

**Virgin Islands Spinning Corporation and Virgin Islands
Amalgamated Workers Union, SIU, AFL-CIO,
Petitioner. Case 24-RC-4345**

Objection 1

January 7, 1972

**DECISION ON REVIEW AND
CERTIFICATION OF RESULTS OF
ELECTION**

**BY MEMBERS FANNING, JENKINS, AND
KENNEDY**

Pursuant to a Decision and Direction of Election an election by secret ballot was conducted in the above-entitled proceeding on July 16, 1971,¹ under the direction and supervision of the Regional Director for Region 24. At the conclusion of the election, the parties were furnished a tally of ballots which showed that of approximately 63 eligible voters, 55 ballots were cast, of which 26 were for Petitioner, 1 for Intervenor (St. Croix Labor Union, SIU, AFL-CIO), 28 against the participating labor organizations, and 1 void ballot. There were no challenged ballots.

Thereafter, the Petitioner filed two timely objections to conduct affecting the results of the election. The Regional Director caused an investigation of the objections to be made and, on September 9, issued and served on the parties his Supplemental Decision and Direction of Second Election, in which he sustained both objections, set aside the election, and directed a second election. Thereafter, on September 22, the Regional Director denied the Employer's motion for reconsideration of the Supplemental Decision.

In accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's Supplemental Decision. By telegraphic order dated October 12, the National Labor Relations Board granted the request for review and stayed the election pending decision on review. The Employer thereafter filed a brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case, including the Employer's brief on review, and makes the following findings:

In Objection 1, Petitioner alleged that, on the payday immediately prior to the election, the Employer granted its employees a \$5 bonus "increasing the amount usually received," accompanied by a slip to each employee which stated: "The \$5 bonus you are getting in this check was negotiated by you with NO Union assistance."

The Regional Director found that on the payday before the election the employees did in fact receive this bonus with the note as described above. The Regional Director further found that on March 23, 1971, the Employer initiated a policy of granting its employees a \$3 weekly bonus if the total average dacron/wool production for the preceding 3-week period amounted to at least 24,000 pounds and a \$5 bonus if the 3-week average equaled or exceeded 25,000 pounds. Figures supplied by the Employer to the Regional Director demonstrated that the work production figures for the 3-week period immediately preceding the payday before the election, as appropriately adjusted, were 25,800 pounds, 22,705 pounds and, 25,889 pounds respectively. Thus it appeared that the average weekly production, for this 3-week period, was only 24,798 pounds or 202 pounds below the employer's own standard for granting the \$5 bonus, which was nevertheless granted.

On this basis the Regional Director concluded that the payment of a bonus in the amount of \$5 (instead of \$3) was unwarranted and in the circumstances of its payment with the accompanying note immediately preceding the election the \$5 bonus constituted interference with the election and was therefore grounds for setting it aside.

The Employer states that some of the figures it provided the Regional Director were erroneous and that corrected figures would show a 3-week average of 25,021 thus justifying the \$5 bonus under its standard.²

In all the circumstances of this case we find no merit in the objection, regardless of which of the foregoing averages is correct. For it is undisputed that the average was at least 24,798 pounds, hence so close to the required 25,000 pounds as to constitute no meaningful difference. A bonus of \$3 was clearly warranted under the Employer's standard and the \$5 figure was substantially justified. Moreover, there is no showing that the bonus program was instituted to interfere with the election³ nor is there any showing that this was the first bonus paid under the program.⁴

program was put into effect on March 23, 1971. The petition herein was filed on April 7, 1971.

⁴ The Regional Director made no findings in this regard. Statements submitted by the Employer to the Board reflect that bonuses were paid on three other occasions during the preceding 2 months.

¹ Unless otherwise specified all dates are 1971.

² The Employer presented this material to the Regional Director in support of the motion for reconsideration which the Regional Director denied.

