

In the Matter of BEMIS BROTHERS BAG COMPANY and LOCAL No. 1838,
UNITED TEXTILE WORKERS OF AMERICA

Cases Nos. C-55 and C-95.—Decided August 10, 1937

Cotton Bag Industry—Company-Dominated Union: domination and interference with formation; soliciting and encouraging membership in; discrimination in favor of; disestablished as agency for collective bargaining—*Interference, Restraint and Coercion:* engendering fear of loss of employment for union affiliation or activity; discrediting union—*Discrimination:* discharge for union activity; refusal to rehire—*Reinstatement Ordered—Back Pay:* awarded.

Mr. Mortimer Kollender for the Board.

Mr. S. J. Everett, of Jackson, Tenn., and *Mr. Frank Gladney*, of St. Louis, Mo., for the respondent.

Mr. C. D. Puckett, of Chattanooga, Tenn., for the Union.

Mr. H. C. Murchison, of Jackson, Tenn., for the Independent Textile Workers of Bemis.

Mr. Aaron W. Warner and *Mr. Allan R. Rosenberg*, of counsel to the Board.

DECISION

STATEMENT OF THE CASE

On November 29, 1935, Local No. 1838, United Textile Workers of America, herein called the Union, filed with the Regional Director for the Tenth Region (Atlanta, Georgia) a charge that Bemis Brothers Bag Company, Bemis, Tennessee, herein called the respondent, had engaged in and was engaging in unfair labor practices within the meaning of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On January 14, 1936, the Board issued a complaint against the respondent, signed by the Regional Director for the Tenth Region, alleging that the respondent had committed unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1), (2), (3) and (5), and Section 2, subdivisions (6) and (7) of the Act. In respect to the unfair labor practices, the complaint, as amended, alleged in substance:

1. That the respondent has given and continues to give support to, and dominates and interferes with the administration of, a labor organization of its employees in its plant, known as The Independent Textile Workers of Bemis.

2. That the respondent has discriminated and is discriminating in favor of The Independent Textile Workers of Bemis, and its mem-

bers, and against United Textile Workers of America, and its members, by threatening employees with discharge or discrimination for failure or refusal to join The Independent Textile Workers of Bemis, by increasing the work load and lessening the rate of pay of employees who are members of United Textile Workers of America, and by other forms of intimidation, discrimination, and coercion.

3. That the respondent, at all times since July 5, 1935, although requested to do so, has refused to bargain collectively with Local No. 1838, United Textile Workers of America, as the representative of the employees of the respondent who are members of said Union, in respect to adjustments of grievances.

4. That the respondent, on or about July 23 and 25, 1935, discharged and thereafter refused to reinstate Mrs. J. T. McCann, W. R. Smith, Mrs. Judd Pipkin, Mrs. Myrtle King, and Mrs. Pearl Warbritton, all employees of the respondent, because they joined and assisted Local No. 1838, United Textile Workers of America, a labor organization, and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection.

5. That the respondent, at all times since July 5, 1935, has refused to reemploy A. T. Adams, Jim King, J. E. Wyatt, J. P. Fowler, Nova Pollard, C. H. Phillips, C. J. Patterson, Louis Collins, A. T. Mays,¹ Alf Taylor, Ben Collins, J. T. McCann, Lee Tate, and Judd Pipkin,² all former employees of the respondent, because they joined and assisted Local No. 1838, United Textile Workers of America, a labor organization, and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection.

On January 20, 1936, the respondent filed an answer to the complaint, alleging that neither its business nor its labor relations are in or affect interstate commerce, and that the Act is unconstitutional and void. It admitted the discharge of the persons named in the complaint but averred that the employment of said persons was terminated for good cause and not for the reasons alleged in the complaint. It denied further that it has refused to bargain collectively with the Union, or that it has engaged in unfair labor practices within the meaning of the Act. The respondent also moved to dismiss the complaint.

Pursuant to notice thereof, Walter Wilbur, duly designated by the Board as Trial Examiner, conducted a hearing commencing on January 24, 1936, at Jackson, Tennessee. The respondent appeared

¹ Incorrectly referred to in the complaint as T. A. Mays.

² The complaint also included the following names, which were stricken during the hearing: Clevie Tate, Leland Taylor, T. A. Garrett, C. M. Mundaugh, Bill Kellar, O. M. Shirey, Oliver Owens, and D. O. Irwin

by its counsel, S. J. Everett and Frank Gladney. The Union appeared by C. D. Puckett. The Board was represented by its Regional Attorney. At the commencement of the hearing, the respondent objected to the proceedings on the grounds stated in its answer, and requested a postponement on the ground that the respondent had filed a bill in equity seeking a temporary injunction against the Board, which matter was to come before the District Court of the United States for the Western District of Tennessee, on January 28, 1936.³ The Trial Examiner ruled that the hearing was properly held and denied a postponement, to which ruling the respondent excepted. This ruling is affirmed by the Board.

On January 31, 1936, the hearing was adjourned by direction of the Board, in order to give the respondent time to appeal to the United States Circuit Court of Appeals for the Sixth Circuit from the decision of the District Court denying injunctive relief. Such relief having been denied by the Circuit Court of Appeals, the Board on February 19, 1936, acting pursuant to Article II, Section 35 of National Labor Relations Board Rules and Regulations—Series 1, ordered the proceedings to be transferred and continued before it, and re-designated Walter Wilbur as Trial Examiner to conduct the hearing. Pursuant to notice thereof, the hearing was resumed on February 20, 1936, at Jackson, Tennessee. The Independent Textile Workers of Bemis requested, and was granted leave to intervene, and appeared by its counsel, H. C. Murchison.

Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing on the issues, was afforded to all parties.

During the hearing, the Board offered in evidence a certified copy of strike statistics compiled by the Bureau of Labor Statistics, United States Department of Labor, and entitled "Strikes and Lockouts in the Cotton Textile Industry in 1934, and in January to July, inclusive, 1935, by Major Issues Involved," which was marked for identification as Board's Exhibit No. 24. This evidence was excluded by the Trial Examiner, subject to a ruling from the Board. It is the opinion of the Board that the statistics thus offered and excluded at the hearing, while not essential, have a bearing on the effect upon interstate commerce of the alleged unlawful acts of the respondent and should have been admitted in evidence. The ruling of the Trial Examiner excluding the afore-mentioned evidence is therefore overruled, and the document so marked for identification is admitted in evidence.

³ A temporary injunction was denied by Judge Martin of the District Court on January 29, 1936. The respondent thereafter took an appeal to the United States Circuit Court of Appeals for the Sixth Circuit. On February 6, 1936, the Circuit Court denied the injunctive relief sought.

