In the Matter of F. W. WOOLWORTH COMPANY *and* RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L.

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Cases Nos. 9–CA–118 and 9–RC–403.—Decided June 12, 1950

DECISION AND ORDER

On January 17, 1950, Trial Examiner James A. Shaw issued his Intermediate Report in the above-entitled consolidated proceedings, finding that the Respondent had engaged in and was engaging in certain unfair harbor practices in violation 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. He also recommended that the election held on June 7, 1949, among the Respondent's employees, be set aside. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in these cases, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following additions and modifications:

1. We agree with the Trial Examiner's finding that the Respondent discriminatorily discharged Helen Wells in violation of Section 8 (a) (1) and (3) of the Act.[1] The discriminatory motivation is readily apparent from Manager Haines' statements to Wells, when he discharged her, that she had "caused all this trouble," had "passed out

[1] The Respondent contends that, at the time of her discharge, Wells, a floor lady, was a supervisor. The alleged supervisory status of the floor ladies was fully litigated in the representation proceeding (Case No. 9–RC–403), in which the Board found that they were not supervisors within the meaning of the Act. As the Respondent has presented no evidence in support of this contention which was not introduced into the record and passed upon by the Board in its Decision and Direction of Election (83 NLRB 439), we find, in accordance therewith, that Wells was not a supervisor within the meaning of the Act.

those cards," and had been disloyal.[2] Moreover, we find no merit in the Respondent's contention that it discharged Wells because she had tried to persuade other employees to look for jobs elsewhere and, in so doing, had been disloyal to the Respondent. Manager Haines testified that he decided to discharge her on the evening of February 15, immediately after a conversation with Viola Browning, in which Browning accused Wells of having engaged in such conduct. He admitted, however, that he never confronted Wells with the charge or attempted to establish its veracity. Although we perceive no reason for disturbing the Trial Examiner's finding that Wells did not engage in the alleged improper conduct, we deem it unnecessary to decide whether or not the conversation between Haines and Browning actually occurred. It seems highly improbable that the manager would have relied solely on the accusation of Browning, a part-time employee, to discharge an employee with 8 years' tenure. Upon the entire record, and particularly in view of Haines' stated reason for the discharge, the timing of the discharge, which immediately followed the first union meeting of the Respondent's employees, and the further fact that Wells was discharged without warning, we are satisfied that she was discharged because of her extensive organizational activities.[3]

2. We also agree with the Trial Examiner's finding that the Respondent, independently of its discriminatory discharge of Wells, violated Section 8 (a) (1) of the Act. In adopting this finding, we rely solely on the following statements and activities of the Respondent's supervisors, which were clearly unlawful:

(a) Manager Haines' statements to the Respondent's assembled employees, before the election: (1) That the Respondent would not negotiate with or sign a contract with the Union, (2) that the Respondent would close the store if the Union won the election, (3) that the Respondent's vacation plan might be disturbed if the Union won the election, and (4) that the employees had better "think it over" as jobs were hard to get;

(b) Haines' further preelection activities, consisting of: (1) Interrogation of Ruth Durham, Roxie Helle, and Effie Bolton with respect to their reasons for wanting a union, (2) statements to Ruth Durham, Roxie Helle, and Evelyn Fieglein that he was aware of their union

[2] The Respondent contends, in support of its argument that Wells was discharged for cause, that Haines did not know of Wells' union activity until after he had discharged her. Such knowledge is evident, however, from the statements made by Haines when he discharged her. Moreover, it is reasonable to infer, from Wells' extensive organizational activities and the small size of the establishment involved, that Haines knew of her union membership and activity. *Kallaher and Mee, Inc.*, 87 NLRB 410, and cases cited therein.

[3] In reaching this conclusion, we do not rely on the fact that Wells remained in the Respondent's employ throughout the war years.

activities and, in effect, that he had them under surveillance, (3) his suggestion to Ruth Durham that she try to persuade employees to abandon the Union, coupled with an offer to reimburse them for the money they had paid to the Union, (4) the grant to the employees, during the course of the union organizational campaign, of a 10 percent discount on purchases, and (5) his instruction to the part-time employees, on June 4, 1949, to leave the store early and to go out through the back door so that they would avoid the union organizers in front of the store; and

(c) Assistant Manager Grooms' warning to Loraine Brooks that she had better change her mind about a few things and start thinking about her two children.

3. We also find, in accordance with the conclusion of the Trial Examiner, that the above preelection activities of the Respondent created an atmosphere which made impossible a free and untrammeled expression by the employees at the election held on June 7, 1949. We shall therefore set aside that election and shall direct a new one at such time as the circumstances permit a free expression by the employees of their desires with respect to representation.[4]

The Remedy

We have found that the Respondent discriminated against Helen Wells because of her union affiliation and activities. In order to effectuate the policies of the Act, we shall order the Respondent to offer Helen Wells immediate reinstatement to her former or substantially equivalent position without prejudice to her seniority and other rights and privileges, and to make her whole for any loss of pay she may have suffered as a result of the Respondent's discrimination against her.

Heretofore, in cases arising under Section 8 (a) (3) of the Act, we have normally ordered that back pay be determined by computing the difference between (a) what the employee would have earned in the position which was discriminatorily terminated and (b) what he actually earned in other employment during the entire period commencing on the date of discrimination and ending with the date of offer of reinstatement. The cumulative experience of many years discloses that this form of remedial provision falls short of effectuating the basic purposes and policies of the Act. We have noted in numerous cases that employees, after having been unemployed for a lengthy period following their discriminatory discharges, have suc-

[4] *Lane Drug Stores, Incorporated,* 88 NLRB 584.

ceeded in obtaining employment at higher wages than they would have earned in their original employments. This, under the Board's previous form of back-pay order, resulted in the progressive reduction or complete liquidation of back pay due.

The deleterious effect upon the companion remedy of reinstatement has been twofold. Some employers, on the one hand, have deliberately refrained from offering reinstatement, knowing that the greater the delay, the greater would be the reduction in back-pay liability. Thus, a recalcitrant employer may continue to profit by excluding union adherents from his enterprise. Employees, on the other hand, faced with the prospect of steadily diminishing back pay, have frequently countered by waiving their right to reinstatement in order to toll the running of back pay and preserve the amount then owing. Upon analysis of a substantial number of cases involving such action, we have found the economic motivation and compulsion upon the employee not difficult to discern. Unemployment or employment at lesser wages may have resulted in the exhaustion of the employee's savings, his incurrence of debts, and even in deprivation of the necessities of life. Our observation on this score accords with the view of the United States Supreme Court which, in treating this general problem, recognized that the worker is "not likely to have sufficient resources" to sustain the necessary "minimum standard of living necessary for health, efficiency, and general well-being" during such periods.[5] The consequent desire of the victim of discrimination to recoup the maximum amount possible in order to offset such losses, even if this must be accomplished at the price of relinquishing the right to be returned to his former position, may readily be anticipated. The Board has viewed these results with concern because we, as well as the courts of review, have long regarded the remedy of reinstatement as one of the most effective measures expressly provided by the Act for expunging the effects of unfair labor practices and maintaining industrial peace.[6]

The public interest in discouraging obstacles to industrial peace requires that we seek to bring about, in unfair labor practice cases, "a restoration of the situation, as nearly as possible, to that which would have obtained but for the illegal discrimination."[7] In order that this end may be effectively accomplished through the medium of reinstatement coupled with back pay, we shall order, in the case before us and in future cases, that the loss of pay be computed on the basis of each separate calendar quarter or portion thereof

[5] *Brooklyn Savings Bank* v. *O'Neil*, 324 U. S. 697, 707.
[6] *Phelps Dodge Corp.* v. *N. L. R. B.*, 313 U. S. 177, 195.
[7] *Id.*, 313 U. S., at 194.

during the period from the Respondent's discriminatory action to the date of a proper offer of reinstatement. The quarterly periods, hereinafter called "quarters," shall begin with the first day of January, April, July, and October. Loss of pay shall be determined by deducting from a sum equal to that which Helen Wells would normally have earned for each such quarter or portion thereof, her net earnings,[8] if any, in other employment during that period. Earnings in one particular quarter shall have no effect upon the back-pay liability for any other quarter.

We find that this will constitute an appropriate, fair, and practicable method of computation. The liability for each quarter may be determined by reference to factors then current, and not subject to subsequent fluctuation. Thus, both employee and employer will be in a position to know with some precision the amount that will be due at the end of each 3-month period, if discrimination should ultimately be found.

