

Forest Houck, Ernestine Little, Howard Little, Marie Zimmerman, Jack Sproull, Roy Taubitz, and Hollis Cowgill, and shall thereafter prepare and cause to be served upon the parties a supplemental tally of ballots.

MEMBERS HOUSTON and PETERSON took no part in the consideration of the above Supplemental Decision and Direction.

ELWOOD C. MARTIN, FRED A. NEMEC, AND ROBERT W. NEMEC, A CO-PARTNERSHIP D/B/A NEMEC COMBUSTION ENGINEERS and INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, AFL.
Case No. 21-CA-1022. September 11, 1952

Decision and Order

On February 12, 1952, Trial Examiner Wallace E. Royster issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices in violation of Section 8 (a) (1) and 8 (a) (3) of the National Labor Relations Act, and recommending that the Respondents cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondents had not engaged in an independent violation of Section 8 (a) (1) of the Act and consequently dismissed that portion of the complaint.¹ Thereafter, both the Respondents and the General Counsel filed exceptions to the Intermediate Report and supporting briefs.

The Board² has reviewed the rulings of 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, the briefs, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following modifications:

1. We agree with the Trial Examiner that the Respondents discriminated against Clarence Leeper by discharging him for engaging in concerted activities protected by Section 7 of the Act. Such a discharge independently violated Section 8 (a) (1) as well as Section 8 (a) (3) of the Act.³ Whether the discharge be regarded as a viola-

¹ No exception was taken to the dismissal of the independent 8 (a) (1) charge.

² 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 Styles and Peterson]

³ See *Smith Victory Corporation*, 90 NLRB 2089, enforced 190 F. 2d 56 (C. A. 2).

tion of Section 8 (a) (1) or of Section 8 (a) (3), we find that the same remedy is necessary to effectuate the policies of the Act.⁴

2. We also agree with the Trial Examiner's finding that the Respondent discriminatorily discharged Thomas Frederick on December 28, 1950, in violation of Section 8 (a) (3) and (1) of the Act. The fact that Frederick was discharged on the same day as Leeper lends further support to the correctness of the Trial Examiner's finding.

Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondents, Elwood C. Martin, Fred A. Nemeč, and Robert W. Nemeč, a co-partnership d/b/a Nemeč Combustion Engineers, Whittier, California, and their agents, officers, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging concerted activities among their employees or discouraging membership in International Union, United Automobile Workers of America, AFL, by discriminatorily discharging any of their employees or by discriminating in any other manner in regard to their hire or tenure of employment.

(b) In any other manner interfering with, restraining, or coercing their employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Union, United Automobile Workers of America, AFL, or any other labor organization of their employees, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8 (a) (3) of the Act.

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

(a) Offer to Thomas Frederick immediate and full reinstatement to his former or substantially equivalent position without prejudice to his seniority or other rights and privileges.

(b) Make whole Thomas Frederick and the estate of Clarence Leeper in the manner set forth in the section of the Intermediate Re-

⁴The General Counsel's request that the back pay due Clarence Leeper be paid to his widow instead of to his personal representative is denied. There is no requirement, nor is it desirable, to litigate the claims of possible heirs to Leeper's estate. Further, the Board is of the opinion that the policies of the Act can best be effectuated by payment to the estate for distribution in accordance with the laws of the State having jurisdiction. See *N. L. R. B. v. Hearst*, 102 F. 2d 658 (C. A. 9).

port entitled "The Remedy" for any loss of pay they may have suffered by reason of the Respondents' discrimination against them.

(c) Upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records necessary to analyze the amount of back pay and the right of reinstatement.

(d) Post at their place of business in Whittier, California, copies of the notice attached to the Intermediate Report and marked "Appendix A."⁵ Copies of said notice, to be furnished by the Regional Director for the Twenty-first Region, shall, after being duly signed by the Respondents or their representative, be posted by the Respondents immediately upon receipt thereof, and maintained by them for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees customarily are posted. Reasonable steps shall be taken by Respondents to insure that said notices are not altered, defaced, or covered by other material.

(e) Notify the Regional Director for the Twenty-first Region in writing, within ten (10) days from the date of this Decision and Order, what steps they have taken to comply herewith.

