

In the Matter of **BOGUE ELECTRIC COMPANY** and **UNITED ELECTRICAL,  
RADIO & MACHINE WORKERS OF AMERICA**, AFFILIATED WITH THE CON-  
GRESS OF INDUSTRIAL ORGANIZATIONS

*Case No. 2-C-5059.—Decided February 28, 1945*

**DECISION**

AND

**ORDER**

On October 17, 1944, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices affecting commerce and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report annexed hereto. Thereafter, the respondent filed exceptions to the Intermediate Report and a brief. None of the parties requested oral argument before the Board at Washington, D. C., and none was held. The Board has considered the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

**ORDER**

Upon 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, Bogue Electric Company, Paterson, New Jersey, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or any other labor organization, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire or tenure of employment, or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form

labor organizations, to join or assist United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

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

(a) Offer to Joseph V. Monico immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole Joseph V. Monico for any loss of pay he may have suffered by reason of the respondent's discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings during said period;

(c) Post at its plant at Paterson, New Jersey, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director of the Second Region, shall, after being duly signed by the respondent's representative, be posted by the respondent immediately upon receipt thereof, and maintained by it for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material;

(d) Notify the Regional Director for the Second Region, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

NLRB 577  
(9-1-44)

## APPENDIX A

### NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We will not in any manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations or any other labor organization, 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.

We will offer to the employees named below immediate and full reinstatement to their former or substantially equivalent positions without prejudice to any seniority or other rights and privileges previously enjoyed, and make them whole for any loss of pay suffered as a result of the discrimination.

Joseph V. Monico

All our employees are free to become or remain members of the above-named union or any other labor organization. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

BOGUE ELECTRIC COMPANY

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(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

NOTE.—Any of the above-named employees presently serving in the armed forces of the United States will be offered full reinstatement upon application in accordance with the Selective Service Act after discharge from the armed forces.

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

#### INTERMEDIATE REPORT

*Mr. Richard J. Hickey*, for the Board.

*Messrs Abraham J. Halprin* and *Sidney R. Rossiter*, of New York, for the respondent.

*Rothbard, Greenstone, Harris & Talisman*, by *Mr. Emil Oæfeld*, of Newark, New Jersey, and *Mr. Herbert Herschberg*, of Newark, New Jersey, for the Union.

#### STATEMENT OF THE CASE

Upon a third amended charge filed by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, herein called the Union, the National Labor Relations Board, by its Regional Director for the Second Region, (New York, New York), issued its complaint dated July 5, 1944, against Bogue Electric Company, 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) and (3) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and notice of hearing were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint alleged in substance that the respondent: (1) expressed disapproval of the Union, interrogated its employees concerning their union affiliations, and urged, persuaded, and warned its employees to refrain from assisting and becoming or remaining members of the Union; and (2) on or about January 30, 1943, discharged Joseph V. Monico, its employee, because of his union or concerted activities; and (3) by the fore-

going conduct engaged in unfair labor practices within the meaning of Section 8 (1) and (3) of the Act

The respondent in its duly filed answer to the complaint denied that it had engaged in the alleged unfair labor practices.

Pursuant to notice a hearing was held on August 3 and 17, 1944, at New York, New York, before the undersigned, the Trial Examiner duly designated by the Chief Trial Examiner. All parties were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the conclusion of the Board's case, the respondent, although requested to do so, declined to proceed with its case, and made oral application, resisted by counsel for the Board and the Union, for an adjournment of the hearing for at least 5 days. After consideration and due deliberation, the undersigned denied the adjournment application and thereupon counsel for the respondent withdrew from the hearing.<sup>1</sup>