In devising this method of computation, we have also heeded its concomitant effects upon Helen Wells' rights and benefits under the Old Age and Survivors Insurance program of the Social Security Act. Payments to compensate for loss of wages, made in accordance with the orders of this Board, are "wages" within the meaning of the Social Security Act. The Social Security Administration is required to allocate such payments to the particular quarter in which the money would have been earned; only thus can the employee's Old Age and Survivors Insurance account be restored as eligibility for old age payments, as well as the measure of benefits, rests largely upon the number of quarters for which wages, in the amount of $50 or more, are received in employment covered by the Social Security Act.[9] Our present order conforms with and facilitates the prescribed practice of the Social Security Administration. All other things being equal, we desire to avoid prejudice to the employee's rights under other social legislation designed to "preserve the continuity and stability of labor remuneration."[10] As the Circuit Court of Appeals for the Sixth Circuit has declared, rights under the National Labor Relations Act, "the exercise of which it is national policy to encourage," shall not be exercised "at the peril of surrendering rights

[8] By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the Respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Crossett Lumber Company*, 8 NLRB 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation* v. *N. L. R. B.*, 311 U. S. 7.

[9] *Social Security Board* v. *Nierotko*, 327 U. S. 358.

[10] *Nierotko* v. *Social Security Board*, 149 F. 2d 273, 276 (C. A. 6).

under other social legislation created for the protection of the same persons." [11]

We have also noted that in numerous cases the Board has been hampered in its efforts to secure compliance with back-pay and reinstatement orders by the refusal of some employers to permit access to their payroll and other records. An examination of such records is necesary for the proper checking of the amounts of back pay due and the rights of reinstatement.[12] Therefore, in order to ensure expeditious compliance with the Board's back-pay and reinstatement orders, we shall order the Respondent, upon reasonable request, to make all pertinent records available to the Board and its agents.

ORDER

Upon the entire record in these cases and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, F. W. Woolworth Company, Store No. 1905, Cincinnati, Ohio, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in Retail Clerks International Association, A. F. L., or in any other labor organization of its employees, by discharging and refusing to reinstate any of its employees or by discriminating in any other manner in regard to their hire and tenure of employment, or any term or condition of employment;

(b) Interrogating its employees concerning their union affiliation and activities and their reasons for wanting a union; threatening its employees with reprisals, including loss of employment and loss of benefits, because of their union affiliation and activities; stating that it will not negotiate with or sign a contract with the Union; fostering the impression of its surveillance of its employees in regard to their union affiliation and activities; attempting to induce its employees to abandon the Union by offering to refund to them the cost of their union membership; granting discounts on merchanise to its employees before a Board-directed election; and preventing its employees from coming into contract with union organizer;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form

[11] *Id.*, 149 F. 2d., at 277.

[12] See *N. L. R. B.* v. *New York Merchandise Company, Inc.*, 134 F. 2d 949 (C. A. 2).

labor organizations, to join or assist Retail Clerks International Association, A. F. L., or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

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

(a) Offer to Helen Wells immediate and full reinstatement to her former or substantially equivalent position, without prejudice to her seniority or other rights and privileges;

(b) Make whole Helen Wells, in the manner set forth in the section entitled, "The Remedy," for any loss of pay she may have suffered as a result of the Respondent's discrimination against her;

(c) Upon request, make available to the National Labor Relations Board, or its agents, for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records necessary to analyze the amounts of back pay due and the right of reinstatement under the terms of this order;

(d) Post at its Store No. 1905, Cincinnati, Ohio, copies of the notice attached hereto and marked Appendix A.[13] Copies of said notice, to be furnished by the Regional Director for the Ninth Region, shall, after being duly signed by the Respondent's representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

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

IT IS FURTHER ORDERED that the election held on June 7, 1949, among the employees of F. W. Woolworth Company, Store No. 1905, in Cincinnati, Ohio, be, and it hereby is, set aside.[14]

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[13] In the event that this Order is enforced by a decree of a United States Court of Appeals there shall be inserted before the words, "A Decision and Order," the words, "A Decree of the United States Court of Appeals enforcing."

[14] When the Regional Director advises the Board that the circumstances permit a free choice of representatives, we shall direct that a new election be held among the Respondent's employees.

APPENDIX A

NOTICE TO ALL EMPLOYEES

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

WE WILL NOT discourage membership in RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L., or in any other labor organization, by discharging and refusing to reinstate any of our employees or by discriminating in any other manner in regard to their hire and tenure of employment or any term or condition of employment.

WE WILL NOT interrogate our employees concerning their union affiliation and activities and their reasons for wanting a union; threaten our employees with reprisals because of their union affiliation and activities; state that we will not negotiate or sign a contract with RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L.; foster the impression of surveillance of our employees in regard to their union affiliation and activities; attempt to induce our employees to withdraw from RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L., by offering to refund to them the cost of their membership therein; grant discounts on merchandise to our employees before a Board-directed election; or prevent our employees from coming into contact with organizers for RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L., or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act.

WE WILL offer to Helen Wells immediate and full reinstatement to her former or substantially equivalent position, without prejudice to her seniority or other rights and privileges previously enjoyed, and make her whole for any loss of pay she may have suffered as a result of our discrimination against her.

All our employees are free to become or remain members of the above-named union or any other labor organization. We will not

discriminate in regard to the hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

F. W. WOOLWORTH COMPANY,
STORE NO. 1905, CINCINNATI, OHIO,
Employer.

By _____
(Representative) (Title)

Dated _____

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

INTERMEDIATE REPORT

William A. Naimark, Esq., for the General Counsel.

J. W. Brown, Esq., of Cincinnati, Ohio, for the Retail Clerks Association, A. F. L.

Richard J. Hickey, Esq., of *Davis, Hardy, Schenk & Sons*, of New York, N. Y., for the Respondent.

STATEMENT OF THE CASE

Upon a charge filed on February 18, 1949, by Retail Clerks International Association, A. F. L., herein called the Union, the General Counsel[1] of the National Labor Relations Board, herein respectfully called the General Counsel, and the Board, by the Regional Director of the Ninth Region (Cincinnati, Ohio), issued a complaint, dated August 31, 1949, against F. W. Woolworth Company, herein called the Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, as amended (61 Stat. 136), herein called the Act. On September 27, 1949, the Regional Director for the Ninth Region issued an order consolidating Case No. 9-CA-118 and Case No. 9-RC-403, pursuant to Sections 203.33 and 203.64 of the Board's Rules and Regulations. As regards Case No. 9-RC-403, the Board issued its Decision and Direction of Election therein on May 9, 1949. Pursuant thereto, the Regional Director for the Ninth Region conducted an election among the Respondent's employees in the appropriate unit found by the Board in that case, on July 7, 1949. A tally of the ballots which was served on the parties shows that the Union lost the election by a vote of 15 to 8. On June 10, 1949, the Union filed timely objections to the election alleging (1) that some of the 14 part-time employees whose names appeared on the eligibility list and who cast ballots in the election were casual employees and hence ineligible to vote; (2) that company representatives escorted part-time employees into the office where they were coerced into voting against the Union; and (3) that the store manager and assistant store manager generally engaged in coercing employees in order to compel them to vote against the Union. The Regional Director in his report on objections, dated August 26, 1949, found that Objections No. 1 and No. 2 did not raise substantial and material issues with respect to the conduct of the election. He found, however, that Objection No. 3 did raise sub-

[1] This term includes particularly counsel appearing on behalf of the General Counsel.

stantial and material issues with respect to the conduct of the election, and recommended that the Board direct a hearing with respect thereto. The Board, on September 20, 1949, adopted the recommendation of the Regional Director and remanded the cause to him for the purpose of conducting a hearing thereon.

With respect to the unfair labor practices, the complaint alleged, in substance, that Respondent: (1) On or about February 6, 1949, by its officers and agents, did discharge Helen Wells, an employee of its Store No. 1905, and since that date has failed and refused to reinstate her to her former position, because of her membership in, activities on behalf of the Union, and for the purpose of discouraging membership in the Union; (2) that commencing on or about February 16, 1949, and at various dates thereafter, by its officers and agents, has interfered with, restrained, and coerced its employees in the exercise of their rights as guaranteed in Section 7 of the Act, by: (a) Interrogating said employees as to their affiliation with and activity on behalf of the Union, and as to whether they would vote for the Union if given the opportunity for such a vote; (b) threatening said employees with reprisals, including loss of employment, because of their affiliation with, activity on behalf of, and voting in favor of the Union; (c) promising said employees benefits if they would refrain from joining, assisting, or voting for the Union; (d) statements indicating surveillance of said employees by said Respondent, in regard to their affiliation with and activity on behalf of the Union; (e) statements that Respondent would not bargain with or sign a contract with the Union in any event; (f) granting to said employees a wage increase, after the filing of a Petition for Certification of Representatives on behalf of said employees; (g) offering to refund to said employees the cost of their membership in the Union if they would withdraw such membership; and (h) discharging Helen Wells for her membership in and activities on behalf of the Union.

