

In the Matter of RALPH A. FREUNDLICH, INC., a corporation organized under the laws of the State of New York, and RALPH A. FREUNDLICH, INC., a corporation organized under the laws of the State of Massachusetts, and MAX MARCUS, TONY ARMAO, PETER GIANNONE, JOHN GIANNONE, SALVATORE MODICA, ANTHONY LAZZARO, VITO ARENA, and ALEXANDER RAVITCH

Case No. C-78.—Decided May 19, 1937

Toy Manufacturing Industry—Interference, Restraint or Coercion: expressed opposition to labor organization, threats of retaliatory action; surveillance of, questioning employees regarding organizational activity and meetings; interference with organizational activity, preventing organization meetings; persuading employees not to join union; discrediting and vilifying union and union organizer; attempts to intimidate employees and union organizer; engendering fear of loss of employment for union membership and activity—*Discrimination:* discharge—*Reinstatement Ordered—Back Pay:* awarded.

Mr. Ralph H. Cahouet and Mr. Malcolm F. Halliday for the Board.

Mr. Joseph B. Jacobs, of Boston, Mass., for respondents.

Mr. George E. Roever, of Boston, Mass., for the employees.

Mr. Frederick P. Mett, of counsel to the Board.

DECISION

STATEMENT OF CASE

On October 2, 1935, Alexander Ravitch, organizer for the American Federation of Labor, filed with the Regional Director for the First Region (Boston, Massachusetts) a charge that Ralph A. Freundlich, Inc., a New York corporation having its principal place of business in Clinton, Massachusetts, hereinafter referred to as the respondent, had engaged in and was engaging in unfair labor practices prohibited by the National Labor Relations Act, 49 Stat. 449, hereinafter referred to as the Act. On November 15, 1935, the National Labor Relations Board, hereinafter referred to as the Board, by the Regional Director for the First Region, issued its complaint against the respondent. The complaint and notice of hearing thereon were duly served upon the respondent on November 16, 1935. By further notice duly served upon the respondent, the hearing, originally scheduled for December 3, 1935, was advanced to November 30, 1935. After hearing on that date, the hearing was duly continued, by successive notices, to February 17, 1936.

The complaint alleged that the respondent had committed unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7) of the Act, in that it discharged and refused reinstatement to Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arena, for the reason that they, and each of them, joined and assisted a labor organization known as Federal Labor Union No. 20090, and engaged in concerted activities with other employees of the respondent, and in that the respondent by its officers and agents, did urge, persuade, warn, and threaten its employees to refrain from becoming or remaining members of labor organizations.

On November 22, 1935, an answer was filed on behalf of the respondent which admitted that the respondent discharged the above named employees on September 26, 1935, but denied that it had by such discharges interfered with, restrained, or coerced its employees in violation of Section 8, subdivision (1) of the Act; denied that the respondent had by such discharges discriminated against the seven named employees in regard to hire or tenure of employment in violation of Section 8, subdivision (3) of the Act; denied that any of the respondent's officers or agents urged, persuaded, warned, or threatened any of its employees to refrain from becoming or remaining members of labor organizations; denied that the respondent was engaged in interstate commerce, and alleged that the acts complained of did not occur in commerce among the several states, and did not in any way burden or obstruct commerce among the states, and that the Act and the regulations issued thereunder are unconstitutional and void. The answer also alleged that the respondent was the debtor in possession by order of the United States District Court for the District of Massachusetts in proceedings for reorganization under Section 77B of the Bankruptcy Act,¹ and that the Board had no authority to bring its complaint without first obtaining the Court's permission.

On March 8, 1935, the respondent by the petition of its treasurer, Ralph A. Freundlich, had initiated proceedings for its reorganization under Section 77B of the Bankruptcy Act, in the United States District Court for the District of Massachusetts. Upon hearing the petition that Court ordered the respondent to continue its possession. The complaint was issued while the respondent was operating as a debtor in possession. On January 15, 1936, a plan of reorganization for the respondent was approved by the Court. In accordance with this plan the assets of the respondent were transferred to a new corporation, Ralph A. Freundlich, Inc., organized under the laws of

¹ U. S. C., Title II, Sec 207.