<sup>1</sup> The hearing had theretofore been twice adjourned. Originally noticed for July 18, 1944, it was adjourned to August 3, following the respondent's application for a 90-day adjournment, made on the ground that an earlier hearing would interfere with its war production. On August 2, the Chief Trial Examiner received and denied the respondent's application for a further postponement, made on the ground that the respondent's attorney of record, Mr. Halprin, after the instant case had been set for hearing on August 3, had undertaken another engagement for that morning and had arranged to leave immediately thereafter on a 10-day vacation. The Chief Trial Examiner stated however that, if requested, he would postpone the hearing until after the conclusion of Mr. Halprin's morning engagement. Although no such request was made, Mr. Halprin failed to appear when the hearing opening on the morning of August 3, as did also Edward P. Schinman, the respondent's president, who had been served with a subpoena and a subpoena duces tecum. Application was however made by counsel associated with Mr. Halprin for a 60-day adjournment upon all the grounds previously urged and upon the additional ground that the respondent had been unable to locate a necessary witness, Thomas Trumbour (who, as it appeared, was present at the hearing under Board subpoena). In view of Mr. Halprin's morning engagement, the undersigned recessed the hearing until 2 p. m., but Mr. Halprin, although notified to do so, failed to appear at that time. In the light of a representation made by Mr. Halprin's associate that Mr. Halprin's vacation was necessitated by reasons of health but that the respondent would definitely go to trial if given a 10 day adjournment, and upon the express understanding that both sides would be ready to proceed with the examination of their witnesses on the adjourned date, the undersigned adjourned the hearing, save for the examination of Trumbour whom all parties agreed to examine on August 3, for a period of 14 days, to August 17. To obviate any interference with the respondent's claimed essential war work, the undersigned directed that, if requested by the respondent, the adjourned hearing be held at or near the respondent's plant in Paterson, New Jersey, so that witnesses might be called from work singly and without undue loss of time.

On August 17 at 10 a. m., the hearing was resumed in New York City, no transfer to Paterson having been requested by the respondent. Mr. Halprin made an appearance at this time and conducted cross-examination of the Board's witnesses. It was not, however, until the Board rested its case at 11:55 a. m. that the respondent for the first time indicated its intention not to proceed with its case that day. When asked to proceed, Mr. Halprin stated at one point, "I have no case ready." When it was suggested that the respondent call Schinman, then present in the hearing room, Mr. Halprin stated, "There is very little he can do." The respondent's asserted reasons for not proceeding were twofold: (1) the respondent had 15 witnesses whom it could not conveniently call away from the plant, and (2) because of a chronic physical condition with which he had been afflicted for some time, Mr. Halprin could not, without violating his doctor's orders, continue with the case on that day. To meet the respondent's first reason, the undersigned offered to adjourn the hearing to the respondent's plant, and, to meet its second reason, offered to postpone the case to the following day, but Mr. Halprin rejected both proposals. Significantly, Mr. Halprin, while indicating that his health permitted him to work only on alternate days, himself suggested that the hearing be adjourned to Wednesday, August 23; although as he stated, he expected to be engaged in other hearings scheduled for August 21 and 22. And when it was suggested that the hearing might be adjourned to Saturday, August 19, which would permit him an intervening full day's rest, Mr. Halprin stated that he did not intend to work that day. The

At the close of the Board's case, the undersigned reserved ruling on the respondent's motion to dismiss the complaint for lack of proof. The motion is hereby denied. All parties were afforded an opportunity to argue orally before and file briefs with the undersigned. No oral arguments were made and no briefs were filed. After the close of the hearing, the respondent moved to reopen the hearing for the purpose of adducing additional evidence. The said motion was referred to the Chief Trial Examiner for ruling. After considering said motion, the reply thereto filed by the attorney for the Board, and the reply memorandum submitted by the attorney for the respondent, the Chief Trial Examiner, on September 12, 1944, entered an order denying said motion.

Upon the record thus made and from his observation of the witnesses, the undersigned makes the following:

#### FINDINGS OF FACT

##### I THE BUSINESS OF THE RESPONDENT

Bogue Electric Company is a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey. Its principal place of business is in Paterson, New Jersey, where it is engaged in the manufacture, sale, and distribution of electrical rotating equipment, special motors, and electric motor generator sets. The principal raw materials purchased by the respondent are steel, wire, and copper. During the period from August 1, 1943, to July 31, 1944, the respondent purchased raw materials valued in excess of \$100,000, of which approximately 50 percent was shipped to its Paterson, New Jersey, plant from places outside the State of New Jersey. During the same period the respondent's sales of finished products were in excess of \$500,000, of which approximately 50 percent was shipped from its Paterson, New Jersey, plant to places outside the State of New Jersey.

During the period from August 1, 1942, to July 31, 1943, the amount of the respondent's purchases of raw materials and percentage of such raw materials shipped from points outside the State of New Jersey to its Paterson plant, and the amount of its finished products, together with the percentage of such finished products shipped from its Paterson plant to points outside the State of New Jersey, were equivalent to the amounts aforesaid stated for the period from August 1, 1943, to July 31, 1944.

The respondent admits that it is engaged in commerce within the meaning of the Act.<sup>2</sup>

##### II. THE ORGANIZATION INVOLVED

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the respondent.

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undersigned requested Mr. Halprin to reconsider his position and for that purpose recessed the hearing until the same afternoon. At that time neither Mr. Halprin nor any representative of the respondent appeared.