After the close of the hearing, on March 4, 1936, the Union filed with the Regional Director for the Tenth Region a charge that the respondent had committed unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (4) of the Act. On April 4, 1936, the Board issued a second complaint against the respondent, which, as amended, alleged in substance that the respondent, on or about February 24, 1936, discharged and thereafter refused to reinstate J. R. Ross, an employee of the respondent, because he gave testimony on behalf of the Union in the afore-mentioned hearing before the Board. On April 9, 1936, the respondent filed an answer to the complaint, reiterating the averments of its former answer concerning the unconstitutionality and inapplicability of the Act in connection with the respondent's business. It admitted the discharge of J. R. Ross, but attributed his discharge to his failure to abide by the respondent's orders, rules, and regulations. In conclusion, it denied that the respondent was guilty of unfair labor practices in the operation or management of its plant, and requested that the complaint be dismissed.

Pursuant to notice thereof, a second hearing was conducted before Walter Wilbur, duly designated by the Board as Trial Examiner, at Jackson, Tennessee, on April 17 and 18, 1936. The respondent and the Union were again represented and participated in the hearing, and were given full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing on the issues. It was stipulated by the parties at the hearing that the entire record in the prior proceeding, including the exhibits and the official transcript of the record, should be introduced and considered a part of the record in this case.

On May 13, 1936, the Board, acting pursuant to Article II, Section 37 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered this proceeding to be transferred and continued before it. On September 1, 1936, pursuant to Section 10 (b) of the Act and Article II, Section 7 of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Board issued a second amended complaint for the purpose of conforming the allegations of the complaint to the evidence received at the hearing. The new allegations charged, in substance, that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8, subdivisions (1) and (3) of the Act by its discharge of, and subsequent refusal to reemploy, J. R. Ross because he joined and assisted the Union and engaged in concerted activity with other employees for the purpose of collective bargaining and other mutual aid and protection. The respondent was given adequate opportunity to file an answer to the second amended complaint, and to request a further hearing. On September 11, 1936, the respondent filed an

answer denying the allegations of the second amended complaint, but made no request for a further hearing.

On May 11, 1937, by order of the Board, the cases herein were consolidated for the purpose of the decision.

Upon the entire record now before it in the consolidated case, the Board makes the following:

FINDINGS OF FACT

I. RESPONDENT AND ITS BUSINESS

The respondent, Bemis Brothers Bag Company, is and has been since 1885, a corporation organized and existing under the laws of the State of Missouri, having its principal place of business in the City of St. Louis, State of Missouri. It is engaged in the business of manufacturing and selling cotton and paper bags. It employs 4,476 workers in its factories,⁴ and has a total investment exceeding \$28,000,000. Its investment in the two cotton mills located in Tennessee exceeds \$3,000,000.

The respondent purchases raw cotton, either ginned or unginned, and manufactures it into cotton sheeting at its three cotton mills. This material is stored in the respondent's warehouse, and is shipped to the bag-making factories as needed. The respondent does not sell the cotton sheeting as such, but utilizes it in the manufacture of cotton bags; except that occasionally a small amount of surplus material is available for sale.⁵

The respondent's cotton mill at Bemis employs about 845 workers, and uses annually approximately \$1,000,000 worth of cotton, or about 18,000 bales. The cotton is purchased from ginneries in the immediate vicinity through the cotton buying office at the mill, and is delivered to the purchasing platform principally by truck, occasionally by railroad. It is then placed in warehouses, and is drawn upon and run through the process of manufacture as needed. The completed cloth, or sheeting, is put into bales or rolls, and is again stored in warehouses to await shipment. The Bemis mill furnishes cloth to all of the respondent's factories and to that end carries a large stock on hand. Depending on the demand, it makes shipments to

⁴ The respondent's factories are located as follows: three cotton mills located at Bemis, Tennessee; Bemiston, Alabama; and Indianapolis, Indiana; a bleachery located at Indianapolis, Indiana; a paper mill at Peoria, Illinois; and bag factories at St. Louis, Missouri; Minneapolis, Minnesota; Omaha, Nebraska; New Orleans, Louisiana; San Francisco, California; Indianapolis, Indiana; Memphis, Tennessee; Kansas City, Missouri; Seattle, Washington; Houston, Texas; Peoria, Illinois; Brooklyn, New York; Buffalo, New York; Wichita, Kansas; and Winnipeg, Canada.

⁵ A part of this information has been obtained from the decree of the District Court of the United States for the Western District of Tennessee, in the matter of the respondent's application for a temporary injunction against the Board and its agents, hereinbefore referred to.

the other plants, sometimes shipping one or two carloads in several months, and sometimes several carloads a week.

The respondent maintains sales offices in several large cities in the United States, including Detroit, Michigan, New York, New York, and Boston, Massachusetts, and advertises extensively. The market for its finished product is nation-wide, and extends to Canada. Its bags are sold under a registered trade mark.

II. THE UNION

Local 1838, United Textile Workers of America, formerly affiliated with the American Federation of Labor, affiliated now with the Committee for Industrial Organization, is a labor organization composed of employees at the respondent's Bemis plant, having been organized in or about August 1933.

III. THE UNFAIR LABOR PRACTICES

A. *The respondent's alleged refusal to bargain collectively*

In September 1934, the Union called a strike at the Bemis plant, as part of the general textile strike of that time, and caused the plant to shut down for several weeks. The strike, however, was unsuccessful, and the employees returned to work without an agreement. The Union then brought a complaint before the Textile Labor Relations Board, alleging the discriminatory discharges by the respondent of 14 Union member employees for union activity, 13 of whom were allegedly discharged since the strike.⁶ The Textile Board, after a hearing, rendered its decision on April 9, 1935, dismissing the complaint.⁷ On April 27, 1935, C. D. Puckett, national representative of the Union, came to Bemis, and, through Lowell Simmons, the recording secretary of the Local, arranged for a meeting with the manager of the plant, Fred J. Young. The meeting took place in the office of the plant on April 28, 1935, and related to the desire for reinstatement by the discharged Union member employees. In addition to Young, the respondent was represented by D. Ballard, the superintendent of the plant, and Mr. Brock, the assistant manager. Young expressed his willingness to consider the matter, except for his concern over what the Textile Board might think of his putting employees back to work after it "had found against them." Puckett said he "thought that would be all right."

⁶The names of the complainants, as read into the record by the respondent, are as follows: J. W. King, C. M. Mundaugh, Nova Pollard, A. T. Mays, J. E. Wyatt, O. M. Shirley, Bill Kellar, L. F. Sisco, Leland Taylor, C. M. Phillips, Cleve Tate, C. J. Patterson, F. M. Collins, T. A. Jarret, J. L. Collins, Alf Taylor, and J. P. Fowler. It will be noticed that 17 names are above enumerated, while the decision of the Textile Board refers to only 14 complainants.

⁷Respondent's Exhibit No. 1.