the State of Massachusetts, and hereinafter called the new corporation. The new corporation was chartered by the State of Massachusetts on February 7, 1936, and has since that time carried on the business formerly carried on by the respondent. The approved plan of reorganization provided in Article V:

“NATIONAL LABOR RELATIONS BOARD LITIGATION

“The complaint of the National Labor Relations Board against Ralph A. Freundlich, Inc. and Max Marcus et al, being case No. I-C-1, now pending before the National Labor Relations Board, First Region, may proceed to trial, and any obligation incurred or finding or order made in the proceedings is to have full force and effect against the New Corporation. And the New Corporation agrees to assume in writing, by proper documents, any liability incurred by reason of any finding that may be made against the Debtor in said case. This provision is without prejudice to any of the parties to prosecute the case to a final conclusion; all rights of appeal are reserved to the parties.”

At the hearing on February 17, 1936, Joseph B. Jacobs, counsel for the respondent as well as for the new corporation, and appearing for both, stated in the presence of Ralph A. Freundlich, the treasurer of the respondent as well as of the new corporation, “We are properly in here, both the old corporation and the new corporation.”

In accordance with the plan of reorganization referred to above, and in view of the general appearance by counsel for the new corporation, the findings hereinafter made by the Board with respect to the respondent, and the order based thereon hereinafter made by the Board, will have full force and effect as well against the new corporation.

A hearing before Daniel M. Lyons, Trial Examiner duly designated by the Board, was had at Boston, Massachusetts, on November 30, 1935, and before John D. Moore, Trial Examiner duly designated by the Board in place of Mr. Lyons, on February 17, 18, and 19, 1936. Full opportunity to be heard; to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. The respondent by its counsel participated in the hearing until February 18, 1936, during the afternoon of which day counsel withdrew. During the course of the proceedings on November 30, 1935, counsel for the respondent objected to the allowance of appearance of counsel for the discharged employees. During the proceedings on February 17, 1936, counsel for the respondent objected to the entire proceedings on the ground that they were contrary to the course of the common law, and further objected to the

Trial Examiner's sitting in the case on the ground that he was not a lawyer and therefore not qualified to admit and weigh evidence. All of these objections were overruled. We find no error in the Trial Examiners' rulings upon the respondent's objections, including those specifically mentioned above, and in consequence hereby affirm such rulings.

On April 8, 1936, Trial Examiner Moore duly filed an Intermediate Report in accordance with Article II, Section 30 of National Labor Relations Board Rules and Regulations—Series 1, then in effect. The Trial Examiner found that the respondent had engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7) of the Act. The respondent thereafter, on April 17, 1936, filed with the Board exceptions to the Intermediate Report.

The Board has reviewed the entire record in this case, and the findings and conclusions reached thereon by the Trial Examiner. As set forth below we find that the evidence supports the findings and conclusions of the Trial Examiner in his Intermediate Report, including the findings and conclusions that the respondent has engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7) of the Act, and hereby overrule all of the respondent's exceptions to the Intermediate Report.

Upon the entire record in the case, the Board makes the following :

FINDINGS OF FACT

I. THE RESPONDENT AND ITS BUSINESS

The respondent, a doll manufacturing concern, is a corporation organized under and existing by virtue of the laws of the State of New York, having its principal place of business in the City of Clinton, State of Massachusetts.

The new corporation, a doll manufacturing concern, is and has been since February 7, 1936, a corporation organized under and existing by virtue of the laws of the State of Massachusetts, having its principal place of business in the City of Clinton, State of Massachusetts.

Prior to June, 1934, the respondent was engaged in the manufacture of dolls in New York. In June, 1934, it removed from New York to Clinton, Massachusetts, taking with it about 15 of its 400 employees. The respondent engaged in the manufacture of dolls in Clinton, Massachusetts, until, in accordance with a plan of reorganization, the new corporation came into existence on February 7, 1936, and took over the respondent's assets and operations. The new corporation has

continued the operation of the Clinton plant since the time of its inception, and its activities and operations there are in no way distinguish from those carried on by the respondent during its control of the Clinton plant.

The respondent during peak times in production, that is during the months of October, November, and December, employed about 600 people; during the remainder of the year the number of its employees ranged between 100 and 600; its payroll approximated \$300,000 per annum.

