

of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>6</sup>

[Text of Direction of Election omitted from publication.]

<sup>6</sup>At the hearing, the parties agreed to exclude all so-called temporary part-time employees who are employed by the Employer for less than 30 days. However, such employees, if they perform functionally related work, are included in the unit irrespective of the number of hours they work or the tenure of their employment. L. Wiemann Company, 106 NLRB 1167. For this reason, we will include in the unit all part-time employees who perform functionally related duties. However, in accordance with Board practice, only those employees who are regularly employed by the Employer within the meaning of Board decisions will be eligible to vote in the election hereinafter directed. Cf. C. & H. Foods, Inc., 100 NLRB 1483, 1485; J. C. Penney Company, 86 NLRB 920, 923.

The Employer recently hired three cleanup men for a special job to be completed in a few weeks. In accordance with the parties' agreement, we will exclude them as casual employees.

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J. A. UTLEY COMPANY *and* LeROY KERRIDGE

MILLWRIGHTS LOCAL UNION NO. 1102 UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, Affiliated with THE AMERICAN FEDERATION OF LABOR, AND ITS AGENT, R. M. LAING *and* LeROY KERRIDGE. Cases Nos. 7-CA-847 and 7-CB-142. April 20, 1954

### DECISION AND ORDER

On November 27, 1953, Trial Examiner Ralph Winkler issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they 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 Company had not engaged in certain other unfair labor practices alleged in the complaint and recommended dismissal of those allegations. Thereafter, the Respondents and the General Counsel filed exceptions to the Intermediate Report, and the Respondents filed briefs in support of their exceptions.<sup>1</sup>

The Board has reviewed 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 exceptions and briefs,

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<sup>1</sup> The Respondents have requested oral argument. In our opinion, the record, the exceptions, and briefs fully present the issues and the positions of the parties. Accordingly, the requests are denied.

and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.<sup>2</sup>

### ORDER

Upon the entire record in these cases, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that:

I. The Respondent J. A. Utley Company, Detroit, Michigan, its officers, agents, successors, and assigns, shall:

A. Cease and desist from:

1. Encouraging membership in Millwrights Local Union No. 1102, United Brotherhood of Carpenters and Joiners of America, AFL, or in any other labor organization of its employees, by withholding overtime work from, or discharging, any of its employees or by discriminating in any other manner in regard to their hire or tenure of employment or any term or condition of their employment.

2. In any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8 (a) (3) of the Act.

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

1. 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 back pay due under the terms of this Order.

2. Post at all projects where employees are represented by the Respondent Union copies of the notice attached to the Intermediate Report and marked "Appendix A."<sup>3</sup> Copies of said notice, to be furnished by the Regional Director for the Seventh Region, shall, after being signed by a duly authorized officer or agent, be posted by it immediately upon receipt thereof,

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<sup>2</sup> We note and correct an apparent oversight in "The Remedy" section of the Intermediate Report. We shall order, in addition to the Trial Examiner's recommended remedy for employee LeRoy Kerridge's discharge, that the Respondents, jointly and severally, make Kerridge whole for any loss of pay suffered by reason of the denial of overtime work to him on the "rush" job with James Linn.

The Respondent Company excepts to the Trial Examiner's recommendation that the Respondents, jointly and severally, make employee LeRoy Kerridge whole for the discrimination against him. We adopt the recommended remedy. Acme Mattress Company, Inc., 91 NLRB 1010, enforced 192 F. 2d 524 (C. A. 7).

<sup>3</sup> This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner," in the caption thereof, the words "a Decision and Order." In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

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 to insure that such notices are not altered, defaced, or covered by any other material.

II. The Respondent Millwrights Local Union No. 1102, United Brotherhood of Carpenters and Joiners of America, AFL, and its agent, R. M. Laing, and all other officers, agents, representatives, successors, and assigns, shall:

A. Cease and desist from:

1. Causing or attempting to cause J. A. Utley Company, its officers, agents, successors, or assigns, to discriminate against any employee in violation of Section 8 (a) (3) of the Act.

2. In any like or related manner restraining or coercing employees of J. A. Utley Company, its successors or assigns, in the exercise of the rights guaranteed in Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8 (a) (3) of the Act.

