IV. THE REMEDY

Having found that Plant has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

Having found that Plant has discriminated in regard to the hire and tenure of employment of Maxie Beardon and Claude Van Vlack, I shall recommend that Plant offer to each of them immediate and full reinstatement to his former or substantially equivalent position as insulation mechanic, without prejudice to his seniority or other rights and privileges, and make each whole for any loss of pay suffered as a result of the discrimination by payment to him of a sum of money equal to the amount he would have earned as an insulation mechanic from April 17, 1953, to the date of the offer of reinstatement, less his net earnings during that period. The computation shall be made on a quarterly basis in the manner established by the Board in *F. W. Woolworth Company,* 90 NLRB 289, 291–294. Earnings in one particular quarter shall have no effect upon the back-pay liability for any other such period. It will also be recommended that Plant make available to the Board upon request payroll and other records to facilitate the checking of back pay.

Having found that the evidence does not establish that the Respondent Union and Hutchinson caused or attempted to cause the discharge of Beardon and Van Vlack, and as there is no evidence that the Respondent Union and Hutchinson restrained or coerced Beardon or Van Vlack in respect to rights guaranteed in Section 7 of the Act, it will be recommended that the complaint against the Respondent Union and Hutchinson be dismissed in its entirety.

As the evidence does not establish any violation of the Act by the Incorporated Association, it will be recommended that the complaint against the Incorporated Association and the Association be dismissed in its entirety.

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

CONCLUSIONS OF LAW

1. Local 5 of the International Association of Heat and Frost Insulators and Asbestos Workers, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.
2. Albert E. Hutchinson is the agent of the above-named Union.
3. By discriminating in regard to the hire and tenure of employment of Maxie Beardon and Claude Van Vlack, thereby encouraging membership in and approval by the Respondent Union, Plant Insulation Company has engaged in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.
4. By thus interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act, Plant Insulation Company has engaged in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.
5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.
6. The evidence does not establish any violation of the Act on the part of Insulation Contractors of Southern California, Inc., Insulation Contractors of Southern California, Local 5 of the International Association of Heat and Frost Insulators and Asbestos Workers, AFL, and its agent, Albert E. Hutchinson.

[Recommendations omitted from publication.]

JACKSON CHAIR COMPANY, INC. *and* INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, AFL. *Case No. 9–CA–746. October 29, 1954*

Decision and Order

On June 3, 1954, Trial Examiner C. W. Whittemore issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices, 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. Thereafter, the Respondent filed exceptions to the Intermediate Report [1] and a supporting brief.

The Board 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 brief, and the entire record in the case, and hereby adopts the findings,[2] conclusions, and recommendations of the Trial Examiner.[3]

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, Jackson Chair Company, Inc., Danville, Kentucky, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Interrogating its employees concerning their union membership in, or their activities on behalf of, International Union, United Automobile Workers of America, AFL, or any other labor organiza-

[1] The Union moved to strike Respondent's original exceptions because they did not designate the page and line of the portion of the record relied upon, as required by Section 102.46 of the Board's Rules and Regulations. The Union also moved to deny the oral argument requested by Respondent Respondent thereafter filed amended exceptions adding page and line citations and renewed its request for oral argument The Union thereafter filed a motion to strike the amended exceptions as untimely and to deny oral argument The Respondent filed a response to the Union's motion and a formal request to extend time for filing its amended exceptions

The Union's motion to strike Respondent's exceptions is denied. These exceptions, as originally filed, constituted substantial compliance with the Board's Rules and Regulations and the error was promptly corrected *Gulf Coast Oil Company,* 97 NLRB 1513. However, Respondent's request for oral argument is denied because the record, the exceptions and brief, in our opinion, adequately present the issues and positions of the parties.

[2] The Trial Examiner, while stating the jurisdictional facts which disclose that the Respondent is engaged in commerce within the meaning of the Act, inadvertently failed to make a specific finding to this effect We so find

[3] We do not adopt a subsidiary finding of the Trial Examiner that a "serious conflict" exists in the testimony of President Hughes Jackson and Foreman Shelby Basham concerning Basham's request for permission to discharge employee Mobley. Jackson testified that Basham had come to him 1 or 2 days before the actual discharge to request permission to discharge Mobley Although Basham testified he had not requested such authority, it appears, in context, that he may have intended to refer specifically to any request which he may have made the day of the discharge. Under these circumstances, we are not persuaded that any conflict necessarily exists in this testimony. However, this finding does not alter our concurrence with the Trial Examiner's ultimate conclusion, for the reasons fully set forth in the Intermediate Report, that the discharge of Mobley was violative of Section 8 (a) (3) and (1).

