

**Watson Bros. Transportation Company, Inc. and Local 12, Office Employees International Union, AFL-CIO.** *Case No. 18-CA-808. March 18, 1958*

### DECISION AND ORDER

On September 3, 1957, Trial Examiner Albert P. Wheatley issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in unfair labor practice within the meaning of Section 8 (a) (1) 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. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

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 Rodgers, Bean, and Fanning].

The Board has reviewed the rulings made by the Trial Examiner at the hearing,<sup>1</sup> 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 this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

### ORDER

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Watson Bros. Transportation Company, Inc. and its officers, agents, successors, and assigns:

1. Cease and desist from:

(a) Threatening employees with economic reprisals to discourage their affiliation with or support of Local 12, Office Employees International Union, AFL-CIO, or any other labor organization.

(b) Inducing or assisting employees to revoke union authorizations or memberships or to forego their freedom of choice of bargaining representative.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their right to engage in or to refrain from engaging in any or all of the activities specified in Section 7 of the Act, except to the extent that such right may be affected by an agreement requiring membership in a labor organiza-

<sup>1</sup> One of the rulings challenged by the Respondent is the denial of its motions to compel the General Counsel to produce the prehearing affidavit of one of his principal witnesses, Ray. See *The Great Atlantic and Pacific Tea Company*, 118 NLRB 1280.

tion as a condition of employment, as authorized in 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) Post at its place of business in St. Paul, Minnesota, copies of the notice attached to the Intermediate Report marked "Appendix A."<sup>2</sup> Copies of said notice, to be furnished by the Regional Director for the Eighteenth Region, shall, after being duly signed by the Respondent's authorized representative, be posted immediately upon receipt thereof and maintained 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.

(b) Notify the Regional Director for the Eighteenth Region in writing, within ten (10) days of the date of this Order, what steps have been taken to comply herewith.

<sup>2</sup> This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" 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 a United States Court of Appeals, Enforcing an Order."

## INTERMEDIATE REPORT AND RECOMMENDATIONS

### ISSUE

The issue herein is whether Watson Bros. Transportation Company, Inc., herein called Respondent, through its Executive Vice President William M. Wolfe, interfered with, restrained, or coerced its employees in their free choice of a bargaining representative and thereby violated Section 8 (a) (1) of the National Labor Relations Act, herein called the Act.

### THE FACTS

Respondent is a common carrier engaged in the transportation of goods, products, and merchandise via truck through 11 States of the United States. It has 67 terminals located at various places between Chicago, Illinois, and the Pacific Coast. The terminal involved herein is located in St. Paul, Minnesota, and is one of Respondent's major terminals.

On January 21, 1957, Roy Farah became terminal manager at St. Paul.

Normally Respondent's executive vice president, William M. Wolfe, installs new terminal managers and at the same time conducts separate interviews with the employees concerned with a view toward eliminating sources of difficulties and encouraging harmony within the organization and cooperation with the new terminal manager. Also, to compensate for the uncertainty and extra duties caused by a change of terminal managers, Wolfe frequently grants wage increases—in the language of Wolfe—he "sugar-coats the pill." However, at the time that Farah became terminal manager (on January 21, 1957), and for several days prior and subsequent thereto (until about January 25, 1957), Wolfe's presence was required elsewhere and Farah was installed by Respondent's vice president and director of sales, Roy Kershbergen, who did not put any wage increases into effect. Wolfe is responsible for, *inter alia*, terminal supervision and "the administrative end or the office end" of Respondent's business and made a mental note to visit the St. Paul terminal "as soon as the opportunity presented itself."

Action on telephone calls received in Omaha, Nebraska, during the week ending February 2, 1957, indicating that all was not going well at the St. Paul terminal, that discord rather than harmony prevailed and that the employees were joining Local 12, Office Employees International Union, AFL-CIO, herein called the

Union,<sup>1</sup> Wolfe and Merle Reeves, the terminal manager in Omaha, Nebraska, and the terminal manager in St. Paul prior to Farah, visited the St. Paul terminal on February 1, 1957. Wolfe and Reeves came to St. Paul from Respondent's general office in Omaha, Nebraska, via airplane. En route they decided that one of the ways to meet the problems confronting them was to grant wage increases and they tentatively established the amounts of such increases.

In separately held interviews, on February 1, 1957, Wolfe interrogated the full-time employees as to whether they had any problems, endeavored to adjust grievances and announced wage increases (varying in amounts from 10 to 25 cents per hour). Wolfe also polled the employees as to whether they had signed a union card. At the conclusion of these interviews Wolfe told the employees in substance and effect that now that their problems had been worked out there was no longer any need for labor union representation, and that it was his (Wolfe's) "preference that we not have a union" and solicited signatures to a document, which Respondent prepared, renouncing the Union. Some employees signed the statement and some declined—until they could determine what action, if any, other employees were going to take with respect to this matter.