The respondent was engaged in the manufacture of wood-pulp dolls and in their sale and distribution. Its doll manufacturing operations included the following: (1) baking of the wood-pulp mash in molds to obtain the desired conformation; (2) finishing; (3) inserting of eyes and teeth; (4) jointings; (5) dipping; (6) grinding; (7) polishing; and (8) dressing.

The respondent used in its operations great quantities of raw materials and finished components shipped to it from points outside the State of Massachusetts. The following table shows the type and most important sources of these raw materials and finished components:

<i>Type of raw material or finished component</i>	<i>Source of raw material or finished component</i>
Wood pulp.....	Sweden
Paint.....	New York, New Jersey, Pennsylvania
Doll Dresses ²	New Jersey, Maine
Doll Shoes.....	New York, Japan
Artificial Eyes.....	New York
Resin.....	North Carolina, South Carolina
Corrugated Boxes.....	New York

The respondent's total annual purchases of raw materials approximated \$350,000, and \$250,000 of this amount, or about 71 per cent, represented the value of goods shipped to it from points outside the State of Massachusetts.

The respondent's dolls enjoyed a nation-wide distribution, being sold by the respondent to wholesalers and retailers from coast to coast. This national market for the respondent's products was developed by the respondent through advertising in trade journals having a nation-wide distribution, and through its sales force which constantly traveled throughout the country. The total annual dollar volume of the respondent's manufactured goods approximated \$730,000, and of this amount \$650,000, or 89 per cent, was sold and shipped to points in the United States outside of the State of Massachusetts.

The respondent in distributing its finished products used the services of various instrumentalities of interstate commerce such

² Some of the dresses used by the respondent were made by contractors outside Massachusetts, using cloth supplied to them by the respondent.

as motor truck, steamship, and railroad lines; it had at its Clinton plant a railroad siding where it loaded cars with dolls for shipment to all points, one-third of its entire production being shipped by railroad. Another third of its production was shipped by various coastal steamship lines to ports throughout the United States; it was the practice of the respondent to utilize trucking lines to deliver its goods to the various steamship line warehouses. The remaining third of the respondent's entire production was distributed to points within as well as outside the State of Massachusetts through the use of the parcel post and various trucking lines. Ninety per cent of its products were shipped to wholesalers and retailers freight collect.

II. RESPONDENT'S LABOR RELATIONS

During the last few years the respondent's industrial relations have been characterized by constant conflicts with its employees and their union.

Shortly after the National Industrial Recovery Act became effective in 1933, a general strike lasting six weeks took place in the doll industry in the State of New York. This strike, which was caused by the employers' denial of the workers' right to organize, and by their refusal to accept the procedure of collective bargaining, was participated in by the respondent's employees. As far as the respondent was concerned, the strike was settled by an agreement between the respondent and the Doll and Toy Workers Union, Local No. 18230, under which the latter acquired contractual rights against the respondent for a period ending June 1, 1935. In June, 1934, the respondent removed its plant from New York to Clinton, Massachusetts, and began operating there without regard for its obligations under the contract with this Union. Thereafter the Union started proceedings against the respondent in the courts of the State of New York, which resulted in a permanent injunction against the respondent, enjoining it from operating its plant unless it employed only Union men, at Union wages and under Union conditions in accordance with the terms of the agreement. This decision caused a temporary shut-down of the respondent's plant, which was immediately followed by the filing of the petition for reorganization. In this connection it must be mentioned that Article III of the approved plan of reorganization under which the respondent's operations were taken over by the new corporation provides that the claim of the Doll and Toy Workers Union, Local No. 18230, and the claims of 49 workers named therein, were to be settled by the payment of \$8,250 in cash to the attorneys for the Union and the workers.

