In the Matter of THE STANDARD STEEL SPRING COMPANY *and* INTERNATIONAL UNION OF OPERATING ENGINEERS (AFL) *and* UNITED STEELWORKERS OF AMERICA (CIO), PARTY TO A CONTRACT

Case No. 8-CA-23.—Decided December 7, 1948

DECISION

AND

ORDER

On July 20, 1948, Trial Examiner George Bokat issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged 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.

Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief. The Respondent's request for oral argument is hereby denied because the record and the exceptions and brief, in our opinion, adequately present the issues and the positions of the parties.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this proceeding to a three-man panel consisting of the undersigned Board Members.*

The Board has reviewed 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 exceptions [1] and brief filed by the Respondent, and the entire record in the case, and hereby adopts the findings,[2] conclusions, and recommendations of the Trial Examiner.

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*Chairman Herzog and Members Houston and Gray.

[1] The Respondent contended, among other things, that it was compelled to recognize and bargain with the Steelworkers because the latter threatened economic pressure if it refused. But fear or threat of economic pressure does not justify a violation of the Act. *Matter of Wytheville Knitting Mills, Inc.*, 78 N. L. R. B. 640; *Matter of Idarado Mining Co*, 77 N. L. R B. 392.

This case is governed by *Matter of Midwest Piping & Supply Co, Inc.*, 63 N. L. R. B. 1060. It should be noted that the Respondent entered into its contract with the Steelworkers about 3 months after the hearing on the Engineers' petition.

[2] The record does not show that the Respondent is engaged in the manufacture of bumpers, leaf springs, and universal joints at its Newton Falls, Ohio, plant involved herein. The Respondent is engaged in manufacturing automobile bumpers only at this plant. This does not, however, affect the ultimate finding relative to commerce.

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, The Standard Steel Spring Company, Newton Falls, Ohio, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Recognizing United Steelworkers of America (CIO) as the exclusive representative of any of its powerhouse employees at its Newton Falls, Ohio, plant, for the purposes of collective bargaining, unless and until said organization shall have been certified by the National Labor Relations Board as the exclusive representative of such employees;

(b) Giving effect to its contract dated August 19, 1947, with United Steelworkers of America (CIO), or to any extension, renewal, modification, or supplement thereof, but only as it affects the powerhouse employees, unless and until said organization shall have been certified by the Board as the representative of the powerhouse employees;

(c) In any like or related manner interfering with, restraining, or coercing its powerhouse employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Union of Operating Engineers (AFL), or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection, as guaranteed in Section 7 of the Act.

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

(a) Withdraw and withhold all recognition from United Steelworkers of America (CIO), as the representative of any of its powerhouse employees at its plant in Newton Falls, Ohio, for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, or any other conditions of employment, unless or until said organization shall have been certified by the National Labor Relations Board as such representative;

(b) Post at its plant at Newton Falls, Ohio, copies of the notice attached to the Intermediate Report, marked "Appendix A." [3] Copies

[3] This notice, however, shall be and hereby is amended by striking from the first paragraph thereof the words "The recommendations of a Trial Examiner," and substituting in lieu thereof the words "A DECISION AND ORDER." In the event that this order is enforced by a decree of a United States Court of Appeals, there shall be inserted before the words "A DECISION AND ORDER," the words "DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING."

of said notice, to be furnished by the Regional Director for the Eighth 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 a period of 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; and

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

INTERMEDIATE REPORT

Mr. John A. Hull, for the General Counsel.

Reed, Smith, Shaw & McClay, by *Mr. Nicholas Unkovic* and *Mr. W. A. Seifert, Jr.*, of Pittsburgh, Pa., for the Respondent.

Mr. James A. Rogers, of Akron, Ohio, for the Operating Engineers.

Mr. Philip M. Curran, of Pittsburgh, Pa, for the United Steelworkers.

STATEMENT OF THE CASE

Upon a charge filed on December 26, 1947, by International Union of Operating Engineers (AFL), herein called the Engineers, the General Counsel[1] of the National Labor Relations Board, herein called the Board, by the Regional Director of the Eighth Region (Cleveland, Ohio), on May 5, 1948, issued a complaint against The Standard Steel Spring Company, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) and Section 2 (6) and (7) of the National Labor Relations Act, as amended, (Public Law 101, 80th Congress, Chapter 120, 1st Session) herein called the Act. Copies of the complaint, the charge upon which it was based, together with notice of hearing thereon, were duly served upon the Respondent, the Engineers, and United Steelworkers of America (CIO), party to a contract attacked by the complaint, herein called the Steelworkers.

