

The nonelectrical work performed by these employees consists of pipefitting duties, including cutting, reaming, threading, and fitting pipe, maintenance of the steam-heating system, insulating pipe, painting pipe, making mechanical repairs, and unloading acid cars.

In view of the foregoing, we find that the maintenance electricians are not a homogeneous, cohesive group of craftsmen entitled to separate representation.² We accordingly find that a unit of maintenance electricians, or, in the alternative, a unit of maintenance electricians and pipefitters, is inappropriate for the purposes of collective bargaining, and shall dismiss the petition herein.

ORDER

IT IS HEREBY ORDERED that the petition herein be, and it hereby is, dismissed.

²E. I. DuPont de Nemours and Company, Inc., 85 NLRB 1301; Columbia Southern Chemical Corporation, 97 NLRB 1555.

STANDARD-TOCH CHEMICALS, INC., *and* LOCAL 781, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL; AND LOCAL 950, BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, AFL.
Case No. 13-RM-143. May 25, 1953

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted in the above-entitled proceeding on November 25, 1952, under the direction and supervision of the Regional Director for the Thirteenth Region, among the employees in the agreed unit. The tally of ballots issued after the election showed that, of the approximately 70 eligible voters, all cast ballots, of which 33 were for the Union, 36 were against the Union, and 1 was challenged.

On December 1, 1952, the Union filed objections to the election. Thereafter, in accordance with the Board's Rules and Regulations, the Regional Director conducted an investigation and on December 31, 1952, issued and duly served upon the parties a report on objections, and on January 5, 1953, an amendment to report on objections. In his report as amended, the Regional Director recommended that a hearing be held with respect to the alleged lack of secrecy of the ballot and that the Union's remaining objections be overruled. On January 12 and 13, 1953, respectively, the Employer and the Union filed exceptions to the Regional Director's report and recom-

mendations.¹ Subsequently, on February 13, 1953, the Board issued an order finding that the Union's objections relating to the alleged lack of secrecy of the ballot and to the alleged promise of benefit by the Employer's plant superintendent raised substantial and material issues of fact, directing that a hearing be held thereon, and remanding the case to the Regional Director for that purpose.

Pursuant to the Board's order, a hearing was held in Chicago, Illinois, on March 5, 1953, before Richard B. Simon, hearing officer. Both the Union and Employer appeared and participated. On April 3, 1953, the hearing officer issued and had served upon the parties his report on objections with findings and recommendations, a copy of which is attached hereto, in which he recommended that the objections be dismissed. The Union timely filed exceptions to the hearing officer's report on objections.

The Board² has reviewed the rulings made by the hearing officer at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the hearing officer's report, the exceptions thereto, and the entire record in this case, and adopts the hearing officer's findings and recommendations with the following additions:

The hearing officer found, and we agree, that sufficiently high standards of election conduct and secrecy were maintained in the election and that the evidence failed to establish any improper promise of benefit by the Employer. The Union's exceptions to these findings by the hearing officer refer essentially to his alleged erroneous credibility resolutions. However, as the Board has frequently held, the hearing officer in proceedings of this type occupies a position comparable to that of a Trial Examiner in an unfair labor practice proceeding and, as he has the opportunity to observe the witnesses' demeanor and hear their testimony, we attach great weight to his credibility findings. The Board will not overrule such findings unless the preponderance of all the relevant evidence convinces us that he is incorrect.³ We are not persuaded that the hearing officer's findings in this case are incorrect.³

In its exceptions to both the Regional Director's and hearing officer's report, the Union further contends that the election should be set aside because the election was held in the area of the stock bins rather than the paint grinding room as provided in the stipulation for certification upon

¹ Both the Employer and the Union excepted to the Regional Director's recommendations that a hearing be held on the secrecy issue. The Union further excepted to the Regional Director's recommended overruling of its objections relating to the change of voting situs and the alleged promise of benefit by the Employer. No exception was taken to the Regional Director's recommendations that the Union's remaining objections be overruled and accordingly those recommendations are hereby adopted.

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 [Members Houston, Styles, and Peterson].

