

In the Matter of DAVID STRAIN COMPANY, INC. and INTERNATIONAL
LADIES' GARMENT WORKERS' UNION

Case No. C-373.—Decided July 18, 1938

Ladies Wearing Apparel Manufacturing Industry—Interference, Restraint, and Coercion: questioning employees regarding union affiliation and activity; discrediting union and union organizers—*Company-Dominated Union:* domination of and interference with formation and administration; support; activity of supervisory employees; acquiescence in organizing activities during working hours; disestablished, as collective bargaining representative—*Discrimination:* omission to recall one employee after lay-off; charges of, not sustained as to three employees—*Reinstatement Ordered—Back Pay:* awarded.

Mr. Mark Lauter, for the Board.

Goldstein & Goldstein, by *Mr. Joseph W. Ferris,* of New York City, and *Coffin, Coffin & Inman,* by *Mr. Tristram Coffin* and *Mr. George Inman,* of Hudson, N. Y., for the respondent.

Mr. Elias Lieberman, of New York City, for the I. L. G. W. U.

Mr. Richards A. Perkins, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by International Ladies' Garment Workers' Union, herein called the I. L. G. W. U., the National Labor Relations Board, herein called the Board, by Elinore M. Herrick, Regional Director for the Second Region (New York City), issued its complaint dated November 19, 1937, against David Strain Company, Inc., Philmont, New York, 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 alleged, in substance, that the respondent had discharged Carrie Bishop, Bertha Bishop, Jessie Capello, and Grace Cole, and refused to reinstate them because they had joined and assisted the

I. L. G. W. U., that the respondent had dominated and interfered with the formation and administration of Philmont Undergarment & Textile Union, herein called the Philmont Union, and contributed support thereto, and that by the aforesaid acts the respondent had interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act. Copies of the complaint and notice of hearing thereon were duly served upon the respondent, the I. L. G. W. U., and the Philmont Union. On November 26, 1937, the respondent filed an answer in which it denied the material averments of the complaint.

Pursuant to notice, a hearing was held on December 2 and 3, 1937, at Hudson, New York, before Isaac C. Sutton, the Trial Examiner duly designated by the Board. The Board and the respondent were represented by counsel, participated in the hearing, and were afforded full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues.

During the course of the hearing, the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The respondent moved for dismissal of the complaint on the ground, *inter alia*, that its business was intrastate in character and was not subject to the provisions of the Act. The Trial Examiner reserved his ruling on the motion to dismiss the complaint, and overruled it in his Intermediate Report. The Board has reviewed these and other rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On January 19, 1938, the Trial Examiner filed his Intermediate Report, in which he found 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 Act. The respondent filed exceptions to the Intermediate Report and requested an opportunity to argue the exceptions before the Board. On February 28, 1938, counsel for the respondent and for the I. L. G. W. U. orally argued the exceptions before the Board in Washington, D. C., and the respondent filed a brief, to which we have given due consideration.

At the oral argument before the Board the respondent's counsel moved for leave to file a summary of pay-roll statistics relating to the respondent's plant. The motion was then taken under advisement, and is hereby denied. Such new evidence should have been offered before the Trial Examiner, when opposing parties had the opportunity to cross-examine.

The Board has considered the exceptions to the Intermediate Report, and, save as consistent with the findings, conclusions, and order hereinafter set forth, finds them to be without merit.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

David Strain Company, Inc., a New York corporation, manufactures women's garments at its factory in Philmont, New York. The respondent operates what is known as a "contract shop," that is, it cuts and sews garments from materials furnished by other business establishments which distribute the finished products at wholesale under their own labels or the labels of retailers. During the period from May 1 to November 1, 1937, the respondent's gross business amounted to about \$60,000. Practically all of the respondent's operations for this period were upon contract with Collegiate Manufacturing Company, Inc., a New York corporation herein called Collegiate, with its principal offices in New York City. The only other customer of the respondent for this period was Henry Hadad Company, Inc., herein called the Hadad Company, likewise a New York corporation with principal offices in New York City. It was estimated by the respondent's president that during the year preceding the hearing the respondent had done about \$1,000 worth of work for the Hadad Company.