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

1. Post in conspicuous places in its business offices and at all projects where it represents employees working for the Respondent Company copies of the notice attached to the Intermediate Report and marked "Appendix B."<sup>4</sup> Copies of said notice, to be furnished by the Regional Director for the Seventh Region, shall, after being signed by a duly authorized representative of the Respondent Union and by the Respondent R. M. Laing, be posted by them immediately upon receipt thereof, and maintained by them for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken to insure that such notices are not altered, defaced, or covered by any other material.

III. The Respondent Company and the Respondent Union shall make whole LeRoy Kerridge in the manner set forth in "The Remedy" section of the Intermediate Report, as amended in the Board's Decision.

IV. Each Respondent shall notify the Regional Director for the Seventh Region in writing within ten (10) days from the date of this Order what steps it has taken to comply herewith.

IT IS FURTHER ORDERED that the complaint be, and it hereby is, dismissed, insofar as it alleges that the Respondent Company violated Section 8 (a) (2) of the Act.

Member Beeson took no part in the consideration of the above Decision and Order.

<sup>4</sup>See footnote 3, supra.

## Intermediate Report and Recommended Order

### STATEMENT OF THE CASE

Charges having been filed and served, complaints, an order of consolidation, and notice of hearing thereon having been issued and served by the General Counsel of the National Labor Relations Board, and answers having been filed by the above-named Respondents, a hearing involving allegations of unfair labor practices in violation of Section 8 (a) (1), (2), and (3) and Section 8 (b) (1) (A) and (2) of the Labor Management Relations Act, 1947 (61 Stat. 136), herein called the Act, was held in Flint, Michigan, on October 5-6, 1953, before the undersigned Trial Examiner.

All parties were represented at the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and otherwise to introduce evidence bearing on the issues. The parties presented oral argument at the conclusion of the hearing and the General Counsel and the Company have also filed briefs. Respondents' motions to dismiss are disposed of in accordance with the following findings of fact and conclusions of law.

Upon the record in the case, and upon observation of the witnesses, I make the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Company, a Michigan corporation with its principal office at Detroit, Michigan, is engaged in the building and construction business; its operations involve projects in various States. The Company annually makes interstate purchase of materials in excess of \$500,000 and it annually received more than \$1,000,000 in payment for services performed for enterprises which themselves ship substantial amounts of merchandise in interstate commerce.

I find that the Company is engaged in commerce within the meaning of the Act.

#### II. THE UNFAIR LABOR PRACTICES

The complaint alleges, in substance, that the Company discriminatorily withheld overtime work from LeRoy Kerridge during the period between September 15 and December 12, 1952, and that it discriminatorily terminated his employment on December 12, 1952. The Union and its agent Laing are alleged, in substance, as having caused the Company to engage in such conduct for reasons other than Kerridge's failure to tender initiation fees or current dues.

Kerridge was a millwright on the Company's Buick project in 1952. At all times material here, the Company and the Union had a contract covering the millwrights on this project. This contract provided, among other things, that the Company would "employ none but members in good standing of the [Union]"; that job stewards "shall report" any infractions of the contract or of the Union's "working rules" and otherwise perform the usual steward duties; and that "Millwright foreman shall be selected by and be the representative of the Employer." The Union's working rules, which were furnished to all members by the Union, provide in part that no member shall work with nonunion men; that stewards are required "to see that all rules and conditions are complied with"; that "any foreman or general foreman . . . who employs millwrights without a bona fide working card or permit shall be fired"; and that "The foreman shall be selected by and be the representative of the Employer, except where it interferes with his union obligations."<sup>1</sup>

The Union suspended Kerridge from membership on or about September 15, 1952; and on October 21, 1952, after a hearing before a Union trial board, the Union made the suspension effective for a 2-year period. The suspension was for reasons other than nonpayment of dues, the record indicating in this connection dissatisfaction of some members, including Kerridge, with the Local's administration and these members' abortive efforts to establish another local

<sup>1</sup>The constitution and laws of the United Brotherhood (the Union's parent international) provides, in part, that "Members who . . . become foremen must comply with Union rules and hire none but members of the United Brotherhood"; that "No members shall violate the Trade Rules of the locality in which the member works" under penalty of expulsion or a fine; and that "Any member who . . . violates any Section of the Constitution and Laws of the United Brotherhood shall be fined, suspended or expelled . . . except where the penalty is [otherwise] specified. . . ."

within the same parent International. On September 15, 1952, the Union informed the Company of Kerridge's suspension.