With respect to the unfair labor practices, the complaint alleged, in substance, that the Respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act by assisting and supporting the Steelworkers by: (a) recognizing the Steelworkers as the exclusive bargaining representative of all production and maintenance employees at its Newton Falls, Ohio, plant at a time when Respondent knew that the Engineers claimed to represent a majority of the powerhouse employees alleged to be an appropriate unit, and after the Engineers had filed a representation petition with the Board and after a formal hearing had been duly conducted by the Board with respect to such petition; (b) entering into a recognition and collective bargaining agreement with the Steelworkers during the pendency of the aforesaid question of representation before the Board and at a time when the Steelworkers did not represent a majority of all the em-

[1] The General Counsel and his representative at the hearing are herein called the General Counsel.

ployees working in the powerhouse. The complaint alleged that by these acts the Respondent violated Section 8 (a) (1) of the Act.

The Respondent's answer denied that it had violated the Act and affirmatively alleged, *inter alia*, that a unit composed of powerhouse employees is not appropriate and that these employees properly belonged in a unit of production and maintenance employees; that before it signed the contract with the Steelworkers it had received proof that all of the powerhouse employees who had previously designated the Engineers as their bargaining representative had switched their designation to the Steelworkers, and that these employees had executed an affidavit to the same effect requesting the Board to dismiss the pending representation petition.

Pursuant to notice, a hearing was held in Warren, Ohio, on June 1, 1948, before George Bokat, the undersigned Trial Examiner designated by the Chief Trial Examiner. The General Counsel, the Respondent, and the Steelworkers were represented by counsel, the Engineers by a representative. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues was afforded all parties. At the conclusion of the testimony the undersigned granted a motion by the General Counsel to amend the complaint to conform to the proof as to minor variations. The parties participated in oral argument at the conclusion of the testimony. Only the Respondent filed proposed findings of fact and conclusions of law as well as a brief with the undersigned, although all parties were advised of their right to do so. The Steelworkers, by letter, stated that it supported the brief and the requested findings submitted by the Respondent.

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

The Respondent is a Pennsylvania corporation and operates plants in Pennsylvania, Indiana, Michigan and Ohio. It manufactures bumpers, flat leaf springs and universal joints primarily for sale to the automotive trade. The Respondent engages in these operations at its Newton Falls, Ohio, plant, where the unfair labor practices are alleged to have occurred. During the calendar year 1947 the Respondent purchased and received at its Newton Falls plant from points outside the State of Ohio raw materials in excess of $250,000. During the same period the Respondent shipped manufactured products to points outside the State of Ohio having a value in excess of $50,000.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, CIO, and International Union of Operating Engineers, AFL, are labor organizations admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

A. *The events* [2]

The Respondent acquired the Newton Falls plant in May 1946. The Timken Roller Bearing Company had previously occupied the same premises and the Steelworkers had been certified by the Board as the exclusive bargaining repre-

[2] There is no dispute as to the essential facts.

sentative of the Timken employees. The Respondent presently has about 350 employees at its Newton Falls plant, and about 50 percent of them are former Timken employees. The Steelworkers have, for a period of years, represented all the production and maintenance employees at the other plants of the Respondent with one exception. The plant-wide units at these other plants include the powerhouse employees.

The Respondent engaged contractors to remodel the Newton Falls plant. In order to avoid jurisdictional disputes there exists in the Warren, Ohio, area, which includes Newton Falls, an agreement between local AFL and CIO unions not to "raid one another." In this manner, the AFL unions were to have a free hand in representing employees engaged in the construction or remodeling of plants and when this work was completed and production began, the CIO unions then would be free to organize the production and maintenance workers.