³ The American Envelope Co., 97 NLRB 1541, and cases therein cited.

consent election. We find no merit in this contention. The observers of both parties acquiesced in the change in voting situs. Moreover, as found by the Regional Director, all the employees on the eligibility list voted and thus no one was deprived of an opportunity to vote by the change in voting place. We conclude, therefore, as did the Regional Director, that the change in the voting place did not constitute a material alteration of the terms of the stipulation and affords no basis for setting aside the election.⁴

Upon the entire record in this case, the Board makes the following findings of fact:

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

2. The Union is a labor organization within the meaning of the Act.

3. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees at the Employer's Chicago, Illinois, plant, excluding office and clerical employees, salesmen, laboratory and professional employees, guards, and supervisory as defined in the Act.

Because we have overruled the Union's exceptions, and because the tally of ballots shows that the Union lost the election, we shall issue a certification of results of election to this effect.

CERTIFICATION OF RESULTS OF ELECTION

IT IS HEREBY CERTIFIED that a majority of the valid ballots has not been cast for Local 781, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL; and Local 950, Brotherhood of Painters, Decorators and Paperhangers of America, AFL, and that the said labor organization is not the exclusive representative of the employees of the Employer, in the unit heretofore found appropriate, within the meaning of Section 9 (a) of the National Labor Relations Act.

⁴See Westinghouse Electric Corporation, 91 NLRB 955, 962; cf. N L R B v. Huntsville Mfg. Co., 204 F. 2d 430 (C. A. 5), enforcing 99 NLRB 713.

Hearing Officer's Report On Objections With Findings And Recommendations

Pursuant to a stipulation for certification upon consent election, entered into on November 12, 1952, by Standard-Toch Chemicals, Inc., hereinafter referred to as the Company, and joint petitioners, Local 781, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, and Local 950, Brotherhood of Painters, Decorators and Paperhangers of America, AFL, hereinafter referred to as the Union, an election was conducted in the above-captioned case under the supervision of the Regional Director for the Thirteenth Region on November 25, 1952, among the production and maintenance employees of the Company, excluding office and clerical employees, salesmen, laboratory and professional employees, guards, and supervisory employees as defined in the Act. The results of the election were as follows:

Approximate number of eligible voters	70
Void ballots..	0
Votes cast for Local 781, I.B.T. and Local 950, Paint Makers, AFL.	33
Votes cast against participating labor organizations	36
Valid votes counted...	69
Challenged ballots...	1
Valid votes counted plus challenged ballots	70

On December 1, 1952, objections to election were filed by the Union, a copy of which was duly served on the Company, and the Regional Director. The objections were as follows:

1. The election and the balloting was not properly conducted and the conditions necessary to a fair and orderly election were lacking, in that.

(a) The Unions were not furnished with or given a reasonable opportunity to examine a list of the eligible voters prior to the election. The Unions were not afforded a chance to check the eligible list. Despite many promises, the Company did not supply an eligibility list to the Unions. When the Unions took up the question of examining the eligibility list with the Regional Office, they were told that the Field Examiner was out of town and the Unions could not go over the list.

(b) The Unions had no reasonable opportunity to challenge voters and a fire marshal and other ineligible employees were permitted to vote.

(c) The Board did not bring out booths, to make possible secret voting, nor did the Company supply voting booths. Voters did not cast their ballots in secret and employees were able to watch one another vote and could see how the ballots were being marked.

(d) The polling place was changed and the election did not take place in the location agreed upon or set forth in the Notices of Election.

(e) The request of the Unions for two observers was refused by the agent for the Board, despite the fact that the change in the polling place and the impossibility of any advance checking of the payroll list made two observers reasonable and necessary to preserve the proper standards for a Board election.

2. The Company, by its supervisors and agents, questioned and interrogated its employees concerning their union sympathies.

3. The Company made statements and issued leaflets which restrained and coerced employees and made it impossible for eligible employees to exercise a free choice in the election.

4. The Company, by its supervisors and agents, made threats of reprisal and promises of benefits and on about the day before the election stated that if the employees went along with the Company they would receive a raise.

On December 31, 1952, the aforementioned Regional Director, after investigating the objections, issued his report on objections, recommending that the Board overrule all of the Union's objections with the exception of No. 1 (c), and further recommending that a hearing be ordered by the Board, in order to resolve the question of fact raised in this objection. Subsequently, both the Company and the Union filed exceptions to the Regional Director's report on objections, the Company's exceptions being filed on January 9, 1953, and the Union's exceptions on January 12, 1953.

