

the statutory representative or otherwise to interfere with the Union. Therefore, because of the limited scope of the Respondent's refusal to bargain, and because of the absence of any indication that danger of other unfair labor practices is to be anticipated from the Respondent's conduct in the past, it shall not be recommended that the Respondent cease and desist from the commission of any other unfair labor practices.

CONCLUSIONS OF LAW

1. The Pascagoula Metal Trades Council, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

2. All production and maintenance employees at Respondent's Pascagoula, Mississippi, shipyard, excluding managerial employees, supervisory employees, office clerks, instructors in the welding school or other craft schools that may be established by the Company, watchmen or policemen who are deputized, commissioned or appointed by the city of Pascagoula, or other public authority, instrument men, inspectors, office porters, cost-department clerks, and checkers constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

3. The Respondent has refused to furnish information to the Union as detailed in the body of this recommended decision in violation of Section 8(a)(5).

4. The aforesaid unfair labor practice is an unfair labor practice affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[Recommended Order omitted from publication.]

Mid-West Towel & Linen Service, Inc. and Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America. *Case No. 25-CA-1667. July 23, 1963*

DECISION AND ORDER

On April 26, 1963, Trial Examiner James V. Constantine issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Intermediate Report. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices alleged in the amended complaint. Thereafter, the Respondent and the General Counsel filed exceptions to the Intermediate Report and the Respondent filed a supporting brief.

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 [Members Leedom, Fanning, and Brown].

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

case, and hereby adopts the findings,¹ conclusions, and recommendations of the Trial Examiner.²

ORDER

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

¹We note that the Trial Examiner in section III, C, inadvertently referred to June 29, 1962, rather than September 29, 1962, as the date on which Felton, Childs, Chesney, and Kierstead went to homes of employees, and in his Conclusions of Law, No 7, he inadvertently referred to May 6, 1962, rather than October 6, 1962, as the date Respondent refused to bargain with the Union.

In the absence of exceptions thereto, we adopt *pro forma* the Trial Examiner's recommendation that the complaint be dismissed insofar as it alleges that the Respondent engaged in certain other conduct in violation of Section 8(a)(1) of the Act.

²Member Brown agrees with the Trial Examiner that the Union on October 6, 1962, represented a majority of the employees in an appropriate unit, because, in his opinion, the best evidence of the employees' intent, i.e., their signatures to cards which designated the Union as their bargaining agent, establishes that the Union enjoyed majority status when it requested recognition on that date. He believes it unnecessary and inappropriate to consider what representations the Union's solicitors may have made or what the employees may have been told.

INTERMEDIATE REPORT AND RECOMMENDED ORDER

STATEMENT OF THE CASE

A charge was filed on October 22, 1962, by Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America. Upon that charge the General Counsel of the National Labor Relations Board by the Regional Director for the Twenty-fifth Region (Indianapolis, Indiana), issued his complaint dated November 16, 1962, against Mid-West Towel & Linen Service, Inc., herein called Respondent or the Company. Said complaint as amended at the hearing, in substance, alleges that Respondent has engaged in and is engaging in unfair labor practices comprehended by Section 8(a)(1), (3), and (5), and affecting commerce as defined by Section 2(6) and (7) of the National Labor Relations Act, herein called the Act. Respondent's answer, while admitting some facts, has put in issue the commission of unfair labor practices affecting commerce.

Pursuant to due notice, a hearing was held before Trial Examiner James V. Constantine at Muncie, Indiana, on January 29, 30, and 31, 1963. All parties were represented at and participated in the hearing, and had full opportunity to introduce evidence, examine and cross-examine witnesses, submit briefs, and offer oral argument. Briefs have been received from Respondent and the General Counsel.

At the beginning of the hearing Respondent moved to include certain prehearing documents as part of the record. This motion was granted. Respondent next moved to dismiss the complaint on the ground that certain information was erroneously denied to it by prehearing interlocutory rulings made by another Trial Examiner. This motion was denied for two reasons. (1) I felt that I was not vested with authority to review another Trial Examiner's rulings, and (2) if I was so empowered, I would not as a matter of discretion reexamine prior interlocutory rulings of another Trial Examiner. Cf. 132 A.L.R. 22 *et seq.* When the General Counsel rested, Respondent moved to strike the testimony of witnesses Childs, Kierstead, and Smith on the ground that the General Counsel refused Respondent's request to make available prior to the trial their prehearing written statements. This motion was denied. At this stage of the proceeding Respondent again moved to dismiss the complaint. This motion was also denied. Respondent's motion to correct the official report is granted in the absence of opposition thereto, except for item 29 therein (which appears to be a typographical error).

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

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

Respondent, an Indiana corporation, is engaged, at Muncie, Indiana, in the business of commercial and industrial washing, renting, and distributing of towels and uniforms. During the year preceding the issuance of the complaint it purchased goods and materials valued in excess of \$50,000 directly from States other than the State of Indiana. I find that Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction over this proceeding.

II. THE LABOR ORGANIZATION INVOLVED

Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter called Local 135 or the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

Many of the factual issues were disputed and ably contested. Where dispute exists, it has been resolved in accordance with my appraisal of the credibility of the witnesses and reasonable inferences drawn from the evidence. In determining credibility I have credited some witnesses in part and rejected in part testimony of the same witnesses, whether they were called by the General Counsel, the Union, or the Respondent; but in general I have not narrated evidence (*Trumbull Asphalt Co. of Delaware v. N.L.R.B.*, 314 F. 2d 382 (C.A. 7)) in connection with the evaluation of the credibility of witnesses. All evidence has been considered, and none has been overlooked, in arriving at the ensuing findings of fact and conclusions of law, although I have "not annotated to each finding the evidence supporting it." See *United States v. Pierce Auto Freight Lines*, 327 U.S. 515, 529.