On September 12, 1949, the Respondent filed its answer admitting therein certain allegations of the complaint but denied it had committed any unfair labor practices. As an affirmative defense, the Respondent in substance alleged in its answer that the complaint did not comply with the provisions of Section 203.12 and 203.15 of the Board's Rules and Regulations, in that said charge is not specific as to facts, names, dates, etc., connected with the commission of the alleged unfair labor practices set forth in said charge.[2]

On September 23, 1949, the Respondent, by its counsel, filed with the Regional Director a "Demand for Bill of Particulars," which in substance was a demand for the same information it alleged as an affirmative defense in its answer, which has been set forth hereinabove. The Regional Director ruled on said motion on September 27, 1949, and granted it to the extent that he considered it pertinent to the issues raised by the pleadings. As to all of other matters requested in said motion, they were denied with leave to renew them before the Trial Examiner at the hearing herein.

Pursuant to notice, a hearing was held at Cincinnati, Ohio, from October 4 to 10, 1949, before the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The General Counsel, Respondent, and the Union were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues, was afforded all

[2] As will be shown hereinafter, the Respondent filed a demand for a bill of particulars which was ruled upon by the Regional Director before the hearing herein, and by the undersigned at the hearing. Nevertheless, no contention was made at the hearing as regards the sufficiency of the allegations in the complaint as regards the charge, except to the extent that the complaint itself be more particularized.

parties. At the hearing, the Respondent renewed its motion for a bill of particulars. It was denied by the undersigned. At the close of the hearing, the Respondent moved to dismiss the complaint. Ruling thereon was reserved by the undersigned. The motion is hereby denied. The General Counsel at the close of the hearing moved to conform the pleadings to the proof as regards minor matters, such as names, dates, and the like. The motion was granted by the undersigned.

At the close of the hearing, all parties waived oral argument but were granted until October 25, 1949, to file briefs with the undersigned. Thereafter, at the request of the General Counsel, the Chief Trial Examiner extended the time for filing to November 8, 1949. On this date, briefs were received from the General Counsel and the Respondent. They have been carefully considered by the undersigned.

Upon the entire record in the case and from his observations of the witnesses, the undersigned makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

F. W. Woolworth Company is a New York corporation with its principal offices in New York, New York, and is engaged in the operation of retail variety stores throughout the United States, including one known as Store Number 1905, located at 4011 Hamilton Avenue, Cincinnati, Ohio.

During the past 12 months, the Respondent, on behalf of Store Number 1905, purchased required supplies and merchandise valued in excess of $100,000, of which approximately 60 percent was shipped to said store from places outside the State of Ohio.

During the past 12 months, the afore-mentioned store sold goods and merchandise valued in excess of $100,000, of which less than 1 percent was shipped to points outside the State of Ohio.

Respondent herein, in the course of its business in connection with Store Number 1905, has caused at all times substantial quanities of merchandise to be purchased and transported in interstate commerce within the meaning of the National Labor Relations Act, as amended, from and through States of the United States, to Store Number 1905, hereinabove mentioned.

In view of the activities of the Respondent described above, the undersigned finds that it is engaged in interstate commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Retail Clerks International Association, A. F. L., is a labor organization within the meaning of Section 2 (5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The discharge of Helen Wells*

Helen Wells was employed by the Respondent at Store No. 1905 on September 6, 1941, and was discharged by its manager on February 16, 1949. At the time of her discharge, she was employed as a floor girl. Her duties required her to answer counter and change calls from the employees stationed at the counters assigned to her; change merchandise on the counters; help the counter girls when they were busy; wait on customers; and help the employees arrange the

merchandise on their counters.[3] In addition, she helped the girls at the soda fountain when they were busy by washing dishes and doing any work necessary to take care of the customers during rush periods.

Wells testified that she joined the Union on or about February 1, 1949. At the time, she agreed to assist the Union in its organizational drive among the Respondent's employees. Between February 1 and the night of February 15, 1949, she discussed the Union with practically all of the employees in the store and succeeded in persuading 19 to sign union application-for-membership cards. Among the employees she solicited was Mary Louise Franklin, cashier in the Respondent's office, who refused to sign an application card.

She further testified that on the night of February 15, 1949, she, along with several other employees, met in front of the Respondent's store after working hours and from there went to a union meeting.

The next morning, shortly after she reported to work, James H. Haines, the store manager, came to her working place and queried her about the meeting that she and other employees of the Respondent attended the night before. Haines told Wells that he knew that they met at a street corner near the store at 7:30 p. m. and drove away, and he demanded to ". . . know who was with you and where you went"; and that he had been so informed by Mary Louise Franklin, cashier in his office. Wells tried to evade a direct answer to Haines' query, and told him, in substance, that they had gone to a meeting that concerned only women and that he "wouldn't be interested" in their activities. Haines then told her that she would not be paid her wages until she answered his questions. Wells disputed his statement as regards his source of information concerning the meeting, and told him that Viola Voltmer, a part-time employee in his office, was the informer, and not Franklin. According to Wells, Haines talked to her about 20 minutes and then returned to his office. Shortly thereafter, Viola Voltmer called Wells and told her that Haines wanted to see her in his office. She complied with Voltmer's request and left for the office. Just before she got there, she met Haines, and that the following conversation between them ensued:

> Q. (By Mr. NAIMARK.) Helen, did you have occasion to talk to Mr. Haines again after that?
>
> A. Yes, sir. Mr. Haines——
>
> Q. When?
>
> A. That same day. Well, Mr. Haines went upstairs and I went over to pull—I got my keys from the cash drawer and I went over to pull a sample basket over from the elevator to empty it; and Viola Voltmer stuck her head out of the office window and she said, "Mr. Haines wants to see you": and I went up the stairs and Mr. Haines was standing there.
>
> And he was very angry, and he said, "You are the cause of all this trouble." He said, "You passed out those cards, didn't you? You have been disloyal." And he says, "You're fired." And I said, "Mr. Haines, do you mean I am fired? After eight years' service?" and he said, "You have been disloyal to the Woolworth Company and to me." He says, "You are fired"; and I started to cry and I ran on up the stairs and I said, "Mr. Haines, I have never been disloyal to you nor the Woolworth Company."

Wells also testified that at the time she had her first conversation with Haines that nearby, at their respective counters, were Mabel McClarnon and Effie Bolton, and that Bolton was in a position to hear what was said.

[3] In Case No. 9–RC–403, the Board found that Wells and other employees of the Respondent doing like work were not supervisory employees within the meaning of the Act.

She further testified that she had never been disciplined or reprimanded by any of her superiors during her tenure of employment with the Respondent. At the time of her discharge, she was earning $32 per week and had received several increases in salary during her tenure of employment with the Respondent. The last raise she received was a few months before her discharge. In addition, she received a Christmas bonus in 1948.

Ruth Durham, an employee of the Respondent since October 21, 1946, testified credibly that she witnessed the first conversation between Haines and Wells on the morning of February 16, 1949, but that she did not hear what was said. She further testified that she estimated that the conversation lasted about 20 minutes. As to the second conversation between Haines and Wells at the time the latter was discharged, she testified that she heard part of it because both were talking in a loud voice, and that she heard Wells crying and her remark to Haines to the effect that she had never been disloyal to either him or the Respondent.

Durham further testified that shortly after Wells was discharged, Haines called her up to the office. When she got there, he met her in the hall and conversed with her at some length. He asked Durham to take over Wells' job and said that he "had to fire her [Wells]." Durham told Haines that she knew that Wells had been discharged and the reason for his action in this regard. Haines' reply to this remark was that the discharge was not "for the reason you think." She told Haines in substance that under such circumstances she could not take over Wells' job so soon after the latter's discharge. The conversation continued, and they discussed various problems that concerned the store; eventually, however, they got to talking about the Union. Durham's testimony in this regard was as follows:

> A. (Continued.) And so then we just talked about things about the store. And then we got talking about union, and he wanted to know just exactly why I was against him. And I says, "Well, most of the reasons is that we don't make enough money." I said, "For what we have to do we don't make enough money."
>
> And he said, "Well, why didn't you come to be me instead of going to a union?"
>
> And I said, "Well, I have asked you for raises before and I never got them."
>
> Well, then, he says—we talked a while, I mean, things that would just be pertaining to the store, more or less store work. And then he says, "Ruth," he says, "you are well-liked in the store. Why don't you talk to some of the girls and see if you can't talk them out of it?"
>
> He said, "See if you can't talk some of the girls out of it." He says, "I would go as far as to give you all of the money that you put in it out of my own pocket," he says, "because it is putting me in a bad position."
>
> Then he told me about his child and his wife, and I told him I understood all that. I said, "but we are all working for one reason and that is to make some money."
>
> Q. (By Mr. NAIMARK.) Now, when he first talked to you about saying that he had to fire Helen, did you say anything to him with respect to that?
>
> A. I says, "Yes, I know it; I know why."
>
> And he said, "No; it isn't for what you think."
>
> Q. Did you tell him why?
>
> A. Yes.
>
> Q. What did you say?
>
> A. I said, "It is because we went to a meeting last night."
>
> And he said, "It wasn't for that."

