

**Woonsocket Spinning Company and Amalgamated
Clothing and Textile Workers Union, AFL-
CIO, CLC. Case 11-CA-8371**

September 30, 1980

DECISION AND ORDER

**BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND PENELLO**

On June 26, 1980, Administrative Law Judge J. Pargen Robertson issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the Charging Party filed an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,¹ and conclusions² of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Woonsocket Spinning Company, Charlotte, North Carolina, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

¹ Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

² We agree with the Administrative Law Judge's conclusion that the Christmas bonus at issue here constituted wages. In so doing, we rely on the fact that it was Respondent's custom and practice to give such a bonus. Thus, as the Administrative Law Judge found, employees had received the bonus for 17 years prior to 1978. Such a pattern clearly indicates that the bonus was a wage. *Laredo Coca Cola Bottling Company*, 241 NLRB 167 (1979); *Gas Machinery Company*, 221 NLRB 862 (1975); *Nello Pistoresi & Son, Inc. (S & D Trucking Co., Inc.)*, 203 NLRB 905 (1973). We also note that the record supports the other findings and conclusions of the Administrative Law Judge on the status of the bonus.

DECISION

STATEMENT OF THE CASE

J. PARGEN ROBERTSON, Administrative Law Judge: This case was heard on January 9, 1980, at Gastonia, North Carolina. The charge was filed on May 25, 1979. The complaint issued on June 29, 1979, and was amended on January 9, 1980.

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The complaint, as amended, alleges that Respondent violated Section 8(a)(1), (3), and (5) of the Act, by unilaterally withholding the 1978 Christmas bonus from bargaining unit employees, and Section 8(a)(1) of the Act by threatening its employee with discharge for criticizing working conditions, and with retaliation because its employees discussed union matters, and by informing its employees that its 1978 Christmas bonus would be withheld from employees that voted for the Union and that its employees would not receive the 1979 Christmas bonus because the employee had signed a union card.

Upon the entire record,¹ and from my observation of the witnesses and after due consideration of the briefs filed by the General Counsel, the Charging Party (herein Union), and Respondent, I hereby make the following:

FINDINGS

A. The Evidence

During the summer of 1978, the Union commenced an organizational drive at Respondent's Charlotte, North Carolina, plant.

Prior to 1978, Respondent had, for some 17 years, given its Charlotte employees a Christmas bonus. During the 5 years immediately preceding 1978, the Christmas bonus paid to Respondent's hourly paid employees was determined, in the case of each such employee, by multiplying the number of hours worked by the respective employee during the preceding 12 months, by the number of years the employee had worked for Respondent, by the figure .0060.

During July 1978, Respondent's vice president and general manager, Norman Picard, informed all employees that Respondent had decided to award them a July bonus.² According to Picard, he was holding up a union leaflet when he addressed the employees. Picard told the employees that the "corporate" had decided that inasmuch as the people had worked hard to help with Respondent's good performance, they would receive a bonus at that time. Picard admitted that he waved the union leaflet and said that the bonus had nothing to do with this. Picard testified that Respondent's fiscal year ended on June 30, and that Respondent had decided to "break tradition" and give a bonus in July, because it was obvious that they were going to have a good year (ending June 30, 1978).

Employee Thelma Traylor testified, without rebuttal, that when Norman Picard finished informing employees of the July bonus, she was standing next to Picard's assistant, Supervisor Pete Tessier. Traylor asked Tessier if the employees would still get their Christmas bonus. Tessier replied, "Yes, we would."

¹ Neither jurisdiction nor the status of the Union is at issue. The complaint alleges, the answer admits, and I find that Respondent is an Employer engaged in commerce within the meaning of Sec. 2(6) and (7) of the Act. The answer also admits and I find that the Union is a labor organization as defined in the Act.

The Union's February 14, 1980, motion to correct the transcript is hereby granted.

² The July 1978 bonus was not based on the above-mentioned formula, which was used in determining the employees' bonus during the last 5 years. The July bonus was based on each employees' pay for half a week.