Another meeting took place in May 1935. On this occasion, Puckett complained to Young in regard to members of the Union discharged after the hearing before the Textile Board. He also notified Young that the Union was requesting a rehearing in the matter of the prior complaint before the Textile Board. On May 24, 1935, Puckett did in fact request a rehearing and posted bond. The rehearing, however, never materialized, due to the collapse of the Textile Board when the National Industrial Recovery Act was declared unconstitutional. A third meeting took place on or about September 13, 1935, at the office of the mill. Young, Ballard and Brock again represented the respondent, and Puckett, A. T. Mays, Miss Odell Warren and Mrs. Pearl Warbritton represented the Union. At this meeting, Puckett complained to Young in regard to discrimination against the Union shown by the respondent in reinstating only non-union employees. Mention was made of the rival organization at the Bemis plant, named The Independent Textile Workers of Bemis, and Puckett proposed that an election be held in the plant to determine which organization should represent the employees in collective bargaining. Young refused, saying he "didn't think it was time for that."

There was a further conference between the parties on November 1, 1935. Mr. Kollender, Regional Attorney for the National Labor Relations Board, and Mr. Curtis, Examiner for the National Labor Relations Board, were present. The conference again took place in the mill office. After some general discussion in regard to the discharged union members, Young proposed an adjournment until the following morning. Puckett thereupon utilized the time to draw up an agreement,⁸ which he presented to Young on the following morning, with the statement, "I have an agreement to offer and I want to see how far apart we are." Young read the proposed agreement, and then let Ballard and Brock read it. Young then stated "that he just didn't know, that he didn't feel like he wanted to sign anything." With this, the meeting ended.

There had been another attempt by the Union to have the respondent enter into an agreement. In March or April, 1935, Lowell Simmons, the recording secretary of the Union, had drawn up a draft of an agreement and had presented it to Young. After keeping it in his possession for a few days, Young returned the draft, saying that he did not approve it and would not sign it.

In spite of the studied procrastination exhibited by the respondent in the negotiations described above, we cannot find that the respondent failed to bargain collectively with the Union as the representative of the employees, since the record indicates that the Union did not

⁸ Board's Exhibit No. 12.

represent a majority of the employees during the period of the negotiations. For this reason only, the allegation of the complaint with respect to Section 8, subdivision (5) of the Act will be dismissed. For the same reason, we will also dismiss the allegation of the complaint with respect to Section 8, subdivision (1) of the Act, in so far as it relates to the refusal by the respondent to afford its employees adequate opportunity to discuss their grievances with the management.⁹

B. Respondent's interference with the union activities of its employees

The Union at the time of the general strike in September 1934, had 500 or more members. By February 1935, the number had fallen to approximately 70; at the time of the hearing in January 1936, it was approximately 40. The cause of this decline is in dispute.

The intervenor, The Independent Workers of Bemis, and the respondent contend that the desertion from the ranks of the Union during the period from September 1934 to May 1935, was caused by the alleged misguided policies of its leaders and the irresponsible conduct of its members. The Union, on the other hand, contends that the respondent's repeated acts of hostility, perpetuated in The Independent Workers of Bemis, and in other ways, have discouraged and intimidated employees from joining or remaining members of the Union.

Whatever the merit of these conflicting contentions, as they refer to events which occurred prior to the effective date of the Act, it is obvious that, as to later events, the respondent may not justify its antiunion conduct by pointing to the acts of the Union or its leaders which might also have caused a decline in union membership. Furthermore, the unfair labor practices with which the respondent is charged are alleged to have occurred "at all times since September 1934, including the period from July 5, 1935 to the present time;" whereas the leaders of the Union,¹⁰ whose misguided policies are alleged to have caused the decline in membership, resigned from the Union in May 1935, and, after the strike, were employed by the respondent almost continuously up to the date of the hearing, despite the policies which they followed. In our view of the evidence, the contention of the intervenor and the respondent is immaterial, if, in fact, the respondent has committed the unfair labor practices alleged in the complaint.

⁹ See *Matter of Mooresville Cotton Mills and Local No. 1221, United Textile Workers of America*, Case No C-85, 2 N L R B 952

¹⁰ Septimus Declinus Scott, vice president of the Union, resigned in May 1935; Lowell Simmons, recording secretary, resigned in May 1935, and several months later joined The Independent Workers of Bemis; Tom Warren, president of the Union, resigned in August 1935.

The following sections describe the means whereby from September 1934 to the date of the hearing the respondent is alleged to have coerced its employees not to join or to relinquish their membership in the Union.

1. Domination of and interference with The Independent Textile Workers of Bemis

In October 1934, The Independent Textile Workers of Bemis was organized at the Bemis plant by three of the respondent's employees, Benjamin Scott, Walter Cagle, and Morgan Doolan. They met in a room above the company's store, laid their plans, and selected the name of the organization. They then went about getting other employees interested, and taking contributions. Prospective members were told that the organization "stood for the employees of Bemis that were not in sympathy with the United Textile Workers, and didn't like their way of doing business." Membership was solicited in the plant, and the first large organization meeting was held on October 7, 1934, in front of the Y. M. C. A. The meeting was attended by about 400 to 500 employees, Benjamin Scott was elected president of the organization, Morgan Doolan, vice president, and Walter Cagle, secretary. The meeting was addressed by Bob Grove who, in his talk, referred to Francis Gorman and Thomas F. McMahon, vice president and president, respectively, of the United Textile Workers of America, stating that their interest in labor was to collect dues and enrich their own pockets, and to control every laborer, his vote, and his religious views. He stated further that conditions were such in the respondent's plant, that they could not be taken care of by the "National Textile Union", and could be better handled by the new organization.

The reasons for the formation of the new organization, as given by Benjamin Scott, were that the Union was too drastic in its demands, that he did not approve of the idea of striking, and that "if the United Textile Workers * * * won their point, why, we would automatically have to come under their jurisdiction, they would be our collective bargaining agency; well, we wanted to do our own collective bargaining, we didn't know what kind of bargaining they were going to do." As thus organized, The Independent Workers of Bemis is a labor organization.

Although at the time of the hearing the new organization had a membership of approximately 600 employees, it had no contract with the respondent, no agreed scale of wages, no agreed standard of hours, no agreement as to seniority, or as to any other rights which are commonly the subject of collective bargaining, nor had any attempt ever been made to secure an agreement or to bargain collectively with reference to hours, wages, or working conditions. The

organization has no constitution, although it does have rules and by-laws. It has no treasurer or financial secretary, and levies no dues, raising money by voluntary contribution. There are no regular dates set for meetings, and a meeting is called whenever "the Independent Workers would get to talking around they wanted a meeting and wanted to hear something out of us, and wanted to know if we were still alive * * *" Prior to the date of the hearing, meetings had been held about once a month. There were no regular minutes kept, the secretary testifying that he often took none. Foremen at the plant are not eligible for membership, although there was evidence that the meetings were attended by several of the management. Lynn Medlin and Dewey Johnson, both second hands, were seen at a meeting held on November 16, 1935, and participated in the voting. Other officials reported to have attended meetings were Arthur Scott, assistant foreman in the weaving department; Newsome Williams, foreman in the weaving department; Dan Cobb, foreman in the carding department; L. K. Rush, foreman of the spinning, spooling and warping department; Mr. Grissom and Dewey Bishop, second hands in the carding department; Millard Fry, paymaster; and Fred Butler, assistant superintendent.