Q. Now, did he say anything with respect to the meeting; that is, those who attended the meeting?

A. Well, he says he has a list of everybody's name that was there, and he said, "I know you have been there." Then, naturally, we talked about it.

And I said, "How did you find out about that?"

And he says he's got ways and means of finding out anything that he wants to know.[4]

Durham complied with Haines' request and met with several of the employees and discussed, with them the Union and its organizational drive. As a result of this discussion, all of them, including Durham, decided to stay with the Union. Shortly thereafter, Haines approached Durham and asked her what progress she had made in persuading the employees to abandon the Union. She told him that she and the others had decided to stay with the Union. Haines made no comment and walked away.

According to the credible testimony of Betty Sullivan, an employee of the Respondent from May 17, 1948, to September 6, 1949, she witnessed the conversation between Wells and Haines on the morning of February 16, 1949, and testified that it continued for at least 20 or 30 minutes. She further testified that she did not hear all that was said at the time but did hear Wells tell Haines in substance that, "You wouldn't have enjoyed it, there were no women there." In view of the credible testimony of Wells and Durham in this regard, the undersigned is convinced and finds that the only reasonable inference that can be drawn from the above remark of Wells is that she and Haines were discussing the meeting that the employees attended on the night of February 15, 1949.

According to the credible testimony of Effie Bolton, she overheard a considerable portion of the conversation between Wells and Haines on the morning of February 16, 1949, and corroborates much of Wells' testimony in this regard. Bolton's testimony concerning what she heard in the conversation was as follows:

Q. Did you hear anything that Mr. Haines said to Helen or Helen said to Mr. Haines?

A. Yes, I did.

Q. Well, this was on a Wednesday, February the 16th, and it was between 9:30 and 10:00 o'clock; and we were between counter 3 and 5. And Helen evidently was fixing to go to the front of the store, and——

Mr. HICKEY. Pardon me. I move that that be stricken.

Trial Examiner SHAW. Yes; just tell what you heard, what you saw.

A. (Cont'd.) Well, Mr. Haines, says, "Helen, do you have to go back there?" and she said, "No, Mr. Haines, I can stay up here with you"; and I didn't understand what he said but she says, "We went downtown. We went to an old hen's party."

He said, "Now, this crowd don't mix," He said, "My God, I give parties and I invite you all, and you don't invite me." He says, "My feelings is hurt." An she said, "Who told you?"

He said, "Mary Louise Franklin"; and she said, "No, she didn't. Viola Voltmer did": and he said, "Now, Helen, you tell me the truth. You know, I can't have anyone around here that lies to me."

And she says, "Mr. Haines, I never did lie to you." He says, "Now, Helen, you're agoing to have less pay in your envelope this week." She says, "I know it." She was to attend a funeral the next day.

[4] During the course of the above conversation, Haines had a paper in his hand with the names of several employees on it, including that of Durham.

He says, "Helen, you are off the payroll until you tell me the truth about where you went last night"; and immediately Helen was called upstairs and pretty soon she left.

Q. That's all you heard?

A. That's the story.

Q. Now, after that, did you see Helen go upstairs?

A. I did.

The Respondent contends in substance that Wells was discharged because she had been derelict in her duties for several months, and particularly because she was "disloyal" to the Respondent and Store Manager Haines, in that she endeavored to entice other employees away from the Respondent to work for other employers in the Cincinnati area. In support of its contention in this regard, the Respondent called several witnesses. James. H. Haines, manager of Store 1905, testified at great length as regards the reasons for Wells' discharge.

He testified that he had received several complaints from other employees concerning Wells, particularly as regards her conduct as a floor girl. The complaints for the most part consisted of her failure to make prompt change calls, and to keep the counters properly stocked with merchandise. In addition, he had had a few complaints concerning her refusal to permit the counter girls to go to the stockroom. In this regard he testified that he first became aware of Wells' derelictions in the fall of 1948, and had on a few occasions cautioned her about her work. He admitted, in effect, however that he had overlooked the complaints of other employees about Wells and never had seriously considered discharging her until the night of February 15, 1949, when he decided to do so as a result of the following incident. That evening, as he was preparing to close the store, he noticed that Viola Browning had remained behind and had not left the store with the office employees, as was her custom. She told Haines that she had something on her mind that was troubling her and wanted to discuss it with him. He told her to go ahead and "spill it." After some hesitation, she started in on a tirade against Wells and unburdened her feelings in this regard to him. Inasmuch as Haines, in effect, testified that this was the primary reason for discharging Wells, the undersigned is of the opinion that his testimony in this regard should likewise be set forth herein. It was as follows:

Q. Will you tell the Examiner what happened on the evening of February 15th at closing time, the day before you fired Helen Wells?

A. Well, I can remember that day very distinctly. The store had closed, and I was standing as I usually do at the front door, and all of us standing there. Everybody went out. The employees all had gone, except Viola Browning who came out last.

She was with the office girls as usual because she always walked out with them no matter where she worked in the store. She always walked out with them because they walked down the street, I guess, together, but she stopped and lingered behind, and I was standing by the candy counter, and she looked kind of funny to me at the particular instance, unusual or something. I don't know and she said, "Mr. Haines, I have something to tell you."

And I said, "Well, O. K., spill it." And she then didn't hardly open her mouth and looked as if she were going to cry, so I stopped her. I said, "Well, don't tell me, or tell me later if it's going to make you cry," and she says, "If I don't tell you now, I won't be able to work here any longer because I can't take it any more."

And I says, "Well, in that case tell me now." So, she proceeded to tell me what she had to tell me, and it was that she just—she just opened up and says, "Mr. Haines, I can't take this any longer from Helen Wells." She says, "I cannot go on like this." She said, "She has done everything she knows how to do to get me out of here, and it's got to come to a showdown now." She said, "She has been trying to get me to go to other places for employment and leave here," and I says, "What do you mean by that?"

She said, "She's been asking me almost every Wednesday afternoon, that is, she asks me on Tuesday to go with her on Wednesday afternoon to seek employment and apply for jobs," and I said, "Where did you take—where did she want you to go?"

She says, "She wanted me to go to Clopay for one, and she wants me to go to—she has mentioned two or three places," she says, "but mainly that she has asked me a couple times to go to Clopay, and another time she asked me to go down to Jergens to apply for a job."

And I said, "Well, what did you tell her?" And she said, "I told her I didn't want to go." And I said, "Well, is that all? What else? Is there anything else she told you or wanted you to do? What else did she do to you, anything in particular?"

And she said, "Oh, you know what she's done. Remember about the incident last Christmas when I was helping at counter 9, those things where she wouldn't let me go upstairs and she wouldn't do this, and she would interfere with my getting the job done right, and she's just been in my hair."

And I says, "Why do you think Helen is doing all this?" And she says, "I don't know, but my opinion is that she wants my job or a better job. Anything she can do to break someone else's job up and it appears to her to be a better one, why she would like to get it."

So, I said,—she says, "That ain't all either. She asked other girls to go to fill in applications at other places with her," and I said, "Who else?" And she said——

According to Haines, he then and there decided to discharge Wells because of her alleged disloyalty to the Respondent and to himself as manager of Store No. 1905.

He further testified that at the time he discharged Wells, he had no knowledge of any union activity among the Respondent's employees and that he did not learn of it until the next morning in the course of a conversation with Ruth Durham but denied her testimony as to what transpired. On cross-examination, however, he admitted that he considered Durham to be an honest person.

In further support of its contention that Wells was discharged for cause, the Respondent offered the testimony of Edna Fogus, Viola Browning, Viola Voltmer, and Wilma Jasper, all employees of the Respondent at the time of her discharge.

An examination of the testimony of Fogus, Voltmer, and Jasper clearly shows that each had a personal "grudge" against Wells. Moreover, their testimony is colored by vindictiveness and is so grossly imaginative that, in the considered opinion of the undersigned, is devoid of any probative value and unworthy of credence. Consequently, he discredits the testimony of each insofar as Helen Wells is concerned. In fact, Fogus and Jasper were so vindictive [particularly Jasper, whose testimony concerning Wells went far beyond the bounds of propriety], that the undersigned was forced to admonish each of them when they were on the stand. Again, the testimony of all three concerning Wells consisted

of a recital of petty and insignificant incidents which occur daily amongst human beings who are thrown together in their pursuit of a livelihood. In fact, Haines himself considered their petty grievances of such little moment that he did not even admonish Wells concerning them. Moreover, Haines admitted that he had never considered discharging Wells until after his conversation with Browning on the night of February 15, 1949, which has been set forth hereinabove.

