

In the Matter of RICHLAND CO-OPERATIVE CREAMERY COMPANY *and*
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLE-
MEN AND HELPERS OF AMERICA, LOCAL 870 (A. F. L.)

Case No. C-749.—Decided July 30, 1938

Dairy Industry—Settlement: agreement to comply with Act—*Order:* entered on stipulation.

Mr. Morris L. Forer, for the Board.

Mr. Vernon W. Thomson, of Richland Center, Wis., for the respondent.

Mr. Abraham L. Kaminstein, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 870 (A. F. L.), herein called Local 870, the National Labor Relations Board, herein called the Board, by Nathaniel S. Clark, Regional Director for the Twelfth Region (Milwaukee, Wisconsin), issued its complaint dated July 7, 1938, against Richland Co-Operative Creamery Company, Richland Center, Wisconsin, 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), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. A copy of the complaint, accompanied by notice of hearing thereon, was duly served upon the respondent and upon Local 870.

Thereafter, counsel for the Board and for the respondent entered into a stipulation waiving a hearing and setting forth the facts concerning the nature and scope of the respondent's business and the terms of an order which the Board might enter in the case upon its approval of the stipulation. On July 11, 1938, this stipulation, the complaint and notice of hearing in the case, the second amended charge, National Labor Relations Board Rules and Regulations—Series 1, as amended, and affidavit of service thereof were filed by

agreement of the parties with the Chief Trial Examiner of the Board at Washington, D. C., and thereby became part of the record in the case.

On July 13, 1938, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended; the Board duly issued its order approving the stipulation and ordered that the proceeding be transferred to and continued before the Board for the purpose of entry of a decision and order.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Richland Co-Operative Creamery Company, is an incorporated cooperative association organized under the provisions of Chapter 185 of the Wisconsin Statutes, having its general and business office, as well as its manufacturing and processing plant, in Richland Center, Wisconsin. The respondent is engaged in the business of manufacturing and processing of milk, skim milk powder, buttermilk powder, and butter. In 1937 the respondent sold \$969,001.43 worth of butter directly out of the State of Wisconsin, and the following f. o. b. Richland Center: \$123,543.76 worth of butter; \$108,204.09 worth of skim milk powder and buttermilk powder; and \$63,888.70 of liquid milk. As of December 31, 1937, the respondent had in inventory \$19,742.87 of butter which was to be sent to States other than Wisconsin. During the year 1937 the respondent purchased \$392,963.39 worth of cream and \$764,529.73 worth of milk.

We find that the respondent's operations at the Richland Center, Wisconsin, plant constitute trade, traffic, and commerce among the several States.

II. THE BASIS OF THE SETTLEMENT

The above-mentioned stipulation provides, in part, as follows:

STIPULATION

It is hereby stipulated by and between Richland Co-Operative Creamery Company, by and through Vernon W. Thomson, attorney at law, Richland Center, Wisconsin, for and in behalf of said Richland Co-Operative Creamery Company, and Morris L. Forer, attorney for and on behalf of the National Labor Relations Board that:

1.¹

2. The International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local 870, affiliated with

¹This section states the formal pleadings and the service of the complaint and notice of hearing upon the respondent

the American Federation of Labor, is a labor organization within the meaning of Section 2, subsection 5 of the National Labor Relations Act. The Butter Makers Association, insofar as it purported to act as an organization for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, for the employees of the respondent company and insofar as such representations as to its purpose of existing among the employees were made by it or in its behalf, is a labor organization within the meaning of the National Labor Relations Act.

3. The respondent, Richland Co-Operative Creamery Company, is a cooperative association organized under the provisions of Chapter 185 of the Wisconsin Statutes. It was incorporated under those provisions on April 7, 1924, and has existed thereunder since that time and up to the present. Its general and business office is located in Richland Center in the County of Richland, in the State of Wisconsin, and its plant and manufacturing, processing, and other operational activities are located at Richland Center, Wisconsin.

4. Pursuant to the provisions of Chapter 185 of the Wisconsin Statutes, the stock holders of the Richland Co-Operative Creamery Company have elected seven Directors, one of whom, B. L. Bowen, is at present General Manager of the plant at Richland Center.

5. The respondent, Richland Co-Operative Creamery Company, is engaged in interstate commerce within the meaning of the National Labor Relations Act.

6. The respondent, Richland Co-Operative Creamery Company, is engaged in the business of manufacturing and processing of milk, skim milk powder and butter milk powder, and butter. It obtains its milk and cream from farmer patrons, including its stock holders, from counties surrounding and including Richland County in the State of Wisconsin. As of the last available date for computation, December 31, 1937, the respondent, Richland Co-Operative Creamery Company, had sold in the previous twelve month period, \$969,001.43 of butter, directly out of the State of Wisconsin. It had also sold \$123,543.76 butter, f. o. b. its Richland Center plant, while during the same period of time it had sold f. o. b. its Richland Center plant \$108,204.09 worth of skim milk powder and butter milk powder, and \$63,888.70 of liquid milk. The ultimate destination of these latter products sold f. o. b. the Richland Center plant cannot be definitely and completely ascertained.

