

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 engaged in certain unfair labor practices in violation of Section 8 (a) (1) of the Act, I will recommend that it cease and desist therefrom and from engaging in any like or related conduct, and that it take certain affirmative action designed to effectuate the policies of the Act.

Having found that Respondent ratified and condoned employee assaults and attempted assaults upon union organizers stationed on public property near the plant entrance gate and engaged in a lawful and peaceful distribution of leaflets on behalf of Textile Workers Union of America, AFL-CIO, I will recommend that the Respondent instruct its employees that such conduct will not be permitted and that it take effective action, when required, to enforce these instructions.¹⁵

Having found that Respondent promulgated and enforced a rule forbidding union membership solicitation on Respondent's premises by employees during their non-working time, I will recommend that the Respondent rescind immediately its rule to that extent.¹⁶

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. Textile Workers Union of America, AFL-CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By ratifying and condoning employee assaults and attempted assaults upon union organizers stationed on public property near the plant entrance gate and engaging in a lawful and peaceful distribution of leaflets on behalf of Textile Workers Union of America, AFL-CIO, and by promulgating and enforcing a rule forbidding union membership solicitation on Respondent's premises by employees during their nonworking time, the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and thereby has engaged, and is engaging, in unfair labor practices within the meaning of Section 8 (a) (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.

[Recommendations omitted from publication.]

¹⁵ *The American Thread Company*, 94 NLRB 1699, 1700, enf'd. 204 F. 2d 169 (C. A. 5).

¹⁶ See cases cited in footnote 14, *supra*.

Somerville Iron Works, Inc., Petitioner and Miscellaneous Warehousemen, Local 781, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. Case No. 13-RM-303. May 22, 1957

DECISION AND ORDER

On October 7, 1956, the Employer-Petitioner filed a petition in the above-entitled proceeding asserting that the Union had presented a claim to be recognized as the representative defined in Section 9 (a) of the Act. Thereafter, the Employer-Petitioner and the Union entered into an "Agreement for Consent Election." Pursuant thereto an election was held at which all six eligible voters voted for the Union.

On December 7, 1956, the Regional Director certified the Union as bargaining representative. On January 3, 1957, Local 19, International Brotherhood of Longshoremens, AFL-CIO, herein called the Longshoremens, filed a motion to vacate the certification upon the ground that the Employer-Petitioner had fraudulently failed to inform the Board at the time of filing of the petition that the Longshoremens had previously demanded recognition as bargaining representative of the employees and had been picketing the premises. Both the Employer-Petitioner and the Union have filed answers opposing the Longshoremens's motion.

The Board has considered the Longshoremens's motion, the answers of the Employer-Petitioner and the Union, and the entire record in the case.

In its answer to the motion, the Employer-Petitioner states that it purposely refrained from naming the Longshoremens as an interested party to the petition although the Longshoremens had been picketing its establishment since June 1956. It assigns various reasons for its omission. We find no merit in any of the reasons stated. When a person files a representation petition with the Board, it is his duty to inform the Regional Director of any claims to representation of which he may be aware, particularly claims which are accompanied by picketing. It is for the Regional Director and ultimately the Board, and not the parties to determine whether a claim has sufficient validity to require that notice of the proceeding be given to the claimant and whether the claimant should be placed on the ballot in any election which may be held. As the result of the Employer-Petitioner's omission, the Longshoremens was never notified of the proceeding and could not establish its right to appear on the ballot. The Regional Director would not have approved the consent election agreement between the Employer-Petitioner and the Union if he had had notice that the Longshoremens was picketing the Employer's establishment. Under the circumstances, the election cannot be said to reflect the desires of the employees. We shall, accordingly, set aside the election and vacate the certification. We shall also remand the case to the Regional Director for such further action as may be appropriate in the circumstances.

[The Board ordered the election held on November 28, 1956, and the certification issued on December 7, 1956, vacated; remanded the proceeding to the Regional Director for further action; and denied the Longshoremens's motion.]

MEMBER RODGERS took no part in the consideration of the above Decision and Order.