5 If a majority of the employees voting in group 2 select the Teamsters, they will be taken to have indicated their desire to constitute a separate unit, and the Regional Director conducting the elections directed herein is hereby instructed to issue a certification of representatives to the Teamsters for such unit, which the Board, in such circumstances, finds appropriate for purposes of collective bargaining

If, however, a majority in voting group 2 does not vote for the Teamsters, such a group will appropriately be included with the employees in voting group 1 and their votes will be pooled with those in voting group 1 [4] The aforesaid Regional Director is instructed to issue a certification of representatives to the labor organization selected by the majority of the employees in the pooled group, which unit the Board, in such circumstances, finds to be appropriate for purposes of collective bargaining

[Text of Direction of Elections omitted from publication]

[4] If the votes are pooled, they are to be tallied in the following manner The votes for the labor organization seeking a separate unit in group 2 shall be counted as valid votes but neither for nor against the labor organizations seeking to represent the production and maintenance unit All other votes are to be accorded their face value, whether for representation by the unions seeking the more comprehensive group or for no union

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Wilmington Building and Construction Trades Council, AFL-CIO *and* James H. Wood. *Case No 5-CC-114 February 15, 1960*

DECISION AND ORDER

On November 19, 1959, Trial Examiner Louis Plost issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had not engaged in and was not engaging in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the copy of the Intermediate Report attached hereto Thereafter, the General Counsel filed exceptions to the Intermediate Report, together with a supporting brief, the Respondent filed a brief in support of the Intermediate Report

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 The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and finds merit in the General Counsel's exceptions Accordingly, the Board adopts the findings of the Trial Examiner, but not his conclusions and recommendations

In 1959, Charging Party Wood, a general contractor, was engaged in three construction projects in the vicinity of Dover, Delaware

Certain of the work on each of the projects had been subcontracted to other contractors. Wood and several of the subcontractors employed nonunion men; about half the subcontractors had union shops.

Picketing began at the Wesley College job on June 16, 1959, and at the Delaware State College and William Henry High School jobs in mid-July. The pickets carried the following sign:

ATTENTION
CONSTRUCTION WORKERS

JOIN YOUR APPROPRIATE
CRAFT UNION

IMPROVE YOUR STANDARD
OF LIVING

SEE YOUR PICKETS FOR
AUTHORIZATION CARDS

WILMINGTON BUILDING TRADES COUNCIL
AFL-CIO

As set forth more fully in the Intermediate Report, the employees of the union subcontractors, as well as Wood's union employees, walked off the jobs as soon as the picketing began at each site and refused to return as long as the picketing continued.[1] Further, truck-drivers refused to cross the picket line to deliver supplies to Wood or to any of the subcontractors. However, the nonunion employees remained on the job.

Picketing at the jobsites was sporadic. On some occasions, two pickets appeared; at other times, only one was present. There were even days when the pickets were not present at all. The pickets, when on duty, distributed some membership cards; however, no literature was distributed and no organizational meetings were held. Although the pickets never told any employee, union member or not, to cross or not to cross the picket line, no real effort was made to inform the employees that the picketing was directed only against the primary employers, i.e., those employers employing nonunion men.[2]

The General Counsel contends that the Respondent's picketing constituted an inducement to the employees of the neutral subcontractors to cease work on the Wood projects in violation of Section 8(b) (4) (A) of the Act. The Respondent asserts that its picketing was entirely organizational in nature and that it was aimed at all nonunion employees working at each situs.

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[1] The sole exception appears to have been the bricklayers, of Bricklayers Local Union No. 1, who worked at all three jobs throughout the picketing

[2] In addition to membership cards, each picket also carried a small card entitled "Instructions to Pickets," which read, in relevant part, as follows: "We are here for the purpose of organizing and to give out authorization cards. You are not to hinder or stop anyone from passing the picket line. For any further questions which you may need answered, contact the Council's office."

The Trial Examiner concluded that the Respondent was in fact engaged in an organizational effort, albeit a poorly conducted one, and that its signs were aimed at all unorganized employees on the three jobs. He further concluded that the General Counsel had failed to prove an illegal objective, and recommended that the complaint be dismissed in its entirety. For the following reasons, we disagree.