Viola Browning, a witness called by the Respondent, testified at great length concerning the derelictions of Helen Wells. Browning, like Fogus, Voltmer, and Jasper, was vindictive and abusive in her testimony concerning Wells. At the time of the hearing herein, and in fact throughout her tenure of employment with the Respondent, Browning was a part-time employee, earning approximately $16 per week. In the considered opinion of the undersigned, Browning's testimony concerning Wells' derelictions is likewise devoid of any probative value not only because it pertained to petty and insignificant incidents, but for the further reason that she admitted that she had never informed Haines or any member of management in this regard until the night of February 15, 1949. As indicated above, it was on this date that she informed Haines of Wells' alleged mistreatment of her and other employees. Hence her testimony in this regard is rejected in its entirety by the undersigned on the grounds that he considers it of no probative value. Another reason for rejecting it is the fact that Haines admitted that the reason he discharged Wells was because of her "disloyalty" to the Respondent and himself in her alleged efforts to persuade other employees to seek employment elsewhere.

Browning's version of her conversation with Haines on the night of February 15, 1949, is substantially the same as his, which has been set forth hereinabove. Consequently, the undersigned will not burden his report by reiterating it herein, and will only set forth excerpts from her testimony which is either at variance with that of Haines or which was not mentioned by the latter in his testimony.

As indicated above, Browning worked part time. She worked in the office as an order clerk and on the floor as a counter girl. While engaged in the latter work, she would, of necessity, come in contact with Wells. Browning testified that she told Haines on February 15, 1949, that Wells had tried on several occasions to induce her to leave the Respondent's employment and seek work elsewhere. She also testified that Wells would not permit her and the other counter girls to go to the stockroom, and intimated that the reason for Wells' policy in this regard was because she did not want the girls to come in contact with Grooms, the assistant manager, and at that time was in charge of the stockroom. She further testified that she had heard Wells so instruct other girls in this regard on numerous occasions. Among them were Mary Cheek, Pat Hill, and Charlotte Hill.

Helen Wells emphatically denied Browning's accusations as regards her not permitting the girls to go to the stockroom. In fact, Browning's own testimony, on direct examination, substantiates Wells' denial in this regard. For example, Browning, in part of her direct examination, testified that Wells ordered her to go to the stockroom and get some merchandise. She also testified, on direct examination, that she had on her own initiative gone to the stockroom to check up on certain stock for her counter. In the considered opinion of the undersigned, Browning's testimony, when taken as a whole, belies her accusations concerning Wells in this regard. Among the girls named by Browning as having

been *instructed* by *Wells* to stay away from Grooms was Charlotte Hill. Hill was called as a witness on rebuttal by the General Counsel, and flatly denied Browning's testimony in this regard.

In such a state of the record, the undersigned is convinced and finds that Browning's testimony is so palpably false that no credence whatsoever can be given it.

Wells testified on rebuttal that she never had asked any employee to go with her and seek employment elsewhere. Moreover, she impressed the undersigned as a forthright and honest witness. Her demeanor on the stand was excellent, and her direct testimony was not shaken by aggressive cross-examination by counsel for the Respondent.

Having found as above, the undersigned credits the testimony of Wells as regards her inducing other employees to leave the service of the Respondent and seek work elsewhere, which, as indicated above, was the reason advanced by it for her discharge.

As regards the testimony of Haines concerning the circumstances surrounding the discharge of Wells, which has been set forth hereinabove, he did not impress the undersigned as an honest witness. His demeanor on the stand impressed him that he was evasive and at times, on cross-examination, a *"confused"* and *"forgetful"* witness. For example, his testimony concerning certain incidents that occurred just before the Board election on June 7, 1949, which will be set forth hereinafter in detail in that section of this Report styled," "Interference, restraint, and coercion."

The undersigned has found above that Helen Wells was an honest witness. Ruth Durham, Betty Sullivan, and Effie Bolton impressed him likewise. Their demeanor on the stand was excellent. They testified in a straightforward and forthright manner, and though each was subjected to aggressive cross-examination by counsel for the Respondent, their direct testimony was not shaken, but, on the contrary, [in the considered opinion of the undersigned], was strengthened thereby.

In such a state of the record, the undersigned is convinced and finds that the version of Wells and Durham as to what transpired at the time of Wells' discharge was a true account thereof.

Conclusion

In view of the above findings and upon the record as a whole, the undersigned concludes and finds that the Respondent's contention that Helen Wells was discharged for "just cause" is without merit, and that, at most, its contention in this regard was a mere subterfuge without any substantial basis of fact, and an attempt to conceal its illegal motivation for her discharge. It may be true that Wells and other employees at times became dissatisfied with their lot, and discussed among themselves ways and means of improving it. This is to be expected. It is the normal and common behavior of human beings. To stifle any thought of change of environment in an effort to improve one's lot would indeed be a devastating blow to our system of free enterprise. It is the urge to improve one's position in society that makes us "tick." It would indeed be a strange world if we were all assigned to play our part therein as automatons.

The true motive for Wells' discharge is clearly set forth in her credible testimony. Haines, in his tirade against her at that time, clearly and concisely sets forth the motivating factor for his action in this regard. It was because she passed out union cards and successfully solicited approximately 68 percent of the Respondent's employees for membership in the Union; that was the true motive,

and the undersigned so finds. Haines' testimony that he had no knowledge of Wells' union activities, or that there was even any union agitation among the employees in the store, is not borne out by the record. The reliable, credible, and substantial evidence is to the contrary. Witness, the credible testimony of Ruth Durham to whom Haines talked shortly after he discharged Wells, which has been set forth in detail above. Here, Haines' knowledge not only of Wells' activity but of Durham's and other employees as well is firmly established in the record. Moreover, his attempt to get Durham's cooperation in smashing the Union before it got well-established in the store was the rankest kind of intimidation and clearly violative of Section 8 (a) (1) of the Act.[5]

It is unbelievable that a man of Haines' intelligence and position would predicate his decision to discharge an employee who had a record of 8 years of faithful service on the idle gossip of a part-time employee. It must be remembered that Wells worked throughout the war years for the Respondent for what were obviously lower wages than she could have earned in the numerous war plants that were operating in the Cincinnati area at that time. This is a matter of common knowledge and in the considered opinion of the undersigned rebuts the Respondent's contention that Wells was a "disloyal" employee. Here, likewise, the reliable, credible, and substantial evidence is to the contrary.

It is clear from the above and the undersigned finds that the Respondent discriminatorily discharged Helen Wells on February 16, 1949, because she joined and assisted the Union and engaged in other concerted activities for the purpose of collective bargaining and other mutual aid and protection, and that by thus discriminating against Helen Wells, the Respondent has discouraged membership in the Union and interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed them in Section 7 of the Act, and is violative of Section 8 (a) (3) and (1) of the Act.

B. *Interference, restraint, and coercion* [6]

The undersigned has heretofore found above that the remarks of Haines in his conversation with Ruth Durham shortly after he discharged Helen Wells were clearly violative of Section 8 (a) (1) of the Act. Hence, they will not be reiterated in this section of the Report.

On February 16, 1949, the Union filed a Petition for Certification of Representatives under the provisions of Section 9 (c) of the Act. Thereafter, on March 5, 1949, Haines called the employees together for a meeting. According to Haines, he read to them a prepared statement which is attached hereto and marked Appendix A. On April 2, 1949, he met with the employees a second time and read to them another prepared statement which is likewise attached hereto and marked Appendix B. He again met with the employees a third time on June 6, 1949, which was the night before the election, and read to them another prepared statement which is attached hereto and marked Appendix C.

Haines testified that he did not make any remarks to the employees at these meetings except what he read to them from the prepared statements.

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[5] See *Clover Fork Coal Company*, 4 NLRB 202, enfd. 97 F. 2d 331; *Standard-Coosa-Thatcher Company*, 85 NLRB 1358, and cases cited therein; *Chamberlain Corporation*, 75 NLRB 118; *E. Anthony & Sons, Inc.*, 70 NLRB 717.

[6] In making his findings in this section of his Report, the undersigned has considered and carefully weighed the entire evidence. In his opinion, it would needlessly burden this Report to set up all the testimony on the disputed points. Such testimony or other evidence as is in conflict with the findings herein, is not credited.

On the other hand, several of the employees who were called as witnesses at the hearing herein by both the General Counsel and the Respondent testified to the contrary. For example, Mary Louise Franklin, the Respondent's cashier and a witness called on its behalf, testified that Haines, at one of the meetings referred to above,[7] stated that it was his opinion that if the Union came in, the Respondent's vacation policy would be disturbed. She further testified on cross-examination that Haines stated at one of the meetings words to the effect that "jobs were hard to get." There is nothing in any of the attached statements that resembles in the slightest manner this remark of Haines. She also testified that Haines said in substance at one of these meetings that it was his opinion that the Respondent would not negotiate with the Union. The statement set forth in Appendix C is somewhat similar to the remark attributed to him by Franklin, but in the considered opinion of the undersigned carries with it an entirely different meaning.