A frequent speaker at the meetings of the Independent, and of great assistance to the officials of that organization in its conduct, was Robert Grove. According to the testimony, Grove had been a clerical employee in the respondent's cotton buying office for eight or ten years, and had no supervisory duties. His salary is approximately \$2,000 per year, and his time, so long as he does his work efficiently, is his own, particularly during slack periods. He is the magistrate for the county, an elective office which he has held since 1930, and is also a member of several civic committees in the community. Because of his position as magistrate and his talents, the employees at the plant have accepted Grove as their adviser on any matters of importance which might arise. Grove testified: "They ask my advice on a wide variety of subjects, and I have tried to do this since I have been made Magistrate, especially if anyone in my district comes into the office and wants advice on any particular subject, or wants me to write a letter or asks me to write deeds or mortgages, and they ask me to write almost every kind of paper, if it does not interfere with my work, why it is permissible for me to do those things. Sometimes a man will leave a piece of work he will want me to do. I do it for accommodation, and they come to me about everything including family affairs, and all these things." On occasion, Grove has given such assistance to Ballard, the superintendent of the plant.

Among the many interests which occupied Grove, the question of the Union had an important place. Strongly opposed to the

"National and International Federation of Unions", he regarded their methods and tactics as alien and un-American. In his speeches, he termed the words of the Union organizers "a lot of alien propaganda, or if you like it a little plainer, a lot of alien lies." He stated, it was testified, that the "United people, all that belonged to it, if they didn't repent at once they was going straight to hell." His resentment turned not against the Local, but against the national organization, whose leaders he characterized as "not even American citizens that are causing disruption of operation in an ideal city like ours to get a few shekels flowing into their own pockets." Grove testified that his "sympathy has been with the Independent organization." Although he was not a member of the Independent, he kept a supply of membership cards in his possession for the accommodation of his fellow employees, a number of whom signed in his presence, after receiving an explanation of what the Independent stood for. On one occasion, Grove represented the Independent in dealings with the management in regard to the purchase and installation of some machinery, and secured Young's permission to make an investigation at the plant with the assistance of Ballard and Rush. On another occasion he acted as spokesman for the Independent in negotiations with the Union, wherein it was attempted to achieve "better understanding and harmony" among the workers through the holding of an election, but which failed because of disagreement as to the issue to be decided.¹¹

The influence wielded by Grove over the employees and his close relation to the Independent are not in dispute. The respondent, however, repudiates all responsibility for Grove's actions, on the ground that he is merely an employee who in no sense represents the management. The respondent also maintains that its attitude toward both the Union and the Independent has been one of pure disinterestedness. The evidence does not sustain these contentions. Whether or not Grove directly represented the management, it is clear that, at the very least, the respondent utilized him as an agent in fostering the growth of The Independent Workers of Bemis, towards which its attitude was in no sense that of pure disinterestedness, but, on the contrary, one of active support and encouragement.

Two of the respondent's employees of long standing, W. H. Davis and L. A. Stout, testified that their affiliation with the Independent was brought about solely by means of the intervention of officials of the respondent. Both were members of the Union, and had been transferred from the carding department, which was overcrowded, to the weaving department, where they were put to work as sweepers

¹¹ The Union proposed that the employees should vote as to which of the two organizations should represent all of them in collective bargaining. The Independent proposed a vote to determine whether both organizations should be eliminated. The Independent's proposal was drawn up by Grove. See Board's Exhibits Nos. 13, 14, 15 and 16.

at a reduced rate of pay. Other employees were also transferred, but were given more lucrative work. Davis complained to Newsome Williams and A. M. Scott, the foreman and assistant foreman in the department, and was told by Scott that nothing could be done for him so long as he belonged to the Union, but that if he would "turn in his book" to the Union, go to Bob Grove and sign an Independent card which Grove would give him, Scott would guarantee him a better job inside of two weeks. Davis did as he was instructed, and signed an application in Grove's presence. Grove testified that Davis came to him to sign a card, and that he explained to Davis "what the Independent stood for." According to Davis, Grove also inquired about the membership of the Union, and stated: "Well, they don't have many. There are only 250 that work in the mill that do not belong to the Independent." Thereafter, Davis was sent by Scott to see Ballard and Butler, and was told by Ballard: "Well, that is the best thing for you. It would be best if they would all quit it." Ballard also told Davis "about those big fellows, Green,¹² and those fellows up there, that had big, fine automobiles to ride in and was not caring nothing about us down here, or these other fellows that had been coming in to Bemis, that they did not care nothing for us either, that they were after the money there was to it." Butler said he was glad Davis had left the Union. Several days later, Newsome Williams admonished Davis that he was to stay out of the Union, and promised him a good job. He advised Davis that there was nothing to the Union, and that he thought it was about dead. On the next day, Davis was transferred to a job with better pay.

The testimony in regard to Stout was similar. Scott said to both Davis and Stout: "Boys, I tell you, you are both good workers, but I can't do nothing for you as long as you stay in the Union, and they won't let me." He continued: "The foreman over me won't let me do anything for you as long as you are in the Union." Scott requested Davis to induce Stout to leave the Union, and Davis did so. Stout testified that he then went to Bob Grove at Scott's behest, and signed an Independent membership card, whereupon Scott said: "Well, I'm glad to know that you did. I can pull for you now." Newsome Williams instructed Scott to find Stout a better job "as quick as he could", which Scott did soon after. Williams also stated: "Well, you know what to tell them now if they say anything to you about it, don't you? * * * Tell them to go to Hell." Some time later, after it had come to Williams' attention that information had been turned in to the Union, he told Davis that if he could find out who had been reporting his statements to the Union, "he would fire him and guarantee that they would never get another job, at the Bemis Cotton Mill." Scott warned Davis that "if anything came

¹² Presumably William Green, president of the American Federation of Labor.

up about it for me (Davis) to tell that I lied." Both Davis and Stout testified that a strenuous supervision over their work was relaxed immediately upon their leaving the Union.

Although the respondent has flatly contradicted this testimony, it is too well corroborated by other conduct of the respondent's officials to admit of doubt. It is not disputed that Davis and Stout joined the Independent and were given better jobs. The respondent claims that the better jobs were occasioned by a sudden increase in activity among the looms, necessitating additional help. Under the circumstances, we regard this explanation as unsatisfactory.

Other evidence concerning the interest of the respondent in the Independent was given by Curtis Howell, the former employee who had joined the Union a short time prior to his leaving the respondent's employ. He applied for a job in December 1935, to Rush, who said that if he would join the Independent he could have a job at \$10 per week. Howell came to Rush again, and Rush told him "they just about had the Union broke", and to keep coming back.