The rules regulating so-called "common situs picketing" are well settled, and provide, in relevant part, that the picketing must clearly disclose the identity of the primary employer against whom the picketing is directed.[3] The Respondent contends that Wood was not the only primary employer at each situs, and that its picketing was directed not only at Wood's employees but also at the employees of all nonunion subcontractors working at the three projects. However, about half the subcontractors working at the three projects employed only union members. Despite the known presence at the jobsites of the employees of these secondary employers, the Respondent took no affirmative steps, by signs or otherwise, to limit the impact of its picketing to the employees of the primary employers. The inevitable effect of the Respondent's conduct was to induce and encourage *all* the employees, including the employees of the neutral employers, to cease performing services in the course of their employment, with an object of exerting pressure on the secondary employers to cease doing business with the primary employers.

In view of the foregoing, and upon the record as a whole, we find, contrary to the Trial Examiner, that the Respondent violated Section 8(b)(4)(A) of the Act by inducing and encouraging employees of neutral employers to engage in a concerted refusal in the course of their employment to perform services, to accomplish the aforesaid unlawful objective.[4]

Conclusions of Law

1. James H. Wood is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Respondent, Wilmington Building and Construction Trades Council, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By inducing and encouraging employees of neutral employers to engage in a concerted refusal in the course of their employment to perform services for their employers, with an object of forcing or requiring any employer or other person to cease doing business with

[3] *Sailors' Union of the Pacific, AFL (Moore Dry Dock Company)*, 92 NLRB 547, 549.

[4] *John A. Piezonki, d/b/a Stover Steel Service* v. *N.L.R.B.*, 219 F. 2d 879 (C.A. 4, 1955). See also *Brotherhood of Painters, etc., Local Union No. 193, et al (Pittsburgh Plate Glass Company)*, 110 NLRB 455, *Local Union No 48, Sheet Metal Workers' International Association, AFL–CIO, et al. (Acoustic Engineering of Alabama, Inc)*, 120 NLRB 212, 218.

any other person, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(4)(A) of the Act.

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 Respondent, Wilmington Building and Construction Trades Council, AFL–CIO, its officers, representatives, agents, successors, and assigns, shall:

1. Cease and desist from inducing and encouraging the employees of neutral employers at the James H. Wood construction projects in the vicinity of Dover, Delaware, to engage in a strike or concerted refusal in the course of their employment to perform services for their employers where an object thereof is to force or require any employer or other person to cease doing business with James H. Wood or any other person at the aforesaid projects.

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

(a) Post at the Respondent's offices in Wilmington, Delaware, copies of the notice attached hereto marked "Appendix."[5] Copies of said notice, to be furnished by the Regional Director for the Fifth Region, shall, after being signed by the Respondent's authorized representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail to the Regional Director for the Fifth Region signed copies of the aforementioned notice for posting by James H. Wood, the Company willing, in places where notices to employees are customarily posted. Copies of said notice, to be furnished by the Regional Director, shall, after being signed by the Respondent, as indicated, be forthwith returned to the Regional Director for disposition by him.

(c) Notify the Regional Director for the Fifth Region, in writing, within 10 days from the date of this Order, what steps it has taken to comply herewith.

MEMBER FANNING took no part in the consideration of the above Decision and Order.

[5] 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."

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL NOT induce or encourage the employees of neutral employers at the James H. Wood construction projects at Wesley College, Delaware State College, and William Henry High School, in the vicinity of Dover, Delaware, to engage in a strike or concerted refusal in the course of their employment to perform services for their employers where an object thereof is to force or require any employer or other person to cease doing business with James H. Wood, or any other person, at the aforesaid projects.

WILMINGTON BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL–CIO,
Labor Organization.

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.

INTERMEDIATE REPORT

STATEMENT OF THE CASE

It having been charged[1] by James H. Wood of Dover, Delaware (Charging Party), that Wilmington Building and Construction Trades Council, AFL–CIO (Respondent), has been engaging in and is engaging in unfair labor practices affecting commerce, as set forth and defined in the National Labor Relations Act, as amended, 61 Stat. 136 (Act), the General Counsel of the National Labor Relations Board (Board), on behalf of the Board, by the Regional Director for the Fifth Region (Baltimore, Maryland), issued a complaint and notice of hearing on August 14, 1959, pursuant to the Board's Rules and Regulations, alleging that the Respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8(b)(4)(A)[2] and Section 2(6) and (7) of the Act. Copies of the complaint and notice of hearing were duly served on the Respondent and the Charging Party.