On October 19, 1978, an election was conducted at Respondent's plant. The Union received 154 votes for representation and 43 votes against. On October 27, 1978, the Regional Director, Region 11, certified the Union as exclusive bargaining representative of the following of Respondent's employees:

All production and maintenance employees, quality control technicians, and plant clerical employees employed at Respondent's Charlotte, North Carolina, facility, excluding office clerical employees, professional employees, guards and supervisory employees as defined in the Act.³

On November 27, 1978, the parties held their first negotiation session. Thereafter, following rumors that the employees would not receive a 1978, Christmas bonus, the Union circulated leaflets to the employees and sent a letter to Respondent, on December 15, 1978, protesting Respondent's decision not to give a Christmas bonus. In both the leaflet and the letter the Union protested that Respondent's refusal to grant the bonus constituted a violation of the National Labor Relations Act.

Also on December 15, according to the testimony of employee Nancy Walker, she was in Respondent's employee cafeteria with three ladies that she did not know and Supervisor Joseph DuCharme. Walker testified that one of the women asked Mr. DuCharme why the employees were not receiving a Christmas bonus. DuCharme replied that only the people that did not vote for the Union would receive a Christmas bonus. Walker testified that the woman replied to DuCharme, that she knew that was a lie because she had not voted for the Union and she did not receive a bonus. Mr. DuCharme testified that he was in the cafeteria on December 15, and that he recalled having a conversation with some of the employees. DuCharme testified that he did not know the names of any of the employees. He also testified that even though he had been in the hearing room throughout the hearing, he did not know whether any of the employee witnesses were present during his December 15 conversation in the cafeteria. DuCharme testified that he said nothing at all about the Union during that conversation. I found Mr. DuCharme's testimony to be less than candid. I find it strange that he could recall the conversation without recalling whether any of the witnesses were present or not. I found incredible Mr. DuCharme's denial that he had learned that Respondent would not grant a Christmas bonus to hourly employees, on or before December 15, in light of the knowledge of the employees that they were not going to receive the bonus. DuCharme admitted that he attended management meetings and General Manager Picard admitted that the decision not to award the Christmas bonus had already been made when they met with the Union on December 20, 1978. Respondent claimed that the conversation as related by Walker did not make sense because there was no way that Respondent could have known which employees voted for the Union. However, I note

³ Respondent, in its answer, admitted that the unit constituted a unit appropriate for the purpose of collective bargaining within the meaning of Sec. 9(b) of the Act.

that a small segment of the bargaining unit (three salaried employees) did receive the 1978 Christmas bonus. DuCharme could have been thinking of those employees when he implied that employees that did not select the Union would receive the bonus. I found Nancy Walker to be a straightforward witness and I credit her testimony.

Witnesses for both parties agreed that the 1978 Christmas bonus issue was first raised during the December 20, 1978, negotiation session. The Union protested that the hourly employees were entitled to receive the bonus since it had become a part of their wage structure. General Manager Picard admitted that Respondent's negotiator, Edward Dowd, told the Union, on December 20, that the decision had already been made on the bonus and that the hourly employees would not receive it.

No hourly employee in the bargaining unit received a Christmas bonus during 1978. However, salaried employees, including three salaried employees in the bargaining unit received a Christmas bonus. Respondent contended, during bargaining negotiations, that those three salaried employees should be excluded from the bargaining unit. In that regard, Respondent refused to furnish the Union with requested information regarding the method of computing the bonus for the three salaried employees in the unit, on the asserted grounds that bonus and compensation of salaried employees were management affairs.

Also, during the December 20 negotiations session, Respondent's representative, Dowd, read a portion of a newspaper article written by employee and member of the union negotiating committee, Charlie Thomas. The article was critical of Respondent. Dowd stated that any further attacks on the Company by any employee would result in disciplinary action including possible discharge.

After December 20, Respondent and the Union continued to meet in bargaining sessions until agreement was reached during the June 11, 1979, session.⁴

During the January 4, 1979, negotiation session, Respondent furnished the Union with a list of the three unit employees (salaried) that had received the Christmas 1978 bonus, along with an indication of the amount each received. The list was furnished pursuant to an earlier request by the Union. Respondent told the Union that their position had not changed, that they would not pay a Christmas bonus for 1978, to the remaining unit employees (hourly paid). The Union requested the formula by which Respondent normally determined the amount of the Christmas bonus. Respondent replied that they would consider the Union's request in that regard.

