

In the Matter of G. SOMMERS & Co. and WAREHOUSE EMPLOYEES
UNION No. 20297, OF ST. PAUL

Case No. C-285.—Decided March 15, 1938

General Merchandising, Wholesale and Retail—Interference, Restraint, or Coercion: antiunion bulletin circulated among employees; expressed opposition to labor organization—*Company-Dominated Union:* domination and interference with formation of; soliciting membership by supervisory employees during working hours; discrimination in favor of; disestablished as agency for collective bargaining—*Discrimination:* charges of, dismissed.

Mr. Thurlow Smoot, for the Board.

O'Brien, Horn & Stringer, by Mr. E. S. Stringer, of St. Paul, Minn., for the respondent.

Mr. William C. Green, of St. Paul, Minn., for the Association.

Miss Anne E. Freeling, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges duly filed by Warehouse Employees Union No. 20297, of St. Paul,¹ herein called W. E. U., the National Labor Relations Board, herein called the Board, by Robert J. Wiener, Acting Regional Director for the Eighteenth Region (Minneapolis, Minnesota); on July 14, 1937, issued its complaint against G. Sommers & Co., St. Paul, Minnesota, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act, in that the respondent had interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act; had dominated and interfered with the formation and administration of a labor organization known as Warehouse Employees Association Local No. 1,² and contributed financial and other support thereto; and had dis-

¹ Incorrectly designated as Warehouse Employees Union Local No. 20297 in the complaint.

² During the hearing, paragraphs 14, 15, and 17 of the complaint were amended by changing the name Warehouse Employees Association Local No. 1 to Wholesale Employees' Association of St. Paul No. 1.

criminated against Edward Drier, Frank Peiffer, Theodore J. Eckart, James Tart, and Albert F. Heinrich, and thereby discouraged membership in the Union. The complaint and an accompanying notice of hearing thereon were duly served upon the respondent and upon W. E. U.

The respondent filed an answer dated July 19, 1937, in which, in substance, it admitted the allegations in the complaint concerning its incorporation and business, but denied that it had engaged in or was engaging in the alleged unfair labor practices, and asked that the complaint be dismissed.

Pursuant to an amended notice, a hearing was held in Minneapolis, Minnesota, on July 28, 29, and 30, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. At the outset of the hearing, a petition to intervene in this proceeding was filed by Wholesale Employes' Association of St. Paul No. 1, herein called the Association. The Trial Examiner granted this motion, with certain restrictions upon the extent of the intervenor's participation in the proceeding, to which the intervenor agreed.

The Board, the respondent, and the Association were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded the respondent. The Association participated within the scope of the agreed restrictions.

At the close of the hearing, the attorney for the Board moved to conform the pleadings to the proof adduced at the hearing. This motion was granted by the Trial Examiner. The respondent moved to dismiss the complaint on constitutional and jurisdictional grounds. This motion was denied by the Trial Examiner. The respondent also moved for dismissal for failure to prove the unfair labor practices. The Association joined in the motion of the respondent in so far as the complaint alleged that the Association was a company-dominated union. The Trial Examiner reserved his decision on these motions.

On November 6, 1937, the Trial Examiner filed an Intermediate Report denying the motions of the respondent and the Association to dismiss the complaint, and recommending that the complaint be dismissed as to Edward Drier, Frank Peiffer, James Tart, and A. F. Heinrich, but not as to T. J. Eckart. The Trial Examiner found that the respondent had committed unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the Act. Exceptions to the Intermediate Report were thereafter filed by the respondent and the Association.

The Board has reviewed the rulings of the Trial Examiner on motions and on objections to the admission and exclusion of evidence, and finds that no prejudicial errors were committed. These rulings are hereby affirmed. The Board has also reviewed the exceptions

to the Intermediate Report, and finds them without merit except as hereinafter indicated.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, G. Sommers & Company, is a Minnesota corporation, having its principal office and place of business in St. Paul, Minnesota, where it is engaged in the purchase for resale to wholesale and retail dealers of general merchandise, including textile goods, stationery, toys, notions, hardware, enamel ware, galvanized ware, glass ware, crockery, jewelry, sporting goods, candy, floor coverings, draperies, and luggage. The respondent maintains three warehouses for the storage of merchandise and two operating buildings. It employs approximately 440 people.

The respondent purchases more than 95 per cent of its merchandise outside the State of Minnesota, and sells approximately 70 per cent of its goods to customers located outside the State of Minnesota.

The respondent admits that it is engaged in interstate commerce.