After the regular working hours that day (February 1, 1957), and after each full-time employee had been interviewed separately, Wolfe assembled all the full-time employees and again solicited their withdrawal from the Union. On this occasion he dictated and had typed a statement reading as follows:

OFFICE EMPLOYES INT'L. UNION LOCAL 12,  
*Labor Temple, 117 Fourth Street, S. E.,  
Minneapolis, Minnesota.*

FEBRUARY 1, 1957.

GENTLEMEN: We the undersigned employes of Watson Bros. Transportation Co., do not desire representation by a labor union. If we have signed a card, this letter is to rescind that card.

After reading the above-quoted letter to the employees, Wolfe circulated it among the employees and requested that they sign it which they did.

Following the general meeting with full-time employees, Wolfe interviewed the part-time employees telling them, in separate interviews, that Respondent was going to do for them what "we had done for others" and announcing wage increases in varying amounts. Wolfe concluded these interviews by asking these employees to sign the letter quoted, above, which they did.

In addition to the foregoing, which is not disputed, the record contains evidence, which is disputed, to the effect that during the individual interviews Wolfe tried to persuade Rita Ray that the Union was not "a good thing" and told her she would lose privileges and overtime if the Union got in and to the effect that Wolfe told Robert Frenning that union membership would have an adverse affect when employees were being considered for promotion. In the light of the entire record herein it appears probable that Wolfe did make the statements attributed to him by Ray and Frenning and, on the bases of observations of witnesses and analysis of the record herein, the Trial Examiner so finds.

### Conclusions

Under the Act, employees are guaranteed the right "to form, join, or assist labor organizations" of "their own choosing" and employers are prohibited from interfering with, restraining, or coercing employees in the exercise of this right. Here, Respondent took it upon itself to induce and aid employees to revoke authorizations previously given to the Union and to induce and help employees to abandon the labor organization of "their own choosing." However, Respondent argues that there was an absence of threats of reprisals or promises of benefits and that, therefore, its conduct was not interference, restraint, or coercion within the meaning of the Act. As noted above, the Trial Examiner does not agree that threats of reprisals or promises of benefits were absent. Furthermore, in the opinion of the Trial Examiner the absence of express threats of reprisals or promises of benefit would not justify Respondent's conduct. Wolfe's solicitation of employees to affix their signatures to a document proclaiming antiunion sentiments was considerably more than expressions of "views, argument, or opinion." It was inducement and assistance and it was conducted in such a fashion as to require employees to signify to Respondent

<sup>1</sup> In the middle of January 1957 the Union renewed its efforts to organize Respondent's office and clerical employees and on January 30, requested recognition as the collective-bargaining agent.

their continued adherence to, or forfeiture of interest in, the Union—a matter about which Respondent is not entitled to inquire.<sup>2</sup>

It appears, and the Trial Examiner finds and concludes, that one of the motivations for the wage increases was the then current union activities. However, assuming that the wage increases were not motivated by union activities, it, nevertheless, appears, and the Trial Examiner finds and concludes, that employees were led to believe that such was the situation and that the wage increases were used as a means of combating union activities.

ULTIMATE FINDINGS AND CONCLUSIONS

In summary, the Trial Examiner finds and concludes:

(1) The evidence adduced in this proceeding satisfies the Board's requirements for the assertion of jurisdiction herein.<sup>3</sup>

(2) Local 12, Office Employees International Union, AFL-CIO, is a labor organization within the meaning of the Act.

(3) Respondent, by inducing and assisting employees to revoke authorizations previously given to the Union, and to abandon the Union and forego their freedom of choice of bargaining representative, interfered with, restrained, or coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act, thereby engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

(4) Respondent, by threatening employees with economic reprisals to discourage their affiliation with or support Local 12, Office Employees International Union, AFL-CIO, 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) of the Act.

[Recommendations omitted from publication.]

<sup>2</sup> While an employer's attempts to determine the validity of a union's representation claims may not be unlawful, no such issue is involved herein. See *Jostin Dry Goods Company*, 118 NLRB 555 and *Howard-Cooper Corporation*, 117 NLRB 287 and *American Furniture Company, Inc.*, 118 NLRB 1139

<sup>3</sup> Respondent is an interstate carrier of freight via truck and its gross operating revenue derived from the performance of transportation services exceeds \$28,000,000.

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 Labor Management Relations Act, we hereby notify our employees that:

WE WILL NOT induce and assist employees to revoke authorizations previously given to Local 12, Office Employees International Union, AFL-CIO, or to relinquish membership in said labor organization.

WE WILL NOT threaten employees with economic reprisals because of their affiliation with or support of Local 12, Office Employees International Union, AFL-CIO, or any other labor organization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their rights to engage in, or refrain from engaging in, union or concerted activities for the purpose of collective bargaining or other mutual aid or protection.

All employees are free to become, remain, or to refrain from becoming or remaining members of Local 12, Office Employees International Union, AFL-CIO, or any other labor organization.

WATSON BROS. TRANSPORTATION 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.