Also, in view of our adoption, on other grounds referred to in the Intermediate Report, of the Trial Examiner's finding that by November 12, 1953, the Respondent was aware of Mobley's union activity, we likewise find it unnecessary to draw any inference from the fact that the Respondent employed a small number of employees in a small community. In view of our agreement with the Trial Examiner that Respondent's other conduct violated Section 8 (a) (1) of the Act, we find it unnecessary to pass upon whether Respondent also violated the Act by Forelady Devine's alleged instruction to employees to throw away union leaflets.

tion, in a manner constituting interference, restraint, or coercion in violation of Section 8 (a) (1).

(b) Threatening its employees with reprisals because of their union membership or activities.

(c) Discouraging membership in International Union, United Automobile Workers of America, AFL, or in any other labor organization of its employees, by discriminating against any employee with respect to his hire or tenure of employment, or any term or condition of employment.

(d) 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 the above-named or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities, except to the extent that such right 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.

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

(a) Offer Harold L. Mobley immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole for any loss of pay he may have suffered by reason of the discrimination against him, in the manner set forth in the section of the Intermediate Report entitled "The Remedy."

(b) Upon request make available to the National Labor Relations Board or to 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 and the right of reinstatement under the terms of this Order.

(c) Post at its plant in Danville, Kentucky, copies of the notice attached hereto marked "Appendix."[4] Copies of such notice, to be furnished by the Regional Director for the Ninth Region, shall, after being duly signed by the Respondent, be posted by it immediately upon receipt thereof and be maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees customarily are posted. Reasonable steps shall be taken by the Respondent to insure that such notices are not altered, defaced, or covered by any other material.

[4] 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."

(d) Notify the Regional Director for the Ninth Region, in writing, within ten (10) days from the date of this Order what steps Respondent has taken to comply therewith.

Appendix

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, as amended, we hereby notify our employees that:

WE WILL NOT interrogate our employees concerning their membership in, or their activities on behalf of, International Union, United Automobile Workers of America, AFL, or any other labor organization, in a manner constituting interference, restraint, or coercion in violation of Section 8 (a) (1).

WE WILL NOT threaten our employees with reprisals because of their union membership or activities.

WE WILL NOT discourage membership in International Union, United Automobile Workers of America, AFL, or in any other labor organization of our employees, by discriminating against any employees with respect to their hire or tenure of employment, or any term or condition of employment except to the extent permitted by Section 8 (a) (3) of the Act.

WE WILL NOT in any other 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 the abovenamed or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

WE WILL offer Harold L. Mobley immediate reinstatement to his former or a substantially equivalent position without prejudice to his seniority or other rights and privileges and we will make him whole for any loss of pay suffered as a result of the discrimination against him.

JACKSON CHAIR COMPANY, INC.,
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.

Intermediate Report

STATEMENT OF THE CASE

A charge having been duly filed and served, a complaint and notice of hearing thereon having been issued and served by the General Counsel of the National Labor Relations Board, and an answer having been filed by the above-named Respondent, a hearing involving allegations of unfair labor practices in violation of Section 8 (a) (1) and (3) of the National Labor Relations Act, as amended, (61 Stat. 136) herein called the Act, was held in Danville, Kentucky, on April 19 and 20, 1954, before the duly designated Trial Examiner.

In substance, the complaint alleges and the answer denies that the Respondent through its officers and agents has interrogated and threatened its employees regarding their union activities and sympathies; on November 12, 1953, discriminatorily discharged employee Harold L. Mobley because of his activities on behalf of the Union; and by such conduct has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed by Section 7 of the Act.

At the hearing all parties were represented, were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence pertinent to the issues, to argue orally upon the record, and to file briefs and proposed findings and conclusions. Briefs have been received from the Respondent and General Counsel.

Upon the entire record in the case, and from his observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The Respondent is a Kentucky corporation, with its principal office and place of business at Danville, Kentucky, where it is engaged in the manufacture and sale of upholstered chairs and similar products.

