the same plant facilities, and enjoy the same vacation plans and other employee benefits. Accordingly, as it appears from the record that a community of interest in the conditions of employment exists between the inspectors and the production and maintenance employees, we believe that the inspectors may, if they so desire, appropriately be added to the existing bargaining unit.[5] The fact that inspectors can, by rejecting defective work, affect to some extent incentive earnings of production workers is insufficient to constitute supervisory or managerial authority, and thus, does not, in itself, alter our conclusion that they may appropriately be included in the production and maintenance unit.[6] Nor does the quality control supervision of inspectors require their exclusion as employees allied with management.[7] We further find without merit the Employer's argument that prior bargaining history of exclusion at the instant plant and at the other Employer's plants precludes their being added to the established unit.[8]

We shall direct an election among employees in the following voting group: All inspectors employed by the Employer at its Pandora, Ohio, plant, excluding all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.[9]

If a majority of the employees in the voting group vote for the Petitioner, they will be taken to have indicated their desire to be included in the existing production and maintenance unit at the Employer's Pandora plant currently represented by the Petitioner, and the Regional Director conducting the election is instructed to issue a certification of the results of election to that effect.

[Text of Direction of Election omitted from publication.]

[5] *American Can Company,* 108 NLRB 1209; *Gerber Plastic Company,* 113 NLRB 462. We hereby deny the Employer's motion made at the hearing to dismiss the petition. The *American Can* case, relied upon by the Employer in its brief, does not support the Employer's position, but instead, supports that of the Petitioner.

[6] See *Luminous Processes, Inc.,* 71 NLRB 405, p. 407; *Palmer Manufacturing Company,* 103 NLRB 336, p. 338; *Bachmann Uxbridge Worsted Corporation,* 109 NLRB 868, p. 870.

[7] See *The Firestone Tire and Rubber Company—Firestone Textiles Division,* 112 NLRB 571 (quality control clerk).

[8] *American Can Company, supra.*

[9] The parties are in agreement that the chief inspector is a supervisor and should be excluded from the voting group.

The Danspur Company, Inc., and Robertson-Henry Company *and* International Union of Operating Engineers, Local 181, AFL. *Case No. 9–CA–849. September 12, 1955*

DECISION AND ORDER

On June 8, 1955, Trial Examiner David London issued his Intermediate Report in the above-entitled proceeding, finding that the

Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondents filed exceptions to the Intermediate Report together with supporting briefs.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.[1] The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner with the following additions:

1. The Trial Examiner found that the Respondents, The Danspur Company, Inc., and Robertson-Henry Company, constitute a single employer and that the Employer's operations affect commerce within the meaning of the Act. The Respondents would upset these recommended findings, arguing that the two Respondents are separate and distinct entities and that, in any event, the services they perform are entirely local and therefore outside the jurisdiction of the Act.

The Respondent Danspur, a West Virginia corporation, is a subcontractor for certain excavation work at Corbin, Kentucky. The general contractor is Allen & Garcia Company, Inc., an Illinois corporation, which engages in the construction of projects throughout the United States. In 1954 Danspur contracted to perform excavation work in connection with Allen & Garcia's construction of a coal washer plant at the Kentucky location. The Respondent Robertson-Henry Company negotiated the contract with Allen & Garcia for the benefit of Danspur, finances Danspur's supplies and payroll, and remains primarily responsible for the performance of the contract. The total cost of the coal washer project will exceed $1,000,000. In the 12-month period preceding the hearing Danspur received more than $200,000 for its services.

Frank W. Robertson is president of both the Robertson-Henry Company and Danspur and he is in charge of Danspur's labor relations. The principal officers of the two companies are identical. Frank

[1] The Respondent Danspur excepts to the Trial Examiner's rejection in evidence of 37 employee affidavits. According to Danspur's brief, each affidavit says that the signatory employee was "not interfered with, solicited or required to join any labor organization as a condition of employment by any official or agent of the Danspur Company. I signed a union card with the United Construction Workers, U. M. W. of A., of my own free will and without coercion by either my employer or the union or agents of either." On objection of counsel for the General Counsel, the Trial Examiner ruled that the *ex parte* affidavits were inadmissible. Thereafter the Respondents presented a group of employees who testified substantially to the conclusions set out in the affidavits. Danspur contends that the objection to the admissibility of the affidavits was "highly technical" and that the Trial Examiner erred in excluding them. We hold that the Trial Examiner correctly rejected the affidavits. It is settled law that a mere affidavit, not subject to cross-examination, is not admissible to prove facts in issue. Wigmore on Evidence, 3d Edition, Sec. 1384, Affidavits.