On February 13, 1953, the Board issued its order directing hearing, finding that the Union's objections Nos. 1 (c) and 4 raised substantial and material issues of fact, and ordering that a hearing be held, "insofar as the objections relate to the alleged lack of secrecy of the ballot and the alleged promise of gain made by the plant superintendent." Pursuant to notice, a hearing was held in Chicago, Illinois, on March 5, 1953, before Richard B. Simon, the undersigned hearing officer, duly designated to conduct such hearing. Each party was represented by counsel who participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence pertinent to the issues was afforded all parties. The parties waived oral argument. Thereafter, pursuant to leave granted to all parties, the Company, on March 25, 1953, filed a brief, which has been duly considered.

The order directing hearing required that the hearing officer "shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, conclusions, and recommendations to the Board as to the disposition of said objections." In substance, the issues raised by the objects are:

1. Was there secrecy of the ballot in the election on November 25, 1952?
2. Did the Company's plant superintendent promise benefit to any of the Company's employees prior to the election?

¹In accordance with the order of the Board, directing hearing, this report does not deal with any of the other issues raised in the original objections.

Upon the entire record in the case, and from his observations of the witnesses, the undersigned makes the following resolutions of credibility of witnesses.

FINDINGS OF FACT

I. THE ALLEGED LACK OF SECRECY OF THE BALLOT

Kenneth Keith, the field examiner designated by the Regional Director to conduct the election, found on his arrival at the Company's plant on November 25, 1952, the date selected for the election, that no booths had been sent out by the Board, nor had they been provided by the Company. He decided, therefore, that the voting place specified in the election notice would be unsuitable, as affording insufficient secrecy for voting. After touring the plant, accompanied by various company officials and employees, it was decided to hold the election in the storage bin area. The stipulation for consent election and the election notice had provided for the election to be held in the paint grinding room, where a previous Board election had been held.

Joint exhibits 1 and 2 are, respectively, a diagram and photograph of the storage bin area where the election was held, depicting the general appearance of the storage bin area on the day of election. Several boxes were set up at the south end of the bins, at the point marked "box" in red pencil, on the diagram (this does not show on photograph), on which the voters were to mark their ballots. Miritello, the union observer, and Francis, the company observer, stood at a desk to mark the voting list and check off the names of voters as they appeared. The closest edge of the desk to the "box" (hereinafter called the voting place) was about 9 feet. While they were waiting to vote, the voters were kept waiting in a line immediately adjacent to the bins, on the west side of the aisle, and at the other end of the bins from the voting place. Keith, the Board agent, stood at a point in the aisle, between the desk and the voting place, facing the waiting line of voters. The aisle west of the bins was probably blocked off with empty trucks on the day of election. At any rate, there is no contention that anyone went into that aisle while voting was going on, so that secrecy of the ballot could not have been impaired by observation from the west side of the voting place.

After each voter was checked off by the observers, he received a blank ballot from Keith, proceeded to the voting place, and marked his ballot, then returned down the aisle to deposit it in a ballot box hanging on the bin at a point across the aisle from the desk. The next voter was then checked off, given a ballot by Keith, and proceeded to the voting place.

The facts related so far are substantially undisputed in the testimony of the witnesses for the parties. In the remainder of this section of the report, the questions relating to the actual secrecy of the ballot will be treated separately.

All of the witnesses testified that while any voter was marking his ballot at the voting place, no other waiting voter was permitted to go there. The distance at which waiting voters were kept from the voting place is variously estimated² at 12 feet in Lewis' testimony, 7 feet in Miritello's testimony, and 7 feet in Francis' testimony. All witnesses agree that the voters were kept waiting in a line next to the bins, and that the overflow of waiting voters extended back in the aisle north and west of the bins. The thickness of the bins is about 6 feet, consisting of 2 rows of steel shelving, closed at the back, each 3 feet thick, and back to back.