A. Interference, restraint, and coercion

It is alleged that Respondent committed specified acts proscribed by Section 8(a) (1) of the Act. In this connection, I make the following subsidiary findings.

About 3:30 p.m. on October 4, Ben Hertz, Respondent's vice president and a supervisor within the scope of Section 2(11) of the Act, called employee Childs to his office. Hertz first inquired whether Childs was aggravated or disgusted with the Company, suggesting that Childs was unhappy because employees Decker and Menard became supervisors ahead of him. Childs denied he was aggravated, asserting that he could not be when he was making \$178 a week, but did state he was unhappy that Decker was selected over him as a supervisor. Hertz then explained that promotions were based on merit, that Decker deserved to be made a supervisor, and that, since Childs was almost there, he also could become a supervisor if he just kept working hard. Hertz then asked Childs if he "had heard of the union rumors" and if Childs were the "ringleader" of the union movement at the Company. Childs answered in the negative. Continuing, Hertz explained that he could not understand why the employees needed a union, especially the Teamsters when others were trying to get rid of them; that the Company's employees made more money than most union contracts called for; that if the rest of the employees want a union, "you got it," but urged Childs not to join. During the conversation, Hertz assured Childs that it was all right if they wanted a union and that no one would be fired for union activities. At some point in the conversation, Childs indicated that he was not interested in the Union because he was making good money.

During the evening, Hertz learned from employee Janney that Childs had previously asked Janney to sign a union card. Later that evening, Childs and other employees attended a union meeting at the Holiday Inn in Muncie. After he returned home, Hertz called Childs about 10:30 p.m. to come to the office. Childs did go at once. On obtaining a negative reply from Childs when Hertz asked him if Hertz ever lied to him, Hertz then accused Childs of lying about his union activity and stated that a liar is no better than a thief. Childs defended his prevarication by asserting he lied to save his job. Hertz then asked Childs to tell him "all about this union," and, when Childs remarked that he had just returned from a union meeting, Hertz asked him to disclose the name of the union, of its business agent, and of those present. Although Childs refused, Hertz persisted in the question and added that if Childs would not divulge this information, Hertz would have no respect for Childs or Childs' job. By about 11:30 p.m., Childs identified Local 135 as the union holding the meeting, and immediately thereafter Childs left.

On Saturday, October 6, Hertz telephoned Childs at his home to read him a letter from Local 135 requesting recognition. Hertz then asked him for suggestions as to what to do about the Union, and asked Childs to "talk the boys out of the Union." Hertz again asked to know the names of those attending the union meeting of October 4, and how many were present, because Hertz "had to know where he was at." Childs disclosed the number present but withheld their names.

About 4 p.m. on October 4, 1962, as employee Kierstead was preparing to load his truck, Hertz invited him to his office. When Kierstead entered, he found Robert Pearson, Respondent's sales manager (whom I find to be a supervisor under Section 2(11) of the Act), and Don Hartling, Respondent's plant manager, also in the room. Hertz then stated that Hartling had reported that Kierstead spoke disparagingly of Respondent in front of some employees and inquired of Kierstead why he was not satisfied; and, upon being informed by Kierstead that loading and unloading conditions were unsatisfactory, urged Kierstead to quit "since you don't like it around here." Kierstead refused to quit at that time but requested 2 weeks to think it over. Hertz denied this request for time. Kierstead then asked if he was being discharged because, being 41, he was being made "an example [as] . . . an old man . . . and scare the other fellows, or is it all over the Union?" Hertz commented that Kierstead made disturbing remarks which could cause trouble for Hertz and that "it causes dissention in the men when you tell them when they should or shouldn't unload the trucks, and that [Hertz] preferred that Kierstead leave the Company's employ."¹ Hertz added that Pearson had planned on firing Kierstead "seven or eight times" but Hertz prevented accomplishment of such action. After further conversation, Hertz discharged Kierstead.

About 11:15 p.m. of the same day, as a result of a telephone message by Hertz given to Kierstead's wife, Kierstead telephoned Hertz and learned that he was wanted at Hertz' office. As Kierstead arrived, shortly after 11:30 p.m., Sales Manager Pearson also came in. Hertz then expressed regret that he had fired Kierstead and immediately rehired him. Hertz also stated that he would appreciate it if Kierstead refrained from making any more speeches in front of the plant, and emphasized that loading and unloading duties were inseparable attributes of Kierstead's job. Kierstead concurred that loading and unloading were part of his job. During the conversation, Hertz said he knew where Kierstead was when he called his home. Kierstead volunteered that he was at a union meeting; thereupon, Hertz asked him how many and who were there. Continuing, Hertz asked Kierstead if he knew what he was getting into and stated that the Union could not make him add another \$30,000 addition to the building to facilitate loading and unloading; nor could the Union prevent firings for cause, and that every route salesman daily makes enough mistakes to be fired.

B. The discharge of Thomas Smith

At about 5:30 p.m. on October 4, 1962, Hertz called route salesmen Thomas Smith and John Felton to the office. Hertz informed them that he had heard some talk about a union and asked them if they had heard about it, and why they needed one. When Smith replied that he had heard, Hertz sought the identity of the Union. Smith said he did not know but thought it was either Local 135 or Local 188 of the Teamsters. Hertz then asked for their complaints, to which they replied, "The conditions in the plant." A long discussion then occurred concerning loading and unloading conditions. Hertz said he knew about "the conditions in the plant," that he was doing all he could to remedy them, and that the Union could not make him change those conditions. Continuing, Hertz assured them that if they wanted a union they could get it and he would pay union wages, but insisted he was paying higher than union wages. While Felton was present, Smith and Hertz engaged in an argument about a truck breaking down on Smith. During this argument, Hertz characterized Smith as a chronic complainer or "habitual bitcher." Hertz closed by asking Smith to quit. Then Hertz excused Felton, who went away.