W. Robertson owns all but one share of the Robertson-Henry Company stock. He also individually owns 35 percent of Danspur's stock while the Robertson-Henry Company owns another 30 percent of Danspur's stock. Mr. Robertson's associates own the remaining 35 percent of the Danspur stock. The two Respondent Companies occupy the same offices. Danspur has no office employees and its bookkeeping operations are performed by Robertson-Henry's office employees.

Upon consideration of the record as a whole and particularly in view of the substantial identity of ownership and control of the 2 Companies, we find that the 2 Respondent Companies constitute a single employer within the definition of Section 2 (2) of the Act.[2] As Danspur's services to Allen & Garcia were valued in excess of $200,000, we find that the Respondents are engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction.[3]

2. The Trial Examiner found that by requiring employees to join the United Construction Workers and to sign checkoff authorizations in behalf of that labor organization as a condition of employment, the Respondents violated Section 8 (a) (3) and (1) of the Act. The Respondents challenge the factual findings upon which the Trial Examiner based his legal conclusions. We have carefully considered all the evidence in the case, including the Respondents' countervailing testimony, and we agree with the Trial Examiner that the preponderance of the evidence establishes that the Respondents required employees to join, and to sign dues checkoff authorizations in behalf of, the United Construction Workers.[4] We therefore find, in agreement

[2] *A. M. Andrews Company,* 112 NLRB 626; *National Mattress Company, et al.,* 111 NLRB 890.

[3] *Jonesboro Grain Drying Cooperative,* 110 NLRB 481, 484.

[4] The Respondent Danspur has appended to its brief a photostatic copy of an affidavit, procured after the hearing and signed by Supervisor Roy Williams, denying testimony of others given at the hearing and bearing on the complaint allegations as to Williams. At the hearing the Respondents' attorney said that the Respondents did not anticipate the adverse testimony respecting Williams and therefore asked that Williams' deposition be taken after the parties received the transcript of the hearing. The Trial Examiner denied the request The Respondents' exceptions do not except to this ruling but Danspur's brief says that the Trial Examiner should have permitted the taking of the deposition, and that Williams' affidavit is so important that Danspur has included it with its brief for "such use as the Board cares to make of it"

We cannot at this late date consider the affidavit as any part of the Respondents' proof. The complaint adequately apprised the Respondents of the issues involved in the proceeding. It specifically named Supervisor Roy Williams as one of the Respondents' agents who had committed the violations alleged. There was a lapse of more than 3 weeks between the service of the complaint and the hearing. Roy Williams did not attend the hearing. Statements on the record by the Respondents' president, Robertson, and their attorney are to the effect that Williams was in Ohio when the hearing was held. The Respondents advanced no good reason then, and they advance none now, why Williams was unavailable to testify at the time of the hearing. (See National Labor Relations Board Rules and Regulations, Series 6, as amended, Section 102 30, setting out the formal procedure for examination of witnesses by deposition "for good cause shown.") In view of these circumstances, we cannot now admit Williams' affidavit in evidence

with the Trial Examiner, that by the aforesaid conduct the Respondents violated Section 8 (a) (3) and (1) of the Act.[5]

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 Respondents, The Danspur Company, Inc., and Robertson-Henry Company, Huntington, West Virginia, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Encouraging membership in United Construction Workers, UMWA, or in any other labor organization of their employees, by compelling their employees to become or remain members in such labor organiztion under threat of denial of employment, or discharge, by involuntary checkoff of union initiation fees and dues from their wages, or by discriminating in any other manner in regard to their hire or tenure of employment, or any term or condition of employment, except to the extent authorized by Section 8 (a) (3) of the Act.