³ The Regional Director found, and it is not disputed, that the bonus

Objection 2

Objection 2 alleged in substance that the Employer made threats of reprisal for union activities in the attached leaflet, which was distributed to all three employee shifts, and in a speech to assembled employees during the course of free lunches provided on the same date.

With respect to the leaflet the Regional Director concluded that the first paragraph of the item designated "Fourth" contains veiled threats of dire consequences to follow in the event of unionization, specifically with regard to a much more strict application of company work rules. The Regional Director further found that another statement in this same leaflet created the false impression that it would be impossible for the Employer to grant any wage increase it might be disposed to grant during the period of a possible 3-year union contract.

We do not agree with the Regional Director's interpretation. In the first paragraph of item "Fourth" of the leaflet the Employer simply points out that it has in the past had great flexibility in dealing directly with employees in the absence of a bargaining representative. The leaflet then specifically disavows any suggestion that the Employer will deal less leniently with employees if a union comes into the plant,⁵ but points out, in layman's terms, that, if a union is selected, the Employer may not be able to deal privately with employees on employment matters without the intervention of that union nor make individual adjustments of employees problems which are contrary to the requirements of any labor contract⁶ that may be entered into. The latter assertion is consistent with the law.⁷ Consequently, we perceive no threat here, veiled or otherwise.

Nor do we find any improper impression created by statements in a later paragraph of the leaflet, as the Regional Director concluded. The matter, which he found objectionable, is a reference to a recent benefit increase by the Employer, followed by the remark that the benefit was granted the day after it was first mentioned rather than "3 years later at the expiration of a union contract which is the way it would be if there was [sic] a union here."

This statement merely compared the relationship of an employer to his employees in an unorganized plant with that same relationship in an organized plant. The thrust of the comparison is that in an unorganized plant an employer may unilaterally increase or, by implication, decrease benefits, whereas a collective-bargaining agreement in an organized plant contains benefits which the parties have established over a fixed term and which cannot be unilaterally changed. Since this comparison is a correct statement of the law we do not deem it objectionable.⁸

We, accordingly, overrule both objections to the election. Inasmuch as neither Petitioner nor the Intervenor has secured a majority of the valid ballots cast, we shall also certify the results of the election.

CERTIFICATION OF RESULTS OF THE ELECTION

It is hereby certified that a majority of the valid votes has not been cast for Virgin Islands Amalgamated Workers Union, SIU, AFL-CIO, or for St. Croix Labor Union, SIU, AFL-CIO, and neither of said labor organizations is the exclusive representative of the employees in the unit found appropriate within the meaning of Section 9(a) of the Act.

⁵ In pertinent part the leaflet states " . . . I am not saying we won't do these things in the future. We certainly are not going to change into monsters if there is a union. . . ."

⁶ The leaflet states " . . . but we will not always be talking directly to you as individuals when problems come up. There is always the shop steward and other union officials who will want to get involved. And if there are infractions of a union agreement, we will have to apply the rules firmly. . . ."

⁷ See, e.g., Sec. 9(a) of the Act which provides:

Sec. 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. *Provided*, That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect: *Provided further*, That the bargaining representative has been given opportunity to be present at such adjustment.

⁸ *Rudy's Farm Company, Inc.*, 190 NLRB No. 62.

APPENDIX

TO ALL EMPLOYEES OF THE VIRGIN ISLANDS SPINNING CORPORATION

Exhibit 1.

Here we are again looking at a union election coming our way. I must confess that I do not see the need for going through this again and I think the majority of you will agree. But the fact is that there are always a few people who for reasons of their own, want to stir everyone up and bring outsiders in to run their affairs. Unfortunately there are a few people in every family who can never be satisfied unless there is trouble brewing.

This question of having a union is not a joke—It's not something you can try on and if you don't like it, bring it back and get your money back. If you don't like it, you're stuck with it for a long time and it is going to cost you. More about cost later.

What should you think about before joining a union?

In order to have an election a number of people

must have signed cards. Signing these cards only means you want to vote about having a union. It does not mean you have to vote for a union. To vote for a union you must have a good reason because once you have a union, you've got it, and it is hard to turn back.

