The union has made its promises—there is no doubt about that. It has spent lavishly to wine and dine Utica employes to put them in a receptive mood for those promises And there, unfortunately, is a small nucleus of workers at Utica who have swallowed the union's hook, line and sinker in one gulp.

They do not realize that promises are cheap. They can be given by a prince or a pauper. They cost nothing. But fulfilling promises is something else again.

It is easy for the union to promise a prospective member that it will see to it that management will give him a certain wage (rumors are that the union is offering $3.25 an hour of Utica's money). It is easy for a union to promise that a worker will get two weeks of paid vacation, or that management will provide free hospital and health insurance, or anything else.

It cannot make good the promises. Utica's management can refuse union demands, and probably will. The union's only weapon is to call a strike. In that event, under South Carolina's laws, the management would be entirely within its right to fire such employes who do not report for work as expected. And common sense would lead one to believe that such discharged personnel would find it impossible to return to Utica and would find it difficult to obtain industrial employment anywhere else.

So Utica's employes Monday have a choice. They can vote to refuse the International Association of Machinists as a bargaining agent and remain with the company, grow with it and prosper with it. Or they can vote the union in and await a strike call which, undoubtedly, will be made which will be costly to the company but disastrous for the workers both as to lost income and lost opportunity.

Think it over, Mr. Utica Employe. Think well now. Tomorrow night will be too late.

Williamsport Newcrete Products Co., Inc. ***and*** **George R. Hall, Leonard Karschner, Willard Miller, Frank L. Leech, Dean Fry.** *Cases Nos. 4–CA–2939–1, 4–CA–2939–2, 4–CA–2939–3, 4–CA–2939–4, and 4–CA–2939–5. February 13, 1964*

DECISION AND ORDER

On September 25, 1963, Trial Examiner George J. Bott issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the Act and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Decision. Thereafter, the Respondent filed exceptions to the Decision and a supporting brief. The Respondent has also requested oral argument.[1]

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Fanning and Jenkins].

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 Trial Examiner's Decision, the exceptions and brief, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

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[1] Because, in our opinion, the record, exceptions, and brief adequately set forth the issues and positions of the parties, this request is hereby denied.

ORDER

The Board adopts as its Order the Recommended Order of the Trial Examiner.[2]

[2] The Recommended Order is hereby amended by substituting for the first paragraph therein the following paragraph.

> 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 Respondent, Williamsport Newcrete Products Co., Inc., its officers, agents, successors, and assigns, shall.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

Upon charges of unfair labor practices filed by the above-named individuals on April 12, 1963, against Williamsport Newcrete Products Co., Inc., herein called the Respondent or Company, the General Counsel of the National Labor Relations Board issued a complaint and notice of hearing dated June 25, 1963, alleging that Respondent had engaged in unfair labor practices in violation of Section 8(a)(1) and (3) of the National Labor Relations Act, herein called the Act. The answer of Respondent admitted certain allegations of the complaint but denied the commission of any unfair labor practices. Pursuant to notice, a hearing was held before Trial Examiner George J. Bott at Williamsport, Pennsylvania, on August 13, 1963. Respondent and General Counsel were represented by counsel at the hearing. Subsequent to the hearing Respondent filed proposed findings of fact and conclusions which are disposed of in accordance with the following findings of fact.

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

FINDINGS OF FACT

I. THE COMPANY'S BUSINESS

Respondent is a Delaware corporation with its principal office in New Enterprise, Pennsylvania, and has a place of business located at Montoursville, Pennsylvania, where it has been continuously engaged in the manufacture, sale, and distribution of reinforced concrete pipe. During the year preceding the issuance of the complaint, Respondent purchased and received materials valued at $65,000 at its Montoursville plant from out-of-State sources. Respondent concedes, and I find, that it is and has been at all times material hereto an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.[1]

II. THE LABOR ORGANIZATION INVOLVED

District 50, United Mine Workers of America, herein called the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The facts*

On or about March 1, 1962, Respondent purchased from Martin-Marietta Corporation all the assets comprising a concrete pipe plant at Montoursville, Pennsylvania. Respondent has, since March 1962, manufactured and sold reinforced concrete pipe at said plant. At the time of the acquisition from Martin-Marietta, there were 16 employees at the plant, all of whom were hired as Respondent's employees. When Martin-Marietta operated the plant the employees were represented by the Union, but after Respondent purchased the plant it declined to recognize the Union and subsequently, on or about June 28, 1962, an election was conducted by the Pennsylvania Labor Relations Board among the employees. The election resulted in an eight-to-eight vote.

