

In the Matter of MARTIN DYEING AND FINISHING COMPANY and
FEDERATION OF DYERS, FINISHERS, PRINTERS AND BLEACHERS OF
AMERICA

Case No. C-125.—Decided December 7, 1936

Textile Dyeing, Printing and Finishing Industry—Interference, Restraint, or Coercion: surveillance of organizational activities and meetings—Discrimination: lay-off; discharge—Reinstatement Ordered—Back Pay: awarded.

Mr. Samuel G. Zack and Mr. A. L. Wirin for the Board.

Mr. Albert R. McAllister, of Bridgeton, N. J., for respondent.

Mr. Fred. G. Krivonos, of counsel to the Board.

DECISION

STATEMENT OF CASE

The Federation of Dyers, Finishers, Printers and Bleachers of America,¹ hereinafter termed the Union, having duly filed a charge with the Regional Director for the Fourth Region, the National Labor Relations Board, by its agent, the said Regional Director, issued and duly served its complaint dated June 10, 1936, against Martin Dyeing and Finishing Company, Bridgeton, New Jersey, respondent herein, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, 49 Stat. 449, hereinafter termed the Act.

The complaint, in brief, alleges that the respondent, a New Jersey corporation, with its principal office and place of business in Bridgeton, New Jersey, is engaged in dyeing, finishing and distribution of silk, cotton, linen, rayon and other goods and materials in interstate commerce; that on April 22, 1936, the respondent terminated the employment of William Everingham, a grey room employee, and

¹ The charge (Exhibit B-1) is signed by George Powell, Organizer, "Dyers and Finishers Federation". The complaint, in caption and text, names the Union, "Federation of Silk and Rayon Dyers and Finishers of America." However, the record shows that in April, 1935, the Union's name was changed to the "Federation of Dyers, Finishers, Printers and Bleachers of America" (Exhibits B-9, B-12, B-14, B-15). Under the motion by counsel for the Board to amend the pleadings to conform to proof, granted by the Trial Examiner, whose ruling is hereby affirmed by the Board, the complaint is amended to designate the Union by its present name.

has since that date refused to employ him because he joined and assisted the Union and engaged with other of the respondent's employees in concerted activities for collective bargaining and other mutual aid or protection.

The respondent's answer,² in substance, admits its corporate existence, and that it is engaged in dyeing and finishing; but it denies that it is engaged in dyeing and finishing silk or that it causes goods to be transported in interstate commerce, alleging "the facts to be that it receives, upon consignment, cotton, linen and rayon materials for the purposes of processing and/or dyeing. After it has processed or dyed such goods, pursuant to instructions of owner, acting as the agent of such owner, it causes the same to be shipped in accordance with instructions of the owner". The answer admits that the employment of William Everingham was terminated on April 22, 1936, and that the respondent has at all times since that date refused to employ him; but it denies that such termination and refusal were caused by his union membership or activity or concerted activities with other employees, alleging that he was discharged "because of his neglect of duties assigned to him, and by reason of his concerted activities with other employees in the Bridgeton plant, as alleged in said complaint, since such activities in the plant produced a lack of interest and attention to the business of his and their employment". All other allegations in the complaint are denied. In addition, and as separate defenses, the answer avers that the Board is without authority to regulate the employer-employee relationship in manufacturing; that any such attempted regulation is in violation of the Tenth Amendment of the Constitution; that the respondent's business consists of processing, is local, and is subject only to state regulation; that the respondent is not engaged in interstate commerce; and that the Board is without authority to determine "this cause" because of the unconstitutionality of the Act.

Pursuant to notice thereof, duly served on the parties, Walter Wilbur, duly designated by the Board as Trial Examiner, conducted a hearing on July 2, 1936, at Bridgeton, New Jersey. On July 21, 1936, pursuant to Article II, Sections 37 (a) and 38 (c) of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Board ordered that the proceeding be transferred to and continued before it, and that the record be opened for the purpose of receiving further evidence. The order was duly served on all parties. Pursuant to notice and amendment thereof duly

² The answer, filed at the commencement of the hearing, and more than five days from the service of the complaint as provided in Article II, Section 10 of National Labor Relations Board Rules and Regulations—Series 1, as amended, was accepted by the Trial Examiner with the consent of counsel for the Board and of the Regional Director for the Second Region.

served on the parties, the Board, by Walter Wilbur, duly designated Trial Examiner, conducted a further hearing for the purpose of taking further evidence, on August 20 and 21, 1936, at Bridgeton, New Jersey.

