

motive Mechanics Lodge 1060, AFL-CIO; or in any other labor organizations, by discriminating with respect to employees' hire, tenure, and terms and conditions of employment.

WE WILL offer to the following employees immediate and full reinstatement at the Irwin garage, without prejudice to their seniority or other rights and privileges:

James Ball	John Schoop	Herman Van Horn
Harry Aiello	James Elynyczky	Joseph Cain

WE WILL accord to the above-named six employees and to the following five employees the terms, conditions, and employment status, including wages and seniority, which they would have had, absent the discrimination against them:

Seymour Hollander	Abraham Small	Gerald Hopp
Walter Alockney	John Alockney	

WE WILL make whole the above-named 11 employees for any loss of earnings, including pay for Armistice Day holiday, incurred as a result of the discrimination against them.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right is affected by the provisos in Section 8(a)(3) of the Act.

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

SCHREIBER TRUCKING COMPANY, INC.,
Employer.

Dated _____ By _____
(Representative) (Title)

NOTE.—In the event any of the above-named employees are presently serving in the Armed Forces of the United States we will notify them 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, 2107 Clark Building, 701-17 Liberty Avenue, Pittsburgh, Pennsylvania, Telephone No. Grant 1-2977, if they have any question concerning this notice or compliance with its provisions.

Metalab-Labcraft, Division of Metalab Equipment Company and District 50, United Mine Workers of America. Case No. 6-CA-2856. August 31, 1964

DECISION AND ORDER

On May 28, 1964, Trial Examiner Sidney S. Asher, Jr., issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices in violation of the Act and recommending that Respondent cease and desist therefrom and take certain affirmative action, as set forth in the attached Decision. Thereafter, Respondent filed exceptions to the

Trial Examiner's Decision and a supporting brief, and the General Counsel filed a brief in answer to the Respondent's exceptions and brief.

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

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 and the entire record in this case, including the Respondent's exceptions and brief and the General Counsel's reply thereto, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.¹

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the Board hereby adopts as its Order, the Order recommended by the Trial Examiner and orders that Respondent, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order.

¹ We find no merit in the Respondent's contention that the entry of an Order and posting of notices would serve no useful purpose, since the Charging Union herein subsequently lost a Board-conducted representation election and another union has been certified as the collective-bargaining representative of the Respondent's employees. The Board's Order herein is designed to serve preventive as well as remedial purposes. See *American Sheet Metal Works*, 106 NLRB 154, 155. We further find that the Order as recommended by the Trial Examiner is appropriate to the violations found.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

On September 25, 1963, District 50, United Mine Workers of America, herein called the Union, filed charges against Metalab-Labcraft, Division of Metalab Equipment Company, Beverly, West Virginia, herein called the Respondent. Amended charges were filed on November 26, 1963. On November 27, 1963, the General Counsel¹ issued a complaint alleging that since on or about September 19, 1963, the Respondent, by certain specified conduct, had interfered with, restrained, and coerced its employees, and that from on or about September 25 to on or about October 3, 1963, the Respondent transferred five named employees² to less desirable and more onerous work assignments because of their membership in and activities on behalf of the Union, because they engaged in concerted activities, and in order to discourage membership in the Union. It is alleged that this conduct violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended (61 Stat. 136), herein called the Act. Thereafter the Respondent filed an answer denying the commission of any unfair labor practices.

Upon due notice, a hearing was held before Trial Examiner Sidney S. Asher, Jr., on January 6, 1964, in Elkins, West Virginia. All parties were afforded opportunity to participate fully in the hearing. At the close of the General Counsel's case, the Respondent moved to dismiss paragraph 6-a of the complaint for lack of substantiating evidence. The motion was granted without objection. After the close of the hearing, the General Counsel and the Respondent filed briefs, which have been duly considered.

¹ The term "General Counsel" refers to the General Counsel of the National Labor Relations Board and his representative at the hearing.

² Bruce Bowers, Jr., Wesley Dodrill, Gaylord Kittle, John Snoderly, and Dorsey Wiseman.

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

FINDINGS OF FACT

The complaint alleges, the answer admits, and it is found that the Respondent is, and at all material times has been, an employer engaged in commerce as defined in the Act, and its operations meet the Board's jurisdictional standards;³ and that the Union is, and at all material times has been, a labor organization within the meaning of the Act.

