the Board's order to bargain collectively. Examination of the exhibits attached to the Respondent's motion reveals that the Union has, in fact, attempted to reach agreement with the Company for recognition upon the basis of a bar-

gaining unit broader than that certified by the Board, and has made such agreement a condition of requesting dismissal of the subject proceeding. It appears, however, that no agreement was reached. Should the Union adhere to its insistence on bargaining for a broader unit, nothing in the Board's outstanding order would inhibit the Respondent's refusal. The Board does not, however, regard the Union's past action as abandonment of the unit established by the Board, nor does the Union's request for a broader unit render the prosecution of this proceeding in the public interest moot or academic, as contended by the Respondent.

For the foregoing reasons the Respondent's motion is denied.

Dated at Washington, D. C., March 4, 1948.

By order of the Board:

FRANK M. KLEILER,
Executive Secretary.