The respondent appeared at both hearings by counsel, Albert R. McAllister, and participated therein. The Board was represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses and to produce evidence was afforded to all parties. We find no prejudicial error in any of the Trial Examiner's rulings at the hearings and they are hereby affirmed.

At its conclusion, the August hearing was adjourned to give counsel for the respondent an opportunity to examine the testimony of certain experts introduced by the Board and to determine whether he desired to cross-examine such witnesses and to introduce further evidence at a subsequent hearing. By stipulations entered into between counsel for the respondent and the Board on October 3, 1936, the respondent acknowledged its full opportunity to do so and waived such right. Under the terms of the stipulations, the respondent, on October 6, 1936, filed a motion to dismiss the proceedings on the grounds (1) that the testimony shows that Everingham was discharged for inefficiency and not because of union activities; (2) that Everingham was not engaged in interstate commerce; (3) that the Act is unconstitutional. The motion to dismiss is denied.

Upon the entire record in the proceeding, including the pleadings, the stenographic transcript of the hearing, and the documentary and other evidence offered and received at the hearings, the Board makes the following:

FINDINGS OF FACT

I. THE TEXTILE DYEING AND FINISHING INDUSTRY

I. In the United States, the business of dyeing and finishing cotton, silk, wool and other textiles constitutes, to a large extent, an intermediate industry within the textile trade. Although finished textiles are produced by "integrated" textile mills equipped with finishing and dye houses,³ a considerable number of "non-integrated", or independent textile bleaching, dyeing, finishing and printing plants⁴ are engaged in the particular business of dyeing, finishing

³ The Official Textile Directory (1931) lists 1374 textile mills with finishing and dye houses according to the testimony of H T Nones, an expert in the textile trade. According to the Textile Blue Book of 1933 (a trade directory) 320 "integrated" cotton mills are equipped with finishing and dye houses

⁴ In 1933, 626 independent dyeing, bleaching, finishing and mercerizing plants employed about 66,000 workers, paid over \$58,000,000 in wages, used materials (chiefly chemicals and dyestuffs) at a cost of \$142,802,000 and received for their services a total of about \$279,000,000 (Testimony of H T Nones, textile trade expert, based on last available

and forwarding textiles for the account of and according to the specifications of textile merchants known as converters.⁵

II. (a) The converter purchases textiles "in the grey"⁶ from "grey mills", has them shipped to a dyeing and finishing plant, where they are dyed and finished according to his instructions,⁷ and then shipped according to his directions, chiefly to his customers, but sometimes to his own warehouse. Normally, finishing instructions are given by the converter at the time he sells the goods to his customers, and pursuant to such sales; in some cases he may give finishing instructions before such sales. Shipping instructions normally accompany the finishing instructions. Title to the goods in practically all cases is in the converter, who is the owner of the goods and who in many instances carries an insurance policy covering the goods no matter where they are, whether with a carrier or in the finishing plant.

(b) Goods are shipped from the grey mills to the finishers by railroad, truck or water routes, usually in lots shipped regularly, weekly or monthly. The actual processing in the dyeing and finishing plant averages about one week per lot. In the case of some textiles, notably cotton, the cloth is packed and labeled by the finisher with the brand of the converter or the label of his customers.

(c) Most of the textile converters in the United States are located in New York City. The finishing plants also maintain central offices, apart from their plants, in New York City. The plants, for the entire textile dyeing and finishing industry, are concentrated in New York, New Jersey and Pennsylvania; however, the finishing plants for cotton goods are located chiefly in New England and the southeastern States. The operations of the dyeing and finishing industry obviously necessitate, set into motion, and activate a substantial flow of textiles between different States of the United States.

(d) The market for finished textiles depends to a considerable extent upon the uninterrupted operations of the dyeing and finishing industry. The finishing plants normally do not own or buy or sell goods. As instructed by the owner, usually a converter, they merely perform finishing operations upon textiles as they pass through the

United States Census figures on the industry in *Census of Manufactures: 1933, Dyeing and Finishing Textiles*, pages 14-16, published by U S Department of Commerce, Bureau of the Census, Government Printing Office, 1935, and made Exhibit B-18a in the record by stipulations dated November 6, 1936, entered into between the respondent and the Board.) The Official Textile Directory (1931) lists 250 independent dyers and finishers and 75 printers for cotton piece goods. The Textile Blue Book of 1933 lists 217 independent dyeing and finishing plants for cotton piece goods.

