Wilbraham Manufacturing Corporation *and* International Union of Electrical, Radio & Machine Workers, AFL–CIO. Cases 1–CA–5429 and 1–CA–5707

September 6, 1967

DECISION AND ORDER

BY CHAIRMAN MCCULLOCH AND MEMBERS BROWN AND JENKINS

On April 26, 1967, Trial Examiner Gordon J. Myatt issued his Decision 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 attached Trial Examiner's Decision. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices. Thereafter, the General Counsel, Charging Party, and Respondent filed exceptions to the Trial Examiner's Decision and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

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 Trial Examiner's Decision, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, as modified below.[1]

The Trial Examiner found, and we agree, that on May 19, 1966, the day after a majority of the employess selected the Union as their representative, the Respondent posted three notices discriminatorily canceling various employee benefits, in violation of Section 8(a)(1). We find merit in the General Counsel's and the Charging Party's contention that the Respondent thereby violated Section 8(a)(3) as well.[2]

To remedy this unlawful cancellation of benefits, the Trial Examiner recommended only that the Respondent restore the benefits in the event that they were not covered by the terms of the collective-bargaining agreement subsequently entered into by the parties.[3] While we agree with and adopt this remedy, we find merit in the contention that the mere prospective restoration of such benefits is not an adequate remedy for the losses theretofore suffered as a result of the unlawful cancellation. Accordingly, we shall further order that the Respondent make whole its employees for all net losses suffered by them from the date of the Respondent's discriminatory cancellation of their benefits to the date of such restoration, or the effective date of the collective-bargaining agreement in the event that such benefit was covered, whichever is earlier,[4] together with interest thereon.[5]

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the Recommended Order of the Trial Examiner and hereby orders that the Respondent, Wilbraham Manufacturing Corporation, Wilbraham, Massachusetts, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order, as herein modified:

1. Amend paragraph 1(d) by substituting the following therefor:

"(d) In any other manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed by Section 7 of the Act."

2. Amend paragraph 2(c) by substituting the following therefor:

"(c) Restore to its employees all benefits withdrawn from them pursuant to the three notices posted by the Respondent on May 19, 1966, in the event that such benefits were not covered by the terms of the collective-bargaining agreement; and make whole its employees for all net losses suffered by them from the date of the Respondent's discriminatory cancellation of their benefits to the date of such restoration or the effective date of the collective-bargaining agreement in the event that such benefit was covered, whichever is earlier, together with interest thereon."

3. Amend the fourth paragraph of the notice by substituting the following therefor:

> WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to join or assist a labor organization, to bargain collectively, or to engage in concerted activities for their mutual aid or protection, or to refrain from any or all such activities, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

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[1] Under the established policy not to overrule a Trial Examiner's credibility findings unless a clear preponderance of all relevant evidence convinces us that they are incorrect we find no basis for disturbing the credibility findings in this case *Standard Dry Wall Products, Inc*, 91 NLRB 544 enfd 188 F 2d 362 (C A 3)

[2] *Standard Tank and Cleaning Company*, 152 NLRB 1222, 1225–26

[3] As the Trial Examiner found, a strike occurred on November 22, 1966, and the agreement was part of the strike settlement, but the terms of the agreement do not appear in the record

[4] *Custom-Pak, Inc*, 126 NLRB 242 244

[5] See *Cone Brothers Contracting Company*, 158 NLRB 186

4. Amend the fifth paragraph in the notice by substituting the following therefor:

> WE WILL make our employees whole for all benefits withdrawn from them pursuant to the three notices posted by us on May 19, 1966, and we will restore to our employees all such benefits, in the event that they are not covered by our collective-bargaining agreement with the Union.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

GORDON J. MYATT, Trial Examiner: Upon a charge filed April 15, 1966,[1] and upon amended charges filed May 6, 19, and 25, by International Union of Electrical, Radio & Machine Workers, AFL–CIO (hereinafter referred to as the Union), a complaint in Case 1–CA–5429 was issued against Wilbraham Manufacturing Corporation (hereinafter referred to as the Respondent), on July 25, 1966. The complaint, subsequently amended on August 1, alleged that the Respondent violated Section 8(a)(1) and (3) of the Act. The Respondent's answer admitted certain allegations contained in the complaint, denied others,[2] and specifically denied the commission of any unfair labor practices.