Marlene Melzer, an employee of the Respondent and a witness called to testify in its behalf, testified on cross-examination that she attended at least two of the meetings and that Haines told the employees at the meeting held the day before the election that the Respondent was going to get the employees a water cooler. She also testified that at another meeting, Haines told the employees in substance that the Respondent granted them a 10 percent discount on all purchases of merchandise. Ruth Durham testified credibly that at the meeting held the day before the election that Haines told the employees in substance that the Respondent would not negotiate with the Union, and that before it would do so, it would close the store and in that event they would "all be out of work." Betty Sullivan, whom the undersigned found above to be a credible witness, testified that Haines at a meeting held Saturday morning, before the election,[8] that the Respondent would not negotiate with the Union. He also told the employees that he had several applications for jobs; that jobs were hard to get; and that the employees should think it over. She further testified that at the meeting held the day before the election, he informed the employees that the Respondent was going to put a water cooler in the rest room.

Marjorie Owens, a part-time employee, testified credibly that she attended two meetings. One was a general meeting for all employees, and the other was for the part-time employees only. At the general meeting, Haines said in substance that the Respondent would not grant a wage increase if the Union "got in," but in the event that they did "get in" and were successful in securing a wage increase, then some of the employees would have to be laid off, and that some with dependents might be those selected for a layoff.

In view of the testimony of Mary Louise Franklin, Marlene Melzer, Ruth Durham, Betty Sullivan, and Marjorie Owens, which has been set forth above, and the further fact that the undersigned has heretofore found that Haines was an unreliable witness, he credits their testimony in this regard in its entirety and finds that the remarks attributed to him by the above witnesses was a true account of what transpired at the meetings described above. Moreover, the under-

[7] None of the witnesses could accurately state at just what meetings the various statements which they attributed to Haines were made. However, in the considered opinion of the undersigned, this is of no moment for the reason that it is what he said that is relative to the issues involved herein.

[8] The record clearly shows that Haines held five meetings. At three of them he read the statements attached hereto and also talked to the employees extemporaneously. At the meeting held on Saturday morning before the election, he talked to the employees, and at a fifth meeting held for the benefit of the part-time employees, he read a portion of one of the attached statements.

signed discredits Haines' specific denials as regards making the statements attributed to him by the above-named witnesses.

During the organizational campaign, Haines, and Assistant Manager Grooms, interrogated individually several of the employees about the Union and their activities therein. According to the credible testimony of Betty Sullivan, Haines talked to her in the stockroom sometime in May 1949. In the course of the conversation, he pointed out to her the advantages the Respondent had to offer and the disadvantages of the Union. He also told her that the Respondent would not grant a wage increase, and that the employees "had been paying their dues for no cause." Haines admitted having had the above conversation with Sullivan, but denied her testimony as regards the Respondent's position on wage increases. Sullivan impressed the undersigned as an honest witness. Haines did not. Accordingly, the undersigned credits her testimony in this regard and discredits Haines' denial thereof.

According to the credible testimony of Roxie Helle, a part-time employee of the Respondent, Haines called her to his office on the day before the election and interrogated her about the Union. In the course of the conversation that ensued, Haines said in substance that the Respondent would not pay higher wages and asked Helle if she was satisfied with her work. She said "yes." He then asked her why she wanted an "organization in the store?" He then pointed out to her the disadvantages of having a union in the store. He then advised her that he knew that she was going to union meetings and intimated he knew how she was transported to the union hall. Haines admitted talking to Helle but denied having said anything to her other than to point out the advantages the Respondent had to offer the employees and the disadvantages of being represented by the Union.

The undersigned has found above that Haines was an unreliable witness. Helle impressed the undersigned as an honest and forthright witness. Accordingly, he credits her testimony in this regard and discredits that of Haines.

Evylyn Feiglein, a full-time employee with the Respondent from April 1947 to August 1949, testified credibly that sometime in May 1949, Haines took her down into the basement and interrogated her about the Union. In the course of the conversation, he told her *inter alia* that "he knew everything that went on down at the meeting." In addition he told her he had talked to the other girls alone and that he might as well talk to her in the same manner. Haines denied having had a conversation with Feiglein.

Feiglein impressed the undersigned as an honest and forthright witness. Haines, as found above, did not so impress him. Accordingly, the undersigned credits Feiglein's testimony in this regard and discredits Haines' denial thereof.

Effie Bolton, a full-time employee of the Respondent, testified that Haines came to her counter sometime in the early part of May 1949, and requested that she leave the counter and meet him in the basement. She did so and engaged in a conversation with him. Since her testimony is typical of Haines' *modus operandi* among the Respondent's employees, the undersigned is of the opinion that her testimony in this regard should be set forth herein. It was as follows:

> Q. Well, how did that come about? Under what circumstances?
>
> A. Well, one afternoon I was doing something at my counter. I don't remember just exactly what it was. But anyhow, he said, "Effie, when you're finished, you come down by the flowers"; and the flowers were in the basement.
>
> And immediately, I went down.
>
> Q. And will you tell the Examiner what he said and what you said?

A. Well, he said, "It's not the flowers I want to talk about. It's this Union." He says, "It's going to come up for a vote and it has to be proven as to whether you girls want Union in this store or not"; and he says, "They can't come in and take over" and says, "You are eligible to vote."

Trial Examiner SHAW. Is that all?

The WITNESS. He said that,——

Trial Examiner SHAW. Pardon me. Continue with your answer.

A. (Cont'd). He said that, "You have been made lots of promises and I want you to hear my side of it"; and he went ahead to explain about the vacations we were getting with pay, sick benefits, and Wednesday evenings off, which we probably wouldn't get if the Union got into the store.

He also told me that Kroger employees, Kroger girls, were flashing big checks in front of the girls' face. I said "They've never flashed any in my face." He said, "Well, they have, some of them." "But," he said, "They have to work longer hours, and they work harder, which you probably will have to do if the Union gets in the store."

He said, "Their dues have been raised"; and he said, "The Union collects enormous amounts of money from Kroger employees yearly." He said, "No wonder they are trying to organize other stores."

And he said, "You will be called out for picket duty in any kind of weather in order to obtain what you—more money," and he said, "You'll be compelled to attend the Union meetings or be fined. Dow's employees were out till 3 : 00 o'clock the other morning because they were compelled to attend a meeting and that was the only hours they could attend."

He said, "You may get more money. I don't know. But if you do, I'll have to run the store with less help, to be able to pay it."

He said, "I get so much to run the store on." He said, "I don't make a lot of money"; and he asked me if there were any grievances. He said, "Have you got anything against me?" I said, "No. You have hurt my feelings a time or two." He said, "I know you don't get enough money; but maybe we can fix that."

And I said, "Well, I may lose my job over this; but if I do, I have to work; and the same God in heaven that makes the job for you will make one for me"; and he said, "That's the way I feel about it."

He said, "There will be no hard feelings." He said, "If some of the managers started out after more money," he supposed he would have followed them, too, just like I did.

And he says, "You think seriously about this, for your sake and for my sake."

Q. That's all?

A. That's all.

Haines denied Bolton's testimony in this regard. The undersigned has heretofore above found him to have been an unreliable witness. Bolton impressed him otherwise. Accordingly, the undersigned credits her testimony in its entirety and discredits Haines' denial thereof.

Haines admitted on cross-examination of having interviewed practically all the employees privately and of having discussed with them the advantages the Respondent offered and the disadvantages that would accrue to them if they selected the Union as their bargaining representative in the coming election which was to be and was held by the Board on June 7, 1949.

According to the credible and undenied testimony of Lorraine Brooks, a floor girl in the Respondent's store, she went into the stockroom on the morning of election day, June 7, 1949, to get an apron. While there, Grooms, the assistant manager, came up to her and in substance told her that Haines had seen her go into Dow's store the night before and that she had bettter change her mind about a few things and start thinking about her two children. Since Dow's is organized and was mentioned by Haines in several of his speeches to the employees, the undersigned is convinced that the only fair inference that can be drawn from Grooms' remark is that if Brooks did not cease her union activities, she would lose her job, and he so finds. Such a remark is clearly intimidatory and *per se* violative of the Act.

Inasmuch as credibility is of the utmost importance in the instant case, particular importance is placed on the following incident which occurred on the night of June 4, 1949, by the undersigned. On cross-examination, Haines was queried by the General Counsel as to whether or not the part-time girls were sent out the back door on Saturday night before the election. He admitted that they were and that the following circumstances impelled him to do so. He testified that shortly before quitting time, Marlene Melzer, a part-time girl, came to him and said that she did not want to go out the front door because she did not want to come into contact with the union organizers who were at the time out in front of the store; that he told her he would let her out the back door; that he then decided that this was the attitude of all the part-time girls; and that he then instructed all of them to leave the store by the back door. Melzer, a witness called by the Respondent, on cross-examination testified in substance to the contrary and denied that she had made such a request and that she went out the front door that evening. Her testimony that she did not go out the back door was corroborated by the credible testimony of Marjorie Owens.