II. THE ORGANIZATIONS INVOLVED

Warehouse Employes Union No. 20297, of St. Paul, is a labor organization affiliated with the American Federation of Labor, admitting to membership "warehouse and inside workers" employed by the respondent.

Wholesale Employes' Association of St. Paul No. 1 is a labor organization limiting its membership to all employees of the respondent, exclusive of supervisory employees.

III. THE UNFAIR LABOR PRACTICES

A. *Domination and interference with the Association and discrimination against W. E. U.*

On April 26, 1937, W. E. U. held a mass meeting for all warehouse workers in St. Paul, which was announced to the respondent's employees by passing out handbills³ as they entered the warehouses on their way to work. On April 30 W. E. U. held a "secret" meeting for the respondent's warehouse employees. By that date a substantial number of the respondent's warehouse employees, particularly those employed in the packing room, had become members of W. E. U.

On April 27, the day after the public meeting of W. E. U., P. G. Orr, the respondent's general manager, called on a Mr. McMahon of the Citizens Alliance of St. Paul, an association of employers, for

³ Respondent Exhibit No. 3.

information and advice about the Act. McMahon gave Orr a bulletin⁴ which the Alliance had prepared for general circulation in answer to requests it received for such information. The bulletin, which was in the form of questions and answers, stated that employees are not required to join a union; that an employer is not required to reach an agreement of any nature with a union; that an employee may deal directly with his employer; and that employees may form an organization confined to a single plant or employer.

Orr had these bulletins mimeographed and distributed to the employees on or about Saturday, May 1, 1937. John E. McNally, foreman of the packing room, stood by the time clock at closing time and handed the bulletins to every employee in his department.

The respondent's indication of its attitude toward labor organizations, as expressed in the bulletin, bore immediate fruit. On Monday morning, May 3, an employee committee sprang into being for the purpose of organizing the respondent's employees. The members of this committee were Alfred Ingvalsen, Peter Michaud, Frank C. Selke, and John J. Sager, all four of whom were employed in the packing room, under the supervision of McNally. Ingvalsen was in charge of the local order division, which comes under the packing room. He had a bill clerk under him, and was apparently employed in a semisupervisory capacity. All four of these men had been employed by the respondent for more than 25 years, during which time none of them had evinced any interest in labor organizations. However, when they did undertake to form a labor organization among the respondent's employees, they proceeded hurriedly. Their first step was to call on Orr on the morning of May 3 to inform him "they were going to organize", because, as the members of the committee testified, "we knew we had to tell him". Orr immediately granted them permission. The committee next proceeded to inform McNally of their intentions. Since his department was very busy, McNally was somewhat reluctant to give time off to four of his keymen. However, after consulting Orr about this difficulty, McNally informed the four men that it was all right to proceed.

The committee then drew up a petition to the effect that those signing wished to join an organization to be formed among the respondent's employees. They asked McNally to help them with the wording of the petition. He looked over the petition, which they had prepared, and told them he thought it was all right as they had it. After McNally approved of their petition, they devoted the rest of the morning to procuring signatures to it. By noon they had obtained about 50 or 60 signatures, but they had also begun to realize that there was much about forming a labor organization which they

⁴ Board Exhibit No. 4.

did not know. Michaud told the other members of the committee that his son worked at Swift's, where a Mr. William C. Green, an attorney, was organizing an independent union. The committee called on Green at noon. Green, having organized a number of similar employee associations, was prepared to render prompt assistance to them. It was arranged that the committee would pay Green for this one interview, and that the Association, when and if formed, would pay the remainder of his fee. Green did not like the form of their petition, so drew up a new one for them. He also told them to cross out the signatures of McNally and other foremen, who, he explained, were not eligible for membership. However, these signatures had already served to induce a number of the employees to sign. The committee spent Monday afternoon, and practically all their time during the next few days, obtaining signatures to the petition.

At Green's suggestion, they requested several younger men to help them in their organizing activities. Their assistants included people employed in supervisory capacities and several salesmen, who, though they are not supervisors, are considered in the respondent's business to have superior positions and are treated accordingly by their fellow employees. There was a recreation room in one of the respondent's buildings, which the employees were ordinarily permitted to use only at noon, but which some of the Association's organizers, nevertheless, made their headquarters, unquestionably with the knowledge and sanction of the respondent. Recalcitrant employees were summoned there from their work and subjected to high-pressure salesmanship tactics. Those who were already wearing W. E. U. buttons were told that they could sign up anyhow and conceal their Association buttons. Those who had families to support were told that they ought to sign up to avoid labor troubles, for the sake of their families. Further arguments were to the effect that the outside union was a "racket" and a "bunch of reds" and that the respondent would go out of business rather than deal with it.