[1] The charge was filed July 10, 1959; an amended charge was filed August 14, 1959.

[2] Section 8:

(b) It shall be an unfair labor practice for a labor organization or its agents—

* * * * * * *

(4) to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on or perform any services where an object thereof is: (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person.

With respect to the unfair labor practices the complaint alleged, in substance, that as a general contractor engaged in erecting certain buildings the Charging Party contracted with various subcontractors to perform certain work on his erecting projects and that the Respondent (by its officers and agents) since on or about June 16, 1959, and thereafter has, by picketing and other means, induced or encouraged the employees of said subcontractors to engage in a strike or a concerted refusal, in the course of their employment, to use, manufacture, process, transport, or otherwise handle or work on goods, articles, materials, or commodities or to perform services for their respective employers, with the object of forcing or requiring their employers to cease doing business with the Charging Party. That said conduct of the Respondent is violative of the Act, more particularly Section 8(b)(4)(A) thereof.

On September 4, 1959, the Respondent duly filed an answer, denying that it had engaged in any of the unfair labor practices alleged in the complaint.

Pursuant to notice, a hearing was held before Louis Plost, the duly designated Trial Examiner, at Wilmington, Delaware, on September 21, 1959. The General Counsel, the Respondent, and the Charging Party were represented by counsel, all being hereinafter referred to in the names of their principals. The parties participated in the hearing, were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues, to argue orally on the record, and to file briefs, proposed findings of fact, and conclusions of law with the Trial Examiner. No witnesses were called. The parties by joint motion offered the transcript of a hearing for an injunction before the Honorable Caleb M. Wright, Chief Judge of the District Court of the United States for the District of Delaware, held on August 13 and 14, 1959, in lieu of testimony. The parties stated on the record that in the main the testimony before Chief Judge Wright in the matter, which would cover the allegations in the complaint herein, was uncontradicted and that credibility findings by the Trial Examiner were not necessary. The Trial Examiner admitted the transcript as offered, has carefully studied the same, and bases all his findings on the transcript as admitted.

A date (later extended on joint motion to October 29, 1959) was set for the filing of briefs with the Trial Examiner. A brief was received from the Charging Party on October 20, from the General Counsel October 29, 1959.

Upon the record in the case, the Trial Examiner makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE CHARGING PARTY

James H. Wood (Charging Party) is a sole proprietor engaged in the construction industry with his main office located in Dover, Delaware. During the 12 months immediately preceding the issuance of the complaint herein he purchased materials and supplies of a value in excess of $400,000, which were shipped from points outside the State of Delaware direct to points within the State of Delaware.

II. THE RESPONDENT

The Respondent, Wilmington Building and Construction Trades Council, AFL–CIO (Respondent Council), is an association of building and construction trades unions and is affiliated with the Building and Construction Trades Department of AFL–CIO. The Respondent Council is composed only of delegates from its member unions and its executive and organizing committees are composed of the business representatives of the constituent unions. It has no members among employees as such To the extent the Respondent Council engages in organizational activities. or acts in the interests of employees, it does so on behalf of the building craft unions which compose it.

III. THE UNFAIR LABOR PRACTICES

The record made before the Honorable Caleb M. Wright, Chief Judge of the District Court of the United States for the District of Delaware, discloses from the testimony of James H Wood (the Charging Party herein) that as a building contractor on and before June 16, 1959, he was engaged in certain building operations on three projects in the vicinity of Dover, Delaware, namely: Wesley College, Delaware State College, and William Henry High School, portions of the work on each job having been subcontracted by Wood to other contractors some of whom operated with nonunion employees.

