In the Matter of GENERAL SHOE CORPORATION *and* BOOT AND SHOE WORKERS UNION, A. F. L.

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Cases Nos. 10–R–1958 and 10–C–2093, respectively.—Decided April 16, 1948

Mr. William M. Pate, for the Board.

Mr. O. M. Heath, of Paducah, Ky., and *Mr. Frank Cappel*, of St. Louis, Mo., for the Union.

Messrs. Cecil Sims and *Fred Smith*, of Nashville, Tenn., for the respondent.

DECISION

AND

ORDER

On April 15, 1947, Trial Examiner T. B. Smoot issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. In the Intermediate Report, the Trial Examiner further found that the respondent had interfered with an election conducted by the Board July 31, 1946, among the respondent's employees to determine representatives for the purpose of collective bargaining, and he recommended that the election be set aside. The Trial Examiner also found that the respondent had not engaged in certain other unfair labor practices as alleged in the complaint.[1] Thereafter, the respondent filed exceptions to the Intermediate Report and a brief in support thereof.

The Board has considered the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's exceptions and brief, and the entire record in the case. To the limited extent consistent with the Decision

[1] No exceptions were filed to the Trial Examiner's findings with respect to these allegations We shall dismiss the complaint as to them.

and Order herein, the Board adopts the findings, conclusions, and recommendations of the Trial Examiner.

1. The record shows, as found by the Trial Examiner, that on an unspecified date in July 1946, Foreman Bertrand approached employee Russell at work and expressed his interest in assisting Russell to "get out of the Union" and advised Russell how to do so; that a few days later Bertrand asked Russell whether he had effected his resignation from the Union. The record further reveals that during the same period Foreman Bonee interrogated employee White as to whether he [White] had signed a Union authorization card.[2] We find, in accordance with established precedent,[3] that Bertrand's volunteered assistance to, and later inquiry of Russell as to Russell's possible resignation from the Union, and Bonee's interrogation of White were, *per se*, violative of Section 8 (1) of the Act.

2. The Trial Examiner found that soon after the advent of the Union in its plant the respondent embarked upon an intensive anti-union campaign designed to discourage membership in the Union, in violation of Section 8 (1) of the original Act.[4] We are constrained to disagree with the Trial Examiner's finding that the respondent's activities in this respect constituted a violation of Section 8 (1) of the Act. It is true that for 2 months before the election of July 31, 1946, the respondent engaged in a course of conduct consisting of publication, through its supervisors, in letters, in pamphlets, in leaflets, and in speeches, of vigorously disparaging statements concerning the Union, which undeniably were calculated to influence the rank-and-file employees in their choice of a bargaining representative. However, these statements contained no threat of reprisal or promise of benefit and appear to be only such expressions of opinion as are excluded from our consideration in an unfair labor practice case by reason of Section 8 (c) of the amended Act.

We do not find it necessary, in *this* part of the case, to pass upon or adopt the Trial Examiner's finding that the respondent violated the Act by the actions of its supervisors in visiting the individual employees at their homes after working hours for the purpose of dissuading them from selecting the Union as their bargaining representative, or by the action of its president in summoning the em-

[2] We base our finding as to this incident upon the undenied testimony of White which we credit as did the Trial Examiner with respect to other conversations between him and Foreman Bonee

[3] See *Matter of Sohio Pipe Line Company*, 75 N. L. R B. 858, and cases cited therein

[4] See the Labor Management Relations Act, 1947, amending the National Labor Relations Act. The provisions of Section 8 (1) of the National Labor Relations Act, which the Trial Examiner herein found were violated, are continued in Section 8 (a) (1) of the Act as amended.

ployees, in groups of 20 to 25, to his office on the eve of the election for the purpose of reading to them an anti-union speech.

3. We turn now to the separate question of the Union's objections to the election held in the representation case, consolidated herewith. As we recently said in the *P. D. Gwaltney* case,[5] "When we are asked to invalidate elections held under our auspices, our only consideration derives from the Act which calls for freedom of choice by employees as to a collective bargaining representative." Conduct that creates an atmosphere which renders improbable a free choice will sometimes warrant invalidating an election, even though that conduct may not constitute an unfair labor practice. An election can serve its true purpose only if the surrounding conditions enable employees to register a free and untrammeled choice for or against a bargaining representative. For this reason the Board has sometimes set elections aside in unconsolidated representation cases, in the absence of any charges or proof of unfair labor practice. When a record reveals conduct so glaring that it is almost certain to have impaired employees' freedom of choice, we have set an election aside and directed a new one.[6] Because we cannot police the details surrounding every election, and because we believe that in the absence of excessive acts employees can be taken to have expressed their true convictions in the secrecy of the polling booth, the Board has exercised this power sparingly.[7] The question is one of degree.

We think that the Board should apply no different standards in those occasional representation cases which happen to be consolidated with unfair labor practice proceedings for purposes of hearing and decision. On this record, therefore, although the respondent's activities immediately before the election, as described in the Intermediate Report, are not held to constitute unfair labor practices within the meaning of the amended Act, certain of them created an atmosphere calculated to prevent a free and untrammeled choice by the employees. This case discloses no mere campaign speech by an employer official to a large assemblage of employees, in the *American Tube Bending*[8] tradition. Nor do we rely upon the fact that the speech was delivered on company premises as in the *Clark Brothers* case.[9] The significant element is the method selected by this Company's president to express his anti-union views to the employees on the day before the election. He had them brought to his own office in some 25 groups of 20 to 25 individuals, and there, in the very room which each employee must have

[5] *Matter of P D Gwaltney, Jr., and Company, Inc*, 74 N. L. R. B. 371
[6] *Matter of Continental Oil Company*, 58 N L R B 169.
[7] *Matter of Maywood Hosiery Mills*, 64 N L. R. B 146.
[8] *N. L R B.* v *American Tube Bending Co*, 134 F. (2d) 993 (C. C. A. 2).
[9] *Matter of Clark Bros. Co, Inc.*, 70 N. L R. B. 802.

regarded as the locus of final authority in the plant, read every small group the same intemperate anti-union address. In our opinion, this *conduct*, and the Employer's instructions to its foremen to propagandize employees in their homes, went so far beyond the presently accepted custom of campaigns directed at employees' reasoning faculties that we are not justified in assuming that the election results represented the employees' own true wishes.

