LEHIGH PORTLAND CEMENT COMPANY *and* UNITED CEMENT, LIME AND GYPSUM WORKERS INTERNATIONAL UNION, LOCAL 167, AFL. *Case No. 5–CA–495. November 24, 1952*

Decision and Order

On May 20, 1952, Trial Examiner Sidney Lindner issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of Section 8 (a) (1) and (5) of the Act, 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 Board [1] 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 and brief, and the entire record in the case, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.[2]

Order

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Lehigh Portland Cement Company, Fordwick, Virginia, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, as the exclusive bargaining representative of its employees in the appropriate unit with respect to the rental of company-owned houses or other conditions of employment.

(b) Making any unilateral changes in the rentals of company-owned houses affecting any employees in the bargaining unit without prior consultation with the Union.

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

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[1] Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

[2] Like the Trial Examiner we conclude that in this case the rental of the company-owned houses was a matter included among the conditions of the employees' employment and bargainable as a condition of employment, whether or not it is treated as included within the term "wages" as used in Section 9 (a) of the Act. We do not disagree with the Trial Examiner in finding that such subject matter is properly considered within the term "wages."

(a) Upon request, bargain collectively with the Union as the exclusive representative of all its employees in the aforesaid appropriate unit with respect to any changes in the rentals of company-owned houses occupied by such employees.

(b) Post at its plant at Fordwick, Virginia, copies of the notice attached to the Intermediate Report herein marked "Appendix A."[3] Copies of said notice, to be furnished by the Regional Director for the Fifth 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 Fifth Region in writing within ten (10) days from the date of this Decision and Order what steps the Respondent has taken to comply herewith.

[3] This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" in the caption thereof the words "A Decision and Order." If this Order is enforced by a United States Court of Appeals, the notice shall be further amended by substituting for said words "A Decision and Order" the words "A Decree of the United States Court of Appeals, Enforcing an Order."

Intermediate Report

STATEMENT OF THE CASE

Upon a charge duly filed by United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, herein called the Union, the General Counsel of the National Labor Relations Board, herein respectively called the General Counsel and the Board, by the Regional Director for the Fifth Region (Baltimore, Maryland), issued a complaint dated February 26, 1952, against Lehigh Portland Cement 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 (5) and Section 2 (6) and (7) of the National Labor Relations Act as amended, 61 Stat. 136, herein called the Act. Copies of the charge, the complaint, and notice of hearing thereon were duly served on the Respondent and the Union.

With respect to the unfair labor practices the complaint alleges in substance that the Respondent on or about April 9, 1951, and at all times thereafter, refused to bargain collectively with the Union as the exclusive bargaining representative of all its employees in an appropriate bargaining unit with respect to questions arising out of the rental, use, and condition of certain houses owned by Respondent and made available to its employees on a rental basis.

In its answer duly filed the Respondent admitted generally the allegations of the complaint regarding its business operations, the appropriateness of the unit, the representation by the Union of a majority of employees in the appropriate unit, and its ownership of certain houses which it makes available to its employees at the Fordwick plant on a rental basis. It denied that it committed any unfair labor practices in refusing to bargain collectively with the Union with respect to

questions arising out of the rental of said houses and further denied that it at any time refused to bargain collectively with the Union on the use and condition of said houses.