(b) In any other manner interfering with, restraining, or coercing their employees in the exercise of their right to self-organization, to form labor organizations, to join or assist International Union of Operating Engineers, Local 181, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of 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) Refund forthwith to all employees and former employees at the Corbin, Kentucky, project, from whose wages the Respondents have deducted and withheld funds representing union initiation fees and membership dues charged by and payable to United Construction Workers, UMWA, under the terms of the authorization of checkoff contained in any applications for membership in said labor organization heretofore signed by said employees and former employees, to the end that such employees and former employees, and each of them, shall be promptly, fully, and completely reimbursed for all monies so deducted and withheld.

(b) Upon request, preserve and make available to the National Labor Relations Board, or its agents, for examination and copying,

[5] *Safeway Stores, Inc*, 111 NLRB 968; *Meyer & Welch, Incorporated*, 91 NLRB 1102, 1110–1111, *Precast Tile and Slab Company*, 88 NLRB 1237, 1238, 1247.

all payroll and other records necessary for a computation of the sums to be refunded under the terms of the Order.

(c) Post at the Corbin, Kentucky, project and at their offices in Huntington, West Virginia, copies of the notice attached to the Intermediate Report marked "Appendix."[6] Copies of such notice, to be furnished by the Regional Director for the Ninth Region, shall, after being duly signed by Respondents' representative, be posted by Respondents immediately upon receipt thereof and maintained by them 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 Respondents to insure that such notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for the Ninth Region, in writing, within ten (10) days from the date of this Order, what steps the Respondents have taken to comply herewith.

[6] This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" the words "A Decision and Order." In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be 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

STATEMENT OF THE CASE

Upon charges duly filed by International Union of Operating Engineers, Local 181, AFL, herein called the Charging Union, against Respondent The Danspur Company, Inc., herein called Danspur, and Respondent Robertson-Henry Company,[1] herein called Robertson Company, the General Counsel of the National Labor Relations Board issued a complaint against said two Companies alleging that on or about August 1, 1954, and at all times thereafter, both Respondents restrained, coerced, and interfered with their employees in the exercise of rights guaranteed under the Act by requiring all employees, as a prehire condition of employment, to execute authorization and dues checkoff cards on behalf of the United Construction Workers, affiliated with United Mine Workers of America, and hereafter called UCW, for the purpose of encouraging its employees' membership in UCW, and for the purpose of discouraging its employees to be members of the Charging Union, thereby engaging in unfair labor practices affecting commerce in violation of Section 8 (a) (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, as amended, 61 Stat. 136, herein called the Act. Copies of the complaint, charges, and notice of hearing were duly served on both Respondents. Respondents' separate answers denied the commission of any unfair labor practices.

Pursuant to notice a hearing was held May 12, 1955, at Corbin, Kentucky, at which all parties were represented by counsel and were afforded full opportunity to be heard and to examine and cross-examine witnesses. At the close of the evidence, the General Counsel presented oral argument, which opportunity was waived by the other parties. Since the close of the hearing, Respondent has filed a brief which has been duly considered.

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

FINDINGS OF FACT

I. THE BUSINESS AND RELATIONSHIP OF RESPONDENTS

Respondent Danspur is, and at all times material herein has been, a West Virginia corporation, maintaining its principal office and place of business at Huntington, West Virginia, and is engaged in building dams and dikes and in earth-moving work. Respondent Robertson Company is, and at all times material hereto has been, a

[1] The name of this Respondent appears as amended at the hearing.

West Virginia corporation, maintaining its principal office and place of business at Huntington, West Virginia. Its present business is that of "financing other companies, [and] assisting them in getting jobs."

In 1954, Allen & Garcia Company, Inc., an Illinois corporation, undertook the construction of a coal washer plant for the United States Steel Corporation at Corbin, Kentucky, the total cost of which will exceed $1,000,000. In the summer of that year, the Robertson Company, "for the benefit of the Danspur Company, . . . negotiated a contract with Allen & Garcia for certain dirt and rock work" in connection with that project. Danspur had no contract with Allen & Garcia, but the Robertson Company agreed with it that Danspur undertake the performance of that contract and that whatever profit or loss was realized or suffered therefrom was to inure to the benefit or loss of Danspur. The employees who performed the work were both employed and paid by Danspur. However, the Robertson Company "backed [Danspur] with its finances . . . and in case of any default . . . Allen & Garcia Company would look to the Robertson Company to make good on the performance of that contract." For its services supplied to that project, Danspur received over $200,000 in the 12 months preceding the hearing herein.