We do not subscribe to the view, apparently held by our two dissenting colleagues, that the criteria applied by the Board in a representation proceeding to determine whether certain alleged misconduct interfered with an election need necessarily be identical to those employed in testing whether an unfair labor practice was committed, although the result will ordinarily be the same.[10] In election proceedings, it is the Board's function to provide a laboratory in which an experiment may be conducted, under conditions as nearly ideal as possible, to determine the uninhibited desires of the employees. It is our duty to establish those conditions; it is also our duty to determine whether they have been fulfilled. When, in the rare extreme case, the standard drops too low, because of our fault [11] or that of others, the requisite laboratory conditions are not present and the experiment must be conducted over again. That is the situation here.

We find that the circumstances surrounding the election of July 31, 1946, raise substantial doubt as to whether the results of the election reflect the employees' free choice of a collective bargaining representative.[12] Accordingly, we shall order it set aside. 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.

[10] The dissenting opinion seems to be predicated on the general proposition that only conduct declared unlawful by the Act is a valid ground for setting aside an election held under the Board's auspices Yet, in apparent inconsistency, our colleagues concede that *certain circumstances, for example, those present in the Gwaltney case, may afford* "unquestionable justification" for setting aside an election "as not reflecting the free choice of representatives contemplated by the Act," notwithstanding the fact that they do not constitute unfair labor practices

It should be noted that Congress only applied the new Section 8 (c) to unfair labor practice cases Matters which are not available to prove a violation of law, and therefore to impose a penalty upon a respondent, may still be pertinent, if extreme enough, in determining whether an election satisfies the Board's own administrative standards This is borne out, despite suggestions to the contrary in the dissenting opinion, by the very fact that the Board occasionally (as in the *Continental Oil* case, *supra*) set aside an election under the original Wagner Act because of union misconduct at a time when that misconduct could not have constituted a violation of law

[11] Cf *Matter of NAPA New York Warehouse, Inc.*, 75 N. L. R. B. 1269 , *Matter of Knox Metal Products, Inc.*, 75 N L R B 277.

[12] In reaching this conclusion, the Chairman and Mr Murdock, unlike Mr. Houston, do not rely upon the two earlier and isolated instances of interrogation which, although *per se* violations of Section 8 (1) of the Act, did not have such a close conection with or effect upon the election to constitute grounds for setting it aside.

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 interrogate our employees concerning their union affiliation and activities.

WE WILL NOT in any like manner interfere with, restrain, or coerce our employees in the exercise of their rights to self-organization, to form labor organizations, to join or assist Boot and Shoe Workers Union, A. F. L., or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

GENERAL SHOE CORPORATION

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.

ORDER

Upon the entire record in the case and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the respondent, General Shoe Corporation, Nashville, Tennessee, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Interrogating its employees as to their union membership and other organizational activities;

(b) In any like 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 Boot and Shoe Workers Union, A. F. L., or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act, as amended.

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

(a) Post at its plant at Pulaski, Tennessee, copies of the notice

attached hereto, marked "Appendix A."[13] Copies of said notice, to be furnished by the Regional Director for the Tenth 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;

(b) Notify the Regional Director for the Tenth 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 complaint, insofar as it alleges that the respondent violated Section 8 (1) of the Act by conduct other than interrogation of employees concerning their union affiliation and activities, be, and it hereby is, dismissed.

IT IS FURTHER ORDERED that the election held on July 31, 1946, among employees of the General Shoe Corporation, Pulaski, Tennessee, be, and it hereby is, set aside.

MEMBER HOUSTON, concurring:

I wish to join my colleagues, Chairman Herzog and Member Murdock, in issuing this order. In doing so, however, I think we also ought not to disregard the actual violations of Section 8 (1) which we have found. They are, for me, an additional cogent basis for our conclusion that the requisite freedom of atmosphere did not exist when this election was held.

MEMBERS REYNOLDS and GRAY, dissenting in part:

We do not concur in the opinion of Chairman Herzog and Member Murdock that the respondent's preelection activities warranted setting aside the election of July 31, 1946.[14]

Although our colleagues rightly find that the oral and printed anti-union statements attributable to the respondent do not exceed the bounds of legitimate expressions of opinion privileged under the constitutional guarantee of freedom of speech, they nevertheless reach the conclusion, in effect, that the "method" employed by the respondent in expressing its views went "far beyond the presently accepted custom of campaigns directed at employees' reasoning faculties." Clearly if the calling of small groups of employees into the respondent's office and visiting of individual employee's homes by supervisors is to be

[13] In the event that this Order is enforced by decree of a Circuit Court of Appeals, there shall be inserted before the words "A DECISION AND ORDER," the words "A DECREE OF THE UNITED STATES CIRCUIT COURT OF APPEALS ENFORCING."

[14] We agree, however, that the instances of interrogation which we, like our colleagues, find violative of the Act are too remote to have affected the requisite freedom of the election. See footnote 12, *supra*.

deemed conduct precluding the free expression of choice by employees in an election, it would be only logical to conclude that the employment of such "method" by an employer to express its views is sufficiently coercive to be violative of the Act. But no such conclusion is reached by our colleagues. Indeed, in our opinion, it is difficult to see how such a finding could be made in the face of a contrary intent by Congress in amending the Act. In enacting Section 8 (c),[15] Congress evinced a definite awareness of the Board's decision in the *Clark Brothers* case, and made it abundantly clear that an employer's privileged efforts to persuade to action with respect to joining or not joining unions should not be restricted by the time or place of such efforts, so long as they were not accompanied by any threat of reprisal or force or promise of benefit.[16]

Up to the present time, the Board has consistently overruled objections to elections predicated upon the *anti-union utterances* of an employer prior to an election where such expressions of opinion could not be found violative of the Act.[17] While it is true that the Board

[15] Section 8 (c) provides "The expression of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit"

