STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LEWIS COUNTY, Complainant, vs. WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, AFSCME, AFL-CIO, Respondent.	)	CASE NO. 1496-U-78-192 DECISION NO. 464-PECB ORDER OF DISMISSAL

This matter is before the Executive Director for a preliminary ruling pursuant to WAC 391-21-510. The complaint was filed by the employer on May 22, 1978. After reciting a history including a recent certification of the union as exclusive bargaining representative, the employer alleges:

> "IV. On May 2, 1978, a meeting was called by the labor organization for 5:00 P.M. in the Lewis County Courthouse Annex for the purpose of formulation of contract proposals to be submitted by the labor organization to the Board of Lewis County Commissioners as a commencement of negotiations. At that time members of the bargaining unit who were not members of the labor organization were refused admission to said meeting. Upon strongly asserting their right to attend the meeting and participate in formulation of bargaining proposals, the union representative eventually did allow entrance, but immediately cancelled the meeting. Since that time, at least one meeting for the same purpose has been held in secret without notice to non-union employees of the bargaining unit, and a continuous course of conduct calculated to deprive non-union employees of the bargaining unit of representation by their duly certified bargaining representative has been carried on by that bargaining representative, and continues to be so carried on.
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> V. The aforesaid conduct by the labor organization constitutes an interference with, restraint of, and coercion of public employees in the exercise of their rights guaranteed by Chapter 41.56 of the Revised Code of Washington, in violation of RCW 41.56.150, specifically the right to meaningful representation by their duly certified bargaining representative as insured by RCW 41.56.080."

RCW 41.56.080 is patterned after Section 9(a) of the National Labor Relations Act and establishes the power of a certified union to act as the exclusive bargaining representative of bargaining unit employees.

Acting under the unfair labor practices provisions of Section 8(b) of the NLRA, the National Labor Relations Board has imposed a duty of fair representation upon labor organizations certified under Section 9 of the Act. The duty is stated in Miranda Fuel Co., 140 NLRB 181 (1962) as:

> "Section 7 thus gives employees the right to be free from unfair or irrelevant or invidious treatment by their exclusive bargaining agent in matters affecting their employment."

It has long been clear that an employer and a bargaining representative may not lawfully agree to wages, hours or working conditions which encourage or discourage union membership by discrimination on the basis of union membership or lack thereof. While a union must thus treat all bargaining unit members fairly without regard to union membership, it is recognized that the union must at the same time be allowed a wide range of reasonableness in its actions. Ford Motor Co. v. Huffman, 345 U.S. 330, 337-338 (1957).

The factual allegations of the complaint indicate that the parties are only in the initial stages of the collective bargaining process. There is no claim or admission by the employer that it has become a party to a discriminatory practice, nor even an allegation that it has been confronted in collective bargaining with a proposal which discriminates on the basis of union membership.

The right to participate in union affairs through voting for officers and running for office has been found to be a political right incident to the privileges of union membership, but one which involves no property right or civil right. See: State ex. rel. Givens v. Superior Court, 33 LRRM 2650 (Indiana Supreme Court, 1975). The right of unions to control their own internal affairs with respect to matters such as the negotiation and ratification of contracts, and to limit voting on such matters to union members, is acknowledged by the NLRB in footnote 1 to its decision in Branch 6000, Letter Carriers, 232 NLRB No. 52 (1977).

The standing of the employer to file a complaint in this situation has been questioned by the union, but that point is passed over without

comment. Even if the employer were able to prove exactly what it has alleged, those facts describe a matter of internal union affairs which would not constitute a violation of RCW 41.56.150.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is dismissed.

DATED at Olympia, Washington, this 27th day of June, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director