based on these charges and they would have been administratively dismissed, and thus could not have formed the basis for the instant complaint. It is entirely speculative as to whether, on administrative dismissal of the instant charges, other individual charges would have been timely filed. Substantial amounts of time and funds, both private and public, were expended in the initial litigation culminating in the dismissal order of July 19, 1951, which, so far as the parties were concerned, laid the case to rest. The revival of the litigation under the instant complaint not only reinstituted a course of action which, as the Respondent points out, might well serve as a source of irritation in the present conduct of labor-management relations by the parties thereto, but also has necessitated (and unless now stopped, will continue to necessitate) substantial expenditure of private and public time and funds in coping with the prosecution and/or defense of the complaint allegations. In light of all these circumstances, we would not serve the public interest as a whole to now adjudicate the merits of this 1948 dispute. Accordingly, we find that further proceedings in this case would not effectuate the broad purpose and policies of the Act, and we shall therefore dismiss the complaint without passing upon its merits.

[The Board dismissed the complaint.]

Member Beeson took no part in the consideration of the above Decision and Order.

MAGEE CARPET CO. *and* TEXTILE WORKERS UNION OF AMERICA, CIO. Case No. 4-CA-178. April 15, 1954

DECISION AND ORDER

The above-entitled proceeding stems from changes filed February 2 and 3, 1949, by the Union named in the caption of this case, attributing to the Respondent Company the commission of unfair labor practices in January 1949. A complaint, charging the Respondent with violations of Section 8 (a) (1) and (3) of the Act, issued August 30, 1949. This complaint initiated an extensive and time-consuming course of litigation on the merits, which included a full hearing before Trial Examiner W. Gerard Ryan, his issuance of an Intermediate Report on May 11, 1950, the Board's decision of the case on the basis of the parties' exceptions and briefs, the Board's issuance of a Decision and Order, on August 31, 1950, and the completion of the litigation cycle before the Third Circuit Court of Appeals (hereinafter referred to as the Court), upon the Board's petition for enforcement of the August 31, 1950, order.[1] On May 14, 1951, while this case was pending for

[1] In April 1951 the Respondent reinstated 1 of the 2 employees whose prior discharge formed the basis of: (1) The 8 (a) (3) allegations of the complaint; (2) the Board's finding sustaining such allegations; and (3) its order directing, among other things, that reinstatement be offered

decision by the Court, the United States Supreme Court issued its decision in N. L. R. B. v. Highland Park Manufacturing Co., 341 U. S. 322, holding that the Board had erred, as a matter of law, in entertaining a complaint based upon charges filed by a union affiliated with the CIO, where such complaint had issued (as was true in this case at the time) at a date prior to the CIO's compliance with the filing requirements of Section 9 (h) of the Act. In accord with the Supreme Court's ruling, the Board, on its own motion, took steps to withdraw the case from the Court. On June 27, 1951, after the Court's issuance of its opinion in the case sustaining the Board's decision,[2] but prior to the Court's issuance of a decree enforcing the Board's order, the Board moved that the Court remand the case to it so that, in light of the Supreme Court's Highland Park decision, the Board could enter an order vacating the August 31, 1950, Decision and Order, and dismissing the complaint.[3] On August 23, 1951, the Court withdrew its June 6, 1951, opinion, and pursuant to the Board's motion, remanded the case to the Board. On December 20, 1951, the Board issued its order vacating the August 31, 1950, Decision and Order and dismissing the complaint on the ground that the complaint had been invalidly issued.

On April 10, 1952, the General Counsel issued a new complaint based on the February 1949 charges and containing substantially the same allegations as were contained in the August 1949 complaint. The case was set for hearing before Trial Examiner Ralph Winkler. The validity of the General Counsel's action in thus reviving the matter which had been previously litigated was challenged by the Respondent at the outset of the hearing and before any evidence was presented, by a motion that the complaint be dismissed summarily. The grounds the Respondent asserted in support of this motion were substantially identical to those asserted by the respondent-employer in the Shell Chemical Corporation case, in which we have issued a Decision and Order this day.[4] The Trial Examiner denied the motion, and the Respondent promptly filed an interlocutory appeal to the Board. As the issues presented on this appeal were identical to those presented by Shell Chemical Corporation's appeal, the Board considered the two appeals contemporaneously, and on July 29, 1952, issued identical orders here and in the Shell Chemical case, respectively denying each Employer's appeal and affirming each of the Trial Examiner's

to the 2 employees. On the date of the Respondent's April 1951 attempt to comply with a portion thereof, 1 of the 2 employees named in the 8 (a) (3) allegations of the complaint was in military service.

[2] This opinion was dated June 6, 1951.

[3] The CIO did not comply with the Act's filing requirements until December 22, 1949. Pursuant to the Highland Park decision the Board dismissed all cases pending before it in which complaints had been issued before December 22, 1949, on the basis of the charges filed by CIO affiliates.

[4] 108 NLRB 284.

rulings. The decisional basis of the Board's July 29, 1952, order is described in our decision in the Shell Chemical Corporation case issued this day, and need not here be repeated.

Thereafter, following the Respondent's unsuccessful attempts to obtain the Court's review of the Board's interlocutory order of July 29, 1952, the case was litigated on the merits before Trial Examiner Ralph Winkler who, on July 13, 1953, issued an Intermediate Report disposing of the complaint on the merits. He found that, as was alleged in the complaint, the Respondent violated Section 8(a) (1) and (3) of the statute upon the same acts which had formed the basis of the initial, abortive proceedings detailed above.

Thereafter, the Respondent filed exceptions and a brief in support thereof dealing with the merits of the case, but also including, in effect, a renewal of the motion to dismiss which was the subject of the Board's July 29, 1952, order.

We have now reexamined, on the basis of the record as a whole, the question of whether the summary dismissal of the complaint without regard to the merits is justified as a matter of policy. Upon the entire record, and in light of the similarity of the circumstances under which this and the Shell Chemical Corporation proceeding were placed before us, we are convinced that substantially the same considerations are here present as those motivating our decision in the Shell Chemical Corporation case to the effect that sound policy reasons exist for not proceeding further in the kind of unusual situation we here face. Therefore, we find, as we did in the Shell Chemical Corporation case, that it will not effectuate the broad purposes and policies of the Act to proceed further in this case, and we shall accordingly dismiss the complaint in its entirety, without passing upon its merits.

[The Board dismissed the complaint.]

Member Beeson took no part in the consideration of the above Decision and Order.

GRINNELL PAJAMA CORP. *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, CIO, Petitioner. Case No. 1-RC-3519. April 19, 1954.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before M. Alice Fountain, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

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