[16] Senate Report No 105, 80th Congress, 1st Sess, pp 23–24

"Section 8 (c) Another amendment to this section would insure both to employers and labor organizations full freedom to express their views to employees on labor matters, refrain from threats of violence, intimidation of economic reprisal, or offers of benefit. The Supreme Court in *Thomas* v *Collins* (323 U S 516) held, contrary to some earlier decision of the Labor Board, that the Constitution guarantees freedom of speech on either side in labor controversies and approved the doctrine of the *American Tube Bending* case (134 F. (2d) 993). The Board has placed a limited construction upon these decisions by holding such speeches by employers to be coercive if the employer was found guilty of some other unfair labor practice, even though severable or unrelated (*Monumental Life Insurance*, 69 N L R B 247) or if the speech was made in the plant on working time (*Clark Brothers*, 70 N L R B 802) The committee believes these decisions to be too restrictive and, in this section, provides that if, under all the circumstances, there is neither an expressed or implied threat of reprisal, force, or offer of benefit, the Board shall not predicate any finding of unfair labor practice upon the statement The Board, of course, will not be precluded from considering such statements as evidence" House Conference Report No 510, 80th Congress, 1st Sess, p 45

"Both the House bill and the Senate Amendment contained provisions designed to protect the right of both employers and labor organizations to free speech. The conference agreement adopts the provisions of the House bill in this respect with one change derived from the Senate amendment It is provided that expressing any views, arguments, or opinion or the dissemination thereof, whether in written, printed, graphic, or visual form, is not to constitute or be evidence of an unfair labor practice if such expression contains no threat of force or reprisal or promise of benefit The practice which the Board has had in the past of using speeches and publications of employers concerning labor organizations and collective bargaining arrangements as evidence, no matter how irrelevant or immaterial, that some later act of the employer had an illegal purpose gave rise to the necessity of this change in the law The purpose is to protect the right of free speech when what the employer says or writes is not of a threatening nature or does not promise a prohibited favorable discrimination."

[17] See *Matter of M T. Stevenson Sons Company*, 68 N L R B. 229, wherein the Board held.

"But even if we accept the interpretation placed by the Trial Examiner on the respondent's statements, we do not concur in his conclusion that, in the complete absence of any unfair labor practices, such statements, isolated as they were, tend to coerce employees within the meaning of Section 8 (1) of the Act . . *Thus, however viewed, the respondent's*

in the *P. D. Gwaltney* case, relied upon by our colleagues, set aside an election because of preelection conduct which was not found violative of the Act, the acts complained of in that case consisted of the most flagrant threatening and intimidation of employees and union organizers. Such coercive conduct clearly would have been held violative of the Act if the Board had found it attributable to the particular employer involved therein. However, the fact that it was impossible to place responsibility for such conduct upon the employer, obviously did not lessen its coercive effect upon the employees who subsequently cast ballots in the election. Unquestionable justification existed, therefore, for the action of the Board in setting aside the election held in that case as not reflecting the free choice of representatives contemplated by the Act. The instant case, however, presents no conduct such as the Act prohibits on the part of an employer, but rather the kind to which it specifically lends protection.[18] It is paradoxical, to say the least, that now, after Congress has so strongly rejected the Board's prior construction of the Act in its relation to the Constitutional guarantee of free speech, that this Board should construe privileged expressions of opinion as creating an atmosphere which prevents employees from freely expressing their choice of representatives in a Board-conducted election. If the expression or dissemination of views, arguments, or opinion by an employer is to be afforded the full freedom which the amended Act envisages, it follows that the Board cannot justify setting aside elections merely because the employer avails himself of the protection which the statute specifically provides.

INTERMEDIATE REPORT

Mr. William M. Pate, for the Board.

Mr O. M Heath, of Paducah, Ky., and *Mr. Frank Cappel*, of St Louis, Mo , for the Union.

Messrs. Cecil Sims and *Fred Smith*, of Nashville, Tenn., for the respondent.

STATEMENT OF THE CASE

On June 19, 1946, Boot and Shoe Workers Union, A. F. L., herein called the Union, filed with the Regional Director for the Tenth Region (Atlanta, Georgia),

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statements are not unlawful coercion under the Act and afford no basis for the Union's Objection to the Election [Emphasis supplied] Accordingly, we shall order that the complaint in its entirety and the Union's Objections to the Election and its Petition for Investigation and Certification of Representatives be dismissed" See also *Arkansas-Missouri Power Corporation*, 68 N L R B 805 , *Matter of Ebco Manufacturing Company*, 67 N L R. B 210 ; *Matter of Charles Bacon Company*, 55 N L R. B 1180 ; *Matter of Columbia Broadcasting System, Inc.*, 70 N L R B 1368 at page 1369 ; and *Hercules Motors Corporation*, 73 N L R. B. 654

[18] While on other rare occasions the Board has not applied the same criteria to preelection conduct that it normally applies in testing the commission of unfair labor practices, in such instances the issue of free speech was not involved (See *Matter of Continental Oil Company*, 58 N L R B 169) In our opinion, those cases are, therefore, clearly distinguishable from the instant proceeding

of the National Labor Relations Board, herein called the Board, a petition for certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act, alleging that a question concerning representation affecting commerce within the meaning of the Act had arisen with respect to the employees of the Pulaski, Tennessee, plant of the General Shoe Corporation, herein called the respondent. On July 26, 1946, the Regional Director notified the parties that he would conduct an election to determine whether or not the employees of the Pulaski plant desired to be represented by the Union. The election was held on July 31, 1946, and the Union was defeated. On August 13, 1946, the Union filed the objections to the conduct and results of the election and on October 14, 1946, the Union filed a charge against respondent alleging violation of Section 8 (1) of the Act, and thereafter on February 25, 1946, the Board ordered these cases consolidated.

Pursuant to the charge, the Board, through the Regional Director for the Tenth Region, issued its complaint dated February 26, 1947, against the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) of the Act. The same day the Board issued notice of consolidated hearing. Copies of the complaint accompanied by notice of hearing of the consolidated cases were duly served upon the respondent and the Union.