The capital stock of the respondent is held by David Strain, Mitchell E. Hadad, Henry Hadad, and Theodore J. Smutny in equal shares. Strain is president, Henry Hadad vice president, Mitchell E. Hadad secretary, and Smutny treasurer.

Henry Hadad is president of Collegiate. Smutny is its vice president and Mitchell E. Hadad its secretary-treasurer. Collegiate maintains a stockroom and a showroom in New York City where it employs about 20 persons at designing, bookkeeping, and selling. This corporation during the period from May 1 to November 1, 1937, purchased \$144,000 worth of raw materials, including rayon, celanese, batiste, and cotton goods. Most of these raw materials originated outside of New York. During the same period Collegiate sold \$220,000 worth of finished goods. Of this total, goods to the value of \$180,000 were sold to purchasers outside the State of New York. At the oral argument before the Board the respondent's counsel stated that most of the goods processed for Collegiate by the respondent are sold to purchasers in States other than New York.

The respondent employs from 48 to 257 persons at its plant, depending on seasonal fluctuations in its business.

II. THE ORGANIZATIONS INVOLVED

International Ladies' Garment Workers' Union is a labor organization affiliated with the Committee for Industrial Organization. The I. L. G. W. U. admits to its membership employees of the respondent.

Philmont Undergarment & Textile Union is an unaffiliated labor organization. According to its bylaws, it admits to membership "any person engaged in the textile industry of the United States," excluding company executives, foremen, officers, directors, and agents, and anyone having the power to hire or discharge employees. So far as the record shows, only employees of the respondent are members of the Philmont Union.

III. THE UNFAIR LABOR PRACTICES

A. *Interference, restraint, and coercion*

Prior to 1937 there was no labor organization among the respondent's employees. The I. L. G. W. U. commenced organizing the employees in the spring of 1937, and had about 35 members at most during the period we are to consider. It does not appear that at the time of the alleged unfair labor practices the I. L. G. W. U. had yet organized a local union among the respondent's employees or that it had approached the respondent's officers to ask recognition or to open negotiations. The I. L. G. W. U. was only in its initial stage of organization during the period here in question. Yet David Strain, president of the respondent and manager of its plant, became alert to investigate indications of union activity, and on various occasions during the period herein discussed questioned individual employees regarding their union affiliation.

Grace Cole applied to Strain for employment about January 1, 1937, and was put to work. About 3 days later Strain told her that Elton Palmer, the foreman, wanted to see her. She went to Palmer, who asked her if she belonged to the "C. I. O. Union." She replied that she did not, whereupon Palmer said that was all he wanted to know, and sent her back to work. The evidence to this effect was uncontradicted.

Jessie Capello joined the I. L. G. W. U. in April 1937. On June 4, Strain asked her if she was "in the habit of entertaining the union girls." She replied that she had invited some girls to her home, and that a Miss Danforth, an organizer for the I. L. G. W. U., was among them, but that the gathering was for social purposes only and that there was no talk about the union. On June 7, Strain asked her what the girls were complaining about at union meetings. She replied that she had not heard them complaining about anything much. On another occasion Strain asked Capello where and at what time the union (meaning the I. L. G. W. U.) was going to hold its meeting in Hudson, New York, evidently referring to a meeting to be held that same day. She told him it would be at 8 o'clock at the Maccabees

Hall. The next morning Strain asked her if she had attended the meeting, and she replied that she had not. Strain did not deny the occurrence of the above incidents related by Capello. In general he seems to have regarded his curiosity concerning his employees' union activity and his mode of satisfying it as entirely legitimate.

In a small, unorganized plant such as that of the respondent, few instances such as those above recounted, where the chief officer of the employer corporation is involved, are required to indicate to employees their employer's attitude and to suggest that their activities are under observation. That such interrogation of employees concerning union activities constitutes interference with, coercion, and restraint of employees in the exercise of the rights guaranteed by Section 7 of the Act we have often held,¹ and we so find here.