The same day in September that the Union informed Kerridge of his suspension, Union Steward Walter Herod<sup>2</sup> told Kerridge that "You are no longer a union member and you are supposed to get off the job." The next day Herod asked Kerridge regarding his intentions and Kerridge said he would stay on the job until Herod gave him "something in writing to show why you want me off this job." "I can't do it," Herod replied, "but [Union Business Agent] Bob Laing's orders are to have you removed from this job [and] I am up here for that purpose." Herod repeated that Kerridge "leave the job immediately."

Leslie E. Ritchie, the Company's general foreman over the millwrights, has been a Union member for many years. Herod advised Ritchie of Kerridge's suspension at the time and inquired what Ritchie intended doing about Kerridge. Ritchie replied he hadn't heard anything "from the union headquarters and therefore I would have to let him work as he had," whereupon Herod declared that Ritchie would nevertheless have to dismiss Kerridge. Herod similarly advised other millwright foremen who also were Union members. Also, during this period, Herod told other millwrights that Kerridge was not in good standing in the Union and would have to leave the job, that he (Herod) was going to prefer charges against Ritchie for keeping Kerridge at work, and that he would prefer such charges against any employee who worked with Kerridge.

Howard Wright succeeded Herod as chief steward in October 1952. On or about October 21, the day after assuming these duties, Wright told Kerridge that Business Agent Laing had requested Wright to have Kerridge removed from the job, but that he (Wright) was not going to do anything about it. Wright added, however, that Kerridge "would make it easy on yourself if you get off the job, because you know the local union is after you, and they are going to get you."<sup>3</sup> During this same period, however, Wright informed Foreman Theodore Read (a Union member) that he (Wright) wanted to bring charges against Ritchie for working Kerridge and that he would prefer charges against anyone who worked with Kerridge.

Meanwhile, when the Union advised the Company of Kerridge's suspension in September 1952, Richard O'Brien (who has charge of the Company's labor relations) immediately called Business Agent Laing and told Laing that the Company would not discharge Kerridge. At the same time O'Brien also instructed the Company's general superintendent (Les Diesem) that Kerridge's Union status, except for nonpayment of dues, was of no concern to the Company and that Kerridge was not to be discharged under the circumstances. Diesem similarly instructed the foremen on the project (he also told General Foreman Ritchie, for example, that he didn't want to involve the Company in any labor law violations), and on or about September 16, Diesem informed Kerridge that Laing "has been after me for some time to have you removed from the job, something down there they have cooked up, but as far as the Company is concerned you are going to stay on the job." O'Brien credibly testified that he checked on the Kerridge matter several times in the following months to determine whether his instructions were being followed.

## Overtime

Within a few weeks after his September suspension, Kerridge and millwright James Linn (with whom Kerridge worked as a partner) were engaged on a certain rush job on the project, and General Foreman Ritchie requested them to work overtime to complete the job. Steward Herod spoke to Kerridge on this occasion and he told Kerridge. "You know you have been suspended from the Local Union and you are no longer a union man. You should be satisfied with forty hours a week without working overtime." Herod thereupon took up the matter with Ritchie who explained the urgency for having Linn and Kerridge work together to complete the particular job. An argument ensued, and Ritchie said that Kerridge "had always been a good union man" and would continue to work overtime if he, Ritchie, had anything to do with it, whereupon Herod declared he would file charges against Ritchie. Kerridge worked his overtime shift that night. The job still was not completed, and the following day Assistant General Foreman Keown (a Union member) placed Linn and Kerridge on the overtime list to continue

<sup>2</sup>Herod was not called as a witness; hence, all remarks attributed to him in this Report are uncontradicted.

<sup>3</sup>Business Agent Laing told Donald Raymond, a member of the Union working for another employer, that Kerridge "was just the first in a list of ten or twelve not necessarily in the [Company's employ] that the [Union] were going to get."

the job that night. Keown submitted the list to Herod for the latter's "approval." Herod told Keown that Kerridge could not work for lack of good standing in the Union, whereupon Keown referred Herod to Foreman George Mason (a Union member) who was in immediate charge of the particular job. Herod told Mason that Kerridge could not work overtime that night and that he would bring charges against Mason should Kerridge work overtime. Keown removed Kerridge's name from the overtime list, and Lunn continued the job that night with another millwright.