⁵ This notice, however, shall be, and it hereby is, amended by striking from line 3 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 the United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

Intermediate Report and Recommended Order

STATEMENT OF THE CASE

Upon a charge duly filed by International Union, United Automobile Workers of America, AFL, herein called the Union, the General Counsel of the National Labor Relations Board, herein called, respectively, the General Counsel and the Board, issued a complaint dated November 14, 1951, against the three copartners named in the caption, herein called the Respondents, alleging that the Respondents had, in violation of Section 8 (a) (1) and (3) of the Act, discharged Thomas Frederick and Clarence Leeper because they engaged in concerted activities for purposes of collective bargaining and other mutual aid and protection, and, in violation of Section 8 (a) (1) of the Act, attempted to influence employees against the Union by promising and granting benefits in the event employees would forsake the Union. Copies of the charge, the complaint, and a notice of hearing were duly served upon all parties.

Respondents' answer admits the jurisdictional allegations of the complaint, denies the commission of unfair labor practices, asserts that Thomas Frederick was discharged because his work was not satisfactory, and that Clarence Leeper voluntarily quit his employment. The answer further asserts that because of the intervening death of Clarence Leeper, the complaint as to him should be dismissed.

Pursuant to notice, a hearing was held at Los Angeles, California, on January 21 and 22, 1952, before the undersigned Trial Examiner. All parties were repre-

sented, participated in the hearing, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

At the conclusion of the General Counsel's case-in-chief, I granted a motion by Respondents' counsel to dismiss that portion of the complaint which alleged an independent violation of Section 8 (a) (1) and denied such a motion with respect to Thomas Frederick and Clarence Leeper. All parties were granted to February 6, 1952, for the purpose of submitting briefs to the Trial Examiner. None has been received.

Upon the entire record in the case and upon my observation of the witnesses, I make the following :

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENTS

The Respondents, a copartnership, are engaged in the manufacture of combustion equipment and in job and contract machine work in Los Angeles, California. During the 12-month period ending September 30, 1950, Respondents produced and sold products having a value of approximately \$295,000, of which about 25 percent in value was transported from Respondents' place of business in Los Angeles to, into, and through States of the United States other than the State of California.

II. THE ORGANIZATION INVOLVED

International Union, United Automobile Workers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of Respondents.

III. THE UNFAIR LABOR PRACTICES

In the fall of 1950, the Union manifested an interest in organizing Respondents' employees who, at that time, were not represented. On December 27, 1950, William Smith, a representative of the Union, met with Thomas Frederick and gave Frederick 100 authorization cards to distribute. The next day, Frederick returned 55 of the cards with signatures upon them. At the close of his shift on that date, Frederick was discharged.

On the evening of December 27, the welders working the night shift approached the night superintendent and spoke to him about securing a bonus for night work and payment for their lunch hour. Clarence Leeper acted as spokesman for the employees. The superintendent explained to them that these were matters that must be taken up with one of the partners and, at the suggestion of someone, Fred Nemeec, a partner, active in the management of Respondents' business, came to the shop and met with the welders. Nemeec testified that he learned from the superintendent that the welders were in an "uproar" so he went over to investigate the difficulty. Leeper told him on this occasion, Nemeec testified, that he wanted a showdown on lunch hour pay and that if it was not granted, the men would walk out. At this point, according to Nemeec, one of the welders told Leeper that he was speaking for himself. Leeper went on to say that he had attempted to secure an arrangement for lunch hour pay and night bonus with Foreman Gilly and Elwood Martin, without success, and that if such retroactive payment was not arranged for, he would quit. Another employee at this point, according to Nemeec, announced that he was quitting immediately and was given his check and left the plant. Still another said that

he would not "string along" with Leeper. Finally, Leeper said that he would give the Company 24 hours to reach a decision. Leeper finished his shift and left the plant.

On the following day, December 28, about an hour before shift time, Nemeč appeared at Leeper's house and asked to speak to him. Discovering that Leeper had already left for the plant, he offered a check, in payment of Leeper's services to date, to Mrs. Leeper, explaining that Leeper had quit. When Mrs. Leeper expressed some puzzlement about that development, Nemeč explained, as he candidly testified, that Leeper had given Respondents an ultimatum which they could not meet and had the welding shop in an uproar. Nemeč said that Leeper was one of his best welders and he disliked very much to see him go, but in consideration of the trouble he had caused, he could not be put back to work. Leeper appeared at the plant on that afternoon, but did not go to work. On December 29, Leeper telephoned to inquire why he was not permitted to return to work, and on January 2 had a conversation with Nemeč about it. On the latter occasion, Leeper waived any demand for retroactive back pay if he were returned to his job. Nemeč refused to rehire him.

Frederick began work for the Respondents in 1946 and except for one or two short periods, during which he was laid off for economic reasons, remained at his employment until his discharge on December 28, 1950. In February 1950, Frederick entered a school and thereafter, by arrangement with the Respondents, worked an average of 30 hours a week.

