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United States of America
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SECTION

In the Matter of
~~MIKE B COAL COMPANY, a corporation~~
and
~~PROGRESSIVE MINE WORKERS OF AMERICA, LOCAL UNION #84~~

Date filed _____, 193__

CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that

~~Mike B Coal Company, a corporation~~
has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and of said Act, in that said Company has acquiesced in acts of coercion and intimidation on the part of members of Local Union #7400, United Mine Workers of America against members of Local Union #84, Progressive Mine Workers of America, and has wholly neglected and failed to protect the members of Local Union #84, Progressive Mine Workers of America from assaults and intimidation.
Mike B Coal Company and its agents and representatives have stood idly by while members of United Mine Workers have intimidated, threatened and assaulted members of Local Union #84, Progressive Mine Workers of America, and have failed and refused to punish, penalize or discharge those guilty of aforesaid acts of intimidation and assaults.
Mike B Coal Company has permitted members of Local Union #7400, United Mine Workers of America and outside organizers to threaten, abuse, intimidate and assault members of Local Union #84, Progressive Mine Workers of America, and has acquiesced in a campaign of intimidation and terrorism that has been conducted on the mine property.
Mike B Coal Company has interfered with, coerced and restrained members of Local Union #84, Progressive Mine Workers of America in the exercise of the rights guaranteed in section 7 of the National Labor Relations Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Subscribed and sworn to before me
this _____ day of _____,
193__ At _____

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

~~PROGRESSIVE MINE WORKERS OF AMERICA, LOCAL UNION #84~~

B Y *

LEGAL DEPARTMENT

Progressive Mine Workers of America

Affiliated With American Federation of Labor

SPRINGFIELD, ILLINOIS

LEGAL STAFF

JOHN R. KANE, General Counsel
308 Ridgely-Farmer Bank Building, Springfield, IllinoisJOHN P. MADDEN
308 Ridgely-Farmer Bank Building, Springfield, IllinoisC. C. DREAMAN
1st National Bank Bldg.
Beverly, IllinoisD. W. JOHNSTON
Attorney-at-Law
Taylorville, Illinois

February 5, 1941

Regional Director
Thirteenth Region, National Labor Relations Board
Midland Bldg.
Chicago, Illinois

Dear Sir:

I am enclosing herewith original and four copies of charge of unfair labor practice by Local Union #54, Progressive Mine Workers of America, which I wish you would please file.

A copy of this charge, together with a copy of this letter, is being mailed direct to the National Labor Relations Board in Washington.

This charge is not being filed merely for the purpose of delaying the action of the National Labor Relations Board in other matters now pending before it. In explanation of our reasons for filing this charge at this time, we wish to call your attention to the fact that due to intimidation and assaults on the part of members of the United Mine Workers, many of the members of the Progressive Mine Workers of America are even afraid to go to work. Only yesterday, sixty-one men failed to go below because of fear of receiving great bodily injury. Day after day, great numbers have remained away from work. In the representation hearing, and in the oral arguments before the Board in Washington, we took the position that the petition of the United Mine Workers should be dismissed. We do not wish to be understood as altering or changing our position. However, if the National Labor Relations Board feels that an election must be held, may we suggest that the Regional Director or the Board send to Springfield a wholly disinterested representative or agent who has heretofore formed no opinion in regard to the merits of the controversy for the purpose of investigating the charge herein filed.

May we suggest that this representative informally call together all parties, including officials of Mine B Coal Company and officials of the United Mine Workers, and that he inform all parties involved that intimidation and assaults of every kind and character must be stopped, and the effects thereof cease, before an election is conducted.

Regional Director

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February 5, 1941

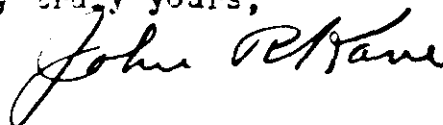
May we further suggest that the operator be required to post a notice upon the mine property to the effect that the employees have a perfect right to belong to any organization that they see fit, and that he, the employer, will negotiate and contract with any labor organization certified by the Board.

May we further suggest that the operator instruct all employees who are remaining away from work because of intimidation to return to their employment without prejudice.

Frankly, we are not so much concerned about obtaining another cease and desist order against the Company ~~as~~ we do not believe another order would clear the atmosphere or make the situation better.

We do, however, want the intimidation stopped, and the employees convinced that they are at perfect liberty to belong to any organization they see fit. We therefore, in good faith, submit to the Board the suggestions herein contained, and hope that they may be put into force and effect in the event that the Board feels that an election ~~may~~ be held.

Very truly yours,



JOHN R. KANE

JRK:ome

Howard LeBaron
Acting Secretary

January 7, 1941

G. L. Patterson
Director, 13th Region

Mine B Coal Company
Case Nos. C-854 and XIII-C-1345

This memorandum constitutes a partial reply to Mrs. Stern's recent memorandum requesting additional information and also a report of events and developments in this case during the last few days.

The importance of the Mine B cases cannot be over emphasized in view of the recent occurrences which will be enumerated hereinafter.

At the time the United filed its petition for certification, the President of the United Mine Workers stated that Mine B was the "key" to the affiliation of coal miners throughout the State of Illinois. A day or two later when the Progressives filed their charge and the request for contempt proceedings their General Counsel made the same observation.

Representatives of both the United and the Progressives advised me approximately a week or ten days before Mrs. Stern's memorandum reached me that the Board was going to request me to make further investigation.

On December 27, 1940, Mr. Edmundson, President of the United, called me and stated that he had on that date written a letter to Mine B stating that the United represented an overwhelming majority of the employees, that he had instructed officers of the local union at Mine B to close their charter as of January 15th and that unless all employees were on that date members of the United, the United employees would not permit non-members thereof to go to work. Edmundson further stated that his reason for this action was that negotiations open March 1st for new contracts with the Coal Producers Association of Illinois and that he was not going to tolerate a mine of the size of Mine B operating as an open shop mine. Edmundson further stated that unless Mine B executed a closed shop contract with the United, he would cause the mine to be closed. I advised Mr. Edmundson that I had received instructions from the Board to make a further investigation and that such investigation would be immediately made, and requested Mr. Edmundson to withhold taking any drastic action until a further report could be made to the Board.

On Saturday, December 20th, Mr. Elshoff, owner of Mine B, called me from Springfield to report that he had received an ultimatum from Mr. Edmondson. Mr. Elshoff stated that he knew, or felt reasonably positive, that the United did represent a majority, but that he was advising Edmondson that he could not recognize the United by reason of the decree of the Circuit Court of Appeals in the old case. Elshoff pointed out the reason for his conviction that the United represented an overwhelming majority. In a recent referendum vote for the election of officers in both the Progressive and United locals at Mine B, 54 ballots were cast for officers in the Progressive local and 231 votes were cast for officers in the United local. Mr. Elshoff stated also that he was extremely fearful of an outbreak of violence and that he was also convinced that the United could close the mine. - Mr. Elshoff expressed the belief that the only solution to the existing controversy would be an election.

I advised Mr. Elshoff that we were going to make a further investigation within the next few days and that we would be as expeditious in doing so as practicable.

On the afternoon of December 23rd Mr. Edmondson called at the office. He repeated the contents of his letter to Mr. Elshoff. Mr. Edmondson expressed the opinion that Mr. Elshoff was hopeful that the Board would institute contempt proceedings because that would operate to delay recognition of the United. Edmondson also stated that in his opinion Elshoff is supported in his endeavor to operate on an open shop basis by other mine operators. By reason of this opinion on the part of Mr. Edmondson, he stated that he had concluded that the action which he took and which he contemplates taking was his only alternative. He stated that he would much prefer to see Mine B closed than to go into negotiations with other coal operators with Mine B operating on an open shop basis.

In Mr. Elshoff's telephone conversation of December 20th he pointed out that he had been bargaining collectively with labor organizations for twenty years and was manifestly disturbed by the prevailing situation.

In order to obtain the additional information suggested under item (1) of Mrs. Stern's memorandum we caused letters to be sent on December 20th to all new employees requesting them to appear in the Civil Service Room of the United States Post Office in Springfield on Friday and Saturday, January 3rd and 4th, to be interviewed. Field Examiners Clark and Ryder were sent to Springfield on January 2nd. The results of their investigation will be hereinafter outlined.

On December 31st one of the active Progressive members was severely beaten in the mine. The events surrounding this incident are as follows.

Gedman was working in an entry with two members of the Progressive Pitt Committee. At about noon a telephone call was received at the mine that the two Progressive Pitt Committee members were wanted immediately at Progressive Headquarters. Word was sent to the two members of the Pitt Committee who immediately left their work. About a half hour later a haul driver found Gedman wandering up and down the entry without a light mulling to himself, and bleeding profusely. He was taken to a hospital where he is now confined and examination disclosed that his arm is broken in two places and that he has a concussion of the brain. A United member by the name of Baumgartner was working in another entry approximately 1800 feet away. The General Counsel of the Progressives sought to have Gedman sign an affidavit for the issuance of a warrant for Baumgartner. Gedman, the strike victim, refused. John Greh, a member of the executive board of the Progressives, signed an affidavit and Baumgartner was arrested on a charge of assault with a deadly weapon. Baumgartner has entered a plea of not guilty to the charge. The United members in the mine contend that it would have been physically impossible for Baumgartner to have committed the act with which he is charged, that it would have been necessary for him to walk out of his entry into the main entry and back into the entry in which Gedman was working. Moreover, the United members maintain that on the previous day Gedman had approached a United member and asked him for an application card in the United, that the United man had only two cards, both of which had been signed. It is the United's theory that the telephone call to the two Progressive Pitt Committeemen working with Gedman was planned and that the two Progressive Pitt Committeemen committed the assault on Gedman who had on the previous day volunteered to join the United. They contended also that the Progressives planned the entire assault for the purpose of accusing some United member of doing it. Gedman claims that he was struck over the head from behind with a pick handle and that as he turned and raised his arms to protect himself the assailant struck him twice on the arm, resulting in a compound fracture. Whether Gedman knows more than he has stated still remains a mystery.

