

Paul Miller was a tractor-trailer driver for the Employer. The Employer has discontinued its tractor-trailer operations for economic reasons and has advertised this equipment for sale in the newspapers. Miller was told at the time of his layoff that he had no reasonable expectancy of reemployment and, in fact, the Employer has hired no drivers since terminating him.

Floyd Little was laid off on October 5, 1960, after 3 months of work on a temporary basis. Little was told at the outset of his employment that he was being hired on a part-time basis, and was later told at the time of his layoff that there was no reasonable expectancy of his being reemployed in the foreseeable future. In fact, the Employer has no order on its books that will require any expansion of its work force in the near future.

Parsons, Downey, and Eckman worked in the Employer's ornamental iron department. For economic reasons, the Employer discontinued this department, advertised the business for sale in the newspapers, and, in fact, sold it to Parsons. The Employer has no intention of going back into the ornamental iron business and has not attempted to hire any employees in place of Parsons, Downey, and Eckman.

We find that all of the above individuals have been permanently laid off or terminated by the Employer and have no reasonable expectancy of reemployment in the foreseeable future. Therefore, they are ineligible to vote in the election.<sup>10</sup>

[Text of Direction of Election omitted from publication.]

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<sup>10</sup> *American-Marietta Company*, 121 NLRB 912.

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**Gardner Construction Company and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13.** *Case No. 27-CA-847 (formerly Case No. 30-CA-847).* March 21, 1961

### DECISION AND ORDER

On January 25, 1961, Trial Examiner Howard Myers issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.<sup>1</sup>

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<sup>1</sup> The Respondent also requested oral argument. As the record, exceptions, and brief adequately present the issues and positions of the parties, this request is denied.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in the case, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.

### 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, Gardner Construction Company, Littleton, Colorado, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13, or in any other labor organization, by discriminatorily laying off or discharging any employee or by discriminating in any other manner in regard to their hire or tenure of employment, or any term or condition of their employment.

(b) Threatening its employees with discharge if they join, become members of, or otherwise engage in protected activities on behalf of the Union, or in any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of mutual aid or protection as guaranteed in Section 7 of the Act, and to refrain from any and all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

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

(a) Make whole Robert Duane Moore for any loss of pay he may have suffered by reason of Respondent's discrimination against him in the manner set forth in the section of the Intermediate Report entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary and useful to determine the amount of backpay due under the terms of this Order.

(c) Post at its establishment at Littleton, Colorado, copies of the notice attached to the Intermediate Report marked "Appendix A."<sup>2</sup> Copies of said notice, to be furnished by the Regional Director for the Twenty-seventh Region, shall, after being duly signed by Respondent's representatives, be posted immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that such notices are not altered, defaced, or covered by any other material.

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

**CHAIRMAN McCULLOCH** and **MEMBER JENKINS** took no part in the consideration of the above Decision and Order.

<sup>2</sup> This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" the words "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 AND RECOMMENDED ORDER

### STATEMENT OF THE CASE

Upon a charge and an amended charge duly filed on July 6 and on August 4, 1960,<sup>1</sup> by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13, herein called the Union, the General Counsel of the National Labor Relations Board, herein respectively called the General Counsel<sup>2</sup> and the Board, through the Regional Director for the Seventeenth Region,<sup>3</sup> issued a complaint, dated September 20, against Gardner Construction Company, herein called Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (3) and Section 2(6) and (7) of the National Labor Relations Act, as amended from time to time, 61 Stat. 136, herein called the Act.

Copies of the charges, complaint, and notice of hearing thereon were duly served upon Respondent and copies of the complaint and notice of hearing were duly served upon the Union.

Specifically, the complaint alleged that (1) on or about July 5, Respondent discharged Robert Duane Moore, and since said date has failed and refused to reinstate him because of Moore's membership in, activity on behalf, and adherence to the Union; and (2) on July 6, Respondent, through its officers, supervisors, and agents threatened its employees with discharge if they did not refrain from becoming or remaining members of the Union or gave it assistance or support.

