one particular quarter shall have no effect upon the back-pay liability for any other quarter. In accordance with the *Woolworth* decision,[8] it will be recommended that Respondents, upon reasonable request, make available to the Board and its agents all records pertinent to an analysis of the amount due as back pay.

It also has been found that the Respondents engaged in certain acts of interference, restraint, and coercion. The unfair labor practices found reveal on the part of the Respondents such a fundamental antipathy to the objectives of the Act as to justify an inference that the commission of other unfair labor practices may be anticipated. The preventive purposes of the Act may be frustrated unless the Respondents are required to take some affirmative action to dispel the threat. It will be recommended, therefore, that the Respondents cease and desist from in any manner interfering with, restraining, or coercing their employees in the exercise of rights guaranteed by the Act.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

Conclusions of Law

1. Local 841, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. L. and Lodge 1898 of District 38 of International Association of Machinists, A. F. L., are labor organizations within the meaning of Section 2 (5) of the Act.
2. By discriminating in regard to the hire and tenure of employment of the employees named above, the Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.
3. By interfering with, restraining, and coercing their employees in the exercise of the rights guaranteed in Section 7 of the Act, the Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication in this volume.]

[8] *F. W. Woolworth Co.*, 90 NLRB 289.

Calvine Cotton Mills, Inc., Plant No. 2 *and* Textile Workers Union of America, CIO, Petitioner. *Case No. 34-RC-314. March 27, 1952*

Decision and Order

On May 24, 1951, pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Fifth Region, among employees in the stipulated unit. Upon the completion of the election, a tally of ballots was furnished to the parties. The tally reveals that of approximately 125 eligible voters, 116 valid

ballots were cast, of which 42 were for, and 74 were against, the Petitioner, and 5 were challenged.

Thereafter, on May 31, 1951, the Petitioner filed timely objections to the conduct of the election. In accordance with the Rules and Regulations of the Board, the Regional Director conducted an investigation, and, on September 25, 1951, issued and duly served upon the parties his report on objections to the election. In his report the Regional Director found that the Petitioner's objections raised substantial and material issues of fact with respect to conduct affecting the results of the election and recommended that the Board direct a formal hearing in the matter. No exceptions were filed to the Regional Director's report.

On October 15, 1951, the Board issued an order directing that a hearing be held on the issue raised by the objections and remanded the case to the Regional Director for that purpose. Pursuant to such order, a hearing was held on November 15, 1951, before Benjamin Cook, hearing officer. Thereafter, the Employer filed exceptions to the conduct of the hearing, a motion to dismiss the Petitioner's objections, and a supporting brief.

The Board [1] has considered the Petitioner's objections, the Employer's brief, and the entire record in this case, and finds as follows:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved herein claims to represent certain employees of the Employer.

3. For the reasons hereafter indicated, no question affecting commerce presently exists concerning the representation of employees of the Employer within the meaning of Section 2 (6) and (7) of the Act.

4. The Employer's exceptions to the conduct of the hearing complain of the hearing officer's deletion from the record of evidence offered by the Employer to establish that its supervisory staff had been instructed to maintain absolute neutrality in the preelection period. In view of the subsequent dismissal of the Union's objections on the record as made we do not pass upon the merits of the exceptions to the hearing officer's evidentiary ruling above described. The Board has reviewed the remaining rulings of the hearing officer made at the hearing and finds that they are free from prejudicial error. They are accordingly affirmed.

5. The Board finds that the preelection activities of Plant Manager Ernest Powell and supervisors Wallace Bishop and Grady Walker, or

[1] Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Murdock, and Styles].

any of them, as established by the evidence,[2] do not justify setting the election aside.