Shortly prior to April 1, 1947, the Respondent had hired its full complement of nine employees for its powerhouse, consisting of four firemen, one fireman—first class, and four laborers. About April 1, all nine had designated the Engineers as their collective bargaining representative. The Respondent at this time was not yet ready for production and had not yet begun to hire its ordinary production employees. On April 3, 1947, the Engineers wrote to the Respondent on behalf of the powerhouse employees, requesting a meeting to negotiate an agreement for them.[3] When the Respondent met with the Engineers' representative, it informed him that it preferred a single plant-wide unit, that in its other plants, under similar operating conditions, it had agreements with the Steelworkers covering a plant-wide unit of production and maintenance employees.

As a result of the refusal of the Respondent to recognize the appropriateness of the powerhouse unit the Engineers filed a representation petition with the Board. A hearing took place on May 28, 1947. The only parties to the proceeding were the Engineers and the Respondent.[4] The Steelworkers had not yet begun to organize the production workers since the Respondent had not yet begun a large scale hiring of these employees.[5] Under these circumstances, the Steelworkers had no notice of the representation hearing. The Board's Decision in the representation proceeding did not issue until December 10, 1947.

The Newton Falls plant began actual production sometime in July 1947. At this time the Steelworkers began an intensive organizing campaign. Shortly prior to August 8, 1947, the Steelworkers requested that the Respondent recognize it as the exclusive bargaining representative of all the production and maintenance employees including the powerhouse employees. As a result of the Respondent's demand that the Steelworkers prove that it actually did represent a majority in the proposed unit a meeting took place in the plant on August 8, 1947. At this time there were about 180 employees in the proposed unit. The Steelworkers produced 134 cards which were checked against the Respondent's pay roll and 123 were found to bear names of employees on that pay roll.[6]

[3] When the Steelworkers learned several months later of the organization of the powerhouse employees by the Engineers it complained to the AFL unions in Warren, who said it "was done by an organization outside the city, and they regretted it, of course, but, officially, there was nothing they could do"

[4] At this hearing the Respondent contended that the Engineers' petition was prematurely filed since the plant would not be in production until about August 1, 1947, and that the alleged unit was inappropriate.

[5] As of May 28, 1947, the Respondent employed about 76 plant employees and 41 salaried employees.

[6] Ten additional cards were of employees hired shortly subsequent to the pay roll period used.

The check also revealed that all 9 of the powerhouse crew who had previously designated the Engineers, had, on various dates between July 25 and August 8, signed cards designating the Steelworkers as their collective bargaining representative.[7]

As a result of this check the Respondent agreed to recognize the Steelworkers and the parties began to negotiate a collective bargaining agreement.[8] Agreement was reached on August 16, and a contract formally executed on August 19, 1947, recognizing the Steelworkers as exclusive representative of "all production and maintenance workers in the Company's plant at Newton Falls, Ohio, excluding salaried employees, clerical and office employees, foremen, assistant foremen, watchmen, guards, laboratory workers, and professional engineers." The agreement also provides for the check-off of dues and initiation fees based on an individual, signed authorization of the employees. Since August 19, the date of the agreement, the dues of all nine employees in the powerhouse have been checked off by the Respondent and forwarded to the Steelworkers. The agreement also provides that all employees who were members of the Steelworkers in good standing as of the date of the agreement, and all who became members after that date, "Shall as a condition of employment, maintain their membership in the Union in good standing for the duration of this Agreement."

Prior to executing the aforesaid agreement, the Respondent had been advised that all nine powerhouse employees had signed an affidavit, dated August 13, 1947, and addressed to the Board, as follows:

> We, the undersigned employees of the Newton Falls, Ohio, Plant, of the Standard Steel Spring Company, all being duly sworn according to law depose and say: that originally we signed application cards in the International Union of Operating Engineers, Local No. 821—A. F. of L., but that subsequently thereto we all have signed application cards in, and actually have become members of the United Steelworkers of America-CIO, and we all hereby request the National Labor Relations Board to dismiss Case No. 8–R–2603 before the National Labor Relations Board because we, as all the employees involved in the unit proposed in said case have designated the United Steelworkers of America-CIO as our sole and exclusive bargaining agent.

On September 5, 1947, the Steelworkers moved to intervene in the representation proceeding and to reopen the record in order to show:

(a) The petition filed by the A. F. of L. was premature and was filed at a time when the plant was far from fully staffed.

(b) The contract entered into between the United Steelworkers of America and the Company is a bar to the premature petition filed by the A. F. of L.

(c) The unit sought in the petition is inappropriate for purposes of collective bargaining.