There is some conflict in the testimony regarding the position of Keith, the Board agent. Lewis testified that Keith was approximately 10 feet from the voting place, Miritello testified that Keith was about 5½ feet from the voting place, and Francis testified that Keith was about 6 feet from the voting place. The observers, Miritello and Francis, were standing or sitting at the desk, to the north of Keith, where they checked off the names of eligible voters before the latter were given ballots. Although their testimony is in disagreement as to who was to the right or left, their testimony, and examination of joint exhibit 1, reveals that neither could have been closer than about 9 feet from the voting place.

The position of the remaining witnesses, Lewis and Martin, is given by them as about 14 feet from the voting place. Lewis testified that he was standing at a position north of the desk for about 10 minutes after voting and Martin that he was standing at the north end of the bins (where all voters waited before receiving their ballots), while waiting for his own ballot.

The testimony regarding the number of cans on the shelves in the bins near the voting place is scanty and uncertain. Lewis testified that the bins were practically empty on the day of the election, but later, on cross-examination, said that he wasn't sure. Miritello testified that there were only a few cans of paint in the bins, which did not obstruct his view, and Martin

²Although most of the testimony did not mention actual distances as such, the undersigned has measured the various points on joint exhibit 1 as marked by the witnesses, and thus reconstructed the approximate distances.

testified that there was a little paint on the shelves, but that it was possible to see through from one side of the shelves to another. Based on their composite, credited testimony, I find that there was insufficient paint on the shelves to have prevented anyone from observing a voter marking his ballot, if close enough to the voter

The testimony is in substantial conflict as to whether witnesses could have seen how ballots were marked. Lewis testified, in a contradictory manner, first that he didn't see any voter mark his ballot, but could if he had wanted to, wasn't paying much attention, still later that he didn't remember, and finally that he didn't actually see anyone marking his ballot. Miritello testified that from where he was standing at the desk, as observer, he could see how several voters marked their ballots, by squatting down a little, and Martin that from where he was standing at the north end of the bins, he could see how two voters marked their ballots. Francis, however, testified that the shelf obstructed his view of the voting place, making it impossible for him to see the top of the box (constituting the voting place).

Lewis also testified that the height of the boxes (constituting the voting place) was a "tiny bit" below the first shelf, and a "little over 3 feet high," and Francis that the boxes were 46 inches high, and that the shelf of the bin was 53 inches high. Based on any examination of the photograph, joint exhibit 2, and Francis' testimony that he is the man in the photograph and is 5 feet 9 inches tall, I credit his testimony as to the height of the shelf and find that it is approximately 53 inches high. As to the height of the voting place, I find that it was approximately 7 inches below the shelf³ and that the boxes constituting the voting place were at the center of the south end of the bins which were 6 feet in thickness. I also find that the top surface of the boxes constituting the surface of the voting place were not more than 46 inches wide and 23 inches in depth, thus leaving at least 12 inches between the east edge of the shelf and the nearest edge of the top of the box.

Having thus located the actors and props in this drama, it is now appropriate to determine whether or not Miritello, Martin, and Lewis saw or could have seen voters marking their ballots at the voting place, as they have testified to, or whether their views would have been obstructed by the shelf, as was Francis', when he looked in that direction. Bearing in mind that all of the four witnesses were standing in different locations, their respective angles of view differed. Lewis' testimony in this respect is vague and unconvincing. I regard his statement in Board exhibit 2, as purely speculative, i. e., that other voters could see how he marked his own ballot, and nowhere in his testimony does he state that he actually saw anyone marking his ballot.

On all of the evidence in the record, I find that it would have been impossible for anyone to have seen any portion of the top surface of the boxes constituting the voting place from a distance further than 6 feet from the voting place, unless he were at an eye level of 6½ feet, since the shelf would have obstructed his view. The summary of the evidence already shows that neither Miritello, Francis, nor any waiting voter, was claimed by any witness to be that close to the south end of the bin behind which the voting place was located. I further find that the impossibility of seeing the top of the boxes from any point in the aisle even if a viewer were standing on the extreme east side of the aisle, still exists, unless the viewer was standing closer than a point exactly opposite at least 5½ feet from the south end of the bin, since it is undisputed that the aisle was 3 feet wide. Based on these findings, I further find that it was impossible for Miritello to have seen the voting place from a distance of 9 feet away, and that it was impossible for Martin to have seen the voting place from a still further distance.⁴ The composite testimony of Miritello and Francis shows that Keith was, at various times during the election, standing as close as about 6 feet from the south end of the bin, and on the east side of the aisle, directly opposite to a point about 5 feet from the south end of the bin, but nowhere does the testimony reveal that Keith was facing in any direction other than towards the waiting voters.

