

In the Matter of F. G. VOGT & SONS, INC. and UNITED FOOD WORKERS
INDUSTRIAL UNION, LOCAL 107

Case No. C-576.—Decided July 12, 1938

Meat Packing Industry—Settlement: stipulation providing for reinstatement and back pay, and withdrawal of recognition of company-dominated union—*Order:* entered on stipulation.

Mr. Jerome I. Macht, for the Board.

Saul, Ewing, Rennick & Saul, by *Mr. Earl G. Harrison* and *Mr. Harry E. Sprogell,* of Philadelphia, Pa., for the respondent.

Syme, Simons & Ziserman, by *Mr. Nathan Ziserman,* of Philadelphia, Pa., for the Union.

Mr. John A. Mullican, of Philadelphia, Pa., for the Association.

Mr. Langdon West, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

A charge and amended charges having been filed by United Food Workers Industrial Union, Local 107, herein called the Union, the National Labor Relations Board, herein called the Board, by John E. Johnson, Acting Regional Director for the Fourth Region (Philadelphia, Pennsylvania), issued its complaint, dated April 15, 1938, against F. G. Vogt & Sons, Inc., Philadelphia, Pennsylvania, herein called the respondent, alleging that the respondent 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. The complaint and notice of hearing thereon were duly served upon the respondent, the Union, and Employees Collective Co-operative Association, herein called the Association.

With respect to the unfair labor practices, the complaint alleged, in substance, that the respondent, by permitting its supervisory officials to circulate membership cards, notices, and petitions for the Association among its employees, to collect dues for the Association, and to threaten its employees with loss of their jobs if they did not join the Association, and by other acts, dominated and interfered with the for-

mation and administration of the Association; that, following a strike among the respondent's employees brought about by the respondent's activities described above, the respondent terminated the employment of 18 named employees because they engaged in concerted activities with other employees at its Philadelphia Plant, for the purposes of collective bargaining and other mutual aid and protection; and that the respondent by all the acts set forth above interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

On April 20, 1938, the said Acting Regional Director granted the respondent an extension of time in which to file its answer. On April 21, 1938, the said Acting Regional Director denied the respondent's petition for a continuance of the hearing. On the same date the Association petitioned to intervene in the proceeding. This petition was granted on April 22, 1938. On April 25, 1938, the respondent filed its answer in which it admitted the allegations concerning the nature and scope of its business but denied the allegations of unfair labor practices.

Pursuant to notice, a hearing was held on April 25, 26, and 28, 1938, at Philadelphia, Pennsylvania, before Herbert A. Lien, the Trial Examiner duly designated by the Board. All parties 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 on the issues was afforded all parties.

On April 25, 1938, counsel for the Board and counsel for the respondent entered into a stipulation concerning the nature and scope of the respondent's business. This stipulation was admitted into the record without objection from any party.

On April 28, 1938, the respondent, the Union, the Association, and counsel for the Board entered into a stipulation in settlement of the case, in which the respondent and the Association agreed to the entry of a consent order by the Board, upon its approval of the stipulation. This stipulation was received in evidence without objection.

During the course of the hearing the Trial Examiner made several rulings, in addition to those mentioned above, on motions and objections to the admission of evidence. The Board has reviewed the rulings made by the Trial Examiner and those made by the Acting Regional Director prior to the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On April 29, 1938, the Acting Regional Director duly notified all parties to the proceeding that the Board had approved the said stipulation. On May 4, 1938, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, the case was duly transferred to the Board.

Upon the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent is a Pennsylvania corporation, engaged in the slaughtering of livestock, and the processing of meat products. It has its principal office and plant in Philadelphia, Pennsylvania, where it employs about 500 workers.

In the course of its operations the respondent purchases live hogs, cattle, boneless beef, fresh ham, fresh bacon, and other fresh meats. During the year 1937, the value of the respondent's purchases of these raw materials was between \$6,000,000 and \$8,000,000. Approximately 85 per cent of these purchases were shipped into the State of Pennsylvania from other States. During the same year the respondent processed meat products valued at between \$7,000,000 and \$9,000,000. Forty per cent of the meat products were shipped to States other than the State of Pennsylvania and to foreign countries.

We find that the respondent's operations at its Philadelphia, Pennsylvania, plant constitute a continuous flow of trade, traffic, and commerce, among the several States and with foreign countries.

II. THE BASIS OF SETTLEMENT

The stipulation concerning the order the Board might enter in the case provides as follows:

It is hereby stipulated by and between F. G. Vogt & Sons, Inc., respondent herein; United Food Workers Industrial Union, Local 107, a party herein; Employees Collective Co-operative Association, a party herein; and the National Labor Relations Board, that upon the record herein and upon this stipulation, if approved by the National Labor Relations Board, an order may forthwith be entered by said Board and by the United States Circuit Court of Appeals for the Third Circuit, providing as follows:

1. Respondent, F. G. Vogt & Sons, Inc., a corporation, its officers, agents, successors and assigns shall cease and desist:

(a) 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 Act;

(b) from discouraging membership in the United Food Workers Industrial Union, Local 107, or any other labor organization of its employees, or encouraging membership in the Employees Collective Co-operative Association, or any other labor organization of its employees, by discriminating against employees in regard to hire or tenure of employment or any condition of employment;

(c) from in any manner dominating or interfering with the administration of the Employees Collective Co-operative Association, or with the formation or administration of any other labor organization of its employees, and from contributing aid or support to said organization; from recognizing or dealing in any manner with the Employees Collective Co-operative Association, or any group purporting to represent said organization; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purposes of collective bargaining respecting any of the terms or conditions of employment;

(d) from giving effect to its contracts with the Employees Collective Co-operative Association.