During the year preceding the hearing it purchased supplies and equipment valued at more than $200,000, of which about 98 percent was transported into Kentucky to its plant from other States of the United States. In the same period it manufactured, sold, and shipped products valued at more than $650,000, of which about 98 percent was shipped directly from the plant to points outside Kentucky.

The Respondent concedes that it is engaged in commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

International Union, United Automobile Workers of America, AFL, is a labor organization admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

The discharge of Harold Mobley—the major issue in this case—followed his 3-day effort to obtain signatures of fellow employees upon authorization cards in the Charging Union. Other events in issue occurred within a few days preceding or following his summary dismissal on Tuesday, November 12, 1953.

At the time of his discharge Mobley had been serving the Respondent for about a year as its truckdriver. His major duties were to haul chair frames from the mill to the upholstering plant, a distance of 2 or 3 blocks, but he was also required to do various odd jobs, such as hauling trash, running errands, and for a period doing inspection work. It is undisputed that he was subordinate to 3 or 4 supervisors, each of whom gave him instructions.

Sometime in September 1953, and several weeks before his discharge Mobley queried several other employees as to their desires about forming a union. After one of such employees warned him that he had better keep quiet about organizing, Mobley asked Hughes Jackson, Sr., head of the concern, if he had been "asking about me having anything to do with the Union." Jackson said he had heard rumors. Mobley told him to pay no attention to them, and said he had nothing to do with the Union. Jackson replied that he did not think he did.[1]

Apparently Mobley discontinued his efforts to arouse interest in organizing until November, when he received some cards from a union representative. On Monday,

[1] The quotations are from and the findings based upon the credible testimony of Mobley, which is in substance corroborated by Jackson

November 9, he sought and obtained signatures to these cards, as he also did on the following Tuesday and Wednesday, while at the factory. On Thursday he was summarily discharged by Foreman Shelby Basham. According to Mobley, Basham told him when giving his pay check: "I am going to have to let you go, you lied to us." Basham, as a witness, denied telling the employee he had lied. According to the foreman, "wasn't nothing said in that manner at all; I just said to him here was his check and we dissolved partnerships."

Since the motive precipitating the discharge is the crucial point at issue, and because of the conflict in testimony as to the reason advanced by the foreman at the time of the dismissal, it is necessary to appraise evidence as to other factors which are asserted by the Respondent to bear upon Basham's action.

Turning first to the claims themselves—as to the reasons for Mobley's dismissal. The Respondent's answer itself contains no "short and simple statement of the facts which constitute the ground of defense," as required by the Board's Rules and Regulations,[2] but merely denies the allegations of the complaint as to Mobley.

Hughes Jackson, the head of the Company, and the first management witness to give reasons for the discharge, said that while he did not direct the action, he agreed to and authorized it. He said that Foreman Basham came to him just before the discharge and said he "wanted to get rid of" Mobley, because he was "not keeping the frames in the plant for the springers, and that he was wasting his time at the mill with horseplay, and just plain loafing, and he was not doing his—he was not attending to his job. . . ." Later in his testimony he amended his original statement by saying, "As I remember it, Basham did not tell me of the horseplay. One or more of the men at the mill told me about him."

Basham himself, however, also a witness for the Respondent, flatly denied that he asked Hughes Jackson for permission to fire Mobley—thus immediately posing what appears to the Trial Examiner to be a serious conflict in the defense evidence which may not be ignored in attempting to resolve other confused and conflicting testimony given by management witnesses on the matter of Mobley's discharge.

Basham testified that he never warned Mobley of discharge if he did not "get to moving," and that nothing was said about "firing Mobley at any time" until the morning of November 12, when General Manager James E. Jackson called him by telephone and told him to get Mobley "rolling or get him out, or do something with him."

James E. Jackson, as a witness, said: "I was the one that told them they had to discharge him or one way or another, just get him busy or discharge him . . . I emphasized getting rid of him."

Despite the somewhat equivocal nature of Jackson's "instructions" to Basham, revealed by their above-quoted testimony, other facts make it reasonable to conclude that Basham accepted them as a direct order to fire Mobley. In a sworn statement to a Board agent on January 7, 1953, Basham said that Jackson called at 8:30 a. m. on November 12 and told him "to get shet" of Mobley. Basham further testified, at the hearing, that after being called by Jackson he "went up to the mill" and found Mobley "loading chairs as fast as he could," that he observed him the rest of the morning, and that he did not see Mobley loafing at all. Nevertheless he gave the employee his check and fired him at noon. Thus it appears, from the testimony of the foreman who both observed and fired Mobley, that Mobley performed his work satisfactorily from 8:30 on, and provided no occasion for his selection from alternate instructions. From the time of Jackson's call until the actual discharge, Mobley was "moving" or "rolling," according to the foreman. It is plain, furthermore, that such satisfactory activity was not the result of fear of discharge—since Basham testified that he never warned the employee of dismissal if he did not "get to moving."