Hertz then asked Smith why Smith was trying to hurt him, asked Smith if he were seeking a steward's job, wanted to know if Smith was "the ringleader" in unionizing, and invited Smith to go to work in a union place if he "wanted the union so bad" instead of trying to bring a union into the plant and hurt Hertz. Hertz asked Smith

¹ It is not denied that shortly before this Kierstead talked to five or six route salesmen, that Hartling overheard it and called it to the attention of Hertz, and that is why Hertz called Kierstead to his office. I find that, in talking to the five or six fellow employees, Kierstead did not mention the Union but rather complained about working conditions associated with loading and unloading the trucks, insisted that his duty to the Company stopped as soon as he brought in his truck to the garage, and stated that he was not being paid to load and unload it.

if he had done anything for which he could be fired and added that he could fire Smith or "all you boys involved in this and the union wouldn't make me keep you" because he could find a reason to discharge them. Then Hertz instructed Smith not to come in the next day for work but only to pick up his severance pay.

At a staff conference in June 1962, Hertz claims he discussed Smith's alleged shortcomings and ". . . it was decided at that time that Tom Smith would have to go," as soon as the vacations ended but to try to rehabilitate Kierstead. Vacations, according to the testimony, were staggered from June to September. I make no finding as to whether such decision to fire Smith was made in June, because as explained hereinafter, I find that the retention of Smith from June to October 4 amounted to condonation.

C. The alleged refusal to bargain

Route Salesman Norman K. Childs actively solicited employees to join the Union. On September 29, 1962, he obtained the signature of employee Eddie Chesney. Childs "picked up" about 30 other blank cards earlier in the day from Pat Mahoney, a union representative, pursuant to prior arrangements. Thereafter, on the same day, Childs, accompanied by Chesney, visited the homes of other employees to obtain signed cards. Those whom they called on were driver-salesmen Jim Kierstead, Don Nelson, John Glen Cox, and Gene V. Coats. All but Nelson, who was not home, signed union cards.² Then the two returned to Kierstead's home.

Kierstead then joined them, and the three together continued on with their visits to the homes of other driver-salesmen. They called on Larry Kaderly (who refused to sign because of religious scruples), Norman King, and John Felton, the latter two signing cards. Thereupon, Felton joined Childs, Chesney, and Kierstead in the journeys to homes of employees on the same day, i.e., June 29, 1962, a Saturday. The four proceeded to the Starlight Tavern where they encountered and successfully recruited to membership James Murphy, and then returned to Donald Nelson's home where they found him in. Nelson also signed a card. From there, the same four called on Howard Davis, Jack Hoover, Robert Nemyer, Thomas Smith, and Phillip Fosnaugh, all of whom signed union cards. Thereafter the party of four disbanded.

On Sunday, September 30, 1962, Childs, Kierstead, Fosnaugh, Felton, King, and Nemyer resumed the visits to employee homes. Smith was with them part of the time. They called upon Lewis Mathew and Jack Lutz, both of whom they signed up, and John McCreery³ and Jack Janney,⁴ neither of whom was at home.

Other employees were later signed up by Childs alone—Jerry Johnson on October 4 and Kenneth Addington on September 30. All cards executed by the employees were then turned over to Business Representative Pat Mahoney of Local 135.

Lewis Mathew, who signed a card on September 30, did so after being told that several others had executed them. He "took it that [those soliciting] meant that we would have an election." He explained that he was not sure "whether they said it or not," but it was "my understanding" that "we" would have an election and that "it [the signing] would not result" in the Teamsters "being enabled to represent" him. However he did have "some idea, by election or otherwise," that he "would have" a union by signing. Although he had an opportunity, Mathew did not read the card.

Employee Gene Coats, who signed a card, was told by those seeking it that the signatures of over 50 percent of the employees were required "before you had a chance to get the Union in," and that no election was mentioned. On the other hand, employee Janney signed his card, without reading it, upon the representation of Norman Childs (who handed it to him) that "here is your union card."

Phillip Fosnaugh, who signed a card, was told by Chesney who gave it to him that "it was a union card," and Fosnaugh thereby "understood . . . if we signed the card, that we was in favor of having the Union." Chesney also told him at the time that "they needed a majority of these in order to have a chance for the Union."

Employee John McCreery, who signed a card given to him by employee Norman King, "filled in the card" himself, signed it, and handed it back to King. Although King told McCreery the card was for "the Teamsters," he "didn't say what local or anything" more precise to identify the labor organization. King also said that "if they got 50 percent of the drivers to sign cards, a union would come and have an election." By this McCreery understood that in signing the card "the union would come down there and take a vote as to whether we wanted a union or not." McCreery

² Union cards mentioned herein contain the legend, among other things, that they are "application for membership and authorization for representation."

³ McCreery signed one later that day at the request of Norman King.

⁴ Janney signed on October 2 at the request of Childs.

also testified credibly that he wanted his card back, but I do not find that he ever communicated this to the Union.

Jack Hoover, who received his card from Norman Childs, first testified that he "understood" or "assumed" from the representations made to him by Childs, "that signing the card was to obtain an election," and that "they needed a majority of the cards signed to obtain an election." I am unable to make a finding as to what was said to Hoover because, after making contradictory statements, he finally averred he "did not know" what was said to him. Hence I do not find that Childs mentioned the word "election." Although Childs inserted the date, Hoover "filled in" the remainder of the written portion of the card without reading it, and then signed it. However, Hoover did testify credibly that, at the time of subscribing the card he was and still is "at the present time . . . in favor of the Union."

Norman King received his card from Norman Childs, who told him that "it was for the purpose of obtaining an election." Nevertheless King filled out the entire card and signed it, for the purpose of "obtaining" or "to get" a union.

On October 6, 1962, Respondent received by mail the Union's demand for recognition and its petition for certification in Case No. 25-RC-2307. They designate the unit as "All sales-drivers employed by the Employer at its Muncie, Indiana, establishment; but excluding all office clerical employees, and all guards, professional employees and supervisors, and all other employees."