B. *Formation of the Philmont Union*

On June 11, against such a background of interference the Philmont Union came into existence. On the morning of the day, during working hours at the plant, Esther Barnum gathered a group of fellow employees, including Carney Giannattasio, Stanley Stickles, Bea Bame, Grace Panigot, and Thomas Robertson, and went with them by automobile to Hudson, a nearby town, to ask William E. J. Connor, an attorney, how to form an unaffiliated labor organization. Mrs. Barnum testified that the idea was her own, gained from reading newspaper accounts of similar "inside" unions, and that nobody from the management of the respondent had suggested this step. Connor drew up a petition calling for the formation of the Philmont Undergarment Association and authorizing the group then conferring with him to act as a committee to prepare bylaws for the new organization. The group then returned to the plant. None of them had punched out on the time clock for the time during which they were absent. Mrs. Barnum and Grace Panigot were employed at piece work, so that they took the time off at their own expense. According to the practice of the respondent's factory, however, piece workers punched the clock and their time was recorded for statistical purposes. Mrs. Barnum testified that the group had sneaked out the back door of the factory to make the trip to Hudson. Robertson, Stickles, and Giannattasio were hourly paid workers. The time cards of Barnum, Panigot, and Stickles bear a penciled notation "out 9:00-11:00" for the morning of June 11. Strain testified that he first heard a rumor of the movement to form an "inside" union just before noon on that day. He said he found out later that several employees had been absent without punching out, and he instructed his pay-roll clerk to

¹ See *Matter of The Associated Press and American Newspaper Guild*, 1 N. L. R. B. 788.

ascertain who was absent and for how long and to deduct this time from the time shown on the cards. The cards of Giannattasio and Robertson show no deduction for the morning of June 11.

After the committee returned to the factory from the attorney's office, the word was spread among the employees that a meeting would be held during the lunch hour that day at the Maccabees Hall in Philmont. Carrie Bishop testified that Strain notified her at noon that the meeting was to take place. Strain denied that he had so notified her. We do not find that Carrie Bishop's version is to be preferred.

Jessie Capello testified that Beulah Hallenbach, a forelady or teacher, announced the meeting at the table where Capello was working. Hallenbach denied this. We believe Capello, for the reason that Hallenbach testified concerning a later event, to which we shall refer below, in direct contradiction of three apparently credible witnesses. Hallenbach testified that she was a teacher, not a forelady, and that her duties were to "teach the girls, and see that they have things they need." Strain stated that she was not a forelady. However, four employees testified that she was a forelady, and it is evident that her activities were such as to clothe her with the apparent authority which the employees attributed to her. We find that Beulah Hallenbach was a supervisory employee.

The meeting commenced at about 12:45 p. m. at the Maccabees Hall. Giannattasio read the petition which Connor had prepared, and about 158 employees signed it. Among the signers was Ruth Sears, described by Strain as the "No. 1 girl in the office" and who was secretary to Strain. Three witnesses, Carrie Bishop, Bertha Bishop, and Anna Drabic, testified that Beulah Hallenbach was present and participated in the noon meeting. Hallenbach denied that she had been present. Her time card for that day indicates that the time punched in after the lunch hour has been obliterated and the figures "1:00" written over in pencil. She testified that she did not make this notation, and did not know who did make it. The Trial Examiner found that she did attend the meeting, and we follow his finding.

There is uncontroverted evidence that Freda Hayner, a floorgirl, was present at the noon meeting. Strain claimed that the floorgirls were not supervisory employees, but he stated that one of their duties was "to keep the work going." On several occasions floorgirls notified employees when they were to be laid off. And the respondent's brief refers to another floorgirl as a forelady. We find that Freda Hayner was in a supervisory position.

Following the noon meeting, the employees returned to work, 15 or 20 minutes after the regular lunch hour ended at 1 o'clock. Meanwhile, Connor drafted a set of bylaws for "Philmont Undergarment & Textile Union," as the organization was named in the latter papers.