On January 2nd the officials of Mine B being fearful of an outbreak of violence, requested the Sheriff to station guards at the mine. The Sheriff complied and since that time there have been seven deputies constantly on mine property. The placing of seven deputy sheriffs at the mine precipitated a threat from Edmondson that unless the guards were removed he would strike the mine.

On January 3rd the Sheriff requested Examiner Clark to meet with him and Counsel for Mine B for the purpose of reporting the result of a meeting which the Sheriff had had with a committee of the United, a committee of the Progressives, and the Mine Superintendent at the mine. The Sheriff stated to Examiner Clark that the Progressive Pitt Committee at the mine stated to him that they were willing to have the Board conduct an election. The United Committee immediately stated that the officers of

The Progressives would not permit an election to be held. The Sheriff expressed the opinion that the only solution to the dispute was an immediate election by secret ballot. Thereafter Examiner Clark contacted Mr. Kane, General Counsel for the Progressives and the Progressive Officers. The Progressive General Counsel and Officers flatly refused to consent to an election under any circumstances. While Mr. Clark was in the Progressive office, Mr. Kane, General Counsel, called me to reiterate his refusal to consent to an election and stated that something had to be done to eliminate the effects of the alleged intimidation before an election could be conducted.

On January 3rd Edmundson, President of the United, advised Examiner Clark that he had definitely decided to call a strike on January 17th if Mine B had not by that time recognized the United as the exclusive bargaining agent. Moreover, Mr. Edmundson told Clark that he would on January 18th call a holiday throughout the Springfield area of all other United mines. Edmundson further stated that he had called a meeting of all the local officers of United Mines in the Springfield area covering two or three counties. Edmundson intimated that if the foregoing plan of strategy was not productive of results he might thereafter call a holiday throughout the state. There exists, of course, the possibility, that the United may follow the example of the Progressives some years ago and picket all Progressive Mines throughout the State of Illinois.

A rumor is rampant among the Mine B employees that the United contemplates the action it does for the reason that the Board has had this case for fourteen months. Presumably the United Officers are responsible for this rumor. It has been fourteen months since the mine reopened, but the petitions and charges were not filed until August of 1940.

On January 3, 1941, the General Counsel of the Progressives employed the attorney who represented the Progressive Miners that were convicted and sentenced to the penitentiary, and thereupon the Progressives went into the District Court and asked the Court to enforce an injunction obtained by Mine B against the Progressives. The Court issued a citation in contempt against four United Miners working at Mine B: Lee Burgardner, Ed Hockleback, William Lansky (Lansky was discharged about 90 days ago by reason of his activity at the mine) and Charles Johnson, President of the United Mine B Local. The District Attorney, learning that Examiner Clark was in Springfield, called Clark. The District Attorney expressed grave fears of open warfare. He indicated also that the time was very opportune for the reason that there is presently no state militia in the State of Illinois and that recently 100 members of the Illinois State Police force resigned. The District Attorney left Saturday Night for Washington, January 4, 1941, and announced that he was requesting the Federal Bureau of Investigation to come into the Mine B situation. The District Attorney advised Clark that he had written a letter to the Attorney General requesting the participation in the controversy of the FBI, stated that it was his belief that a tie-up of all the mines in Illinois was imminent, and that in

In view of the importance of the Illinois Coal industry, the defense program in the State of Illinois might be seriously affected.

Yesterday, January 6th, the Governor of Illinois wrote a letter to Edmondson stating that nothing would deter him "from the use of the forces of State Government to bring about a settlement if the mine unions failed to keep their pledge." The pledge to which the Governor referred was one that the two unions would settle all their differences in a peaceful way. Edmondson replied to the Governor by asking the Governor "to conduct a secret poll of miners...to determine which of the two unions represents a majority...and to avert possible open clash between the rival factions." I am attaching some newspaper items appearing in Springfield newspapers during the last few days dealing with the subject matter hereinbefore discussed as well as a newspaper clipping from this morning's Chicago Tribune outlining the exchange of correspondence between the Governor of the State and Edmondson.

In order to obtain first hand information respecting item (1) of Mrs. Stern's memorandum, Examiners Clark and Ryder interviewed and obtained affidavits from 24 employees of Mine B who are the employees alleged by the Progressives to have been hired pursuant to the alleged plan of discrimination. Mr. Clark is today completing his check of the Progressive membership rolls and a report on that will be transmitted in a day or two. In view of the urgency and intensity of this situation I concluded that the information thus far obtained should be transmitted for the Board consideration and analysis.

We have undertaken to classify these affidavits in order to facilitate the Board's consideration thereof. Group No. 1 consists of 21 employees hired as apprentices. The original affidavits are hereto attached. In connection with the Board's consideration of this group, the Board's attention is directed to the file and our previous reports covering the difference in policy between the Progressive Miners and the United Miners on the subject of employing apprentices. The Progressives claim there is no difference in their respective policies. The United claims that the Progressives have in practice adhered to the policy of not permitting apprentices to be hired until all unemployed Progressive Miners are at work. The United on the other hand permits the employment of apprentice miners so long as the person to whom the apprentice is attached is a close relative. There is no doubt but that the United used this as a campaign measure and there is no doubt that the United organizers undertook to convince Progressive members who had sons that were not working that if such Progressive members would join the United their sons could be given jobs as apprentices by reason of the policy in the two organizations. Mr. Clark is presently checking the Progressive membership rolls to ascertain whether the persons to whom these twenty-four employees were apprenticed were Progressive members, and the time when they were last a Progressive member in good standing.

In the second group are 8 affidavits. The employees covered by the affidavits in this group apparently had no union affiliation at the time they were employed by Mine B. Delaz Dubinick was a top foreman at the Virden Mine which is a Progressive Mine, before being employed at Mine B. Jack Rows never belonged to either the United or the Progressives prior to his employment at Mine B. Ivan Friedman worked at a Springfield, Illinois hotel and secured his job by applying directly to Mr. Elshoff. George Dempsey, Jr. works on the Standard Gauge Railroad Tracks at Mine B and does not come under the jurisdiction of either the United or the Progressives. Anton Youdbulis worked at a non-union mine prior to being employed at Mine B. He had been a member of the United in 1929 but has not belonged to any union since and it will be recalled that the Progressives came into existence in 1932. Pete Marchukartis worked at a non-union mine immediate prior to being employed at Mine B. Monty Rucicanto was employed at a non-union mine before going to work at Mine B. Isaac Williamson worked at the Bryan Eddy Mine, non-union, at the time he was employed at Mine B. (It might be mentioned that the Bryan Eddy Mine has since these proceedings started been organized by the United and is now under closed shop agreement.

In the third group are 10 affidavits. These affidavits have been placed in a separate group for the reason that the Progressive Mine Workers came into existence in 1932. The employees in this group appear to have worked last in a mine prior to the existence of the Progressive Miners organization.

The fourth group of affidavits cover three employees. Each of these three individuals previously worked at Mine B.

The next group of affidavits cover 10 new employees. Joe Kiani was employed at the Edinburg Coal Company, a Progressive Mine, prior to going to work at Mine B. Marie Szwargarner worked at the Dankirt Coal Company, a Progressive Mine before going to work at Mine B. H. F. Carver also worked at the Dankirt Coal Company, a Progressive mine before going to work at Mine B. Peter Petrus worked at Panther Creek No. 3 Mine, a Progressive mine before going to work at Mine B. The following employees before going to work at Mine B had last been employed at mining in the old west mine of the Panther Creek Coal Company, a Progressive Mine: Vincent Chernis, John Dantel, Joe Vene, Floyd Golden, Gustav Sacco, and George Wissing.

There are 23 affidavits in the last group. The employees in this group appear from the affidavits to be identified more or less with the United Mine Workers. However, a brief comment regarding some of them might be helpful. With respect to Edward Homer, it will be noted that Homer is a tenant of Ivan Rows who is a foreman at Mine B. Four of these affidavits, to wit, Sebok, Vozara, Towland, and Monroe last worked at a non-union mine before going to work at Mine B. Nine of these affidavits are of employees who state in answer to question 6 that they did not belong to either the Progressives or the United at the time they last went to work

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for Mine B. In this group are the following: Ray, Eric, Chitty, Gehrman, Cobb, Focante, Sklenka, Wanda, Williford. Four of this group of 23 are affidavits of employees who had in the past worked at the Jefferson Mine of which Falsetti, the Superintendent of Mine B, was Superintendent up until the Jefferson Mine closed. The Jefferson Mine was in receivership. Elshoff, the owner of Mine B was receiver, and for a time Falsetti, the Superintendent acted as agent of the receiver in the capacity of Superintendent of the Jefferson Mine. The remaining 11 affidavits in this group of 23 require no special comment.