Some of the preelection supervisory activity relied upon by the Petitioner in support of its motion to set the election aside occurred prior to the time the petition was filed, and several weeks prior to the election. More specifically, one of the episodes relied on by the Petitioner occurred 3 months before the election. At that time, and while the Union's organizational campaign was in progress, Supervisor Wallace Bishop imposed upon employee Mamie Foster a restraint upon her conduct of organizational activity on plant premises. The Petitioner contends this restraint was broad enough to encompass Foster's nonworking time. The record shows, however, that although Bishop did broadly reprimand Foster about her conduct of union activities on plant premises, the reprimand was occasioned, in part, by Foster's conduct of discussions with employees while they were working. Bishop admits only to directing Foster not to "bother . . . the help while they were working" and to "stay on [her] job." Foster claims he told her she should stop engaging in "union talk" at the "water-house"—the area housing the employee rest room facilities. No threats were involved, and indeed, Foster admitted that Bishop also advised her it was her "privilege" to do as she wished about the Union. In these circumstances, we are not satisfied Bishop's remarks were intended to impose more than the legitimate restraints upon union activity during working time. But, in any event, we are of the view that the episode in question is too remote in point of time in relation to the election date, to warrant consideration as a basis for setting the election aside.

The other prepetition filing episode took place about 6 weeks before the election, and involved Plant Manager Powell and employee Royce L. Hill. On this occasion, Powell expressed to Hill his opposition to unions in general, to the strike activity in which the Union was then engaged in various textile plants, including a plant of the Employer's not here involved, and narrated his recent experiences in "looking over" some second hand machinery at a mill which "had gone broke due to a high labor cost and labor trouble between labor and management." There is, of course, nothing in these statements by Powell which exceeds the bounds of Employer expression protected by Section 8 (c) of the Act. As revealed by the testimony of Powell and

[2] The findings with respect to the activities of Plant Manager Ernest Powell and Supervisor Wallace Bishop are based upon a synthesis of the testimony of Powell and Bishop and of employees Mamie Foster, Royce Hill, H. H. Ross, and Ethel McRorie. The testimony of the employees with respect to the activities of these supervisors and that of the latter on the same subject presents no substantial conflict. To the minor extent that there is some conflict, we have resolved it where necessary, on the basis of the entire record, in the manner above indicated.

Hill, however, there is some conflict between them as to whether or not Powell also said, in the course of the same conversation, "you would be surprised how many [plants] had closed down on account of the Union" and that a "lot [of plants] had moved down to South America on account of the Union." We need not resolve this conflict, however, nor decide whether, if this additional statement were made, it was *per se* coercive, within the meaning of Section 8 (a) (1) of the Act. For, in any event, we do not regard its utterance, 6 weeks prior to the election, as affording a sufficient basis for an inference that the employees' exercise of a free choice was affected thereby.

Certain additional conversations about the Union took place between Powell and Bishop, on the one hand, and Employees Ross and McRorie on the other, within the week preceding the election. Here, too, the record reveals some slight area of conflict between the employees' and supervisors' respective testimonial versions of these supervisors' statements. Resolution of the conflict is unnecessary, however, because irrespective of which version we accept as accurate, we do not regard the supervisors' statements standing alone as having improperly interfered with the employees' freedom of choice. Thus, viewed in the light most favorable to the Petitioner, the portions of the record relating to these conversations show at the most that: (1) Powell told one employee he was willing to wager with Mamie Foster that the Union would lose the election and said to another, in referring to the Union's demands at Calvine Plant No. 1, that if he had a million dollars, as the owner did, he wouldn't be "pushed around"; and (2) Bishop talked to Ross about "not letting them [the Company] down," in the election, whereupon Ross felt free to tell Bishop, he would vote the way he (Ross) pleased.

There remains for consideration a question as to the nature and effect of Supervisor Grady Walker's statements to employee Ethel McRorie, 2 days before the election was held. The record reveals that the relevant evidence on this point is sharply conflicting. Thus, according to McRorie, Walker "asked me did I know what [the employees] wanted with the union; and I said no, and naturally I knocked it; and he said well, if you will promise to vote against the Union I will give your daughter back her job when she gets able to go back to work;[3] I told him I didn't like the way I [sic] did my daughter." Walker, on the other hand, testified that McRorie provoked the entire discussion by asking Walker what he thought about the election, that he said he "didn't know," that she then volunteered

[3] Because of age disability, McRorie's daughter had been placed on "lay-off" status in January 1951, pending her attaining the age at which, under the law of North Carolina, she could perform the work requirements of her job in a normal fashion.

the remark that "the reason why she would vote for a Union would be to get her daughter's job back," and that he replied, "your daughter will get her job back as quick with the union as without it."