As of December 31, 1937, the Richland Co-Operative Creamery Company also had in inventory, \$19,742.87 of butter, all of which was to be sent into states other than the State of Wisconsin. During the year 1937, the Co-Operative purchased \$392,963.39 worth of cream and \$764,529.73 worth of milk, while its total operating expenses including salaries and labor cost, for that period was \$107,118.89.

7. In its transportation of products in interstate commerce, the respondent, Richland Co-Operative Creamery Company, utilizes truck facilities and the railroads, such railroad facilities being those of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

8.²

9. Whereas, it is alleged, that the respondent, acting by and through its officers and designated agents, in the course of its operations and business, did, from the beginning of the winter of 1937 and up to the present time, interfere with, restrain, and coerce its employees in the exercise of their rights guaranteed in Section 7 of the National Labor Relations Act, in that respondent by and through its officers and agents, urged, persuaded and warned its employees not to join or belong to the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 870, affiliated with the American Federation of Labor, attempted to delve into the inner workings of said organization and made disparaging remarks about Union affiliations and organizers thereof, connived and helped foster vigilante organizations during the latter part of June, 1938, and in the early part of July, 1938, which vigilante groups gave to employees of its plant, the alternative of resigning from the Union or from their jobs, and which, with the connivance, knowledge, and fostering of said respondent, succeeded in extracting from such employees resignations or had them discharged, forced remaining employees, by and through the supported vigilante movement, to sign recantations of all Union activities and promises not to affiliate themselves with Unions, and by divers and diverse other threats, persuasions and urgings did interfere with, restrain, coerce employees in the exercise of their rights guaranteed in Section 7 of the National Labor Relations Act.

10. Whereas, it is alleged that on February 9, 1938, the Co-Operative Creamery Company, by and through its officers, agents and employees, did discharge William Lounsbury and Clifford Miller for the reason that they, and each of them, formed, joined

² This paragraph lists the occupations of the employees of the respondent.

and assisted in labor organizations, and especially in Local No. 870, International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, affiliated with the American Federation of Labor, and for the reason that such employees, and each of them, did engage in concerted activities with other employees of the Company and with the employees of other companies for the purpose of collective bargaining and other mutual aid and protection; such discharge being further to discourage unionization at its plant at Richland Center, Wisconsin.

William Lounsbury and Clifford Miller were subsequently reinstated; but since such reinstatement, the Co-Operative Company, by and through its officers, agents, and employees, changed and altered the terms and conditions of employment of William Lounsbury, to his detriment, because of his activities for and on behalf of Local 870, and in order to discourage membership therein.

William Lounsbury had been employed for a year and a half, as an employee in a supervisory or quasi-supervisory position. After his reinstatement and after he had worked for a period of time again in such supervisory or quasi-supervisory capacity, William Lounsbury's position as foreman of the dryer-room was vacated, and his salary radically reduced, such change in condition and tenure of work being effectuated in order to discriminate against William Lounsbury, for his activities for and on behalf of Local 870 and in order to discourage membership in that organization.

11. Whereas, it is alleged that respondent by and through its officers and agents, in the course of its business and operations, did, from January 14, 1938, and at various intervals thereafter, refuse to bargain collectively with the authorized representatives of its employees, namely the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 870, affiliated with the American Federation of Labor, a labor organization chosen by a majority of its employees eligible for membership therein, for the purposes of collective bargaining with respect to rates of pay, hours of employment and other conditions of employment.

12. Whereas, it is alleged that respondent, by and through its officers and agents and in the course of its business and operations, did dominate and interfere with the activities of the Butter Makers Association, insofar as that organization purported to act as a labor organization for the employees in respondent's plant, and did give encouragement and advice to its employees to join the Butter Makers Association as a labor organization,

did encourage and actively participated in publicity given in behalf of the Butter Makers Organization as a labor organization, and by other divers and diverse means, did dominate and interfere with the formation and administration in the plant among the employees of the Company, of the Butter Makers Association insofar as it is or purports to be, or representations were or are made in its behalf as being, a labor organization.

13. The respondent, acting by and through its officers and agents, in the alleged commission of the acts enumerated in paragraphs 9, 10, 11, and 12 hereof, did allegedly commit and does now allegedly commit unfair labor practices affecting commerce within the meaning of Section 8 (1), 8 (2), 8 (3), and Section 2 (6) and 2 (7) of the Act.

14. The respondent, Richland Co-Operative Creamery Company, hereby waives its right of hearing, as set forth in Section 10 (b) and 10 (c) of the National Labor Relations Act.

15. This Stipulation, along with the Second Amended Charge, the Complaint, the Notice of Hearing, copy of the Rules and Regulations of the National Labor Relations Board, and Affidavit of Service thereof, may be introduced as evidence by filing them with the Chief Trial Examiner of the National Labor Relations Board at Washington, D. C.

16. If approved by the National Labor Relations Board, on the basis of this stipulation, an Order may forthwith be entered by said Board.

17. Further, on the basis of this stipulation, a decree enforcing such Order may be entered by the appropriate Circuit Court of Appeals, and the respondent, Richland Co-Operative Creamery Company, hereby waives further notice of the application therefor, for such enforcing decree.