Referring further to item (1) of Mrs. Stern's memorandum, it is my opinion that perhaps the persons to whom the 24 apprentices were assigned should be interviewed, but by reason of the urgency of this matter, it is not presently being done inasmuch as we have the statements of the individuals hired.

The Board's attention in connection with its consideration of the attached affidavits, is respectfully directed to previous reports and the affidavits of Mr. Falsetti. This reference is made for the reason that Falsetti flatly and vehemently denies ever having asked any new employee what his union affiliation was, and the further fact that Falsetti did inquire of employees what previous mining experience they may have had. Mine B could, of course, argue from this that Falsetti hired many people who had last been employed either at a non-union mine, a Progressive mine, or had not worked in any mine since the Progressive Miners came into existence.

A further comment is perhaps appropriate with regard to item (1) of Mrs. Stern's memorandum. The suggestion is made that further investigation be made of those incidents where a promise was made that a particular individual would be hired or some member of his family would be hired if he joined the United Mine Workers. A careful check of these alleged occurrences indicates that such promises were made as a part of the United's organizing campaign by United Mine Workers. We have not been able to establish any connection between these statements and the company. Such promises related principally to instances in connection with the employment of sons of miners as apprentices. The difference in policy between the two organizations respecting apprentices is outlined above. The United Mine Workers accused of making such promises were interrogated by Examiner Clark and myself, and attention is called to the denials by the United Mine Workers of having made the statements and their denial that anybody from the company authorized the making of such statements.

There is one instance where a Progressive Miner alleges that a United Mine Worker told him that Superintendent Falsetti had asked the United Mine Worker to approach the Progressive Mine Worker. This statement is denied by Falsetti and is similarly denied by the United Mine Worker.

Another factor which should be considered in connection with the vigor of the campaign waged by the United is the fact that Edmondson, President of the United Mine Workers, assisted in obtaining paroles for the convicted Progressive Miners who recently got out of jail. Edmondson's participation in their parole is confirmed by the United States District Attorney.

With respect to item (2) of the memorandum, the observation is made that Elshoff did not deny the statements attributed to him by Kane that he, Elshoff, would never sign an agreement with the Progressives and would do what he could to destroy them. Elshoff flatly denied that he ever stated that he would not sign a contract and flatly denies that he threatened to destroy the Progressives. It may be that this denial was overlooked in Clark's original report. Elshoff had orally denied those two statements to Examiner Clark and myself prior to the preparation of Mr. Clark's report. Affidavits covering these statements were not submitted until October 6th or 7th by Mr. Elshoff, Mr. Falsetti, and Mr. Ensel, Attorney for Mine B. These original affidavits are in the file which was forwarded to the Board in connection with the appeal from my refusal to issue a complaint. I suggest that the affidavits of Elshoff, Falsetti and Ensel be referred to. These affidavits are dated October 8, 1940 and in consequence were not attached to the report of October 6th.

With respect to the allegation regarding the refusal to sign an agreement, the Progressives made a claim in April of 1940 that Mine B was not bargaining in accordance with the decree. Pursuant to the request of the Progressives, Examiners Leiserson and Williams made an investigation, and a few days thereafter in the month of April, 1940, Examiner Leiserson and myself met with Mr. Elshoff and his Attorney and Mr. Kane and his Committee. Mr. Elshoff stated in our presence at that time that he had not at any time refused to sign an agreement and was then ready to sign an agreement. I asked him in the presence of the Progressive Committee whether he would then sign an agreement with the Progressives covering all items that had then been agreed upon and he stated that he would. Kane, Counsel for the Progressives, diverted the conversation into the question of a closed shop and the check off. Elshoff did decline to sign an agreement providing for a closed shop and check off, stating that he had previously gotten himself into trouble by signing a closed shop agreement. I therefore do not believe that there is any inconsistency in Elshoff's position. Kane does claim that Elshoff refused to sign an agreement, that Elshoff made the foregoing statement, and regards the minutes of the most recent negotiations as evidence of an agreement on the points covered by the minutes.

With further reference to item (2) regarding bargaining, the Board's attention is again directed to the affidavits in the file in Washington of Falsetti and Elshoff. Falsetti verbally and in these affidavits has stated that he is always held representative of the United Mine Workers when they appeared at his office that they appeared only as

representative of an individual who had a grievance and that he was not recognizing the United as a bargaining agent. The United Mine Workers, particularly the President of the Mine B Local, at the times we have interviewed him, has complained that Falsetti refused to recognize him in anything but an individual capacity in the presence of members of the Pitt committee of the Progressives. Moreover, as the new employees, who are the subject of the charge, were being hired, Falsetti furnished the Progressives with a list of each of the new men hired when they went to work and did not furnish such a list to the United. Falsetti met daily with the Progressive Pitt Committee. He vigorously maintains that he only discussed individual grievances with any representative of the United Local.

One further observation should be made on the question of signing a closed shop agreement. Elshoff declined a closed shop and check off feature. The Progressives maintain that they could not sign anything but a closed shop agreement by reason of the reaction that might be had in other quarters. When this point was raised during the negotiations Elshoff produced a contract which the Progressives had signed in either Kentucky or West Virginia which did not contain the closed shop and check off features.

The doubt appears to exist regarding the good faith of Mine B's bargaining on the question of "dirty coal funds". There have been numerous discussions between Mine B and the Progressives on this point. Under a closed shop agreement the money deducted and placed in the "dirty coal fund" is turned over to the union having the closed shop agreement. In this case Elshoff has made several suggestions regarding the disposition of this fund to the Progressives. The money is held in escrow in a special fund. Elshoff is ready to pay it out, but he refuses to do so in view of the dispute regarding representation. Elshoff agreed to turn over the money to the Progressives if the Progressives agreed to use it for the benefit of any employee of the mine whether such employee was a member of the Progressives or the United. This the Progressives declined to do. It is apparently a practice of the employee organization to use the money from dirty coal for death benefit and for other charitable purposes for union members under closed shop agreement. The situation therefore with respect to the dirty coal funds is that the money is being held by the company and a dispute on the method of distribution exists.

I am not sure whether or not the controversy regarding check weighmen is clearly stated in Clark's report. The check weighman is not an employee of the operator. The check weighman is employed by the men. No controversy arises where a closed contract exists. In this instance the Progressives hired a check weighman. After a time the Progressives instructed the check weighman, who was being paid by the Progressives, not to check the weights of coal mined by United members. Under the law of the State of Illinois an operator must permit employees to have a check weighman if they so desire. Because of the dispute the United members

insisted upon employing their own check weighman because the check weighman employed by the Progressives refused to check their coal. The man who weighs the coal is, of course, an employee of the mine. The check weighman is the employee of the miners who checks the weights recorded by the weighman. For further enlightenment on this point your attention is directed to the letter of Mr. Edmondson dealing with this question which is in the file now before the Board as well as the affidavits of Mr. Kishoff and Falsetti.

Some comment should perhaps be made covering the inquiry under item (2) of the memorandum of Mrs. Stern about the Progressives' claim that Mine B refused to write up cases pursuant to the procedure agreed upon. It should be remembered that although negotiations commenced before the mine opened in November, 1939 and continued thereafter, it was not until May 9, 1940, that the parties first agreed on grievance procedure. One of the complaints by the Progressives on this point is that the company refused to write up the case of Holeski. The company says Holeski resigned and quit voluntarily February 19, 1940, which was prior to the time when the grievance procedure had been outlined. With respect to the Majetka case the Superintendent discharged him after several warnings for starting arguments with United Mine Workers. Our report and the files indicate that William Lansky and Jack Lindsey, United Mine Workers, were also fired for the same reason. When Mr. Grah, of the executive board of the Progressives, went to the mine to prepare a statement of facts on the Majetka case, Grah insisted that the statement of facts contained the provision that Majetka was discharged for union activities. Falsetti declined to make such an admission and consequently the case could not be written up in accordance with the grievance procedure.

One other point about which the Progressives complain and to which they point as evidence of a failure to bargain is the dispute regarding shot firers. One of the working conditions prior to the mine closure in May of 1937 was that shot firers were paid for eight hours and worked seven. When the mine reopened Mine B did not grant this working condition and paid shot firers only for the time actually worked. Considerable discussion ensued on this point during the negotiations between Mine B and the Progressives. The Progressives advised Clark last week that Mine B has now restored the practice and working conditions of paying shot firers eight hours' pay for seven hours' work.

On item (3) of Mrs. Stern's memorandum regarding intimidation, assaults and threats, we have the affidavits of the Progressives and the affidavits of the United members accused of making the threats or assaults. We have the instances of Majetka, a Progressive, and of Lansky and Lindsey, United members, who were fired when their statements, threats or assaults were brought to the attention of the Superintendent. We will make a check of these affidavits and if there is anything that we can add to what is already in the file we will do so.

On item (4) regarding the refusal to hire four men recently released from the penitentiary, Mr. Clark is now obtaining various dates and other information and I will supplement this report with whatever additional information he obtains.

A. H. Patterson

CLP:ms
Enclo.