Those employees who commented on the fact that they were not allowed to use the recreation room during working hours were assured that it was permissible on this occasion.

McNally and Allan Kline, one of the salesmen, in their zeal to sign up everyone, even called on employees who were at home on vacation and asked them to join the Association. McNally also handed out application blanks to all the men under him, at Ingvalsen's request. There was testimony that Orr had instructed the foremen not to participate in the organization activities of the employees. When McNally was asked why he had handed out application blanks despite Orr's instructions, his only reply was that he thought it was all right as long as he did not urge the employees to sign.

People who applied for jobs during the Association's organizing campaign were questioned by Orr and other supervisory employees concerning their views "about outside interference in a man's business", and were told about the advantages of joining the Association. Those who were given jobs were asked to sign applications for membership in the Association.

When the committee called on Green on Monday noon, May 3, he suggested that they come again the following evening with a larger group. Accordingly about 15 employees called on him on Tuesday evening. At that time he suggested a general mass meeting, which was held on Wednesday evening. Handbills announcing the meeting were distributed to employees at the door of the plant as they went home. About 200 employees attended. Green addressed them and as he testified, "explained the provisions of the Wagner Act, the right to form an independent union". On Thursday Green conferred with Ingvalsen, and told him that he had a set of bylaws and articles of association which he had used before and which could be adapted for use by the Association. Green questioned Ingvalsen about the classification of the respondent's employees. Ingvalsen enumerated more than twenty divisions. Green narrowed the number down to seven. The classification, as finally determined by Green, was as follows:

1. Stenographers, typists and comptometer operators.
2. Office clerical.
3. Salesmen.
4. Clerks in stock and sample.
5. Order fillers and department checkers.
6. Employees in packing, shipping, receiving and storage.
7. Mechanical and maintenance employees.

On Friday evening, May 7, a mass organization meeting was held which, due to Green's experience with such matters, was a model of smooth-running efficiency. The articles of association and bylaws he had prepared were adopted without alteration. Officers and trustees were elected, one trustee for each of the seven divisions. Since four out of the seven trustees represented stenographers, clerks, and salesmen, control of the Association was vested in those classes of employees whose interests are more closely allied with the management and are different from those of the warehouse employees, and who, in this case, had never, before the formation of the Association, displayed any interest in a labor organization.

In addition to providing that only employees of the respondent are eligible for membership in the Association, the bylaws also provide that anyone ceasing to be an employee of the respondent shall forfeit his membership, including officers of the Association.

In this manner provision was made whereby the respondent might oust any undesirable member of the Association by discharging him and insure to itself the exercise of a continuing control over the membership of the Association.

Vincent Kemp was elected president and chairman of the board of trustees of the Association at the Friday evening meeting. After the general meeting ended, Kemp met with the other officers and Green. As Kemp testified, they "decided to have a meeting the next morning about submitting a contract or demand to the firm that they recognize our organization as sole collective bargaining body for G. Sommers & Company". Kemp and the trustees met early Saturday morning, in Green's office. Green prepared, by changing the names on one of his forms, a letter to the respondent requesting recognition of the Association as the exclusive representative of all the respondent's employees,⁵ although there had been no discussion with the employee representatives of grievances or demands. Knowing that W. E. U. was organizing the respondent's employees, Green's primary object was to gain prompt recognition from the respondent. He did. Green and the board of trustees were at Orr's office that Saturday morning before eight o'clock. When Orr arrived they gave him the letter requesting recognition and photostatic copies of the petitions containing the signatures of employees. Before noon the same day, Orr wrote a letter to Kemp stating that "we have checked the signatures of employees of this Company as submitted by you and find them proper, and a majority of all employees on the pay roll; hence we accept your Organization as the exclusive representative body of all employees of this Company for the purpose of collective bargaining".⁶

The Association was granted recognition on Saturday, May 8. On Sunday Kemp held a meeting of the board of trustees at his home. They telephoned Green to consult him about some of their problems, and arranged for a meeting the next morning. At the meeting on Monday morning, May 10, a demand was prepared for an adjustment of wages and hours of labor. This demand was presented to the respondent that same morning. After a very brief discussion, a decrease in hours for the summer months was granted, but the respondent wanted more time to consider the question of an increase in wages.

It thus appears that between May 3 and May 10, the Association was completely organized, elected officers, adopted articles of association and bylaws, was recognized by the respondent, and had negotiated for a reduction in hours and an increase in wages. This remarkable speed was due to the fact that Green and Kemp, as well as

⁵ Board Exhibit No. 6A.