A. *The Union's campaign*

On August 17, 1959, the Board certified the United Brotherhood of Carpenters and Joiners of America, Local 2689, AFL-CIO, herein called the Carpenters, as the bargaining representative of the Respondent's production and maintenance employees at its Beverly, West Virginia, plant. The Carpenters has served in that capacity ever since.

During the first week in September 1963, the Union commenced an organizing campaign among the Respondent's employees at the Beverly plant, designed to supplant the Carpenters as their bargaining agent. On September 18, 1963, the Union filed with the Board a petition in Case No. 6-RC-3417, seeking to represent these employees.⁴ On September 22, 1963, the Union, at a meeting away from the plant, distributed to the employees white buttons about 1½ inches in diameter on which appeared in red and blue lettering the slogan: "Vote for District 50 U.M.W.A." Within the next few weeks, approximately 15 to 20 percent of the employees wore such badges in the plant. At that time there were about 100 to 105 employees working there.⁵

We are concerned here only with events which took place in September and early October 1963, during the Union's preelection campaign.

B. *The black phenolic department*

The black phenolic department at the Respondent's Beverly plant is under the supervision of the finishing foreman, James K. Reynolds. In September and October⁶ there were four employees regularly assigned to work in the black phenolic department. During the Union's campaign three of these four employees wore union buttons in the plant.

In the black phenolic department a paint composition (black, brown, or green) is applied to table tops, then the table tops are scuff sanded two or three times to make them smooth, using a compressed air sander. The sanding job requires very little training or skill. The paint composition has a sulphuric acid base which can irritate the skin. According to Lee Young, one of the employees regularly assigned there, the black phenolic paint "itches you pretty bad." Robert Martin, who was assigned to work there for 3 days, testified that "it can cause your eyes to swell shut." Dorsey Wiseman, an alleged discriminatee who was assigned to work there for 2 days, testified that he "broke out in a rash up over my arms" 1 or 2 days later. Bruce Bowers, Jr., likewise an alleged discriminatee, who worked there only 1 day, testified that he "broke out with a rash a couple of days afterwards and had it for about a week and a half." In addition, the job is a dirty one when black phenolic finish is being used. Bowers testified: "You can come out of a coal mine looking cleaner after eight hours." Gaylord Kittle, another alleged discriminatee who spent 13 days in the black phenolic department, testified that he "ruined a pair of pants and eight T-shirts on the job." Five of the General Counsel's witnesses described the work, respectively, as follows: "Without a doubt it's the worst job and the dirtiest in the plant"; "It's the dirtiest job in the place"; "It's the dirtiest job I have ever encountered in my five years there"; "It is a very dirty job"; and "It's the worst, dirtiest

³ The Respondent is, and at all material times has been, a Minnesota corporation with its principal office in Hicksville, New York. It operates a facility at Beverly, West Virginia, where it is engaged in the manufacture of wooden furniture and laboratory equipment. The Respondent annually ships goods valued at more than \$50,000, from its West Virginia plant to destinations outside that State.

⁴ Pursuant to a Decision and Direction of Election, an election was conducted among these employees on January 24, 1964 (after the hearing in the instant case), to determine whether they desired to be represented for the purposes of collective bargaining by the Carpenters, by the Union, or by neither. The Carpenters won and was certified on May 22, 1964.

⁵ These figures are based upon an estimate given by John Snoderly, an alleged discriminatee and a witness for the General Counsel.

⁶ All dates hereafter refer to the year 1963, unless otherwise noted.

job in the plant” In view of the above I conclude, in agreement with the General Counsel, that work in the black phenolic department is less desirable and more onerous than work elsewhere in the plant

C *Interference, restraint, and coercion*

1 By Lee Chewning

The complaint alleges, and the answer admits, that at all material times Lee Chewning was the Respondent's maintenance foreman and a supervisor within the meaning of the Act The complaint further alleges, and the answer denies, that on or about September 20 Chewning stated that “employees would be out of work if the Union was successful in securing representation rights”

On September 20 Young took a metal hood to Chewning's office for repair Young was wearing a button proclaiming “Member of District 50”⁷ Employees Norman Singleton and Eddie Dent were present Chewning asked Young if he were a District 50 man, and Young replied that he was Chewning stated that was the silliest thing he had ever heard of, that if District 50 came into the plant “there would be a lot of men out of work” Young answered that he did not care, adding “We ain't got nothing as it is, we might as well make a change We can't do any worse than we've got” At this point Chewning was called out of the office to answer a telephone call, Young waited for the hood to be repaired When Chewning returned he repeated that it was “silly to vote for District 50, that if District 50 got in there would be a lot of men out of work” Young responded “I'll vote for [District] 50, I'm a [District] 50 man What we've got ain't worth nothing and we can't hurt ourselves by voting for [District] 50 I'm voting for [District] 50”⁸