On January 10, 1935, the respondent found itself before the old National Labor Relations Board on charges of having violated Sec-

tion 7 (a) of the National Industrial Recovery Act in that it had discouraged its employees from joining a labor organization, in that it urged its employees to form a "company union", and further in that it had discharged several of its employees at its Clinton plant for the reason that they had gone to New York at the request of the Doll and Toy Workers Union, Local No. 18230, to testify against the respondent in the injunction proceedings above mentioned. After a hearing, the old Board found that the charges brought against the respondent were substantiated by evidence, and issued its order against the respondent, ordering it to cease and desist from interfering in any manner with its employees in the exercise of their rights under Section 7 (a), and further ordering the respondent to reinstate the discharged employees with back pay.³

The employees involved in this case, except Max Marcus, had been in the respondent's employ previous to its removal from New York to Clinton. At the respondent's request, Arena and Armao continued in the respondent's employ during the removal operations and thereafter; however, before Armao left for Clinton, he asked the respondent's treasurer about the conditions under which he would be made to work there, and was told not to worry, for his "pay and everything" would be straightened out to his satisfaction. Shortly after the removal operations had been completed the others came to Clinton to work for the respondent at its request.

Tony Armao, the key man in the respondent's eye-painting department, received \$35. per week for his work while employed in New York. At Clinton he had to work very long hours without any pay for overtime. On numerous occasions Armao protested against these long hours and demanded overtime. Although he received two \$5. increases during his employment by the respondent at Clinton, nothing was ever done with respect to his demands for overtime.

Vito Arena, the key man in the respondent's spraying department, received a weekly wage of \$35. for 42 hours of work while employed by the respondent in New York. At Clinton he was raised to \$40. per week but was forced to work between 45 and 85 hours per week. During 1934 he complained to the respondent five times about his long hours and about the fact that he was not getting any overtime, and constantly expressed his desire to be put on a 40 hour basis with arrangements for overtime. At Christmas time in 1934, he was given a \$40. bonus to appease his dissatisfaction but nothing was ever done with respect to shortening of hours or overtime.

Salvatore Modica, the key man in the respondent's dipping department, asked the respondent's treasurer about working condi-

³ See *In the Matter of Ralph A. Freundlich, Inc., and Doll and Toy Workers' Union*, decisions of the National Labor Relations Board (Old), Volume II, page 147.

tions at Clinton before going there, and was told that he would be treated "good and special". Whereas he received \$35. per week for a 40 hour week at New York, he was forced to work as much as 90 hours per week for the same amount at Clinton. He frequently complained about these long hours but to no avail.

John Giannone, employed in the respondent's sandpapering department, began working for the respondent at Clinton at a weekly wage of \$25.; in January, 1935, he was cut to \$20, but was later raised to \$30., and then to \$35. per week. He constantly complained to the respondent about having to work as much as 75 hours a week but the respondent was deaf to his complaints.

Anthony Lazzaro, the key man in the respondent's polishing department, received \$19.80 per week at New York for a 40 hour week; at Clinton he was raised in steps to \$30. per week, but in consequence was forced to work as much as 75 hours a week including Sundays.

Peter Giannone, a doll painter, began working for the respondent at Clinton at a weekly wage of \$15. for a 40 hour week; before many weeks had gone by he was forced to work as many as 55 hours a week. He continuously complained bitterly to the respondent about his low wages and his long working hours, but found his constant efforts rewarded only by a \$3. per week raise.

Max Marcus, an eye setter, and a highly skilled doll worker, began working for the respondent at Clinton, on May 30, 1935, at a wage of \$30. per week. About three and a half months later, and just two weeks before his discharge, he was given a \$5. per week raise and was told that his work was satisfactory.

During the period of their employment at Clinton, John Giannone, Armao, Modica, Arena, and Lazzaro engaged in collective efforts to improve their working conditions, but these collective efforts proved to be as fruitless as their individual attempts had been. When approached by the employees the respondent's officers displayed an evasive attitude, and directed their efforts toward putting forward the day on which the employees might expect improvement in their working conditions. In March, 1935, the five employees met with various officers of the respondent. They stated that they were dissatisfied with the long working hours and demanded an increase in wages. The respondent's treasurer, Ralph A. Freundlich, avoided the necessity of immediate decision on the question of shorter hours with higher wages by promising to take care of these employees when he got back to Clinton in June. Although Freundlich was in Clinton during part of each of the first three weeks of June, 1935, the employees did not succeed in meeting with him. However, in July, the five employees met with Freundlich and other officers of

the respondent and insisted on payment for overtime. During this conference, Ulmer, the respondent's personnel manager, addressed himself to Freundlich, saying, "Listen, Ralph, I think this is one clique you have got here, and this is the clique we have got to split up." Thereupon the five employees stated that if that was the way respondent felt about them, they were ready to go home at any time. The conference continued, and finally Freundlich sent them back to their work, but called them back shortly and promised them Christmas presents if they would go along as they were. They refused the respondent's offer to wait, but went back to their jobs; later during the same day, they were all called back to the respondent's office and each given a raise of \$5. per week. The respondent, through its officers, however, continuously failed to meet their overtime demands.