Respondent supplied the formula for computing Christmas bonus for hourly paid employees, to the Union during the January 19 session. The Union asked for the formula for the three salaried unit employees. They were told that the salaried employees bonus was not determined by the same formula used on hourly employees, but that Respondent viewed information regarding salaried employees as exclusively management business. Respondent told the Union that the information regarding

⁴ Sessions were held on November 27 and December 4 and 20, 1978; and on January 4, 19, and 29, February 12 and 20, March 1, 7, 15, 19, and 20, April 3 and 11, May 9, 15, 22, and 29, and on June 11, 1979.

the salaried employees' bonus would not be released to the Union.

At the March 20 negotiation session, General Manager Picard complained that a member of the union negotiating committee, employee Don Holt, had ridiculed a company poster dealing with the negotiations in a loud and flagrant manner on the day before, during work. According to the testimony of Union Representative Craven, Picard said that he had not determined what type of disciplinary action he would take against Holt.

On May 23, John Kissack, assistant southern director of the Union, called Respondent's negotiator Dowd and told Dowd of the Union's plan to file charges with the NLRB regarding, among other things, the failure of Respondent to pay the 1978 Christmas bonus. Those charges (11-CA-8371) were filed on May 25, 1979.

During the May 29 negotiation session, Respondent proposed a "final offer." That proposal included a 20-cent-per-hour increase plus an additional 5 cents per hour "in lieu of a Christmas bonus." During the May 29 sessions, the parties communicated through a representative of Federal mediation, rather than face to face. John Kissack testified that the 20-cent-plus-5-cent proposal was offered as prospective only and that it was understood by both parties that that particular proposal would have no effect on the 11-CA-8371, unfair labor practice charges regarding the 1978 Christmas bonus. Edward Dowd admitted that the "final offer" of the extra 5 cents per hour referred to the 1979 Christmas bonus, rather than the 1978 bonus.

On June 11, the parties reached agreement on the contract. The contract was actually signed on June 25.

Employee J. C. Clifton testified that he had a conversation with his supervisor, James Cline, on December 21, 1979. Clifton testified that he mentioned to Cline that he felt that he should get something from the Company by saving them as much money as he had saved them through the years. Cline replied, "Well, if you hadn't voted for the Union, you might have got a Christmas bonus." Supervisor Cline admitted that he often talked with J. C. Clifton but denied telling Clifton on December 21, 1979, anything about the 1979 Christmas bonus. However, Cline's overall testimony demonstrated that he confused this conversation with a time during which he had no knowledge of whether the employees would receive a bonus or not. Cline also indicated at one point that he thought the questions regarding his conversation with Clifton referred to 1978. Under the circumstances, I found Cline's testimony to be unreliable. I credit Clifton's account of the December 21 conversation.

B. Conclusions

1. The alleged unilateral change

"The law is well settled that unilateral changes in terms and conditions of employment without bargaining with the Union representing such employees violates Section 8(a)(5) of the Act." *Jimmy Dean Meat Company of Texas, Inc.*, 227 NLRB 1527, 1530 (1977).

There appears to be no dispute as to whether Respondent unilaterally denied a Christmas bonus during 1978 to its hourly paid employees in the bargaining unit. Re-

spondent did not notify the Union of its intentions until the Union asked about the bonus during the December 20 negotiations. At that time, the Union was told that the decision had already been made.

Furthermore, there appears to be little question but that the Christmas bonus constituted wages. Respondent, in its brief, admitted that "Respondent, in the present case recognized this 'wage expectancy' aspects and the fact that the bonus issue was a bargainable subject. . . ." The evidence fully supports Respondent's admission. In *Radio Television Technical School, Inc. t/a Ryder Technical Institute v. N.L.R.B.*, 488 F.2d 457, 460 (3d Cir. 1973), the court, in questioning whether a Christmas bonus constituted a gift or wage, stated that the following factors should be considered: (1) the consistency or regularity of the payments; (2) the uniformity in the amount of the payments; (3) the relationship between the amount of the bonus and there remuneration of the recipient; (4) the taxability of the payment as income; and (5) the financial condition and ability of the Employer.