G. L. Patterson, Regional Director

January 8, 1941

James C. Clark, Field Examiner

Mine B Coal Company
Case No. C-254
XIII-C-1348

In Mrs. Stern's memorandum of December 21, 1940, she requests certain additional information relative to the two cases above. I discussed this memorandum with you on December 27, 1940, at which time I explained to you that from what I know of the record of the Progressive Mine Workers of America it would be necessary to interview each new employee in order to secure the information required and for other reasons it seemed advisable to interview each of the new employees. In preparation for the trip to Springfield the attached mimeographed letter, marked Exhibit 1, was sent to 77 of the new employees whose names appeared in the file. All of these were sent in care of the Mine B Coal Company. At the conference with you on December 27, 1940, it was also decided that in order to make the investigation complete we should interview employees hired since September 1, 1940. The only list we secured from the company was of employees on the payroll of August 31, 1940. On December 30, 1940, I called Mr. Lee Busel, attorney for the company, and asked him to provide a list of the new employees hired since August 31, 1940, and I secured this list upon arrival at Springfield, January 2, 1941. Twenty-three letters were mailed at Springfield to the twenty-three new employees listed, making a total of 100.

In preparation for the interviews I also prepared a questionnaire, which is attached hereto as Exhibit 2. On December 31, 1940, we arranged, by telephone, to secure the Civil Service room in the Post Office Building at Springfield on Friday afternoon and Saturday, January 3 and 4, 1941. On the same date I called Attorney Enns representing the Progressive Mine Workers and told him that I would be in Springfield on January 2, 1941, and would interview all new employees of Mine B on January 3 and 4.

On the afternoon of January 2, 1941, at Springfield, I called on Mr. Enns, showed him the questionnaire that had been prepared for use in these interviews and asked if he had any suggestions. He said that he did not but asked if he could be present during the time Mine B employees were being interviewed. I told Mr. Enns that he could not be

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present and he made no objection, observing, however, that he wanted to check the affidavits after they were received. I then told Mr. Kane that before I left Springfield I desired to check his membership rolls with respect to new Mine B employees who claimed affiliation with the Progressive Mine Workers. This seemed to satisfy Mr. Kane and nothing more was said about the subject.

On Friday morning, January 5, 1941, at 9:00 a.m., I called on Mr. Ray Edmundson, President of District 12, United Mine Workers of America. I explained to Mr. Edmundson that we proposed to interview all of the new employees of Mine B and explained briefly the information we desired. He did not ask to see the questionnaire and I did not show it to him. During this conversation, Mr. Edmundson read to me parts of the letter he had written to Mr. Carl Kischoff, President of Mine B, advising that he proposed to close his charter at Mine B on January 16, 1941, and demanding recognition on or before that date. Mr. Edmundson stated further that he proposed to close Mine B on January 17, 1941, if Mr. Kischoff did not meet his demands by that time. This was intimated in the letter Edmundson wrote to Kischoff but the word, "strike," was not used. Mr. Edmundson read no parts of the reply received from Mr. Kischoff. In this reply, Mr. Kischoff pointed out that a Seventh Circuit Court Decree was in effect, requiring him to bargain with Progressive Mine Workers of America until some other agent was designated by the National Labor Relations Board and stating that he would hold Mr. Edmundson and the United Mine Workers responsible for any damage to property and loss of profits through closing of the mine and also for any personal injury that might result from such closing. Mr. Edmundson also read no parts of his reply to this letter from Mr. Kischoff in which Edmundson told Kischoff that he would accept no responsibility for any damage to property, personal injury, or loss of profits.

Mr. Edmundson stated further that if Mr. Kischoff did not meet his demands he proposed to call a "mine holiday" in the United mines in the Springfield territory beginning the day after he closed Mine B and that he had called a meeting of the officers of the local unions involved to meet in his office on January 12, 1941, to arrange the details of such a "mine holiday." Mr. Edmundson stated further that if it became necessary to enforce his demands on Mine B he might be compelled to extend the "mine holiday" to all United mines in Illinois. During this conversation, Mr. Edmundson gave a brief history of the split between the United and the Progressive, which occurred in 1938, and stated that conditions in the United Mine Workers at that time were bad and that he did not blame the men for splitting off and forming the Progressives. He went on to say, however, that the bad conditions no longer existed and that he thought that there was not room in Illinois for two mine unions at the present time. In this connection he mentioned that to accomplish this purpose he might

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was the same tactics used by Progressives in 1932 and for some time thereafter. At the time I did not fully understand what he meant by this remark. The next day, however, in a conversation with United States Attorney at Springfield I was told that in 1932 and for some time thereafter the Progressives had picketed United mines. I assume that this is what Edmondson meant by his remark.

Immediately following my conference with Mr. Edmondson I met Mr. Falsetti in Mr. Ensel's office by appointment. I asked Falsetti if he had ever recognized the United committee at Mine B. This is mentioned under (2) of the memorandum of December 21, 1940. Falsetti stated that he had never recognized the United committee at the mine even to handling personal grievances but said that it might be construed as recognizing the committee at the time the United committee arranged with him for an additional check-weighman. Falsetti went on to say however he had been advised by Mr. Ensel that the State law required them to furnish facilities for a check-weighman if the United members desired to hire a check-weighman in addition to the one hired by the Progressives.

As soon as the examiner arrived at Mr. Ensel's office Mr. Ensel said that Sheriff Nielsen had called him up and asked him (Ensel) if he could arrange a meeting with the examiner. The examiner told Mr. Ensel that he would be glad to talk with the Sheriff and Ensel immediately called the Sheriff on the telephone and asked him to come to the office. When the Sheriff came in he stated that he and Mr. Falsetti, who was also present, had met with the Progressive mine committee in Mr. Falsetti's office that morning and that Mr. Booklebock and Mr. Edmondson of the United were also present. Mr. Nielsen stated that the Progressive committee, composed of Mr. Shney, Mr. Booklebock and Mr. Martini, had expressed willingness to have an election at Mine B and that Mr. Booklebock had immediately taken up and said that the Progressive district officials would never consent to an election. This was confirmed by Mr. Falsetti. Mr. Nielsen asked several questions concerning the status of the case now pending before the Board and asked the examiner's opinion as to what would settle the differences. The examiner replied that an election would be required to settle the question of representation but that the bitter feeling between the two factions in the mine would require some time to eliminate. Nielsen stated that the feeling between the two factions was so bitter that he expected the situation to blow up at most anything. He said that he was keeping six or seven deputies at the mine property all of the time while the mine was operating, which means both day and night shifts. During this conversation Mr. Falsetti stated that he had urged Mr. Kishoff to close the mine before there was a riot and somebody gets killed. Nielsen stated that he had authority to close the mine and would do so if necessary to prevent blood shed and damage to property.

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Field Examiner Mayer S. Ryder and the undersigned interviewed new employees of Mine B from 1:00 p.m. to 9:00 p.m. January 3, 1941 and from 9:00 a.m. to 6:00 p.m. on January 4, 1941. However, on January 6, 1941, Mr. Ryder handled the matter along until about 2:00 p.m. The result of these interviews will be discussed later in this report.

On the morning of January 6, 1941, examiner called at the office of Mr. Kane to arrange a check of membership of the Progressives and, in fact, had about 20 names to check. Mr. Kane was so busy with other matters that nothing was accomplished. Shortly before noon on January 6, 1941, examiner called at the office of United States District Attorney Doyle to secure information on the four paroled convicts involved in these cases. As soon as Mr. Doyle discovered that the examiner was working on Mine B cases for the Labor Board he began questioning the examiner concerning the cases before the Board and their status. The examiner gave him the information requested, which went back to the closing of the mine on May 12, 1937. Mr. Doyle then read to the examiner a letter he was mailing that day to the Attorney General of the United States in which he described, briefly, the situation that exists in the Illinois coal field and expressed the conviction that unless something could be done very quickly all of the coal mines in Illinois might be closed to the great detriment of the defense program. He also stated in this letter to the Attorney General that he thought the Federal Bureau of Investigation should be assigned to the case at once. Doyle asked the examiner to keep in touch with his office while in Springfield but Doyle himself said he was leaving for Washington that afternoon and would not be back until Wednesday, January 9, 1941.

Referring to paragraph one in Mrs. Stern's memorandum of December 21, 1940, the two field examiners interviewed 84 new employees at Mine B on January 3 and 4, 1941. The persons interviewed were all put under oath before they made their statements and every effort was made to secure accurate information. The undersigned had the impression that some of the witnesses had been coached. In one case in particular the examiner had documentary evidence that the witness was a member of the United Mine Workers at the time he secured his job at Mine B but this witness insisted that he was not a member at the time he secured his job. This witness was Dewey Ray. The examiner had heard rumors that the United Mine Workers had held a meeting the evening of December 21, 1940 to instruct witnesses how to make their statements. However, at that time no one outside the Regional office knew what questions were to be asked. The letters from the Regional office had gone out to 77 new Mine B employees on Monday and had been received by most of these employees by Tuesday morning.

There are one or two facts that need to be borne in mind in considering the following analysis. One, under the constitution of the Progressive Mine Workers of America a member is automatically dropped from the organization after he has been delinquent in the payment of dues for

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three consecutive months; two, under the constitution of the Progressive Mine Workers any member who is out of work or who was unable to work because of sickness may be exonerated from paying monthly dues providing he makes a separate application each month; three, under the constitution of the Progressive Mine Workers a member of the organization is required to deposit his transfer card in the local union of the mine where he secures his job, within three days. In a number of cases the Progressive books show that a new Mine B employee was a member of the Progressives on the day he secured his job at Mine B but was expelled three days later because he failed to deposit his transfer card. The examiner advised Attorney Kane of the Progressives and Board member Grah that in the examiner's opinion the main fact to be determined was whether or not the new employee was a member of the Progressives at the time he secured his job and that the fact that he may have been expelled three days later had no bearing on the case.