The two remaining issues are whether secrecy of the ballot was violated by voters coming out of the voting place with their ballots unfolded, and whether secrecy was violated, assuming the truth of Lewis' testimony that he was able to see how a ballot was marked by reading through the folded ballot from a distance of about 6 feet.

³Having found the height of the shelf to be 53 inches, I do not credit Lewis' testimony that the surface of the boxes was a little over 3 feet high, since it could not then also be "a tiny bit" below the shelf, as he also testified. There is no dispute as to the height of the shelf, or any contention that its height as measured by Francis is any different than on the day of election.

⁴Miritello's testimony is doubly unconvincing, since he testified that he could not see the top of the boxes.

Miritello's testimony that he was able to see how at least 15 employees voted because they emerged with their ballots open is uncorroborated. At another portion of his testimony he testified to seeing "at least 7 or 8" who had not folded their ballots. Based on his demeanor during the hearing, and his uncertain and inconsistent testimony as to numbers, and the obvious unlikelihood of 15 voters (out of only 70) coming out of the voting place with their ballots open and facing the direction of Miritello so that he could read the markings, the undersigned discredits this portion of the testimony completely.

Lewis testified that while standing north of the desk, after he had voted, he saw how a voter marked his ballot by reading through the folded ballot. However, his testimony was not too convincing, since he also testified, "Well, I wouldn't say definitely, but I would say the 'yes' was on the left hand side of the ballot." Assuming, arguendo, this to be true, an isolated occurrence like this should not be grounds for setting aside an election, in the opinion of the undersigned. In a properly run election, the ballot box is always within the view of the observers, and an assertion, whether true or not, that the intention of the voter could be read through the folded ballot, could serve to invalidate almost any election.⁵

The Company, in its brief, argues that Miritello, the union observer, signed a certificate on conduct of the election at the end of the voting, and also a tally of ballots (containing language certifying the secrecy of the ballot), after the count was known. Even assuming that Miritello may have been more sophisticated than the average observer in election procedure, since he had acted once before as election observer, the undersigned has not considered this fact in making his findings and recommendations, since the Board's decisions consistently show that a high standard of election conduct is required in Board elections, and that observers cannot waive the right of protest where the required standards have not been met. Cf. Gary Enterprises, Inc., 86 NLRB 431.

At this stage of the report, it is appropriate to summarize briefly the established standards of election conduct set up by the Board in its decisions. These have been amply expressed in Bercut-Richards Packing Company, et al., 65 NLRB 1052, and the frequently cited General Shoe Corporation case, 77 NLRB 124. It is of vital importance to the Board's effectuation of the policies of the Act that the integrity of its procedures be maintained at all times and at all cost, and that the regularity of the conduct of its elections be above reproach.⁶ It is of equal importance, however, that elections not be set aside lightly unless there is conduct "so glaring that it is almost certain to have impaired employees' freedom of choice. Because we cannot police the details surrounding every election, and because we believe that in the absence of excessive acts employees can be taken to have expressed their true convictions in the secrecy of the polling booth, the Board has exercised this power sparingly. The question is one of degree."⁷ An example of the degree to which the laboratory standards referred to in General Shoe Corporation were befooled to such an extent that the experiment was invalidated can be found in Gary Enterprises, Inc., op. cit., where the voters marked their ballots in the corner of a relatively small room in full view of the observers, and a union business agent was present during part of the voting, a set of facts substantially different than in the instant case.

In the opinion of the undersigned, and based on all of the above, I conclude and find that the Union's objections, with regard to the lack of secrecy, do not have merit and are not grounds for setting aside the election, since none of the persons at the election could have seen voters marking their ballots, and that the laboratory standards referred to in General Shoe were maintained here. There is nothing sacrosanct about the use of voting booths in Board elections, provided the necessary secrecy of balloting is present, and many Board elections are held without the use of conventional voting booths. It is unnecessary that the voter be totally hidden from view while marking his ballot; it is required only that no one can see how he marks his ballot. The Board's Rules and Regulations, Series 6, as amended, Section 101.18, states, "The ballots are marked in the secrecy of a voting booth." Since there is no possibility that the ballots may have been marked within view of any persons present it is the opinion of the undersigned that sufficiently high standards of election conduct and secrecy were maintained in this election.