Keown testified that he withheld overtime work from Kerridge on that and on other occasions because of Herod's protests; and Keown advised Kerridge during this period that there was "a lot of overtime here, but I guess we can't work you. You know the steward's orders. We can't work you overtime."

### The Layoff

The Company laid off Kerridge on December 12, 1952, in a general layoff of about 40 millwrights. Kerridge, it is recalled, was suspended by the Union on September 15, and it appears that the Company laid off approximately 90 millwrights at various times between September 18 and December 4. Although millwrights were laid off on several occasions after December 12, and the project was completed in April 1952, the Company also rehired millwrights "from the local" after December 12 and before the project's completion in April 1953.

Business Agent Laing testified that he had notified Steward Herod that the Union couldn't have Kerridge removed from the job merely "because he wasn't a union man. If the man wanted to quit, it was entirely up to him." Laing denied that he ordered any of the stewards or his other subordinates to bring pressure on the Company or against employee members to achieve Kerridge's layoff or to have Kerridge deprived of overtime work. At the hearing on charges against Kerridge before the Union trial board in October 1952, Laing testified that Kerridge "would not leave the job" and that Kerridge "ignored the telegram [which advised Kerridge of his suspension], he ignored the steward, and continued on the job."

Foreman Read was Kerridge's immediate supervisor on December 12, 1952, and on that morning Read submitted a proposed list of employees to General Foreman Ritchie for inclusion in the general layoff to be made that day. Ritchie was discussing the layoff list with Union Steward Wright when Read submitted his names (which did not include Kerridge), and Wright asked Ritchie what Ritchie proposed to do about Kerridge. Ritchie replied that he "wasn't going to do anything until he got further word, that [Superintendent] Diesem had said let the Union do whatever they wanted to." Read thereupon informed Kerridge that he was not being laid off, and Ritchie then prepared the layoff notices but without including Kerridge. After preparing the notices, Ritchie discussed the Kerridge situation with some of the millwrights and they told Ritchie, according to Ritchie's credible testimony, "You have to work with these men wherever you go, and the story is going to get around you are working a nonunion man, and [we] think you had better go back and lay him off." About this same time Superintendent Diesem also inquired respecting Kerridge, and Ritchie informed Diesem that Kerridge had not been selected for layoff. Ritchie then told Diesem, "I am thinking it over and I think I had better let him go." To which Diesem replied, "Well, I think you are doing the right thing." Later that day Steward Wright gave Kerridge his notice.

Kerridge credibly testified that upon receiving his notice:

I [Kerridge] went directly to the office to see [Superintendent] Diesem, and I asked him if I am laid off, and he said, "Yes, it is so. My hands are tied. I can't do nothing about it." He said, "You know," he said, "we have got an agreement with the 1102 of Detroit to hire all union men, and you know 1102 has been after me; Bob Laing and [Assistant Business Agent] Ken Gordie have been after me for quite some time about having you removed from the job," he says. "However, we have decided we will lay you off in the first big layoff that comes," and he says, "I have got no choice." He said, "My orders are to lay you off." I said, "why?" and he said, "Why, you know 1102 wants you off the job; they have sent up a couple of telegrams here, wanted you removed," and he said, "The Utley Company stayed clear of this until now," and he said, "I understand you are not even a union member, and I will have to leave you go," and I said, "I am a union member, but they just won't accept my dues," and he said, "Well, I can't help that. My orders are to have you laid off in the first layoff," and I said, "Will you give me a reason why I am laid off?" and he said, "No, I can't," and he said, "Why do you want it?" and I said, "In case I want to get unemployment insurance I want to know if I'm fired or what."

He said, "If they call up here we will okay it so you get your unemployment insurance and that is the best I can do for you for now."