The responsibility for ordering Mobley's discharge thus seems to be fairly fixed upon James E. Jackson. His real motive should next be determined.

At one point in his testimony he said:

> Mobley was discharged for loafing, poor work. He had been continually warned by myself and others to get his work up and the day he was discharged he had gotten away behind in hauling frames from the mill building to the upholstery plant, production had practically stopped over there for the springers because they didn't have the frames, so I contacted Mr. Basham who was superintendent of upholstery, and told him he either had to get rid of Mobley or get him moving, one way or the other, either get him out of the plant, fire him, or see that frames were put into the upholstery plant.

[2] Sec. 102.20.

In passing, it should be noted that Jackson's testimony: "production had practically stopped . . . because they didn't have the frames," is flatly contradicted by Basham, who said that "that morning he filled the place full of frames."

The "poor work," Jackson went on to explain, "had been going on for, I would say, a month, two months." He was then asked by his own counsel:

> Now, relate to the Examiner whether or not that poor work was anything in addition to the fact that he was falling down on his job in getting frames up to the upholstering department?

Jackson's reply was an unmodified "No."

After some prompting by his counsel, Jackson described other claimed faults and derelictions of the employee. Such testimony was general and indefinite. For example, he said:

> He also was supposed to haul trash out of the plant, cinders and such. And *I think* for several weeks up to then he hadn't hauled anything out of there, trash had accumulated. [Emphasis supplied.]

He also described an incident occurring many weeks before, when he had seen Mobley's truck stopped between the mill and the plant while the employee spoke to high school girls. According to the foreman's subsequent testimony, Basham himself was on the truck with Mobley that morning, and the incident was not of sufficient importance for him to speak to the employee about it.

In any event, the nub of Jackson's claim, it is clear, is that he ordered the discharge on the morning of November 12 because "production had practically stopped over there for the springers because they didn't have the frames." The merit of this claim is directly refuted by Basham's testimony to the effect that before the discharge, Mobley had delivered enough frames to last the upholsterers 2 days. Thus it is plain, and the Trial Examiner concludes and finds, that credible evidence does not support Jackson's claim that at the time of the discharge Mobley was "behind" in his delivery work.

Construing Jackson's testimony to mean that before he ordered the discharge, on the morning of November 12, Mobley was derelict in delivering chairs entails appraisal of other testimony. The following colloquy occurred between Jackson and General Counsel:

> Q. All right, then, on the morning that Mobley was discharged did you call the plant and ask them if there were frames ready?
> A. I went up there.
> Q. You went up there and there were frames ready, is that correct?
> A. Plenty of frames.

This testimony that he went to the mill, himself, to check on the supply of available frames is in serious conflict with his own sworn statement given to a Board agent on January 28, 1954, in which he said:

> I don't recall if I was at the mill the morning that Mobley was discharged. . . . I checked with Montgomery [foreman at the mill] that morning and he said that plenty of frames were available and I thought it was Mobley's negligence accounted for the lack of frames at the plant. . . . I don't think I talked with Mobley the morning of his discharge. I saw him around but it was *in the course of his regular duties.* [Emphasis supplied.]

Of Jackson's two opposing statements: (1) That he went to the mill himself that morning, and (2) that he did not go to the mill but called Montgomery—neither finds credible corroboration in Montgomery's testimony. According to that foreman, Basham's assistant—one Singleton—called him that morning, as he usually did, to have frames sent down.

Tracing the matter still further—to Singleton, his testimony leads to the belief that he made no call to Montgomery. For at one point he said:

> . . . the day he [Mobley] was discharged, I would be at the back some place else, the day he was discharged.

Later in his testimony he said:

> I told you before I was in the back of the building and I didn't know anything about the frames, if you recall that.

He further said that he could recall no conversation with Basham that morning either about Mobley or chair frames—until after Mobley had been discharged.