At the Wesley College job only two of the five subcontractors, Keystone Wire & Metal Company and Concrete Plank Company, had employees who were union

members. On June 16, 1959, the Wesley College job was picketed, the pickets carrying a sign which read:

ATTENTION
CONSTRUCTION WORKERS
JOIN YOUR APPROPRIATE
CRAFT UNION
IMPROVE YOUR STANDARD
OF LIVING
SEE YOUR PICKETS FOR
AUTHORIZATION CARDS
WILMINGTON BUILDING TRADES COUNCIL
AFL–CIO

The Keystone Wire had already begun work before June 16, but after the pickets appeared, according to Wood, "they called up and they said they would have to leave the job because the picket is there." Keystone Wire employees did quit work on the Wesley College job and when sometime later Wood inquired of the subcontractor "when are you going to put up those stairs" he was told "we can't until the pickets leave the job."

Wood had subcontracted the construction of a concrete slab roof at Wesley with the Concrete Plank Company, who had employees on the job to do the work, however the job was picketed, as above described before they began. A truckload of concrete slabs arrived while the pickets were present but the driver observing the picket refused to unload the materials. The truck was unloaded by Wood's employees. The Concrete Plank Company's employees left the job and did not return. The roof was installed by Wood's employees.

According to Wood's testimony, shown by the district court transcript, pickets appeared at his Delaware State College job sometime in mid-July, and "the day the pickets arrived" the employees of subcontractors Standard Bitulithic Company, Cement Enamel Company, and Wallace & Gale then working on the Delaware State College job, "all three stopped at the same time."

At Wood's job at William Henry High School, the pickets also appeared some time after mid-July and on the day they appeared the employees of Leon Wilkins, the subcontractor installing the plumbing, all quit including their foreman who told Wood that he "couldn't cross the picket line."

Wood has never been asked by the Respondent Council to sign a contract or enter into negotiations. He has never had any dispute with the Respondent. Prior to the picketing, which was not carried on at all three jobs simultaneously, Wood had three ironworkers in his "direct" employ who were union members. They left when the pickets appeared and no union member has gone to work for him since.

According to Wood the pickets on his three jobs have not distributed literature and apparently no organizational meetings of employees on either job has been called or advertised by the Council; however, Raymond McBride, a business representative of one of the local unions forming the Council, testified before Chief Judge Wright that he (McBride) personally acted as a picket at the Wood jobs; that he carried "Authorization Cards"; that on the first day of the picketing he "gave out" three cards and that later "gave out" one more, that other pickets also had cards which they distributed. No corroboration of McBride's testimony was presented.

Robert A. Wood, son of the Charging Party and job superintendent on the Wesley College job, testified that he has observed no leaflets or other material passed by the pickets there; that the pickets did not come to the site before the workman but "arrived sometimes in mid-morning," and that the picket has been on duty "sporadically."

Robert Wood further testified that after the picketing began various truckdrivers refused to deliver materials at the Wesley College job. Wood's testimony regarding truck deliveries was corroborated by Paul C. Hankins and Louis Limmer, employees of subcontractors at Wesley College.

The testimony of the Charging Party, James H. Wood, found corroboration in the testimony of employers of men who quit their work as a direct result of the picketing. Thus of three subcontractors on Wood's Delaware State College job, whose employees are union members, William Ahrens, president of Cement Enamel Company, testified that when the picket appeared his employees left their work

and have not returned. Burton E. Webb, superintendent of Standard Bitulithic Company, testified that when Delaware State College was picketed, the company's employees on that job "decided to take the day off" and had not returned at the time of the hearing before Chief Judge Wright.

Likewise Paul W. Neal, a union member employee of Wallace & Gale, subcontractors on the Delaware State College job, testified that on July 6, 1950, when the picket first appeared there, he, together with the only other Wallace & Gale employee there, who was also the Local Union's shop steward, both quit work and "went home."

Neal testified that about 3 weeks later he and the other man returned to the job and have been working there steadily although "the picket has been there every day."