[1] The complaint contained other allegations with respect to the businesses of other related companies, but after a stipulation regarding Respondent's commerce activities was entered into at the hearing, General Counsel stated that such allegations could be disregarded and were now surplusage.

After Respondent purchased the plant it continued to operate it as before until late December 1962, when it was closed down because of the weather, as had customarily been done in prior years. When the plant reopened in the spring of 1963, the five employees who filed charges in this case were not recalled. General Counsel claims Respondent was discriminatorily motivated in its action in refusing employment to these five men but Respondent contends that the five were not employed for good cause.

Dean Fry, one of the five not recalled, worked for Respondent and its predecessor since September 1960. Fry's last job with Respondent was forklift driver. He testified that he was a member of the Union when Martin-Marietta operated the plant and was hired at Respondent after the purchase by Sherman Reigle, superintendent. Reigle, had also been superintendent for Martin-Marietta at that location for many years, and he was acquainted with the work of all the alleged discriminatees Fry was told by Reigle when he hired him at Respondent that his seniority would continue and that conditions would be the same as obtained before except there was no longer a union.

In March 1962, Fry signed a new union authorization card for the purpose of obtaining a new election, since the Union was no longer recognized, and also secured the signatures of other employees. Between the time he signed the union card and the date of the election, which took place on or about June 28, 1962, Superintendent Reigle asked him if he had signed a card or knew anything about the Union coming back. Fry denied knowledge. Reigle told Fry that the new company would not tolerate a union, would not work under a union, and would shut the plant down. Reigle told the employee that he was questioning a number of employees but that there was no use to talk with employee Frank Leech (one of the complainants) because Leech was a "radical unionist."

Fry voted in the State board election in June and continued to work for Respondent until he was laid off in the December 1962 seasonal layoff. When he was laid off nothing was said to him about the quality of his work. When the plant reopened in February 1963, Fry was not recalled. He visited Reigle at the plant and told Reigle he had heard that a few of the employees were not to be reemployed and he "guessed" he must be one of them. Reigle agreed that he was and told the employee that his work was unsatisfactory. Reigle did not go into detail about what was wrong with the employee's work and Fry did not ask him. As Fry was leaving, Reigle told him that if he needed a recommendation for work at another employer to give Reigle's name.

George Hall had worked for 15 years for Martin-Marietta when Respondent purchased the plant and at the time was secretary of the local union. When Respondent began operations Hall was hired to do his old work as a wire bender after an interview with Reigle. In the spring of 1962, Hall was given a union card by employee Fry and signed it in order to get an election. Subsequently, Superintendent Reigle asked him if he had signed one of the "crazy" union cards and Hall told him it was none of his business. Reigle told Hall that the Company would not work under a union and would close the plant.

Hall was laid off in the December 1962 seasonal layoff and not recalled. While employed by Respondent he received two raises, one a general raise and the other individual. When he was laid off nothing was said to him by management to indicate that he might not be recalled.

When Respondent commenced production in the spring of 1963, Hall accompanied by Leech, Karschner, and Fry, went to see Reigle. Hall told Reigle that he understood that the employees no longer had jobs and Reigle replied that such was correct and that the employees' work was unsatisfactory. No details were given.

Employee Frank Leech worked for the old company since July 1961 and was hired by Reigle when Respondent took over. He was a member of the Union and signed a new card for Dean Fry to get an election. He is the employee who Reigle described as a "radical unionist." He was laid off in December 1962 and not recalled. He telephoned Reigle when the plant reopened and Reigle told him that he would not be reemployed because his work was unsatisfactory.

Willard Miller worked for Respondent's predecessor since March 1960. He was president of the local union when Respondent purchased the plant and he was hired by Reigle for work at the new company. Miller also signed a new union card in March 1962 at Fry's request. Thereafter, Reigle asked Miller if he had signed a union card and Miller told him he had not. Reigle asked the employee if he knew anything about the Union coming in and Miller pretended ignorance. Reigle stated that the Respondent would not operate under a union. Sometime later Reigle called the employee away from his work and accused him of lying. When Miller asked for an explanation, Reigle told him he had lied about the Union because Reigle had discovered it. Miller walked away from Reigle.

Miller voted in the election and also acted as union observer. He worked without incident until laid off in December 1962 with the other employee. He was not called back when the plant reopened and visited Reigle with other employees to find out why. Reigle told them their work was unsatisfactory.