When the above indicia are applied, there is little doubt but that the Christmas bonus for hourly paid employees was wages. As to item (1) Christmas bonuses were paid on consecutive Christmases for the 17 years before 1978. As to item (2) for the last 5 years before 1978, the same formula was applied in determining the amount each employee would receive. The formula, in consideration of item (3), was based on each employee's attendance and seniority. Respondent stipulated that it regularly deducted income tax and social security tax from the employees' Christmas bonus payments. As to item (5) as in the *Radio Television School* case, Respondent did not raise the issue and "could hardly do so while continuing to pay bonuses to all non-union employees." (488 F.2d 460, fn. 4). Respondent admittedly paid a 1978 Christmas bonus to salaried employees, including three salaried employees in the bargaining unit which it contended should be excluded from the unit.

Therefore, I find that the 1978 Christmas bonus for hourly employees in the unit constituted wages, and, as such, was a bargainable subject.

In a somewhat similar case, as to the 8(a)(5) aspect of this case, the Board, in *Nello Pistori & Son, Inc.*, 203 NLRB 905 (1973), held:

As it is clear that Respondent did not inform the Union that it was considering not paying the 1971 bonus, and that Respondent notified the Union only after the decision had already been made, this unilateral action which resulted in changes in the wages and terms of employment of employees, even though not taken in bad faith, nevertheless violated Respondent's statutory obligation.

Respondent, by unilaterally changing a bargainable condition of employment, immediately after negotiations commenced, appears to have clearly violated Section 8(a)(5) regardless of its intent. Moreover, the General Counsel, by alleging that Respondent's actions also violated Section 8(a)(3), contended that Respondent refused to grant the bonus in bad faith.

Respondent, however, offers a number of defenses to the General Counsel's allegations. It first contends that it did in fact bargain over the 1978 Christmas bonus. However, the evidence indicates nothing more than Respondent's willingness to tell the Union, on each and every occasion that the Union brought up the subject, that they had in fact decided not to grant the 1978 Christmas bonus. Respondent did supply the Union with its formula for determining what each employee would normally receive as a Christmas bonus. However, there was no evidence offered which would demonstrate that Respondent expressed any intention to negotiate regarding the 1978 bonus. When the subject was first brought up by the Union on December 20, 1978, Respondent presented the Union with a *fait accompli*, there would be no bonus! The evidence reflected that Respondent's position as to the 1978 Christmas bonus never varied after December 20.

Respondent argued that by negotiating and signing a complete collective-bargaining agreement during June 1979, the Union waived its right to insist on the 1978 Christmas bonus. However, that position is not supported by the evidence. The evidence did reflect that on May 29 Respondent proposed and the Union accepted an additional 5-cent-per-hour increase in pay in lieu of Respondent paying the Christmas bonus. However, the evidence is not in dispute, that at the time of that agreement, Respondent was well aware that the agreement did not affect the 1978 bonus. The National Labor Relations Board's charge alleging that Respondent had violated the Act by failing to award the 1978 bonus had just been filed. A few days before the charge was filed, the Union, through John Kissack, informed Respondent of its intent to file the charge. Thereafter, during the May 29 negotiation session, the parties were in accord that the 5-cent proposal would not affect the Union's claim regarding the 1978 bonus. Therefore, the evidence shows, and I find, that the Union expressly reserved its right to contest Respondent's failure to award the 1978 Christmas bonus.

Respondent's contention that it was justified in denying the 1978 bonus, because the parties had reached a bargaining impasse, must also be rejected as lacking merit. The bonus question was not raised during the first negotiating session. When the Union brought up the subject during the second session, that of December 20, 1978, the decision had been made. In order for Respondent's agreement to prevail, an impasse would have to have occurred during or shortly after the first negotiating session. The evidence failed to show that such was the case. In fact, the parties continued to negotiate on a regular basis until agreement was reached on June 11 and a contract was signed on June 25. There was no evidence to show that the parties ever reached impasse.