In view of the respondent's prior requests for extended adjournments, the multifarious and contradictory reasons assigned as a basis for postponements, the understanding upon which the case had last been adjourned, the fact that the respondent's entire case, according to Mr. Halprin's own statement could have been presented in one hour, the respondent's antecedent knowledge of Mr. Halprin's physical condition, its failure to make known its intention to request a further adjournment until the close of the Board's case, its reluctance to proceed with the examination of Schinman, its rejection of the proposals made for its accommodation, and the disregard otherwise shown by the respondent for the administrative processes and procedures of the Board, as reflected by the entire record, the undersigned finds that the respondent's request for an adjournment made at the close of the Board's case was unreasonable and without justification.

<sup>2</sup> This finding is based on a stipulation of the parties.

## III. THE UNFAIR LABOR PRACTICES

Interference, restraint, and coercion; the discriminatory discharge<sup>3</sup>

Joseph V. Monico was employed by the respondent in its assembly department from about September 24, 1942, until January 30, 1943, when he was discharged. His starting hourly rate was 50 cents; it was advanced on or about November 12, 1942, to 60 cents; on or about December 3, 1942, to 65 cents; and on or about January 14, 1943, to 85 cents. Monico's immediate supervisor was Frederick Solimine, and above him in the respondent's supervisory hierarchy was Plant Superintendent Thomas H. Trumbour, who was in charge of all hourly paid production employees. Edward P. Schinman was and is the respondent's president. During the period herein involved, the respondent employed at its plant approximately 100 employees.

In November 1942, general dissatisfaction was prevalent among the respondent's employees concerning their wages and working conditions. In the latter part of that month, Monico drafted, circulated among the employees, and submitted to the respondent a petition, signed by approximately 72 employees, demanding wage increases, vacations with pay, and double time for holidays. As a result, all employees who had been in the respondent's employ for a stipulated length of time received a 5-cent hourly increase.

In January 1943, the discontent of the employees with their wages and working conditions again openly manifested itself. During that month the employees held a series of six meetings for the purpose of discussing means of improving their wages and working conditions, as well as action to be taken by them toward that end. The first five of these meetings was held at a public meeting hall in Paterson, New Jersey; the last at the CIO hall in that city. Monico presided as chairman at all but the first of these meetings.<sup>4</sup>

At the second meeting, held about January 10, 1943, the employees elected a committee, which included Monico, to contact Plant Superintendent Trumbour for the purpose of discussing with him the question of an increased wage scale. Following a conference with the committee, Trumbour agreed to draw up and present to the employees an increased wage scale. At the third meeting of employees, held about January 16, 1943, a wage schedule, prepared by Trumbour with the approval of Schinman, was submitted to the employees. Trumbour, who attended this meeting and addressed the employees at the invitation of the committee, told the employees to rate or grade themselves in accordance with the schedule and to submit to him their suggested gradings, and that, after considering their suggested gradings, he would grade each employee himself in accordance with his best judgment, and then receive any complaints that might be made. In carrying out the suggested procedure, Monico acted as a representative of the employees. Trumbour's gradings were submitted to the employees through Monico. Later, Monico received from employees written complaints which he, on their behalf, presented to and discussed with Trumbour. In a few instances adjustments were effected.<sup>5</sup>

The respondent's wage action, noted above, did not appease the employees, and, at a fourth meeting, held on January 20, 1943, considerable dissatisfaction was

<sup>3</sup> The following findings are based upon testimony of Joseph V. Monico and Thomas H. Trumbour, which stands unimpeached and undenied and is credited by the undersigned. As noted above, the respondent, although afforded full opportunity to do so, presented no witnesses and, except through cross-examination of Board witnesses, adduced no evidence in support of its case.

<sup>4</sup> The meetings were attended by approximately 50 employees.

<sup>5</sup> Monico himself was regraded to a classification carrying an hourly rate of 85 cents as contrasted to his earlier rate of 65 cents.

voiced with respect to the wage policies of the respondent. Up to this point, no attempt appears to have been made by the employees to organize themselves formally into a labor union. At the fourth meeting, however, a decision was reached to secure representation through an outside labor organization, and, after discussion, in which Monico urged such action, the employees voted to ally themselves with the CIO. Monico was made chairman of a committee which was selected to contact representatives of the CIO. On January 26, 1943, a fifth meeting was held at which Monico, as chairman, introduced representatives of the Union who then addressed the assembled employees. At this meeting, Monico signed a Union card, and thereafter participated in the distribution of similar cards to other employees. On January 28, 1943, two days before Monico's discharge, a sixth meeting was held, this time at the CIO hall, at which a shop organizing committee was elected. Monico became shop chairman.