The respondent's women workers, employed in the spraying, eye-painting, dressing, and grinding departments, were also constantly engaged in a conflict with the respondent over working conditions, especially over their low pay. This conflict culminated in a series of stoppages during the summer of 1935, during which these workers laid down their tools and went in a body to the respondent's officers only to be met by the same evasive and promissory attitude which the officers had adopted towards the other employees.

The respondent's labor relations prior to its removal from New York to Clinton clearly show its unfair and prejudiced attitude toward its employees and their union. By its removal and the consequent violation of its contract with Doll and Toy Workers Union, No. 18230, the respondent sought to increase the inequality of bargaining power between its employees and itself so that it could more easily depress their wage rates and extend their hours of work. The respondent's conduct with respect to its employees in the early days of its operation at Clinton, which led to the proceedings against it before the old National Labor Relations Board, further shows its determined attitude of unfairness toward its employees and their union, and clearly exemplifies its growing desire to quash and independent labor organization of its employees, and to create and encourage a "company union" amongst them in contravention of the law. **The respondent's unfair treatment of its employees with respect to wages and working conditions, and especially the unfair treatment accorded the seven employees named in the complaint, who were key men in the respondent's plant, are proof of its unconcern for the welfare of its workers.** The respondent's evasive and promissory tactics towards those of its employees who sought to bargain with it, either individually or collectively, was more than those employees were willing to tolerate. It was that fact that gave impetus to the organization of Federal Labor Union No. 20090.

III. THE ORGANIZATION OF A UNION AT RESPONDENT'S CLINTON PLANT

John and Peter Giannone, Modica, and Lazzaro, who lived in the same boarding house, and Arena and Armao, who lived together in another boarding house in Clinton, knew one another quite well. While at home, in New York, during a temporary shut-down of the respondent's plant in Clinton in the early part of 1935, these men actively discussed working conditions at the Clinton plant. It was during this period that they conceived the idea of organizing the respondent's plant; they realized that only by such means could their working conditions be improved and the tenure of their jobs secured. However, they did not engage in any active organization work until after Alexander Ravitch, whom they all knew, came to Clinton from New York in August, 1935.

Ravitch had made numerous trips to Clinton from New York during 1934 and 1935, in order to lay the groundwork for the organization of a union there. Having laid this groundwork Ravitch came to Clinton again in August, 1935, for the express purpose of organizing the employees. He began by conferring with small groups of workers throughout Clinton. Later on, however, when he gathered together larger groups he arranged meetings which were held in various towns near Clinton. All of these meetings and conferences were frequently attended by all of the employees whom the respondent later discharged.

At these meetings, Ravitch and other organizers distributed application blanks for membership in the American Federation of Labor. Each of the employees named in the complaint, except Modica, obtained a number of these blanks, and Marcus, Arena, and Lazzaro distributed them amongst the employees in the respondent's plant. Armao, John and Peter Giannone handed their entire supply of application blanks to other workers in the plant who needed them more than they did. The activity of these employees, however, with regard to these blanks did not in any way interfere with the quality or quantity of their work.

Having completed this preliminary organization work, Ravitch applied to the American Federation of Labor for a charter. A charter was granted to Ravitch for the Clinton group on September 24, 1935, creating Federal Labor Union No. 20090, Clinton, Massachusetts, a labor organization, hereinafter called the Union. The seven employees named in the complaint immediately joined the Union.