Upon due notice a hearing was held at Staunton, Virginia, on March 18, 1952, before the undersigned Trial Examiner. All parties were represented, participated in the hearing, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues, to argue the issues orally upon the record, and to file briefs and proposed findings. A motion by the General Counsel at the end of the hearing to conform the pleadings to the proof with respect to minor matters was granted without objection. Motions made by counsel for the Respondent during the course of the hearing to dismiss the complaint on the merits where not denied or granted at the hearing are disposed of by the following findings and recommendations. At the conclusion of the hearing the General Counsel and counsel for the Respondent presented oral argument to the Trial Examiner. Since the close of the hearing briefs have been received from the General Counsel and counsel for the Respondent which have been duly considered.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Lehigh Portland Cement Company, a Pennsylvania corporation, operates 14 plants in 11 States engaged in the manufacture and sale of cement. One of the 14 plants is in Fordwick, Virginia, referred to herein as the Fordwick plant, the only plant involved in this proceeding. In the course and conduct of its business operations at the Fordwick plant, the Respondent causes and has continuously caused a substantial amount of raw materials used by it in the manufacture, sale, and distribution of cement and allied products to be purchased, transported, and delivered in interstate commerce from and through States of the United States other than the Commonwealth of Virginia to its Fordwick plant and causes and has continuously caused a substantial amount of its finished products to be sold, transported, and delivered in interstate commerce to and through States of the United States other than the Commonwealth of Virginia from its Fordwick plant. The Respondent's answer admits and it is hereby found that the Respondent is engaged in commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, is a labor organization admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

A. *The refusal to bargain*

1. The appropriate unit and representation by the Union of a majority therein

There is no dispute between the parties as to the appropriateness of the unit in this proceeding. It is found, in accordance with the stipulation of the parties, that all maintenance and production employees of the Respondent at its Fordwick plant excluding all supervisory, laboratory, and clerical employees, constitute a unit appropriate for collective bargaining within the meaning of Section 9 (b) of the Act.

Nor is there any contest regarding the representation by the Union of a majority in the said described unit. The Board in its certification of representatives issued February 28, 1942, 39 NLRB 398, certified the Union as the exclusive representative of the employees in the unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment. At all times since February 28, 1942, the Union has been the duly designated bargaining representative of a majority of the employees in the aforesaid appropriate bargaining unit and by virtue of Section 9 (a) of the Act the Union was on February 28, 1942, and at all times thereafter has been and is now the exclusive representative of all employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment. Since 1942, the parties have had contractual relations and the current collective-bargaining contract was signed by the parties September 2, 1950, and is effective until May 1, 1952.

2. The refusal to bargain

The Respondent acquired its Fordwick plant by purchase from the Virginia Portland Cement Co. in 1916 at which time there were approximately 150 dwelling units located on property owned by the Respondent adjacent to the plant. At the present time there are 65 such dwelling units.

The Respondent employs approximately 288 persons of which 254 persons are in the collective-bargaining unit represented by the Union.

Of the 65 dwelling units owned by the Respondent, 50 are rented to employees in the bargaining unit, 10 are rented to nonunit employees, including supervisors and clerical employees, and 5 are rented to nonemployees. Of these 5 dwelling units, 3 are occupied by persons who were employees when their occupancy commenced but who are no longer employees of the Respondent; 1 is occupied by the mother of an employee who pays the rent but does not live there; and 1 which includes a house and farm is leased to a nonemployee who in turn sublets it to an employee with the approval of the Respondent.[1]

Sixty-two of the company-owned dwellings are within a radius of 1 mile from the plant with the majority situated within one-half mile or less of the plant.

One hundred thirty-one employees own their homes within a 1- to 20-mile radius of the plant, and 57 employees rent private housing within a 1- to 35-mile radius of the plant.[2]

Although no formal list of applicants for its dwelling units is maintained by the Respondent and applicants make verbal requests for housing to Plant Manager H. F. Shellenberger, who may or may not make a note of the same, the record reveals that at the present time about 10 employees have applied for company housing facilities. John Young, director of employee relations for the

[1] In this regard, Jesse Powell, an employee for 17 years who has occupied a company-owned house for 12 years, testified without contradiction that no person has ever moved into a company-owned house who was not an employee of the Respondent.

[2] These figures are broken down as follows: 35 employees rent privately owned dwellings in Craigsville, 28 are 1 mile from the plant and 7 are 2 miles from the plant; 11 employees rent private homes in Augusta Springs, 9 are located 3 miles from the plant, 1 four miles and 1 six miles from the plant; 9 employees rent private homes in Goshen, 2 are 3 miles from the plant, 3 are 4 miles from the plant, 3 are 5 miles from the plant; 1 is 6 miles from the plant; 1 employee lives in a rented, privately owned dwelling in Staunton, which is located 23 miles from the plant; 1 employee rents his home in Waynesboro which is 35 miles from the plant. Thirty-seven employees own their homes in the Fordwick area, the locations of which range from 1 to 5 miles from the plant. Fifty-six employees own their homes in Craigsville. Eleven employees own their homes in Augusta Springs Twenty-four employees own their homes in Goshen. Two employees own their homes in Swoop located 14 miles from the plant. One employee owns his home in Headwaters which is 20 miles from the plant.