On December 10, 1947, the Board, in its Decision and Direction of Election in the representation proceeding, denied the aforesaid motion to intervene, "inasmuch as it was untimely filed," and found:

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[7] At the time of the hearing herein, eight of these nine individuals were still employed in the powerhouse, the ninth had transferred to another department.

[8] Leslie Ackerman, a powerhouse employee, and a former vice president of the Timken Steelworkers' Local, evidently was instrumental in getting other powerhouse employees to join the Engineers. However, after switching back to the Steelworkers he was elected President of the Steelworkers Local and was one of the negotiating committee that met with the Respondent.

The Petitioner seeks a unit of all employees in the Employer's powerhouse at the Newton Falls plant including firemen and laborers. The Employer opposes the proposed unit and contends that only a broad plant-wide unit is appropriate.

The Employer maintains that the petition herein is premature since it was filed at a time when less than 50 percent of its anticipated personnel was employed. There is no merit in this contention. Although the plant was not fully manned at the date the petition was filed,[3] the powerhouse complement was filled at that time and the Employer's general manager testified at the hearing that no change in the present force of powerhouse firemen[4] was contemplated.

The employees herein concerned comprise an identifiable skilled group of a sort which we have frequently held may function as a separate collective bargaining unit.[5] However, the Employer maintains that such separate units are inappropriate in the basic steel industry. Pointing to certain Board cases[6] supporting this contention, it alleges that its operations fall within this production category. We do not agree that the Employer is engaged in basic steel production. Instead, its operations more closely approximate those in the automotive industry, in which we have recently held that powerhouse employees may constitute a separate bargaining unit.[7]

Under all the circumstances herein, we find that the employees working in the powerhouse of the Employer's Newton Falls plant, including the licensed firemen, the fireman second class, and the laborers, but excluding all supervisory employees, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act.

[3] At the date of the hearing the Employer had on its pay roll approximately 76 hourly paid employees and expected to commence full production about August 1, 1947, with an anticipated complement of 50 employees. It planned in October 1947, to initiate a three shift operation and to employ then about 550 workers

[4] There are nine powerhouse employees, of whom four are licensed firemen and one, an unlicensed fireman

[5] See *Matter of The Tivoli Union Company*, 73 N L. R. B. 709; *Matter of L. E. Shunk Latex Products, Inc.*, 67 N L R. B 552, 554, *Matter of Chickasaw Wood Products Company*, 65 N. L. R. B. 664, 666; *Matter of Medley Distilling Company*, 62 N. L. R. B. 261, 263.

[6] See *Matter of General Steel Company*, 57 N. L R. B. 50; *Matter of Tennessee Coal, Iron and Railroad Company*, 39 N. L. R. B 617.

[7] See *Matter of General Motors, Fisher Body-Ternstedt Division*, 74 N L. R. B. 18.

The Board also directed the holding of an election by secret ballot. On December 19, 1947, the Respondent and the Engineers agreed that the election directed by the Board take place on January 7, 1948. On December 26, 1947, the Engineers filed the charge giving rise to the issuance of the complaint herein and the election was postponed pending the outcome of this proceeding.

B. *Concluding findings*

The General Counsel's contention that the Respondent has violated Section 8 (a) (1) of the Act is bottomed upon the Board's decision in the *Midwest Piping* case[9] and on other like cases which followed it.[10] In these cases the

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[9] *Matter of Midwest Piping & Supply Co.*, 63 N. L. R. B. 1060.

[10] See, for example, *Matter of Flotill Products, Inc.* 70 N. L. R. B. 119; *Matter of G. W. Hume Company*, 71 N. L. R. B. 533; *Matter of I. Spiewak & Sons*, 71 N. L. R. B. 770; *Matter of Paul C. Trilli, et al. d/b/a Bluefield Garment Manufacturers*, 75 N. L. R. B. 447.