As is manifest, resolution of the conflict between these two testimonial versions is essential to a disposition of the ultimate contention as to the improper character of the Employer's preelection activities. Only if McRorie's version be credited, would we hold that the Employer engaged in conduct proscribed by Section 8 (a) (1) of the Act.

We find it difficult, on a consideration of the record as a whole, to accept McRorie's testimony on this matter as wholly credible. Thus, it is hard to believe that Walker would have made the promise to rehire McRorie's daughter which McRorie attributed to him, when, according to her story, she "knocked" the Union to him. The objective facts establish, moreover, that the promise to rehire McRorie's daughter thus attributed to Walker would have been a wholly ineffective kind of promise for Walker to have made, assuming Walker desired to influence McRorie's choice in the election. McRorie's daughter was on "lay-off" status at all times since her employment was interrupted, and while this "lay-off" status remained unchanged was under continuing assurance she was eligible for rehire.[4] Moreover, as the Employer's counsel brought out during the cross-examination of McRorie, McRorie's daughter had been physically unable to accept employment, and did not desire it, at any period of time beginning shortly after the layoff and continuing through the election, because of pregnancy.[5] In these circumstances, we find it more plausible to believe not only that Walker, a man well versed in the organizational rights of employees and in the affairs of unions,[6] would not have made an ineffective and unnecessary "promise," but also that, as he testified, he would have refrained from making any.[7] We conclude, therefore, on the basis of Walker's testimony, that Walker made no statements to McRorie which exceeded the bounds of speech permitted under Section 8 (c) of the Act.

In light of all our findings, as set forth above, that the conduct of the Employer's agents did not improperly interfere with the employees' freedom of choice in the selection of a bargaining representative we hereby dismiss the Petitioner's objections to the election. As the results of the election show that no collective bargaining repre-

[4] Powell also testified credibly that management had no objection to reinstating her when she became old enough to run the job—and that was still its position.

[5] McRorie's daughter was laid off in January 1951. Her child was born October 11, 1951. The conversation between McRorie and Walker occurred on or about May 23, 1951.

[6] Walker had been a member of the petitioning union and active on behalf of other unions at various times during the course of his 26-year employment with the Employer.

[7] No other witness even remotely involves Walker in any attempts to influence the employees.

sentative has been selected by a majority of the employees in the stipulated unit,[8] we shall dismiss the petition filed herein.

Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

[8] The parties stipulated that the appropriate unit was comprised of the following employees of the Employer at the plant here involved:
All production and maintenance employees, excluding office and clerical employees, plant clericals, professional employees, guards, and supervisors as defined in the Act.

IRVING LAMBERT, MURRAY B. LAMBERT, AND SEYMOUR LAMBERT D/B/A SUE-ANN MANUFACTURING COMPANY *and* DALLAS JOINT BOARD, INTERNATIONAL LADIES GARMENT WORKERS UNION. *Case No. 16-CA-261. March 28, 1952*

Decision and Order

On October 12, 1951, Trial Examiner Charles W. Schneider issued his Intermediate Report in this proceeding, finding that the Respondent had engaged in and was engaging in conduct violative of Sections 8 (a) (1), 8 (a) (3), and 8 (a) (5) of the Act, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondent had not engaged in certain other violations of Section 8 (a) (1) alleged in the complaint. Thereafter, the Respondent filed exceptions to the Intermediate Report.

The Board[1] has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, and the entire record in this case, and hereby adopts the findings,[2] conclusions, and recommendations[3] of the Trial Examiner.

[1] Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Styles].

[2] There are a few minor misstatements in the Intermediate Report. We note, and hereby correct, the typographical errors in the section entitled "The January 26 meeting of employees" in which September 26 appears instead of January 26. We also note that in discussing the Union's majority the Trial Examiner states that there is no evidence of disaffection from the Union through December 1949. The record contains some evidence which suggests that Lambert learned of some dissatisfaction with the union during the last part of December. However, apart from the fact that this evidence does not, in itself, suffice to show that the Union had lost its majority representative status at any time in December, none of this evidence demonstrates disaffection before December 8 and 12, 1949. Any defections from the union after those dates were attributable to the unfair labor prac-