

grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of employment and to completely disestablish it as such representative.

As previously found, Respondent's conduct in executing the May 1, 1956, recognition agreement and thereafter the 1956 contract constituted unlawful assistance to Local 530. This contract has been a means whereby Respondent has utilized the unlawfully dominated and supported Local 530 to frustrate self-organization and to defeat genuine collective bargaining by the employees. The Trial Examiner, therefore, recommends that Respondent cease and desist from giving effect to said contract or to any renewal, extension, modification, or supplement thereof. Nothing herein shall be taken to require Respondent to vary the wages, hours, seniority, and other substantive features of its relations with the employees, themselves, which Respondent has established in performance of the said contract or any revision, extension, renewal, or modification thereof.

The unfair labor practices found to have been engaged in by Respondent are of such a character and scope that in order to insure the employees here involved their full rights guaranteed them by the Act it will be recommended that Respondent cease and desist from in any manner interfering with, restraining, and coercing his employees in their right to self-organization.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the Trial Examiner makes the following:

#### CONCLUSIONS OF LAW

1. Miscellaneous Woodworkers Local No. 530, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and Los Angeles County District Council of Carpenters are labor organizations within the meaning of Section 2 (5) of the Act.

2. By dominating and interfering with the administration of Local 530 and by contributing support to it, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (2) of the Act.

3. By entering into and giving effect to the 1956 contract with Local 530 and the Council, which contract was executed in violation of the Act, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

4. By interfering with, restraining, and coercing its employees in the exercise of rights guaranteed by Section 7 of the Act, Respondent has engaged in and is 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.]

**Grace Chemical Company, Division of W. R. Grace & Co.<sup>1</sup> and International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO, and International Chemical Workers Union, AFL-CIO, Petitioners.** *Cases Nos. 32-RC-1099 and 32-RC-1100. June 6, 1958*

#### DECISION AND DIRECTION OF ELECTIONS

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before John E. Cienki, 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 these cases to a three-member panel [Chairman Leedom and Members Bean and Fanning].

<sup>1</sup>The Employer's name appears as corrected at the hearing.

Upon the entire record in these cases, the Board finds:

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

2. The labor organizations involved claim to represent certain employees of the Employer.

3. Questions affecting commerce exist concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Petitioner in Case No. 32-RC-1099, referred to herein as the Boilermakers, seeks a unit of maintenance employees. The Petitioner in Case No. 32-RC-1100, referred to herein as the Chemical Workers, seeks a unit of production and maintenance employees. The Employer maintains that only a production and maintenance unit is appropriate.<sup>2</sup> There is no history of collective bargaining at this plant.<sup>3</sup>

The Employer is engaged, at the plant here involved, in producing anhydrous ammonia and urea through a complex chemical operation, requiring extremes in temperature and pressure, and almost perfect vacuums. The gases, chemicals, and other materials used in this process are enclosed in pressure valves, reactors, autoclaves, and other types of pipes and vessels, and are not seen or handled by employees, unless there is a breakdown, until the end of the operation, when urea in dry forms is produced and bagged. This is a continuous flow operation, running 24 hours a day, 365 days a year, except when repairs or adjustments are necessary.

There are five departments in the plant: (1) industrial relations; (2) technological; (3) purchasing and storage; (4) chemical control and research; and (5) production. The head of each department reports to the plant manager. The production department, the only one here involved, is divided into three groups: (1) ammonia production; (2) urea production;<sup>4</sup> and (3) maintenance. There are about 65 employees in the maintenance group, and about 165 in the entire production department. The manager of the production department determines departmental wage rates and personnel policies, which are substantially the same for all three groups. Each of the three groups has separate immediate supervision.<sup>5</sup> The supervisory

<sup>2</sup> In its brief and in a motion to correct record filed after the hearing, the Employer sought to amend the record in certain respects. The Chemical Workers joined the Employer in this motion, and filed a brief in support thereof. The Boilermakers filed an opposition to the motion. In the absence of agreement by the parties, the requests to amend the record are denied. The proposed changes, in any event, would not alter our conclusions herein.

<sup>3</sup> The plant in question, generally referred to as the Memphis plant, is located in Woodstock, Tennessee, a suburb of Memphis.