Board held that the employer usurped the Board's exclusive function to determine questions concerning representation of employees by executing an exclusive bargaining contract with one of two rival unions while a proceeding was pending before the Board to determine representatives for collective bargaining, when the employer knew at the time he entered into such a contract that there existed a real question as to whether the contracting union represented a majority of his employees in an appropriate bargaining unit. In reaching a determination under the particular facts of this case the undersigned is not unmindful of the Board's cautionary language in the *Ensher, Alexander & Barsoom* case.[11] There, the Board held that the employer had not violated the Act although it had signed a contract with a union in the face of a representation proceeding then pending before the Board, on the ground that the other union had become defunct and therefore in actual fact, there was "no real question concerning representation of the Respondent's employees to be resolved." The Board was therefore of the opinion that the contract should not fall within the the condemnation of the *Midwest Piping* doctrine. "That doctrine," said the Board, "necessary though it is to protect freedom of choice in certain situations, can easily operate in derogation of continuous collective bargaining and should, therefore, be strictly construed and sparingly applied."

Applying those principles to the facts above found, there can be no doubt but that in retrospect, due to the Board's finding on December 10, 1947, that the powerhouse employees constituted an appropriate unit, that there was a real question concerning representation pending on August 19, when the Respondent contracted with the Steelworkers. But, if the undersigned is to follow the rationale of the *Ensher* case, did the Respondent know on August 19, what disposition the Board was going to make of the Respondent's contention that the Engineers' petition was premature and the powerhouse unit inappropriate? If the Board had agreed with the Respondent and dismissed the Engineers' petition then there would have been no question concerning representation and no violation of the Act by the Respondent.[12] Here, the undersigned has no doubt of the *bona fides* of the Respondent and if a violation of the Act was committed it was purely a technical one.

But to answer the question raised the undersigned feels he must go back to the basic premise of the Midwest case, and that is that "Congress has clothed the Board with the exclusive power to investigate and determine representatives for the purpose of collective bargaining" and an employer cannot disregard the orderly representative procedure set up by the Board under the Act, "and to arrogate to itself the *resolution* of the representation dispute" then pending before the Board. [Emphasis supplied.] The Respondent need not have usurped the function of the Board when it recognized the Steelworkers as representative of the powerhouse employees by the very simple device of specifically reserving in the contract that the powerhouse employees were to be included or excluded depending upon the Board's disposition of the representation dispute. The Respondent, however, did not see fit to do this.

The Respondent argues, however, that the question concerning representation insofar as the Engineers is concerned, "was not even technical but moot," because all of the powerhouse employees had abandoned the Engineers and accepted membership in the Steelworkers. This contention is best answered by the following language cited again from the *Midwest* case:

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[11] *Matter of Ensher, Alexander & Barsoom, Inc.*, 74 N. L. R. B. 1443.

[12] The undersigned, of course, feels bound by the Board's finding in the representation proceeding that the powerhouse employees constituted an appropriate unit.

> Respondent relied on signed membership cards as proof of the Steamfitters' claim of majority status. Under the circumstances, we do not regard such proof as conclusive. Among other things, it is well known that membership cards obtained during the heat of rival organizing campaigns like those of the respondent's plants, do not necessarily reflect the ultimate choice of a bargaining representative; indeed, the extent of dual membership among the employees during periods of intense organizing activity is an important unknown factor affecting a determination of majority status, which can best be resolved by a secret ballot among the employees.

The undersigned finds no merit in the Respondent's contention that the instant case "differs from the *Midwest Piping & Supply Company* case in that the membership cards were not obtained during the heat of rival organizing campaigns," although the facts do reveal that the 9 Engineers' cards were signed about April 1, 1947, and those of the Steelworkers on various dates between July 25 and August 8, 1947. They were signed near enough in point of time to create sufficient doubt as to the true desires of the employees, a doubt best resolved by a secret ballot among the employees.

The inevitable effect of the Respondent's action in approving the Steelworkers as the bargaining representative of the powerhouse employees in the face of the representation proceedings pending before the Board, even though done in good faith, was to accord unwarranted prestige to that organization, encourage membership therein and discourage membership in the Engineers, and inhibit the employees from freely selecting their bargaining representative by secret ballot in the election directed by the Board. By such action, the Respondent rendered unlawful assistance to the Steelworkers, which interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 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

Having found that the Respondent has violated Section 8 (a) (1) of the Act, the undersigned will recommend that it cease and desist therefrom, and that it take affirmative action designed to effectuate the policies of the Act.