The case was tried before me on August 30, 1966, at Springfield, Massachusetts. Briefs were subsequently submitted by the General Counsel and the Respondent.

On January 3, 1967, the General Counsel moved to reopen the hearing in order to consolidate the case with Case 1–CA–5707 and to amend the complaint to allege additional violations of Section 8(a)(3). On February 23, 1967, the hearing was reopened at Springfield, Massachusetts, and the parties presented additional evidence bearing on the new allegations. Supplemental briefs have been received from the General Counsel and the Respondent in support of their respective positions. These briefs have been considered by me, along with the original briefs, in arriving at my decision in this matter.

Upon the entire record in this case, including my evaluation of the witnesses based on my observation of their demeanor, and upon the relevant evidence contained in the record, I make the following:

FINDINGS OF FACT

I. JURISDICTIONAL FINDINGS

The Respondent, a Massachusetts corporation, is engaged in the sale, manufacture, and distribution of electronic wiring components and related products. The Respondent maintains its principal office and place of business in Wilbraham, Massachusetts. During the course of its business operations, the Respondent annually ships products valued in excess of $50,000 directly to points located outside the Commonwealth of Massachusetts. Accordingly, I find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

International Union of Electrical, Radio & Machine Workers, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Background Facts*

Sometime prior to March 25,[3] the Union began its campaign to organize the Respondent's employees. Henry Lussier of the Union contacted Glenn Goodale who was employed as a stockboy by the Respondent. Lussier gave him union authorization cards to distribute among the employees. On March 25, the Union intensified its activity by distributing leaflets to the employees at the gate of the Respondent's plant. Goodale's name was printed on the bottom of the leaflets, and he was identified as the Union's shop supporter. On May 4, the Union and the Respondent entered into a Stipulation for Certification upon Consent Election agreement and an election was conducted by the Regional Director on May 18. The election resulted in 45 votes in favor of the Union, 29 against, and 20 ballots were challenged. The Respondent filed timely objections, and on June 22, the Regional Director issued a consolidated report on objections and challenged ballots. The Regional Director recommended that a revised tally of ballots be issued and that the Union be certified as the collective-bargaining representative of the Respondent's employees. The Respondent took exception to the Regional Director's report, and at the time of the initial hearing in this case, the representation case was pending before the Board. On September 16, the Board issued a Decision and Certification of Representative in which it adopted the Regional Director's recommendations and certified the Union as the collective-bargaining representative.

During the first week in October, the Union and the Respondent commenced negotiations in an effort to agree upon a collective-bargaining contract. Unable to reach agreement after several meetings, the Union struck Respondent's plant on November 22. The strike was of short duration and was settled by mutual consent of the parties. As part of the strike settlement terms, the parties entered into a collective-bargaining agreement.

B. *The Respondent's Conduct After the Leaflet Distribution on March 25*

As noted above, representatives of the Union began distributing leaflets to the Respondent's employees on March 25. On that date, Lussier was accompanied by another union representative, Mello Ricardi,[4] and they passed out leaflets to the employees reporting to work on the day shift. Arthur St. Andre, Respondent's production manager, drove up and Ricardi gave him a leaflet. St. Andre asked, "who was trying to organize his employees?" Ricardi replied that the employees were trying to organize themselves. St. Andre then said, "Well, I have a pretty good idea of who it is after seeing you there [sic]," and "I will take care of him." Ricardi made a notation of this conversation on a leaflet which was subsequently introduced in evidence as General Counsel's Exhibit 2.[5]

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[1] Unless otherwise indicated, all dates herein refer to the year 1966

[2] The Respondent's answer denied the supervisory status of floorlady Helen Piesz At the hearing, however, it was stipulated that Piesz was a supervisor within the meaning of Section 2(11) of the Act