Inasmuch as the undersigned has found above that Haines was an unreliable witness, he credits Melzer's testimony in regard to the above incident and discredits that of Haines.

Conclusion

The undersigned has found above the Store Manager Haines held several meetings with the employees between March 2 and the date of the representation election conducted by the Board on June 7, 1949. At four of the meetings, he read to the employees prepared statements.[9] In addition, the undersigned has found that [contrary to Haines' contention at the hearing herein], that he made numerous other statements to the assembled employees that were *per se* violative of the Act, as will be shown hereinafter.

As to the written statements themselves, an examination of their contents, shows that they are for the most part expressions of opinions and argument, and, as such, were protected free speech and privileged under Section 8 (c) of the Act, since they carried with them no threat of reprisal or promise of benefit.[10] But there is one paragraph in the statement Haines read to the employees at the first meeting that, in the considered opinion of the undersigned, is not privileged and is beyond the protection of Section 8 (c) of the Act. The last paragraph of the statement read to the employees at that meeting [March 2, 1949] is as follows:

[9] See Appendices A, B, and C attached hereto.
[10] See *Linde Air Products Co.*, 86 NLRB 1333.

During the past and at present it is your right and privilege to deal with us. *We are confident that before you sign away any of the rights you now enjoy you will seriously consider the effect such an act might have on you, your family and your store.* [Emphasis supplied.]

The undersigned is convinced and finds that the only reasonable inference that can be drawn from this statement is that if the employees joined the Union they would lose certain benefits they then enjoyed, such as vacations with pay, sick benefits, Christmas bonuses, penison plan, 41½-hour week, and a change in working conditions. Clearly such a statement is a threat of reprisal in that it conveyed to the employees the impression that if they chose to join the Union and select it as their bargaining representative, they would suffer the loss of benefits they then enjoyed. Since the above statement contained such a threat, it is not privileged under Section 8 (c) of the Act and was *per se* violative of Section 8 (a) (1) of the Act, and the undersigned so finds.

The following remarks attributed to Haines at the meetings discussed hereinabove were in the considered opinion of the undersigned likewise calculated to convey to the employees an impression that if the Respondent's employees chose the Union as their bargaining representative, it might result in the loss of benefits already enjoyed by them and a promise of certain benefits if they repudiated the Union:

(a) His statement that if the Union came in it might disturb the vacation plan then in effect;

(b) His statement that he had a lot of applications for jobs and that "jobs were hard to get";

(c) His statements that the Respondent would not negotiate with the Union;[11]

(d) His statement to the employees on the day before the election that the Respondent intended to provide the employees with a water cooler;

(e) His statement that the Respondent would close Store 1905 if the Union won the election;

(f) His statement that if the Union did "get in" and was successful in securing a wage increase, then certain employees would be laid off because the Respondent would not pay out more money for wages at Store 1905 than it was then doing.

The Board and the courts have held in numerous cases that the foregoing statements by Haines to the Respondent's employees are *per se* violative of the Act, and are not privileged under Section 8 (c) thereof.[12] Accordingly, the undersigned finds that the foregoing remarks of Haines to the Respondent's employees constituted interference with, restraint, and coercion of the rights of its employees guaranteed them in Section 7 of the Act and are *per se* violative of Section 8 (a) (1) thereof.

In the considered opinion of the undersigned, the action of the Respondent in granting to the employees a 10-percent discount on merchandise at a time when an organizational drive was being conducted among the employees was for only one purpose and that was to defeat the Union's efforts at organization. The granting of such a discount is tantamount to the granting of a bonus or a wage increase. The Board and the courts have previously held that the granting of a bonus by an employer during an organizational drive is violative of Section

[11] *Hoppes Manufacturing Company*, 74 NLRB 853; *Victory Fluorspar Mining Company*, 72 NLRB 1356.

[12] *Union Screw Products*, 78 NLRB 1107; *Beatrice Foods Company*, 84 NLRB 512.

8 (a) (1) of the Act.[13] Accordingly, the undersigned finds that the Respondent, by granting to its employees a 10-percent discount on merchandise during the Union's organizational drive, constituted interference with, restraint, and coercion, and was thus violative of Section 8 (a) (1) of the Act.

It is also the opinion of the undersigned, the statements made by Haines in questioning the employees individually went far beyond expressions of opinion and argument. The record, as indicated above, is replete with his injection of threats of reprisal and promises of benefits during the course of his talks with individual employees. Witness, for example, the credible testimony of Bolton, Feiglein, and Helle, set forth above. Here, Haines coupled his remarks which, standing alone, might be privileged as free speech, with such coercive statements as, (1) threats of loss of wages in the event the Union "got in"; (2) threats that the employees would have to work harder in that event; (3) interrogation as to why the employees wanted a union; and (4) his remarks to the effect that he was aware of and kept well-informed as to the employees' union activities, such as to when they attended union meetings.

The undersigned is likewise of the opinion that Haines' activities in this regard are such a flagrant disregard of the rights guaranteed enmployees under Section 7 of the Act, that little or no comment is required herein. Suffice it to say, however, that the foregoing instances of questioning the Respondent's employees during the Union's organizational drive and in effect right up to the eve of the election, clearly were calculated to convey an impression to its employees that unionization of the store might result in loss of benefits already enjoyed by them, and the futility of their efforts to exercise the rights guaranteed them under Section 7 of the Act.[14] Again, and in the opinion of the undersigned, a flagrant violation of the rights guaranteed employees under Section 7 of the Act was Haines' remarks to employees, particularly Durham,[15] Feiglein, and Helle to the effect that he had them and all other members of the Union under surveillance, and was well aware not only of what went on at union meetings but their individual activities on behalf of the Union as well. Such statements by Haines were clearly intimidating and constitute interference, restraint, and coercion under the Act. Like the threat to sue persons engaged in union activity is as bad as the carrying out of the threat,[16] so the fostering of an impression that an employer is engaged in surveillance of his employees' union activities is as bad as the surveillance itself,[17] and clearly intimidatory and likewise constitutes interference with, restraint, and coercion, and thus such conduct is violative of the Act.

In view of the foregoing and upon the record as a whole the undersigned is convinced and finds that the Respondent by the conduct described above interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed them in Section 7 of the Act, and is violative of Section 8 (a) (1) thereof.

[13] See *L. B. Hartz Stores*, 71 NLRB 848, at 860; *Mellin-Quincy Mfg. Co., Inc.*, 53 NLRB 366.

[14] See *J. S. Abercrombie Company*, 83 NLRB 524; *Differential Steel Car Company*, 75 NLRB 714; *Linde Air Products Company, supra; Standard-Coosa-Thatcher Company, supra.*

[15] See that section of this Report dealing with the discharge of Helen Wells, *supra.*

[16] See *Davis Lumber Company*, 172 F. 2d 225 (C. A. 5).

[17] See *S. W. Evans & Sons*, 81 NLRB 161; *Pittsburgh Steamship Company*, 69 NLRB 1395, 1412.

C. *Findings as regards Objection No. 3 to the conduct of the election held in accordance with the Board's Decision and Order in Case No. 9–RC–403, held June 7, 1949*

In view of the undersigned's findings of fact and conclusions of law based thereon, as set forth hereinabove, he is convinced and finds that the election held on June 7, 1949, should be set aside. It is abundantly clear from the record that the activities of the Respondent before the election were so flagrantly violative of the Act that it was utterly impossible for the employees to have a free and untrammelled choice in their selection of a bargaining representative. Hence, he recommends that the election held June 7, 1949, be set aside.[18]

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in Section III, above, occurring in connection with 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.

V. THE REMEDY

It has been found that the Respondent has engaged in certain unfair labor practices. The undersigned will, therefore, recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act and the Act as amended.

Having found that the Respondent has discriminated against Helen Wells in regard to her hire and tenure of employment, it is, therefore, recommended that the Respondent offer Helen Wells immediate and full reinstatement to her former or substantially equivalent position without prejudice to her seniority or other rights and privileges. It will be further recommended that the Respondent make her whole for any loss of pay she may have suffered by reason of the Respondent's discrimination against her, by payment to her of a sum of money equal to that amount which she normally would have earned as wages during the period from the date of discharge to the date of offer of reinstatement, less her net earnings,[19] during said period.