The Respondent characterizes Chewning's statements to Young as “ambiguous in meaning” I cannot agree Nor is it in any way significant that Chewning was not Young's supervisor I conclude that by twice warning Young on September 20 that victory for the Union would result in unemployment for “a lot of men,” Chewning threatened economic reprisal for protected concerted activities, namely, support of the Union This conduct violated Section 8(a)(1) of the Act

2 By James K Reynolds

The complaint alleges, and the answer admits, that at all material times James K Reynolds was foreman of the Respondent's finishing department and a supervisor within the meaning of the Act The complaint further alleges, and the answer denies, that on or about September 25 and 30 Reynolds threatened “employees with reprisals if they supported the Union”

On or about September 23 or 24, Reynolds approached Robert Martin, a sprayer, while Martin was at his work station Reynolds said that a letter had come in from the Respondent's main office in Hicksville stating “that the Company couldn't work under District 50, that they would move out” Reynolds also asserted “that anyone wearing a District 50 badge would be put in the black phenolic department” Martin made no reply⁹ It is concluded that in this conversation Reynolds twice threatened economic reprisals against employees who supported the Union He thereby violated Section 8(a)(1) of the Act

For some time prior to September, Martin had been pressing Reynolds and Charles Beduhm, the plant manager, for a raise in pay After the Union filed its representation petition, Reynolds informed Martin that Beduhm had stated that there would be no more raises in the plant until “this District 50 business was over”¹⁰ On Septem-

⁷ As noted previously, the buttons reading “Vote for District 50 U M W A” were not distributed until September 22 Young had obtained his button (which contained a different motto) at an earlier date

⁸ The findings of fact regarding this conversation are based upon Young's testimony Neither Singleton nor Dent was called to testify by either party Chewning denied that such a conversation took place His denial was not convincing and is not credited

⁹ The findings of fact with regard to this conversation are based upon Martin's testimony Reynolds denied stating that anyone who wore a District 50 badge would be transferred to the black phenolic department or that there was a letter from Hicksville stating that the Respondent would not work under District 50 and would move out Reynolds did not impress me as a reliable witness, his denials in this respect are not credited

¹⁰ The findings of fact regarding this conversation are based upon a synthesis of the testimony of Martin and Reynolds The General Counsel does not contend that such a statement by Reynolds violated the Act

ber 30 Martin came to work wearing a union badge Reynolds remarked "I see you are a District 50 man" Martin replied "Yes" Reynolds then said "You've fouled yourself up and the old man'll never give you a raise again" Martin answered that he was "a District 50 man until something better came along" and added that he "didn't see that anything better was coming"¹¹ It is concluded that on September 30 Reynolds informed Martin that his adherence to the Union had caused him to forfeit a benefit, and that such conduct violated Section 8(a)(1) of the Act

3 The Respondent's union animus

Late in August, Beduhm remarked to Bowers that "the plant could work under any union or no union at all," and that the Respondent "didn't care which union the men had, it was up to them" This incident, however, took place before the Union began its campaign to unseat the Carpenters The attitude of indifference exhibited in August apparently underwent a substantial change in September after the Union commenced its organizing efforts Thus, in mid-September, John Snoderly, a sprayer, asked Reynolds "If District 50 gets in, what do you think?" Reynolds responded "You are heading for a lot of trouble"¹² And, as found above, the Respondent made certain threats to employees on September 20, 23 or 24, and 30 These threats clearly revealed the Respondent's union animus I conclude that since mid-September 1963 the Respondent has displayed an attitude of animosity toward the Union This conclusion is not related critically, but merely as a statement of fact The Respondent had, of course, a legal right to prefer the Carpenters and to show antagonism toward the Union, so long as it took no action proscribed by the Act¹³ But, as the United States Court of Appeals for the Fifth Circuit has said "Antiunion bias and demonstrated unlawful hostility are proper and highly significant factors for Board evaluation in determining motive"¹⁴ Let us bear this in mind as we now consider the final issue in the case, namely, the temporary transfers of Bowers, Dodrill, Kittle, Snoderly, and Wiseman to the black phenolic department