⁵ In a very few instances, the converter operates his own finishing plant, and as a merchandising finisher combines the functions of converter and finisher.

⁶ Textiles "in the grey" or "grey goods" are cloths woven from unbleached or undyed yarns, as they come from the loom.

⁷ The market for finished textiles depends on the converter to provide variety in the type and style of cloth.

plants and forward them when finished to his customers upon his directions.

(e) The dyeing and finishing industry forms a bottle-neck for the textile industry as a whole. Any eventuality, such as a shortage of dyestuffs experienced during the Great War, a flood such as occurred in the spring of 1936, or a strike,⁸ that would clog up this bottle-neck would create a chaotic condition in the textile industry as a whole; goods would back up on the grey mills, the users of finished textiles would be without materials essential to production, the flow of raw materials to the mills would be interrupted, and the flow of interstate commerce in a very wide circle would be affected.

II. RESPONDENT AND ITS BUSINESS

III. The respondent, Martin Dyeing and Finishing Company, a New Jersey corporation organized in 1905, has its principal office and place of business in Bridgeton, New Jersey, hereinafter termed the plant. The respondent also has an office in New York City. Normally it employs 225 to 250 workers; 300 when operating at the peak of production.

IV. (a) The respondent is engaged in the business of dyeing, finishing and distribution of cotton and linen textiles (piece goods).⁹

(b) The respondent transacts business in New York City at the address of its sole and exclusive sales agent, the C. M. Anderson Corporation. The respondent's name appears on the door of this agent's offices in New York City and its name is listed in the New York City telephone directory.

(c) The respondent secures orders for dyeing and finishing through about six salesmen employed by its exclusive sales agent, who works for the respondent under contract on a commission basis. The salesmen cover the market, centralized to a large extent in New York City, and solicit business among linen and cotton converters, most of whom have offices in New York City. Notices or copies of the orders are transmitted to the respondent by telephone, telegram, teletype or letter.

(d) The respondent has about 200 customers, the majority converters and some converter millmen¹⁰ and mill agents, who arrange for the shipment of cotton and linen piece goods "in the grey" to the respondent's plant for dyeing, finishing and forwarding to

⁸ Labor employed in the industry is not readily replaceable because of the great spoilage risk. For further discussion of the effect of strikes, see *infra*, Findings XI (a) and (b).

⁹ The respondent's answer avers, and the testimony shows, that it is not engaged in finishing silk, as alleged in the complaint. As for the allegation in the complaint that the respondent is engaged in finishing rayon, the testimony shows that the respondent has "not had any rayon for quite a while." No finding is therefore made in respect to rayon.

¹⁰ Converters who are mill owners in whole or in part.

order. The shipments and orders consist of single lots and blanket orders, with the yardage usually specified. The respondent receives payment on a yardage basis. Three to four million yards of cloth per month go through its plant.

(e) The "grey goods" arrive at the plant in rolls, bales, cases and cartons, containing piece goods in lengths of 10 to 120 yards. The shipments are received in the store room; thence they are taken to the grey room, opened, the pieces laid out and sewed together on machines into lengths of about 500 or 1,000 yards in order to provide a continuous flow of material into the dyeing vats. The cloth is then dyed and finished in a series of consecutive and continuous operations,¹¹ inspected, folded, and packed in cases or bales ready for shipment from the shipping room. Employees in the grey room of the plant assist in receiving cloth on its arrival in the receiving room, and in dispatching finished cloth from the shipping room. Employees in other departments are also called upon to assist in receiving and shipping.

(f) The vast majority of the "grey goods" shipped to the respondent is intended for immediate operation. Instructions for dyeing and finishing and shipping directions normally and for over 90 per cent of its business arrive at about the same time as the "grey goods".¹² Delivery is usually promised for two weeks from the time of the order. The actual dyeing and finishing operations last from three days to two weeks, depending on their nature. When the plant is busy, the goods may not be ready for shipment before four weeks; but shipments are often made much sooner than the normal two weeks promised.