On January 29 and 30, 1943, Monico, according to his testimony, worked as usual. His first intimation that he was being discharged came at the close of the working day on January 30, 1943, when he sought to punch his time card and found it missing. Instead, he found his release and a war bond statement on the watchman's table. Monico inquired of Trumbour as to the reason for his release, but the latter disclaimed knowledge. When Monico made similar inquiry of Schinman, the latter cryptically remarked that he "could not have that kind of stuff going on." Pressed for an explanation of his remark, Schinman told Monico that he had been threatening female employees. Monico disputed Schinman's statement and called upon him for substantiation, but to no avail. The release tendered to Monico did not state the reason for his discharge, and Monico refused to accept it in that form.

Following his afore-mentioned conversation with Schinman, Monico, according to his undenied testimony, was detained for a time by a plant guard, and, while sitting at the watchman's table located immediately in front of the office door, overheard Schinman remark to someone in the office that he had "got rid of the ringleader."<sup>6</sup>

Trumbour, to whom, by virtue of his position as plant superintendent, complaints emanating from the production floor would normally come, testified that he had never received any complaints that Monico was threatening employees. The only suggestion to that effect made to him prior to Monico's discharge had come from Schinman himself on the morning of the discharge. At that time, Schinman had told Trumbour that there was talk about the plant that Monico had been threatening employees, but Schinman had not named the employees who had made such complaints. At the same time, Schinman had also complained to Trumbour that "Monico was going around the shop talking union activities on company time,"<sup>7</sup> and had criticized Trumbour for "not doing too much about union activities in the shop." Monico, while testifying on cross-examination, was questioned at length as to whether on January 28, 1943, he had not threatened certain named female employees with loss of employment if they did not sign union application cards. Monico denied that he had done so or that he had otherwise threatened employees in any manner, and, while admitting that he had spoken to them with respect to union matters, denied that he had done so during

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<sup>6</sup> In view of Monico's leadership in the Union, the fact that he had just been discharged, and other facts herein found, and in the absence of any other explanation for Schinman's remark, it is reasonable to infer, as the undersigned finds, that Schinman's remark had reference to Monico as the "ringleader" of the union movement.

<sup>7</sup> The record contains no evidence that the respondent had any rule prohibiting talking or solicitation on company time. The nature of Monico's job was such as to require him to go throughout the plant at times.

working hours. The named employees were not produced as witnesses by the respondent, and Monico's testimony, standing uncontradicted, is credited.

The respondent in its answer does not indicate the reason, if any, upon which it relies to justify its discharge of Monico. When asked on the opening day of the hearing to define the respondent's claim in that connection, counsel for the respondent stated that, while he was not prepared to stipulate the respondent's contention, it was his understanding that the discharge was effected solely because Monico had been taking "time off from his job." No proof was adduced by the respondent in support of this contention, and the evidence in the record is to the contrary. As already noted, Monico testified that on the days immediately preceding his discharge, he had worked as usual. His time record, which is in evidence, shows that during the last 3 days preceding his discharge he had worked 24 $\frac{3}{4}$  hours<sup>8</sup> and during the preceding week, 56 hours. According to Trumbour's undenied testimony, Monico was a willing and able worker. It was Trumbour's further undisputed testimony that he, as plant superintendent, had never received any complaints from subordinate supervisors or others concerning Monico's efficiency, attendance record, or absences from his job, and that he, in turn, had never had occasion to complain to Schinman about any derelictions on Monico's part concerning such matters. It is noteworthy that although it was the almost invariable plant practice for Trumbour to determine matters affecting the hire and discharge of hourly paid production employees, in this instance the decision to discharge Monico was made by Schinman, without any recommendation from Trumbour.

To recapitulate: Monico, an employee of unquestioned competency, was discharged peremptorily and without warning within two days after the commencement of the Union's organizational drive which he, as chairman of the shop organizing committee, had been elected to head. Monico's position of leadership in the concerted activities of its employees had long been known to the respondent. Whatever the respondent's reaction to Monico's earlier activities may have been, it is clear from Schinman's remarks to Trumbour, made on the morning of the discharge, that the respondent was disturbed by the advent of an outside union in the plant and by Monico's organizational activities on its behalf. As found above, the record does not support Schinman's assertion that Monico had been threatening female employees. Nor does it support the claim, suggested by the respondent at the hearing but significantly not mentioned at the time of the discharge, that Monico's discharge was attributable to inordinate absences on his part from work. In the absence of any adequate explanation for the discharge and in the light of the foregoing circumstances, Monico's discharge is scarcely susceptible of explanation of any basis other than that it was prompted by his outstanding role in the recently initiated movement to organize the respondent's employees into an outside union and was designed, as expressed by Schinman himself, to get "rid of the ringleader" of that movement.