IV. THE UNFAIR LABOR PRACTICES

A. *The discharges of September 26, 1935*

On the afternoon of September 26, 1935, two days after the Union was chartered, and after the seven employees named in the complaint had joined the Union, Arena was called to the respondent's office. There he found Freundlich and two other of the respondent's officials. Freundlich showed Arena an application blank for membership in the American Federation of Labor, the blank being identical to those distributed at the Union meetings and to workers in the respondent's plant. Freundlich then asked Arena what he knew about the distribution of such blanks in the plant. When Arena gave no information, Freundlich told Arena that he was going to lay him off that night because he and the "rest of the bunch" were trying to organize a union. Later during the same day, Freundlich sent for Armao, Lazzaro, and Modica in turn, and pressed each one of them individually for information about what was happening in the plant with respect to the Union membership application blanks and organization activities in general. None of these men, however, told anything.

During the same afternoon the respondent's assistant superintendent, Bieler, approached Modica while the latter was working at his bench and stated, "You know, Modica, this is your last day." When Modica asked the cause, Bieler answered, "Because somebody tell Mr. Freundlich you and the rest of the boys giving the paper inside for making a union." At about 5 P. M., Freundlich called a shop meeting of the employees, but the seven employees named in the complaint were excluded. When this meeting was over the seven employees named in the complaint were ordered to the office where they were given their checks and discharged. These employees were at all times after their discharge refused reinstatement by the respondent.

Immediately after his discharge, Marcus, who had received a \$5. raise just two weeks before, asked Freundlich what it all meant; Freundlich replied that he had been "fooling with him long enough". Shortly thereafter, and before Marcus had left the respondent's plant, Bieler remarked to Marcus that he, Marcus, had been the leader of the labor trouble in the place, and expressed his amazement by saying that he did not think that Marcus "would do a thing like that".

B. *Other interferences by the respondent with the rights of its employees*

During the latter part of 1934, Ravitch made several trips to Clinton from New York. While in Clinton on one of these trips in

September of that year, Ravitch tried to hold meetings with the respondent's employees for the purpose of explaining to them the purposes of a union. He experienced, at that time, great difficulty in getting a hall in which to conduct these meetings. Ravitch testified: "When I was trying to get a hall, word was passed. In some way or other I couldn't get who passed the word. Word was passed they shouldn't rent the hall." Shortly thereafter he made an appointment to meet a group of workers in a public park. In order to avoid attracting attention, the workers divided and sat in groups of four or five. Nathan Trepner, the respondent's superintendent, happened by, looked over the groups, and then went away. In about five minutes he returned with two policemen to whom he pointed out Ravitch, stating: "This is an agitator from New York. Arrest him. He's a trouble maker." The policeman, accompanied by Trepner, took Ravitch and several other organizers to the police station where they were detained. No formal charges were filed against Ravitch, but he was compelled with two of his companions to board a Leominster-bound bus which was escorted to the city limits by two motorcycle police. This incident took place before the effective date of the Act, but it serves to set the tone for what happened thereafter.

In August, 1935, shortly after Ravitch came to Clinton to organize what on September 24, 1935, became Federal Labor Union No. 20090, Trepner, the respondent's superintendent, asked Arena to spread word among his fellow workers that Ravitch was a racketeer, and that the union which he was seeking to organize required a payment of \$25.

One day, about the middle of September, 1935, the respondent notified its employees of a meeting to be held in its plant at 1:00 o'clock on that day. At this meeting Freundlich made a speech. The testimony of the seven discharged men with regard to what was said in that speech by Freundlich, although differing in language, was practically identical. In substance, Freundlich told his employees that the organizers who were at work in Clinton, including Ravitch, were racketeers and communists, who had come to town with an illegal scheme to create a union racket, and to make trouble; that it would be much better to organize a union within the respondent's plant and contribute to it rather than to form another outside union which would take the workers' money and not give them anything in return; that even though the organizers who had come to Clinton were American Federation of Labor representatives seeking to establish an affiliate, nevertheless the contemplated union was a racket, run by a bunch of crooks and communists which would charge an exorbitant initiation fee of \$25., and would require the payment of \$5. every month for dues, in return for all of which the workers

would get nothing; that it would be more beneficial to the workers to form a "company union" than to join an American Federation of Labor union which was just a racket run by a lot of crooks.