(g) Title to the cloth which moves through the plant is always in the respondent's customers. The great majority of shipments of "grey goods" received at the plant are formally consigned to the respondent's customers, in care of the respondent,¹³ and the bales and other containers are usually so stencilled. At all times while the cloth is in the plant it is clearly earmarked and identifiable as the property of the particular customer,¹⁴ and subject to his control. The customer in all cases directs the method of shipment and the

¹¹ After sewing, the cloth is scoured or desized by removing starch used in weaving, in order to avoid spotting during the dyeing process; sometimes the cloth is mercerized. The cloth is then put on the jig, or continuous dyeing machine, and dyed. When dyed, cloth that had contained starch is re-starched. Then the cloth is put on a tentering machine and stretched to the required width.

¹² T. F. Martin, the respondent's president, testified that five to eight per cent of the goods received may remain in the store room for as long as a year or more before the receipt of finishing and shipping instructions from the converter.

¹³ See Exhibit B-3, containing a list of shipments to the plant in March, 1936, prepared by the Pennsylvania-Reading Seashore Lines.

¹⁴ On arrival at the plant each package is marked with a number identifying the owner. The pieces of cloth sewed together into longer lengths for the dyeing and finishing process are always those belonging to the same owner.

destination of the dyed and finished cloth. And the great majority of shipments of dyed and finished cloth made by the respondent are made by it as a forwarder, agent of the customer, in the customer's name as consignor and to the customer's purchaser as consignee.¹⁵

(h) The chemicals, such as caustic soda, bicarbonate of soda and starches, and the prepared dyes used by the respondent in its dyeing and finishing operations are ordered and shipped principally from Philadelphia, Pennsylvania to its plant in Bridgeton, New Jersey.

(i) Practically all of the "grey goods" shipped to the respondent for dyeing and finishing are shipped by rail,¹⁶ truck and water to its plant in Bridgeton from many states other than the State of New Jersey. The cottons come chiefly from states in the southeast; the linens from Ireland, Belgium and the Soviet Union by way of New York. Practically all of the cloth dyed, finished and forwarded by the respondent as directed by its customers is shipped by truck, rail and water from its plant in Bridgeton to many States other than the State of New Jersey, and in all cases to points other than the point of origin of such cloth.¹⁷

V. The respondent is engaged, as set forth above, in trade, traffic, commerce and transportation among the several States, and between foreign countries and the United States, and its employees are directly engaged in such trade, traffic, commerce and transportation. The respondent's operations at the Bridgeton plant, as set forth above, constitute a continuous flow of trade, traffic, commerce and transportation among the several States, and between foreign countries and the United States.

III. THE UNION

VI. (a) The Federation of Dyers, Finishers, Printers and Bleachers of America, affiliated with the American Federation of Labor through the United Textile Workers of America, is a labor organization composed of workers in plants engaged in dyeing and finishing textiles. The Union, resulting from an affiliation of local labor organizations in the silk and rayon dyeing and finishing industry in 1933, became in 1934 a department of the United Textile Workers under the name of the Federation of Silk and Rayon Dyers and Finishers of America. In April, 1935, the Union's jurisdiction was

¹⁵ See Exhibit B-3, containing a list of shipments from the plant in March and April, 1936, prepared by the Pennsylvania-Reading Seashore Lines. When so ordered, finished cloth is shipped by the respondent to the customer. In a very few cases the respondent acts as consignor.

¹⁶ A railroad siding is located at the plant.

¹⁷ Bowen, the respondent's superintendent, testified that not over five per cent of incoming goods originated in New Jersey. Martin, the respondent's president, described outgoing shipments to New Jersey as "negligible".

extended to include cotton goods and its name was changed to its present title. All employees in the industry, including those engaged in receiving and shipping goods, but not including office workers, are eligible to membership.

(b) In the fall of 1933 a seven weeks' strike in the industry was terminated by an agreement for a year. In the fall of 1934 the employers, misinformed by labor spies as to the strength of the Union, refused to negotiate a new agreement, and an eight weeks' strike followed. The strike was finally settled by an agreement for two years between the employers and the Union, providing, chiefly, for union recognition, rates of pay, working conditions, machinery for adjustment of grievances, and arbitration of claims of unjust discharges.¹⁸ Upon its expiration in August, 1936, a new agreement¹⁹ for two years was entered into between the Union and 122 firms in the industry²⁰ employing 16,944 workers.²¹ By its terms, fundamentally similar to those of the 1934 agreement, it provides that there shall be no strikes or lockouts pending arbitration of claims of unjust discharges or grievances not covered by the terms of the agreement.