[3] The exact date is not clearly established in the record

[4] Ricardi was an organizer for the AFL–CIO

[5] Although St Andre denied having such a conversation with Ricardi, I do not credit his testimony in this regard This witness impressed me as being hostile, evasive, and reluctant to give forthright answers to the questions asked of him

Floorlady Helen Piesz received a leaflet when she reported to work that morning. Although she did not have time to read the leaflet, Piesz learned of its contents through discussions with various female employees throughout the plant. According to Piesz, several of the women solicited her opinion about the Union. Piesz testified that she told the employees she was not against the Union, but"it could be bad." She stated that "it could hurt us with IBM."[6] When asked to explain how the Union would affect the Respondent's relationship with IBM, Piesz replied, "Well, they [IBM] want their harnesses shipped out everyday and that is our biggest job, and if we don't give them the shipment—in case there would be trouble as far as a strike or something that is what I was referring to, that we might lose it because they wouldn't get the shipment, that is the trouble we could run into with IBM."

Other employees testified concerning statements made by Piesz that morning about the Union. Barbara Bates, a solderer, stated that Piesz stood in front of her workbench and said, "Oliver St. Andre [Respondent's president] was so mad, and it was Glenn Goodale who started the whole thing; and if the Union gets in IBM will pull out all of their work." Ann Rodrigues, another solderer, testified that Piesz stated, "So you want the Union, you know what that means, losing the IBM orders." Employee Kathleen Lind testified that she overheard Piesz tell two other solderers that she could not stop the employees from wanting a union, "but if the Union gets in, IBM will remove all of their work, and then where will we be?"

The distribution of the union leaflets also evoked comment in the plant by Respondent's president, Oliver St. Andre. Irene Converse, a machine operator, testified that she overheard St. Andre speaking to another employee in the plant. According to Converse, St. Andre was angry because Goodale's name was mentioned on the leaflet. Converse testified that St. Andre threatened to fire Goodale "personally."[7]

C. *The Events Relating to Goodale*

Glenn Goodale was employed by the Respondent in the spring of 1965 as a stockboy. His starting rate of pay was $1.50 per hour, and he received a merit increase of 10 cents more an hour on February 26, 1966. Goodale worked on the first shift (8 a.m. to 4:30 p.m.). His duties primarily involved keeping the women supplied with wire, building frames on which the wire was strung, and placing stock on the shelves. He was responsible for supplying approximately 30 female employees with materials on the first shift.

As the designated shop supporter for the Union, Goodale distributed union authorization cards to the employees and returned the signed cards to the union representatives. Goodale testified that he distributed the cards mainly in the plant cafeteria; often times in the presence of Oliver, Arthur, and Peter St. Andre. The latter individual is the plant manager and the son of the Respondent's president.

On March 31, Goodale was informed by Arthur St. Andre that his hours would be changed beginning April 1. Goodale was instructed to work from 12:30 to 9 p.m. As a result of this change, Goodale only performed his regular duties as stockboy from the beginning of his new shift until the end of the first shift at 4:30 p.m. Thereafter, he performed janitorial services around the plant.[8]

Although his duties were changed, Goodale's rate of pay was not affected. Two other male employees worked with Goodale in the evenings. These individuals were high school students who worked part-time for the Respondent. Shortly after his hours had been changed, Goodale asked Arthur St. Andre why he had been switched from the first shift. St. Andre told Goodale that the decision had been made by the front office. Goodale continued to work his new shift until he was laid off on April 22, along with a number of other employees.

D. *The Layoff of April 22.*

On April 20, the Respondent received a call from IBM directing a rescheduling of 75 percent of the orders previously placed for electronic harnesses. These orders were originally scheduled for delivery to IBM during the months of September, October, and November 1966. Under the terms of the rescheduling, delivery was changed to various dates in 1967. As the IBM orders constituted approximately 50 percent of Respondent's total output, the rescheduling resulted in a drastic curtailment of current production. Respondent's management held an emergency meeting and decided that it would be necessary to lay off 36 employees. According to Oliver St. Andre, ability was the only criterion used in determining which employees would be laid off. Goodale was one of the employees selected for layoff.