A messenger delivered the papers, together with an agenda for an organization meeting, to Giannattasio at the respondent's plant at 3:30 the same afternoon. Giannattasio notified Robertson, who circulated among the employees informing them that another meeting would be held at 4 o'clock that same afternoon at the Maccabees Hall in Philmont. At the appointed time—an hour before the usual quitting time—most of the 160 employees at work on that day left the plant to attend the meeting. Giannattasio presided at this meeting and followed the agenda furnished by Connor. The employees present adopted the bylaws and elected officers. Mrs. Sears, identified above as Strain's secretary, was chosen president. Some of the employees who did not attend the afternoon meeting remained at work until 5 o'clock; others went home at 4 when the general exodus occurred. The interruption to the plant routine resulting from the irregular hours maintained that day seems not to have disturbed the management or even to have aroused its curiosity. Strain himself shut down the power on several machines left unattended. Strain stated he directed that those who left in the afternoon be docked for the time they were absent, and so far as the record discloses that was done. But so far as the record discloses, neither the leaders nor the members of the Philmont Union were ever reprimanded or even questioned concerning their activity on June 11, notwithstanding its disorganizing effect on production at the plant. Thus, after discouraging activity on the part of the I. L. G. W. U. by questioning employees and giving them the impression of espionage, the respondent acquiesced in open organization work on the part of the Philmont Union and condoned its concerted breaches of plant discipline.

Soon after June 11, Ruth Sears resigned from the office of president of the Philmont Union, for the reason that she felt she was "not qualified." On June 14, Esther Barnum, an ordinary employee, was elected to fill the vacancy. At the June 14 meeting it was voted to ask for a 10-per cent wage increase, and at sometime before June 28 a committee presented the request to Strain. Strain subsequently granted the increase, effective September 1.

After the Philmont Union was organized, Strain continued to question employees concerning their affiliation with the I. L. G. W. U. On June 15 he told Grace Cole that he had heard she had joined the C. I. O. and asked why she had done so. He told her that all that the union wanted was her money. At about the same date he also accused Carrie Bishop of belonging to the I. L. G. W. U. Strain did not deny either of these incidents.

The respondent permitted the Philmont Union to post notices of meetings on the plant bulletin board. Dues for the Philmont Union were collected in the plant during working hours in this manner:

Giannattasio, secretary-treasurer, caused envelopes to be distributed among the employees. Each member sealed in an envelope the amount of his contribution and wrote his name on the envelope. Giannattasio had the envelopes collected. Freda Hayner, identified above as an assistant forelady or a floorgirl, helped collect the envelopes and turned them over to Giannattasio.

On June 25, T. J. Smutny and Mitchell E. Hadad, officers common to both the respondent and Collegiate, came to the respondent's plant from New York City. While they were there Thomas Robertson, one of those active in the formation of the Philmont Union, led a delegation of employees to ask Smutny and Hadad to address the employees, and they consented. Smutny and Hadad had frequently spoken to the employees in the past regarding the quality of the work and the prospects of future business and continued employment. On this day all the employees gathered at 11 o'clock in the morning in the plant. This meeting was held at the respondent's expense, since the employees were later paid for the time it required. Smutny spoke first and complimented the employees on their work. Hadad then addressed the employees. He referred to an I. L. G. W. U. handbill accusing Strain of having connived at the formation of the Philmont Union, and questioned the employees if they believed certain charges therein made, such as that Strain had procured counsel for the Philmont Union and had attended counsel's office with the organizing committee. He asked whether the employees desired to be represented by an "outside" organization. Some of the employees replied "no" to these questions. Hadad went on to discuss strike conditions then prevailing in several other communities where unions affiliated with the Committee for Industrial Organization were organizing. He mentioned David Dubinsky, one Perlmutter, and one Falickman as I. L. G. W. U. officials, and stated "if you know their record, and particularly the record of Mr. Dubinsky, I would leave it to you workers, if you believe they know how to organize anybody in the American way."