On October 5, Respondent duly filed an answer denying the commission of the unfair labor practices alleged. The answer also averred that Moore was discharged for cause and that whatever statements Respondent's officials, supervisors, or agents made contained no threats of reprisals or promise of benefits and hence said statements were not violative of the Act.

Pursuant to due notice, a hearing was held on October 11, before the duly designated Trial Examiner. The General Counsel and Respondent were represented by counsel. Full and complete opportunity was afforded the parties to be heard, to examine and cross-examine witnesses, to introduce evidence pertinent to the issues, to argue orally at the conclusion of the taking of the evidence, and to file briefs with the Trial Examiner.

<sup>1</sup> Unless otherwise noted all dates mentioned herein refer to 1960.

<sup>2</sup> This term specifically includes counsel for the General Counsel appearing at the hearing.

<sup>3</sup> This proceeding has been transferred to the newly created Twenty-seventh Region.

During the course of the session of October 11, the General Counsel requested and was granted a continuance of the hearing until November 14, in order to proceed in the appropriate United States district court to enforce a subpoena which had been served upon Homer Scales.

On November 1, the General Counsel filed with the Trial Examiner a motion, copies of which were duly served upon the parties and upon Respondent's counsel, requesting that the hearing be closed for the reason that he does not desire to call Scales as a witness.

No response having been received to the aforementioned motion of the General Counsel, the Trial Examiner, on November 7, telegraphed the General Counsel, Respondent's counsel, and the Union as follows:

RE: GARDNER CONSTRUCTION COMPANY, 27-CA-847 (30-CA-847),  
THE GENERAL COUNSEL'S MOTION TO CLOSE THE HEARING IN  
THIS MATTER IS HEREBY GRANTED AND THE HEARING IS THIS  
DATE CLOSED. BRIEFS DUE ON OR BEFORE DECEMBER 5 NEXT.

Briefs have been received from the General Counsel and from Respondent's counsel which have been carefully considered. Respondent's counsel also filed findings of fact and conclusions of law which are disposed of in accordance with the findings of fact, conclusions of law, and recommendations hereinafter set forth.

Upon the entire record in the case, and from his observation of the witnesses, the Trial Examiner makes the following:

## FINDINGS OF FACT

### I. RESPONDENT'S BUSINESS OPERATIONS

Respondent, a Colorado corporation, has its principal offices and place of business in Littleton, Colorado, and is, and during all times material was, engaged in highway construction work. During the 12-month period immediately prior to the commencement of this proceeding, Respondent performed roadbuilding services of a value of more than \$100,000 in States other than the State of Colorado. During the same period, Respondent was engaged in the performance of a highway construction contract with the State of Colorado in the approximate amount of \$2,090,000.

On the basis of the foregoing facts, the Trial Examiner finds, in line with established Board authority, that Respondent is engaged in, and during all times material was engaged in, business affecting commerce within the meaning of the Act and that its operations meet the standards fixed by the Board for the assertion of jurisdiction.

### II. THE LABOR ORGANIZATION INVOLVED

The Union is a labor organization admitting to membership employees of Respondent.

### III. THE UNFAIR LABOR PRACTICES

#### The Discriminatory Discharge of Robert Duane Moore

##### A. Prefatory statement

During all times material Respondent was engaged in performing a contract which it then had with the State of Colorado for the construction of a portion of Highway 87 which, in turn, was part of the so-called Interstate Highway System. The job in question consisted chiefly of mixing dry aggregate at the batch plant, hauling it to the part of the highway then being paved, dumping successive parts of the load into the hopper of the paving train, and then laying it on the highway.

Respondent had an arrangement with Griffin Brothers, Inc.,<sup>4</sup> to furnish batches at the paver for a unit price and the batches were hauled in 10-wheel trucks. Under the aforesaid arrangement Griffin was furnishing, and did furnish the trucks, which were of special design, and the fuel, oil, and maintenance. Griffin also furnished the truckdrivers.

At the hearing and in its brief Respondent contended that the truckdrivers, including Homer Scales, the foreman of the drivers, furnished by Griffin were Griffin employees and not Respondent's.