Frank W. Robertson is president of both the Robertson Company and Danspur. M. O. Fowler is vice president of both corporations and H. L. Goode is treasurer of both companies. Robertson individually owns all but 1 share of the capital stock of the Robertson Company and 35 percent of the stock of Danspur. Of the remaining 65 percent of Danspur stock, 30 percent is owned by the Robertson Company and 35 percent is owned by Robertson's associates who were formerly employed by the Robertson Company when that corporation was actively engaged in construction work. Robertson "is in charge of the labor relations of the Danspur Company." The two corporations occupy the same offices in West Huntington. Danspur has no office clerical employees and its books are kept by Robertson Company's office employees.

On the entire record I find that Respondents constitute a single employer within the meaning of Section 2 (2) of the Act,[2] and that the operations of the employer affect commerce within the meaning of the Act. [3]

II. THE LABOR ORGANIZATIONS INVOLVED

International Union of Operating Engineers, Local 181, AFL, and United Construction Workers, UMWA, are, and at all times material hereto have been, labor organizations within the meaning of Section 2 (5) of the Act.

III. THE UNFAIR LABOR PRACTICES

On July 20, 1954, Danspur and UCW entered into a contract effective for 1 year and thereafter unless terminated or modified as therein provided. By its terms, UCW was recognized as "sole bargaining representatives for all workmen employed . . . [in] excavation and disposal of earth and rock . . . on all work performed by the Company" in the Corbin area, and Danspur agreed, when authorized to do so in writing, to withhold from the wages paid its workmen the sum of $2.50 per month as UCW membership dues and an initiation fee of $5 and to forward the same to the UCW.

A ground-breaking ceremony on the project took place on August 3, 1954, and the moving of dirt commenced immediately thereafter. On or about August 1, Buryl Travis, business representative of the Charging Union, had a conversation with Roy Williams, a supervisor for Danspur. Williams told Travis that he had "charge of hiring and discharging the operating engineers that would be on the payroll for the Danspur Company." He also told Travis that while he would hire members of the Charging Union for that work that they "would have to join the United Construction Workers to work there." Though Travis remonstrated that the imposition of such a condition was in violation of the Taft-Hartley Act, Williams "stated that he had no other alternative but . . . to follow . . . the instructions from Mr. [Frank] Robertson," president of both Respondents. The two men met again several days later and

---

[2] *N. L. R. B. v. Price Valley Lumber Co., et al*, 216 F. 2d 212 (C. A. 9), enfg. 106 NLRB 26; *National Mattress Company, et al.*, 111 NLRB 890; *A. M. Andrews Company of Oregon, et al*, 112 NLRB 626; *Technical Tape Corporation*, 111 NLRB 845; *Rollo Transit Corporation, et al.*, 110 NLRB 1623; *F Hilgemeier & Bro. Inc.*, 108 NLRB 352; *Oregon Frozen Foods Company, et al.*, 108 NLRB 1668.

[3] *Columbia-Southern Chemical Corporation*, 110 NLRB 206; *Jonesboro Grain Drying Cooperative*, 110 NLRB 481.

"practically the same discussion" ensued. They met once more several days thereafter at the excavation site. Williams there told Travis that "the thing for [him] to do was to keep quiet, . . . get [his] men on the job, let them sign" the UCW checkoff authorizations, and that then Travis "could do as [he] saw fit." Williams repeated that he had his instructions from Robertson, or Robertson Company, "and there wasn't anything he could do about it, or the Danspur Company." On the following Sunday, Williams told Travis that he was starting a night shift and gave him an "order" for seven additional operators which order was cancelled by Williams soon thereafter on direction of Robertson.