Leonard Karschner was secretary-treasurer of the local union when Respondent purchased the plant. He was employed at the time as a mixer operator and was hired after the sale by Respondent to perform the same task. His total employment with Respondent and the Martin-Marietta Company was about 18 years. Karschner also signed a new union card for an election but no inquiries were made to him about it. He voted in the election and worked as usual until the seasonal layoff in December 1962. When the plant reopened he went to see Reigle with three other employees. Reigle told them their work was unsatisfactory and they were not being called back.

Sherman Reigle, Respondent's superintendent and sole supervisor at the pipe plant, was Respondent's chief witness. Reigle had worked at the Montoursville plant since 1940 and was familiar with every operation. He had at one time been a mixer operator, and also a machine operator, and became superintendent in 1954. All of the alleged discriminatees had worked under his supervision for substantial periods of time.

When the Respondent purchased the plant in March 1962, Reigle was consulted by Respondent's president about who should or should not be employed, and it was decided to hire all the old employees on Reigle's recommendation. Reigle was informed by higher management officials, however, that the union contract would not be observed. Later, a State board election was held which resulted in a tie.

Reigle gave his reasons for not recalling the five complainants after the seasonal layoff. He stated that, after the plant reopened in February 1963 without the five complainants, he noticed a 50-percent improvement in the quality of the pipe manufactured. According to him, after the board election in June 1962, the quality of the pipe deteriorated and he communicated this information to officers of Respondent who told him to do whatever he thought best to get better quality. Reigle's recommendation to management, so he testified, was to get new employees, but he did not recall identifying the particular positions to be replaced. Reigle proceeded to get new men after the December layoff and selected the Charging Parties for elimination.

Reigle testified that two key operations in the manufacture of pipe are the machine operation, where the pipe is formed, and the mixing operation, where the sand, gravel, cement, and water are mixed. Reigle determined in the summer or fall of 1962 that the poor quality of pipe had its roots in the mixing operation. He said the mix was either too dry or too wet and he talked to Karschner, the mixer operator, about it, but it accomplished nothing. He said he mentioned the problem to the employees about three or four times.

Reigle stated that he had told Miller and Fry that their work was unsatisfactory before they were laid off in December 1962. He said he told Miller, a forklift operator, that he was responsible for too much broken pipe and failure to repair and grease his machine, and Fry, another forklift operator, that he was neglecting maintenance work on his machine.

With respect to Frank Leech, Reigle's reason for not recalling him was stated as a refusal to work overtime on one occasion without reason.

Reigle testified that his specific reasons for not recalling George Hall were that Hall was a griper and slowed down on his work. Hall was a wire bender and his job was to shape the wire for later installation in the pipe. Reigle explained that when the employee got ahead in the fabrication of wire he was supposed to help on other jobs, such as loading pipe. He said Hall did not want to load pipe, griped about it, and slowed down his production so that he would not have to do the more arduous tasks. Reigle testified that he had heard about Hall's attitude about heavy work and his slowing down from employee Temple, but he admitted that he had never talked with Hall about that particular problem. Reigle also testified that he was "absolutely" aware that production was being slowed down in the summer and fall of 1962 having heard of it from employees Miller, Blee, and Haines.

According to Reigle, the quality of the product and the morale of the men is now much better than it was in the summer and fall of 1962. He was not able to attribute the improvement in quality to any specific factor, however, but stated that the employees now ". . . listen to what I tell them, and they do so as I tell them to do. And that's about all I can attribute it to."

Reigle did not deny that he interrogated the employees about signing union cards and made the statements about closing the plant, as set forth above, but he testified that he did not ask any employee how he had voted in the election and did not know how they had when he rehired employees in 1963, after the winter layoff.

Emerson Miller, the machine operator, was a witness for the Company. He testified that the quality of the final product is better today than it was in the summer and fall of 1962 because at that time there were too many pieces of pipe sent back by customers. He also said that the quality of the mix is better than it was in 1962.[2] Regarding forklift operators Willard Miller and Dean Fry, he said he spoke to them a number of times about not maintaining their equipment properly. Emerson Miller is also in charge of machine maintenance, including the forklifts, which he performs after work and on Saturdays. He is not a supervisor.

Robert Blee, who occupies the job formerly held by Karschner, testified that he had heard Karschner say the employees had better slow down or they would be laid off in the winter. Employee Howard Haines, who is now doing wire bending in Hall's place, testified that he too heard Karschner make the same kind of remark sometime in June 1962. He also stated that George Hall did not like to load trucks but that he did not actually complain about it.