Thus one reaches the dead end of a futile effort to find credible facts to support Jackson's claim as to events causing the dismissal of Mobley. The Trial Examiner is unable to find from Montgomery's testimony that Singleton, Jackson, or anyone else checked with him as to the availability of frames on the morning of November 12—for on other matters his testimony is stretched by extravagance to a point beyond credence. For example, he said Mobley was a good worker only for the first 2 weeks of his employment, and that he loafed from the time he started to work until he was fired. His description of Mobley is far from consistent with that given by Hughes Jackson. Jackson said Mobley's "efficiency" did not begin to "decline" until "about beginning at the time that he came to see me"—denying that he was interested in the Union. Even that, he admitted, "was not alarming. Employees do that. I was a boy once, myself, and my efficiency declined every once in a while." In the year of his employment, Mobley was given two raises—the latter one in September or October, a few weeks before his dismissal.

Far more credible is the testimony of Lawrence Engle, the one inspector at the mill whose duty it was to check the frames before Mobley transported them to the plant. He said that he was out ill the day Mobley was fired—a statement unchallenged by the Respondent. Not only does this fact present a reasonable explanation for whatever short delay there may have been early in the morning of November 12 in delivery of frames, but his credible testimony, supported by that of the driver who took Mobley's place, is to the effect that such delays were frequent—not only because the frames ordered were not ready for his inspection, but also because sometimes he had not sufficient time to inspect them.

In short, the Trial Examiner finds that the preponderance of credible evidence fails to support the Respondent's claim that Mobley was discharged for good cause.

The continuity of other events immediately preceding the discharge leads to the conclusion that Mobley actually was dismissed because of his union activities and to discourage membership in that organization. As previously described, he openly solicited signatures to union cards during the 3 days before November 12. A comparatively small number of employees are employed by this enterprise in a small community. Mobley worked under the supervision of 3 or 4 management representatives. It is reasonable to infer, and the Trial Examiner so concludes, that by November 12 management had become aware of Mobley's organizing leadership and that his activities were contrary to his voluntary statement to Jackson as to his state of mind regarding the Union in September. Other facts, some undisputed, support not only this conclusion but a finding that management was concerned in an effort to prevent such self-organization of its employees.

From the credible testimony of three employees [3] it is found, despite Montgomery's denial, that shortly before November 12 he warned them, in effect, that they had better keep their "union talk quiet," for if Jackson discovered it they would lose their jobs. A day or so before Mobley's dismissal, Montgomery told employee Wofford and others that he knew someone was passing out union cards and, if "caught up with," would be fired. At about the time of the dismissal Basham asked employee Holt, also a witness for the Respondent, how "he felt about the union." And it is undisputed that on the same day and immediately after Mobley's discharge, employee Leffew, assigned to the trucking job, was asked by Montgomery to tell him if he heard anything about the Union. The Trial Examiner specifically finds that Basham told Mobley, upon discharging him, that he had lied, and that the intent of this claim referred to his union activities.

In summary, the Trial Examiner concludes and finds that the preponderance of credible evidence sustains the allegations of the complaint as to Mobley, that he was discriminatorily discharged in order to discourage membership in a labor organization, and that by such discrimination and by threats and interrogations of Montgomery, above found, the Respondent has interfered with, restrained, and coerced employees in the exercise of rights guaranteed by the Act.

A few days after Mobley's discharge events occurred involving another small group of employees, in the sewing room, which are also in issue. Several employees testified concerning their forelady, Blanche Devine, and remarks attributed to her a few days after Mobley's discharge when he and a union representative distributed leaflets to employees as they left the plant. Devine denied such remarks and the Respondent called other employees who said they had not heard them made. Without here making an extended analysis of each witness' testimony, but having both observed their demeanor on the witness stand and appraised inconsistencies in their

[3] Wofford, Honaker, and Engle

testimony and in statements given to a Board agent before the hearing, the Trial Examiner finds that. [4]

(1) On the evening Mobley was distributing leaflets, a group of female employees went by and Devine told them, "You don't want that old thing, throw it down." [5] Employee Goode and Devine went on to a street corner, where Devine repeated her instruction. Goode gave the leaflet to her, and Devine threw it away.