Respondent, testified that housing in the vicinity of the plant is in strong demand. Employee Julius Powell testified that he has had his application for company housing on file for over 9 months. Powell lives in Staunton, Virginia, 23 miles from the plant and has been unable to find housing in the vicinity of Fordwick. Company-owned dwellings are not leased on the basis of order of applications. The Respondent generally continues to rent those houses that have been occupied by supervisors to supervisors and the other dwellings to employees if there are such applicants. Selection of tenants is made by the Respondent after consideration, among other factors, of the size of the house and the size of the employee's family. Leases have been entered into by most of the occupants of company-owned dwelling units. About 9 or 10 however, have not signed leases. The same lease form is in use whether the tenant is an employee or nonemployee. It is also revealed that the lease now in use is in exactly the same form as that in use in 1926.[3]

Maintenance and repairs of the company-owned dwelling units are taken care of by the Respondent's department of valuation and property.

The amount of the rent of the company-owned dwelling units varies with the size of the unit and with the conveniences within the unit.[4] Some employees pay their rent in cash; the majority, however, have the same deducted from their pay check after having first delivered a written authorization for such deduction to the Respondent.

On or about March 30, 1951, the Respondent announced a rent increase on all of its dwellings to take effect May 1, 1951.[5] Young testified this was the only increase in rent since 1937.

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[3] The lease reads as follows:

THIS AGREEMENT Made this _____ day of _____ Anno Domini, 19____, Between LEHIGH PORTLAND CEMENT CO., of New Jersey, of the first part, and _____ of the second part.

WITNESSETH, That the said party of the first part, do by these presents lease and let unto the said party of the second part, all that certain house and lot of ground belonging to the same, situated in Craigsville, in the county of Augusta, and State of Virginia, the same being known as premises No. _____ in the schedule of tenant houses belonging to LEHIGH PORTLAND CEMENT CO. The lease of said premises to commence from the _____ day of 19__, and be terminated and concluded at the will and pleasure of said party of the first part. The said party of the second part yielding and paying for the same at the rate of _____ Dollars per _____ and agreeing to do such work as he may be directed to do by the same party of the first part, or any of their authorized assistants, at or about any of the furnaces or farms, or any other premises belonging to said party of the first part, at the rates of wages that are or may be established for the different kinds of work by the said party of the first part. The said party of the second part also agrees not to underlet said house or premises hereby leased, or any portion thereof, without the written consent of said party of the first part being first had and obtained, and upon the termination of this lease, the property is to be given up to said party of the first part, upon _____ days notice, in as good condition as it now is, ordinary wear and tear and unavoidable accidents excepted.

IN WITNESS WHEREOF, The said parties to this agreement have hereunto set their hands and seals the day and year above written.

WITNESS AT SIGNING. _____ [SEAL]
_____ [SEAL]
_____ [SEAL]

[4] Conveniences include a bathroom, condition of the house, distance from the plant, and a central heating system.

[5] The increased rents are as follows: Four-room house with conveniences $22.50; four-room house without conveniences $12; four-room house without conveniences and without electricity $8. Five-room house with conveniences $18.50; five-room house without conveniences $12. Six-room house with conveniences $22.50; six-room house without conveniences $16. Eight-room house with conveniences $28.50; without conveniences $17.50 Nine-room house with conveniences and two baths $45. Eleven-room house with conveniences $35.

At a meeting held to process grievances on April 9, 1951, the employees submitted to Plant Manager Shellenberger a document reading as follows:

> We, the undersigned, protest to company's action in raising the rent in the company-owned houses. This is in reality a pay cut, and since the matter of rental in company houses is subject to collective bargaining, we request the company to return the overcharges to each individual and take the matter of house rentals up with the Union before any other action is taken.