The respondent, by the speech of its treasurer, Ralph A. Freundlich, to its employees, made its attitude of abhorrence for other than "company unions" quite clear. The natural as well as the desired effect of that speech was to coerce the respondent's employees to refrain from joining or assisting any outside labor organization. After this speech, some of the respondent's employees hesitated to carry on openly organization activities toward the establishment of an outside labor union. Marcus, one of the discharged employees, stated that he handed out the application blanks for membership in the American Federation of Labor secretly, because he felt that he would be discharged if the respondent ever found out that he was handing out the blanks. Lazzaro, another discharged employee, when confronted by Freundlich on the day of his discharge, denied having had anything to do with the distribution of these same blanks for the reason, as he said, that he dreaded discharge.

While in Clinton during August and September, 1935, Ravitch was constantly shadowed by men in a car. This car at times contained some of the respondent's employees, and at one time contained Bieler, the respondent's assistant superintendent. On one occasion, Ravitch was stopped in the street by a man named Delewycz who said that he represented the management, that the management did not like his (Ravitch's) being around Clinton, and that if he (Ravitch) did not leave Clinton by a certain day, something would happen to him.

One day, early in September, 1935, Bieler spoke to John Giannone about Ravitch's presence in Clinton and suggested that Giannone join the boys that night in giving Ravitch a ride. Giannone tactfully declined this invitation stating that he had another engagement. In mid-September, Bieler asked Lazzaro and Modica to join a strong arm squad which was being organized to deal with Ravitch. Bieler further spread word among other of the respondent's employees that some day Ravitch would find himself in the river because they were forming a vigilante committee to get him. As far back as 1934, when Ravitch first came to Clinton, Ralph A. Freundlich stated in the presence of Arena: "I could spend \$500 or \$1,000 to throw him in the river. I think I better get a couple of guys from Boston or New York; I would let them beat him up."

On the day following their discharge, September 27, 1935, the seven employees named in the complaint, accompanied by Ravitch, went to Boston to lodge a charge against the respondent with the Regional Director of the Board there. Having done that, they all returned to Clinton where, on the same night, they met again at the American

Federation of Labor headquarters. After holding a short meeting there, Ravitch left the headquarters with Arena and Armao. While the three were walking down the street and before they had gone more than a hundred feet, two unknown men rushed up out of the darkness and assaulted Ravitch, causing him serious bodily injury. This assault caused a great deal of disturbance, and as people began to gather to see what was going on, the two assailants fled from the scene in a car owned by Bieler. During the same night, afraid of suffering the same brutal treatment, Arena, Modica, Armao, John and Peter Giannone left Clinton in a car and drove to Hartford, Connecticut.

C. Conclusions with respect to the unfair labor practices

(1) The abrupt discharge of the seven employees without notice or warning, was plainly unrelated to the character of their service for the respondent, and must have been motivated by some other reason or cause. The respondent had never found fault with the quality or quantity of the work of any of these employees; in fact it was always quite satisfied with their work. Evidence of such satisfaction can be found in the raises given to them at various times, the last of which were given to them shortly before their discharge. Furthermore, all of these seven employees, except Peter Giannone, were experienced doll workers, key men in their respective departments.

In view of the respondent's open hostility toward the Union, and in view of the circumstances immediately surrounding the discharges, we find that these employees were discharged on September 26, 1935, and have since been refused reinstatement by the respondent, for the reason that they joined and assisted a labor organization, known as Federal Labor Union No. 20090, Clinton, Massachusetts, and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection. We also find that the respondent's conduct in so discharging and refusing to reinstate these seven employees, was calculated to and did have the necessary effect of discouraging membership in the aforementioned labor organization. By its conduct in discharging and refusing to reinstate these employees, the respondent has discriminated against its employees in regard to hire and tenure of employment, and has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

That Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arena, the seven men named in the complaint, were employees of the respondent at the time of their discharge is clear. Their work having ceased in consequence of the aforementioned unfair labor practices, they at all

times thereafter retained their status as employees of the respondent within the meaning of Section 2, subdivision (3) of the Act, and as such were entitled to reinstatement by the respondent.