It has been found that the Respondent has unlawfully assisted the Steelworkers and interfered with the Engineers by recognizing and entering into a maintenance of membership contract with the Steelworkers as the exclusive representative of the employees in the powerhouse. Obviously, a free selection of a bargaining representative cannot be made where recognition and a contract has been accorded to one of the competing unions. The undersigned will accordingly recommend that the Respondent cease and desist from recognizing the Steelworkers as the exclusive representative of the powerhouse employees unless and until it shall have been certified as such by the Board. Since the contract of August 19, 1947, perpetuates the Respondent's unlawful assistance to the Steelworkers and precludes the powerhouse employees from presently exercising their right to select a bargaining representative of their own choice,

it will further be recommended that the Respondent cease and desist from giving effect to that contract or to any extension, renewal, modification or supplement thereof, but only as it affects the powerhouse employees, unless and until the Steelworkers have been certified by the Board as the exclusive representative of these employees. Nothing herein, however, shall be construed as requiring the Respondent to vary any wage, hour, seniority or other substantive features of its relations with the powerhouse employees themselves, which the Respondent has established in the performance of this contract, or to prejudice the assertion of these employees of any rights they may have under such agreement.

Upon the foregoing findings of fact,[13] and upon the entire record in the case the undersigned makes the following:

CONCLUSIONS OF LAW[14]

1. International Union of Operating Engineers, affiliated with the American Federation of Labor, and United Steelworkers of America, affiliated with the Congress of Industrial Organizations, are labor organizations within the meaning of Section 2 (5) of the Act.

2. By interfering with, restraining, and coercing its powerhouse 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 (a) (1) of the Act.

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

RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, the undersigned recommends that the Respondent, Standard Steel Spring Company, Newton Falls, Ohio, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Recognizing United Steelworkers of America (CIO) as the exclusive representative of any of its powerhouse employees at its Newton Falls, Ohio, plant, for the purposes of collective bargaining, unless and until said organization shall have been certified by the National Labor Relations Board as the exclusive representative of such employees;

(b) Giving effect to its contract dated August 19, 1947, with United Steelworkers of America (CIO), or to any extension, renewal, modification, or supplement thereof, but only as it affects the powerhouse employees, unless and until the said organization shall have been certified by the Board as the representative of the powerhouse employees;

(c) In any like or related manner interfering with, restraining, or coercing their powerhouse employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Union of Operating Engineers (AFL), or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection, as guaranteed in Section 7 of the Act.

[13] The following rulings are hereby made upon the Respondent's proposed findings of fact: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17 and 19 are accepted; 15 and 18 are rejected.

[14] As to the Respondent's proposed conclusions of law, the following rulings are hereby made: No. 1 is accepted; nos. 2, 3, 4, 5, 6, 7, 8 and 9 are rejected.

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

(a) Withdraw and withhold all recognition from United Steelworkers of America (CIO), as the exclusive representative of any of its powerhouse employees at its plant in Newton Falls, Ohio, for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, or any other conditions of employment, unless or until said organization shall have been certified by the National Labor Relations Board as such representative;

(b) Post at its plant at Newton Falls, Ohio, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Eighth 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 a period of 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; and

(c) Notify the Regional Director for the Eighth Region in writing within twenty (20) days from the date of this Intermediate Report, what steps the Respondent has taken to comply therewith.

It is further recommended that, unless the Respondent shall within twenty (20) days from the receipt of this Intermediate Report notify said 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 203.46 of the Rules and Regulations of the National Labor Relations Board, Series 5, effective August 22, 1947, any party may, within twenty (20) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington 25, D. C., an original and six copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

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

GEORGE BOKAT,
Trial Examiner.

Dated July 20, 1948.

APPENDIX A

NOTICE TO OUR POWERHOUSE 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 recognize UNITED STEELWORKERS OF AMERICA (CIO) as the exclusive representative of our powerhouse employees at our Newton Falls, Ohio, plant, for the purposes of collective bargaining, unless and until said organization shall have been certified by the National Labor Relations Board as the exclusive representative of our employees.

WE WILL NOT give effect to our contract dated August 19, 1947, with United Steelworkers of America (CIO), or to any extension, renewal, modification, or supplement thereof, but only as it affects our powerhouse employees, unless and until the said organization shall have been certified by the Board as the representative of our powerhouse employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our powerhouse employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Union of Operating Engineers (AFL), or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection, as guaranteed in Section 7 of the Act.

STANDARD STEEL SPRING COMPANY,
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.