The undenied credible evidence convincingly establishes that Respondent (1) controlled the retention of the truckdrivers in that it had the absolute right to discharge them, as it did in the case of Moore; (2) required them to adhere to the discipline

<sup>4</sup> Also referred to in the record as "Griffin Brothers" and as "Griffin Bros. Incorporated."

and other rules applicable to employees, such as, among other things, not to confer on the project with representatives of any labor organization without first obtaining Respondent's permission; (3) accorded them the same general supervision, privileges, and prerequisites as ordinary employees; and (4) under its agreement with Griffin, (a) paid the truckdrivers' wages and (b) withheld from the truckdrivers' wages, the required income taxes, social security contributions, and filed all other necessary employee reports with the State and Federal Governments. In addition, in its answer, Respondent admitted paragraph numbered IV of the complaint which alleged, ". . . the Respondent discharged its employee Robert Duane Moore. . . ." Under the circumstances, the Trial Examiner concludes and finds, contrary to Respondent's contention, that the truckdrivers and Scales,<sup>5</sup> were, during all times material, Respondent's employees within the meaning of Section 2(3) of the Act.<sup>6</sup>

### B. Pertinent facts

Around June 20, Moore was hired by Scales as a truckdriver and was assigned by the latter to a "regular dump truck" hauling rock, sand, and the like for Respondent.<sup>7</sup> After working on the dump truck for approximately 1 week, Scales asked Moore whether he had ever driven a batch truck. When Moore replied in the negative, Scales, according to Moore's undenied and credible testimony, "went with me the first round to see if I could handle it all right, and knew the route to travel, and so forth." Thereafter, Moore operated the batch truck without criticism. On two separate occasions Scales told Moore, to quote from the latter's credited testimony, "to park my truck and ride with (an employee who had been transferred from hauling rock to hauling batch) the first round to make sure that he knew the route and what to do, and so forth."

On July 5, James W. Salter, the Union's assistant business agent, accompanied by another union assistant business agent and others, visited the jobsite in question while the approximate eight truckdrivers working there were eating their lunch. According to Salter's credited testimony, which in the main is substantiated by Moore's credible testimony, after Salter had asked the truckdrivers "if they were interested in representation by the union involved on the project," the following ensued:

. . . Mr. Moore identified himself as being a member of my local, and asked me if I would explain to the gentlemen seated there as to what the difference would be between a job under a non-union condition and as to what the conditions would be on a union job, which I was explaining, that the hourly rate would be a difference, there would be a difference in the matter for an eight-hour guarantee, and there would be a matter of a difference on what the overtime would be, because on a union job it would be overtime after eight hours rather than overtime after forty.

Mr. Moore was asking these questions, . . . Mr. Gardner<sup>8</sup> had walked up . . . and said [to Salter and his associates] "Get off this job, you racketeering \_\_\_\_\_."

I asked if I had a right to talk to the men, inasmuch as they are on the noon hour. He said, "Those men are on my payroll, and I defy you to talk to them, or any other racketeer. Get off this job and do it now."

<sup>5</sup> The undenied credible evidence establishes that Respondent controlled Scales' employment and his duties, that Scales hired and fired the truckdrivers in question; exercised other supervisory powers under instructions from Superintendent Bill Haas and other Respondent managerial officials; and that he was on Respondent's payroll for purposes of receiving wages, income tax withholdings, social security contributions, and reports to be filed with the State and Federal Governments.

<sup>6</sup> See *May Department Stores, etc.*, 59 NLRB 976, 987, enfd. 154 F. 2d 533 (C.A. 8), cert. denied 329 U.S. 725; *Local 911, etc.*, 122 NLRB 499. Cf. *United States v. Silk*, 331 U.S. 704, 713; *American Broadcasting Company, etc.*, 117 NLRB 13, 18; *Serv-Us Bakers of Oklahoma*, 121 NLRB 84, 87, at footnote 3; *Southern Shellfish Co., Inc.*, 95 NLRB 957, 962-963; *Leslie R. Ben v. United States*, 139 F. Supp. 883, affd. 241 F. 2d 127 (C.A. 2).

<sup>7</sup> At the time Scales hired Moore the latter was wearing a union (Teamsters) button whereupon Scales "pointed out," according to Moore's undenied and credible testimony, "that it was a non-union job, and asked me how the union representatives would feel about me going to work on a non-union job." When Moore informed Scales that the Union had no objection to his working on Respondent's project, Scales hired him.

