No. 13802

In the UNITED STATES COURT OF APPEALS for the Ninth Circuit

BOEING AIRPLANE COMPANY, a corporation,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

PETITIONER'S REPLY BRIEF

J. PAUL COIE
F. THEODORE THOMSEN
Attorneys for Petitioner

1006 Hoge Building
Seattle 4, Washington

HOLMAN, MICKELWAIT, MARION, BLACK & PERKINS,
of Counsel for Petitioner.

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We shall not attempt either to repeat or restate the arguments set forth in our opening brief. We deal only with new arguments advanced on behalf of the Board and with the specific matters in its brief which seem in most urgent need of correction.

I. Erroneous Premise

The erroneous premise which pervades the Board's brief is the baseless contention that all of

the Company's acts here in question were in furtherance of a "program to promote the Teamsters and to defeat the IAM" (Bd. Br. 71). It is said that this motivation is evident throughout and is the "thread which binds the whole of respondent's unfair labor practices" (Bd. Br. 66). Typical of this emphasis is the assertion, regarding the alleged discrimination against individuals, that "* * * the Company, through several of its supervisors, utilized numerous opportunities to show its disfavor of the IAM by discriminating against its members in the matter of discharge, discipline, layoffs, and recalls"[1] (Bd. Br. 15-16). In brief, counsel for the Board urges that this supposed motivation strengthens and renders reasonable the inferences drawn by the Board in finding the several unfair practices, and that each of them should be viewed "in the context of the Company's hostility to the IAM and partiality for the Teamsters * * *" (Bd. Br. 51). Incontestably, the Board did not thus predicate its conclusions with respect to the several individual cases, and its counsel may not now urge such a theory.

In fact, the Board's decision with respect to as-

[1]Other expressions of this erroneous premise are: The Company "hoped for the displacement of the IAM by the new Teamsters local" (Bd. Br. 3); the Teamsters local had "the encouragement and cooperation of the Company" in its organizational drive (Bd. Br. 2); "* * * the Company's whole pattern of preference for the Teamsters to which these incidents are related" (Bd. Br. 37); "* * * furtherance of the objective maintained by the Company throughout, namely, to further the activity of the Teamsters and to hinder that of the IAM" (Bd. Br. 67).

sistance and support of the Teamsters[2] rests upon very narrow grounds, namely: (1) a preference given "for a time" (R. 219) to employment applicants having Teamster referrals—based on five instances (the last of which occurred in February, 1949) (R. 219); (2) the refusal to permit Klein to cancel his Teamster dues deduction authorization (R. 219); (3) the denial of Carrig's promotion to a supervisory position, because of Teamster opposition (R. 219), and (4) Gerber's discharge, for inducing Teamsters to cancel their dues deduction authorizations (R. 276-277).

These isolated, unrelated events simply do not support counsel's assertion throughout the brief that the Company had a fixed objective to further the Teamsters and to hinder the IAM.

The erroneous premise upon which the Board's brief is based wholly ignores and is in direct conflict with six very significant facts found by the Board, namely:

(1) *No general policy* of discrimination against Lodge 751 members or strikers existed (R. 214)[3],

(2) Boeing did not at any time dominate the Teamsters (R. 220),

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[2]The Board adopted (R. 270) the Trial Examiner's findings and conclusions on this issue (R. 218-220) without change or comment, adding, however, the conclusion that Gerber's discharge also constituted assistance and support (R. 277).

[3]This, despite the contrary position of General Counsel throughout the hearing that while there was no disposition on the part of individual supervisors to discriminate, it was the broad policy of the Company to discriminate in favor of the Teamsters and against Lodge 751 (R. 2280).

(3) Permitting Teamster organizers in the plant during the strike did not constitute unlawful support of the Teamsters, particularly since Lodge 751 did not seek similar permission (R. 218),

(4) None of Boeing's acts during the strike were unlawful (R. 218-219),

(5) Following the strike, Lodge 751 and the Teamsters were accorded equal organizational opportunities (R. 218-219), and

(6) Use of the Teamsters in recruiting employees did not constitute unlawful support (R. 219).