On Monday evening, October 8, Respondent held a regular meeting of its sales employees at the Flamingo Restaurant in Muncie. All driver-salesmen (a total of 24) and route supervisors came to it. Hertz appeared later, about the time the evening meal was finished. He requested all supervisors and three newly hired driver-salesmen employees (none of whom had signed union cards) to leave and then spoke to the remaining 21 assembled driver-salesmen.⁵ After first stating that he had received a letter from Local 135 requesting recognition, and a "letter from the NLRB," Hertz commented that he could not understand why the employees needed anyone to do their talking for them; that his door was always open to employees who wanted to see him; and that he was deeply hurt by this, which he described as just like his son slapping him in the face. He stated that they could have a union if they wanted one. Proceeding with his talk, Hertz stated that he would do his best to iron out their problems and that he had to know where he stood. He ended by asking the employees to inform him "whether he should recognize the Union or fight them to an election"; he reiterated that he had to know where he stood, but that he would abide by their decision. At this point employee Janney suggested a vote by ballot. Thereupon Lou Mathew, another employee, went into another room, obtained some sheets of paper, distributed these papers, and had them serve as ballots.

Hertz then left to go to an adjoining room and closed the door while the employees held a secret vote. They wrote "yes" or "no" only on the ballots. When Hertz returned, at the invitation of Janney, he counted the ballots with the help of an employee. Hertz then announced that the result of poll showed a majority opposed to the Union (14-6), for which Hertz thanked them. Hertz then commented that he interpreted the vote as their command that he "fight the Union to an election." An employee then asked how to get their cards back. Hertz replied that they should retain an attorney for this purpose. Thereafter, in the presence of Hertz, an employee suggested the formation of a committee to take their gripes and complaints to Hertz, and the employees immediately selected one.

At this meeting employee Jerry Johnson asked Hertz whether "if they joined a union, any of the benefits and bonuses would be taken away from them, such as the annual company fishing trip . . . the . . . race track trip . . . or the football game." Hertz replied that he "was not at liberty to discuss it."

D. The unilateral increases in wages

James Murphy, a route salesman in Respondent's executive valet service, started on March 12, 1962, with a minimum guaranteed salary of \$75 a week. About 2 weeks later this was increased to \$80 and about a month thereafter it was raised to \$85 a week. On or about the Thursday or Friday following the meeting of October 8, 1962, Hertz told Murphy that his minimum had been raised to \$100 a week for a 13-week trial period. At about this same time Hertz raised the minimum weekly guaranteed wages of newly hired employees to \$100 a week. It affected only

⁵ Respondent in its brief states that the purpose of this conversation was to discuss the Union's letter demanding recognition and the Union's representation petition.

Jerry Johnson and Ed Reno. This latter raise was put into effect because Respondent was finding it difficult to attract new sales drivers on a commission basis unless they were assured a weekly compensation of at least \$100. All other route sales drivers, although remunerated on a commission basis, were actually earning more than \$100 a week, and, accordingly, were not concerned with the new guaranteed minimum.

Concluding Findings on Interference, Restraint, and Coercion

1. As to interrogation

Hertz twice spoke to employee Kierstead on October 4, 1962. I find no interrogation regarding the Union took place on the first occasion of their meeting. If material, I find that Kierstead's discharge at the time was for cause, i.e., for making remarks amounting to insubordination, and was not discriminatorily motivated. But I do find that Hertz did question Kierstead concerning the Union at the second or night meeting. Such interrogation, not having been found justified for legitimate objectives, is found to be coercive. *Orkin Exterminating Company of South Florida, Inc.*, 136 NLRB 399.

Hertz also spoke to employee Childs on three occasions: two on October 4 and one (over the telephone) on October 6. At both meetings on October 4, Hertz propounded questions eliciting information regarding union activity. These questions are coercive notwithstanding that concurrently therewith Hertz assured Childs that no reprisals would be taken against anyone who supported the Union. *Savoy Leather Mfg. Corp.*, 139 NLRB 425; *Orkin Exterminating Company of South Florida, Inc.*, 136 NLRB 399. Accordingly, *Blue Flash Express, Inc.*, 109 NLRB 591, and cognate cases cited by Respondent are inapposite. Nor is it a defense that Hertz was concerned that Childs lied to him about the Union. It was not proper for Hertz to initiate discussion of such a lie, since it related to union activities. See *Barberton Plastics Products, Inc.*, 141 NLRB 174. Moreover, no pressing business reason is shown why Hertz called Childs at home to come immediately to the plant late at night to castigate Childs for lying to Hertz. The urgency of the call in my opinion implies that it was a serious matter to Hertz, and I find that the seriousness concerned union activity.

Again on October 4 Hertz asked some questions of employees Felton and Smith. Those questions relating to union activity are found to be coercive. This conduct is not immunized because it was accompanied by statements that if the employees wanted a union they could have a union. (See cases in preceding paragraph.)

At the Flamingo Inn on October 8, 1962, Hertz demanded⁶ that the assembled employees make known to him whether they wanted him to recognize the Union or "fight the Union to an election." This interrogation, when assessed against the background of what transpired prior to and at the meeting, amounts to more than an innocuous inquiry. Accordingly, I find it is coercive.

As found hereafter, the employee poll of October 8 is coercive. Since it is a type of interrogation, it is briefly inserted here as an additional finding of interrogation.

2. Threats of discharge

As found above, Hertz stated to Kierstead that all route salesmen stumble once or twice a day and thus presented Hertz with cause for discharge, and that the Union could not save an employee from such action. I find that this is not coercive because it merely restates a lawful proposition and does not contain a threat of reprisal. *Perkins Machine Company*, 141 NLRB 697. Somewhat similar pronouncements were made by Hertz to Childs and to Smith at different times on October 4, 1962. For the same reason, I find that these remarks are not coercive or otherwise proscribed by the Act.