On the basis of the record as a whole, the undersigned finds that Monico was discharged on January 30, 1943, and was thereafter denied reinstatement because of his membership in and activities on behalf of the Union as well as his other concerted activities for the purposes of collective bargaining or other mutual aid and protection, and to discourage membership in the Union. It is further found that by its discharge and refusal to reinstate Joseph V. Monico, the respondent discriminated in regard to his hire and tenure of employment, thereby discouraging membership in the Union, interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

<sup>8</sup> Monico was discharged in the middle of a pay-roll period.

The complaint alleges that, independently of the discriminatory discharge of Monico, the respondent engaged in unfair labor practices by (a) expressing disapproval of the Union; (b) interrogating its employees concerning their union affiliations; and (c) urging, persuading, and warning its employees to refrain from assisting, becoming members of or remaining members of the Union. The undersigned finds no substantial evidence to support these allegations of the complaint, and will recommend that they be dismissed.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section III, above, occurring in connection with the operations of the respondent described in Section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow thereof.

#### V. THE REMEDY

Since it has been found that the respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist from such practices, and to effectuate the policies of the Act, it will be recommended that the respondent post notices throughout its Paterson, New Jersey, plant, stating that it will not engage in the conduct from which it is recommended that it cease and desist.

The undersigned has found that on January 30, 1943, the respondent discharged Joseph V. Monico because of his union affiliation and activities. The undersigned will recommend that the respondent offer Joseph V. Monico immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority and other rights and privileges, and that the respondent make Joseph V. Monico whole for any loss of pay he may have suffered by reason of the discrimination against him, by payment to him of a sum of money equal to that which he normally would have earned as wages from January 30, 1943, the date of his discriminatory discharge, to the date of the offer of reinstatement, less his net earnings<sup>9</sup> during said period.

Upon the basis of the foregoing findings of fact and upon the entire record in the case the undersigned makes the following:

#### CONCLUSIONS OF LAW

1. United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of Joseph V. Monico and thereby discouraging membership in a labor organization, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (3) of the Act.

3. By interfering with, restraining,<sup>9</sup> and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and

<sup>9</sup> By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, 311 U. S. 7.

is engaging in unfair labor practices within the meaning of Section 8 (1) of the Act

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

5. The respondent has not, as alleged in the complaint, engaged in unfair labor practices, independently of the discharge of Joseph V. Monico, by expressing disapproval of the Union; interrogating its employees concerning their union activities; and urging, persuading, and warning its employees to refrain from assisting, becoming members of or remaining members of the Union

#### RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that the respondent, Bogue Electric Company, Paterson, New Jersey, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or any other labor organization, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire or tenure of employment, or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection as guaranteed in Section 7 of the Act.

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

(a) Offer to Joseph V. Monico immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority and other rights and privileges;

(b) Make whole Joseph V. Monico for any loss of pay he may have suffered by reason of the respondent's discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings<sup>10</sup> during said period;

(c) Post immediately in conspicuous places throughout the respondent's plant at Paterson, New Jersey, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is recommended it cease and desist in paragraph 1 (a) and (b) of these recommendations; (2) that the respondent will take the affirmative action set forth in paragraph 2 (a) and (b) of these recommendations; and (3) that the respondent's employees are free to become and remain members of United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, and that it will not discriminate against any employee because of membership in, or activity in that or any other labor organization.

(d) Notify the Regional Director for the Second Region within ten (10) days from the date of the receipt of this Intermediate Report what steps the respondent has taken to comply herewith.

<sup>10</sup> See footnote 9. *supra*

It is further recommended that unless on or before ten (10) days from the date of the receipt of this Intermediate Report, the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

It is further recommended that the complaint insofar as it alleges that the respondent engaged in unfair labor practices, independently of the discriminatory discharge of Joseph V. Monico, by expressing disapproval of the Union; interrogating its employees concerning their union affiliations; and urging, persuading, and warning its employees to refrain from assisting, becoming members of, or remaining members of the Union, be dismissed.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 3, as amended, effective November 26, 1943, any party or counsel for the Board may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D C, an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing within ten (10) days from the date of the order transferring the case to the Board.

ARTHUR LEFF,  
*Trial Examiner.*

Dated October 17, 1944.