Counsel for the Board does not contend that these significant findings are not supported by the record. In fact, it is plain that they are. For example, in finding that there was no general policy of discrimination, the Examiner noted (R. 214) that more than 5,000 layoffs took place during the period involved in this case (Resp. Ex. 38, R. 2258; Gen. C. Ex. 213). In 2,200 instances those laid off were members of Lodge 751, and in 1,200 cases they had been strikers (R. 214; Resp. Ex. 38, R. 2258; Resp. Ex. 39, R. 2260). As the Examiner observed, "* * * this report is concerned with only a small fraction of the number of employees laid off following the end of the strike and this circumstance must be accorded weight." (R. 198). Only 4 of these layoffs are before this Court.

It is equally significant that during the period

from the end of the strike to March 31, 1951, 1,510 persons were discharged for cause, 521 of whom were strikers (Resp. Ex. 39, item 2, R. 2260). Thirty-three of these discharges, all involving persons who participated in the strike and, with one exception, who were members of Lodge 751, were in issue before the Board.[4] If the all-pervading discriminatory motivation suggested by Board's counsel actually were present here, it is indeed surprising that only four of these discharges were found unlawful by the Board.

The record is likewise clear that the Company did not solicit or inaugurate the entry of the Teamster local (R. 2081-2089, 2926-2928), as was the case in *National Labor Relations Bd. v. Ronney & Sons Furniture Mfg. Co.*, 9 Cir., 206 F. 2d 730.

During the strike Lodge 751 did not request permission that its representatives be permitted on Company premises (R. 218, 2327). From the end of the strike until October 14, 1949 (Resp. Ex. 54, R. 2320), when, shortly before the representation election, the Company brought the year-long organizational campaigns to a close, the rival unions were accorded equal organizational opportunities (R. 2307-2308; Resp. Ex. 45 through 53, inclusive, R. 2311-2318). On October 20, 1949, Harold Gibson,

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[4]Twelve more were considered by the Examiner but General Counsel did not except to his holding these discharges lawful (R. 228-258).

president of Lodge 751, said, "We feel that our organizers were treated fairly" (Resp. Ex. 59, R. 2365).

Further in support of the Board's finding that there was no broad Company policy of discrimination are the speeches, letters, and memoranda of the Company president, Allen, and other top management representatives (R. 2272-2302). Representative of this Company attitude is the letter dated September 23, 1948 (Resp. Ex. 42, R. 2276), ten days after the end of the strike, by Mr. Allen to all employees, in part, as follows:

> "You can be assured that I do not have any bitter feeling or vindictiveness by reason of what has occurred during the past few months. * * * Regardless of employee affiliation, it is *my determined purpose that every employee at Boeing receive friendly and impartial consideration from Boeing management.*" (Emphasis supplied)

Several months later on February 28, 1949, Mr. Allen, in a memorandum to division heads[5] (Resp. Ex. 43, R. 2285), which automatically became Company policy (R. 2284), said:

> "The company did not participate in the A. F. of L. union decision to organize our employees. It is our understanding that this decision was based upon a petition to do so signed by more than 2,000 employees. Local 451 is in no way beholden to the company, nor the company to 451. We did welcome the entry of the

[5]This memorandum is a part of the evidence relied on by Board's counsel in establishing the underlying premise. It is, however, meagerly quoted. In context it shows a high degree of impartiality.

> A. F. of L. union into the picture because we hoped that it would give us an opportunity to build a sound employee-management relationship. However, *when the strike ended* and members of 751 re-entered the plant *it immediately became our policy to meet all requirements of the law as to impartiality between unions when there is more than one union involved.*" (Emphasis supplied)

The Trial Examiner, commenting on the admissibility of these documents, after the hearing had been in progress one and one half months, noted that the General Counsel's case was that, while there was no disposition on the part of the individual supervisor to discriminate in any way against an employee working under his direction, the wishes of the individual supervisor were not of any moment whatsoever because of the existence of a "broad policy of the Company to discriminate in favor of 451 and against 751" (R. 2280). However, counsel failed in his efforts to convince the Board that any such broad policy ever existed.

If an employer were to embark upon a course of discrimination designed to displace a union, he would normally select as the persons to be downgraded, laid off or discharged the outstanding or prominent union members or leaders. These would be the normal targets for discrimination. In a case of this scope, if any such policy as counsel for the Board contends did exist, we would expect to find prominent union members singled out for disparate

treatment. The fact is that the Board found discrimination against only two[6] out of the total of 221 prominent union members (officer or member of a committee) rehired following the strike (Resp. Ex. 40, R. 2263). This again refutes an underlying motivation of discrimination.

