

In the Matter of THE PURE OIL COMPANY and OIL WORKERS' INTERNATIONAL UNION, LOCAL 228

Case No. C-429.—Decided April 23, 1938

Producing, Refining, Transportation and Sale of Petroleum and Petroleum Products—Settlement on basis of a stipulation providing for withdrawal of recognition of company-dominated union—*Order*: based on stipulation.

Mr. Warren Woods, for the Board.

Pope & Ballard, by *Mr. Edward W. Ford*, of Chicago, Ill., for the respondent.

Mandell & Combs, by *Mr. Arthur J. Mandell*, of Houston, Texas, *Mr. J. L. Coulter*, of Washington, D. C., and *Mr. Mike Daugherty*, of Beaumont, Texas, for the Union.

Mr. S. G. Lippman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge duly filed by Oil Workers' International Union, Local 228, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Sixteenth Region (Fort Worth, Texas), issued and duly served its complaint and notice of hearing on December 30, 1937, against The Pure Oil Company, herein called the respondent, alleging that the respondent at its Smith's Bluff plant, Port Neches, Texas, had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to the unfair labor practices, the complaint alleged in substance that the respondent formed and dominated the Refinery Workers' Union of the Smith's Bluff refinery and that the respondent, on December 23, 1935, discharged Tom Parkhill because of union activities and that the aforesaid acts constitute unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the Act.

The respondent filed an answer in which it denied engaging in any unfair labor practices, admitting, however, that it is engaged in interstate commerce.

Pursuant to the notice duly served upon the respondent and the Union a hearing was held on January 31 and February 1, 1938, at Beaumont, Texas, before James C. Batten, the Trial Examiner duly designated by the Board. The Board, the respondent, and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all the parties. During the course of the hearing counsel for the Board moved to dismiss the complaint in so far as it alleged that the discharge of Tom Parkhill, on December 23, 1935, constituted an unfair labor practice. On February 1, 1938, the respondent and the Board stipulated to facts concerning the respondent's business.

I

Upon the basis of the above stipulation the Board makes the following:

FINDINGS OF FACT

THE BUSINESS OF THE RESPONDENT

The respondent is an Ohio corporation having its principal office in Chicago, Illinois. The respondent and its subsidiaries are engaged in acquiring and developing oil lands and in producing, refining, transporting and selling petroleum and petroleum products, including gasoline, kerosene, lubricating oils, grease and fuel oils.

A substantial portion of the respondent's crude oil is transported to the respondent's refineries in Ohio, Michigan, West Virginia, Texas, and Oklahoma, by its own pipe lines, which consist of approximately 1,000 miles of main and gathering lines and numerous pump stations located in a number of States. The products of these refineries are distributed by means of more than 750 bulk distributing plants and more than 15,000 retail outlets. The marketing of these products is carried on by the respondent and its subsidiaries in approximately 32 States.

The Smith's Bluff refinery occupies approximately 450 acres and is equipped to refine gasoline, kerosene, furnace oils and fuel oils. The total through-put capacity of the Smith's Bluff refinery is 40,000 barrels per day, producing in 1937 approximately 12,000,000 barrels. Approximately 65 per cent of the crude oil refined at the Smith's Bluff plant is obtained from production wells in Texas and about 35 per cent from production wells in Louisiana. Approximately 95

per cent of the products of the Smith's Bluff refinery are transported for sale to points outside the State of Texas.

We find that the operation of the respondent's business has a close, intimate and substantial relation to trade, traffic and commerce among the several States.

II

STIPULATION AS TO THE ORDER

On April 14, 1938, the Board and the respondent entered into a stipulation providing as follows:

It is hereby stipulated and agreed by and between the National Labor Relations Board, herein called the Board, and the Pure Oil Company, herein called the respondent, that on the basis of the record in the proceeding and this stipulation and pursuant to the National Labor Relations Act, 49 Stat. 449, herein called the Act, the Board may order the respondent and its officers, agents, successors, and assigns to:

1. Cease and desist:

A. From in any manner dominating or interfering with the administration of Refinery Workers' Union of the Smith's Bluff Refinery or the formation or administration of any other labor organization of its employees and from contributing financial or other support to Refinery Workers' Union of the Smith's Bluff Refinery or any other labor organization of its employees.