The membership records of the Progressives are kept by officials of each local. The financial secretary is supposed to keep a record of all financial transactions of the local, including dues paid and exonerations in case dues are not paid. The recording secretary of each local keeps a record of transfers requested from the local and the minutes of local meetings. The examiner found that in several cases the financial secretaries of the locals had failed to keep records of dues paid. For instance, in one case, Local 155, the financial secretary's books simply showed the total amount received each month from the mine under the check-off system and did not show the names of the employees from whose wages these dues had been checked-off. In some cases, the book showed the number of the employees involved and in other cases did not even show the number. In no case did it show the names. It should also be explained that the membership records of the Progressive locals are carried under the check number that the member has in the mine where he works. This system makes it practically impossible to find the man unless you have his check number and since check numbers constantly change with the change in employees you are not sure you have the right one even though you have the check number.

In every case in which the new Mine B employees claimed recent affiliation with the Progressive Mine Workers, the Progressive records were searched to verify the new employee's statement. An analysis has been made as to the check of the Progressive records. For convenience in analyzing, these lists have been divided into six groups. Group one are apprentices, of which there were 54. All of these apprentices secured their jobs through their fathers or some close relative and were apprenticed to some close relative, usually the father. In every case it was the father or the other close relative whose record was searched in the Progressive records. This search revealed that out of 54 apprentices the fathers or other close relatives of 30 of the apprentices were Progressives or had been Progressives within a month or so before the apprentice went to work. Out of the 20 Progressive fathers or other close

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relatives 11 had been dropped by the Progressives at the time the apprentices went to work. The fathers or the other close relatives of the other four were United members. The examiner is not in a position to give the union affiliation of all of the fathers or other close relatives since the United and Progressive cards and the tabulation are in the Washington file and eleven of the apprentices have been hired since August 31, 1940, the date of the last check.

The details of the above summary are as follows:

Apprentice Joseph Mascoli went to work as an apprentice on September 25, 1940 and secured his job through his father, Tony Mascoli, who paid dues to Progressive Local 54 for May, 1940, and was dropped as a member September 1, 1940.

Ernest Di Girolamo went to work as an apprentice on August 9, 1940, and secured his job through his father, Pete Di Girolamo, who paid dues to Progressive Local 54 up to and including August, 1940, and was dropped by the local December 1, 1940.

Jack Falocchia went to work as an apprentice on October 2, 1940, and secured his job through his father-in-law, Battista Terrase, who paid dues to Progressive Local 54 until May, 1940, and was dropped by the local September 1, 1940.

Fauldi Diprefio went to work as an apprentice July 9, 1940, and secured his job through his father, Louis Diprefio, who paid dues to Progressive Local 54 until January, 1940 and was dropped by the local May, 1940.

Angelo Pafoglia went to work as an apprentice September, 1940, and secured his job through his father, Francis Pafoglia, who paid dues to Progressive Local 54 until June 15, 1940, and was dropped September 15, 1940.

Gilbert Boes went to work as an apprentice July, 1940, and secured his job through his father, Louis Boes, who paid dues to Progressive Local 54 until April, 1940, and was dropped July 1, 1940.

Joseph Pasquale went to work as an apprentice September 15, 1940, and secured his job through his father, Sam Pasquale. Could find no record of Sam Pasquale in the books of Local 54 but John Schneider, financial secretary of Local 54, has filed an affidavit in which he stated that he knows of his own knowledge that Dominic Pasquale was expelled from Local Union 54 prior to May 12, 1937. Schneider's affidavit states further that Sam Pasquale has always been listed on Progressive Mine Workers records as Dominic Pasquale. Mr. Schneider, as well as Attorney Kane and Board member Grah stated to the examiner that Sam Pasquale is one of the 14 employees of Mine B who joined the United some time prior to May, 1937,

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and he was one of the 14 that caused the strike at Mine B on May 12, 1937.

Ray A. Ray went to work as an apprentice August 1, 1940, and secured his job through his father, Dewey Ray, who apparently has never belonged to the Progressive organization. Ray Ray states on his affidavit that his father was a member of the UMWA at the time he, Ray, went to work at Mine B.

Jasper Cascioppe went to work as an apprentice September 27, 1940, and secured his job through his father, Steve Cascioppe, who paid dues to Progressive Local 54 until June 15, 1940, and was dropped September 15, 1940.

Andrew Skrolevius, Jr. went to work as an apprentice about August 1, 1940, and secured his job through his father, Andrew Skrolevius, Sr. The examiner could find no record of Andrew Skrolevius Sr. but John Schneider, financial secretary of Local 54, filed an affidavit in which he states that Andrew Skrolevius, Sr. was expelled from Local 54 PMAA prior to May 12, 1937. Other officers of the Progressive states that Andrew Skrolevius, Sr. was one of the 14 who joined the United and was the indirect cause of the strike at Mine B May 12, 1937.

Samuel Reeves went to work as apprentice July 25, 1940, and secured his job through his father, Ed. Reeves, who paid dues to Progressive Local 54 until December, 1939 and was dropped by the local April 1, 1940.

Joe Cascioppe went to work as an apprentice August 9, 1940, and secured his job through his father, Steve Cascioppe, who paid dues to Progressive Local 54 until June 15, 1940 and was dropped by the local September 15, 1940.

Samuel Davidson went to work as an apprentice July 29, 1940, and secured his job through his father, Ernest Davidson, who paid dues to Progressive Local 54 until May, 1940 and was dropped by the local September 1, 1940.

Stanley Walatevich went to work as an apprentice September 28, 1940, secured his job through his father, Anton Walatevich, who paid dues to Progressive Local 54 until July, 1940, and was dropped by the local November 1, 1940. Anton Walatevich is carried on the local books of the union as Anton Velcovitch, but Schneider and Grah both say he is the same man.

William Shinkus went to work as an apprentice August 2, 1940, and secured his job through his father, Frank Shinkus, who paid dues to Progressive Local 54 until July, 1940 and was dropped by the local November, 1940.

David Patrick went to work as an apprentice August 5, 1940, and secured his job through his step-father, Steve Kresonski, who paid dues to

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until June, 1940 and was dropped by the local October 1, 1940.

Joseph Bodnar went to work as an apprentice August, 1940, and secured his job through his father, Steve, who paid dues to Progressive Local 54 until May 1, 1940 and was dropped by the local September 1, 1940.

Richard Pope went to work as an apprentice September 27, 1940, secured his job through his father, Thomas C. Pope, who paid dues to Progressive Local 54 until May 1, 1940, and was dropped by the local September 1, 1940.

Robert Todd, Jr. went to work as an apprentice October 19, 1940, secured his job through his father, Robert Todd, Sr., who paid dues to Progressive Local 54 until June 15, 1940, and was dropped by the local September 16, 1940. Robert Todd, Jr. had worked at Mine B during 1933 and 1934 and paid dues to Progressive Local 54 until April, 1933.

Garnon Santini went to work as an apprentice August, 1940, secured his job through his father, Joe Santini, who paid dues to Progressive Local 54 until February, 1940, and was dropped by the local June 1, 1940.

Charles Behanman, Jr. went to work as an apprentice August 8, 1940, and secured his job through his father, Charles Behanman, Sr., who was one of the 14 who joined the United prior to May, 1937.

Jonas Fitzpatrick went to work as an apprentice September 26, 1940, and secured his job through his father, Josh Fitzpatrick, who paid dues to Progressive Local 54 until June, 1940, and was dropped by the local October 1, 1940.

Anthony Yakaitis, Jr. went to work as an apprentice October 9, 1940, and secured his job through his father, Anthony Yakaitis, Sr., who paid dues to Progressive Local 54, until May, 1940, and was dropped by the local September 1, 1940.

Tommy Demiseo, Jr., went to work as an apprentice October 3, 1940, and secured his job through his father, Tony Demiseo, Sr., who was a member in good standing of Progressive Local 54 at the time examiner checked the books, January 7, 1941.

Group No. 2 is composed of eight new employees who do not show any previous union affiliation. Most of them worked last at non-union mines and some had never worked at any mine before, but were employed in jobs above ground where state mining papers are not required.

Group No. 3 is composed of ten employees who had not worked in any mine since 1932 when the Progressives first split off from United. Two of these, however, had secured their jobs at Mine B through the aid of relatives. They are as follows:

Benjamin Lucas secured his job September 30, 1940 at Mine B through his uncle, Paul Fabri who had worked at Mine B about ten years. Fabri paid dues to the Progressive Local 54 until April, 1940 and was dropped August 1, 1940.

Anthony Ganci went to work August 15, 1940 and secured his job through his brother, Sam Ganci, who paid dues to Progressive Local 54 until June 15, 1940 and was dropped September 16, 1940.

Two others in this group, Sylvester Burch and Fred Frere say that they had gone with the Progressives when the split came in 1932. Both had worked at Teabody 54 and this mine closed at the time the Progressive split occurred, and has never operated since.

Group No. 4 consists of three new employees who stated they had previously worked at Mine B. These are as follows:

Joe Chapalis went to work December 23, 1940. He states that he previously worked at Mine B from May, 1933 until May, 1937. The Progressive records show that he was dropped from membership in Local 54 on January 1, 1938 for non-payment of dues. This man was in the Army at that time.