2. Employees Collective Co-operative Association will upon entry of this order by the Board disestablish itself as a collective bargaining agency and shall on said date wholly terminate its existing collective bargaining relations with the respondent, F. G. Vogt & Sons, Inc.

3. The Employees Collective Co-operative Association will notify each of its members of said disestablishment within ten (10) days from the making of an order herein by the National Labor Relations Board.

4. It is further stipulated that the Board may order the respondent to take the following affirmative action to effectuate the purposes of the National Labor Relations Act:

That the respondent shall,

(a) offer to each of the employees named in Schedule A¹ annexed hereto and made a part hereof, on or about May 2, 1938, or upon notification of approval of this stipulation by the National Labor Relations Board, immediate and full reinstatement to their former positions without loss of seniority and without prejudice to any rights and privileges previously enjoyed by them and which are now enjoyed by those presently employed in like positions, and shall, upon their application in the cus-

¹ Schedule A of the stipulation, being identical with schedule A of the Board's order herein, does not appear in the Decision.

tomary manner for employment with respondent, so reinstate them;

(b) make whole each of the persons named in Schedule A for the loss of pay suffered, by payment to each of them, respectively, on or before May 9, 1938, or one week after the approval of this stipulation by the Board, the sum set forth following his or her name, which sum is in full payment for the amount which each would have earned as wages from September 24, 1937 to said date of payment;

(c) withdraw all recognition from the Employees Collective Co-operative Association, as the representative of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment; and disestablish said Employees Collective Co-operative Association;

(d) inform each and every one of its employees that the contracts entered into on or about August 9, 1937, and on or about September 28, 1937, and all other contracts with the Employees Collective Co-operative Association are null and void and that respondent will discontinue said contracts as a term or condition of employment, and will desist in any manner from giving effect to said contracts;

(e) inform in writing the officers of the Employees Collective Co-operative Association that the respondent will not in any manner deal with or recognize the Association;

(f) inform all of its officials and agents, including superintendents, foremen and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation, or threaten employees in any manner because of their membership in any labor organization in general, or the United Food Workers Industrial Union, Local 107, in particular;

(g) post and keep visible in a prominent place in each department of respondent's plant for a period of thirty (30) days after receipt, copies of the order to be entered by the National Labor Relations Board;

(h) respondent shall notify the Acting Regional Director for the Fourth Region, of compliance with the foregoing order within thirty (30) days from the date of its entry by the Board.

5. It is further stipulated and agreed between the parties hereto that the rates of pay and hours of work now existing in the plant of the respondent shall not be changed by virtue of this agreement.

ORDER

Upon the basis of the above findings of fact and stipulation and the entire record in the proceeding, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that F. G. Vogt & Sons, Inc., Philadelphia, Pennsylvania, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) 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;

(b) Discouraging membership in the United Food Workers Industrial Union, Local 107, or any other labor organization of its employees, or encouraging membership in the Employees Collective Co-operative Association, or any other labor organization of its employees, by discriminating against employees in regard to hire or tenure of employment or any condition of employment;

(c) In any manner dominating or interfering with the administration of the Employees Collective Co-operative Association, or with the formation or administration of any other labor organization of its employees, and from contributing aid or support to said organization; from recognizing or dealing in any manner with the Employees Collective Co-operative Association, or any group purporting to represent said organization; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purposes of collective bargaining in respect of any of the terms or conditions of employment;

(d) Giving effect to its contracts with the Employees Collective Co-operative Association.

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

(a) Offer to each of the employees named in schedule A annexed hereto and made a part hereof immediate and full reinstatement to their former positions without loss of seniority and without prejudice to any rights and privileges previously enjoyed by them and which are now enjoyed by those presently employed in like positions, and upon their application in the customary manner for employment with the respondent, so reinstate them;

(b) Make whole each of the persons named in schedule A for the loss of pay suffered, by payment to each of them, respectively, the sum set forth following his or her name, which sum is in full pay-

ment for the amount which each would have earned as wages from September 24, 1937, to May 9, 1938;

(c) Withdraw all recognition from the Employees Collective Co-operative Association, as the representative of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment; and disestablish said Employees Collective Co-operative Association;

(d) Inform each and every one of its employees that the contracts entered into on or about August 9, 1937, and on or about September 28, 1937, and all other contracts with the Employees Collective Co-operative Association are null and void and that respondent will discontinue said contracts as a term or condition of employment, and will desist in any manner from giving effect to said contracts;

(e) Inform in writing the officers of the Employees Collective Co-operative Association that the respondent will not in any manner deal with or recognize the Association;

(f) Inform all of its officials and agents, including superintendents, foremen, and other supervisory employees, that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation, or threaten employees in any manner, because of their membership in any labor organization in general, or the United Food Workers Industrial Union, Local 107, in particular;

(g) Post and keep visible in a prominent place in each department of the respondent's plant for a period of thirty (30) days after receipt, copies of this order;

(h) Notify the Acting Regional Director for the Fourth Region, of compliance with this order within thirty (30) days from the date of its entry by the Board.

SCHEDULE A

Bernard Grimes.....	169.26	Charles W. Goerig.....	278.85
Herman Mack.....	58.95	Frank Wlazlowicz.....	321.87
John Kobron.....	221.50	Rudolph Willers.....	216.33
Anna Brown.....	99.87	Stanley Domzalski.....	101.43
Gustav Bauman.....	8.82	Joseph Poelt.....	273.30
Carl Bauman.....	285.60	Ludwick Louis Gocek.....	321.93
Anna Grimes.....	100.89	Peter Noel.....	212.76
Helen Grimes.....	123.10	Steven Huchler.....	84.15
Gus Radu.....	118.59	Frank Williams.....	222.93
Josephine Shieder.....	178.02		