IV. THE UNFAIR LABOR PRACTICES

VII. (a) William Everingham, until his discharge on April 22, 1936, was employed in the grey room of the respondent's plant. He first worked for the respondent, in the grey room, from 1920 to about 1927. In 1933 he was reemployed for the same work by Raymond Bowen, plant superintendent, on the recommendation of Caleb Haines, grey room foreman, under whom Everingham had previously worked. Everingham's job was to prepare cloth for dyeing and finishing and, as directed, to help in receiving and shipping cloth. With another worker he operated a machine on which piece goods in the grey were sewn into longer lengths for the finishing operations. After such sewing they rolled the cloth on rolls and placed the rolls on flat wagons to be taken to the dyeing and finishing departments. He also spent a substantial part of his working time in unloading cloth from trucks and freight cars and in loading the bales of finished cloth for shipment.²² Everingham's duties normally and frequently

¹⁸ Exhibit B-2

¹⁹ Exhibit B-14

²⁰ Located in New Jersey and New York

²¹ Exhibit B-32 tabulates the firms which have entered the new agreement which expires August 31, 1938.

²² Everingham testified he spent 20 per cent of his working time in receiving and shipping; Garrison, a fellow worker, testified it was 40 per cent; the foreman, Haines, testified it was three hours a week. Although the testimony as to the amount of time spent on this work by Everingham varies greatly, there is no doubt that he was regularly employed in receiving and shipping for a substantial portion of his working time.

took him away from the machine, such times being those when he was engaged in receiving and shipping as directed, or when he was in search of the wagons to remove rolls of cloth. According to the testimony of Bowen, an absence from the machine of from five to ten minutes is a reasonable time within which to secure wagons, often in use and not readily available, and it may sometimes take 15 or 20 minutes. During the last period²³ of his employment by the respondent there were no complaints of Everingham's work; Haines testified that until about April 1, 1936, he had no fault to find with his work.

(b) Everingham was very active in the affairs of the Union.²⁴ He attended all of its meetings and with Powell, an organizer for the American Federation of Labor, presided at them. He openly solicited his fellow workers to join the Union, and "signed up around fifty or sixty." While Everingham was presiding at a union meeting on the Saturday before his discharge, Louis Riley, employed at the plant as a messenger, and sometimes in the office and to drive the car of Martin, the respondent's president, "stuck his head in" at the door of the meeting hall, where he could see Everingham.

(c) The following Wednesday, April 22, 1936, at the close of the day's work, as Everingham was about to ring the time clock, Bowen, waiting at the door of his office, called him over and discharged him. Bowen did not give Everingham any reason for his discharge.

(d) The respondent, through Martin and Bowen and other supervisory employees, knew before April 22, 1936, of the union organization efforts among its employees. Before that date advertisements of union meetings had appeared in the Bridgeton newspaper, and had been seen by Martin and Bowen. Martin testified that "loyal" employees, of many years' standing, had turned union membership application cards over to him; Bowen had also been given such cards by employees. Bell, master mechanic in the plant and in charge of employees engaged in mechanical maintenance work, was shown such a card by Ballenger, a mechanic, who had received it from Everingham. Sometime before Everingham's discharge, Clark, who had been employed by the respondent for 10 or 12 years, was laid off by his foreman for "talking too much about unions". Clark was reinstated on Martin's recommendation to Bowen, when Martin learned the reason for Clark's lay-off.

VIII. (a) In regard to the allegations in the respondent's answer that Everingham was discharged, for neglect of duties, Bowen testi-

²³ Approximately two and a half or three years

²⁴ The record is not clear as to the date when Union organization efforts among the respondent's employees began. The first Union meeting seems to have been held in February, 1936.