Although Hertz engaged in conduct at the Flamingo Inn on October 8, which herein is found to be coercive, I do not find that it constituted a threat of discharge. Hence paragraph 5(c) of the complaint has not been established.

Also on October 4, 1962, Hertz spoke to employees Felton and Smith. I find that at no time in his conversation did Hertz threaten either employee with discharge for union activity. (The findings relating to the discharge of Smith, which I find is discriminatory, are described elsewhere in this report.)

⁶ According to Hertz, "I told them they were going to have to let me know which way they wanted me to go . . ."

No evidence was received that Delbert White engaged in any conduct, whether reprehensible or otherwise, on behalf of Respondent. Hence I find that none of the allegations concerning White has been established.

3. Threats of loss of benefits

Admittedly Hertz on October 8, at the Flamingo Inn, responding to questions about the effect of the Union on existing benefits, insisted that he was "not at liberty to discuss those things at this time." Equivocal answers of this type have been held to be protected under the Act. *The Lux Clock Manufacturing Company, Inc.*, 113 NLRB 1194, 1198. Hence I conclude that this evasive reply does not run afoul of the law, and I so find.

4. The poll taken at the Flamingo Inn

Private polls conducted or sanctioned by an employer have generally been held to offend against Section 9 of the Act unless such polls are conducted in a manner consonant with, and are attended by, safeguards substantially equivalent to those incorporated in the Act. *T-H Products Company*, 113 NLRB 1246; *Interboro Chevrolet Co., Inc.*, 111 NLRB 783, 784. This doctrine has been extended to unfair labor practice cases. *California Compress Company, Inc.*, 121 NLRB 1388, 1389, enfd. 274 F. 2d 104 (C.A. 9); *Lincoln Steel Works*, 102 NLRB 1359. This is so even though the poll owes its inception to a suggestion by a rank-and-file employee. *The F. C. Russell Company*, 92 NLRB 206, 208.

The question here is whether the foregoing cases control the instant situation where the employer did not physically conduct the election. In my opinion the above cases determine the disposition of this part of the case for the following reasons:

(a) The poll was inspired and generated by insistences uttered by Hertz. On his own testimony Hertz avows that he told the employees he "had to know" where he stood and that he wanted to know whether he should recognize the Union or "fight it to an election."

(b) Manifestly Hertz was impliedly inviting, if not expressly soliciting, a showing of sentiment as to the Union by the employees.

(c) The proximate result of this insistence is a declaration of employee feeling toward the Union. The fact that such manifestation of employee sentiment was embodied in a secret ballot initiated by employees, rather than a raising of hands or a vocal display of intent, is immaterial since it was prompted and inspired by Hertz.

(d) Hence the fact that Hertz left the room during the balloting is not controlling.

(e) I find, therefore, that Respondent was a "principal participant" (cf. *The F. C. Russell Company*, 92 NLRB 206, 208) in the election. Accordingly, *Industrial Stationery & Printing Company*, 103 NLRB 1011, upon which Respondent relies, is distinguishable because there, unlike here, the employer did nothing which led to an employee-sponsored election. Similarly, *N.L.R.B. v. Crystal Laundry & Dry Cleaning Co.*, 308 F. 2d 626 (C.A. 6), *N.L.R.B. v. Protein Blenders, Inc.*, 215 F. 2d 749 (C.A. 8), and other decisions cited by Respondent on this branch of the case, are not applicable to the facts found herein.

5. Formation of the employees' committee

As found above, this committee owes its inception and composition to employees and not to Respondent. Moreover, the committee has not functioned since. Hence I find that it was not formed or caused to be formed by Hertz, and, therefore, no violation of the Act has been demonstrated by the facts pertaining to said committee. Nor is this conclusion weakened by the fact that the committee was organized (1) in the presence of Hertz, (2) following the secret poll, (3) and without the use of secret ballots. This is so because the committee was sponsored solely by employees without employer instigation or participation in its selection.

6. The unilateral wage increases

Ultimate findings upon this branch of the case are more fully recited in connection with the alleged refusal to bargain. For present purposes, it is sufficient to mention that employee Murphy's guaranteed minimum weekly wages and those of two new employees were unilaterally raised to \$100 while the Union enjoyed majority status, and thus this action violated Section 8(a)(5). I also find that such conduct derivatively contravenes Section 8(a)(1) also. Since I find no antiunion motivation therefor, I find that these increases do not independently transgress Section 8(a)(1).

Concluding Findings as to the Alleged Refusal To Bargain

1. The Union's majority

As noted above, by October 5, 1962, the Union obtained 20⁷ signatures of employees in a unit comprised of 24 "route salesmen employed by the Employer at its Muncie, Indiana, establishment, but excluding all office clerical employees, professional employees, guards, and supervisors as defined in the Act, and all other employees."⁸ I find that this unit is appropriate for the purposes of collective bargaining. Accordingly, I find that on October 6, 1962, when Respondent received the Union's written demand for recognition the Union represented a majority of the employees in an appropriate unit. Although the Union's designation of the unit in said demand varies slightly from the unit found appropriate, I find that such divergence is insubstantial and does not destroy the validity of the Union's request for recognition. I also find that Respondent ignored the Union's demand. An employer is under a statutory duty to recognize a majority union in an appropriate unit unless he entertains a good-faith doubt of such majority or unless such majority has been obtained illegally. The question is whether either or both of the foregoing defenses have been established on the record.