Ritchie testified that, upon "further thought" of his original decision not to lay off Kerridge, he finally took such action because of "the dissension that had been on the job . . . as concerns [Kerridge's] suspension." Ritchie thus testified, in explanation that "the men on the job were a little bit leery to work with him. They were afraid charges would be brought against them; and another thing, some of the men told me, 'If you don't lay him off, it is going to be passed around that you are working nonunion men on the job,' and taking all into consideration we had enough trouble over it, and I thought I might as well leave him off." Ritchie further testified that he would have preferred to retain Kerridge rather than some millwrights who were not laid off<sup>4</sup> and that he would not have laid off Kerridge when he did had it not been for Kerridge's suspension.

### Conclusions

This record clearly establishes, and I find, that the Union attempted to cause and did cause the Company to lay off, and to withhold overtime work from, Kerridge for reasons other than nonpayment of current Union dues. Among the acts I rely upon in this connection are the threats of Union disciplinary action made by Union stewards in behalf of the Union and its agent Laing against Union members, both supervisory and rank-and-file, should these supervisors assign work to Kerridge and the rank-and-file employees work with him. The pressure against the supervisors was directly against the Company's agents and the pressure on the rank-and-file members was, in effect, a threat of a partial strike against the Company to achieve Kerridge's dismissal. By thus attempting to cause and by actually causing the Company to take the aforesaid action, I conclude that the Union and its agent Laing have in both respects violated Section 8 (a) (1) (A) and 8(b)(2) of the Act. N. L. R. B. v. McGraw & Co., 206 F. 2d 635 (C. A. 6); N. L. R. B. v. Thomas Drayage & Rigging Co., 206 F. 2d 857 (C. A. 9), Victor Metal Products Corporation of Delaware, 106 NLRB 1361; The Hunkin-Conkey Construction Company, 95 NLRB 433, 436; Sub Grade Engineering Company, 93 NLRB 406; American Pipe and Steel Corporation, 93 NLRB 54.

Assistant General Foreman Keown and General Foreman Ritchie, both with knowledge that Kerridge was suspended from the Union for reasons other than nonpayment of current dues, respectively succumbed to Union pressure to withhold overtime work from, and to lay off, Kerridge. There is no question here concerning these supervisors' authority to assign work to, and lay off, employees. And the general rule in this field is that principals--employers and labor organizations--are bound by the action of their subordinates in areas within their authority, even where the principal has specifically forbidden the particular act. Shen-Valley Meat Packers, 105 NLRB 491; Cement Masons Local 555, etc., 102 NLRB 1408; N. L. R. B. v. Schaefer-Hitchcock Company, 131 F. 2d 1004, 1007 (C. A. 9); cf. International Ass'n. of Machinists v. N. L. R. B., 311 U. S. 72, 80; See also Section 2 (13) of the Act. It is also noted, moreover, that economic pressure by labor organizations does not permit a knowledgeable employer to engage in conduct otherwise unlawful despite the best of his personal motives. See, eg., N. L. R. B. v. Hudson Motor Car Co., 128 F. 2d 528, 532-533 (C. A. 6); N. L. R. B. v. Glueck Brewing Co., 144 F. 2d 847, 853-854 (C. A. 8); N. L. R. B. v. Fry Roofing Co., 193 F. 2d 324, 327 (C. A. 9); cf. Allis Chalmers Mfg. Co. v. N. L. R. B., 162 F. 2d 435, 440 (C. A. 7).

The Company contends, however, that if the supervisors who were Union members did act out of fear of Union recrimination or otherwise for reasons relating to their obligations as Union members, such action was in furtherance of an illegal conspiracy between the supervisor and the Union and was therefore beyond the responsibility of the Company. I presume, however, that this matter of divided loyalties of supervisory personnel was the principal reason for the 1947 amendment of the Act in removing supervisors from the Act's protection See S. Rep. No. 105, 80th Cong., 1st Sess., pp. 3-5; H. Rep. No. 245, 80th Cong., 1st Sess., pp. 13-17. The answer provided by the Act, therefore, is not to excuse an employer whose supervisors may feel more strongly toward their union obligation than to their management instructions, but for employers to engage supervisors who have no overriding union allegiance.

<sup>4</sup>Assistant Superintendent Meyer testified that Ritchie had told Meyer before the layoff that he (Ritchie) had selected Kerridge for layoff on the basis of Kerridge's comparative value to Ritchie. Meyer also testified that he had no part in the decision.