All of the seven men obtained employment at the Ideal Novelty Company, Long Island City, New York, shortly after their discharge. This employment was not, however, regular or substantially equivalent to their employment by the respondent so as to terminate their status as employees of the respondent within the meaning of Section 2, subdivision (3) of the Act. Their work there was only temporary and was engaged in by them as a result of economic necessity. By January 9, 1936, all had been laid off. The record clearly shows that Max Marcus, John Giannone, Peter Giannone, and Anthony Lazzaro were unemployed at the time of the hearing and that they had not secured any employment since their lay-off by the Ideal Novelty Company. That all of the seven employees had not secured regular and substantially equivalent employment elsewhere at the time of the hearing, and that they were anxious to return to work for the respondent is clearly indicated by their voluntary presence and giving of testimony at the hearing, many miles away from their homes.

(2) In view of the conduct of the respondent's officers toward Ravitch, and in view of the circumstances immediately surrounding the assault upon him on September 27, 1935, we are unable to believe that this attack, as well as the events leading up to that attack, were not directly sponsored by the respondent, with the purpose of intimidating those who dared to organize its employees and of coercing its employees to refrain from joining any labor organization with which Ravitch was connected. The responsibility for the events leading up to and culminating in the assault, as well as the responsibility for the assault itself with the resultant effects of employee coercion and intimidation, rests clearly upon the respondent. We find that the respondent, by the aforementioned acts, by the speech of its treasurer, Ralph A. Freundlich, made to all of its employees, including the seven employees mentioned in the complaint, and by its grilling of several of these seven employees with respect to their labor activities, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed to them in Section 7 of the Act.

V. EFFECT OF THE UNFAIR LABOR PRACTICES OF COMMERCE

Board Exhibit No. 5, prepared by the Bureau of Labor Statistics of the Department of Labor in Washington, shows that during 1934, several strikes took place in the Toy Manufacturing Industry, which involved 2227 workers and resulted in 42,345 man-days of idleness. Exhibit No. 5 further reveals that during the period from January to July, 1935, several more strikes involving 810 men and resulting in

11,790 man-days of idleness took place in the same industry. This exhibit discloses that the major issues of the strikes during these two periods were wages and hours, and organization and recognition of unions. The respondent is one of the largest doll manufacturing concerns in the United States and is responsible for seven per cent of the entire doll production of the country; that a strike in its plant, caused by disputes over issues identical with the issues in this case, would result in a substantial burden on interstate commerce is made apparent by the above mentioned exhibit.

The activities of the respondent set forth in Section IV above, occurring in connection with the operations of the respondent 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.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact the Board makes the following conclusions of law:

1. Federal Labor Union No. 20090, Clinton, Massachusetts, is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.
2. Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arema were at the time of their discharge, and at all times thereafter, employees of the respondent, within the meaning of Section 2, subdivision (3) of the Act.
3. The respondent, by discriminating in regard to the hire and tenure of employment of Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arena, and each of them, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.
4. The respondent, by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.
5. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2, subdivisions (6) and (7) of the Act.

ORDER

On the basis of the findings of fact and conclusions of law and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the

respondent, Ralph A. Freundlich, Inc., a New York corporation, and Ralph A. Freundlich, Inc., a Massachusetts corporation, and their officers, agents, successors, and assigns, shall:

1. Cease and desist:

(a) From discouraging membership in Federal Labor Union No. 20090, Clinton, Massachusetts, or any other labor organization of their employees, by discharging, threatening to discharge, or refusing to reinstate any of their employees for joining or assisting Federal Labor Union No. 20090, Clinton, Massachusetts, or any other labor organization of their employees;

(b) From in any manner discriminating against any of their employees in regard to hire or tenure of employment for joining Federal Labor Union No. 20090, Clinton, Massachusetts, or any other labor organization of their employees; and

(c) From in any other manner interfering with, restraining, or coercing their employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Offer to Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arena immediate and full reinstatement, respectively, to their former positions, without prejudice to any rights and privileges previously enjoyed by them;

(b) Make whole said Max Marcus, Tony Armao, Peter Giannone, John Giannone, Salvatore Modica, Anthony Lazzaro, and Vito Arena for any loss of pay they have suffered by reason of their discharge, by paying to each, respectively, a sum of money equal to that which each would have earned as wages during the period from the date of his discharge to the date of such offer of reinstatement, less the amount each earned during such period;

(c) Post immediately notices to their employees in conspicuous places on each floor of their factory, stating (1) that the respondent and Ralph A. Freundlich, Inc., a Massachusetts corporation, will cease and desist in the manner aforesaid; and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting;

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