John Clunker went to work August 9, 1940 and worked at Mine B prior to 1934. Records of Progressive Local 54 show he was a member of that local until May, 1934.

Louis Durheim went to work in April, 1940 and states that he had worked at Mine B since 1932. The records of Progressive Local 54 show that Durheim was off sick when the records of that local started in October, 1932. This record shows that Durheim was exonerated from 1932 until December, 1934 when he failed to apply for exoneration and was dropped January 1, 1935. Durheim in his affidavit states that he was a member of Progressive Local 54 at the time he went to work at Mine B, but this is not borne out by the Local's records.

Group No. 5 consists of ten employees who claim affiliation with the Progressives either at the time of their employment or shortly prior thereto. These are as follows:

George Wiessing went to work August 11, 1940 as a timberman's helper. In answer to question No. 8 he states in his affidavit that he belonged to Progressive Local 77 at the time he went to work at Mine B, but under remarks he states that he was not paid up to date and did not remember when he quit paying dues. The Examiner was unable to find any record of Wiessing in the financial record of Local 77, but found a record in the minutes of a meeting of Local 77 held April 5, 1937 showing that Wiessing was dropped from membership on that date for failure to comply with the constitution of the Progressive Miners.

Gatins Sacco went to work July 8, 1940 as a timberman. He states that he was not a member of any union at the time he went to work at Mine B but had been a member of Progressive Local 77 until November 19, 1939. The records of Progressive Local 77 show that Sacco was exonerated for June, July, August, and September, 1939 and was dropped from membership January 1, 1940.

Floyd Golden went to work as a coal digger in July, 1940. He states that he was a member of the Progressives at the time he went to work but does not remember the local number. Examiner found this man's record in the books of Progressive Local 77 which shows that Golden paid dues in that local until April, 1940 and was dropped August 1, 1940. He was therefore still a member of Local 77 at the time he secured his job in July.

Joe Yens went to work as a track layer August 10, 1940. He states that he was a member of Local 77 at the time he went to work at Mine B. The records of Local 77 show that he was a member in good standing when the records were examined January 7, 1941.

John Dantel (spelled D-A-N-T-E-L) on the company's and the union's books) went to work as a mule driver about the middle of August, 1940 and says that he was a member of Progressive Local 77 at the time he went to work. Financial records of Local 77 show that Dantel paid dues to that local until June, 1940 and was dropped August 1, 1940. He was therefore still a member of Local 77 at the time he went to work at Mine B.

Vincent Chernis went to work as a timberman August 9, 1940. He states that he was a member of Local 77 at the time he went to work. The records of Local 77 show that Chernis was exonerated for August, 1940 and for several months prior thereto and was dropped from membership December 1, 1940. He was therefore still a member of Progressive Local 77 when he went to work at Mine B.

Merle Bumgarner went to work running a dirt car on top in July, 1940. He states that he was not a member of any union at the time he went to work and had been a member of the Progressives from 1932 until April, 1938. The records of Progressive Local 188 show that Bumgarner took a transfer card from that local on September 8, 1937. Examiner could find no record of his belonging to any other Progressive Local since that time.

K. F. Carver went to work as a mule driver in April, 1940. He states that he was a member of Progressive Local 155 at the time he went to work. Progressive Local 155 has no records worthy of the name. Examiner drove from Springfield to Bureau, Illinois on January 6th to examine the books of the financial secretary. The books do not even contain the names of the current members of the local. The only record available is the stub of the transfer book. No transfer had been issued for Carver. In the District Office of the Progressive Mine Workers a grievance file shows that Carver was discharged from the Beckett Mine on October 11, 1939. The exoneration book in the District office shows that Carver was exonerated for January, March and May, 1940. The indications from this record are that Carver was still a member of Local 155 at the time he went to work at Mine B.

Peter Petrus went to work as a trapper December 10, 1940 and states that he was a member of Progressive Local 76 at the time he went to work. The financial secretary of Local 68 did not have records of Petrus' payment of dues, but stated that Petrus had paid his dues up to December 1, 1940 and had requested a transfer card on January 8, 1941 which was issued to him. In view of the fact that financial secretary had no records to show these facts, Examiner had the financial secretary, Arch G. Evans, sign a statement to that effect. (Petrus' Local was really 63)

Joe Kiri went to work as an electrician August 15, 1940. He states that he was a member of Progressive Local 58 at the time he went to work. The records of Local 58 show that Kiri was exonerated for May, June, and July, 1940 and was therefore a member of that local when he went to work, but was dropped three days after going to work because he did not transfer his membership to Progressive Local 54. In addition to checking the records of Local 58 Examiner checked the records of exoneration book in the District Office.

Group No. 6 is composed of twenty-nine employees all of whom were members of the United Mine Workers at the time they went to Mine B, or had been a member of the United prior thereto and who did not show any affiliation with the Progressives. None of these were checked against the United records, and there was no occasion to check them against the Progressive records since there was no indication of Progressive membership.

Examiner has summarized the union affiliation of the eighty-four new employees interviewed as follows:

	Progressives	United	Neither
Group 1	20	4	
Group 2			0
Group 3	4		0
Group 4	2		11
Group 5	9		1
Group 6		29	
	<hr/> 50	<hr/> 29	<hr/> 12
			Total 91

Referring to paragraph 1 of Mrs. Stern's memorandum of December 21, 1940 in which it is stated that further investigation should be made of the alleged incidents in which applicants for membership were promised jobs either for themselves or members of their families on condition of joining the United Mine Workers; in interviewing the eight-four new employees the two Examiners attempted to secure additional information on this point but were unsuccessful. It will be noted that every one of the eighty-four denied that any member of the Progressives or of the United assisted them to get jobs except apprentices who had never belonged to any organization prior to their employment at Mine B and two others who secured employment through relatives.

Referring to Mrs. Stern's memorandum of December 21st wherein it is stated that the Progressives allege that the company has been bargaining with representatives of the United Mine Workers in respect to grievances and has agreed to recognize United check weighmen, this has already been partly covered above. It will be recalled that Company Attorney Ensel contends that the state law required the company to provide facilities for United check weighmen. Examiner secured a copy of the general mining laws of the State of Illinois, and a copy of same is attached. The reference will be found in paragraph 27, page 28.

It seems unnecessary to dwell further on this particular phase of the alleged refusal to bargain.

The second paragraph under (2) in Mrs. Stern's memorandum refers to page 9 of Examiner's report which has to do with the dirty coal funds. This matter was perhaps not made sufficiently clear in the report of October 4th. The company has submitted two affidavits, both dated January 7, 1941, one signed by Carl Elshoff, President of the Company, which is attached hereto as Exhibit III; the other signed by Lee Ensel, Attorney for the company, which is attached hereto as Exhibit IV. Examiner believes that these two exhibits clarify this phase of the matter.

In the third paragraph under (2) Mrs. Stern's memorandum of December 21st states that there would seem to be an inconsistency between Elshoff's position as set forth on page 22 of the October 4th report to the effect that he would sign no contract of any kind, and the company's position is set forth on page 25 that these meetings constituted an agreement between the Progressives and the company. It should be pointed out again that the document in the file submitted by the Progressives purports to be the minutes of a meeting held in February, 1940 during the negotiations between the company and the Progressives, but that these purported minutes are not signed and there is no information as to who made these minutes or how they came to be in the file. Furthermore, Mr. Elshoff has denied in the presence of Regional Director Patterson and Field Examiner Clark that he ever made such a statement.

Before Examiner left Springfield yesterday he had a short talk with Mr. Edmondson for the purpose of advising Edmondson that eighty-four Mine B employees have been interviewed and that the results of the interviews had not yet been analyzed. Examiner told Edmondson that he had seen the Progressives' records with respect to employees hired since August 31, 1940 and that if he had additional cards to submit they would be accepted. Edmondson said he would mail additional cards in. Thirty-seven were received in this morning's mail. These cards have not been checked and cannot be checked because the payroll has been sent to Washington with our file. Therefore these cards are being transmitted herewith to be checked by the Board if it desires to do so.

During the conversation with Edmondson he commented on the correspondence between himself and Governor Stelle and said that he would mail copies of this correspondence. This also was received this morning, and is attached hereto as Exhibit V. I am also attaching newspaper clippings from the Springfield papers of January 6 and 7, also the editorial from Illinois State Journal of January 8th which is rather critical of the Board.

Before Examiner left Springfield yesterday he also talked with Mr. Ensel with regard to clarifying the dirty coal issue. Ensel urged that action be taken as promptly as possible and stated that the conditions in Mine B were getting worse every day. He stated that Palotki had reported during the morning that the United Miners were putting on pressure to remove the *copy* sheriffs from the mine property.

JCC:egrm
Ensis.

P.S. Also enclosed herewith are: Affidavit of John Grah referring to H. F. Carver, two affidavits of John Schneider referring to Andrew Skrivians, Sr. and Dominie Pasquale respectively, and memorandum of John R. Kama.