The unfair labor practices found represent an attempt to defeat concerted action among its employees by the most serious form of violation of the rights guaranteed in Section 7 of the Act and protected by Section 8 (a) (1) and (3) of the Act. This indicates not only a disposition to commit acts in the future but also a broader and basic attitude of opposition to the purposes of the Act with the likelihood of resort to unfair labor practices of other character in the future. The preventive purpose of the Act will be thwarted unless the Board's order is coextensive with the threat. The undersigned will recommend, therefore, that the Respondent cease and desist from in any manner infringing upon the rights of employees guaranteed in Section 7 of the Act.[20]

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

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[18] See footnote No. 8, *supra.*

[19] *Crossett Lumber Company,* 8 NLRB 440.

[20] The undersigned has also found above that the Respondent by its course of conduct described above interfered with, restrained, and coerced its employees in the exrcise of the rights guaranteed them under Section 7 of the Act, and that by such conduct interfered with their right to a free and untrammelled choice in their selection of a bargaining representa-

CONCLUSIONS OF LAW

1. By discriminating in regard to the tenure of employment of Helen Wells, thereby discouraging employees in the exercise of rights guaranteed in Section 7 of the Act, Respondent engaged in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

2. By such discrimination, and by the commission of the other unfair labor practices set forth hereinabove, in Section III, the Respondent interfered with, restrained, and coerced its employees in the rights guaranteed them in Section 7 of the Act and thereby engaged in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

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

RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, and upon the entire record of the case, the undersigned recommends that F. W. Woolworth Company, Store No. 1905, Cincinnati, Ohio, its officers, successors, and assigns, shall:

1. Cease and desist from:

(a) Interrogating its employees as to their affiliation with and activities on behalf of the Union, and as to whether they would vote for the Union if given the opportunity for such a vote; threatening said employees with reprisals, including loss of employment, because of their affiliation with, activity on behalf of, and voting in favor of the Union; promising said employees benefits if they would refrain from joining, assisting, or voting for the Union; statements indicating surveillance of said employees by Respondent, in regard to their affiliation with and activity on behalf of the Union; statements that Respondent would not bargain with or sign a contract with the Union in any event; granting discounts on merchandise to its employees before a Board-ordered election; offering to refund to said employees the cost of their membership in the Union, if they would withdraw such membership; and discharging employees for their membership in and activity on behalf of the Union;

(b) In any other manner, interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join or assist any labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act as guaranteed by Section 7 thereof.

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

(a) Make whole Helen Wells in the manner prescribed in the section herein entitled "The remedy";

(b) Post at its Store No. 1905, in Cincinnati, Ohio, copies of the notice attached hereto maked Appendix D. Copies of such notice, to be supplied by the Regional

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tive, at the election held June 7, 1949. However, under the provisions of Section 9 (c) (1) of the Act and Section 203.58 of the Board's Rules and Regulations he is of the opinion that he is prohibited thereby from making a recommendation in this regard, under this section of his Intermediate Report, and those sections which follow hereinafter.

Director for the Ninth Region, shall, after being duly signed by Respondent's representative, be posted by Respondent immediately upon receipt thereof and maintained by it for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notice is not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the Ninth Region in writing within twenty (20) days from the receipt of this Intermediate Report, what steps Respondent has taken in compliance herewith.

It is further recommended that, unless on or before twenty (20) days from the receipt of this Intermediate Report, Respondent notifies the said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring it to do so.

As provided in Section 203.46 of the Rules and Regulations of the National Labor Relations Board any party may, within twenty (20) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Washington 25, D. C., an original and six copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Statements of exceptions and briefs shall designate by precise citations the portions of the record relied upon and shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46 should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

In the event no Statement of Exceptions is filed as provided by the aforesaid Rules and Regulations, the findings, conclusions, recommendations, and recommended order herein contained shall, as provided in Section 203.48 of said Rules and Regulations, be adopted by the Board and become its findings, conclusions, and order, and all objections thereto shall be deemed waived for all purposes.

Dated at Washington, D. C., this 17th day of January 1950.

JAMES A. SHAW,
Trial Examiner.

APPENDIX A

FELLOW EMPLOYEES:

In accordance with our tradition of having a sincere interest in our co-workers, I address these few remarks to you. I know they will be received in the spirit in which they are given.

You may be given at some time a card inviting you to join the union.

We have no quarrel with any union for we know that in some industrial plants they have gained what may seem to be benefits, but in a retail institution, they have no place.

Every one who works regularly in our store for a six month period gets a weeks vacation (Summer).

Every one who works one year gets two weeks summer vacation.

Every one who works five years gets three weeks vacation, two weeks summer vacation and one week winter vacation.

Every one also receives a Christmas bonus after six months.

We have a sick benefit plan at no cost to the employee.

We have a pension plan at no cost to the employee.

We have a 41½ hour work week.

We have a 5½ day work week.

We have a modern store well lighted, clean rest rooms, and rest periods in the afternoons.

We have paid no dues and surrendered no rights or privileges to obtain these benefits and conditions.

We have constantly endeavored to provide working conditions equal to or better than those enjoyed in any other store anywhere, and we believe this is evidenced by the high type individuals who are employed here.

It is simple for a group of strangers to come to town making a lot of promises and exaggerated statements. They don't tell you that they actually want control of your job.

If you join them you will be required to pay initiation fees, monthly dues, and assessments when they are levied. You may be ordered on picket duty in case of a strike and attendance at meetings may be compulsory. You may become subject to the discipline of the local union officials and the international officials.

No union has the power over your job unless you give it that power. You are free to join a union or not to join, as you see fit. You cannot be compelled to join.

During the past and at present it is your right and privilege to deal with us. We are confident that before you sign away any of the rights you now enjoy you will seriously consider the effect such an act might have on you, your family and your store.

APPENDIX B

FELLOW EMPLOYEES:

The Cincinnati Retail Clerks Union held a meeting at 12 mid-night March 29th 1949 in the Victory room of the Gibson Hotel. The meeting ended at about 2 P. M. This was for the Dow Co. Employees. They were compelled to attend or else, they would be fined for not attending.

Some of the employees undoubtly lived quite a distance and did not get home untill around 3 A. M., and some had to be on the job at 8 A. M.

The Retail Clerks Union has represented the Dow Employees for the past five or six years. The Union is trying to get the employees three weeks vacation aften ten years service. Our Employees have been getting three weeks vacation after five years service.

During the year 1948 our store paid out almost three hundred dollars in sick benefits. You know the Dow employees work 48 hours and our store girls work 41½ hours per week, and our weekly work week is 5½ days.

We have a pension plan that is no cost to the employee and there is a Christmas bonus for all employees after six months of service 50.00 Maximum.

We have a modern store well lighted, good rest rooms and rest periods in the afternoon.

Don't forget that when the Vote is held, a secret one, no one will know how you voted.

APPENDIX C

6-6-49

FELLOW EMPLOYEES:

You are not so badly off without a union now, only work forty one and one half hours weekly, you have sick benefits, and vacation with pay. Every one who works six months gets a week's vacation, every one who works for a year gets two weeks vacation, and every one who works five years gets three weeks vacation. After six months service every employee gets a Christmas bonus.

You have a good clean store and rest rooms, you have a rest period every afternoon.

As an example of sick benefits, Mary Louise Franklin was paid her salary, her doctor bill and hospital bill, while she was off work for an appendectomy.

We have always paid for holidays.

The Company would not enter into a contract with any Union unless the Union won the election, and I do not think the Union will win the election.

Unions cause strikes, and that means less pay for employees. When there is a strike no wages are paid to the strikers and very often loyal employees who would work are laid off due to the strike.

For example look what happened to the employees in our New Albany store. The Union called a strike and they were out about six months without pay. They had to do picket duty. Some of them needed the money at home because they had children to support. At the end of the strike the New Albany employees did not gain anything, they got tired of striking and went back to work.

I think that all employees should think seriously about voting for the union. As Americans you have the right to vote the way you see fit. The vote is conducted by the Labor Board and is secret. No one will be fired or hurt in any way no matter how they voted.

APPENDIX D

NOTICE TO ALL EMPLOYEES

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

WE WILL NOT interrogate our employees concerning their union affiliation and activities; threaten to discharge our employees because of their union affiliation and activities; or promising our employees raises in pay or other economic benefits and better working conditions if they vote against RETAIL CLERKS INTERNATIONAL ASSOCIATION, A. F. L.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the above-named union or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain from any and all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

WE WILL NOT engage in conjunction with any election contest held to designate bargaining representatives of our employees, in any campaign for the purpose of interfering with, restraining, or coercing our employees in the exercise of their rights to select representatives of their own choosing.

WE WILL immediately offer to Helen Wells, full reinstatement to her former or substantially equivalent position without prejudice to any seniority or other rights and privileges previously enjoyed and make her whole for any loss of pay suffered as a result of any discrimination.

All our employees are free to become or remain members of the above-named union or any other labor organization. We will not discriminate in regard to hire or tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

F. W. WOOLWORTH COMPANY,
STORE 1905, CINCINNATI, OHIO,
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.