E. *The Withdrawal of Existing Benefits*

As previously indicated, a representation election was conducted on May 18. The following day, the Respondent posted three notices to the employees on the bulletin board. The first notice canceled the employees' insurance plan as of June 1. This notice also stated that coffeebreaks were discontinued "immediately." The second notice informed the employees that there would be no paid holidays until negotiations were made by [their] bargaining agent. The third notice announced that there would no longer be any paid vacations. As to be anticipated, the notices caused considerable discussion among the employees in the plant. Employee Rodrigues testified that on the day the notices were posted she overheard a conversation between Oliver St. Andre and employee Helen Wise. St. Andre was walking through the plant. Wise confronted him and said, "Do you have to take it out on all of us? After all I wasn't for the union. I was for you." According to Rodrigues, St. Andre replied "that if the vote is 48 to 29, nobody gets a coffee break."[9]

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[6] International Business Machine Corporation is the Respondent's largest customer Orders from IBM account for at least 50 percent of the Respondent's total production of electronic harnesses

[7] Converse testified that St Andre made this statement 1 or 2 days after the leaflets were distributed

[8] There were only two women working on the night shift These women operated machines and it was not necessary for Goodale to supply them with wire

[9] Although the number cited by Rodrigues as being for the Union exceeds the official tally by three, I do not consider this variance to be material I credit Rodrigues' testimony and I find that St Andre did in fact make this statement to Wise

F. *Contention of the Parties*

It is the General Counsel's theory that on March 25, the Respondent, through floorlady Piesz, threatened employees with serious economic loss in the event the plant became unionized. The General Counsel asserts that the withdrawal of employee benefits on May 19, was patently an act of reprisal directed against the employees because they had voted in favor of union representation. The General Counsel further asserts that the Respondent's hostility toward the Union and its supporters was the true reason underlying the transfer and subsequent layoff of Goodale. Thus, Goodale's shift was changed in order to minimize his chances of contacting the other employees on behalf of the Union, and in order to punish him for his activities. according to the General Counsel, Goodale was selected for layoff on April 22, because he was the chief supporter of the Union in the plant.

The Respondent denies that its conduct was inspired by any unlawful desire to interfere with its employees' union activities. The Respondent contends that Goodale was transferred solely because the two part-time employees were unable to cope with the work in the evenings, and prior to Goodale's transfer, it was necessary for the plant manager to stay at the plant after the first shift. The Respondent asserts that Goodale was selected for layoff on April 22, because he was not working on the production line. The Respondent further contends, that it had decided to cancel employee benefits as far back as February, but that it did not implement this decision until May because of the advent of the Union.

Concluding Findings

On the basis of the entire record before me, I find that the General Counsel has established by a preponderance of the relevant evidence that the Respondent has violated Section 8(a)(1) and (3) of the Act. The undisputed evidence discloses that on the day that the leaflets were distributed, floorlady Piesz told employees throughout the plant that unionization would cause the Respondent's largest customer to pull out its work. The clear and unmistakeable inference to be drawn from these statements by an acknowledged supervisor is that selection of the Union as the employees' collective-bargaining representative would inevitably result in a great economic loss. Such statements far exceed the boundaries of permissable predictions allowed by Section 8(c), and constitute a violation of Section 8(a)(1) of the Act. *Madison Brass Works, Inc., and Surf, Inc.*, 161 NLRB 1206. *Vinylex Corporation and Everwarm Corporation,* 160 NLRB 1883.

The evidence also supports the finding that Respondent violated Section 8(a)(1) by canceling employee benefits 1 day after the Union apparently received a majority of the votes in the election. Respondent's president testified that management had decided in February to cancel the employee benefits, but that this decision was not implemented until May because of the advent of the Union and because management hoped that business would improve. The facts and the timing of the withdrawal of the benefits do not support this claim. The evidence discloses that management did not learn of the Union's organizing campaign until March 25, thus ruling out this factor as a reason for delaying implementation of the decision purportedly made in February. But more important, if the Respondent's economic situation was so critical in February as to warrant a decision to eliminate employee benefits, it became even more critical in April, when IBM rescheduled the delivery dates of its orders. However, the Respondent, if believed, continued to delay implementation of its decision to cut back on these benefits; although the rescheduling was considered serious enough to warrant a substantial reduction in the work force.