II. The Rules—Lodge 751 Streamers and Committeeman Badges.

Isolated or casual remarks of some supervisory employees not authorized by Boeing and not containing coercion are not interferences. *Martel Mills Corp. v. National Labor Relations Bd.*, 4 Cir., 114 F. 2d 624; *National Labor Relations Bd. v. Fairmont Creamery,* 10 Cir., 144 F. 2d 128; *National Labor Relations Bd. v. West Ohio Gas,* 6 Cir., 172 F. 2d 685; *National Labor Relations Bd. v. Superior Co.,* 6 Cir., 199 F. 2d 39.

Both sides take comfort on this issue from the *Republic Aviation* case, 324 U. S. 793. We urge that two facts distinguish that case from the present case, namely: (1) two strong unions were engaged in a representation contest within the plant, and (2) violence was imminent because of the bitterness engendered by the strike. Neither of these facts existed in the *Republic Aviation* case, but the Su-

[6]Burrell and Myrick (Resp. Ex. 41, R. 2263).

preme Court there recognized their relevance and importance as distinguishing factors (Co. Br. 23-24).

Board counsel contends that the presence of two unions "cannot be transformed into the sole reason for invalidating [*sic*—validating?] the rule" prohibiting the wearing of committeeman badges (Bd. Br. 40). We contend that the presence of two unions in the plant is of material importance. Under these circumstances the duty devolving upon an employer is that "He must maintain a strictly neutral attitude. Especially is this so where the adherence of the employees is being sought by rival labor organizations." *Harrison Sheet Steel Co. v. National Labor Relations Bd.*, 7 Cir., 194 F. 2d 407, 410.

Counsel for the Board advances several reasons why the committeeman badges "could hardly mislead any employee" (Bd. Br. 40). First, it is said that the Company "widely advertised that the IAM had lost its representative status by authorizing the strike" (Bd. Br. 40). This was the Company's legal position. However, as of the end of the strike, September 13, 1948, when these rules were placed in effect, and for more than eight months thereafter, this legal question was not free from doubt.[7]

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[7]Lodge 751 maintained that it had not lost its status and the Trial Examiner's Intermediate Report and Recommended Order, issued July 20, 1948, in the prior unfair labor practice proceeding instituted by Lodge 751 had then been issued, finding that Lodge 751 had not lost its status and recommending that the Company be ordered to bargain with it. (Board's Decision and Order, to the same effect, issued November 22, 1948 (80 NLRB No. 88); set aside in **Boeing Airplane Co. v National Labor Relations Bd.**, D. C. Cir., 174 F. 2d 988, decided May 31, 1949).

Counsel also makes the bald assertion, contrary to the facts, that after the strike it was no secret that the Company favored the Teamsters (Bd. Br. 40).

Finally, it is said the employees knew that a representation election had been scheduled (Bd. Br. 40). This is not true. The order directing an election was not issued until October 4, 1949, more than a year after the rules were put into effect, and the representation petition was not even filed until June 2, 1949 (Resp. Ex. 81, R. 3885).

With respect to the streamers, it is urged that they expressed nothing more than an ordinary union button would imply and, therefore, that they could not be a provocation to disorder (Bd. Br. 44). Apparently the union believed the streamers carried added significance because they were printed and worn in addition to the ordinary membership buttons. The union said that, in addition to the buttons, all returning strikers "proudly are displaying" a little ribbon that announces "I am loyal to Aero Mechanics Union" (Resp. Ex. 69, R. 2434, Col. 1).

It is also urged that because Boeing permitted organizers to contact workers — assertedly more productive of clashes than wearing insignia (R. 271)—the streamers should have been permitted (Bd. Br. 44). Suffice it to say that to permit organizers access was reasonably believed by Boeing to

be the most enlightened course to guarantee employees freedom of choice in making up their own minds with the least loss of production. It was either this or "soap box" and "chaotic conditions" (R. 2309). Very strict ground rules applicable to representatives of both unions were promulgated (Gen. C. Ex. 31). Among other things, they provided that representatives were immediately to withdraw from any altercation or disturbance. If this or any other rule was violated, the privilege of admission to the plant was to be withdrawn.