2. The defense of a good-faith doubt

On the evidence before me, I am unable to find that Respondent was justified in questioning the Union's majority. Nothing in the credited evidence points to a good-faith doubt of majority;⁹ rather, it discloses an apprehension of a union majority and steps taken by Respondent to dispel it. Thus Vice President Hertz interrogated employees to ascertain the identity of the Union and its business agent, as well as the number of employee sympathetic to the Union. In addition, Hertz admittedly demanded of his employees at the Flamingo Inn meeting that he had to know whether they were for or against the Union, so that he would know where he stood—a fact inconsistent with a reasonable doubt that the Union had a majority. Further, at no time did Hertz mention at that meeting that he had a doubt about the Union's majority, but rather talked about acquiring information whether the employees still wanted a union—a fact showing that he had no knowledge to uphold a reasonable belief that the Union's assertion of a majority was questionable. Finally, admittedly at the meeting Hertz commanded that he be instructed by the employees whether he should recognize the Union or "fight the Union to an election"—again disclosing a state of mind inconsistent with a genuine doubt of majority and more consonant with a mood to "fight" the Union.

Accordingly, I find that on October 6, 1962, upon receiving the Union's demand for recognition, Respondent did not entertain a good-faith doubt of its majority. This of course does not dispose of the matter, for if the Union's majority was in fact tainted by fraud, coercion, or other reprehensible conduct, Respondent need not bargain with or recognize it. I proceed to resolve the issue of whether the Union represented a majority properly obtained.

3. The defense of an illegally obtained majority

Respondent contends that the Union's majority lacks legislative approval because it is infected with misrepresentations used in soliciting signatures to cards. This misinformation is depicted to be principally that employees "were advised that the purpose of the cards was only to obtain a representation election or to learn further facts concerning Union organization." (See Respondent's brief, p. 94.) While I recognize that cards obtained by misrepresentations are unreliable to show majority and will vitiate a Union's majority status (*Englewood Lumber Company*, 130 NLRB 394), I find that Respondent has failed to show that the misstatements disclosed by the record were made to a sufficient number of the employees signing cards to affect the Union's majority. Perhaps realizing this, Respondent has argued that "the only reasonable inference is that . . . the same sales technique [was used] on all" the employees solicited.

⁷ This includes Smith. The count is 19 if Smith, who was discharged on October 4, is excluded.

⁸ "All other employees" are represented by Local 3017 of Laundry and Dry Cleaning Union.

⁹ Indeed, Hertz testified that before the meeting at the Flamingo Inn he had "no idea [of] the strength of the union among the drivers salesmen."

But I do not draw this inference for several reasons: (1) No pressure was used to cause employees to sign, and therefore, they were free to know what they were signing; (2) most of the employees filled in the cards themselves and then signed them; (3) the cards in large letters state that they are applications for membership;¹⁰ (4) some employees were told the cards were for the purpose of union representation; and (5) at the Flamingo meeting both the employees present and Hertz regarded the cards as membership cards. In connection with (5), it is patent that the cards would not bother or disturb an employee who wanted an election for, if Respondent is right that the subscribers thereto only wanted an election, the employees at the Flamingo voted to have an NLRB election. But no reason is advanced why the employees would want their cards returned if such cards would assure them of an NLRB election. Nor did Hertz himself consider the cards as calling for an election; rather he looked upon them as membership cards and insisted that those signing them inform him whether they wanted to adhere by the cards or "fight" to an election. Certainly if he thought the cards called for an election he would have assented to their remaining in the possession of the NLRB and would not have advised seeing a lawyer to recall the cards.

Nor do I find that other irregularities exist as argued on pages 95 and 96 of Respondent's brief. They need not be discussed.

Hence I find that the Union's majority was not illegally obtained and that it is an uncoerced majority.

Nor do I find that the Union lost its majority before October 6, 1962, as argued by Respondent. On this segment of the case, the only evidence is the testimony by Hertz that Childs on October 4 told him that the union movement was "over." Assuming that Childs uttered these words, it does not follow that they thereby destroyed the Union's majority. Not only was Childs unauthorized to commit the Union to an abandonment of its organizing campaign, but the words themselves do not compel the deduction that the Union had terminated its drive. Of course these words may suggest that, on the issue of good-faith doubt, Hertz was warranted in concluding the Union lacked a majority; but that is not the question before me upon this branch of the case.¹¹ If, however, these words connote a loss of majority, I find that such loss is attributable to Respondent's unfair labor practices. *Joy Silk Mills, Inc. v. N.L.R.B.*, 185 F. 2d 732, 744 (C.A.D.C.).

4. The defense that the poll establishes a loss of majority

As noted above, I have found that the poll taken at the Flamingo Inn on October 8 contravened the Act, and that such illegality was not removed by Hertz' accompanying statements that he had no objections to the Union and that he would abide by the decision of the employees. It follows that the results of the poll must be disregarded because they are infected by Respondent's unfair labor practices preceding and contemporaneous with the poll. *Joy Silk Mills, Inc. v. N.L.R.B.*, *supra*, at 744.

Nor is it a defense that Respondent was confronted simultaneously with both an unfair labor practice proceeding alleging a refusal to bargain and a representation proceeding. The pendency of a petition for certification neither relieves an employer of its duty to bargain nor constitutes an irrevocable commitment by the union to establish its representative status only in an election. *General Medical Supply Corp.*, 140 NLRB 712; *Rea Construction Company*, 137 NLRB 1769; *N.L.R.B. v. White-light Products Division of White Rolling & Stamping Corporation*, 298 F. 2d 12, 14 (C.A. 1).

Concluding Findings as to the Discharge of Thomas Smith

As found above, Smith signed a union authorization card on September 29, 1962. On the following day, he joined Childs, Chesney, Kierstead, and others in soliciting other employees to sign similar cards. Hence, I find that he was active in the union movement at the plant. I also find, as disclosed by the record, that Hertz was aware that Smith was active in that movement; and this conclusion also is strengthened by the conduct of Hertz in propounding questions aimed at ascertaining whether Smith was the ringleader and whether Smith was "bucking for" a steward's job. I am unable to accede to Respondent's argument that Hertz lacked knowledge of Smith's

¹⁰ See *Dan River Mills, Incorporated, Alabama Division*, 121 NLRB 645, 648

¹¹ As narrated elsewhere, I have found that such good-faith doubt did not exist. In so finding I have not overlooked this evidence, but find that it did not enter into Hertz' mind because he never mentioned it at any time. *American Rubber Products Corporation v. N.L.R.B.*, 214 F. 2d 47, 52-54 (C.A. 7), cited by Respondent, does not compel a contrary result.

union activity, especially since Hertz himself testified that he asked Smith and Felton "what a union could do about alleviating this loading and unloading situation" This utterance by Hertz, together with other pertinent credible evidence, warrants the inference—and I draw it—that Hertz had information connecting Smith with the Union's organizing drive.