Shellenberger speaking for the Respondent advised the employees that rental of company-owned dwellings was not a matter of collective bargaining and refused to discuss it.

On April 16 and 17, 1951, meetings between the Union and the Respondent were held to process grievances When the subject of rentals on company-owned dwellings was again brought up by the Union, Young informed Del Barr, the district representative of the Union, that the Respondent did not consider rentals of company-owned dwellings a matter for collective bargaining.

Young reiterated the same position to Lawrence Taub, vice president of the International Union, at grievance meetings held between the Union and the Respondent on June 14 and 15, 1951.

Upon the completion of the grievance meeting on June 15, Young, Shellenberger, Taub, Barr, and a committee of three employees inspected several of the company-owned houses. The Union took the position through Taub that the houses should be put in condition, the rent increase refunded to the employees, and then the parties bargain collectively regarding the terms of a reasonable rent increase. Taub inquired of Young if the Respondent had any program for repairing and maintaining the company-owned dwellings. Young stated he did not know since this matter was handled by Respondent's valuation and property department.

On July 10, 1951, Young informed Taub that maintenance of company-owned dwellings was on a regularly scheduled plan and again advised Taub that the Respondent did not consider the rental of company-owned dwellings a subject for collective bargaining.

Under date of July 21, 1951, Taub wrote Young the following letter:

> Mr. JACK YOUNG,
> *Lehigh Portland Cement Company,*
> *Allentown, Pennsylvania.*
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> DEAR MR. YOUNG: When I met with you in St. Louis recently to discuss the matter of housing in behalf of our membership in Local 167, Fordwick, Virginia, it was my understanding that the company had or was going to assign three men to the job of repairing and keeping these company-owned homes in condition. At that time too, I disagreed with you on your position that the rent should remain as it is, however, I was willing to submit the complete matter to our membership in Fordwick, Virginia. I suggested that they meet with Mr. Shellenberger, Superintendent, and discuss this matter thoroughly including the requesting him to give our members an idea of what the company had in mind.
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> I am now informed that Mr. Shellenberger is not aware that any plans have been made or are being made towards repairing these homes and, consequently, it appears that no such plans are in the immediate future. Therefore, the Local Union has taken this position:
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> 1. That I schedule a meeting with you in Fordwick, Virginia for Monday, July 30 at 1:00 P. M. at the plant.

2. That the company refund all the money representing the increase in rentals to each employee involved and when we meet on Monday we shall bargain on the matter of increasing the rents and repairing and maintenance of these company-owned homes.

In the event you are not prepared to comply with the above requests then the matter will be presented to the National Labor Relations Board and the Lehigh Portland Cement Company will be charged with unfair labor practices for failure to bargain on what we know to be a bargainable issue.

Trusting I will hear from you on this most important matter within the next day or two, I am

Very truly yours,

(S) LAWRENCE TAUB,
7th General Vice President.

As a result of the said letter a meeting was held on August 1, 1951, attended by Young, Taub, and a grievance committee of Respondent's employees to discuss the rentals of company-owned dwellings. Respondent maintained its position that this subject was not one for collective bargaining.

On August 15, 1951, the Union filed its charge in the instant proceeding.

During the course of the contractual relations between the parties the question of rents on company-owned dwellings had not been raised by either party until April 9, 1951.

Conclusions

The Respondent admits its refusal to bargain on the issue of rentals of company-owned houses. With respect to the refusal to bargain regarding the use and condition of the said houses, the record discloses that this matter was taken up by the Union on June 15, 1951, and tied in directly with the rental issue. It was again raised by the Union in its letter of July 21, 1951. No discussion was engaged in regarding this matter other than Young's statement to the Union that such matters were handled by the Respondent's department of valuation and property. Thereafter the Union requested the Respondent to bargain on both subjects and was refused. I find that Respondent refused to bargain on the issue of use and condition of company-owned dwellings.