<sup>8</sup> Harry Gardner, Respondent's vice president.

Myself and my co-workers . . . asked Mr. Gardner if we didn't have the right of free speech on the lunch hour. He said no. If we wanted to talk to the men we would have to do it somewhere else. As long as they are on his payroll we would [sic] not talk to them, and he would see to it that the law would protect his men from us terrible people. So we removed ourselves from the premises.<sup>9</sup>

Moore testified, and the Trial Examiner finds,<sup>10</sup> that after Slater and his companions had left the jobsite, Gardner said to the assembled truckdrivers, to further quote Moore, "Something to the effect that if we wanted our jobs, to forget about the Union"; that as the truckdrivers started "to break up," Gardner approached him, looked at the union button he was wearing on his hat, and said, "If you are the one that is doing all the talking then you are not satisfied with your job"; that he replied, "No, I didn't say that, I only asked them to point out the difference between a union job and a non-union job. . . . I don't want to lose my job over it"; that at 3 p.m., Scales called him aside and said, "Here is your check, I don't like to do this, but Gardner came to me with it made out";<sup>11</sup> that when he asked Scales, "Is it over that union incident at noon," Scales replied in the affirmative; that he then went to Gardner and asked why he was fired; that Gardner denied firing him, adding, "Whoever gave you your check fired you"; and that after he had made numerous requests for the reason for the discharge, Gardner finally said that he did not like his truckdriving, and that Gardner then ordered him off the jobsite.

### C. Concluding findings

It is the General Counsel's theory and contention that Respondent discharged Moore on July 5 because of its resentment of the activities of the Union in attempting to organize the truckdrivers who were then performing work for Respondent and because of Moore's participation in those activities. The credited testimony, summarized above, plainly establishes Respondent's resentment of the union activities and of the fact that Moore was actively engaged in them. Gardner's remark to the truckdrivers to the effect that if they wanted to retain their jobs they had better forget about the Union coupled with Gardner's remark to Moore, "If you are the one that is doing all the talking, then you are not satisfied with your job," are clear indications of Respondent's resentment and union animus.

It being concluded that the General Counsel made out a *prima facie* case that Respondent was discriminatorily motivated in discharging Moore, we turn to the question whether Respondent's evidence is sufficient to overcome that case.

A careful examination of Respondent's evidence that Moore was summarily discharged because he was not careful enough in unloading his batch truck does not stand up under scrutiny, especially when consideration is given to the fact that Moore had not been criticized about his work, that he had been assigned to instruct two other employees in the operations of the batch truck, and that he was admonished by Gardner for "doing all the talking" at the aforementioned July 5 meeting with Salter.

The foregoing conclusion is reached with full recognition that the reason which Respondent assigned would have justified Moore's discharge provided, of course, that the assigned reason was the real reason for Respondent's action. But a discharge ostensibly for cause, in order to be protected, must be in reality a discharge for cause; a trumped up or synthetic cause cannot protect an employer against a

<sup>9</sup> Gardner's version of this incident, which the Trial Examiner has read and carefully considered, is at variance with that of Salter. In the light of the entire record, the Trial Examiner accepts as substantially correct Salter's version and rejects Gardner's version.

<sup>10</sup> The Trial Examiner accepts Moore's testimony regarding what transpired on the afternoon of July 5, after the union representatives and their companions left the jobsite, as substantially in accord with the facts, and rejects Gardner's testimony with respect to the events of that afternoon mainly on (1) a careful scrutiny of the entire record in the case, all of which has been carefully read, and parts of which have been reread and rechecked several times; (2) the candor with which Moore admitted that he could not be certain as to the dates or the exact words used by Gardner and others; and (3) the fact that Moore particularly impressed the Trial Examiner as being a person who is careful with the truth and meticulous in not enlarging his testimony beyond his actual memory of what occurred or what was said. On the other hand, Gardner gave the Trial Examiner the impression that he was studiously attempting to conform his testimony to what he considered to be to the best interest of Respondent.