fied that after April 1, 1936, he noticed that Everingham was away from his machine "more than was necessary", or was talking to other workers; that he called this to the attention of Haines, the foreman, several times; that he told Haines that if Haines failed to take action, he would; and that he finally discharged Everingham on April 22. During the three weeks that Bowen observed Everingham he did not once call him to task or warn him that he considered his work unsatisfactory or his absences from the machine or conversations with other workers too frequent. Haines testified that he had no complaint to make of Everingham's work until the three weeks after April 1, when Bowen called his attention to Everingham's absences from his machine, and he "began to wise up"; that on one occasion he "tried to hint around" to Everingham about Bowen's complaints, and another time, a few days before the discharge, told Everingham, when he was returning to his machine with a wagon, that Bowen had complained of his absences from the machine and had said, "if you don't do something about it I will." Everingham flatly denied, in his testimony, that anyone had complained about his work or that Haines had at any time warned him of Bowen's complaints. Further, the testimony of Bowen and Haines establishes that during this time there was no other than ordinary spoilage of cloth on Everingham's machine, no imperfect or defective work, and no need to re-thread the machine because of his absences. There were no restrictions at the respondent's plant on conversations between employees, and it was usual for workers to talk to each other.

(b) In regard to the allegations in the respondent's answer that Everingham was discharged "by reason of his concerted activities in the Bridgeton plant, as alleged in said complaint, since such activities in the plant produced a lack of interest and attention to the business of his and their employment", Ballenger, a mechanic employed by the respondent, testified that Everingham had given him a union application card during working hours. Garrison, formerly²⁵ a fellow employee with Everingham in the grey room, testified to the same effect, and also that Everingham had later during working hours occasionally asked him if he had signed it or intended to sign it. But there is no evidence that in giving the card to Ballenger, Everingham in any way interrupted the work of either of them. Garrison testified that he got the card early one morning, at the start of work, and that the incident and Everingham's subsequent inquiries in no way interfered with the work of either of them. Moreover, there is no testimony in the record that

²⁵ Garrison quit the respondent's employ in August, 1936, about a week before the second hearing in this proceeding.

at the time of Everingham's discharge the respondent knew that he had engaged in such activity. Ballenger showed the card to his superior, Bell, the master mechanic. But Bell, Bowen and Martin all testified that Bell had neither shown the latter two such a card nor reported the incident. And Garrison testified that he was questioned for the first time by Martin and Bowen about receiving the union application card from Everingham just before the first hearing in this proceeding on July 2, 1936, more than two months after Everingham was discharged. The testimony of Ballenger and Garrison constituted the only evidence of "concerted activities" offered by the respondent.

V. CONCLUSIONS

IX. (a) We find that the evidence does not support the respondent's contentions that Everingham was discharged for neglect of duty or for "concerted activities *in* the plant" during working hours. As to the first contention, evidence in the record convinces us that Everingham's absences from his machine were in the normal course of his duties to secure wagons or to work on receiving and shipping. There is no evidence that his conversations with other employees in the plant were in violation of the respondent's rules, exceeded those normally engaged in by the workers, or interfered with his work. As to the second contention, the evidence concerning the two isolated instances of solicitation of union membership by Everingham at the plant during working hours also establishes that the respondent did not know of their occurrence at the time of Everingham's discharge, and that they did not interfere with his work.

(b) The evidence, rather, is persuasive that Everingham's discharge by the respondent was motivated by his leadership in the Union, his zeal in soliciting the respondent's employees in a labor organization for the purposes of collective bargaining. No other motive is revealed in the record for the respondent's summary treatment of an old and satisfactory employee. The record discloses no other reason for the sudden severance of Everingham from his means of livelihood without a word of warning and without a reason given him. Martin and Bowen denied that they knew of Everingham's union membership and activity at the time he was discharged, but we find these denials incredible in the light of their testimony that they knew of the union organization activities among the respondent's employees, of the advertisement of union meetings in the Bridgeton paper, and of the meetings themselves. Bridgeton is a small town and the respondent's employees relatively few. "Loyal" and old employees furnished Martin and Bowen with information

of the efforts to enroll the respondent's employees in the Union. The evidence clearly establishes that the respondent in fact knew too much of the union activity among its employees not to have known that Everingham was openly active in the solicitation of union membership and in leading union meetings. The lay-off of Clark, an employee whose activities were not regarded seriously by the respondent, for union activities before Everingham's discharge, and his reinstatement when Martin learned of the incident support our conviction. Everingham was the most active man in the Union, aggressively engaged in soliciting members. As a warning to the respondent's employees, Clark's lay-off was of little value in comparison with the discharge of Everingham, the outstanding union leader in the plant.