Respondent also contended that it offered a July 1978 bonus instead of the 1978 Christmas bonus. Respondent did grant its employees a bonus at the end of the fiscal year, June 30, 1978. That was an unusual occurrence. However, the evidence is not in dispute that the assistant to the general manager indicated that the July bonus was not being given in lieu of the Christmas bonus. As indicated above, when an employee asked that very ques-

tion, the supervisor, Pete Tessier, indicated that the employees would also receive their Christmas bonus. Also, the July bonus was computed differently, as shown above.

Therefore, on finding that the evidence does not support any of Respondent's defenses, I find that Respondent unilaterally deprived its hourly paid unit employees of their 1978 Christmas bonus in violation of Section 8(a)(5) of the Act. Additionally, in view of the evidence reflecting that it was Respondent's intention in July 1978 to grant a Christmas bonus; Respondent's action in granting salaried employees⁵ the 1978 Christmas bonus; its refusal to inform the Union of the basis on which it computed the bonus for those three salaried employees in the unit; and its threats that employees had lost their bonus because they selected the Union,⁶ I find that Respondent's denials of the 1978 Christmas bonus to hourly paid unit employees also violate Section 8(a)(3) of the Act.

2. The 8(a)(1) allegations

a. Threats regarding loss of the Christmas bonus

As indicated in my findings, employees were told on two occasions that they had lost their Christmas bonus by voting in the Union. On December 15, 1978, Supervisor Joseph DuCharme told a group of employees that only those employees that did not vote for the Union would receive a Christmas bonus. On December 21, 1979, Supervisor James Cline told employee J. C. Clifton that he might have received a bonus if he had not voted for the Union. I find that those threats constitute clear violations of Section 8(a)(1) of the Act. The threats alone would suffice. Under the circumstances herein, against the background of Respondent depriving its hourly paid unit employees of the 1978 Christmas bonus, the statements of DuCharme and Cline become even more serious and effective.

b. The threats of the negotiation sessions

The General Counsel alleges that by uttering two threats against members of the negotiation team, during negotiations, Respondent engaged in additional violations.

During the December 20, 1978, negotiation session, Respondent's negotiator, Edward Dowd, read some of a newspaper article⁷ written by employee Charlie Thomas.

⁵ As shown above, three of the salaried employees were included in the bargaining unit. The overall unit included approximately 200 employees.

⁶ See my discussion below regarding the 8(a)(1) allegations.

⁷ The article appeared in the December 1978 edition of "The Charlotte Advocate." It was entitled "Woonsocket" with the byline "by Charlie Thomas" and read as follows:

The dehairing department at Woonsocket Spinning Company is a hellhole of heat and dust. The machinery is so unsafe that 20 people in the last 18 months have been treated for injuries.

In one recent case a woman's thumb was cut off in a machine. When the Company called to "see how she was," they had the nerve to ask if the woman's sister could come and work in her place until she could return to work!

Unsafe conditions are not the only problem. Low pay, forced overtime, and the lack of a pension plan are major problems too.

Continued

Thomas was a member of the union negotiation committee. According to the testimony of Respondent's general manager, Picard:

The meeting was opened by Ed Dowd reading from the Charlotte Advocate certain uncomplimentary remarks made about Woonsocket Spinning. More specifically, Ed read the portion of the article which says that Woonsocket Spinning Company is a "Hell hole of heat and dust." Mr. Craven angrily but unsuccessfully tried to stop Ed from reading the article and towards the end of Ed's remarks, which were in line with the sanctity of the bargaining table, I informed Charlie Thomas that if these remarks continued in the Charlotte Advocate or any other newspaper, he would be discharged.

The General Counsel's second allegation concerning negotiation sessions, alleges that during the March 20, 1979, session, General Manager Norman Picard threatened an employee with retaliation for discussing union matters with other employees. Picard maintained notes of the various sessions. Those notes on the March 20 session show, *inter alia*:

Norman Picard brought up the fact that Don Holt had shouted in the cafeteria about the Company posting notices regarding the negotiating sessions. He was told that it is our purpose to inform the people whether or not they belong to the Union. We have been flooded with questions regarding the sessions and we feel an obligation to the people to keep them informed. I also warned Don Holt that reoccurrence of this kind of behavior in the cafeteria would lead to what is yet an undetermined reprimand. I also informed him that he had a bad habit of suddenly shouting within the production unit. I advised that some day he might need help and someone will just think he's just fooling around the way he always does and he will get hurt.