D The transfers into the black phenolic department

1 Facts

Dorsey Wiseman, a shaper operator, has been employed by the Respondent since July 1958 Prior to September 1963 he had never been assigned to the black phenolic department On September 25, at 7 a m (his regular starting time), Wiseman came to work wearing a District 50 button About 8 30 a m that day Wiseman's foreman transferred him to the black phenolic department Wiseman worked in the black phenolic department the remainder of that day, presumably in addition to the four employees regularly employed there He resumed working there the following morning, September 26 About 11 a m that day Wiseman removed his union button About 1 p m Wiseman's foreman transferred him out of the black phenolic department He has not been assigned there since then, nor has he worn any union badge since that time On September 25, at 8 30 a m, when Wiseman went into the black phenolic department, there was work remaining at his regularly assigned job, operating the shapers During the approximately 1½ days that Wiseman was in the black phenolic department, at least three other employees from time to time operated the shapers—Wiseman's normal job Wiseman sustained no loss of pay

Bruce Bowers, Jr, and Wesley Dodrill are case clamp operators and work together as a team Bowers has been working for the Respondent since October 1957 and Dodrill since September 1959, until September 1963 neither had ever been assigned to the black phenolic department Both came to work on September 23 wearing District 50 buttons On the morning of September 26 there was work remaining for them to do at their regularly assigned job When they reported in

¹¹ The findings of fact pertaining to this conversation are based upon the testimony of Martin Reynolds denied mentioning the District 50 badge to Martin His denial in this regard was not convincing and is not credited

¹² This finding of fact is based upon Snoderly's uncontradicted testimony Compare the Board's treatment of "You are going to get into trouble" in *Continental Motors, Inc* 145 NLRB 1075

¹³ *NLRB v T A McGeahy, Sr, et al, d/b/a Columbus Marble Works*, 233 F 2d 406, 409 (CA 5)

¹⁴ *NLRB v Dan River Mills, Incorporated, Alabama Division*, 274 F 2d 381 384 (CA 5)

that morning, their foreman directed them to go to the paint room. They proceeded toward a door leading to the clear finish booth. Reynolds saw them and said: "Surely you don't think you are going to work in there." Reynolds then put them to work in the black phenolic room where, as noted above, Wiseman had already been assigned. Junior DeLauder, an employee regularly assigned to the black phenolic department, and the only employee so assigned who was not wearing a union button, was transferred out; even so with Wiseman, Bowers, and Dodrill added, the black phenolic department had two more workers that day than normally. At the end of the workday Bowers and Dodrill were transferred back to their regular jobs; they have not been assigned to the black phenolic room since then. They suffered no loss of pay.

Gaylord Kittle, an assembler, has been employed by the Respondent since June 1960. Until September 1963 he had never been transferred to the black phenolic department. Kittle first wore a union button in the plant on September 23 but took it off the same day. He again put the badge on at work at 7 a.m. on September 30. At 7:30 a.m. that day Kittle's foreman transferred him to the black phenolic department. At the time there was work available for Kittle at his regularly assigned job. At noon that day Kittle complained to Webley, the plant superintendent, that the transfer was not in accordance with seniority. Webley replied: "You don't run the damn place here. I run it." Kittle remained in the black phenolic department for 13 days; he did not lose any pay. At an undisclosed time, Webley warned Kittle: "You want to watch yourself, we are watching you. You stand a real good chance of getting to go down the road."

John Snoderly, a sprayer, first came to work for the Respondent in August 1958. Until September 1963 he had never been assigned to the black phenolic department. Snoderly wore a union button to work on September 30. About 7:30 a.m. Reynolds talked to Snoderly and observed the badge, but said nothing about it. That afternoon Reynolds transferred Snoderly to the black phenolic department, where Kittle had already been working for several hours, as described above. At the time, there was work remaining to be done at Snoderly's regularly assigned job. At the same time Snoderly was transferred into the black phenolic department DeLauder, a regular employee of that department, was transferred elsewhere. As noted above, DeLauder was the only employee of the black phenolic department who did not wear a union button. Snoderly remained in the black phenolic department for 8 days; his pay was not reduced.¹⁵