I accordingly reject the Company's argument and find no reason for excepting this case from the general rule of a principal's liability. (See Cement Masons Local 555, etc., 102 NLRB 1408, where the Board held a foreman to be an agent of both a union and an employer. To the effect that an employer does not relieve himself of his discriminatory conduct by delegating control over employment to a labor organization, see Thomas Rigging Co., 102 NLRB 65; American Pipe and Steel Corp., 93 NLRB 54, Air Products, Inc., 91 NLRB 131 ) Moreover, as important a person in the supervisory hierarchy as the project superintendent (Diesen) was fully aware of the union circumstances of Kerridge's layoff, as Kerridge's aforementioned testimony demonstrates

I conclude, therefore, that the Company violated Section 8 (a) (1) and (3) by withholding overtime work from Kerridge and discharging Kerridge for Union reasons other than non-payment of dues. (See the same cases cited above in connection with the Union's violation.)

The complaint in this matter alleges that the Company withheld overtime work from Kerridge from September 15, 1952, until his layoff in December. At the hearing, I granted a motion by the Company to dismiss so much of this allegation as includes the months of November and December, the reason being that I was not satisfied that the proof at the conclusion of the General Counsel's case was of sufficient specificity and substantiality respecting such conduct during these 2 months. On the basis of the record, I also limit my unfair labor practice finding to the incident involving the "rush" job with Linn, and the same limitation applies to the finding that the Union caused the Company to engage in such conduct.

The complaint also alleges that by reason of its conduct respecting Kerridge, the Company additionally violated Section 8 (a) (2) of the Act. In view of the fact, among others, that the contract between the Company and the Union was not limited to the Buick project under consideration, that this project is completed, and that the General Counsel was not attacking the contract arrangement between the Company and the Union, I do not see what purpose would be served in making this additional finding and in recommending what would constitute an academic or at best a superfluous order thereon. Cf. N. L. R. B. v. Jack Smith Beverages, Inc., 202 F. 2d 100 (C. A. 6), cert. denied 345 U. S. 995.

### III. THE REMEDY

Having found that the respective Respondents have violated the Act, I shall recommend that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. I shall thus recommend, among other things, that the Respondents, jointly and severally, make Kerridge whole for any loss of pay 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 from December 12, 1952, until he would have been laid off absent unfair labor practices, less his net earnings during this period. Back pay shall be computed in accordance with the formula stated in F. W. Woolworth Company, 90 NLRB 289.

### CONCLUSIONS OF LAW

1. The Union and its agent, Laing, have violated Section 8 (b) (1) (A) and 8 (b) (2) of the Act by attempting to cause and causing the Company to discriminatorily withhold overtime work from, and to lay off, Kerridge.
2. The Company has violated Section 8 (a) (1) and (3) by discriminatorily withholding overtime work from, and laying off, Kerridge.
3. 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.]

## APPENDIX A

### NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL NOT withhold overtime work, lay off, or otherwise discriminate against employees for lack of good standing in Millwrights Local Union No. 1102, United Brotherhood of Carpenters and Joiners of America, AFL, except in conformity with the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights guaranteed by Section 7 of the Act.

WE WILL make whole LeRoy Kerridge for the discrimination against him.

All our employees are free to become, remain, or to refrain from becoming or remaining, members of the above-named Union, or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8 (a) (3) of the Act. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee or applicant for employment because of membership in or nonmembership in any such labor organization.

J. A. UTLEY COMPANY,  
Employer.

Dated ..... By.....  
(Representative) (Title)

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

**APPENDIX B**

**TO ALL MEMBERS OF MILLWRIGHTS LOCAL UNION NO. 1102, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL**

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL NOT, by threats of Union action against our members or otherwise, cause or attempt to cause J. A. Utley Company or any other employer to discriminate in any manner against employees for lack of good Union standing, except as permitted under the Act.

WE WILL NOT in any like or related manner restrain or coerce employees of J. A. Utley Company or of any other employer in the exercise of rights under Section 7 of the Act.

WE WILL make whole LeRoy Kerridge for the discrimination caused against him.

MILLWRIGHTS LOCAL UNION 1102, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL,  
Labor Organization.

Dated ..... By.....  
(Representative) (Title)

R. M. LAING

Dated .....  
(Business Agent)

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