According to Frederick, he became interested in the Union in October 1950, and spoke to other employees about it. On December 27 and 28, he handed out union designation cards in the plant which 55 employees signed. Frederick testified that Foreman Gilly saw him do this and that he jokingly asked Gilly to sign one. At the end of his shift on December 28, Frederick was told by Gilly that Nemeč had complained about Frederick's laxity in keeping his machine clean, and that Frederick was, for this reason, discharged. Frederick protested that it was not his job to clean machines and suggested that his activity in behalf of the Union may have been the reason for the discharge. According to Frederick, Gilly said that he knew nothing of it, except that he had received instruction from Nemeč to let Frederick go.

Gilly testified that he had supervised Frederick's work since the latter first was employed by the Respondents. For the first year, according to Gilly, Frederick machined axles and for the ensuing 2 years worked intermittently on machining inserts from a carbon bar. Machining carbon, according to Gilly, is a dirty job and in early December, he testified, Frederick said that if he had to work longer on carbon, he would quit. Gilly explained, he testified, that there was nothing else for Frederick to do, and consulted one of the copartners, Elwood Martin, about the situation. Martin told him, Gilly testified, not to discharge Frederick until after the holidays. According to Gilly, Frederick persistently failed to clean the machines on which he worked and he often complained to Frederick about it without achieving any beneficial result. On a date which Gilly placed as December 27, but which other evidence rather clearly shows to have been about a week before that, Frederick was helping to reassemble an automatic machine and with another employee was using a sledge hammer to force a drum onto an axle. Gilly spoke to Frederick and to one Betker, with whom Frederick was working, telling them not to use the sledge hammer. A few minutes later, according to Gilly, he discovered that they were still using the sledge and on this occasion, Gilly told them to use a wooden block to take the impact of the blows.

On December 28, according to Gilly, he directed Frederick to drill holes in a toolholder and to insert a screw there to keep the toolholder firmly in place.

Instead, Gilly testified, Frederick tightened a collar to such an extent that the casting on the toolholder was broken. Gilly gave Frederick a "slight bawling out," he testified, and reported the matter to Martin, asking for permission to discharge Frederick. Martin told him to use his own judgment. Gilly then had Frederick's check prepared and gave it to him at quitting time, telling Frederick that his discharge was due to his failure to keep machines clean. Gilly admitted that Frederick may have offered him a union designation card for signature, but denied being aware that Frederick was engaged in any sort of union activity, or that anything of that nature affected his decision to discharge him.

On cross-examination, Gilly admitted that it was either in 1948 or before that he spoke to Frederick about keeping machines clean. Elwood Martin testified that Gilly reported to him concerning Frederick on more than one occasion and that Gilly said Frederick was not working out satisfactorily, that he lacked a spirit of cooperation and appeared to be uninterested in his job. According to Martin, when Gilly complained that Frederick refused to work on carbon and said that Frederick was not qualified to put on another job, Martin answered that it would be bad policy to lay him off just before Christmas and instructed Gilly to keep him busy until after the holidays. Still, according to Martin, about December 21, Gilly complained that Frederick had used a sledge hammer on a machine and on December 28 that he had disregarded instructions in repair work and had thereby broken a toolholder. Martin then gave Gilly the permission he requested, to discharge Frederick. Martin denied that union activity was a consideration and asserted that he had no knowledge that Frederick was active in that respect.

I think that it may not be doubted under the evidence that Leeper was discharged. True enough, he had issued what might be termed an ultimatum to the Respondents, and had stated that he would quit if they did not meet his conditions. He seems, however, to have thought better of this strategy after leaving work on the morning of December 28; at least, his return to the plant on that afternoon would seem to indicate so. Rather clearly, Leeper was seeking by means of concerted action of the welders to secure more wages for himself and for them. The account given by Nemeć of his meeting with the welders on the evening of December 27 establishes that they were seeking to act concertedly in a matter affecting their wages, and that Leeper was their spokesman. No doubt it is true, as Nemeć testified, that certain individuals in the group refused to go as far as Leeper seems to have desired to lead them. Nonetheless, this was concerted activity and, as such, was protected. Nemeć said that Leeper was one of his best welders, that he disliked the circumstances which made it impossible for him longer to retain Leeper as an employee. But what were these circumstances? The record shows only that Leeper made a firm demand for more money and appeared to have the support of some, at least, of the welders in this purpose. Now, perhaps it is accurate to describe the situation which arose from this action as getting the welders in an "uproar." But, if so, it is such an uproar as an employer must endure so long as the activity which is so described is of a protected nature and kept within lawful bounds. Accepting Nemeć's testimony that the welders quit working for a short time on December 27, they had a protected right to do so. It does not appear that anything in the nature of a "sit-down" strike occurred. It does appear, rather, that after voicing a protest by quitting work, they sought to gain concessions from the superintendent and then from Nemeć. After a discussion of the matter, the men returned to work without further incident.