(2) The next morning, during a break, Devine asked employees in a nearby group "who took the papers?" [6] When two admitted it, Devine said she was ashamed of them. On this and later occasions the forelady told sewing room employees that if the Union got in the older women would lose their jobs. Once she said, "See where it got Harold." [7]

(3) At a later date Devine told employees nearby that "anybody who mentioned the union down there was on their way out." [8]

(4) Somewhat later, the day after employee Goode had been interviewed by a Board agent, Devine queried her as to what she had told him. Goode told her, "I had to tell him, Mrs. Devine. that you told me to throw it down." When Devine rebuked her and said, "You could have evaded it, the others did," Goode replied, "I am not going to lie to any Government man, or anybody else."

The Trial Examiner concludes and finds that the foregoing interrogations. threats of reprisal, and rebuke for telling the truth to a Board agent investigating the case, on the part of Devine, a responsible agent of the Respondent, constitutes interference, restraint, and coercion of employees' rights under the Act.[9]

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 its operations described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that the Respondent has engaged in unfair labor practices the Trial Examiner will recommend that it cease and desist therefrom and take certain affirmative action to effectuate the policies of the Act.

It has been found that the Respondent discriminatorily discharged Harold L. Mobley. It will be recommended that the Respondent offer him immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority or other rights and privileges, and make him whole for any loss of pay he may have suffered by reason of such discrimination, by payment to him of a sum of money equal to that which he normally would have earned from the date of such discrimination to the date of the offer of reinstatement. Computation of back pay shall be in accordance with the policy set out by the Board in *F. W. Woolworth Company*, 90 NLRB 289. It will also be recommended that the Respondent make available to the Board on request payroll and other records necessary to the determination of the back pay due.

In view of the nature of the unfair labor practices committed, the commission by the Respondent of similar and other unfair labor practices may reasonably be anticipated. The remedy should be coextensive with the threat. It will therefore be recommended that the Respondent cease and desist from infringing in any manner upon the rights guaranteed employees by Section 7 of the Act.

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[4] In finding that certain things were said which some witnesses said they did not hear, the Trial Examiner is not thereby, as is intimated in the Respondent's brief, holding that such witnesses were "testifying falsely under oath" The statements were made at rest periods or at lunch, and they well may not have been present—or their recollections may have been faulty yet honest.

[5] The quotations are from the credible testimony of Elizabeth McGee Goode

[6] The quotations are from the credible testimony of Effie Kennedy

[7] The quotations are from the credible testimony of Catherine Bicknell

[8] The quotations are from the credible testimony of Goode

[9] The Trial Examiner finds that the evidence is insufficient to make a specific finding that Devine voiced promises of benefit if employees would keep the Union out While Goode's testimony is credited to the effect that Devine told her there would be holidays and vacations with pay, while at the same time pointing to a union paper, it is not clear that the promise, if it be so construed, was provisional upon keeping the Union out.

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

CONCLUSIONS OF LAW

1. International Union, United Automobile Workers of America, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.
2. By discriminating in regard to the employment of Harold L. Mobley, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.
3. By interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act, the Respondent has engaged in and is 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.]

WILLIAM D. GIBSON CO., DIVISION OF ASSOCIATED SPRING CORPORATION *and* DIE AND TOOL MAKERS LODGE NO. 113, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL *and* UNITED STEELWORKERS OF AMERICA, CIO, AND UNITED STEELWORKERS OF AMERICA, CIO, LOCAL UNION NO. 3485. *Case No. 13–CA–1256. October 29, 1954*

Decision and Order

On September 15, 1953, Trial Examiner Robert E. Mullin issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had not engaged in the unfair labor practices alleged in the complaint, except for two minor instances of interrogation not warranting a remedial order, and recommending that the complaint be dismissed in its entirety, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel and the Machinists filed exceptions to the Intermediate Report and supporting briefs. The Respondents and the Steelworkers filed briefs in support of the Intermediate Report.[1]

The Board 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 briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner insofar as they are consistent with this Decision.[2]

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[1] In addition, the Respondent also filed a brief in reply to the General Counsel's and the Machinists' exceptions and briefs. The reply brief is hereby accepted.

[2] The Intermediate Report contains certain minor misstatements or inadvertencies, none of which affects the Trial Examiner's ultimate conclusions. Accordingly, we note the following corrections:

The Board held a hearing on the petition in the representation case involved herein on September 22 and 23, 1952.

After receiving the Steelworkers' telegram dated September 19, 1952, the Respondent's general manager, Goff, called a meeting of the employees named in the said telegram on September 23, not on September 21.