⁶ Board Exhibit No. 5.

the members of the original organizing committee, knew that W. E. U. was making rapid progress in organizing the warehouse employees. When Green was asked why he did not find out what the grievances were, and present them at the same time the demand for recognition was presented, he answered, "Well, I knew generally that their main grievances were the question of wages, and hours of labor, but I thought the first thing under the circumstances—of course, I knew the American Federation was also—I thought the first thing to do was to notify the Company of the organization." He was then asked, "In other words, you actually were racing against time to get to the company?" To this Green answered, "So far as the unions were concerned, yes." It is clear that the Association was able to attain its objective in so short a time only because of the respondent's deliberate and active cooperation.

Kemp and the board of trustees, with Green's assistance, conducted all these negotiations with the respondent without consulting the wishes of the employees. However, on May 10 a notice was issued by the Association informing the employees that the board of trustees was requesting "a general equalized raise in pay. Instead of requesting a flat percentage increase, we have asked for a general raise on an equalized basis. After this request has been granted and the raise in salary is not satisfactory to any group, members of this group can then meet with their representatives and make their wishes known."⁷ In reference to the expression "after this raise has been granted", Kemp was asked if he knew beforehand that the request would be granted. He answered that he "took it for granted that it would be granted . . . because the employees had all expected—they felt they wanted a raise or had been talking all through the house they wanted a raise, and we thought surely the firm would grant it if it was not too exorbitant a demand regarding too much of a raise". However, he subsequently remembered that the expression was a typographical error, and should have read "when and if the raise is granted".

When questioned about the mechanics of the bargaining negotiations, Kemp could not remember whether agreements were reached by means of correspondence, verbally, or otherwise. He stated that he signed so many things about that time, he could not remember what he had signed.

The members of the organizing committee had the same difficulty. Kemp had in remembering events connected with the Association. They could not remember, for example, how much time they had devoted to organizing, although they were supposed not to have been paid for such time. The organizers were supposed to be reimbursed.

⁷ Board Exhibit No. 11.

by the Association for losses of pay and for the various expenses they incurred. Some of the organizers testified that they had been repaid, others that they had put in a claim but had not yet been paid, and still others that they had not yet even put in a claim. Some of them were surprisingly unconcerned about the likelihood of being reimbursed.

The respondent's treatment of W. E. U. representatives was in marked contrast to the treatment accorded the Association. William Reilly, an employee of the respondent who belonged to W. E. U., on June 21 asked Orr if two or three members of W. E. U. could on their own time go among the men to solicit members. Orr refused to permit such solicitation by W. E. U. during working hours despite Reilly's reminder that the privilege had been accorded to the Association. Orr refused even to permit Reilly to copy a list of the names of employees. Moreover, Orr maintained that he could not deal with W. E. U., since he had already recognized the Association as the representative of all the employees, although Reilly pointed out to him that many had been forced into the Association through fear of losing their jobs.

An examination of all the circumstances surrounding the formation and growth of the Association leads inescapably to the conclusion that it had its inception in the desires of the respondent, who aided, fostered, and encouraged its organization. The Association was organized during working hours, with the aid and assistance of several supervisory employees, including the general manager. It was foisted upon the employees, and in no wise represents their free choice. The haste and eagerness with which the respondent embraced the Association as the representative of its employees confirms our conclusion that the respondent, through the activities of its officials and supervisory employees, fostered its formation and nurtured its growth.

We find that the respondent, by distributing the bulletins discouraging affiliation with an outside labor organization, by permitting the Association to organize during working hours, by granting it the privilege of using the recreation room during working hours, by donating the services of its supervisory employees and star salesmen, by so promptly and unquestioningly recognizing and negotiating with the Association, and by denying to W. E. U. privileges granted to the Association, has participated in, dominated, and interfered with the formation and administration of the Association, and has contributed support to it, and, by intimidation and coercion, has compelled its employees to join the Association, and to refrain from joining W. E. U., and has thereby interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

B. *The alleged discrimination*

Edward Drier was employed by the respondent on September 23, 1936, and laid off on December 19, 1936. He was again employed in March 1937 for a period of nine days. His third period of employment by the respondent ran from April 9 to May 6, 1937. He was employed on each of these three occasions as a voucher, or temporary, employee, and was laid off each time when the special work for which he had been hired was completed. His employment card⁵ was marked "Lay off—good man". Drier was a member of W. E. U., and had refused to join the Association. However, on the weight of the evidence, we find that Drier was laid off because his job was completed, and not discharged because of membership in W. E. U.