III. The Discharges, Layoffs and Demotions

Gerber's Discharge

Gerber was discharged on December 7, 1948. He sought and obtained a review of his discharge by a review committee. The committee's minutes (R. 2723-2724) show that Gerber was interviewed and that he denied approaching any employees regarding union membership on Company time. They also record that in view of the conflict between Gerber's and Morrell's version the committee instructed Rig[s]by, a committee member, to interview some of the employees (R. 2724). Rig[s]by did so on December 16th and his written report of the interviews states (R. 2726):

> "All four of the employees stated very positively that they had been approached by Arthur Gerber on company time, and asked to sign up

> for Local 751. Philip Gibson stated further that Mr. Gerber told him that if he did not join 751, he would be out of a job in 30 days."

Gerber testified that later, on December 20th, he telephoned Evan Nelsen, another committee member, to learn the results of the review committee hearing and was told the matter had been referred back to Morrell. His call was switched to Morrell who informed him that the committee had sustained the discharge (R. 859-860).

In this setting, Morrell's testimony set out in the Board's brief, p. 60, becomes clear. The particular question and answer which Board counsel claims devastates Morrell is:

> "Q. And how soon after getting the statements did you terminate Gerber?
>
> "A. Oh, I would say within 2 or 3 days, approximately."

Obviously, Morrell could have meant either the action he took on December 7th after securing oral statements (R. 2713) or, with equal plausibility, his reporting to Gerber the committee's action on December 20th sustaining his discharge on the basis of written statements obtained by others on December 16th.

The disposition of Gerber's case does not hinge exclusively on Morrell's testimony, because as the minutes show, the review committee's principal inquiry was (R. 2723-2724):

> "Mr. Gerber was interviewed, and he denied approaching any employee regarding union membership on company time.
>
> "Morrell was then called in, and he stated that he had talked to several employees who said they had been approached."

Likewise, according to Huleen to whom Gerber later appealed, the primary fact which his investigation confirmed was that Gerber "had been actively organizing on company time" (R. 2718), which Gerber denied (R. 2721).

The Board finds that the real reason for Gerber's discharge was his article in the union newspaper (Gen. C. Ex. 69, R. 866), resulting in a notable increase in cancellation of Teamster dues. The record is silent that management had any knowledge that Gerber was the author of the questioned article nor is there any evidence that the Company, prior to his discharge, was aware of any "notable cancellations" (if 10 cancellations (R. 2719) may be so labeled). On the other hand, the record is clear that the review committee was concerned primarily with whether or not Gerber improperly solicited union membership during working time.

Gerber's testimony, describing his success as an author and his development of a union prepared and distributed dues cancellation card as being the reason for his dismissal, appears unduly magnified in view of his own contrary appraisal of his activities in his letter of January 4, 1949, to Mr. Allen,

president of Boeing (Gen. C. Ex. 71, R. 872). In this letter, as a part of his plea for reinstatement, he writes, "In addition, I have never run for any union office nor been active in union affairs."

If, as urged in our opening brief, the credibility findings of the Examiner must be honored by the Board, the testimony of Gerber is that of a discredited witness. The documentary evidence relied upon by the Board does not in any way impeach, but rather confirms, the testimony of Morrell and the reasonableness thereof.

McDonald's Layoff

In an effort to sustain the Board's decision, counsel relates McDonald's layoff to the asserted pattern of opposition to Lodge 751 (IAM), and erroneously states that the Board found that McDonald was laid off, in part, because he expressed a "preference for the IAM" (Bd. Br. 25, 56). In fact, if McDonald expressed a preference for any union, it was the I. B. E. W. (R. 965) and the Board so found (R. 279).[8] For the reasons set forth in our opening brief, pp. 51-54, it is clear that the Board's inference regarding McDonald is wholly unreasonable.

Schott's Demotion

[8]Presumably, McDonald's testimony regarding the I.B.E.W. is the only basis for the Board's capricious act of including the I.B.E.W. in its cease and desist order (R. 285-286). No issue involving the I.B.E.W. was ever properly before the Board (Co. Br. 53).

Board counsel erroneously implies that Schott was summarily demoted shortly after her return to work (Bd. Br. 54). Actually, Schott's employment records show that, on February 10, 1949, four months after her return, she was *promoted* (R. 1995). It was not until April 18, 1949, the month of the B-54 cancellation, that she accepted a demotion to avoid being laid off (R. 2698).[9]

Board counsel relies on Lawrence's remarks (Bd. Br. 54). Lawrence was working on a different shift and not Schott's foreman at the time (R. 2007). Counsel suggests no theory under which it reasonably can be inferred from these remarks that Schott's demotion was discriminatory and this completely ignores Heiland's function in demotions (Co. Br. 43).