2. Contentions and conclusions

The complaint alleges, and the answer denies, that from about September 25 to October 3 the Respondent transferred the five named employees "to less desirable and more onerous work assignments" because of their support of the Union, and to discourage membership in the Union. It has been found above that the work of the black phenolic department was "less desirable and more onerous" than the work elsewhere in the plant. And, despite the blanket denial in the answer, the Respondent appears to concede that the five named individuals were in fact employees and were in fact transferred to the black phenolic department about the dates set forth above, at times when they were openly displaying on their persons symbols of their support for the Union. The only substantial issue raised in this regard is the Respondent's *motive* in making the transfers in question. The General Counsel maintains—and the burden of proving it is his—that the Respondent was motivated by a desire to defeat the Union's attempt to organize the plant. Conversely, the Respondent argues that the transfers were made in the interest of plant efficiency and without regard to union badges or affiliation.

In the context of the Respondent's union animus, a consideration of the timing of these transfers—all five promptly after the transferee first wore a union badge—established a pattern which cannot be adequately explained as mere coincidence and which compels a conclusion that, *prima facie* at least, the General Counsel has established the Respondent's illegal and antiunion motivation. And this conclusion is strengthened when DeLauder's treatment is considered. What defense, then, does the Respondent raise against this *prima facie* case?

The Respondent points out that it manufactures standard cabinets and also special cabinets, so that there is an uneven ebb and flow of work throughout the plant, depending upon the type and number of orders on hand. We may assume this to be the case. Furthermore, the record shows that it is customary for the Respondent's per-

¹⁵ Robert Martin, a sprayer who wore a union button to work, was also thereafter temporarily assigned to the black phenolic department. His transfer is not mentioned in the complaint, and the General Counsel does not contend that it was discriminatory.

sonnel to be shifted about temporarily from one department to another as the need arises. But the record also indicates that prior to September 1963, all temporary transfers into the black phenolic department had been on a voluntary basis, and had involved Saturday work or overtime.

Reynolds testified that in late September the workload in the black phenolic department "was more heavy than usual." However, this was not corroborated by any production records, or any indication of overtime work in the department. Moreover, Reynolds admitted that despite this he had temporarily transferred out of the department one of its regular employee, DeLauder.¹⁶ Moreover, Young, an employee regularly assigned to the black phenolic department, testified:

Q. On occasions do they assign other employees to this Department?

A. Before, on overtime on their own free will. Since this District 50 trouble they have brought a couple of men in for a day or more, then they will take them out and a couple more would be in. In my 3½ years there I've never seen it like this before.

Q. You never saw assignments like that to this Department until September of this year?

A. That's right, not like that.

* * * * *

Q. During September of 1963, was there an abundance of work in this Department?

A. There was no more than usual, I mean, before, we have had more work before piled in there and they never did give us any help. But as soon as this union trouble came on we had all the help we wanted, too much, and now we're out of work and there's nothing to do when we go back.

I am convinced, and find, that Reynold's testimony on this subject is unreliable, that in fact there was no legitimate need to transfer additional men into the black phenolic department at the time, and that the alleged "build up" of work in that department at that time was contrived.

But even assuming, contrary to the above, that there was a genuine temporary need for more men in the department at the time in question, this does not explain the choice of the individual workers who were transferred. Reynolds testified that some were selected by different foremen and not by him. But the issue is not *who* selected them, rather it is *on what basis were they selected?* As there were only about 15 to 20 employees who wore union badges in the plant, of whom 3 were already permanently assigned to the black phenolic department, it is significant that at least 6 of the remaining ones (the 5 named in the complaint plus Martin) wound up being chosen for less desirable work, even though each had work to do at his regularly assigned job. Moreover, the record contains no probative evidence that any employee who did not wear a union button was transferred into the black phenolic department during this period of supposed need for additional men there. Indeed, the opposite appears—DeLauder was transferred out—a transfer consistent with the General Counsel's theory that generally those who wore buttons were punished by being transferred in, while those who did not wear badges were rewarded by being transferred out. Finally, there is the incident involving Wiseman, who was relieved from his assignment shortly after he removed his union button. This fits neatly into the jigsaw puzzle and the entire plan emerges: The threat made earlier by Reynolds to Martin, that employees who wore District 50 badges would be put in the black phenolic department, was carried out, at least partially. I am convinced and find on the entire record that the five transfers in question were illegally motivated, as alleged in the complaint, and therefore violated Section 8(a)(1) and (3) of the Act.¹⁷

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

CONCLUSIONS OF LAW

1. Metalab-Labcraft, Division of Metalab Equipment Company, is, and at all material times has been, an employer within the meaning of Section 2(2) of the Act.