Dave Ervin, another employee of long standing, was laid off in April 1935, for leaving up a flag on his loom. He was reinstated in three weeks. Prior to his reinstatement, he had spoken with J. R. Greer, a loom fixer in the same department, who came to Ervin's house to tell him that if Ervin would cease to be a member of the Union, he could get his job back. Ervin was later told the same thing by Guy Thomas, another loom fixer in the department. Ervin then went to Bob Grove, and told Grove he was through with the Union, and would appreciate Grove's help in getting back his job. Grove said, "If you are through with the Union, why I, as an individual employee talking to another one, will intercede to Mr. Young and see if I can get him to agree to put you back to work." On another occasion, Grove asked Ervin to join the Independent, but Ervin did not do so. Grove said, "We would not let you join right now but after you get back to work, will you?" About a week later, Ervin was reinstated. Ervin never joined the Independent, although he was asked by Guy Thomas if he was ready to join. Thomas said, "What are you waiting on, for them to fire you again?"

At the hearing, Grove testified, in regard to employees who came to him to sign Independent cards, that "some of them said they were joining under the impression that they would further their interests with the company management," and that "this rumor got so bad at one time, that they took all the cards in the Independent Hall and asked me to announce that anyone that had joined the Independent, with the impression it would have any bearing on their standing with the company * * * to please come and get their cards, because they didn't want them in the organization under that impression."

The Board, nevertheless, is convinced that the respondent, up to the time of the hearing, has continuously fostered this impression, and that the Independent has grown in response to the will and purposes of the respondent. Without the respondent's active support and open encouragement, we do not believe it likely that the Independent would have succeeded in enlisting the membership of most of the employees, if indeed it would have received any support from the employees at all. We find that the respondent has dominated and interfered with the formation of, and has contributed support to, The Independent Textile Workers of Bemis.

2. Interference, restraint, and coercion

Accompanying the efforts of the respondent to organize its employees in The Independent Textile Workers of Bemis were its persistent attempts to discourage membership in the Union. The record contains many illustrations of this form of illegal conduct.

Bertha Scott, an employee for 12 years, had left the respondent's employ because of illness in 1932. Upon seeking reemployment in August 1935, and thereafter, she was told by Ballard that her husband, who worked at the plant, was a member of the Union and had "better get out". Mrs. Scott testified that Ballard prefaced his remarks by saying that "he was going to tell me something, and if I had it in Court he would swear he didn't say it." Ballard then stated he would like to put Mrs. Scott to work, but she and her husband had turned their backs on him and joined the Union, and consequently Ballard could do nothing for her. Ballard said further that "he never had nothing hurt him any worse than me and my husband picketing the gates during the strike, and also me and my sister joining the Union."

In October 1935, another former employee, Rosa Barker, had interceded with Ballard for her husband, Jim W. Barker, who had been discharged on June 11, 1935, after 18 years of employment. Mrs. Barker testified that Ballard said "Jim was a man he liked, but he was sorry he got messed up like he did, that he could not do anything for him." Ballard then sent Mrs. Barker to see Rush, who said: "Mrs. Barker, I don't believe in whipping the devil around the stump. I am going to tell you to your face, I would not work your husband again at ten cents a day." He then added, "Another thing, when this Union first started I went around to all my section men and talked to them enough to let them know that they did not need to belong to the Union." He stated further that "he thought when a man was working for a man or a company he should be loyal to the boss instead of that Union. * * *"

Minnie Granger, who has been in the respondent's employ for 12 years, had been a member of the Union. She testified that after the

strike, Rush, her foreman, asked her what position she held in the Union. She testified also that Leon Medlin, second hand in the spinning room, inquired as to why she did not get out of the Union. On July 23, 1935, after Medlin had discharged an employee named Mrs. Warbritton, he told Miss Granger that if she did not leave the Union, she would be next. On the following morning he asked Miss Granger if she had made up her mind "to get on the right side." Miss Granger promptly left the Union.

C. C. Redden, an employee of long standing, had been a member of the Union at the time of the strike. He testified that assistant foreman A. M. Scott told him "we were damn fools to belong over there, we ought to come back * * * and be sociable." Redden quit the Union in April 1935, because "it seemed like the Union boys were getting fired more so than the nonunion workers."

T. M. Warren, employed by the respondent for nine years, had been president of the Union from April to August 17, 1935. In July 1935, Warren was asked by A. M. Scott to come to the latter's office. According to Warren's testimony, the following conversation took place: Scott said, "Tom, you and I are growing old, and if we should lose our jobs the chances are we would never get another one." Warren said, "Arthur, I have never thought about losing my job, it has never entered my mind. I stay on my job and run it. I live up to the rules and regulations of the company as far as I know, and I haven't thought anything about losing my job." Scott replied, "Well you can't tell, these Southern mills are sore." Warren asked, "What are they sore about?" Scott said, "The Union." Warren asked, "Well, what are they going to do about it?" Scott replied, "They are going to clear out." Warren testified, however, that he quit the Union for other reasons than these.

Janie Houston, who had been formerly employed by the respondent for about seven years, left the plant in 1928 when she married. In October 1935, she applied for reemployment, and went to see Rush. According to Mrs. Houston, when she said something to him about the Union, Rush stated that the respondent would not hire any union people, and that they were going to get rid of all of the Union members sooner or later. He promised her employment when some new looms were installed. She has never been a member of the Union.

Eva Reeves, employed by the respondent for 16 years, was laid off by Rush on January 6, 1936. When she asked to be reinstated, Rush said he could not get over seeing her on the picket line during the strike, and added that he was going to discharge all of the union people if it took him 15 years, and that he knew every one of them. Miss Reeves testified that Rush consulted a list of names in a little book, and asked her whether she had "signed one of those cards

during the strike." After studying the list, he commented that her name was missing, and said, "that shows how bad you want to work." On another occasion, Rush repeated that he "couldn't get over my being on the strike down there." He subsequently put Miss Reeves to work on a two day a week schedule, whereas other employees doing the same type of work were employed four days a week. Miss Reeves has been a member of the Union since 1933, and this fact was known to Rush, who told her that, although she sought work when unemployed, yet she had been on the picket line keeping out others who wanted to work. He also chided her for spending her money to help maintain the Union.