Finally, I find that the predominating or motivating reasons for Smith's discharge were his union membership and activity, rather than that he chronically complained or because he "bitched" continually, or because his production was unsatisfactory.¹² This finding is based upon the entire record, including the following factors:

1. Although Respondent contends it decided before the advent of the Union, i.e., about June 1962, to discharge Smith, nothing was done about it until after the Union appeared on the scene in late September. While Respondent maintains that, as a result of a shortage of employees during vacation time, the discharge was postponed until all vacation schedules had been completed (which occurred in September), the record is clear that Smith was not informed of this. Manifestly a decision of such gravity to Smith would have been communicated to him contemporaneously with or shortly after its adoption. Moreover, if such a decision had been made in June, it is difficult to understand why Hertz, on his own admission, had no intention of firing Smith for cause when he called Smith to his office on October 4, 1962.

2. Even assuming that a decision was made in June to discharge Smith for cause as soon as vacations ended in September, it is significant that Smith was discharged in October, after the Union started its drive and after Hertz suspected that Smith was a ringleader in that drive.

3. Assuming cause existed for discharge in June, it was thereafter overlooked or in effect condoned. This is because Hertz testified that when he called in Felton and Smith on October 4, it was because it had been brought to Hertz' attention "that they had been complaining about the loading and unloading situation and I wanted to see if I could get it straightened out with them." Hertz then, on his own sworn testimony, explained to the two that "We were doing everything within our power to alleviate that situation, and asked them to bear with us" Manifestly no desire to discharge for cause is discernible in this testimony of Hertz. Rather, the past derelictions of Smith appear to be cast aside. Finally, after directing Felton to leave, Hertz asked Smith to quit if Smith did not like conditions at Mid-West. Cf. *Roberto Alvaro Manufacturing, Inc., et al.*, 141 NLRB 669, where an employer's remarks that an employee was unhappy with working conditions "stamped [the employee] in the employer's mind" as sympathetic to the Union's objective. When Smith refused, Hertz then discharged him.

4. Although Respondent stresses that Smith was dismissed for "blowing his top," it is significant that Hertz did not so testify. Hertz testified only that he first asked Smith to leave because of dissatisfaction with the job and then discharged Smith when he refused to resign. Although testimony from other witnesses for Respondent indicates that Smith was discharged for "blowing his top," I am unable to accept it.

Concluding Findings as to the Unilateral Increase in Wages

As narrated above, Respondent increased the guaranteed minimum weekly wage of Murphy from \$85 to \$100, and also raised the starting guaranteed minimum wage of new employees to \$100 a week. I credit Respondent's explanations for taking such action, i.e., (1) as to Murphy, it was warranted because he was bringing in sufficient business to earn, on a commission basis, over \$100 a week; and (2) as to new employees, it became necessary to offer a guaranteed remuneration which would attract applicants for work and thus assure Respondent of an adequate source of labor supply. Hence I find that these increases were not induced or motivated by antiunion considerations.

Nevertheless I am constrained to find that, regardless of intent, an employer may not change wage rates without first bargaining thereon with the exclusive collective-bargaining agent of such employees. It is not disputed that Respondent unilaterally (i.e., without bargaining with or notifying the Union) raised the minimum wages involved. I find that this occurred at a time when the Union represented a majority of employees in the unit where such raises took effect. It follows that such conduct

¹² Nevertheless I find that Smith "habitually bitched" and that his sales record had deteriorated and that these are grounds justifying discharge for cause. The existence of lawful grounds for discharge does not destroy the above conclusion, for the discriminatory motive need not be the only reason. It is sufficient that union activity be a substantial or motivating reason. *N.L.R.B. v. Whittin Machine Works*, 204 F. 2d 883 (C.A. 1); *N.L.R.B. v. O. & J. Camp, Inc., et al., d/b/a Kibler-Camp Phosphate Enterprise*, 216 F. 2d 113 (C.A. 5).

constitutes a refusal to bargain. See *N.L.R.B. v. Crompton-Highland Mills, Inc.*, 337 U.S. 217, 224-226; *Medo Photo Supply Corporation v. N L R.B.*, 321 U.S. 678, 683-685. And assuming that Murphy's raise was not included in the general increase extended to new drivers, it nevertheless partook of the nature of a merit increase. Individual merit increases likewise are bargainable subject matters and may not be unilaterally changed. *N.L.R.B. v. J. H. Allison & Company*, 165 F. 2d 766 (C.A. 6), cert. denied 335 U.S. 905.

Accordingly, I find that the particular raises involved, while not inspired by union animus, are condemned by Section 8(a)(5) because Respondent did not consult with the Union with respect thereto. *Robert Price and Glen Price Co-Partners d/b/a Price's IGA Foodliner*, 141 NLRB 599, is distinguishable, because there, unlike here, the changes in economic benefits had been promised to employees prior to the commencement of union activity.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

Those activities of Respondent which have been found to contravene the Act as set forth in section III, above, occurring in connection with its operations set forth in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom and that it take certain affirmative action designed to effectuate the policies of the Act. The Recommended Order will require Respondent to offer Thomas E. Smith full and immediate reinstatement to his former or substantially equivalent position, without prejudice to seniority or other rights and privileges previously enjoyed, and to make him whole for any loss of earnings suffered. Such loss, if any, shall be compensated for by payment of a sum of money equal to that which Smith normally would have earned from the date of the discrimination against him to the date of Respondent's offer of reinstatement or actual reinstatement, as the case may be, less net earnings during the intervening period. The backpay provided herein shall be computed in accordance with the formula described in *F. W. Woolworth Company*, 90 NLRB 289, with interest thereon ascertained in the manner set forth in *Isis Plumbing & Heating Co.*, 138 NLRB 716. It will also be recommended that Respondent retain and make available to the Board or its agents, upon reasonable request, all pertinent records and data necessary to determine the amount of backpay due.