These are some of the reasons we voted 154 to 43 to affiliate with the Amalgamated Clothing and Textile Workers Union (ACTWU).

We have just begun contract negotiations with Woonsocket. The Company is represented by Ed Dowd of Central Piedmont Employers Association. Dowd's goal is in line with his right wing politics---to do away with unions entirely. He is national co-chairman of the Committee for a Union-free Environment.

At Woonsocket, Dowd's wish cannot come true. The large and growing majority of workers are determined to get a good contract within a very few weeks. Each time the negotiating committee goes to the bargaining table the other workers in the plant show their unity by wearing their union tee shirts and buttons.

Even in the early days of bargaining some gains have been won. The Company has agreed to settle some grievances about safety conditions, supervisor's abuses, and discrimination. They have also agreed to recognize temporary shop stewards.

But these improvements are based on verbal agreements only and leave the final decisions on complaints to the Company. A binding written contract is the only way to be sure of getting grievances settled fairly. Nobody wants to have to strike to win a contract but every day more of us realize that it might become necessary. If Dowd tries his stalling tactics at Woonsocket, or if his final offer is not acceptable, we will definitely have a strike vote. The strike is our only weapon. Sometimes it is enough to be ready, willing and able to strike, and sometimes it is necessary to walk out, but the strike is our only real strength.

These two allegations raise questions which must be considered in the context of the negotiation sessions. Employees involved in the actual process of collective bargaining are obviously engaged in activity protected by Section 7 of the National Labor Relations Act. In that regard an Employer must exercise care that he does not engage in activity which would have the likely effect of discouraging participation by employees. The Board has frequently cautioned Employers that they are not to approach negotiation sessions or grievance sessions in the role of master and servant. The "master-servant relationship does not carry into a grievance meeting, but there is instead at such a meeting only company advocates on the one side and union advocates on the other engaged as opposing parties in litigation." *Crown Central Petroleum Corporation*, 177 NLRB 322 (1969).

In the instant situations Respondent was pursuing goals which are legitimate and relevant. Certainly, Respondent may demonstrate concern for published accounts of negotiations if it feels those accounts may seriously effect the progress of their negotiations. Also, Respondent may demonstrate concern for activity which it understands may be disruptive of the workplace. However, in the instant occasions, Respondent ventured beyond the steps necessary for the pursuit of its legitimate activities. In both instances Respondent threatened to discipline employee members of the union negotiation committee. Absent extraordinary circumstances, threats to discipline committee members serve no legitimate purpose at the negotiation table.

Moreover, it appears that the employees' activities which precipitated Respondent's threats were protected activities. Charlie Thomas' newspaper article concerned what Thomas argued were poor labor relations policies. Thomas' article also reported on negotiations. Don Holt complained about Respondent's bulletin board report of the contract negotiations. Since both of those activities are protected by Section 7 of the Act, the burden falls on Respondent to demonstrate justification for its threats. In both instances Respondent failed to prove proper justification.

There was no evidence showing that Charlie Thomas' article contained untrue material. *Springfield Library and Museum Association*, 238 NLRB 1673 (1978). Respondent's concern with the article's possible effect on negotiations did not logically relate to its action in threatening Thomas, even though it may have been a proper subject to discuss during negotiations.

Don Holt was alleged to have been too loud when he criticized Respondent's poster. However, no evidence was offered in that regard other than the admitted hearsay testimony of Norman Picard, which was not received as probative of Holt's actual conduct.

Therefore, I find that Respondent was not justified in threatening employees Thomas and Holt, and those threats constitute violations of Section 8(a)(1) of the Act.

CONCLUSIONS OF LAW

1. Respondent Woonsocket Spinning Company is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Amalgamated Clothing and Textile Workers Union, AFL-CIO-CLC, is a labor organization within the meaning of Section 2(5) of the Act.