Therefore, I find that the withdrawal of employee benefits, 1 day after an apparent majority of the employees had voted in favor of the Union, was not for reasons of economy, but, rather, was in retaliation for the employees' preference for union representation. That an employer may not engage in retaliatory conduct against employees because they seek to be represented by a union is a proposition too fundamental in the law to warrant citation.

Although the complaint alleges that Goodale's change in shift and his subsequent layoff were for discriminatory reasons, I am not convinced that these two events can be treated as part of one continuous unlawful act. In my judgment, the evidence adduced by the General Counsel does not overcome the practical business reason advanced by the Respondent for the transfer of Goodale. At the very most, the transfer of Goodale in these circumstances gives rise to suspicion. But mere suspicion is not sufficient to establish a violation of the Act. I do find, however, that the selection of Goodale as one of the employees to be laid off on April 22, was discriminatorily motivated. The record discloses that the Respondent's president was incensed over the fact that Goodale was the union shop supporter and threatened to "fire him personally." Although Oliver St. Andre denied making this statement in the plant, I do not credit his testimony in this regard. When viewed in its totality, the evidence clearly demonstrates that St. Andre was not reluctant to strike back at employees for supporting the Union; as evidenced by the abrupt withdrawal of benefits after the election in May. But even more persuasive is the fact that when testifying concerning Goodale's layoff, St. Andre stated that Goodale was laid off because he was "nonproductive." When asked what he meant by nonproductive, St. Andre stated that Goodale did not engage in actual production work, however, he went further and stated that Goodale was not a productive worker and did not perform his duties satisfactorily. Until St. Andre testified at the hearing, there was no claim on the part of the Respondent that Goodale was an unsatisfactory employee. Indeed, the Respondent's own records show that Goodale was given a merit increase approximately 2 months before he was laid off. Thus, it is evident to me that the Respondent is now willing to assign a spurious and patently false reason in order to justify the selection of Goodale for layoff on April 22. Moreover, it is important to note that the two part-time employees were retained on the payroll at the very time that the Respondent found it necessary to layoff Goodale for reasons of economy; these employees were retained in spite of St. Andre's admission that they were unable to cope with the work in the evening.

Accordingly, I reject the Respondent's claim that Goodale was laid off because he was not a productive worker and was not engaged in the actual production of harnesses. To the contrary, I find that the Respondent seized upon this opportunity, brought about by the rescheduling of the IBM orders, to rid itself of an employee who openly and avowedly supported the Union.

Such conduct violates Section 8(a)(3) of the Act. *Standard Tank Cleaning Company*, 152 NLRB 1222; *Dunrail Construction Co., Inc.*, 151 NLRB 98.

G. *The Amended Allegations*

As noted above, the hearing in this case was reopened on February 23, to allow the General Counsel to amend the complaint and to allow the parties to introduce evidence concerning these additional allegations. The amendments allege that from October 14 through November 28, the Respondent failed and refused to recall or reinstate employees Irene LaVigne and Lauretta Larose to their former or substantially equivalent positions of employment. The General Counsel contends that these employees were not recalled during this period because of their activities on behalf of the Union. The operative facts relating to the refusal to recall LaVigne and Larose are not in great dispute.

During the organizing campaign in April, LaVigne was quite active on behalf of the Union. She collected signed authorization cards from the employees and returned them to the Union, and she also assisted the union organizers by passing out campaign buttons to employees at a union meeting. LaVigne displayed her union buttons openly at the plant. LaVigne was a member of the union committee that met with the Respondent's representatives in the Board's offices to set up the election in May. She also attended a meeting at the Massachusetts Department of Labor and Industry wherein the Union objected to the Respondent's request for a homework permit. After the Board certified the Union as the collective-bargaining representative, LaVigne was a member of the Union's negotiating committee and attended four or five bargaining sessions.