At various times between August 1 and 15, Williams confronted the following named operators while they were engaged on the job: His brother, Lloyd Williams, Virgil Lamb, John Blanton, Curtis Esham, Louis H. Dillion, Harold Faulconer, and Oscar Whisman, all of whom, except Dillion, were members of the Charging Union. Williams presented to, and asked each of the aforementioned employees, to sign two forms pursuant to which the Employer was authorized to withhold Federal and State income taxes, and another form containing an application of membership in UCW and authorizing the employer to checkoff from the employee's wages an amount sufficient to pay the initiation fee and monthly dues required to be paid by UCW and to forward the same to that organization.

Williams told his brother, Lloyd, that "in order to work there [he] had to sign" the checkoff card. When he presented a similar card to Lamb, the latter asked whether he had to sign it. William answered: "Yes, if you work here, you have to sign." Lamb remonstrated that he already belonged to the AFL, but Williams repeated: "Well, if you work here you have got to sign it." When similar cards were presented for signature to Blanton before he went to work the latter also complained that he already belonged to another union and was told he would "have to sign [the UCW card] before [he] could go to work on that job." Esham signed all 3 cards without knowing what they contained until about 12 hours later when the subject was discussed with other employees. When Williams presented the cards to Dillion, he merely said: "Sign this." Dillion complied, as did all the employees to whom the cards were presented.[4]

Similar demands upon other employees to sign the UCW cards were made at approximately the same time by Supervisor O. P. Todd, associated with Williams in the supervision of the excavation work. Thus, after Roland D. Green had been on the job only 4 or 5 hours, Todd handed him the UCW checkoff authorization and said: "If you work on this job you got to sign it," and that all employees had to sign such checkoffs. Todd told Louis Tudor and Orrie Cornett substantially the same thing about 6 hours after each went to work. When James Baker appeared on the job-site before he was employed, he was wearing an AFL button. Todd employed him but told him to take the AFL button off and that "if [he] worked there [he'd] have to join the UCW union." Several other employees testified in behalf of the General Counsel that Todd presented the UCW checkoff cards to them, together with the 2 tax withholding forms, and asked each of them to sign all 3 cards. Practically all of the employees who testified that their membership in UCW was procured by Williams or Todd in the manner heretofore detailed testified further, without contradiction, that UCW dues and initiation fees were thereafter deducted from their wages.

Though Todd denied that he ever told anyone "that they had to join the UCW before they could work on the project," I do not credit that denial. Instead, I credit the testimony of the employees named above that he made the statements attributed to him. I do so not only because of the impression as to trustworthiness made on me by the demeanor of the respective witnesses as they were giving their testimony, but also because of the circumstances existing at the time the statements were made and because of the remainder of Todd's testimony.

Danspur had a contract granting UCW exclusive recognition for all of its employees. That contract also required UCW to "make every effort to furnish a sufficient number of duly qualified workmen to meet" Danspur's requirements. Todd testified that he obtained UCW checkoff and membership applications from Williams who instructed him "to give each man a card [and] to sign him up." When asked whether he ever said "anything to them whether they had a choice of signing or not signing" his answer was that "they knew when they come [sic] out there that that was a UCW job." And, when inquiry was made as to whether he would "have hired

[4] The foregoing testimony pertaining to Williams' conversation with Travis and the named employees is based on the credited testimony of Travis and those employees. Williams did not testify.

any men that didn't sign a card," his only reply was that "there were some [who] worked there as high as thiry days [before] signing."

While the record does not specifically indicate the number of men employed on the job, Todd testified that "at one time" there were approximately 38 men so employed and that all of them signed UCW membership applications and checkoff cards. In view of the fact that a number of these employees were at that time already members of the Charging Union, and that employees Lamb and Blanton specifically objected to joining UCW for that reason,[5] it seems most improbable that at least these employees would have joined UCW unless it was made clear to them that they had to do so in order to hold their jobs. On the entire record and my observation of the witnesses involved I find that Williams and Todd made the statements attributed to them by the employees above named to whom the remarks were directed as heretofore detailed.