A review of the foregoing events indicates that the Philmont Union arose out of a situation in which the respondent at all times indicated its disapproval of the I. L. G. W. U., yet furnished the Philmont Union the aid of its foreladies and the use of its bulletin board and condoned widespread breaches of plant discipline committed by employees who formed and assisted the Philmont Union. The meeting of June 25 only reiterated the respondent's hostility to the I. L. G. W. U. We do not need to decide whether an employer may not lawfully defend himself before his employees against charges of unfair labor practices, when the charges are false as were, apparently, some of the statements in the handbill to which Hadad referred. Hadad

did more than merely explain the respondent's position on a subject upon which the employees might have been misinformed; he condemned the I. L. G. W. U. in such a manner as to make the respondent's opposition to that organization plain to the employees.

We find that by the above-described conduct the respondent dominated and interfered with the formation and administration of the Philmont Union and contributed support thereto and thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act.

C. The discharges

The complaint alleged that the respondent laid off Carrie Bishop, Bertha Bishop, Jessie Capello, and Grace Cole because they had joined and assisted the I. L. G. W. U. The Trial Examiner in his Intermediate Report dismissed the complaint so far as it related to Carrie Bishop and Bertha Bishop. We agree with the Trial Examiner's conclusion as to these two employees for the reasons stated in the Intermediate Report, and therefore find that they were not laid off because of their union activities. We shall discuss the individual cases of the remaining two employees.

Jessie Capello worked for the respondent for 3½ years prior to June 30, 1937, when she left its employ. She joined the I. L. G. W. U. late in April 1937. She had done button sewing, buttonholing, hemming, tacking, and belt making, and had instructed other employees at the last-mentioned operation. We have recounted above how Strain questioned Capello concerning her activity in behalf of the I. L. G. W. U. About June 29, 1937, Thelma Groverstein, a floorgirl, told Capello to go home and said she would let Capello know when to return. This was just before the plant shut down on June 30 for a 2-week "vacation" which was customary each year during the dull season. When the plant resumed operations on July 12, Capello had not been recalled. She continued to wait to be recalled and finally on July 25 she went to the plant to see Strain. He told her that work was slack and that he had nothing for her yet. According to her testimony he said: "You had a good job here once and didn't appreciate it." Strain denied making this statement.

Strain claimed that Capello was only one of many who had not yet been recalled after the vacation, and that the work Capello had been doing, work on batiste, had ended for the season. Yet Strain admitted that in previous years he had transferred Capello to other work when the batiste work ran out. The respondent employed 177 persons during the week prior to the shut-down. After the plant resumed operations, the number of persons employed at the end of 3 successive weeks was as follows: July 16, 161; July 23, 172; July 30, 178.

Thus by the end of July more persons were employed than during the week preceding the shut-down. The total continued above 177 until August 27, when the pay roll dropped to 134. Thus there could not have been a large number who were not recalled following the shut-down. Yet Capello was never recalled.

Jessie Capello had been most active of the employees in behalf of the I. L. G. W. U., so far as the record shows. She had entertained a group of women when an I. L. G. W. U. organizer was present. Strain had learned of this activity and had questioned Capello; she had admitted the charge. In view of Capello's length of service and considering the respondent's strong bias against the I. L. G. W. U., we can only conclude that in failing to recall her to work the respondent's motive was to discourage membership in the I. L. G. W. U.

Capello had not obtained any other employment at the time of the hearing, nor had she earned any money from June 29, 1937, up to that time.

We find that the respondent omitted to recall Jessie Capello to work on July 12, 1937, for the reason that she had joined and assisted the I. L. G. W. U., and thereby interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed by Section 7 of the Act.

Grace Cole started to work for the respondent about January 1, 1937. She joined the I. L. G. W. U. about May 15, 1937. She worked at pleating, joining, belt making, binding, and turning. At the time she was laid off on June 27, she was engaged at the last-mentioned occupation. Like Jessie Capello, Grace Cole was not recalled to work after the 2-week shut-down in July 1937. Three weeks after she was laid off she returned to the factory to ask Strain about work. He said: "There is nothing for you to do here." It appears that after the plant resumed operation following the shut-down, no one employee was engaged to do turning, but that several employees were from time to time temporarily transferred to that work.