X. (a) The respondent's conduct in discharging William Everingham, as set forth above, constitutes discrimination in regard to hire and tenure of employment to discourage membership in a labor organization, in this case the Union.

(b) The respondent's conduct in discharging Everingham, as set forth above, because of his union membership and activity, constitutes interference, restraint, and coercion of its employees in the exercise of the rights guaranteed in Section 7 of the Act.

VI. THE RESPONDENT'S CONDUCT IN RELATION TO INTERSTATE COMMERCE

XI. (a)²⁶ In recent years strikes in the dyeing and finishing industry over organization issues,²⁷ including discrimination against union members, have caused general stoppages of work in the industry and consequent serious interference with the flow of dyed and finished textiles to the market. In 1933, out of 11 strikes in the industry involving 20,874 workers and causing 585,185 man-days of idleness, eight were over organization issues, including discrimination, involved 15,484 workers and caused 557,050 man-days of idleness. In 1934, out of nine strikes, six were over organization issues, including discrimination, and involved 32,528 workers and 755,998 man-days of idleness. In 1935 the intensity of the strikes, as measured by workers involved and man-days of idleness, lessened markedly, although the number increased; out of 15 strikes, involving 2,664 workers and 31,780 man-days of idleness, eight were over organization issues, involved 1,464 workers and caused 7,541 man-days of

²⁶ Except as otherwise noted, the figures given in this finding are from Exhibit B-20, a compilation of strike statistics in the dyeing and finishing industry for the years 1933 to 1935, compiled by the Bureau of Labor Statistics, United States Department of Labor, and certified over the seal of the Department by the Commissioner of Labor Statistics and the Acting Secretary of Labor.

²⁷ Strikes over organization issues are strikes of employees for the right to organize for collective bargaining.

idleness. In 1933 the outstanding strike was caused primarily by discriminatory discharges and refusal to recognize the unions; the strike lasted for seven weeks, stopped operations in the industry to a large extent, and disrupted the market for finished textiles by virtually ending the flow of cloth to the market.²⁸ In 1934 the principal strike was caused by the refusal of employers to negotiate an agreement with the Union; the strike lasted for eight weeks, caused a cessation of operations in a large part of the industry and seriously disturbed the market.²⁹ In both years the strikes had the effect of seriously obstructing the flow of dyed and finished textiles to manufacturers and other users in the textile market. In 1935 the sharp drop in the intensity of strikes over organization issues may be attributed directly to the stabilizing factor of the agreement, containing provisions for arbitration of claimed unjust discharges, in force between employers in the industry and the Union.³⁰ In 1935 the industry experienced no major stoppage, and the market for finished textiles no serious interruption such as was occasioned in the two preceding years by interference of employers in self-organization and collective bargaining by the employees. But although the intensity of such strikes has markedly lessened, strikes over organization issues, including discrimination, have continued.

(b) On the basis of experience in the respondent's plant and in other plants, the respondent's conduct as set forth above burdens and obstructs commerce and the free flow of commerce, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact, and upon the entire record in the proceeding, the Board finds and concludes as a matter of law:

1. The Federation of Dyers, Finishers, Printers and Bleachers of America is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

2. The respondent, by discharging William Everingham because he joined and assisted a labor organization, thus discriminating in regard to hire and tenure of employment to discourage membership in a labor organization, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

²⁸ See Exhibit B-29.

²⁹ See Exhibits B-30 and B-31.

³⁰ For description of the agreement, see finding VI (b).

3. The respondent, by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

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

ORDER

On the basis of the findings of fact and conclusions of law, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Martin Dyeing and Finishing Company, and its officers and agents, shall:

1. Cease and desist from in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act;

2. Cease and desist from in any manner discouraging membership in the Federation of Dyers, Finishers, Printers and Bleachers of America, or any other labor organization of its employees, by discrimination in regard to hire or tenure of employment or any term or condition of employment, or by threats of such discrimination.

3. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to William Everingham immediate and full reinstatement to his former position, without prejudice to his seniority or other rights and privileges previously enjoyed;

(b) Make whole the said William Everingham for any losses of pay he has suffered by reason of his discharge by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from the date of the severance of his employment to the date of such offer of reinstatement, computed at the wage rate he was paid at the time of such discharge, less any amounts, if any, which he earned during such period;

(c) Post notices in conspicuous places in all departments of the plant and near the time clock, stating (1) that it will cease and desist as aforesaid; and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.