With respect to the unfair labor practices the complaint alleged in substance that the respondent had interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act by, since about June 1, 1946: (1) vilifying, disparaging and expressing disapproval of the Union, (2) interrogating its employees concerning their union affiliation and activities, (3) urging, persuading, threatening and warning its employees to refrain from assisting, becoming members of or remaining members of the Union and from voting for the Union in an election conducted by the Board, (4) on or about June 1, 1946, announcing to its employees a plan whereby they would receive six holidays per year with pay, and (5) in July 1946, granting increases in pay to its employees.

Thereafter, the respondent filed its answer denying the commission of the unfair labor practices alleged in the complaint.

Pursuant to notice a hearing was held at Pulaski, Tennessee, March 12, and 13, 1947, before T. B. Smoot, the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The Board and respondent were represented by counsel and the Union by two officials. All participated in the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses and to present testimony bearing upon the issues. At the conclusion of the hearing an unopposed motion was granted to conform the pleadings to the proof in formal matters. The parties waived oral argument and were allowed until March 28, 1947, to file briefs, proposed findings of fact and conclusions of law The respondent filed a brief.

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

FINDINGS OF FACT

I THE BUSINESS OF THE RESPONDENT

General Shoe Corporation is a Tennessee corporation with its principal office at Nashville, Tennessee, and with some 16 plants in Kentucky, Alabama, Georgia and Tennessee. In Pulaski, Tennessee, it has a plant employing from 600 to 650 employees where it is engaged in the manufacture, sale and distribution of shoes and related products. In the course of its business operations at its

Pulaski plant during the year ending February 15, 1946, respondent purchased raw materials of value in excess of $1,000,000, approximately 90 percent of which was purchased outside Tennessee. During the same period the respondent sold finished products produced in the Pulaski plant of value in excess of $1,000,000, approximately 90 percent of which was sold and shipped to customers outside Tennessee.

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

II THE ORGANIZATION INVOLVED

Boot and Shoe Workers Union, A. F. L, is a labor organization admitting to membership employees of the respondent.

III. THE UNFAIR LABOR PRACTICES

1. Prefatory statement

Respondent has 16 plants in 4 southern States, Kentucky, Alabama, Georgia, and Tennessee, employing approximately 10,500 production workers. Its Pulaski, Tennessee, plant, with which this case is concerned, employs from 600 to 650 persons in a productive capacity. Pulaski has a population of from 5000 to 6000 and is the county seat in an agricultural community. Maxey Jarman is president of respondent, Henry Boyd is vice president and secretary-treasurer, and Fred Smith is Director of Employee Relations. These officials are located with the headquarters of respondent in Nashville, Tennessee.

About May 15, 1946, the Union commenced organizing among respondent's Pulaski employees. On June 19 it filed a petition with the Board, and on June 26 it requested recognition as bargaining agent for the employees Respondent's attorney on June 26 replied, saying that inasmuch as the Union had filed a petition and as they could not get together on a consent election, the matter would have to proceed formally. On July 26, the Regional Director of the Board ordered an election and on July 31 it was held with 589 valid votes cast, 418 being against the Union, 163 for the Union, and 8 challenged.

Meanwhile in June, the Union's organizing efforts had come to the attention of the management and Maxey Jarman and Fred Smith began devoting attention to the matter and within a short time they inaugurated an extensive campaign to defeat the Union in the election Respondent in its answer and at the hearing denied committing any unfair labor practices but averred:

> It is true that the respondent, in the exercise of the right of freedom of speech and the right to assembly, guaranteed to it by the Constitution of the United States, did assemble certain data and facts relating to or reflecting upon the merits and value of union organization, including Boot and Shoe Workers Union, A F. of L., and relating to respondent's previous relations with its employees and to the history of respondent's handling of personnel problems and improvements voluntarily initiated for the benefit of its employees, all for the purpose of the dissemination of information and facts having an important bearing upon the proposed selection of the Union as the exclusive bargaining agent to represent respondent's employees at Pulaski, Tennessee, and also reflecting upon the advantages and disadvantages of unions in general and the Boot and Shoe Workers Union, A F. of L, in particular, all as will be shown in more particular detail at the hearing. . . . Respondent avers that in such discussion and in the presentation of all such information it was exercising its constitutional rights as aforesaid and as expressly approved by the Supreme Court of the United States. . . .

In view of this defense, the details of respondent's campaign will be thoroughly discussed and analyzed. The component parts of the campaign are inseparable and must be considered as part of a connected and logical whole to be understood in their impact upon the employees' minds. The campaign started and progressed rather slowly until the last week before the election when it culminated in a series of leaflets, a full page newspaper advertisement, foremen activity, and a speech by Maxey Jarman delivered to 25 or so groups of employees.

2 Respondent's campaign up to July 23

On June 10, June 18, July 1, July 15, and July 23, respondent issued letters to its employees signed by Maxey Jarman which were either mailed to or handed to each employee The first letter endeavored to correct "certain misleading statements—made to our employees" by pointing out that (1) no employee would lose his job by failing to join a union, (2) three pay increases since V-J Day demonstrated that respondent paid the best wages it could, and (3) the Advisory Committee and the Grievance Committee in the plant were for the employees' benefit and "good people" should be put on the committees. Jarman then advised the employees not to believe rumors, but to ascertain the facts from the supervisors He also said he was more interested than "any outsider" in his employees. The June 18 letter points out the advantages of working for respondent by detailing the paternalistic benefits employees obtained, such as steady work, more pay increases than certain unionized companies, grievance and advisory committees. sickness benefits, partial help with hospitalization, help on surgical and doctors' bills, accident insurance, a pension plan, a credit association, and promotion make-up pay. The July 1 letter introduced the "Employees Handbook" containing the respondent's guaranteed "policies. practices and procedures." The July 15 letter advised the employees of the coming Board election "to determine whether you want to change the relationships that have existed in General Shoe Corporation for so many years" The July 23 letter merely referred again to the "Employees Handbook" and complimented the employee's grievance committee and announced that all vacancies would be posted thereafter so any employee could apply for any vacancy These letters were not a change in company policy as Jarman had been writing letters to employees since February 1941; however, five letters in 5 weeks were an unprecedented number of letters for that period of time.