B. *Analysis, additional findings, and conclusions*

In my opinion, General Counsel made out a strong *prima facie* case of discriminatory refusal to recall five active unionists after the seasonal layoff. Respondent's marked animus was established by Reigle's interrogation of employees and threats to close the plant if the employees voted the Union back in. The elimination of 5 employees, including all the officers of the local union, the employee who obtained the cards, and Leech, the "radical unionist," who Reigle did not think it worthwhile talking to, taken in connection with their years of satisfactory service, would make out the violation unless, of course, Superintendent Reigle is to be believed in his testimony that he was motivated in his selection of these 5 employees out of the group of 16, solely because, in his judgment, the 5 were responsible for a decline in the quality of the product, a slowdown in production, and bad morale among the employees. I do not think, however, Reigle was a credible witness, and I do not accept his testimony.

In the first place, Reigle's handling of employees from a simple supervisory point of view when he thought some of them were deliberately slowing down production, is incredible. In Hall's case, for instance, Reigl said he was a griper and slowing down. Although Reigle said he saw Hall slow down he never warned him or spoke to him about it even though it had been going for a year and a half. If it had been going on for that length of time, then Reigle rehired the employee after the purchase with that knowledge and never cautioned him to correct his habits thereafter. In addition, Reigle, in an affidavit given the Board investigator, stated that he had never caught Hall in the act of slowing down but on the stand he testified that he had. He also said employee Temple told him that Hall was slowing down because he did not want to be assigned loading work, but Temple, who showed no animus towards Respondent and is still employed, credibly denied making such a statement. Finally, in his testimony about Hall, Reigle displayed a tendency to downgrade even good characteristics of employees and exaggerate their roles in the quality objective. When asked, under cross-examination, if Hall's work had anything to do with quality, he suggested that it might, and that if Hall did not understand his business, quality could be affected. Asked if Hall understood his business, he said he could not answer, but being pressed by General Counsel admitted Hall made good wire.

Hall denied that he had ever told an employee to slow down. He admitted that he grumbled about loading pipe, which was hard work, but stated he never refused to do the assigned work. Hall tried to get a job as watchman with the Company in the spring of 1962 because the work was easier, but Reigle persuaded him to remain on his job as wire bender because of his special knowledge, and promised

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[2] Employee Clyde Temple also testified that he thought the quality of the product declined in 1962 but was better at the time of the hearing. He said, however, that no one in particular was responsible for it, but it might have been caused by bickering and friction between the Union and nonunion factions. He also recalled that there were rumors around the time of the election in 1962 that the Company was not in favor of the Union and there was a possibility that the men would be out of work if the Union were successful. He said there was no talk of unions among the men now. The Company presented no records of any kind to support its contention that quality is significantly better now, and I think it extremely unlikely that it is. If, however, there was some inattention to work, and if morale had deteriorated, thereby affecting the quality of the work, it may just as logically be attributed to fear of unemployment instilled by Reigle's interrogation and threats. Similarly, if there is no talk of unions today at the plant, one need look no farther for a reason than the elimination of five union activists.

to obtain a raise for Hall. Later Hall got a 5-cent an hour raise. I find that Hall did not slow down, did not advocate a slowdown, and that Respondent was not motivated in refusing to recall Hall based upon any such considerations.

Reigle's testimony about employee Leech illustrates not only Reigle's lack of candor but the petty and pretextual nature of reasons assigned by Respondent for its refusal to recall employees. On direct, Reigle gave as his reason for not recalling Leech the employees' refusal to work overtime. Under cross-examination he added that the employee was also a griper and that he "was always a griper." Reigle said that he would ask the employee to work overtime and he would refuse. It appeared, however, that the employee refused to work overtime on only one occasion, and Reigle could not even remember the time of year in which it occurred. Leech, in addition, to his testimony set forth above, testified that there had been no criticisms of his work or reprimands. I find that Leech's refusal of overtime was not Respondent's reason for not recalling him.