Larose's activities on behalf of the Union were on a much smaller scale. Larose signed a card on March 29, 1966, and she distributed authorization cards to other employees during the organizing campaign. On April 19, Larose attended a union meeting where she received two union campaign buttons. The following 2 days, Larose wore these buttons in the plant. Larose was not a member of the union committee and she did not attend any meetings on behalf of the Union with the Respondent.

After the Board certification, the Union and the Respondent engaged in collective-bargaining negotiations in order to agree upon the terms of a contract. One of the foremost issues discussed at these bargaining sessions was the recall of the employees laid off in April.

The parties agreed to contact the laid off employees to determine whether or not they were interested in returning to work. Inquiries were sent out by both the Union and the Respondent, however, the Respondent did not direct any such inquiry to LaVigne or Larose.[10] After several bargaining sessions, the Respondent's personnel manager, Roy Consedine, informed the Union that the Respondent would not recall LaVigne or Larose because they were not "compatible with their surrounding employees." Consedine indicated that several female employees threatened to quit if these two individuals returned to work. Unable to agree on a contract or on the question of the recall of LaVigne and Larose, the Union struck Respondent's plant on November 22. The strike only lasted several days, and as part of the strike settlement agreement, the parties entered into a contract and LaVigne and Larose were recalled to work on November 28.

The Respondent contends that were it not for the objection to their reemployment, Larose would have been recalled on or about October 14, but LaVigne would not have been recalled until some time in December, as there was insufficient work in her department.

Concluding Findings

On the basis of the entire record before me, I find that the General Counsel has not sustained the burden of proving a violation concerning the failure to recall LaVigne and Larose. Although there is no doubt that LaVigne had been active on behalf of the Union and that the Respondent was aware of this fact, there is no evidence that any of the other employee members of the union committee were refused reemployment. There is undisputed testimony, however, that LaVigne had past difficulties with her coworkers, and that on one occasion she had to be separated from them. In the case of Larose, the evidence shows that shortly before the economic layoff in April, she was placed on probation because of a problem with coworkers. Larose had repeated a story concerning two female employees to another employee, and the women complained to the foreman. Larose's foreman discharged her, but was subsequently persuaded by the personnel manager to place her on probation, and she was given work in another department. Although Larose wore a union button, the evidence discloses that many other employees also wore union buttons in the plant. The Respondent's personnel manager acknowledged that complaints against coworkers were not uncommon among the female employees. But whether the Respondent was justified in singling out these two employees for this reason is not the issue here; the sole issue, as I view it, is whether they were singled out because of their activities on behalf of the Union. In my judgment, the evidence does not preponderate in favor of such a finding. Rather, I find that the Respondent objected to these two employees for reasons unrelated to their union activities. Accordingly, I shall recommend that the amended allegations relating to the discriminatory refusal to recall LaVigne and Larose be dismissed in their entirety.

Conclusions of Law

1. Wilbraham Manufacturing Corporation is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Union of Electrical, Radio & Machine Workers, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By informing employees that the Respondent's largest customer would withdraw all work from the plant if the employees selected the Union as their collective-bargaining representative, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

4. By withdrawing existing employee benefits 1 day after a Board-conducted election in which an apparent majority of the employees voted in favor of the Union, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

5. By laying off employee Glenn Goodale on April 22, 1966, for the reason that he was the chief union supporter

[10] Both of these employees made known their desire to return to work through the Union

in the plant, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

6. The Respondent did not commit unfair labor practices within the meaning of the Act by refusing to recall employees Irene LaVigne and Lauretta Larose during the period October 14 to November 28, 1966.