In each of these cases, the respondent has sought to refute the testimony or to explain away the inferences raised thereby. In regard to Mrs. Scott, Ballard testified she had left her employment with the understanding that her husband was to take her place, and could return at any time she desired to replace her husband. With reference to Rosa Barker, Rush testified that her husband had been discharged for inefficiency, but admitted telling Mrs. Barker that her husband has possibly listened to other persons who influenced him somewhat. Rush also admitted telling Mrs. Barker that "just after the N. R. A. went into effect, that I talked to all of my section men—just probably a week or two after the beginning of N. R. A.—that I did not believe that any section men should belong to any labor organization, simply because I did not believe he could be impartial, or fair, to all the workers on his job, but I did not tell any of them that they could not join, but, that was their right, as stated under Section 7-A, that they could do as they saw fit, but I did not see they could be impartial to all the workers on their sections, and carry out my instructions, and orders, and belong to any labor organization." Rush also testified he had received complaints that Jim Barker discriminated in favor of the union employees under him. In regard to Miss Granger, both Rush and Medlin testified that she inquired of her own volition whether she had to sign an Independent card to work, and was told, "no, you don't have to sign nothing to work here. All you have to do is run your job like you have been running it and you will still work." Assistant foreman Scott corroborated the testimony of Redden, but added that what he told Redden applied to both organizations at the plant, and that he had stated he did not "see why those crazy people don't disband all that and come on back and be sociable." The testimony of Warren and Janie Houston was flatly denied. In regard to Miss Reeves, Rush testified that he had received complaints in regard to her work, and at the time of her lay-off had summoned her to his office. There he kept a little book in his desk, containing a record of his confer-

ences with employees, which he took out and was looking over in order to refresh his memory in regard to prior complaints about Miss Reeves. Rush then testified as follows: "She said she had an invalid sister to keep up and this sister depended on her, and that there was no one to support the family except her, and I told her, I said: 'Now, you are putting up a hard luck tale to me, and I remember at one time seeing you back here, not so long ago, sitting on the gate out there on the picket line, and smiling and going on,' and I said: 'It looks to me like here, now, you have put up another tale about having to work,' and I said: 'That don't look quite right, and quite consistent,' and she said she had to work, and I said: 'Well you were out during the strike,' and I said: 'Did you want to go back, then?' and she said she did, and I said: 'Did you remember a meeting that was held at the Auditorium?' and she said: 'I did not know anything about it,' and I says: 'You did not mark a ticket, or something, to that effect, to go back to work?' and she said: 'Well, I do not know anything about it, nobody told me about that,' and then she went on and said she was going to starve to death, and I said: 'It is not my intention to make it hard on you,' and I did know she had a sister to keep up, and the weather was cold, and I said: 'You promised me many times you would do your work right,' and it was just the same as the other times, she solemnly promised she would do it right if I would give her a chance, and I said: 'All right, you go and tell Mr. Johnson I said put you back to work,' and she grabbed my hand and shook it for about five minutes."

In spite of the denials contained therein, the hostility of the respondent toward the Union is revealed in the testimony of its own witnesses. It is obvious, for example, that the respondent, with an overstaffed plant and in complete control of the community in which its employees lived, was unwilling to forego its position of undisputed dominance over its workers. To the end that it might retain this favorable position free from the interference of the Union, it availed itself of the punitive privileges inherent in the paternal relation it has assumed toward its employees. Overabundance of available labor in its plant made possible the summary dismissal of inefficient help; it also enabled the respondent to lay off employees as a matter of discipline, usually accompanied by a lecture pregnant with disappointment and admonition. Instances of this are numerous in the record of this case. The Union in particular has provided the respondent with a fertile source for injured complaint; a good example is the occasion testified to by Rush when he told Eva Reeves: "Now, you are putting up a hard luck tale to me, and I remember at one time seeing you back here, not so long ago, sitting on the gate out there on the picket line, and smiling

and going on." Such conduct on the part of the respondent is calculated to discredit the activities of the Union, and goes hand in hand with the unbridled attacks made by Grove in his public speeches, which were in fact attended by a number of the respondent's officials. It is apparent from the entire record that from the time of the general strike in September 1934, to the date of the hearing, the respondent has painstakingly endeavored to destroy the Union. We find that it has thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Discrimination in regard to hire and tenure of employment

Between July 23 and July 25, 1935, the respondent discharged six employees. Of these, Mrs. Myrtle King, Mrs. J. T. McCann, Mrs. Judd Pipkin, and Mrs. Dexter Warren were members of the Union; Mrs. Walter Cagle and Mrs. Carrington were not. The respondent testified that it was the policy to discharge married women whose husbands were not employed at the plant; otherwise it "would be furnishing a house for the discharged men to live in, and the wife keeping him up." The husbands of Mrs. King, Mrs. McCann, and Mrs. Pipkin had been discharged,¹³ and it would not do, according to the respondent, to "let the wives work and support them, and them able bodied men, so we just sent those out indefinitely." But the husbands of Mrs. Carrington, Mrs. Warren and Mrs. Cagle were working, and those women were laid off with the understanding that when conditions improved they would be reinstated. There was no complaint about the work of any of those employees.

Mrs. King had been employed for six years when discharged by the second hand, Cobb, who attributed his action to the "short time" (i. e., running the department four days a week instead of five). An employee who had been hired a few weeks before was given her place. Both Grissom, the foreman, and Cobb knew of Mrs. King's affiliation with the Union and participation on the picket line during the strike. Mrs. King testified that at one time Cobb stated she made one of the best hands that the respondent ever had on the job.

Mrs. McCann had been employed 14 years. She testified that Cobb, who discharged her, had stated after the strike that he could not forget she had been on the picket line.

Mrs. Pipkin had been employed nine years, and was also discharged by Cobb, who once told her that she made a good hand. She testified

¹³ J. W. King was a complainant in the case before the Textile Labor Relations Board (see p. 272, *supra*), and is also a complainant in this case, as are J. T. McCann and Judd Pipkin.

that after the strike her work was closely watched by the foreman and the second hand. She had been on the picket line.

On or about July 23, 1935, the respondent discharged Mrs. Pearl Warbritton, who had been employed about seven years. She had also been on the picket line during the strike. When discharged, she accompanied the union committee on a visit to the management in an attempt to secure reinstatement. Ballard testified that he would have patched up the matter if she had come to him alone, because he "liked Pearl very much, she was raised out there." In regard to the committee, he testified: "I would not want to put anybody back to work in the mill, as far as I am individually concerned, if they did not make up their minds—I would not want to run a mill where a committee could come and put people back to work. Frankly, I would not do it * * * I think that would cause the mill trouble; I think it would cause the Union trouble, and the Independent trouble, or anybody, if people could be discharged, and quit, and walk out, and come back through somebody else. I would not want to run the mill if Mr. Young were to tell me I had to put a fellow back to work, because I do not think I could ever get satisfaction out of it." Speaking in the same vein, Ballard said, "I have no objections to the committee, but I do not like for a committee to come in and tell me that I must put so-and-so back to work, because I think it would be detrimental to the hands, or the mill, or them either, to do it." When pressed as to whether the Union committee had "demanded" he put anyone back to work, he admitted, "No, you did not; you did not do it, but, as I just stated, if we did have to put them back to work by some committee, or anybody, or even the manager were to force anybody back on us without them making it satisfactory, we could not work them satisfactorily." Ballard thought that Pearl was a good worker and "a very good little girl."