What will joining a union cost you?

First, there is the initiation fee which is \$7.00.

Second, there are the dues of 50 cents per week which will come out of your paycheck every week. And there is talk of doubling both the initiation fee and the dues before long.

Third, one of the ways unions try to get what they want is to call a strike. Are you willing to do without your paycheck for a week, 2 weeks—a month or more? It is very possible that this could happen.

Fourth when management signs a contract with a union, agreements are made that have to be kept very carefully. There is no fooling around on either side. In the past you know that this management has been very easy and lenient in enforcing company work rules. Things like sticking to break time hours, punching out when leaving the plant during working hours, getting time off to take care of personal business, going home on leave and not coming back when you were supposed to. All of these things and many more we have dealt with very gently because we have felt like friends. Many of you have come to us with personal problems and we have tried to help as much as possible in things like temporary changes in shift, a salary advance to tide you over a rough spot, help in bonding, applying for permanent residence, and help for wives, husbands and children to come up to St. Croix. I am not saying that we won't do these things in the future. We certainly are not going to change into monsters if there is a union—but we will not always be talking directly to you as individuals when problems come up. There is always the shop steward and other union officials who will want to get involved. And if there are infractions of a union agreement, we will have to apply the rules firmly. You have to remember that having a union is a two way street—its not all for the union. Management has rights and expects to exercise them.

You may ask yourself a good question—is the union really interested in me. You know that the V.I. Amalgamated Worker's Union has a very nice office downtown and pays quite a few people full time salaries. You will be paying for this. Union dues go only one way—and that is up. Of course, the union is very interested in getting more people to join the union—otherwise how can the union officer's (sic) salaries go up?

We went through an election here in December, 1969 and you got yourselves a union. This union

promptly forgot about you and did not lift one finger to improve anything here at V.I. Spinning.

However, lets take a look at the record and see what you negotiated and got yourselves without this union. I am proud to say that when there has been a beef or a problem, that we have listened and in most cases have been able to do something about it. For instance, we did give an additional 5 cent hour after 18 months service after a number of you mentioned this problem to us. We agreed to pay the third shift for the extra hour that they don't work on Sunday night. Last Christmas when vacation pay was given out, we completely changed our pay policy to give 2% and 4% of your earned salary, instead of 1 or 2 weeks pay. This meant quite a bit more money to many people and we did this the very next day after it was mentioned—not 3 years later at the expiration of a union contract which is the way it would be if there was a union here. We agreed to pay double time for Sunday work and the seventh consecutive day of work, even though the law only requires time and a half.

When the question of work assignments in spinning came up a few months ago, you were able to handle this problem yourselves without any outside or union help. We promised at that time to do something about air conditioning the plant and I am happy to report that plans are going forward and just last week we received bids for the work from several contractors and it now remains to choose one before starting the work.

This week's bonus is five dollars. The bonuses which you have been receiving for the past several months are based on our promise that when the plant production was sufficient to start to make a profit for us, that we would share this profit with you. These bonuses will grow as our production grows and it will grow as we get our machines in better shape and as everyone learns his job better. I do not see any reason why we cannot exceed the bonuses that we have been making, in the next few weeks. This is the best way and the most secure way for you to increase the money in your paycheck because if production increases, your company can *afford* to pay more.

This management has listened, has acted, and has demonstrated that we can get along together without outsiders to tell [sic] us how we should act and do our talking for us. And I believe that you do not need a union to get what you have always been able to get by speaking for yourselves.

Even though the union can make many promises about what they will get for you if you vote for them, your management is forbidden by law to make any

similar promises about the future. Luckily we don't have to make promises. We can add up the improvements made in just a short year and a half and you can figure out for yourself what the future will bring.

Consider all of this very carefully and vote in the center of the ballot—vote Neither.

(SIGNED) ALFRED STEWARD,
Plant Manager