Now, Nemeć may certainly be pardoned for being disturbed by the conduct of Leeper and may well have wished that the welders would seek to deal with

him individually rather than as a group, but when he refused longer to employ Leeper because of his leadership in the action, he was violating a right secured to Leeper by the Act. I conclude that Leeper's appearance at the plant on or about the usual starting time for his shift, his failure to take his helmet and other tools home with him after he finished work on the morning of the 28th, and his two subsequent attempts on December 29 and January 2 to get back to work for the Respondents, establishes that he did not quit his job. This conclusion is buttressed, to some extent, by the fact that Leeper was paid 4 hours as call-in pay for December 28. According to Nemec, this payment was made because Leeper contended he was inconvenienced by being forced to come to the plant on that day to get his check. Although I regard Nemec generally as a credible witness, I cannot give any substantial weight to this bit of testimony.

I find that by discharging Leeper on December 28, 1950, the Respondents discouraged concerted activity among their employees and thereby violated Section 8 (a) (1) and (3) of the Act.

The case of Frederick is more complex. Nemec, although testifying that he had fault to find with Frederick, due to his failure to clean machines on which he worked, nonetheless was not concerned in the discharge. Gilly, who was, did not impress me as a witness upon whose testimony much reliance could be placed. Only on cross-examination did it develop that the occasions on which he criticized Frederick for failure to clean machines occurred at least 2 and perhaps 3 years before the discharge. Furthermore, his testimony that he was not aware of Frederick's activity in soliciting employees to sign union authorization cards was, to say the least, disingenuous. He admitted that Frederick may have offered him such a card for signature. I believe the record fairly establishes that Frederick was remiss in some of the qualities that an employer would seek in a good workman. It may well have been that he was lax with respect to cleaning machines at one time and it is undenied that he protested a continuation of his assignment cutting carbon. If Gilly, as he testified, was then disposed to let him go, and if Martin, as he testified, had long been dissatisfied with Frederick as an employee, it seems exceedingly strange that this would not have been the occasion to dispense with Frederick's services. According to Gilly, there was little other work that Frederick was capable of doing and his chief value to the Respondents in the late fall of 1950 was as an operator on the carbon cutting machine. I do not believe that an employee who had proved to be as unsatisfactory as Martin and Gilly said Frederick was, would have been pampered to the extent of permitting him to refuse an assignment if he was not fully capable of working on another

The incident about the sledge hammer has a ring of unreality about it. It may have been that Frederick and another employee were seeking to drive the drum onto the shaft with blows from a sledge hammer, and that this was not good practice. However, Gilly's testimony about it is difficult to evaluate. He said that he forbade the use of the sledge hammer and then when he found his order was disregarded, asked Frederick and the other employee at least to use a wooden block to lessen the probability of damage to the machine. I believe that if Gilly had issued a flat instruction not to use the sledge, he would have been sufficiently exercised by the disregard of that instruction to have taken some disciplinary action at the time, rather than weakly asking the employees to use the wood block. Whether Frederick actually was at fault in breaking the toolholder, I consider immaterial. Although the incident of the sledge and the breaking of the toolholder, against a background of generally unsatisfactory work performance, is relied upon by the Respondents to establish the cause of the discharge, this leaves unexplained why Gilly, when he let Frederick go, made reference only to the rather ancient complaint of failing to clean machines.

My conclusion is that when Frederick was discharged, Gilly was hard put to find a plausible reason for it, and that he seized upon the stale complaint of failure to clean machines as a pretext to be offered to Frederick. The evidence as a whole fairly convinces that whatever the incident about the sledge and broken toolholder may have been, it played no part in Frederick's discharge. In these days of full employment and serious worker shortage, employees, generally speaking, are not lightly discharged. In the circumstances here presented, I find it completely incredible that a laxness on the part of Frederick, which the Respondents found annoying 2 or 3 years before the discharge, motivated them in discharging him on December 28. I believe that the Respondents are intelligent enough to accept the fact that employees have a right to form labor organizations and to be represented in matters of collective bargaining. However, this does not mean that they would welcome such a development, and instances happening subsequent to the discharge of Frederick establish that the Respondents earnestly desired that their employees not select a bargaining representative. Certain employees were told that the Company could not pay the union scale of wages and compete successfully in the market; others, that their earnings depended upon production, that the more they produced, the better their opportunity to secure wage increases. That the Respondents would view with disfavor anyone who actively, and perhaps with the appearance of success, was attempting to organize their employees, is completely believable. The Respondents employ approximately 125 workers in the shop. Crediting Frederick, as I do, that he distributed through lieutenants and by his own efforts about 100 cards on December 27 and 28 and received back 55 signed cards, I am convinced that the Respondents were aware of his activity. I believe that this awareness led to his discharge at the end of his shift on December 28.