I do not credit Reigle in his testimony that Karschner was not recalled because he had been making improper mixes. Reigle said he noticed the faulty work about the time of the election in June 1962, and that he brought the matter to Karschner's attention three or four times without getting any real improvement. Karschner denied that there had been any unusual criticisms of his work. It appears from the testimony of Karschner, as well as Robert Blee, the inexperienced employee who replaced him, that preparation of a mix is somewhat experimental in nature. After the gravel, cement, and sand are combined, water is added in an amount which is determined by the texture of the material in the mix and the judgment of the operator. Frequently the mix is too wet or dry and has to be changed. Blee said that Reigle inspects the first run each morning and makes suggestions about its quality. If the first batch is satisfactory the employee tries to run according to that formula all day. He conceded that a great deal of guess-work is involved. In these circumstances, Reigle's three or four criticisms of Karschner's work in the period of June to December hardly seem abnormal. I also find that any suggestion that Karschner was not called back because he told other employees to slow down is an afterthought even if it happened. Reigle did not put this information in a statement he gave the Board although he was asked for his reasons for replacing Karschner. In addition, even though Reigle was supposedly informed about Karschner's action, he never brought the matter to the employee's attention before the layoff.[3] Reigle's testimony about Karschner's supposed encouragement of a slowdown is another example, in my view, of Reigle's attempt to inflate, after the event, anything he could discover or recall about employee conduct prior to the layoff.

Willard Miller and Dean Fry, the forklift operators, have been replaced by inexperienced employees, as have the other three complainants. I reject Reigle's testimony that they were incompetent. Reigle first testified on direct examination that Fry's defect was improper maintenance of his machine, but under cross-examination he added that Fry was also a griper and slowed down on his work. Here again, in my opinion, was an example of Reigle's enthusiastic exaggeration of employee conduct to order to buttress his decision. Fry testified credibly that he never was warned about poor work or reprimanded for not doing his job properly. He admitted that Emerson Miller, the machine perator who is not a supervisory employee, criticised him for not attending properly to his forklift, but he had never been told to take orders from Miller. I accept Fry's testimony that he attended to his machine when he had the time, and there is no evidence in the record that he slowed down or was responsible in any way for any condition affecting morale. I also accept Willard Miller's testimony that he properly took care of his equipment, and I credit his explanation that any pipe he broke was normal. I find in the cases of these two employees, as in the cases of the others, that the reasons assigned by Respondent for its failure to employ them in February 1963 were not the real reasons.

There can be no question that Respondent knew who the active union employees were, for the size of the plant, Reigle's intense efforts to find out about the Union's efforts to reorganize, his statement to Miller that he had lied about the Union because Reigle had found out about it, and his labeling of Leech as a "radical unionist," all point in that direction. I conclude that Respondent, armed with such

[3] When Reigle was asked by General Counsel why he took the word of two employees that Karschner had advocated a slowdown and did not ask Karschner about it when Karschner had been employed for 16 or 17 years and the others were new employees, he said the employees had been there for ". . . about a year and a half, two years." It appears, however, that the employees had been employed a matter of months, not years, at the time.

knowledge and fearful that a new election might result in union organization which it opposed, took advantage of the normal layoff to remove the union threat by eliminating a majority of the union adherents. By not recalling George Hall, Leonard Karschner, Willard Miller, Frank Leech, and Dean Fry, Respondent discriminated against them and engaged in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act as alleged in the complaint.[4]

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICE UPON COMMERCE

The activities of the Respondent set forth in section III, above, occurring in connection with the operations of the 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 unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that Respondent discriminated against George Hall, Leonard Karschner, Willard Miller, Frank Leech, and Dean Fry in violation of Section 8(a)(1) and (3) of the Act, it will be recommended that Respondent cease and desist therefrom and offer said employees reinstatement to their former or substantially equivalent positions, without prejudice to their seniority and other rights and privileges, and make them whole for any loss of earnings they may have suffered by reason of the discrimination against them, by payment to them of a sum of money equal to that which they would have earned as wages from the date of discrimination against them to the date of the offer of reinstatement less interim earnings, and in a manner consistent with Board policy set out in *F. W. Woolworth Company*, 90 NLRB 289. Interest on backpay shall be computed in the manner set forth in *Isis Plumbing & Heating Co.*, 138 NLRB 716.

It will also be recommended that Respondent preserve and make available to the Board, upon request, payroll and other records to facilitate the computation of backpay.

It will be further recommended, in view of the nature of the unfair labor practices the Respondent has engaged in, that it cease and desist from infringing in any manner upon the rights guaranteed employees by Section 7 of the Act.