By imposing membership in UCW upon its employees, and by requiring them to sign checkoff authorizations in favor of that organization as a condition of initial or continuing employment, Danspur interfered with, restrained, and coerced its employees in their guaranteed right to bargain collectively through representatives of their own choosing in violation of Section 8 (a) (1) of the Act. The same conduct also constituted discrimination with respect to hire and tenure of employment to encourage membership in UCW and to discourage membership in any other labor organization in violation of Section 8 (a) (3) of the Act. *Consolidated Builders, Inc.*, 99 NLRB 972; *Bayly Manufacturing Co.*, 103 NLRB 1337; *Safeway Stores, Inc*, 111 NLRB 968.[6]

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondents set forth in section III, above, occurring in connecnection with their 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 previously found that Danspur and Robertson Company constitute a single employer within the meaning of the Act, I further find that they are jointly and severally responsible for the unfair labor practices found above. Accordingly, it will be recommended that both Respondents cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having concluded that Respondents violated Section 8 (a) (3) and (1) of the Act by coercing their employees to become and remain members of the UCW and to authorize deduction of initiation fees and membership dues from their wages for payment to that organization, and by actual checkoff of such initiation fees and dues from their wages, I shall recommend that Respondents make whole to such employees the amounts deducted from their wages for that purpose from the date when such deductions were first made, as shown by Respondent's records, to the date of compliance with the Board's Order herein.

Respondents' illegal coercion and discrimination are convincing evidence of Respondents' fundamental purpose to thwart self-organization of their employees and deprive them of rights guaranteed by the Act, and demonstrate the likelihood that they may commit other unfair labor practices in the future. The remedy should be coextensive with the threat. I shall therefore recommend that Respondents be ordered to cease and desist from infringing in any manner on their employees' exercise of rights guaranteed to them by the Act.

---

[5] Todd did not deny that he told employee Baker to take off his AFL button because "if [he] worked there [he'd] have to join the UCW union."

[6] In arriving at that conlcusion I have not been unmindful of the testimony of 16 employees who testified for Respondents that they joined UCW voluntarily and without pressure from anyone in behalf of Danspur. I have weighed this circumstance along with all the other factors in this case and am nevertheless convinced that the evidence preponderates heavily in favor of the conclusion just announced. "The Act forbids an employer from discriminating against any of his employees, and he is not excused from the consequences of his conduct merely by showing he refrained from discriminating against others." *Textile Machine Works, Inc.*, 96 NLRB 1333, 1359; *Pennwoven, Inc.*, 94 NLRB 175, 195, enfd as mod on another ground, 194 F. 2d 521 (C A. 3); *Popeil Brothers, Inc*, 101 NLRB 1083, 1089.

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

CONCLUSIONS OF LAW

1. Respondents are engaged in and have been engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.
2. UCW and the Charging Union are labor organizations within the meaning of Section 2 (5) of the Act.
3. By coercing their employees to become and remain members of UCW, and by the involuntary checkoffs of initiation fees and union dues from their wages for payment to that organization, thereby encouraging membership therein, Respondents have discriminated in regard to their tenure of employment and terms and conditions of employment, and have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.
4. By the above conduct, thereby interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act, Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.
5. 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.]

APPENDIX

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, as amended, we hereby notify our employees that:

WE WILL NOT encourage membership in United Construction Workers, UMWA, or any other labor organization of our employees, by compelling them to become or remain members in such organization under threat of denial of employment, or discharge, by involuntary checkoff of union initiation fees and dues from their wages, or by discriminating in any other manner in regard to their hire or tenure of employment, or any term or condition of employment, except to the extent authorized by Section 8 (a) (3) of the Act.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist International Union of Operating Engineers, Local 181, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of 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.

WE WILL forthwith reimburse to all our employees and former employees at our Corbin, Kentucky, project from whose wages we have deducted and withheld funds representing union initiation fees and dues charged by and payable to United Construction Workers, UMW, under the terms of the authorization of checkoff of union initiation fees and dues contained in any applications for membership in said labor organization heretofore signed by said employees and former employees.

All our employees are free to become, remain, or refrain from becoming or remaining, members of any labor organization, except to the extent that such right may be affected by an agreement as authorized in Section 8 (a) (3) of the Act, as amended.

THE DANSPUR COMPANY,
Employer.

Dated_____ By_____
(Representative) (Title)

ROBERTSON-HENRY COMPANY,
Employer.

By_____

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.