I find that Thomas Frederick was discharged on December 28, 1950, because of his activity in behalf of the Union, and because he sought to secure the support of other employees in concerted activities, and that by the discharge the Respondents discouraged membership in a labor organization, discouraged concerted activity among their employees, and thereby violated Section 8 (a) (1) and (3) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondents, set forth in section III, above, occurring in connection with the operations 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 Respondents have engaged in certain unfair labor practices, it will be recommended that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that Respondents have discriminated in regard to the hire and tenure of employment of Clarence Leeper, and, as it appears, that Leeper died on June 10, 1951, it will be recommended that the Respondents make his personal estate¹ whole for any loss of pay he may have suffered by reason of the discrimination, by payment to it of a sum equal to that which he normally

¹ Presumably, this will be made to his widow and minor child. I do not believe, however, that the Board may order such payment to be made directly to them but only to restore as nearly as possible the *status quo*.

would have earned as wages from the date of his discharge, December 28, 1950, to the date that he became incapacitated for employment, less his net earnings during that period.

With respect to Thomas Frederick, it will be recommended that Respondents offer him full reinstatement to his former or substantially equivalent position and make him whole for any loss of pay he may have suffered by reason of the discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages from the date of his discharge, December 28, 1950, to the date of Respondents' offer of reinstatement, less his net earnings during that period. Loss of pay shall be computed on the basis of each separate calendar quarter or portion thereof during the period from the date of Respondents' discriminatory action to the date, in the case of Frederick, of the offer of reinstatement, and, in the case of Leeper, to the date he became incapable of employment. The quarterly periods, herein called quarters, shall begin with the first day of January, April, July, and October, respectively. Loss of pay shall be determined by deducting from a sum equal to that which each employee would normally have earned for each such quarter or portion thereof, his net earnings, if any, in any other employment during that period. Earnings in one particular quarter shall have no effect upon the back-pay liability for any other quarter.

It will also be recommended that the Respondents, upon reasonable request, make available to the Board and its agents, all payroll and other records pertinent to analysis of the amounts due as back pay.

The unfair labor practices in which the Respondents have been found to have engaged manifest an attitude of opposition to the basic purposes of the Act and justify an inference that commission of other unfair labor practices may be anticipated. In order to effectuate the guarantees of Section 7 of the Act, it will therefore further be recommended that the Respondents cease and desist from in any manner interfering with, restraining, or coercing their employees in the exercise of rights guaranteed by the Act.

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

CONCLUSIONS OF LAW

1. International Union, United Automobile Workers of America, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of Clarence Leeper and Thomas Frederick, the Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

3. By such discrimination, Respondents have interfered with, restrained, and coerced their employees in the exercise of rights guaranteed in Section 7 of the Act, and have thereby engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

4. 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 discourage concerted activities among them, or membership in INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, AFL, or in any other labor organization, by discriminatorily discharging, or discriminating in any other manner, in regard to the hire and tenure of employment or any term or condition of employment of our employees.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the right to self-organization, to form labor organizations, to join or assist INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as permitted in Section 8 (a) (3) of the Act.

WE WILL offer Thomas Frederick immediate and full reinstatement to his former or substantially equivalent position, without prejudice to any seniority or other rights and privileges previously enjoyed, and make him whole for any loss of pay suffered as a result of the discrimination against him.

WE WILL make the estate of Clarence Leeper whole for any loss of pay suffered as a result of the discrimination against him.

All our employees are free to become or remain members of the above-named union or any other labor organization. We will not discriminate in regard to the hire and tenure of employment or any term or condition of employment against any employee because of membership in or activity on behalf of any labor organization.

NEMEC COMBUSTION ENGINEERS,
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.

SONOTONE CORPORATION and INTERNATIONAL UNION OF ELECTRICAL,
RADIO AND MACHINE WORKERS, CIO, PETITIONER. *Case No. 2-RC-4579. September 11, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Lewis Moore, 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].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.