STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT	RELATIONS COMMISSION
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ROBERT V. TEETS,	•
Complainant,	: Case XXXVIII
VS.	No. 17904 MP-356 Decision No. 12707-B
AMERICAN FEDERATION OF TEACHERS, LOCAL UNION 1714 and STEVE KOWALSKY,	:;
Respondents.	•
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ISSA A. JETHA,	•
Complainant,	: Case XXXIX
vs.	: No. 17905 MP-357 : Decision No. 12708-B
AMERICAN FEDERATION OF TEACHERS, LOCAL UNION 1714 and STEVE KOWALSKY,	: :
Respondents.	:
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ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Examiner George R. Fleischli having, on February 21, 1975, issued his Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, in the above entitled matters, wherein said Examiner concluded that the above named Respondents had committed a prohibited practice within the meaning of Section 111.70(3)(b)1 by threatening to expel, and in fact, expelling, the individual named Complainants from membership because of their refusal to pay a fine assessed against them in the sum of \$100 for refusing to participate in an illegal strike engaged in by members of Respondent Local Union 1714, and wherein the Examiner ordered said Union to cease and desist from such activity, to offer the Complainants reinstatement to membership without payment of such fine, and without the payment of dues from the time they were expelled to the time they were reinstated to membership; and the Respondents having timely filed a petition, pursuant to Section 111.07(5) of the Wisconsin Statutes, requesting the Commission to review the Examiner's decision; and the Commission having reviewed the entire record, the petition for review, the brief filed in support thereof, and being satisfied that the Findings of Fact, Conclusions of Law and Order, as well as the accompanying Memorandum, issued by the Examiner, should be affirmed;

NOW, THEREFORE, it is

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ORDERED

That, pursuant to Section 111.07(5) of the Wisconsin Statutes, the Wisconsin Employment Relations Commission hereby adopts the Examiner's Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum, issued in the above entitled matter as its Findings of Fact, Conclusions of Law and Order, with Accompanying Memorandum. IT IS FURTHER ORDERED that unless the Respondents notify the Commission, in writing, by January 19, 1976, that the fines levied against the Complainants have been extinguished and further that the Complainants have been offered full and complete membership in American Federation of Teachers Local Union 1714, and further, that the notice required to be posted in the Examiner's Order have been so posted, the Commission will immediately institute enforcement proceedings in the appropriate Circuit Court.

> Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of January, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Morris Slavney, Chairman

Commissioner Bellman Ľ \mathcal{O} Torosian, Commissioner Herman

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Nos. 12707-B 12708-B

EAU CLAIRE AREA VOCATIONAL, TECHNICAL & ADULT EDUCATION DISTRICT NO. 1, Case XXXVIII and XXXIX, Decision Nos. 12707-B and 12708-B

MEMORANDUM ACCOMPANYING ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Facts:

There were no exceptions with respect to the Findings of Fact. A synopsis thereof discloses that the two Complainants refused to participate in a strike engaged in by the membership of the Union, which strike was prohibited by Section 111.70(4)(1) of the Municipal Employment Relations Act. Thereafter the Union assessed the fine of \$100 per Complainant and expelled them from membership for failure to participate in such unlawful activity.

The Examiner found the action by the Union and its President to constitute prohibited interference with the rights of the Complainants to refrain from concerted activity. To remedy such prohibited practice the Examiner ordered the Union to reinstate the Complainants to membership and to advise them that the Complainants were not obligated to pay the fine. Furthermore, the Order did not require the Complainants to pay any dues for the period during which they were expelled from membership. The Examiner further ordered the Union to post notices with regard to the matter and to notify the Commission as to compliance.

The Petition for Review:

In the petition for review the Respondents took exception to the Examiner's Conclusions of Law and Order, basically on the argument that the Union has a right to prescribe its own rules with respect to acquisition or retention of membership.

Discussion:

The Respondents would have the Commission overlook the fact that the action taken by the Union, with regard to the fine and expulsion, resulted from the refusal of the Complainants to engage in an unlawful strike. The Commission is charged with carrying out the public policy expressed in the Municipal Employment Relations Act. There is, therefore, no justification for permitting the public policy of the Act to be circumvented through the imposition of "disciplinary" action against an employe for having refused to engage in conduct declared to be unlawful by the Act.

We recognize the principle that Unions generally have a right to prescribe rules with respect to the acquisition and retention of membership. However, the Commission concludes that, in the public interest, it will not permit the constitution and bylaws of a labor organization to threaten members with recrimination, or to actually recriminate, against its members for refusing to engage in a strike which is specifically declared unlawful by MERA. We, therefore, affirm the decision of the Examiner in its entirety.

Dated at Madison, Wisconsin, this 7th day of January, 1976.

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WISCONSIN EMPLOYMENT RELATIONS COMMISSION

/10, By Morris Slavney, Chairman P.Koll mor Commissioner HO Bellman wa/r/ cadel Herman Torosian, Commissioner