In September 1935, the respondent discharged W. R. Smith, a sweeper employed over three years. Prior to his discharge, Smith had been told by Asa Martin, a second hand, that he had better "turn over" in regard to the Union, and join the Independent, or he was liable to lose his job. Smith was similarly approached by other employees, the last request to join the Independent having been made three days before his discharge. In an attempt to secure reinstatement, Smith visited both Ballard and Rush, but first sent the union committee. Ballard said that had Smith come to him first in place of sending someone else, the matter would have been straightened out. At the hearing, Ballard testified that Smith was not reinstated because he "did not ever come and acknowledge he had done wrong, and he would not keep his work up * * * If the boy had come back to me and said: 'I am sorry, and I will run that job if you will

give it back to me,' I would have prevailed on Mr. Rush to give him a job back, and, if he had talked to Mr. Rush right about it, too."

The complaint alleges that the respondent has discharged and refused to reemploy the afore-mentioned employees because of their union activities. In addition, the complaint sets forth the cases of other employees who were discharged prior to July 5, 1935. The burden of the complaint in these cases does not concern the discharges, but only the subsequent refusal by the respondent to reemploy these employees because they had joined and assisted the Union. For the sake of convenience, these cases will now be considered in conjunction with those already discussed.

J. T. McCann had been discharged on January 6, 1935, after 12 years in the respondent's employ. He had been active on the picket line during the strike. Prior to his discharge he had been arrested in a lunch room not on the respondent's property and after working hours by a deputy sheriff in the employ of the respondent, allegedly for drunkenness and disorderly conduct. He was then tried before a court consisting of Grove and two other magistrates and was acquitted. Nevertheless, he was discharged by the respondent. His requests to Ballard and Cobb for reinstatement were of no avail. Additional requests for reinstatement were made on his behalf by the union committee on September 13, 1935, and November 1, 1935. McCann testified, and it is not contested, that discharge for drunkenness at the respondent's plant is a punitive measure, and is usually followed by reinstatement, in several instances even after a conviction and the serving of a term in jail. Prior to his discharge, McCann had been told by Bishop that he had better get out of the Union, and that Bishop was "going to get everyone of them if they didn't." At the hearing, Ballard testified that he knew McCann had been acquitted of the charge of drunkenness. He had told the union committee which had asked him, "When are you going to put all those people (including McCann) back to work?" that "I am not going to put any of them back to work until they get themselves right." Ballard said McCann came into his office with the wrong attitude, having stated that his tongue was made to talk with, that he was free, that he would take a drink when he got ready, and that he did not consider it anybody's business. McCann's work was taken over by another employee.

A. T. Mays had been discharged on October 4, 1934, after having been employed as a painter by the respondent for eight years. There was no complaint about his work. He made frequent applications for reinstatement, the last attempt occurring one week prior to the date of the hearing, but with no success. The union committee had also discussed the case with the management. Mays' work has been

done by others who have been employed since his discharge, and who have lesser seniority. Mays had been active in the Union, and at the time of the hearing was the president of the Local. His union affiliation was known to his foreman, Jim Walters, who had been the one to discharge him. Walters had said: "You know good and well that the company, that a company like this * * * is never going to have a labor movement in it;" and he added: "I cannot see why you should join the Union." At the hearing, the counsel for the respondent intimated that the respondent employed other painters because they worked for less wages than Mays had received. Mays testified he had received no offer from the respondent to go back to work at a reduced wage.

In the light of the entire record, it is clear that the respondent's discharge of these employees was in continuation of its policy to remove all vestiges of the Union from its plant. The respondent's procedure was deliberate and cautious. It found that its custom of imposing lay-offs as a matter of discipline in instances of minor lapses in the efficiency of its employees afforded a ready means for its purposes. The discharges were accordingly embellished with the usual reasons. The requests for reinstatement, however, presented other problems, for which the respondent devised other means of circumvention. An instance of this is the respondent's insistence upon the appearance of the discharged employees before the management to "get themselves right". Mrs. Warbritton did come before the management, but she was accompanied by the union committee. Faced with this contingency, the respondent was forced to admit that it would tolerate no interference from the Union, and stated that Mrs. Warbritton should have come alone. W. R. Smith came before the management alone, but was rebuked because the union committee had been there before him. On this account, neither of those employees was rehired. It can safely be assumed that the intervention of the Union on behalf of J. T. McCann and A. T. Mays had like consequences. As to the reasons advanced for the refusals to reinstate Mrs. King, Mrs. McCann and Mrs. Pipkin, admittedly satisfactory employees, the Board, viewing the case as a whole, considers it more likely that their foreman, Cobb, had not forgotten the picket line.

In accordance with the foregoing findings of fact, the Board concludes that by discharging Mrs. Pearl Warbritton on July 23, 1935, by discharging Mrs. Myrtle King, Mrs. J. T. McCann and Mrs. Judd Pipkin on July 25, 1935, by discharging W. R. Smith on September 12, 1935, and by refusing reinstatement to J. T. McCann and A. T. Mays, the respondent has discriminated against its employees with respect to hire and tenure of employment for the purpose of dis-

couraging membership in Local No. 1838, United Textile Workers of America, and that by such acts, the respondent has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

The complaint also charges a violation of the Act by the respondent in respect to the hire and tenure of employment of the following employees: A. T. Adams, Jim King, J. E. Wyatt, J. P. Fowler, Nova Pollard, C. H. Phillips, C. J. Patterson, Louis Collins, Alf Taylor, Ben Collins, Lee Tate and Judd Pipkin. There was only meagre and unimportant evidence introduced in respect to Jim King, J. P. Fowler, and Judd Pipkin; no evidence was introduced in respect to the others. The allegation with respect to these persons will therefore be dismissed.

C. The discharge of J. R. Ross

Subsequent to the events described in the preceding paragraphs, the respondent discharged J. R. Ross, who had been in its employ for eight or nine years. Ross was a member of the Union and had participated in the strike. He testified that after the strike, Cobb, the foreman of his department, became less friendly and refused to speak to him. On February 19 and 20, 1936, Ross appeared as a witness on behalf of the Union at the hearing before the Trial Examiner in connection with the discharges of his fellow employees. On February 24, he was also discharged.

As in the cases already discussed, the respondent claims to have discharged Ross because of an alleged infraction of its rules. However, the circumstances surrounding the discharge are again illustrative of the respondent's unmitigated antagonism toward the Union and its adherents. Ross was engaged in the operation of a machine which separated the dirt from the motes, or waste cotton, discarded by the picking machines in the respondent's plant. The waste is first collected in large boxes constructed especially for such use. The boxes, when full, are weighed in order that the amount of waste may be calculated. Although the waste cotton is baled and sold for use in the manufacture of mattresses and other products, the weight of the waste before cleaning is not ascertained for that purpose, but is used as a check on the efficiency of the picking machines. The cotton is subsequently weighed again preparatory to shipment and sale.

On the morning of February 24, 1936, 10 or 15 minutes before the hour set as the starting time for the plant, Cobb observed Ross emptying a box of waste cotton into his machine without first placing it on the scales. Cobb summoned J. G. Pruitt, second hand in the

picker and opening departments, and proceeded to question Ross as to whether he had weighed the other boxes he had emptied. Ross, according to his testimony, answered that he had weighed the first box, had estimated the weights of the other, and had not yet had time to mark down the figures. Cobb thereupon instructed Pruitt that Ross be laid off. On the two following days, Ross returned to the plant in an effort to regain his job but was told on each occasion by Pruitt that the matter of reinstatement rested with Cobb, and that Cobb was away.