<sup>11</sup> Moore would have worked until about 6 or 6:30 p.m. that day.

discharge where the real or moving cause is antiunion discrimination. *N.L.R.B. v. C. & J. Camp, Inc.*, 216 F. 2d 113 (C.A. 5), enfg. 107 NLRB 226.<sup>12</sup>

Upon the entire record as a whole, which clearly reveals Respondent's unconcealed union animosity, the Trial Examiner finds that Moore was discharged in violation of Section 8(a)(3) and (1) of the Act, because of his union membership and not for the reason advanced by Respondent.<sup>13</sup> The Trial Examiner finds that Gardner's July 5 remark to the truckdrivers to the effect that if they wanted to retain their jobs they had better forget about the Union, in view of the setting in which it was made, to be violative of Section 8(a)(1) of the Act.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section III, above, occurring in connection with the operations of Respondent described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom and that it take certain affirmative action designed to effectuate the policies of the Act.

It having been found that Respondent discriminated in regard to the hire and tenure of employment of Robert Duane Moore by discharging him on July 5, 1960, the Trial Examiner will recommend that Respondent make him whole for any loss of pay he may have suffered by reason of said discrimination by payment to him of a sum of money equal to that which he would have earned as wages from the date of the discrimination against him to the date he took himself out of the labor market by returning to his studies at Colorado State University or to the date when the job in question was completed by Respondent, whichever is sooner, less his net earnings during said period. Backpay to be computed and paid in accordance with the formula set forth in *F. W. Woolworth Company*, 90 NLRB 289.

In the opinion of the Trial Examiner, the unfair labor practices committed by Respondent in the instant case are such as to indicate an attitude of opposition to the purposes of the Act generally. In order, therefore, to make effective the interdependent guarantees of Section 7 of the Act, thereby minimizing industrial strife which burdens and obstructs commerce, and thus effectuate the policies of the Act, it will be recommended that Respondent cease and desist from infringing in any manner upon the rights guaranteed in Section 7 of the Act.

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. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 13, is a labor organization within the meaning of Section 2(5) of the Act.

2. By discriminating in regard to the hire and tenure of employment of Robert Duane Moore, thereby discouraging membership in the Union, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) of the Act.

3. By threatening its employees with discharge if they did not "forget about the Union," 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 the rights guaranteed in 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 within the meaning of Section 2(6) and (7) of the Act.

[Recommendations omitted from publication.]

<sup>12</sup> In accord: *Wells, Incorporated v. N.L.R.B.*, 162 F. 2d 457 (C.A. 9); *N.L.R.B. v. Whittin Machine Works*, 204 F. 2d 883 (C.A. 1); *N.L.R.B. v. Jamestown Sterling Corp.*, 211 F. 2d 725 (C.A. 2).

<sup>13</sup> Of course, disbelief of the reasons advanced by Respondent does not itself make out a violation. The burden is on the General Counsel to prove discriminatory motive, not upon Respondent to disprove it. But here, the General Counsel more than amply met that burden.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT threaten our employees with discharge if they join or remain members of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13.

WE WILL NOT interfere with the above-named Union's efforts to organize our employees, or 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 Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 13, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and 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 in Section 8(a)(3) of the National Labor Relations Act.

WE WILL make Robert Duane Moore whole for any loss of wages suffered as a result of our discrimination against him.

All our employees are free to become or remain members of the above-named Union, or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the amended Act. We will not discriminate in regard to hire or tenure of employment or any other term or condition of employment against any employee because of membership in or activity on behalf of any such labor organization.

GARDNER CONSTRUCTION COMPANY,  
*Employer.*

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

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

**Indiana Gas & Chemical Corporation and James L. Watkins  
Local 12009, United Mine Workers of America, Region 40 and  
James L. Watkins**

**District No. 50, United Mine Workers of America and James  
L. Watkins. Cases Nos. 25-CA-1138, 25-CB-363, and 25-CB-  
372. March 22, 1961**

DECISION AND ORDER

On June 23, 1960, Trial Examiner Max M. Goldman 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, but that the Respondent Unions had not engaged in and were not engaging in certain other unfair labor practices, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel, the Respondent Company,