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

CONCLUSIONS OF LAW

1. Local 135 is a labor organization within the meaning of Section 2(5) of the Act.
2. Respondent is an employer engaged in commerce as defined in Section 2(6) and (7) of the Act.
3. All route salesmen employed by the Company at its Muncie, Indiana, establishment, but excluding all office clerical employees, professional employees, and supervisors as defined in the Act, and all other employees, constitute a unit appropriate for purposes of collective bargaining within the meaning of Sections 9(b) and 8(a)(5) of the Act.
4. On October 6, 1962, and at all material times thereafter, Local 135 represented a majority, and was the exclusive bargaining representative, of all the employees in the aforesaid appropriate unit for purposes of collective bargaining within the meaning of Section 8(a)(5) and (9) of the Act; and Respondent was on that date, and has been since, legally obliged to recognize and bargain with Local 135 as such.
5. By coercively interrogating its employees concerning their and other employees' union membership, activities, and desires; by sanctioning a poll of its employees; and by requesting employees to withdraw from or to refrain from joining Local 135; Respondent has engaged in and is engaging in conduct proscribed by Section 8(a)(1) of the Act.
6. By discriminating in regard to the tenure of employment of Thomas E. Smith, thereby discouraging membership in a labor organization, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act.

7. By refusing to recognize or bargain with the Union in an appropriate unit on and since May 6, 1962, and by unilaterally raising wages, Respondent has engaged in and is engaging in unfair labor practices comprehended by Section 8(a)(5) and (1) of the Act.

8. The above-described unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

9. Respondent has not committed any other unfair labor practices alleged in the complaint.

RECOMMENDED ORDER

Upon the basis of the above findings of fact and conclusions of law, and upon the entire record in the case, it is recommended that the Respondent, Mid-West Towel & Linen Service, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in the Union, or any other labor organization, by discharging employees or otherwise discriminating in any manner in respect to their tenure of employment, or any term or condition of employment.

(b) Sanctioning or participating in polls of employees to ascertain their union sympathies or desires.

(c) Coercively interrogating employees concerning their or other employees' union sympathies, activities, or desires.

(d) Soliciting employees to withdraw from or to refuse to join Local 135 or any other labor organization.

(e) Refusing to recognize or bargain collectively with Local 135 as the exclusive representative of all the employees in the above-mentioned appropriate unit, and from unilaterally changing their wages without prior consultation with said Union or any labor organization which they may select as their exclusive bargaining agent.

(f) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist the Union or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Upon request, bargain collectively with the Union as the exclusive representative of all employees in the aforesaid appropriate unit and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Offer Thomas E. Smith immediate and full reinstatement to his former or a substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole for any loss of pay he may have suffered, with interest at the rate of 6 percent, by reason of Respondent's discrimination against him.

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

(d) Post at its plant in Muncie, Indiana, copies of the attached notice marked "Appendix."¹³ Copies of said notice, to be furnished by the Regional Director for the Twenty-fifth Region, shall, after being signed by a duly authorized representative of Respondent, be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for the Twenty-fifth Region, in writing, within 20 days from the date of receipt of this Intermediate Report and Recommended Order, what steps Respondent has taken to comply herewith.¹⁴

¹³ If this Recommended Order is 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 is 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."

¹⁴ If this Recommended Order is 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, of the steps that Respondent has taken to comply herewith."

It is further recommended that the complaint be dismissed in all other respects. It is finally recommended that unless Respondent shall, within the prescribed period, notify the said Regional Director that it will comply, the Board issue an Order requiring Respondent to take the aforesaid action.

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 Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, or in any other labor organization, by discharging any of our employees because of their concerted or union activities, or in any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment.

WE WILL NOT sanction or participate in polls of employees to ascertain their union sympathies or desires.

WE WILL NOT coercively interrogate employees concerning their or other employees' union sympathies, activities, or desires.

WE WILL NOT solicit employees to withdraw from or refuse to join said Local 135 or any other labor organization.

WE WILL NOT refuse to recognize or bargain collectively with said Local 135 as the exclusive representative of all our employees in the appropriate unit mentioned below.

WE WILL NOT raise wages of employees in said appropriate unit before negotiating thereon with said Local 135 as long as it represents a majority of said employees.

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 labor organizations, to join or assist Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities.

WE WILL offer Thomas E. Smith immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority or other rights and privileges, and will make him whole for any loss of pay incurred as a result of his discharge, with interest thereon at 6 percent per annum.

WE WILL, upon request, bargain collectively with said Local 135, as the exclusive representative of all employees in the bargaining unit described below with respect to rates of pay, hours of employment, and other terms and conditions of employment, and, if an understanding is reached, we will embody such understanding in a signed contract. The bargaining unit is:

All our route salesmen employed at our Muncie, Indiana, establishment, but excluding all office clerical employees, professional employees, guards, and supervisors as defined in the Act, and all other employees.

All our employees in said unit are free to become, remain, or refrain from becoming or remaining members of said Local 135 or any other labor organization.

MID-WEST TOWEL & LINEN SERVICE, INC.,

Employer.

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

NOTE.—We will notify the above-named employee if presently serving in the Armed Forces of the United States of his 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, 614 ISTA Center, 150 West Market Street, Indianapolis, Indiana, 46204, Telephone No. Melrose 3-8921, if they have any questions concerning this notice or compliance with its provisions.