Finally, counsel states that there was no explanation of why Schott, particularly, was demoted (Bd. Br. 54). There being no basis in the record for a reasonable inference of discrimination, no explanation was necessary. Nevertheless, James, who *was* Schott's foreman, explained that there was a surplus of employees necessitating the demotion of some and the layoff of others (R. 2698). The fact that Schott's nervousness affected her work (R. 2005, 2699), that she was on leave of absence from January 10 to March 11, 1949 (R. 2004), that she

[9] 554 employees were laid off that month (Resp. Ex. 38)

was a borderline case who just managed to get by as a spot welder (R. 3090-3091), and that before the strike she was "found incapable of performing the duties of spot welder 'A' " (Resp. Ex. 30, R. 3370, 2001-2003), show why Schott particularly was selected for demotion. The Board's inference is capricious and wholly unreasonable.[10]

IV. Assistance and Support of Teamsters

Board counsel has dismissed as of no significance the six instances where a Teamster referral did not result in the applicant getting a job (Co. Br. 69), on the ground that these were all strikers (Bd. Br. 34). Demonstrating the illogic of this point is the fact that 8,890 *strikers* were reemployed *without Teamster referrals* (R. 2266). It thus appears there was no magic in a Teamster employment referral.

It is also contended that the Company assertion (Co. Br. 68) that Courtier and Brody were not hired when they first applied because the Company had suspended hiring to accommodate returned strikers is unbelievable in view of the 748 new applicants *hired* in September (Bd. Br. 33). However, the rec-

[10]As noted in our opening brief (Co. Br. 55-56), we urge that, no exception having been filed, the Board erred in finding Schott's demotion discriminatory. In the **Salant** case (Bd. Br. 54), although the Board states it considered matters as to which no exceptions were filed, it did not reverse the Examiner with respect thereto. In the **International Rice** case (Bd. Br. 54), the scope of the exceptions does not appear from the reports and, in any event, the question as to exceptions was not passed upon by either court. Counsel's position should not now be given judicial sanction.

ord shows that 748 (taken from Gen. C. Ex. 212) is the number of new applicants who *reported for work* during September, irrespective of when they were *hired* (R. 3921). Thus, all of them could have been hired before the end of the strike. This does not, as counsel contends, impeach the testimony as to the suspension of *hiring*.

V. Statute of Limitations

The allegations we challenge[11] allege four acts which occurred *after* the two charges were filed and *more than six months before* the complaint was issued. The cases previously cited[12] establish that these allegations are barred unless the four acts are very closely related to the acts asserted in the charges. The phrases most frequently used by the courts to describe how close the relationship must be are quoted in our opening brief (Co. Br. 74).[13] In its brief the Board uses the words "fairly related" Bd. Br. 67) and "reasonably related" (Bd. Br. 69). The question is whether the relationship is suffi-

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[11]Summarized, Co. Br. 72.

[12]Co. Br. 74-75; Bd. Br. 67-70; the **Epstein** and **Harris** cases relied on by the Board (Bd. Br. 69-70) are not in point because they involved a "continuing violation"—refusal to bargain (See Co. Br. 74-75). The **United States Gypsum** case discussed by the Board (Bd. Br. 70) is clearly distinguishable because a timely charge was filed as to Peoples' discharge and the subsequent failure to recall Peoples was obviously far more closely related to Peoples' discharge than any of the four acts here in question are related to any of the acts asserted in the charges.

[13]To these may be added "* * * which 'relate back' or 'define more precisely' the charges enumerated within the original and timely charge." **National Labor Relations Bd. v. Gaynor News Co.**, 2 Cir., 197 F. 2d 719, 721, affirmed by the Supreme Court 22 LW 4097 (Feb. 1, 1954).

ciently close in this case. The Board contends that it is because the "thread" of "opposition to the IAM and preference for the Teamsters" binds the whole (Bd. Br. 66), rendering the four acts in question "part of the same pattern" (Bd. Br. 71). There being no such pattern, supra, pp. 1-8, the four acts have no reasonable relation to those asserted in the charges.