The Respondent argues that as a general proposition company houses are not a proper subject of negotiation with a union unless it can be shown that certain additional circumstances exist, as for example, that company houses are a necessary part of the enterprise and that they are rented at such rates to the employees as to represent a substantial part of the remuneration. In support thereof he cites *N. L. R. B.* v. *Hart Cotton Mills*, 190 F. 2d 964 (C. A. 4), wherein Judge Soper by way of dictum said, "The company's contention that company houses are not a proper subject of negotiation with a union representing the employees cannot be sustained as a general proposition. In many mills such houses are a necessary part of the enterprise and in this instance they were maintained by the employer and rented at such rates to the employees as to represent a substantial part of their remuneration." I do not agree with Respondent's counsel's interpretation of Judge Soper's opinion.

But in any event, while the Respondent does not require its employees to live in company-owned dwellings, in the sense that the Respondent imposes no express obligation to do such as a condition to obtaining or retaining employment, the Respondent nevertheless has been providing company-owned dwellings to a part of its working staff since it acquired the plant and property at

Fordwick, Virginia, in 1916 and indeed at nominal rentals.[6] Furthermore, housing in this area is in short supply as is evidenced from the credible testimony of employee Julius Powell who must travel 23 miles each way to get to and from work. As a result of the combination of these circumstances, the employees are necessarily obliged to live in company facilities if they are to work at the plant. The net result is that such facilities not only represent a necessary condition of employment as it affects these employees, but one that exerts the same force and effect as a condition that is expressly made a necessary part of employment. I am unable to perceive any difference in this case from the *Weyerhaeuser Timber Company* case, 87 NLRB 672, other than in the instant situation we are dealing with company-owned dwellings rented to employees at nominal rents whereas in *Weyerhaeuser* the company served meals and provided lodging to some of its employees. In that case the Board said: "This type of condition, which is a necessary aspect of employment, is clearly a condition under which certain of the Respondent's employees are compelled to work, and therefore constitutes a 'condition of employment' within the meaning of Section 9 (a) of the Act," citing *Abbott Worsted Mills, Inc.*, 36 NLRB 545 enfd. 127 F. 2d 438 (C. A. 1), where it was held that the lease of company-owned houses to employees which apparently was done simply as a convenience for the employees constituted a condition of their employment within the meaning of the Act.[7]

The privilege of living in a company-owned dwelling in and of itself represents an "emolument of value," in that it saves the employees the otherwise necessary expense at least of the transportation if they had to live elsewhere and travel longer distances to and from work.[8] Accordingly, I find that the Employer-provided living accommodations are encompassed within the term "wages" within the meaning of Section 9 (a) of the Act.[9]

The Respondent argued at the hearing and in its brief that the Board's decision in *Bemis Bros. Bag Co.*, 96 NLRB 728, rested primarily upon the terms of the lease therein.[10] The General Counsel contends that the Board in the *Bemis* case reiterated its previous policy, holding that company-owned housing is a proper subject for collective bargaining and then adverted to the terms of the lease as added evidence that the housing provided by the employer in the *Bemis* case was an integral part of the employment relationship. Moreover, the General Counsel contends, the terms of the lease in the instant case add

[6] As noted hereinabove, the rent increase on May 1, 1951, was the only increase known to Young who has been in the Respondent's employ since 1937. An idea of the low rentals is obtained from the schedule of rentals for company-owned dwellings set forth hereinabove which include the increases.

[7] See also *Elgin Standard Brick Manufacturing Company*, 90 NLRB 1467.

[8] Of the 65 company-owned houses, 60 are located less than one-tenth of a mile to three-quarters of a mile from the plant, and only 1 company-owned house is 2 miles from the plant. The majority of the employees who either rent privately owned dwellings or own their homes live greater distances from the plant.