B. From in any other manner interfering with, restraining, or coercing its employees in the exercise of the right 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 Act.

C. From discouraging membership in Oil Workers International Union Local 228 or in any other labor organization of its employees by discriminating in regard to hire or tenure of employment or any term or condition of employment.

2. Take the following affirmative action to effectuate the purposes of the Act:

A. Withdraw all recognition from Refinery Workers' Union of the Smith's Bluff Refinery as representative of any of its employees for the purposes of dealing with respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment, and completely disestablish Refinery Workers' Union of the Smith's Bluff Refinery as such representative.

B. Post immediately notices to its employees in conspicuous places throughout its plant stating:

(1) That the respondent will cease and desist as aforesaid.

(2) That the employees of the Pure Oil Company have the right 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. The company will not in any manner interfere with, restrain or coerce its employees in the exercise of such rights.

(3) That the Pure Oil Company will not contribute financial or other support to the Refinery Workers' Union of the Smith's Bluff Refinery, or to any labor organization.

(4) That the Pure Oil Company will not discourage its employees from membership in Oil Workers International Union, Local 228, or any labor organization; nor will there be any practice of discrimination in regard to hire or tenure of employment or any term or condition of employment, by reason of union activity or affiliation.

(5) That the Pure Oil Company will not dominate or interfere with the formation or administration of the Refinery Workers' Union of the Smith's Bluff Refinery, or any labor organization of its employees.

(6) That the Pure Oil Company will withdraw all recognition from and will completely disestablish its relations with the Refinery Workers' Union of the Smith's Bluff Refinery, and any representative thereof.

C. Maintain such notices for a period of at least sixty (60) consecutive days from the date of the posting.

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

And it is further stipulated that an order entered in accordance with the above stipulation shall have the same full force and effect as an order entered by the Board after a full hearing, presentation of evidence, and the making of findings thereon.

ORDER

Upon the basis of the above findings of fact and stipulation, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that The Pure Oil Company, its officers, agents, successors and assigns shall:

1. Cease and desist:

A. From in any manner dominating or interfering with the administration of Refinery Workers' Union of the Smith's Bluff Re-

finery or the formation or administration of any other labor organization of its employees and from contributing financial or other support to Refinery Workers' Union of the Smith's Bluff Refinery or any other labor organization of its employees;

B. From in any other manner interfering with, restraining, or coercing its employees in the exercise of the right 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 Act;

C. From discouraging membership in Oil Workers International Union Local 228 or in any other labor organization of its employees by discriminating in regard to hire or tenure of employment or any term or condition of employment.

2. Take the following affirmative action to effectuate the policies of the National Labor Relations Act:

A. Withdraw all recognition from Refinery Workers' Union of the Smith's Bluff Refinery as representative of any of its employees for the purposes of dealing with respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment, and completely disestablish Refinery Workers' Union of the Smith's Bluff Refinery as such representative;

B. Post immediately notices to its employees in conspicuous places throughout its plant stating:

(1) That the respondent will cease and desist as aforesaid;

(2) That the employees of The Pure Oil Company have the right 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. The company will not in any manner interfere with, restrain or coerce its employees in the exercise of such rights;

(3) That The Pure Oil Company will not contribute financial or other support to the Refinery Workers' Union of the Smith's Bluff Refinery, or to any labor organization;

(4) That The Pure Oil Company will not discourage its employees from membership in Oil Workers International Union, Local 228, or any labor organization; nor will there be any practice of discrimination in regard to hire or tenure of employment or any term or condition of employment, by reason of union activity or affiliation;

(5) That The Pure Oil Company will not dominate or interfere with the formation or administration of the Refinery Workers' Union

of the Smith's Bluff Refinery, or any labor organization of its employees;

(6) That The Pure Oil Company will withdraw all recognition from and will completely disestablish its relations with the Refinery Workers' Union of the Smith's Bluff Refinery, and any representative thereof;

C. Maintain such notices for a period of at least sixty (60) consecutive days from the date of the posting;

D. Notify the Regional Director for the Sixteenth Region in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.

And it is further ordered that the complaint be, and it hereby is, dismissed in so far as it alleges that the respondent had engaged in unfair labor practices within the meaning of Section 8 (3) of the Act by discharging and refusing to reinstate Tom Parkhill.