District Secretary in any manner that he saw fit;

Mr. Elshoff stated that he was only interested in benefiting the employees of the Mine "B" Coal Company and the local and was not interested in contributing financially to the State Organization of the Progressive Mine Workers; Mr. Elshoff further suggested that such funds held in escrow be immediately turned over to any charitable organization that could be agreed upon to be distributed for the benefit of the community; the various collective bargaining agents objected to this and Mr. Elshoff then proposed that they refund the dirty coal fines so collected to all the individual employees from whom the docks were made; this proposal was likewise rejected by the collective bargaining agents;

Mr. Elshoff then made a further proposal in which he agreed to distribute such funds held in escrow on a pro rata basis to the widows and families as the case may be of any individual employed at the Mine "B" Coal Company who had lost his life or was permanently injured during the course of his employment since the re-opening of said Mine "B";

The collective bargaining agents would not accept this proposal and then one of said collective bargaining agents requested that further discussion be passed and any action with reference to such fines be deferred until further discussion to be held between the said collective bargaining agents and Mr. Elshoff;

Further than this affiant saith not.

Lee Elshoff
and _____
before me this _____ day of _____
1941.
James H. [unclear]

BEFORE THE
NATIONAL LABOR RELATIONS BOARD
MINE "B" COAL COMPANY

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

AFFIDAVIT OF LEE ENSEL
Dirty Coal Fines and Road Coal
Funds

Lee Ensel, being first duly sworn on oath deposes and states:

That he is the attorney for the Mine "B" Coal Company, and represented them at various proceedings with the collective bargaining agents of Local 54, Progressive Mine Workers of America;

That this affiant was at a meeting held on July 12, 1940, at the Leland Hotel, in said City of Springfield, Illinois, together with Mr. Carl Elshoff, President of the Mine "B" Coal Company as representatives of the Mine, and that William Keck, John McCann, William Schewe and others were present at said meeting representing the collective bargaining agents of Local 54, Progressive Mine Workers of America;

That at said meeting the said collective bargaining agents did ask about the collection of dirty coal fines and the road coal funds; Mr. Elshoff stated to the said bargaining agents that such funds were being held in escrow by the mine in an account in the First National Bank of Springfield and further as of July 1, 1940, the road coal fund amounted to \$122.93 and the dirty coal fines amounted to \$717.10;

The collective bargaining agents demanded that these funds be turned over to the District Secretary of the Progressive Mine Workers of America and to be used by the said

for road coal was deferred for further discussion at the
request of the collective bargaining agents;

Further than this affiant saith not.

Ernest Schuff

Subscribed and sworn to before me this 7th day of

January, A.D., 1941.

Ernest J. [Signature]

Notary Public.

That this affiant thereupon stated that it was his opinion that the funds belonged to the employees of the said mine and that any distribution should be made directly for the benefit of all the employees and that it would be unfair to permit the said funds to become part of the assets of the State Organization of the Progressive Mine Workers and further this affiant suggested that such funds be turned over to any local charitable organization which would be acceptable to both himself and the collective bargaining agents to be distributed by said charitable organization for the immediate benefit of the community; the collective bargaining agents refused to accept this suggestion;

This affiant thereupon proposed that he refund the dirty coal fines so collected to every individual employee from whom the docks were made; this proposal again was rejected by the said collective bargaining agents;

Whereupon, this affiant did suggest that he would like to distribute such funds so held in escrow on a pro rata basis to the widows and families as the case may be of any individual employed at the mine who had lost his life or was permanently injured during the course of his employment since the re-opening of said Mine "B"; this proposal again was rejected by the collective bargaining agents and one of the members of said latter group requested that further discussion of the matter be delayed and any action with reference to the distribution of said fines be deferred until the opportunity presented itself to discuss the matter, ^{again} said discussion to be held between the said collective bargaining agents and this affiant;

That the minutes of the said meeting compiled by John McCann, a member of the collective bargaining group stated that the discussion and the subject of the funds for

REPORT TO THE
NATIONAL LABOR RELATIONS BOARD
MINE "B" COAL COMPANY

STATE OF ILLINOIS)
 : SS.
COUNTY OF SANGAMON)

AFFIDAVIT OF CARL ELSHOFF
Dirty Coal Fines and Road Coal
Funds

Carl Elshoff, being first duly sworn on oath
deposes and states:

That he is President of the Mine "B" Coal Company,
Springfield, Illinois;

That during the course of a meeting of this affiant
and the collective bargaining agents of Local 54, Progressive
Mine Workers of America, held on July 12, 1940 at the Leland
Hotel in said City of Springfield, that this affiant did
discuss with the collective bargaining agents the distribution
of the road coal fund and the dirty coal fines; that as of
July 1, 1940 the road coal fund amounted to \$122.93 and the
dirty coal fines amounted to \$717.10 and that these funds
were then and still are held in a separate escrow account in
the First National Bank of Springfield, Illinois;

That this affiant did explain the foregoing to the
collective bargaining agents and asked them what their idea
was as to distribution of said funds;

The collective bargaining agents demanded that such
funds so held in escrow be forthwith transferred to the
District Secretary of the Progressive Mine Workers of America,
to be used by said District Secretary in any manner he might
see fit;

copy
January 6, 1941

Hon. John Stalle, Governor
State of Illinois
State Capitol Building,
Springfield, Illinois

Dear Governor:

I herewith acknowledge receipt of your letter under date of January 6th with reference to alleged difficulties at the Springfield mine of the Mine B Coal Company, which appeared in the Springfield papers Sunday, January 6th.

The officers and members of the United Mine Workers of America intend to keep inviolate their pledge of cooperation with all agencies of local, county, state, and federal governments in order that any matters at issue might be settled in a peaceful and American way.

The coal miners of Illinois irrespective of affiliation not only owe you all the respect that is due your office as the Chief Executive of our state, but I am sure, consider you as a personal friend to each and every one of them as well as a friend of all organized labor of our state and nation.

The specific instance which you mention at this mine has not been caused by any act upon the part of the United Mine Workers of America. Since the election conducted by the National Labor Relations Board in December of 1937 and the designation of the Progressive Mine Workers of America by the National Labor Relations Board as the unit for the purposes of collective bargaining, at no time have we challenged this right. However, the specific wording of that order was:

"Local 54, Progressive Mine Workers of America shall constitute an appropriate union for the purpose of collective bargaining until such time that another union shall be certified by the National Labor Relations Board."

On July 31, 1940 the United Mine Workers of America petitioned the National Labor Relations Board for an election and have been waiting patiently since that time for some order from the National Labor Relations Board to hold an election to determine who is in the majority at this mine. We submit the United Mine Workers of America have an ever-whelming majority of the employees of this company and are forced by virtue of circumstances to continue to submit to indignities and conditions being forced upon miners employed in this mine that have never been tolerated during the existence of the union in this state through the procrastination by the coal company and the Progressive Mine Workers of America in order to delay this vote.

We specifically deny any liability with reference to any alteration as mentioned in your letter.

EXHIBIT V.

We invite you as the Chief Executive of this state to designate a representative or representatives of your office to hold a fair and impartial secret vote at this mine so that the justness of our claim of an ever-whelming majority of the employees might be determined in the American way.

Not only are we interested in a peaceful settlement of this controversy, but we are interested in a settlement of the entire situation throughout our state through peaceful negotiations and understandings between the officers and members of the respective unions. In excess of 95% of the members of the United Mine Workers of America, constituting more than 75% of the men employed in the industry, who are members of the United Mine Workers of America, desire peace and unification in the ranks of the coal miners of this state. In view thereof I submit for your consideration a program which we believe is fair and equitable to all parties concerned and in the interest of the peace and tranquillity of the coal mining fields of Illinois:

1. The Illinois situation, as we see it, would be solved insofar as the conflict between miners is concerned by undertaking and effecting the following program which the United Mine Workers of America is prepared to execute.

2. District 12, United Mine Workers of America and its affiliated local unions stand ready and willing to attend a joint conference of all miners' local unions within the State of Illinois for the purpose of discussing the following program as a basis of unification of the miners of this state.

3. Restoration full and complete autonomy and convention. Immediately upon the return of the United Mine Workers of America of the local unions who are now affiliated with the Progressive Mine Workers of America, and not to exceed 30 days thereafter, the Call for a Convention of District 12, United Mine Workers of America will be issued by the Executive Officers of said District, such convention to make its own rules and regulations for the holding of an immediate election for all officers in District 12, United Mine Workers of America, and deal with other matters affecting the district which might be properly brought before it.

4. Jobs guaranteed and no victimization. A flat guarantee that all jobs in the mines would be protected and no mine workers would be victimized in any way, shape or form for past activities or union affiliations.

5. Striking miners. It is definitely understood and agreed that all miners of either the United Mine Workers of America or the Progressive Mine Workers of America, who have lost their employment due to the past conflict, will be entitled to employment available at all mines within the jurisdiction of District 12, United Mine Workers of America.

6. Release of prisoners. Every effort and influence at the command of the officers and members of District 12, United Mine Workers of America, will be exerted to release all prisoners, victims of the interunion conflict.

7. Widows and orphans. The officers of District 12, United Mine Workers of America stand pledged to make definite recommendation to the district convention that reasonable compensation be given to the widows and orphans as a result of the factional strife.

8. Referendum on wage scale matters. a pre-determined guarantee of the rights of referendum for ratification of any changes in any contract entered into by and between the Operators Association and District 12, United Mine Workers of America, subject to and in conformity with the policy of the International Scale and Policy Committee.

9. Local Unions. All existing local unions shall continue in their present status having the right of self-government in every respect pursuant to and in conformity with the laws of the International Union.