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

CONCLUSIONS OF LAW

1. The Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of the Act.
3. By discriminating in regard to the hire and tenure of employment of George Hall, Leonard Karschner, Willard Miller, Frank Leech, and Dean Fry, thereby discouraging membership in the Union, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices within the meaning of Section 2(6) and (7) of the Act.

RECOMMENDED ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, it is recommended that the Respondent, Williamsport Newcrete Products Co., Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discriminating in respect to the hire and tenure of employment of George Hall, Leonard Karschner, Willard Miller, Frank Leech, and Dean Fry, or any other employee, for the purpose of discouraging membership in District 50, United Mine Workers of America, or any other labor organization.

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[4] I do not find a violation of Section 8(a)(1) of the Act in Reigle's interrogation and threats since the acts were not alleged as violations because they occurred more than 6 months prior to the charges and are barred under Section 10(b) of the Act.

(b) In any other manner interfering with, restraining, or coercing employees in the exercise of their rights as guaranteed by Section 7 of the Act.

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

(a) Offer the above-named employees immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed, and make them whole for loss of pay in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board and its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records needed to analyze and compute the amount of backpay and the right to reinstatement under the terms of this Recommended Order.

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

(d) Notify said Regional Director, in writing, within 20 days from the date of receipt of this Decision and Recommended Order, what steps it has taken to comply herewith.[6]

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[5] In the event that this Recommended Order be adopted by the Board, the words "A Decision and Order" shall be substituted for the words "The Recommended Order of a Trial Examiner" in the notice. In the further event that the Board's Order be enforced by a decree of a United States Court of Appeals, the words "A Decree of the United States Court of Appeals, Enforcing an Order" shall be substituted for the words "A Decision and Order."

[6] In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order, what steps Respondent has taken to comply herewith."

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order 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 discourage membership in District 50, United Mine Workers of America, or any other labor organization, by discharging or refusing to reinstate any of our employees, or in any manner discriminating in regard to their hire or tenure of employment.

WE WILL offer George Hall, Leonard Karschner, Willard Miller, Frank Leech, and Dean Fry immediate and full reinstatement to their former or substantially equivalent positions, and make them whole for loss of pay suffered as a result of the discrimination against them.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exercise of rights guaranteed them in Section 7 of the Act, except to the extent that such rights 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.

WILLIAMSPORT NEWCRETE PRODUCTS CO., INC.,
Employer.

Dated_____ By_____
(Representative) (Title)

NOTE.—We will notify the above-named employees if presently serving in the Armed Forces of the United States of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act of 1948, as amended, after discharge from the Armed Forces.

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

Employees may communicate directly with the Board's Regional Office, 1700 Bankers Securities Building, Walnut and Juniper Streets, Philadelphia, Pennsylvania, Telephone No. 735–2612, if they have any questions concerning this notice or compliance with its provisions.

International Harvester Company, Wisconsin Steel Works *and* Harvester Guards Union, Petitioner. *Case No. 13–RC–8963. February 13, 1964*

DECISION AND ORDER GRANTING MOTION TO REVOKE CERTIFICATION

Pursuant to a stipulation for certification upon consent election executed by the parties herein on November 1, 1962, an election was conducted in the above-entitled proceeding, and on November 20, 1962, the Regional Director for the Thirteenth Region issued a certification of representative, certifying the Petitioner as the collective-bargaining representative for an appropriate unit of the Employer's guards at its Wisconsin Steel Works in Chicago, Illinois.

On July 15, 1963, the Employer filed a motion requesting order rescinding certification, alleging that, by certain conduct, the Petitioner had become indirectly affiliated with Local 743, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, a union admitting to membership employees other than guards; and, therefore, the Petitioner was not entitled to Board certification pursuant to Section 9(b)(3) of the National Labor Relations Act. On August 2, 1963, the Petitioner filed a response in opposition to the Employer's motion. On August 14, 1963, the Employer filed an affidavit in support of its motion.

On August 16, 1963, the Board, after duly considering the matter, issued an order remanding the proceeding to the Regional Director for the purpose of conducting a hearing on the issues raised by the Employer's motion and the Petitioner's opposition thereto. On September 24, 1963, a hearing was accordingly held before Hearing Officer Jerry P. Clousson. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Briefs were thereafter filed by the Employer and the Petitioner.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers herein to a three-member panel [Members Leedom, Fanning, and Brown].

Upon the entire record in this case, including the briefs,[1] the Board finds:

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[1] Both parties requested oral argument. As the record and briefs in our opinion adequately present the issues and the positions of the parties, the requests for oral argument are denied.