[9] See *Inland Steel Company*, 77 NLRB 1, enfd. 170 F. 2d 247 (C. A. 7), cert. denied 336 U. S. 960 (involving a retirement and pension plan); *W. W. Cross and Company*, 77 NLRB 1162, enfd. 174 F. 2d 875 (C. A. 1) (involving a group health and accident insurance program). Moreover, in remedying the effects of unlawful discriminatory discharges, the Board has consistently treated the value of the privilege of living in a company house as part of an employee's wages for purposes of requiring the employer to make restitution of "back pay," pursuant to Section 10 (c) of the Act. See *Bell Oil and Gas*, 2 NLRB 577, 585–586, enfd. 91 F. 2d 509 (C. A. 5) decree entered October 18, 1937, enforcing order as amended on another point by 2 NLRB 586; *N. L. R. B.* v. *Stowe Spinning Company*, 165 F. 2d 609, 615 (C. A. 4) enforcing 70 NLRB 614, 630–631, as modified on other grounds.

[10] The lease among other things restricted the rentals of dwelling units to Bemis employees; subleasing was prohibited; tenancy was on a week-to-week basis; and occupancy was conditioned upon continuing in Bemis' employ.

to and support the conclusion that company-owned housing herein is an integral part of the employment relationship. The lease provides in part that the employee (tenant) agrees in renting a company-owned dwelling "to do such work as he may be directed to do by [the Respondent], or any of [its] authorized assistants, at or about any of the furnaces or farms, or any other premises belonging to [the Respondent], at the rate of wages that are or may be established for the different kinds of work by [the Respondent]," thus clearly contemplating that the tenancy of company-owned houses is regarded by the Respondent as an incident of the employer-employee relationship. I find merit in the General Counsel's contention.

Upon the foregoing and the record as a whole, I find that the Respondent's owned-and-operated housing units are a mandatory subject of collective bargaining under the Act; that the rental of such units is an integral part of the subject of company housing; and accordingly, that the Respondent on April 9, 1951, and thereafter, by refusing to bargain collectively with the Union concerning the issue of rentals for company-owned housing, has interfered with, restrained, and coerced its employees in the exercise of the 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

It has been found that the Respondent by unilaterally increasing the rentals of company-owned houses and refusing to negotiate with the Union on the subject, has refused to bargain collectively. In order to effectuate the policies of the Act, it will be recommended that the Respondent be required upon request to bargain collectively with the Union as the exclusive representative of its employees in the appropriate unit on the rentals of company-owned houses and to refrain in the future from acting unilaterally in any matters involving the rentals of company-owned houses whereby employees in the unit may be substantially affected, without consultation with the Union.

Upon the basis of the above findings of fact and upon the entire record in the case, I make the following:

Conclusions of Law

1. United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

2. All maintenance and production employees of the Respondent at its Fordwick plant excluding all supervisory, laboratory, and clerical employees constitute a unit appropriate for collective bargaining within the meaning of Section 9 (b) of the Act.

3. United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, is now and during all times material herein has been, the exclusive representative of all the employees of the Respondent in the above-found appropriate unit, within the meaning of Section 9 (a) of the Act.

4. By refusing on April 9, 1951, and at all times thereafter to bargain collectively with United Cement, Lime and Gypsum Workers International Union,

Local 167, AFL, as the exclusive representative of all its employees in the aforesaid appropriate unit relative to the rentals of company-owned houses occupied by employees, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

5. By said acts the Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and thereby engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of section 2 (6) and (7) of the Act.

[Recommendations omitted from publication in this volume.]

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 refuse to bargain collectively with United Cement, Lime and Gypsum Workers International Union, Local 167, AFL, as the exclusive representative of all the employees in the bargaining unit described herein with respect to changes in rentals of company-owned houses at our Fordwick plant.

WE WILL NOT make any unilateral changes affecting any employees in the unit represented by the union with respect to company housing without prior consultation with the union.

The bargaining unit is:

All maintenance and production employees at our Fordwick plant, excluding all supervisory, laboratory, and clerical employees.

LEHIGH PORTLAND CEMENT 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.

NEW JERSEY OYSTER PLANTERS AND PACKERS ASSOCIATION, INC. *and* UNITED PACKINGHOUSE WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 4-RC-1673. November 24, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harold X. Summers, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Murdock and Peterson].