Other activities proceeded apace with the letters. About the middle of June, probably the 17th or 18th, all supervisors were called together in the plant and addressed by Henry Boyd, vice president and secretary-treasurer of respondent, who issued instructions "to give the facts to the employees." They were each instructed to interview the employees working under them, either at the employees' homes or at work, but preferably at their homes. A chart was given them which analyzed eight union contracts and compared them with respondent's policies, the comparison being very favorable to respondent. During the month of July, the supervisors interviewed a substantial number of the employees at their homes or at the plant during working hours and went over the comparison chart with them. On a few occasions the foremen went further than this. Foreman Bonee said to employees McNeese and White that all unions were "fit for was to cause strikes and trouble making," to "go ahead and vote for it if you wish" but he thought they would "be sorry afterward" Another time Bonee asked White "if I would like to work beside of a nigger, and I told him I wouldn't, and he said if we got a union, that is what would happen" Foreman Bertrand approached employee Russell at work and said that he had heard that Russell wanted to get out of the Union and gave him the name of an employee who could

help him get his "card back." A few days later Bertrand asked Russell if he had made any attempt to get his card back. This creditable testimony was not denied.

3. Respondent's campaign from July 23 through July 31

The election was scheduled for July 31. During the last week respondent accelerated its campaign; it issued three leaflets, placed a full-page advertisement in the town's only newspaper, issued a mimeographed two-page letter signed by Drew Brently, superintendent of the Pulaski plant, issued a printed "personal message" signed by Maxey Jarman, and on the day before the election, Jarman read a prepared speech 25 or so times to small groups of employees who were brought before him in the plant by foremen during working hours, and the foremen's interviews at the plant and at the employees' homes continued.

All the leaflets were headed "Let's Have the Truth"; two were signed by Maxey Jarman and one was unsigned. One of the leaflets was sub-entitled "A letter back from Garcia" and was an "answer" to a union leaflet. The respondent's leaflet contained a large cartoon ridiculing the A. F. L. and the printed material was in refutation of union claims and asserted the advantages of employment with respondent. It concluded as follows:

> WHY DOES THE UNION MENTION THE many lives lost in the last war? It would seem that ORGANIZED LABOR WOULD NOT WANT TO REMIND YOU OF THEIR RECORD during this last war. You read the papers . . . You heard the radio . . . You know what the facts were. You know that men were brought back who had been wounded to stand in front of unions and BEG them to do their share of the work.
>
> YOU KNOW men stayed overseas unnecessarily for many months just because unions were on strike.
>
> YOU KNOW men were killed because materials and ammunition did not get to them because of strikes.
>
> Is this the "Right direction" that the Union is asking you to vote for?
>
> YOU ALSO KNOW that not one pair of shoes failed to get to our men over there due to General Shoe employees striking.
>
> WE ARE THANKFUL that our conscience is clear.
>
> From the facts, it will appear that many of the union's ideas of employee benefits have come from General Shoe rather than from their own leaders . . . We still intend to stay out in front.

The second respondent's leaflet was sub-entitled "Is a union bad for the Company." It also had a large cartoon disparaging the A. F. L. The printed matter answered the question in the title in the affirmative by arguing the following five points: (1) Unions mean strikes and employees and the Company lose money; (2) Unions make workers dissatisfied and unhappy workers do not make good shoemakers; (3) Unions penalize the better employees by not recognizing merit; (4) Unions cost money contributed by workers to promote jobs and potential power for union leaders, and (5) Unions set employees and management at war with each other and are thus bad for both. The leaflet concluded:

> Let me add this further word. The unions cannot give you anything. They can only ask. Jobs and wage increases are the results of efficiency and better handling of the business. These are things you and management must do but a union cannot do.

The third leaflet ridiculed a union leaflet entitled "go over the top" and pointed out that the plant referred to in the union leaflet had been closed by a strike. It quoted newspaper articles about the wages the workers lost in the strike

and compared, favorably to respondent, conditions at the two Companies This leaflet concluded:

> Here are eleven things Union City and Humboldt shoe workers got when they "went over the top." There are many more but this is proof enough.
>
> Why doesn't the union organizers "tell us these things"?
>
> Maybe it's because they want you to "think" . . Yes, think that their lies are the truth.
>
> If the union would tell you these things it would save the management the embarrassment of having to tell the good things that have come to all of us because of the many years we have spent together in friendly cooperation and harmony.
>
> Where is this "top" they are inviting you to go over? Haven't we passed it a long time ago? Doesn't this prove General Shoe is pointing the way and the union leaders are following along shouting "me too" for their people.
>
> One employee put it good. In good old GI language it sounds more like "going over the hill" than like "going over the top"

The mimeographed letter signed by Drew Brently, superintendent, was entitled "Reply to Unions handbill of Thursday Morning, July 25, 1946." The Union's handbill referred to was in criticism of the respondent for the activity of the foremen mentioned above. Respondent's "reply" asserted the Union "decided to make a southern drive and have been working overtime in an effort to create dissension and doubt in the minds of our employees" It accused the Union of attempting to poison the minds of the workers and asks "Are you going to be a creature of their way of thinking, or are you going to show the Southern Spirit of Independence and the will to think for yourselves?" It states that the Wagner Act and Government give the worker a right to reject a union "Free from the intimidation or coercion of union organizers." The letter concluded·

> These outsiders from other sections of the country must think we Southerners are pretty dumb to ask us to start thinking. We have been thinking all the time By cooperation and thinking together we have come out with more benefits and better policies than the unions I do not have to ask you to think as I know you are.