Leon E. Wilkins, plumbing and heating work subcontractor for Wood's job at William Henry High School, testified that his employees on the job were represented by a union, that when the job was picketed, as herein described, his employees refused to "cross the picket line"; that he asked Gorden McLean, the business agent of the local plumbers union representing his employees, the reason for the picketing and was told by McLean that "the purpose of the picketing was to organize the unorganized employees" and that the Union had "to picket all the jobs." [3]

John J. Pierce, president of the Respondent Council, testified that the Council voted to conduct a campaign to organize "the unorganized workers" of the building trades in Delaware and that the three Wood's jobs were picketed as part of the effort which was intended to be entirely organizational and directed at the unorganized building trade craftsmen within the Respondent's jurisdiction. According to Pierce nothing in the Council's constitution or bylaws prohibits any union member employed on any job from crossing a picket line; however, Raymond McBride, business representative of one of the local unions, hereinbefore referred to in connection with the distribution of union literature, testified:

> Q. So that as matters stand now, when a picket line is formed for any purpose, members of unions will not cross that picket line?
> A. Members of the unions do cross that picket line.
> Q. They do
> A. I am talking as an individual member of a union, not for the——
> Q. I am talking about members of the union. Do they cross the picket lines?
> A. They do, yes. We have members that have crossed picket lines.
> Q. Well, do they cross it with the authorization of the union?
> A. They will probably ask the business agent, should they or shouldn't they. The business agent says, "I can't tell you not to or I can't tell you to. You carry a union book and it is up to you as an individual union member. Draw your own decision there."

William P Walsh, business representative of Bricklayers Local Union Number 1, with jurisdiction over the entire State of Delaware, testified that members of Local Union Number 1, were employed on all three Wood projects and had worked throughout all the time the jobs were picketed.

Contentions of the Parties

The General Counsel, on the above outlined facts, admittedly not in material dispute, argues that a clear violation of Section 8(b)(4)(A) [4] has been proven, because the Respondent during an *existing* dispute with a *primary* employer exerted economic pressure against a *secondary* employer with whom it had no dispute, and applied such pressure by picketing a situs common to both the primary and secondary employers with picket signs which did not clearly state that the Respondent Council was picketing *only* the employer with whom it was in dispute.

The General Counsel cites the familiar *Moore Dry Dock* [5] standards. In order to place a floor under the contention is compelled to argue:

> The evidence herein clearly demonstrates that the Respondent is not conducting the picketing in a manner to disclose clearly that the dispute is with Wood, the primary employer.

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[3] Wilkins volunteered the testimony he "signed a contract with Wood that the job [William Henry High School] be done under open shop conditions" An interesting situation might have arisen had a charge been filed involving this contract.

[4] See footnote 2.

[5] *Moore Dry Dock Company*, 92 NLRB 547–549.

From the state of the record, which is controlling herein, the Trial Examiner must come to the opinion that the General Counsel is really asking that the Trial Examiner *infer* that a dispute between the Respondent and the Charging Party existed, that the picketing grew out of this dispute and thus all matters surrounding the picketing are steeped in illegality.

The Trial Examiner does not believe the evidence in any way supports the General Counsel in this contention.

Contrary to the argument of the General Counsel the Respondent Council contends that the object of the picketing at the Wood projects was solely to organize the unorganized construction workers; that no dispute existed between the Respondent and Wood is clearly shown by Wood's testimony:

> Q. (By Mr. Craven.) Mr. Wood, have you ever been approached by any officer or official of the Wilmington Building Trades Council and asked to sign a contract with the Council?
> A No.
> Q. Have you ever had any argument or dispute with the Wilmington Building Trades Council?
> A No. I have had a sub-contractor that had a dispute.
> Q. No, I am asking——
> A. You are talking about me?
> Q. I am talking about you, Mr. Wood.
> A. That is right.
> Q. Have you ever had any negotiation of any kind with an officer or official of the Wilmington Building Trades Council in relation to hours of work or wages or any other conditions of employment?
> A. No.

The Respondent argues that the picket signs were truthful, being addressed clearly to the nonunion employees; that the fact some union members employed on the three jobs refused to work behind a picket sign was a matter of individual conscience; that the Respondent was under no obligation to order union members to cross the picket line and work at the picketed projects; that there is no evidence that the Respondent directed or persuaded union members *not* to cross the picket lines and that as the object of the picketing was legal the refusal of some union men to work at the picketed sites does not make the picketing illegal.

The Respondent points out in its brief that before Chief Judge Wright the General Counsel advanced the novel argument that *the picketing per se established the fact that the Respondent was engaged in a dispute with Wood,* citing the following:

> Mr. SLAUGHTER [for the General Counsel]: Well, I think, your honor, that the fact that there is a dispute with Wood is implicit in the whole action that is going on, the fact of the pickets at the projects for which Wood is the general contractor. Now, it might be that the Union, or the Council is also trying to get to other non-union employers, but whether it is one or whether it is six, that does not alter the fact that *there has to be a dispute or they wouldn't be there.* [Emphasis supplied.]