<sup>4</sup> The boilerhouse employees are part of the urea production group, are under the same supervision, and receive the same wage rates. New employees sometimes begin in the boilerhouse and later transfer to the urea group.

<sup>5</sup> At the time of the hearing, there was no urea group head, and the department manager was functioning as head of that group in addition to his other duties.

hierarchy over the maintenance group consists of a superintendent, an assistant superintendent, and, under him, six maintenance supervisors. Of the latter, 1 is a master mechanic, 1 is assigned primarily to the ammonia group, and 1 is assigned primarily to the urea group. The maintenance supervisors supervise teams of about 5 or 6 mechanics. On some shifts, and on weekends and holidays, no maintenance supervisors are at the plant, the mechanics coming under the supervision of the operations manager at such times.

The operators in the ammonia and urea production groups spend about 35 percent of their time in the control room, where they control, adjust, and record pressures and temperatures, and about 65 percent in the operating area, testing by sight, touch, and smell for leaks or malfunctioning of any part of the process. When an operator observes a relatively minor mechanical defect, he may adjust it himself or report it to his supervisor. There are tool boards in the operating areas for use of the operators, and, in addition, the operators carry a few small tools. They may also borrow some tools from the maintenance toolroom. In the course of their work, the operators perform some maintenance repair functions and also, at times, sweep their areas or perform other janitorial tasks. During a partial or complete shutdown, operators may be assigned to work under maintenance supervision. The more difficult and complex maintenance work, however, is performed by the maintenance mechanics.<sup>6</sup>

All the employees in the maintenance group are classified as maintenance mechanics rather than by craft designations. Familiarity with the unique operation of this plant, rather than skill in particular crafts, is required in the maintenance work. The Employer, in hiring maintenance employees, does not require that they be craftsmen. They do not serve an apprenticeship or receive craft training on the job, but it takes about 2 years to progress from a helper to a maintenance mechanic classification. All the mechanics are required to perform more than one kind of maintenance work, and exercise their primary skills only about 15 percent of their time. They carry out about 90 percent of their maintenance work in the operating areas. While there, the mechanics, like the operators, are on the alert for leaks as the production process is extremely sensitive and some of the gases are highly explosive, flammatory, or toxic. On occasion, the mechanics make some minor repairs in an operating area under operating supervision.

The mechanics, however, do not watch the control board. Their maintenance duties, many of which are never performed by the operators, are carried out almost entirely under maintenance supervision. In this group are major repairs, hooking up motors, running new instruments, pipe fitting, and machinist work. The maintenance tool-

<sup>6</sup> Some major maintenance jobs are contracted out by the Employer.

room contains large equipment such as lathes, hydraulic presses, milling machine, sanding equipment, and handling crane, which are used by the maintenance mechanics but not by the operators. Although there is testimony by the Employer that transfers are "allowed" between operators and mechanics, the record does not reveal the frequency with which such transfers, if any, have been made.

It is manifest that the maintenance work performed by the maintenance mechanics constitutes their normal, routine job assignments, and that they spend most of their working time in the performance of such maintenance work under separate maintenance supervision. We are therefore convinced that these employees are a homogeneous group possessing mutual employment interests which are sufficiently separate and distinct from those of the production employees to permit their establishment in a separate unit where, as here, there is no collective-bargaining history on a broader basis.<sup>7</sup> It is true, as the Employer and the Chemical Workers contend, that there is some overlapping in the duties of the maintenance and production groups, and that they work in close cooperation and proximity. The homogeneity of the maintenance employees is not impaired, however, by the facts that they work largely in production areas and on production machinery;<sup>8</sup> work at times in close coordination with operators;<sup>9</sup> perform some production tasks;<sup>10</sup> have the same wage scales and fringe benefits as the operators;<sup>11</sup> are not craftsmen but exercise various maintenance skills;<sup>12</sup> or that transfers may occur between production and maintenance employees;<sup>13</sup> or that combined production and maintenance units may have been established at other plants of the Employer,<sup>14</sup> or at other plants in the industry.<sup>15</sup>

We find, therefore, that the maintenance employees may constitute a separate appropriate unit if they so desire.<sup>16</sup> It is also clear, and we find, that the production and maintenance unit requested by the Chemical Workers may be appropriate. And, finally, we find that if the maintenance employees desire separate representation, as deter-

<sup>7</sup> *Dierks Paper Company*, 120 NLRB 290; *Chrysler Corporation*, 119 NLRB 1312; *Olin Mathieson Chemical Corporation*, 117 NLRB 1441; *Magma Copper Company*, 115 NLRB 1; *East Texas Pulp & Paper Company*, 113 NLRB 539; *American Can Company*, 112 NLRB 509; *E. I. DuPont de Nemours & Company*, 111 NLRB 649.