The full-page advertisement in the local newspaper inserted by respondent was headed "What can a union get for General Shoe Employees that these employees haven't already gotten or could get for themselves?" It then set out a comparison of working conditions in respondent's plant and the eight unionized plants. This was formulated by analyzing the eight union contracts upon which respondent had prepared the chart for each supervisor's use

The "personal message" of Maxey Jarman was a three-page pamphlet with one page containing a sample ballot plus a sentence in large type "A VOTE OF NO IS A VOTE OF CONFIDENCE IN THE COMPANY" The printed material advised the facts of the election and then stated:

> The ballot is marked Yes and No. A vote for Yes is a vote for the AFL to do all your talking in "all matters pertaining to wages, hours and working conditions." A vote of No is a vote of confidence in your present management and a vote to continue the philosophy, policies and relationships under which we have been working together for so many years

It then pointed out "three extremely important things to remember" They were (1) Be sure to vote (2) Having signed a union card does not compel an employee to vote for the Union (3) No employees will be discriminated against

because of his vote. Then the "personal message" began. It asserted (1) No one in the South requested the Union's southern drive; (2) Harmonious relationships between management and employees existed and "our Pulaski workers production stands out like a beacon light against the dark background of endless strikes and work stoppages that have occurred in the union plants;" (3) "It boils down to a question of leadership;" (4) Employees were requested to ask themselves five questions as follows.

> Ask yourself if your status under company leadership is something you can improve by paying outsiders to act as your leaders.
>
> Ask yourself what kind of leadership you want. Is it unselfish leadership, interested in your personal welfare, or is it self-seeking?
>
> Ask yourself *why* it is these outsiders have become "interested in your welfare."
>
> Ask yourself why it is these union organizers are willing to resort to "pressure methods"—lies and name calling to accomplish their ends.
>
> Ask yourself why it is that no other General Shoe plant has felt the need of a union to deal with the management even though the unions have tried to organize every plant we have at one time or another. Many of them time and again. Each time the employees have answered with an emphatic NO.

Respondent's campaign was culminated by Maxey Jarman on the day before the election. He had the foremen take employees away from their work in groups of 20 to 25 and brought to his office where he read to each group a six-page speech.

His speech (rendered 25 or so times) opened as follows:

> I asked your superintendent, Drew Brently, to arrange for you to come in here in small groups so that I could meet together with you for a few minutes. You will receive make up pay to cover the time you are here.

He argued (in his speech) that union organizers are only "fighting" respondent in order to obtain 10 or 12 thousand dollars a year in dues, "plus unknown assessments" and that they wanted political power. He then said:

> . . if you visit shoe factories in St. Louis and other centers today you will find a good percentage of negro employees working side by side with white people The A. F. of L. and Mr William Green, the President of the A. F of L. have publicly taken the stand that white people and negroes should be on an equal basis. These ideas are advanced by some people, but you and I know that they are ideas which are not practical in the South and which we do not want to be brought here as so called improved ways in which to operate our plants. Organizers from St. Louis haven't said much to you about that matter. Certainly they are not being fair and open with you unless they tell you everything they advocate.

He then gave three reasons why unions were "not to the best interest of employees nor of the company." They were [in brief] (1) Unions cause trouble inside the plant, (2) Unions cause strikes, (3) The Union does not provide jobs.

Then Jarman discusses rumors. He asserted only 8 percent of the working people belong to the A. F. L. He said,

> Incidentally, if a union were such a good thing, why would the government have refused to permit the employees at Oak Ridge to belong to any union during the atom bomb production? It wasn't because they distrusted employees or they wouldn't have kept them. Who was it they didn't trust? It must have been the leaders of the labor union. Or possibly the govern-

> ment knew that unions meant trouble and they couldn't afford to have it while they were producing the atom bomb. Is there anything more important to you than your own job? If the government refused to let them organize Oak Ridge during the atom bomb production, what makes any one think the union is a good thing.

He then said that no one would ever have to be in the Union to work and that no one would be discriminated against for the way he voted. Further, he stated it was not true that the Union was a non-striking union nor that it would be controlled by local employees. He adds:

> Incidentally, this man Burke of St. Louis, is not really named Burke, but Berg, a Jewish man from Brooklyn, New York. The Union formed here in Pulaski would be under his jurisdiction.

He then referred to the benefits of working for respondent and urged the employees to vote their convictions, saying that they will be bound by the results whether they vote or not, that having previously signed a union card did not mean an employee had to vote for the Union and that there would be no discrimination on the part of respondent against any person. He concluded:

> If you vote yes for the union, this in effect means that the management has lost your confidence. If you vote no union, this is a confirmation of your belief in our sincerity, our willingness and ability to do a good job for you. If you do not want a union you must vote no on the ballot. It is a mistake to think that if you do not vote at all it will be known that you are against the union. You must actually vote no so that your vote will be counted
>
> We know that we can count on your fair-mindedness, and we have every confidence in the results. I am looking forward to working with you for the many more years ahead.

This ended the respondent's campaign The next day the Union was defeated overwhelmingly in the election.

4. Conclusions

The respondent rests its defense completely on its constitutional right of free speech The Supreme Court in *N L R B* v. *Virginia Electric Power Co*, 314 U S. 469, emphasized that while an employer is entitled to express his views on organizational matters, he is not entitled to coerce his employees in their free choice. "And in determining whether a course of conduct amounts to restraint or coercion, pressure exerted vocally by the employer may no more be disregarded than pressure exerted in other ways. For 'slight suggestions as to the employer's choice between unions may have telling effect among men who know the consequences of evincing that employer's strong displeasure' *International Association of Machinists* v. *N. L R B*, 311 U S. 72, 78." The question then before the undersigned is whether respondent was merely exercising its right of free speech or whether it was engaging in a course of conduct which restrained and coerced its employees or, stated another way, whether respondent in its utterances on organizational matters excluded the coercive influences which flow from its supreme economic power.

This exclusion is not necessarily shown because respondent interspersed in its leaflets, letters and speeches, statements that it would not discriminate against its employees, because "imponderable subtleties," no less than outright utilization of economic power in connection with organizational activity may belie such an avowal. In fact, the Court of Appeals for the District of Columbia has suggested that such subtleties might lie in an "organized campaign or a protracted distribution of propaganda." *Peter J. Schweitzer, Inc.* v. *N. L R B*, 144 F. (2d) 520.