⁵If ballot boxes were not kept within view of observers, it is obvious that the validity of elections could be attacked with the accusation that the ballot box could have been stuffed.

⁶Bercut-Richards Packing Company, op. cit., p. 1057.

⁷General Shoe Corporation, op. cit., p. 126.

II. THE ALLEGED PROMISE OF BENEFIT

Kenneth Martin, a rank-and-file employee, and one of the Union's witnesses, testified that on November 25, 1952,⁸ he was in one of the Company's washrooms at about 10 in the morning, smoking and talking to two other employees about the impending election that afternoon, when Guy Richards, plant manager, walked in, and said, "If you boys will cooperate with me, I'll see that you get an increase." Richards, the plant manager, testified that although he customarily enters the plant washrooms about four times a day, and Martin may have been present, this alleged incident never happened, and that Martin's statement is completely false. Neither the Union nor the Company has presented any other witnesses with regard to this alleged incident, thus presenting a pure question of credibility as between Martin and Richards.

The testimony showed, further, that Martin is the son of Robert Martin, a business agent of the Union; works for the Union (as well as for the Company) and is paid by it; and that a charge was filed by the Union before the election concerning Martin's discharge.

Martin, in his affidavit (given during the course of investigation of the objections), stated that he did not know the names of the 2 employees present during the conversation with Richards, yet during the course of the hearing testified that 1 of the employees was Eddie Pruitt, who is now in the service, and that he didn't recall the name of the other now. He later testified as follows

Q. You knew Pruitt?

A. I knew Pruitt, yes.

Q. You knew his name at the time?

A. Yes.

Q. And at all times since them?

A. Yes, I did, until he was drafted into the army, and the other one I didn't know very well.

Later, and after he had read Board exhibit 3, he testified first that he didn't know Pruitt's name until a few days or a week after he had given the affidavit, and then that he did not find out Pruitt's name until more than 11 days following the election

Based on the observation by the undersigned of the witnesses, the undersigned finds that Martin's credibility is affected by his shifting and evasive testimony, and that the Union has therefore failed to sustain the burden of proof with respect to the alleged promise of benefit. It is recommended that this allegation of the objections be overruled as being entirely without merit.⁹

RECOMMENDATIONS

Upon the basis of the above findings of fact, and upon the entire record in the proceeding, I recommend that the National Labor Relations Board dismiss the objections.

As provided in the order directing hearing on objections, within 10 days from the date of issuance of the report, any party may file with the Board in Washington, D. C., an original and six copies of exceptions thereto. Immediately upon filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties, and shall file a copy with the Regional Director. If no exceptions are filed thereto, the Board will adopt the recommendations of the hearing officer.

⁸Board exhibit 3, Martin's affidavit, given during the course of the Regional Director's investigation of the objections, states that this conversation took place on November 24, the day before the election. The hearing officer regards this discrepancy as being of no significance.

⁹Martin's employment by the Union, his close relationship with a business agent of the Union, and his general air of intelligence and alertness, make it appear very unlikely that he would have failed to realize the importance of having the names of corroborative witnesses made available to the Regional Director during investigation of the objections, or to the Union for the hearing. Thus, it appears that the names were withheld for fear that the alleged witnesses to the promise of benefit would not corroborate his story, and that the name of one was given belatedly when he was no longer available, in order to lend a false air of authenticity to his story. Although I do not regard either Martin's relationship to a business agent, his being the subject of an unfair labor practice charge, or his paid status as a union employee as affecting his credibility, I find it difficult to believe that, when considering these facts in connection with the fact that Martin had been employed almost 3 months in a plant employing only about 70 production employees, Martin did not know, or could not have easily ascertained, the names of the 2 witnesses to the alleged promise of benefit. It is also very unlikely that Richards would have made a promise of benefit to Martin, knowing that a charge had been filed concerning him.