<sup>8</sup> *Dierks Paper Company*, *supra*; cf. *North American Aviation, Inc.*, 115 NLRB 1090, 1094.

<sup>9</sup> *E. I. Du Pont de Nemours and Company*, 117 NLRB 1048; *Monsanto Chemical Company*, 102 NLRB 273.

<sup>10</sup> *East Texas Pulp & Paper Company*, *supra*, at p. 543.

<sup>11</sup> *Magma Copper Company*, *supra*, at p. 3; *National Gypsum Company*, *supra*.

<sup>12</sup> *Olin Mathieson Chemical Corporation*, *supra*, at p. 1443; *Magma Copper Company*, *supra*.

<sup>13</sup> *National Gypsum Company*, *supra*, at p. 1008.

<sup>14</sup> *National Gypsum Company*, *supra*.

<sup>15</sup> *Heublein, Inc.*, 119 NLRB 1337.

<sup>16</sup> Accordingly, we hereby deny the motion contained in the Employer's brief that the Boilermakers' petition be dismissed with prejudice on the ground that the maintenance unit is inappropriate.

mined in the elections directed herein, a unit of production employees may also be appropriate.<sup>17</sup> Accordingly, we shall make no final unit determinations at this time, but shall direct that the questions concerning representation be resolved by separate elections among the following groups of employees at the Employer's Memphis, Tennessee, plant:

(a) All employees in the maintenance group, including maintenance mechanics A and B, helpers, and laborers,<sup>18</sup> but excluding all production employees, office clerical employees, professional employees, watchmen and guards, the master mechanic, and all other supervisors as defined in the Act.

(b) All employees in the ammonia and urea production groups, including chief operators,<sup>19</sup> operators A, B, and C, and laborers, but excluding all employees in the maintenance group, office clerical employees, professional and technical employees, watchmen and guards, and all supervisors as defined in the Act.

If a majority of the employees in the maintenance voting group select the Boilermakers as their representative, they will be taken to have indicated their desire to constitute a separate bargaining unit, and the Regional Director conducting the election is instructed to issue a certification of representatives to the Boilermakers for such unit, which the Board, under these circumstances, finds to be appropriate for the purposes of collective bargaining. And in that event, should a majority of the employees in the production voting group select the Chemical Workers as their representative, the Regional Director is instructed to issue a certification of representatives to the Chemical Workers for a unit of production employees, which the Board, under these circumstances, finds to be appropriate for the purposes of collective bargaining. On the other hand, if a majority in the maintenance voting group do not select the Boilermakers, the ballots of the employees in the maintenance group will be pooled with those of the employees in the production group.<sup>20</sup> If the Chemical Workers achieves a majority of the votes in the pooled group, the Regional Director is instructed to issue a certification of representatives to that labor organization for a unit of production and maintenance employees, which the Board, in such circumstances, finds to be an appropriate unit for the purposes of collective bargaining.

[Text of Direction of Election omitted from publication.]

<sup>17</sup> Although the Chemical Workers took the position that only a combined production and maintenance unit is appropriate, it expressed in its brief a desire to participate in any election or elections directed by the Board.

<sup>18</sup> Laborers are assigned to both the production and the maintenance groups.

<sup>19</sup> The parties agreed and we find that chief operators are not supervisors within the meaning of the Act.

<sup>20</sup> If the ballots are pooled, they are to be tallied in the following manner: votes for the union seeking a separate unit of maintenance employees shall be counted as valid votes, but neither for nor against the union seeking to represent the more comprehensive unit; all other votes are to be accorded their face value, whether for representation by the union seeking the comprehensive group or for no union.