The Trial Examiner is mindful that this argument before Chief Judge Wright was made in a pretrial discussion *before* any evidence was taken.

The Respondent closes the argument in its brief to the Trial Examiner as follows:

> . . . The determining factor is the objective, the intendment, of the strike. The statute forbids a strike if an object of the strike is to induce a person not the primary employer or an employee of his to take some action such as ceasing to do business with the primary employer. The cases recognized the very practical fact that, intended or not, sought for or not, aimed for or not, employees of neutral employers do take action sympathetic with strikers and do put pressure on their own employers. The Supreme Court has described all this and delineated the rules in the series of cases we have cited. The question is the objective. In the case at bar, if the objective of the strike encompassed Salt Dome only, it was legal. If its objective was partly Todd or its employees it was illegal. The difference is in whether the effect on Todd's workers was an objective of the strike or was merely an incident of it. The line is fine, but we think the Board erred in some aspects of its consideration and these errors led to an erroneous conclusion on the point.

43 LRRM 2465–2468, U.S. Court of Appeals (1959) District of Columbia, reversing and remanding the Board's decision in Seafarers' International Union of North America and Salt Dome Production Company, 119 NLRB 1638, 41 LRRM 1362.

Conclusion

The Trial Examiner fails to see how the facts disclosed by the record herein either in logic or equity (not meaning that equity is either the antonym or synonym of logic) in any way compel an inference that the Respondent Council is not wholly truthful in its claim to purity of motive, or was engaged in any other than organizational picketing.

In place of inferring that the Respondent Council is not truthful when it states that it had no dispute with the Charging Party, that in fact it had no dispute with any of the subcontractors on Wood's jobs and therefore did not seek to induce or encourage the employees of any employer to engage in a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, with an object of forcing or requiring any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, the Trial Examiner finds that the record discloses quite the contrary and shows only an organizational effort, rather poorly conducted.

The Trial Examiner is persuaded that the sign carried by the Respondent's pickets did not name any contractor because its message was not directed to any contractor through his or another's employees.

Is it so hard to believe that the Respondent Council meant only what the sign proclaimed, an appeal to unorganized construction workers to join an appropriate local union? It is quite true that some—not all—union employees on the three jobs treated the sign as an invitation to quit work; does this mean that the Trial Examiner should infer the Council intended an illegal result? On the contrary, the evidence of quitting work, to the Trial Examiner, shows no more than the individual employees personal, uncoerced action.

It is also clear that the organizational effort of the Respondent was not accompanied by the usual vigorous organizing activity but does this mean anything except that the Respondent should take a long look at its representatives?

On the entire record, the Trial Examiner is persuaded that no illegal objective has been proven by the General Counsel and will therefore recommend that as the complaint is bottomed on the existence of such an illegal motive, which must be inferred, and which inference cannot be made, the complaint be dismissed, in its entirety.[6]

Final Conclusion

Upon a review of the entire record in the case, and upon all the evidence considered as a whole, the Trial Examiner is persuaded that the evidence adduced by the General Counsel does not sustain the allegations of the complaint that the Respondent has engaged in unfair labor practices within the meaning of the Act. The Trial Examiner will therefore recommend that the complaint be dismissed in its entirety.

Upon the basis of the foregoing findings, the Trial Examiner makes the following:

Conclusions of Law

1. The Respondent, Wilmington Building and Construction Trades Council, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.
2. The Charging Party, James H. Wood, is engaged in activities affecting commerce within the meaning of the Act.
3 The Respondent has not engaged in unfair labor practices within the meaning of Section 8(b)(4)(A) of the Act.

[Recommendations omitted from publication]

[6] Upon the facts in the record made before him, Chief Judge Wright of the United States District Court for the District of Delaware enjoined the Respondent from picketing at the three Wood jobsites However, as required by the statute the court found only that the Regional Director had cause to believe the Act was being violated and therefore issued his order "to preserve the issues for the orderly determination provided for in the Act."