3. The following constitutes a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees, quality control technicians, and plant clerical employees employed at Respondent's Charlotte, North Carolina, facility, excluding office clerical employees, professional employees, guards, and supervisory employees as defined in the Act.

4. At all times material herein, the Union has been the duly certified and designated representative of the employees in the aforesaid unit.

5. By informing its employees that they had lost their Christmas bonus because they voted for the Union, and by threatening its employees with disciplinary action including discharge, because of their protected activity and union activity, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

6. By unilaterally discontinuing the 1978 Christmas bonus without affording the certified Union an opportunity to bargain with respect thereto, because of its employees activity in selecting the Union as their bargaining representative, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1), (3), and (5) of the Act.

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

THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the Act, I shall recommend that it be ordered to cease and desist therefrom, and to take certain affirmative action designed to effectuate the policies of the Act.

My recommended Order shall require Respondent to make whole its hourly paid bargaining unit employees, for the monetary losses suffered by them as a result of Respondent's unlawful unilateral discontinuance of the payment of the 1978 Christmas bonus, with interest as provided in *Florida Steel Corporation*, 231 NLRB 651 (1977), and *F. W. Woolworth Company*, 90 NLRB 289 (1950).⁸

Upon the foregoing findings of fact and conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER⁹

The Respondent, Woonsocket Spinning Company, Charlotte, North Carolina, its officers, agents, successors, and assigns, shall:

⁸ See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

⁹ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in

1. Cease and desist from:

(a) Interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed them in Section 7 of the Act, in violation of Section 8(a)(1) of the Act, by telling its employees that they lost their Christmas bonus by selecting the Union as their bargaining representative, and by threatening its employees with disciplinary action, including discharge, because of their protected activity and their union activity.

(b) Refusing to bargain collectively with Amalgamated Clothing and Textile Workers Union, AFL-CIO-CLC, as the exclusive representative of its employees in the following appropriate bargaining unit, with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, by unilaterally discontinuing its employees' 1978 Christmas bonus, because of its employees activities in selecting the Union as their bargaining representative:

All production and maintenance employees, quality control technicians, and plant clerical employees employed at Respondent's Charlotte, North Carolina, facility, excluding office clerical employees, professional employees, guards and supervisory employees as defined in the Act.

(c) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action which is deemed to be necessary to effectuate the policies of the Act:

(a) Make whole its hourly paid employees in the appropriate bargaining unit for any monetary losses they may have suffered by reason of its unilateral termination of the 1978 Christmas bonus, in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this recommended Order.

(c) Post at its place of business in Charlotte, North Carolina, copies of the attached notice marked "Appendix."¹⁰ Copies of said notice, on forms provided by the Regional Director for Region 11, after being duly signed by its authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

¹⁰ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(d) Notify the Regional Director for Region 11, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT tell our employees that only those employees that did not vote for the Union will receive a Christmas bonus and WE WILL NOT tell our employees that they lost their Christmas bonus by voting for the Union.

WE WILL NOT threaten, during negotiation sessions, to impose disciplinary action on our employees, including discharge, because our employees engage in protected activity by writing newspaper articles about us or by criticizing our bulletin board posters concerning negotiations with Amalgamated Clothing and Textile Workers Union, AFL-CIO-CLC, or any other labor organization.

WE WILL NOT refuse to bargain collectively with the Union, as the representative of our employees within the appropriate bargaining unit described:

All production and maintenance employees, quality control technicians, and plant clerical employees employed at Respondent's Charlotte, North Carolina, facility, excluding office clerical employees, professional employees, guards and supervisory employees as defined in the Act.

WE WILL NOT unilaterally, without notifying and affording the Union an opportunity to bargain, discontinue our 1978 Christmas bonus, for hourly paid employees in the aforesaid appropriate bargaining unit, because our employees selected the Union as their exclusive bargaining representative.

WE WILL make whole our hourly paid employees in the aforesaid appropriate bargaining unit, for any monetary losses they may have suffered by reason of our unilaterally terminating the 1978 Christmas bonuses, with interest.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act.

WOONSOCKET SPINNING COMPANY