On February 26, 1936, a committee of union members, including Puckett, Ross, and Mays, conferred with Young, Brock and Ballard at the respondent's office in regard to Ross' reinstatement. Because of the absence of Cobb, the conference was adjourned to the following day. Cobb, when questioned at the second meeting by Puckett, accused Ross of neglecting his work in several ways, including stopping his machine an hour or so before he was supposed to, sleeping on his job, and neglecting to weigh the waste cotton. However, Pruitt, who was summoned to the meeting, said that he had never seen Ross shut down his machine before the scheduled time, and had never found him sleeping at his work. In addition, Pruitt asserted that "Ross had been a good hand and that he had no kick on his work." At the close of the discussion, Cobb demanded to know why Ross had gone to the union committee instead of coming to him first. No decision was reached at the meeting, but on the following morning the respondent notified Ross he would not be reinstated. At the hearing, in explanation of this action, Young testified he had been told by Cobb: "You are holding me responsible for my department, I can't reemploy Ross and still keep up my discipline."

We feel that it is unnecessary at this point to examine further into the manner in which Ross conducted himself at his work; it suffices to say in this regard that we are satisfied his discharge resulted from other causes. Cobb made no secret of his irritation at the intervention of the union committee, considering it an interference with the discipline in his department. When questioned at the hearing concerning his rebuke to Ross for having consulted the Union instead of himself, Cobb testified: "I only asked it for my own information. As you remember, I stated that heretofore when a man had been discharged, laid off or discharged, he always came back to his overseer, to see if he could not talk the thing over and readjust matters, until this particular time, and I did ask Mr. Ross why, just why he did that, and I said at the same time: 'Now, I might be all out of order, but I am asking for my information. I want to know why

you did not come to me instead of going to Mr. Puckett and Mr. Mays?" This attitude on the part of the respondent toward its employees has already been examined in connection with the discharges already described, and what we have said there is strictly applicable here. We find that Ross' discharge was intended as a further warning to the members of the Union that their interests would be best served by a severance of their affiliation with that organization. We find that by this conduct, the respondent has not only interfered with, restrained, and coerced its employees in the exercise of their rights as guaranteed in Section 7 of the Act, but has also discriminated in regard to hire or tenure of employment to discourage membership in the Union.

Upon the whole record we find that the activities of the respondent set forth in Section III, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

IV. THE REMEDY

The Board has found that the respondent has dominated and interfered with the formation of The Independent Textile Workers of Bemis and has contributed support to it, and that its growth has been due to encouragement received from the respondent's officials, and the accompanying attacks upon the Union. It is clear from the testimony that the reason many of the employees joined the Independent was to curry favor with the management to safeguard their jobs. The Independent has therefore become an organization which tends to increase rather than diminish the inequality of bargaining power between employer and employee. With its members dominated by a fear of loss of employment, and itself designed to offset the Union, it does not and cannot offer to the employees the freedom in the choosing of representatives for collective bargaining which the Act guarantees. Furthermore, it has served the respondent as a useful means of destroying the Union. Therefore, to remedy as much as possible the harm done by the respondent to the Union and union members, and to restore to the employees some measure of independence of thought and judgment in their dealings with the respondent, the Board will order the immediate disestablishment of The Independent Textile Workers of Bemis.

As regards the individual employees discussed above, the Board will order the reinstatement with back pay of those employees whom the respondent has illegally discharged or refused to reinstate.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact, the Board makes the following conclusions of law :

1. Local No. 1838, United Textile Workers of America, is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

2. The Independent Textile Workers of Bemis is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination of and interference with the formation of The Independent Textile Workers of Bemis, and by contributing support thereto, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the Act.

4. By discriminating in regard to hire and tenure of employment, thereby encouraging membership in The Independent Textile Workers of Bemis, and discouraging membership in Local No. 1838, United Textile Workers of America, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

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

6. 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, Bemis Brothers Bag Company, and its officers, agents, successors, and assigns, 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 purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

2. Cease and desist from encouraging membership in The Independent Textile Workers of Bemis or any other labor organization of its employees, or from discouraging membership in Local No.

1838, United Textile Workers 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. Cease and desist from in any manner dominating or interfering with the formation of any labor organization of its employees, from dominating or interfering with the administration of The Independent Textile Workers of Bemis, or any other labor organization of its employees, or from contributing financial or other support to The Independent Textile Workers of Bemis or any other labor organization of its employees;

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

a. Withdraw all recognition from The Independent Textile Workers of Bemis, by whatever name now known, and disestablish such organization, as representative of its employees, for the purpose of dealing with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment;

b. Upon request, reinstate to their former positions Mrs. Myrtle King, Mrs. J. T. McCann, Mrs. Judd Pipkin, Mrs. Pearl Warbritton, W. R. Smith, J. T. McCann, A. T. Mays, and J. R. Ross, without prejudice to their seniority and other rights and privileges;

c. Make whole Mrs. Myrtle King, Mrs. J. T. McCann, Mrs. Judd Pipkin, Mrs. Pearl Warbritton, W. R. Smith and J. R. Ross for any loss they may have suffered by reason of their discharge, by payment to each of them, respectively, of a sum of money equal to that which each would normally have earned as wages during the period from the time each was discharged to the date of such offer of reinstatement, less the amount earned by each of them, respectively, during such period;

d. Make whole J. T. McCann and A. T. Mays for any loss they may have suffered by reason of their failure to be reinstated, by payment to each of them, respectively, of a sum equal to that which each would normally have earned as wages during the period from the date on which other persons were hired to do the work formerly done by each of them after each of them had, on or subsequent to July 5, 1935, applied for reinstatement, to the date of such offer of reinstatement, less the amounts earned by each of them, respectively, during such period; and

e. Post notices in conspicuous places in each department of its cotton mill in Bemis, Tennessee, stating (1) that The Independent Textile Workers of Bemis, by whatever name now known, is so disestablished, and that the respondent will refrain from any recogni-

tion thereof, (2) that the respondent will cease and desist in the manner aforesaid and (3) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting;

f. Notify the Regional Director for the Tenth Region in writing within ten (10) days of this Order what steps the respondent has taken to comply herewith.

The allegation of the complaint that the respondent violated Section 8, subdivision (5) of the Act is hereby dismissed.

The allegation of the complaint that the respondent violated Section 8, subdivision (3) of the Act in respect to the hire and tenure of employment of A. T. Adams, Jim King, J. E. Wyatt, J. P. Fowler, Nova Pollard, C. H. Phillips, C. J. Patterson, Louis Collins, Alf Taylor, Ben Collins, Lee Tate and Judd Pipkin is hereby dismissed.