In the instant case certainly an organized campaign was instituted by respondent. Its foremen were instructed to interview their employees, preferably at the employees' homes, but if not there, at work This was done. The foremen during the 5 weeks preceding the election and apparently right up to the day of the election took employees off their machines during working hours, took them into an office, paid them for this time and gave them a talk on organizational matters. Foremen also went to the employees' homes after working hours and talked organizational matters to them The foreman in each case contrasted unfavorably to unions the differences in working conditions at respondent and at certain unionized plants. As the Board has recently said "the rights guaranteed to employees by the Act include the full freedom to receive aid, advice and information from others, concerning those rights and their employment Such freedom is meaningless, however, unless the employees are also free to determine whether or not to receive such aid, advice and information. To force employees to receive such aid, advice and information impairs that freedom; it is calculated to and does, interfere with the selection of a representative of the *employees'* choice. And this is so wholly apart from the fact that the speech itself may be privileged under the Constitution" *Matter of Clark Bros. Inc.*, 70 N. L. R B. 802 An employee ordered to leave his machine by his foreman and proceed into an office to listen to his foreman talk on organizational matters is "forced" to listen to the utterance. And he is also "forced" when the foreman comes to his home. Any employee could with impunity slam the door of his home in the face of a union organizer. But few employees would have the temerity to slam the door in the face of his foreman who comes to discuss organizational matters with him.

The undersigned finds that respondent exercised its superior economic power in coercing its employees to listen to speeches by foremen relating to their organizational activities at the employees' homes and in the plant and thereby violated Section 8 (1) of the Act.

On three occasions, foremen went beyond discussing organizational matters where, as related above, one foreman said unions were only fit to cause strikes and trouble making and although he told the employee he could "go ahead and vote for [the Union] if you wish" he said the employee would "be sorry afterward" The same foreman on another occasion appealed to racial prejudice in disparaging the Union, while another foreman expressed his interest in helping an employee "get out of the Union" and advised him how to do so. Such statements by foremen when considered in connection with the entire campaign against the Union, were coercive and in violation of Section 8 (1) of the Act and it is so found.

On the day before the election, Maxey Jarman, president of respondent, ordered all employees to appear before him in groups of 20 to 25 and there he read them his six-page speech. This conduct of the respondent in compelling its employees to listen to a speech on self-organization under the circumstances hereinabove related, independently constitutes interference, restraint and coercion within the meaning of the Act, and it is so found. *Matter of Clark Bros. Inc, supra.* But further than the compulsory audience, the speech of Jarman was in itself coercive and thus not protected by the First Amendment. In that speech, Jarman stated that the A. F. L. had publicly "taken the stand that white people and Negroes should be on an equal basis," and then said that this is "not practical in the South and which [ideas] we do not want to be brought here as so called improved ways with which to operate our plant." After this appeal to racial prejudice, Jarman proceeded to "incidentally" appeal to another prejudice, that of anti-semitism, and further stated that the

Government refused to allow workers at the Oak Ridge atom bomb plant to join unions, saying, "Who was it they didn't trust? It must have been the leaders of the labor union. Or possibly the government knew that unions meant trouble and they couldn't afford to have it while they were producing the atom bomb. *Is there anything more important to you than your own job?* If the government refused to let them organize during the atom bomb production, what makes anyone think a union is a good thing?" (Emphasis added.) These portions of the speech taken with the speech as a whole which disparages and criticizes unions and which puts the entire issue as a choice for or against respondent renders "suspect in the eyes of the employees the sincerity of the respondent's assertions that it would refrain from discrimination" *Matter of Clark Bros. Inc., supra.* The undersigned finds that the speech in and of itself is in violation of Section 8 (1) of the Act.

Lastly, as to the entire course of respondent's conduct, the undersigned is convinced that it was an "organized campaign" and a "protracted distribution of propaganda." As was so well stated by Justice Learned Hand in *N. L. R. B.* v. *Federbush Co.*, 121 F. (2d) 954: "Words are not pebbles in alien juxtaposition; they have only a communal existence, and not only does the meaning of each interpenetrate the other, but all in their aggregate take their purport from the setting in which they are used, in which the relation between the speaker and the hearer is perhaps the most important part. What to an outsider will be no more than the vigorous presentation of a conviction, to an employee may be the manifestation of a determination which it is not safe to thwart." In the instant case viewed in the setting in which they were made, respondent's utterances achieved a coercive effect. Respondent repeatedly disparaged the character of the Union leaders and their motives, indicated that a union victory would disrupt the harmonious relationship existing between management and labor, said that the advent of the Union would cause strikes and subsequent loss of earnings to employees, claimed that the Union could not obtain any benefits that the employees did not have, saying that the Union could only "ask"; and stated that the Union would only force employees to pay dues and "unknown assessments" which it claimed was all, plus political power, the Union really wanted. Respondent by repeatedly referring to strikes during the war and by their statements about such strikes made apparent that it considered joining the Union to be unpatriotic. Such a campaign occurring in a "county seat in an agricultural community" which had a population of only 5,000 or 6,000 and in which respondent controlled 600 to 650 jobs could not but exploit the dependence of the employees upon respondent for employment. These oral and written manifestations of hostility to the Union's selection as bargaining representative tended to coerce employees to act in self-organizational matters in accordance with respondent's desires and the undersigned finds this conduct to be in violation of Section 8 (1) of the Act. Respondent repeatedly declared in its utterances that they were but in answer to some union publication. An examination of the bulletins which respondent claimed to be answering, and its own, reveal that respondent "went far beyond what might have been thought necessary to reply to possible misstatements of fact" by the Union. *Matter of Clark Bros. Inc., supra.*

At the hearing respondent introduced elaborate exhibits to evidence that its utterances were "statements of fact." Actually an analysis of these exhibits reveals them to be briefs and arguments based in the main on newspaper articles and other types of hearsay. There is no showing as to when these materials to bolster the utterances were obtained, whether before the utterances were issued or merely before the hearing for use at the hearing, although the latter was prob-

ably the case as they were obtained by Director of Employee Relations Smith at the direction of counsel for the Company. But no matter when they were accumulated, an analysis of these exhibits, instead of showing that respondent's utterances were based on the truth, shows only the great length to which Smith went to obtain some scintilla of exemplification for the statements made by respondent. There is no need here to analyze each exhibit; one is typical. This exhibit purports to show the "facts" behind the respondent's "Let's Have The Truth" leaflet entitled "Is a union bad for the Company?" Four points are argued in the leaflet and are summarized in one sentence in the exhibit with the "proof" of the statement below each sentence as follows:

> 2 History of labor unions, strikes, work stoppages, constant bickering, bullying by strong arm men.
>
> Ans.: See typical statements of union papers and excerpts taken from union material in Pulaski.
>
> 3 Unions ordinarily do not like to recognize merit in the individual employ.
>
> Ans : Unions are usually inclined to go strictly on seniority and set a work pace where all earn practically the same amount.
>
> 4. Unions cost money.
>
> Ans : Estimated income to unions from members
>
> 5. To sum it up, a union tends to set employees and management at war with each other.
>
> Ans.: For example, a recent article in the union publication MESA states "The signing of a union contract is not an armistice in the industrial warfare, but rather a truce before another battle."