VI. Broad Order

Although the Board may have power to enter a broad cease and desist order, it does not follow that a court must act as a mere ministerial agency to execute such an order. As observed in the concurring opinion (analyzing Section 10(e) of the Act) in *National Labor Relations Bd. v. Cheney California Lumber Company,* 327 U. S. 385, 391:

> "Here the statute is not mandatory. It does not purport to curtail the court's power to define the scope of its process. The section only confers on the court the power to make 'a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board.' * * * This at least includes the power to fix, on its own motion, the scope of the decree which it may be required to enforce by contempt proceedings, in conformity to recognized equitable standards applied to the record before it."

Contrary to counsel's assertion (Bd. Br. 74), the Board is not at liberty to disregard, and the Court

may weigh the Examiner's factual finding that the record does not "indicate a general disposition to violate the Act * * *" (R. 223). *National Labor Relations Bd. v. Universal Camera Co.,* 340 U. S. 474.

As the courts have recognized, broad cease and desist orders tend to make the courts of appeals trial courts in policing labor relations. This is emphasized by the court in *National Labor Relations Bd. v. Reed & Prince Mfg. Co.,* 1 Cir., 196 F. 2d 755, involving a proceeding for contempt brought eleven years after entry of a broad cease and desist decree. The court observed, p. 759:

> "As more and more employers come under enforcement decrees in such broad terms, the courts of appeals will gradually supplant the Board as the primary trier of facts when future unfair labor practices are alleged, if the Board elects generally to proceed, as it has done in this case, by filing a petition for adjudication in civil contempt.
>
> "* * *
>
> "The Board's present petition would cast upon the court the burden of conducting what promises to be a lengthy hearing, either by itself or by reference to a master, for the purpose of making an independent determination of whether the company has failed and refused to bargain collectively in good faith, in violation of the Act. It is not easy to see what the Board would gain by invoking such a procedure."

In the instant case, the Board said it was "convinced" of the "danger" of *"future"* commission of unfair labor practices (R. 283). The only means of

testing this conviction and prognosis of the future is to measure it against the numerous facts establishing the excellent labor relations in the three years involved in the record.

(a) Lodge 751 was certified as the bargaining agent on January 19, 1950. Negotiations commenced shortly thereafter. The meetings were characterized by Lodge 751 and its president, Gibson, as "very amicable" (Resp. Ex. 83, R. 3949), and again on March 2, 1950, as "proof of the desire of both the union and the company to arrive at a satisfactory agreement at an early date" (Resp. Ex. 84, R. 3949).

(b) A collective bargaining agreement was entered into May 22, 1950 (Resp. Ex. 57).

(c) Vice President Logan testified as to the execution of two labor agreements negotiated with Lodge 751 and observed that the relationship between the Company and the union was never as good as in the last two years "and is now" (R. (2320). He expressed the view that there had been "phenomenal progress" in the relationship between the Company and the union, as such, and between the workers and their immediate supervisors (R. 2321).

(d) Huleen testified that 241 grievances were filed in 1947 and 112 in 1948 in the few months preceding the strike. In contrast with this is the outstanding fact that, since the May, 1950, contract

and until the date of his testifying, only one grievance was filed and this was withdrawn without processing (R. 2366).

With a vigilant union, we may be sure that if there had been any discrimination in the subsequent discharges and layoffs, they would have at least been the subject of grievances.

The case cited by counsel, *National Labor Relations Bd. v. Seven-Up Bottling Co.,* 344 U. S. 344, 349, quoting from *Virginia Electric & P. Co. v. National Labor Relations Bd.,* 319 U. S. 533, as to the permissible scope of a Board remedy, is not in point. The Board remedies reviewed in these cases related solely to repayment of union dues checked off and the formula for computing back pay awards to individuals. They did not involve the propriety of a broad cease and desist order. In the *Seven-Up* case, the court noted a limitation on the Board's authority, saying that it could not apply a remedy without regard to whether in particular circumstances the ordered remedy would be "* * * oppressive and therefore not calculated to effectuate a policy of the Act."

All of the foregoing indicates that the Board's conviction and forecast are unwarranted and renders its order oppressive and an abuse of discretion.

Conclusion

For the reasons set forth in our opening brief and in this reply brief, it is submitted that the Board's order should be set aside, in its entirety, and the petition for enforcement should be denied.

Respectfully submitted,

HOLMAN, MICKELWAIT, MARION, BLACK & PERKINS,

J. PAUL COIE

F. THEODORE THOMSEN

Attorneys for Petitioner