As above stated, Strain on June 15, 1937, questioned Cole regarding her membership in the I. L. G. W. U. The only evidence as to the extent of I. L. G. W. U. membership in the plant is Jessie Capello's testimony that there were 35 I. L. G. W. U. members in the plant in May. She stated that most of the I. L. G. W. U. members had been recalled to work after the plant resumed operations on July 12. Although Grace Cole testified that she did sit in an automobile with an I. L. G. W. U. organizer near the plant on several occasions, it does not appear that she was more active on behalf of the I. L. G. W. U. than any other member. She had not previously worked through a slack season, so that there is no past experience by which to judge whether she should have been recalled.

We find that the respondent has not discriminated against Grace Cole by omitting to recall her to work on July 12, 1937. The respondent's exception to the Trial Examiner's finding with respect to her is sustained and the allegations of the complaint with respect to her will be dismissed.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section III-A and B and in Section III-C above with respect to Jessie Capello, 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 tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

THE REMEDY

We have found that the respondent dominated and interfered with the formation and administration of Philmont Undergarment & Textile Union and contributed support thereto. In order to effectuate the policies of the Act, we shall order the respondent to withdraw all recognition from the Philmont Union and to disestablish it as representative of any of the respondent's employees for the purpose of dealing with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or conditions of work.

We have further found that the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act. We shall order the respondent to cease and desist from so doing.

Since we have found that the respondent failed to recall Jessie Capello to work on and after July 12, 1937, because she joined and assisted the I. L. G. W. U., we shall order the respondent to offer her reinstatement together with back pay.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. International Ladies' Garment Workers' Union and Philmont Undergarment & Textile Union are labor organizations within the meaning of Section 2 (5) of the Act.

2. The respondent by dominating and interfering with the formation and administration of Philmont Undergarment & Textile Union and by contributing support thereto has engaged in and is engaging

in unfair labor practices within the meaning of Section 8 (2) of the Act.

3. By discriminating in regard to the hire^o and tenure of employment of Jessie Capello and thereby discouraging membership in International Ladies' Garment Workers' Union, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (3) of the Act.

4. The respondent by interfering with, restraining, and coercing its employees in the exercise of the right to self-organization, to form, join, and 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, has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) of the Act.

5. The aforesaid unfair labor practices constitute unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

6. The respondent has not engaged in unfair labor practices within the meaning of Section 8 (3) of the Act with respect to Carrie Bishop, Bertha Bishop, and Grace Cole.

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, David Strain Company, Inc., and its officers, agents, successors, and assigns shall:

1. Cease and desist:

(a) From in any manner dominating or interfering with the administration of Philmont Undergarment & Textile Union or with the formation or administration of any other labor organization of its employees, and from contributing support to Philmont Undergarment & Textile Union or to any other labor organization of its employees;

(b) From recognizing Philmont Undergarment & Textile Union as the representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(c) From discouraging membership in International Ladies' Garment Workers' Union or any other labor organization of its employees by discrimination in regard to hire or tenure of employment or other conditions of employment;

(d) 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 purposes of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Withdraw all recognition from Philmont Undergarment & Textile Union as a representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and completely disestablish Philmont Undergarment & Textile Union as such representative;

(b) Immediately post notices in conspicuous places in its plant and maintain such notices for a period of thirty (30) consecutive days, stating (1) that the respondent will cease and desist in the manner aforesaid, and (2) that the respondent will withdraw all recognition from Philmont Undergarment & Textile Union as representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of work, and completely disestablish Philmont Undergarment & Textile Union as such representative;

(c) Offer to Jessie Capello immediate and full reinstatement to the position held by her immediately prior to June 29, 1937, without prejudice to her seniority or any other rights or privileges;

(d) Make whole Jessie Capello for any loss of pay she has suffered by reason of the respondent's failure to recall her to work on July 12, 1937, by payment to her of a sum of money equal to that which she would normally have earned as wages during the period from July 12, 1937, to the date of the respondent's offer of reinstatement, less the amount she has earned during that period;

(e) Notify the Regional Director for the Second 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 in so far as it alleges that the respondent has discriminated in regard to the hire and tenure of employment of Carrie Bishop, Bertha Bishop, and Grace Cole be, and it hereby is, dismissed.