Frank Peiffer was employed by the respondent as a warehouse laborer on May 29, 1935, and was laid off, because of lack of business, in January 1936. He was employed again in April 1936, and was discharged on May 26, 1937. Peiffer had refused to join the Association. He became a member of W. E. U. on May 3, 1937, but was not an active member. Peiffer's employment record is a poor one. It appears that he obtained his job, and kept it as long as he did, through the intervention of Adolph Miller, a foreman, who was a friend of Peiffer's father. Miller had spoken to Peiffer's father several times in an effort to induce Peiffer to mend his ways and take his work more seriously. The results of these conversations were beneficial, but temporary. We find that Peiffer was discharged for cause, and not because of membership in W. E. U.

Theodore J. Eckart had been employed by the respondent in the packing room for about 18 years. He had charge of the purchasing of boxes and cartons for the packing room, which was located in the basement of the main building. For several years he had been spending part of his time supervising the work at the box factory, which was located in a different building. Eckart was on vacation the first two weeks of May 1937. He testified that some time before that Orr had told him he planned to lay off Joe Lutz at the box factory, put Art Marne in his place, and make Eckart's son Marne's assistant. However, Eckart testified, just before he left on his vacation, McNally asked him to "get some of the boys together to see if we couldn't get a company union started". Eckart told him he would think it over. While he was at home on vacation, both McNally and Kline called on him, told him about the organization of the Association, and asked him to become a member. He refused, having joined W. E. U. on May 3. When he came back to work after his vacation he was transferred full time to the box factory, where the work had increased considerably. His salary and hours remained the same, but working

⁵ Respondent Exhibit No 7.

conditions were not so pleasant, since the box factory is located in a wooden building, which is dusty and poorly ventilated. Moreover, he comes in contact with far fewer people now than he did on his old job. Although Eckart's case is not free from doubt, upon the whole record, we find that he was not discriminated against because of membership in W. E. U.

James Tart and *Albert F. Heinrich* had been employed by the respondent for about 14 and 19 years, respectively. On June 24, 1937, 54 of the respondent's warehouse employees, including Tart and Heinrich, walked out in sympathy with a city-wide strike called by a truck drivers' union. At that time both Tart and Heinrich owed the respondent money, which was to have been deducted from their pay checks at the rate of \$10 a month. The entire amounts of the pay checks due them on June 30 were applied on their debts. On July 2, the strike having ended, they returned to work. Although both Tart and Heinrich were members of W. E. U., the respondent's deductions from their June 30 pay checks cannot be construed as discriminatory action based on their membership in W. E. U.

The allegations of the complaint with respect to Edward Drier, Frank Peiffer, Theodore J. Eckart, James Tart, and Albert F. Heinrich will therefore be dismissed.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES 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.

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

CONCLUSIONS OF LAW

1. Warehouse Employes Union No. 20297, of St. Paul, and Wholesale Employes' Association of St. Paul No. 1, are labor organizations, within the meaning of Section 2 (5) of the Act.

2. The respondent, by interfering with, restraining, and coercing its employees in the exercise of their rights to self-organization, to form, join, and assist a labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

3. The respondent, by dominating and interfering with the formation and administration of Wholesale Employees' Association of St. Paul No. 1, and by contributing support thereto, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (2) of the Act.

4. The aforesaid unfair labor practices constitute unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

5. The respondent, by discharging Edward Drier and Frank Peiffer, by transferring Theodore J. Eckart, and by calling due the loans of James Tart and Albert F. Heinrich, has not engaged in an unfair labor practice, within the meaning of Section 8 (3) of the Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, G. Sommers & Co., and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) In any manner dominating or interfering with the administration of Wholesale Employees' Association of St. Paul No. 1, or with the formation and administration of any other labor organization of its employees, and from contributing support to said Association or to any other labor organization of its employees; and

(b) In any manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Withdraw all recognition from Wholesale Employees' Association of St. Paul No. 1, by whatever name now known, as the representative of its employees for the purposes of collective bargaining with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment, and completely disestablish said organization as such representative;

(b) Post immediately in conspicuous places throughout its five buildings, and maintain for a period of at least thirty (30) consecutive days, notices stating (1) that the respondent will cease and desist in the manner aforesaid; (2) that Wholesale Employees'

Association of St. Paul No. 1 is disestablished as the representative of its employees for the purposes of collective bargaining with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment or other conditions of employment and that the respondent will refrain from any recognition thereof; and (3) that the respondent's employees are free to join or assist any labor organization for the purpose of collective bargaining with the respondent;

(c) Notify the Regional Director for the Eighteenth Region in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.

And it is further ordered that the allegations of the complaint with respect to Edward Drier, Frank Peiffer, Theodore J. Eckart, James Tart, and Albert F. Heinrich be, and they hereby are, dismissed.