18. Such Order, forthwith to be entered by said Board and by the appropriate Circuit Court of Appeals, will provide as follows:

ORDER

1. The respondent will 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 National Labor Relations Act;

(b) From in any manner discriminating in regard to hire or tenure of employment, or any term or condition of employment,

in order to encourage or discourage membership in any labor organization;

(c) From dominating or interfering with the formation or administration of the Butter Makers Association as a labor organization of the employees of the plant of the respondent company at Richland Center, Wisconsin, and from contributing support of any kind to said Butter Makers Association as a labor organization;

(d) From refusing to bargain collectively with International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local #870, affiliated with the American Federation of Labor;

2. The respondent will take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Upon request, bargain collectively with the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local #870, affiliated with the American Federation of Labor, as the exclusive representative of its employees at the Richland Center plant, excluding supervisory employees and field men and excluding the office force, with respect to rates of pay, wages, hours of employment or other conditions of employment;

(b) Withdraw all recognition from the Butter Makers Association as representative of its employees for the purpose of dealing with them concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and disestablish all relations to and with said Association as a labor organization of its employees at the Richland Center plant;

(c) Offer to William Lounsbury first preference to any supervisory position which may be created in the future in the drying room of the company;

(d) Post the following notice for a period of at least thirty (30) consecutive days from the date of posting, said notice to appear in conspicuous places in its plant at Richland Center, Wisconsin:

NOTICE

Pursuant to an Order of the National Labor Relations Board, dated-----, 1938, the Richland Co-Operative Creamery Company is posting the following notice:

The Richland Co-Operative Creamery Company will not interfere with, restrain or coerce its employees in the exercise of the right to self-organization, to form, join or assist labor organizations, to bargain collectively with representatives of their own

choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

The Richland Co-Operative Creamery Company will not discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or in regard to any term or condition of employment. The employees of the Richland Co-Operative Creamery Company are free to join the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local #870, affiliated with the American Federation of Labor, or any other labor organization, and their status as employees will not be affected by such action.

The Richland Co-Operative Creamery Company now promises and offers to William Lounsbury first preference to any supervisory position in the drying room of the company, in the event one is created.

The Company will not dominate or interfere with the formation or administration of any labor organization and will not contribute financial or other support to any labor organization. The Company will and hereby does withdraw all recognition and all contacts with and from the Butter Makers Association as representative of its employees for the purpose of dealing with them concerning grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work, or any other affairs or interests concerning the employees of the Richland Co-Operative Creamery Company, and the Company will and hereby does disestablish all relations and all contacts with the Butter Makers Association as a labor organization.

The Company will cease and desist from not bargaining collectively with the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local #870, affiliated with the American Federation of Labor, as the exclusive bargaining agency of all the production employees at the Richland Center plant, exclusive of supervisory employees and field men. The Richland Co-Operative Creamery Company will bargain collectively with the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, Local #870, affiliated with the American Federation of Labor, as the exclusive representative of its employees, not including supervisory employees or field men, in regard to rates of pay, wages, hours of employment or any other conditions of employment.

This notice is to be posted and to remain posted in conspicuous places in the plant for thirty (30) days.

RICHLAND CO-OPERATIVE CREAMERY COMPANY.

By_____

Dated_____

This stipulation is hereby entered into by the undersigned parties and, consisting in its entirety of all the foregoing, is dated July 9, 1938, at Richland Center, Wisconsin. It is made and entered subject to the specific condition of approval of its terms, contents, and form by the National Labor Relations Board, at Washington, D. C.

ORDER

Upon the basis of the above findings of fact, stipulation, and the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Richland Co-Operative Creamery Company, Richland Center, Wisconsin, and its officers, agents, successors, and assigns, shall:

1. 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 National Labor Relations Act;

(b) From in any manner discriminating in regard to hire or tenure of employment, or any term or condition of employment, in order to encourage or discourage membership in any labor organization;

(c) From dominating or interfering with the formation or administration of the Butter Makers Association as a labor organization of the employees of the plant of the respondent company at Richland Center, Wisconsin, and from contributing support of any kind to said Butter Makers Association as a labor organization;

(d) From refusing to bargain collectively with International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 870, affiliated with the American Federation of Labor.

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

(a) Upon request, bargain collectively with the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 870, affiliated with the American Federation of Labor, as the exclusive representative of its employees at the Richland Center plant, excluding supervisory employees and field men and excluding the office force, with respect to rates of pay, wages, hours of employment, or other conditions of employment;

(b) Withdraw all recognition from the Butter Makers Association as representative of its employees for the purpose of dealing with it concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and disestablish all relations to and with said Association as a labor organization of its employees at the Richland Center plant;

(c) Offer to William Lounsbury first preference to any supervisory position which may be created in the future in the drying room of the Company;

(d) Post copies of the notice as set forth in the stipulation contained in part II of the Decision above for a period of at least thirty (30) consecutive days from the date of posting, said notice to appear in conspicuous places at its plant in Richland Center, Wisconsin.