Under 2 above, the "typical statements" and "excerpts" mentioned are four clippings from union newspapers, none relating to the Union involved in this case, and as a matter of fact none relating to strikes, work stoppages, or bullying by strong arm men. One clipping could be interpreted to refer to bickering. None of the clippings, incidentally, refer to respondent. Under 3 above, the "fact" is apparently supported by Smith's belief alone. Under 4 above, that unions cost money, the argument made in respondent's leaflet was that organizers of unions were merely interested in creating jobs and political power for themselves. The "answer" above hardly supports this argument. Under 5 above the "answer" refers to "the union publication MESA" as if that were a publication issued by the Union involved in this case, when as a matter of fact it is a publication of the Mechanics Educational Society of America, an independent union with headquarters in Detroit, Michigan. It is not shown whether the quotation is a statement of that union's policy or merely a portion of a news story and in any case does not prove the point Smith is attempting to make.

The exhibit just analyzed and the other exhibits of respondent along the same line, instead of exonerating respondent for its utterances, actually disclose the type of hearsay and misrepresentation on which respondent based its campaign.

5. Holidays and pay increases

The complaint alleged that respondent violated Section 8 (1) of the Act by, on or about June 1, 1946, announcing to its employees a plan whereby they would receive six holidays per year with pay, and in July 1946, by granting increases in pay to its employees. As to the pay increases, it was shown that there was no general increase in pay granted in July 1946, but that adjustments in pay for various operations, which amounted to wage increases for certain employees, were put into effect at that time and for many months prior thereto. It was also shown that adjustments of similar nature were made in all of respondent's

16 plants beginning in November 1945, and continuing after the date of the election. The undisputed testimony of the Director of Employee Relations of respondent was that these adjustments which were granted at the Pulaski plant in July, were also granted to all other plants operated by respondent where similar operations were conducted. The undersigned finds that the adjustments were put into effect as a normal routine and not as an inducement to discourage union activities, and that this action did not constitute an unfair labor practice.

As to the pay for holidays, the evidence is that the study of the problem of granting pay for holidays was begun on September 14, 1945, at which time office employees were receiving holiday pay but plant employees were not. An exhibit of respondent indicated that the respondent had investigated between September 1945 and June 6, 1946, and found that 114 shoe manufacturers were giving pay for holidays in August 1945, and that subsequently 14 additional manufacturers adopted the plan and it was determined by the respondent's executive committee on June 6, 1946, as an over-all policy applicable to all of the respondent's plants, that all employees would be paid for six holidays per year beginning with July 4, 1946 The total approximate cost of this holiday pay policy to the respondent was $300,000 per year and less than 10 percent of this amount was applicable to the Pulaski plant It is the finding of the undersigned that neither the announcement of the holiday pay, nor putting it into effect was in order to influence employees at the Pulaski plant in the selection of the Union as their bargaining agent and therefore is not in violation of the Act.

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

Since it has been found that the respondent has engaged in and is engaging in certain unfair labor practices affecting commerce, it will be recommended that it cease and desist therefrom and take certain affirmative action which the undersigned finds will effectuate the policies of the Act

The unlawful activities on the part of the respondent, above referred to, took place at a time when employees were being asked to indicate their free choice of a bargaining representative in an uncoerced election and illegally interfered with this free choice. It will therefore be recommended that the results of the election held on July 31, 1946, be vacated and set aside.

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

CONCLUSIONS OF LAW

1 Boot and Shoe Workers Union, A. F. L, is a labor organization within the meaning of Section 2 (5) of the Act.

2 By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (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, the undersigned recommends that the respondent, General Shoe Corporation, Nashville, Tennessee, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Engaging, in conjunction with any election contest held to designate bargaining representatives of its employees, in any campaign or other conduct for the purpose of interfering with, restraining, or coercing its employees in the exercise of their right to select representatives of their own choosing;

(b) Compelling its employees during working time or after working time at their homes, to listen to speeches relating to self-organization and the selection of a bargaining representative;

(c) Interfering with its employees in the exercise of their right to self-organization and to join or assist the Boot and Shoe Workers Union, A. F. L., or any other labor organization.

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

(a) Mail to each of its employees at the Pulaski plant a copy of the notice attached hereto marked "Appendix A";

(b) Post at its plant at Pulaski, Tennessee, copies of the notice attached hereto marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Tenth 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;

(c) Notify the Regional Director for the Tenth Region in writing, within ten (10) days from the date of the receipt of this Intermediate Report, what steps the respondent has taken to comply herewith.

It is further recommended that unless on or before ten (10) days from the date of the receipt of this Intermediate Report, the respondent notifies the Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 203.39 of the Rules and Regulations of the National Labor Relations Board, Series 4, effective September 11, 1946, any party or counsel for the Board may, within fifteen (15) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.38 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington 25, D. C., an original and four 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 four copies of a brief in support thereof; and any party or counsel for the Board may, within the same period, file an original and four copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.65. As further provided in said Section 203.39, 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.

T. B. SMOOT,
Trial Examiner.

Dated April 15, 1947.

APPENDIX A

NOTICE TO ALL EMPLOYEES

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

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

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 BOOT AND SHOE WORKERS UNION, A. F. L., or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. All our employees are free to become or remain members of this union, or any other labor organization.

GENERAL SHOE CORPORATION,
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.