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

THE REMEDY

Having found that the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. Inasmuch as the Respondent and the Union have now entered into a collective-bargaining agreement, the terms of which are not known in this record, I shall recommend that the Respondent restore the employee benefits, withdrawn on May 19, only in the event such benefits are not presently covered by the terms of the existing contract. As the record discloses that Glenn Goodale was serving as a member of the Armed Forces at the time of the hearing and it is not presently known whether he is still serving in this capacity, I shall recommend that the Respondent offer this employee 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 earnings he may have suffered by reason of the discrimination against him in a manner consistent with the Board policy set out in *F. W. Woolworth Company*, 90 NLRB 289, with interest at the rate of 6 percent per annum as prescribed in *Isis Plumbing & Heating Co.*, 138 NLRB 716. However, should it be determined that Goodale is presently serving in the Armed Forces, I shall recommend that the Respondent make him whole for any loss of earnings as set forth above and notify him of his right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act, as amended, after his discharge from the Armed Forces.

Accordingly, upon the foregoing findings of fact and conclusions of law, and upon the entire record in this case, I recommend pursuant to Section 10(c) of the Act, the following:

RECOMMENDED ORDER

Respondent, Wilbraham Manufacturing Corporation, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Informing employees that International Business Machine Corporation, the Respondent's largest customer, will remove all work from the Respondent's plant in the event that the employees select International Union of Electrical, Radio & Machine Workers, AFL–CIO, as their collective-bargaining representative.

(b) Withdrawing existing employee benefits for the reason that a majority of the employees have manifested a desire to be represented by the above-named Union.

(c) Laying off employees because they have engaged in activities on behalf of the above-named Union.

(d) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action which I find will effectuate the policies of the Act:

(b) Preserve and upon request make available to the Board or its agents for examination and copying, the records necessary to determine the adequacy of the reinstatement and the amount due as backpay as set forth in the section of this Decision entitled "The Remedy."

(c) Restore all employee benefits, withdrawn on May 19, 1966, in the event that these benefits are not presently covered by the terms of the current collective-bargaining agreement.

(d) Post at its establishment in Wilbraham, Massachusetts, copies of the attached notice marked "Appendix."[11] Copies of said notice, to be furnished by the Regional Director for Region 1, after being duly signed by an authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 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.

(e) Notify said Regional Director, in writing, within 20 days from the receipt of this Decision, what steps have been taken to comply herewith.[12]

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[11] In the event that this Recommended Order is adopted by the Board, the words "a Decision and Order" shall be substituted for the words "the Recommended Order of a Trial Examiner" in the notice In the further event that the Board's Order is enforced by a decree of a United States Court of Appeals the words "a Decree of the United States Court of Appeals Enforcing an Order" shall be substituted for the words "a Decision and Order"

[12] In the event that this Recommended Order is adopted by the Board, this provision shall be modified to read "Notify said Regional Director, in writing, within 10 days from the date of this Order, what steps Respondent has taken to comply herewith"

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order 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 tell our employees that they will suffer a serious economic loss if they select International Union of Electrical, Radio & Machine Workers, AFL–CIO, as their collective-bargaining representative.

WE WILL NOT withdraw benefits from our employees because they desire to be represented by a labor organization.

WE WILL NOT discharge or lay off employees because they are members or supporters of the above-named Union or because they have engaged in activities on behalf of the above-named Union.

WE WILL NOT in any like or related manner interfere with our employees in the exercise of their right to join or assist a labor organization, to bargain collectively, or to engage in concerted activities for mutual aid or protection, or to refrain from any and all such activities.

WE WILL restore all employee benefits, previously withdrawn, which are not presently covered by the

existing collective-bargaining agreement with the above-named Union.

WE WILL offer Glenn Goodale immediate reinstatement to his former or substantially equivalent position and make him whole for any loss he may have suffered as a result of our discrimination against him.

All our employees are free to become or remain, or refrain from becoming or remaining members of International Union of Electrical, Radio & Machine Workers, AFL–CIO, or any other labor organization, except to the extent such right may be affected by an agreement authorized in Section 8(a)(3) of the Act.

WILBRAHAM MANUFACTURING CORPORATION
(Employer)

Dated By
(Representative) (Title)

Note: We will notify the above-named employee, if presently serving in the Armed Forces of the United States of his right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

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

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 20th Floor, John F. Kennedy Federal Building, Cambridge and New Sudbury Streets, Boston, Massachusetts 02203, Telephone 223–3353.

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