¹⁶ Reynolds explained that DeLauder was needed "in the Finishing Department to help scuff sand and to do some odd jobs." I am not convinced by this explanation, especially as Reynolds admitted that there were other employees in the plant who had experience scuff sanding and who could have been temporarily transferred into the finishing department instead of DeLauder.

¹⁷ At the hearing the General Counsel attempted to show that the transfers in question were not made in accordance with seniority. He did not argue orally at the hearing and his brief makes no mention of seniority. In any event, the record fails to demonstrate that any seniority system existed or was utilized in the plant.

2. District 50, United Mine Workers of America, is, and at all material times has been, a labor organization within the meaning of Section 2(5) of the Act.

3. By discriminating in regard to the work assignments of Bruce Bowers, Jr., Wesley Dodrill, Gaylord Kittle, John Snoderly, and Dorsey Wiseman, thereby discouraging membership in the above-named labor organization, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) of the Act.

4. By the foregoing conduct, and by other conduct interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed them in Section 7 of the Act, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

5. The above-described unfair labor practices tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce, and constitute unfair labor practices affecting commerce 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, and upon the entire record in this case, I hereby recommend that Metalab-Labcraft Division of Metalab Equipment Company, Beverly, West Virginia, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in District 50, United Mine Workers of America, or any other labor organization, by discriminating against its employees in regard to their work assignments or any other terms or conditions of their employment.

(b) Threatening its employees with reprisal because of their membership in, sympathy for, or activity on behalf of any labor organization, or if they should choose any labor organization to represent them for the purposes of collective bargaining.

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed them in Section 7 of the Act, except as permitted by Section 8(a)(3) of the Act, as amended.

2. Take the following affirmative action which it is found will effectuate the policies of the Act:

(a) Promptly upon receipt from the Regional Director for Region 6 of copies of the attached notices marked "Appendix,"¹⁸ cause such copies to be signed by its representative and posted in conspicuous places at its factory in Beverly, West Virginia, including all places where notices to employees are customarily posted. Such posting shall be maintained for 60 consecutive days, during which reasonable steps shall be taken to insure that such notices are not altered, defaced, or covered by any other material.

(b) Notify the said Regional Director, in writing, within 20 days from the receipt of this Decision, what steps the Respondent has taken to comply herewith.¹⁹

¹⁸ If this Recommended Order should 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. If the Board's Order should 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."

¹⁹ If this Recommended Order should be adopted by the Board, this provision shall be modified to read: "Notify the said Regional Director, in writing, within 10 days from the date of this Order, what steps the 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, you are notified that:

WE WILL NOT discourage membership in District 50, United Mine Workers of America, or any other union, by discriminating against our employees in regard to their work assignments or any other working conditions.

WE WILL NOT threaten our employees with reprisal because of their membership in, sympathy for, or activity on behalf of any union, or if they choose any union to represent them for the purposes of collective bargaining.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form unions, to join or assist District 50, United Mine Workers of America, or any other union, 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 such activities, except to the extent that such right may be affected by an agreement requiring union membership as a condition of employment, as permitted by Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

All our employees are free to become, remain, or refrain from becoming or remaining, members of the above-named or any other union, except to the extent that such right may be affected by an agreement requiring union membership as a condition of employment as permitted by Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

METALAB-LABCRAFT, DIVISION OF METALAB
EQUIPMENT COMPANY,

Employer.

Dated----- By-----
(Representative) (Title)

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.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Regional Office, 2107 Clark Building, 701-17 Liberty Avenue, Pittsburgh, Pennsylvania, Telephone No. 471-2977.

The Little Rock Downtowner, Inc. and Hotel-Motel, Restaurant Employees Union, Local No. 200, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO. *Case No. 26-CA-1572. August 31, 1964*

DECISION AND ORDER

On February 26, 1964, Trial Examiner A. Bruce Hunt issued his Decision 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 attached Trial Examiner's Decision. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices alleged in the complaint and recommended that such allegations be dismissed. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision and a supporting brief.

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 briefs, and the entire record in this case, and finds merit in the exceptions of the Respondent. Accordingly, the Board adopts the findings of the Trial Examiner only to the extent consistent herewith.