10. All monies, property, records, proceedings, etc. properly belonging to the Progressive Mine Workers of America shall be disposed of in a way determined by the Progressive Mine Workers themselves, by returning it to, on a fair and equitable basis, members of that union who paid the money to them, or in any other manner, as the United Mine Workers of America have no desire and will refuse to accept any money or property of their union upon settlement of the entire controversy.

The above proposals are made in good faith to you as the Chief Executive of this state, as well as to every officer and member of the Progressive Mine Workers of America and shall serve as a basis for negotiations. However, any counter-proposals by the officers and members of the Progressive Miners of America will be given every practical consideration.

In furtherance of the above proposals and for the immediate execution thereof, I herewith designate Mr. Hugh White, Board Member of Board Member District 7, District 12, U.M.W. of A., West Frankfort, Ill.; Mr. Joseph Marchesi, Board Member of Board Member District 1, District 12, U.M.W. of A., Standard, Illinois; and Mr. John Hippen, Board Member of Board Member District 3, District 12, U.M.W. of A., Westville, Illinois, all of whom have been elected in a referendum vote by their respective membership.

Appreciating your interest in the Mine B situation as well as the miners of this state, we again pledge to you that no sacrifice will stand in the way of our attempt to work out all matters in a peaceful and American way.

Respectfully yours,

President

STATE OF ILLINOIS } SS
COUNTY OF SANGAMON }

JOHN SCHNEIDER after first being duly sworn on oath deposes and states that he is the Financial Secretary, Local Union #54, Progressive Mine Workers of America, and employed at Mine B Coal Company for many years. Affiant states that he knows of his own knowledge that Andrew Skrlevious, Sr. was expelled from Local Union #54, P.M.W. of A. prior to May 18th, 1937.

John Schneider

Subscribed and sworn to before me this 7th day of January, 1941

Eric Jones
Notary Public

My commission expires March 17, 1941

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

JOHN SCHNEIDER after first being duly sworn on oath deposes and states that he is the Financial Secretary, Local Union #54, Progressive Mine Workers of America; that he has been employed at Mine B Coal Company for many years.

Affiant states that he knows of his own knowledge that Dominic Pasquale was expelled from Local Union #54, P.M.W. of A., prior to May 12th, 1937.

Affiant states that Sam Pasquale has always been listed on the membership rolls of the Progressive Mine Workers as Dominic Pasquale.

John Schneider

Subscribed and sworn to before me this 7th day of January, 1941

Eric C. Jones

Notary Public

My Commission expires November 17 1941

STATE OF ILLINOIS } 83
COUNTY OF SANGAMON }

JOHN GROH, after first being duly sworn on oath deposes and states that he was Board Member for Board Member District No. 4, Progressive Mine Workers of America, and is acquainted with H.V. Carver, former employee of Dinkert Mine.

Affiant states that in the fall of 1939 this man was discharged for incompetence from the Dinkert Mine. Affiant states that as Board Member he took up his case for him and in accordance with the rules of the Organization, it was referred to a Commission who made a finding against Carver. Affiant states that this made Carver mad, and he told this affiant prior to the time he obtained a job at Mine B Coal Company, that if the Progressive Miners could not do anything for him (meaning could not get his job back) he would go to an Organization that would. This man then went to work at Mine B Coal Company, and has never at any time attempted to take his card away from the Dinkert Mine. This affiant knows that at the time he obtained his job at Mine B he was very bitter against the Progressive Organization.

Further affiant sayeth not.

John Groh

Subscribed and sworn to before me this 2nd day of January, 1941

Eric C. Small
Notary Public

My Commission expires November 12, 1941

MEMORANDUM

On December 30th, 1940 members of the Grievance Committee for the Progressive Mine Workers of America reported to my office that while they were discussing grievances in the office of the Mine Superintendent, Hecklebeck accompanied by William Lansky came into the office. The Committee reports that Falcetti, Mine Superintendent, told Lansky to stay away from the mine property as he was not an employee of the mine. Hecklebeck then told Falcetti that Lansky would not leave the mine property as long as he, Hecklebeck, was there, and that no Progressive Miners would work at that mine after the 15th. Lansky continued to stay on the mine property and has been in and around the mine property and wash house practically every day since.

I am attaching hereto affidavit of Salvatore Catalona to the effect that Lansky again intimidated him and threatened him on the property on January 6th.

I have been informed by the Mine Committee that this matter was again called to Falcetti's attention and Falcetti has refused to do anything whatever about Lansky coming on the mine property, and intimidating employees.

It seems perfectly clear that the Company is back of this intimidation for the reason that Lansky would not be permitted on the mine property if the Company did not want him there. He is not an employee, and has no right on the premises. In 1937, Carl Klahoff obtained an injunction restraining employees from that mine from intimidating and threatening other employees. During all of the past few months, Klahoff could have stopped this intimidation by having the men guilty of intimidation cited for contempt of Court. He has refrained from doing so, clearly showing that he is perfectly willing for this intimidation to continue.

Progressive Miners through their attorney, last week asked leave of the Federal Court to file a Petition to cite Lansky, Hecklebeck and others for contempt of Court. This petition was supported by affidavits. After reading Petition, Federal Judge ordered warrants issued for Lansky, Hecklebeck, Behaman and Bungarner and directed United States District Attorney to prosecute these men. The Mine Grievance Committee informs me that Oscar Falcetti, Mine Superintendent says he will discharge no man for intimidation.

John W. Kane

File 2

G. L. Patterson, Director
13th Region

December 21, 1949

Beatrice M. Stern
Acting Secretary

CONFIDENTIAL

Mine "B" Coal Company
C-854, XII-C-1345

The Board has considered the request on the part of the Progressive Mine Workers of America, Local Union No. 54, for a review of your refusal to issue a complaint in XII-C-1345. In conjunction therewith it has also considered the request by the same union that the Board institute contempt proceedings for alleged violations of the Decree entered in C-854 in the United States Circuit Court of Appeals for the 7th Circuit.

Upon consideration of Field Examiner Clark's report of his investigation and your memoranda of transmittal, the Board is of the opinion that further investigation is necessary. In particular, the following matters appear to be in need of further clarification:

(1) In respect of the alleged discriminatory plan of hiring new employees, it appears that Field Examiner Clark's analysis of the prior affiliation of the new employees hired by respondent is based entirely or in a large part upon the United Mine Workers' application cards, upon which applicants for membership in that organization were requested to state the labor organizations, if any, to which they had previously adhered. In respect of this matter, it is alleged by the Progressive Mine Workers that an inspection of their membership rolls would reveal that many of the aforesaid applicants for membership in the United Mine Workers did not truthfully or accurately set forth their previous affiliation. Mr. Fass, counsel for Local No. 54, has stated his desire to cooperate with your office in the further investigation of this matter and that the Progressive membership rolls are open for your inspection. In connection with this phase of the charge, the Board is also of the opinion that further investigation should be made of the alleged incidents in which applicants for membership were promised jobs either for themselves or for members of their families on condition of joining the United Mine Workers. Considerable significance may be attached to the fact that the new employees joined the United Mine Workers promptly upon receiving employment, and in some cases joined that organization the day before receiving employment. Presumably this alleged plan of discriminatory hiring of new employees presents a problem under the new charge in XII-C-1345 rather than a context of the Decree in C-854.

(2) In respect of the alleged refusal to bargain, in violation of the Decree, there appear to be two aspects of the problem upon which the Board desires further light. First, it is alleged that the respondent has been bargaining and is bargaining with the United Mine Workers notwithstanding a provision of the Decree requiring exclusive bargaining with the Progressive Mine Workers Local No. 54. In particular it is alleged that respondent has been bargaining with representatives of the United Mine Workers in respect of grievances and has agreed to recognize United check-weighmen. Second, it is alleged that respondent has refused to bargain with the Progressive Mine Workers Local No. 54 and that it has refused to enter into a contract with said organization, unless the working rules embodied in the minutes of meetings between respondent and the Progressives may be said to represent memoranda of an oral agreement between the parties. Apart from the possible insufficiency of this procedure as bearing upon respondent's duty to recognize the Progressives and bargain with that organization in good faith, it is alleged that in fact respondent has not carried out the alleged agreement in good faith, but has, on the contrary, refused to write up grievances, negotiate with respect to discharges, or grant to the Progressives, as exclusive representatives, the customary right to employ check-weighmen in an unannounced manner.

Moreover, as appears from page 9 of Clark's report, respondent apparently places some significance upon the absence of a "signed contract" in that it states that until a contract is signed it refuses to turn over the funds collected as "dirty coal funds" and proceeds from the sale of road coal. It thus appears that although respondent contends it has complied with the Decree and entered into contractual relations with the Progressives, it nevertheless takes the apparently inconsistent position that its agreement with the Progressives has incidents different from that which would prevail if it had "signed a contract." Further enlightenment is desired on this point.

Moreover, upon analysis of Clark's report of October 4, 1940, there would seem to be an inconsistency between Elshoff's position, as set forth on page 22 of the report, to the effect that "he would sign no contract of any kind," and the respondent's position, as set forth on page 25, that "these meetings constitute an agreement between the Progressives and the company." Some significance appears properly attachable to the alleged statements of Elshoff that "he intended to break the organization Progressives before he was through" (page 21 of Clark's report), and similar statements which are set forth in Kane's affidavit and appear to be undenied. These allegations are to be compared with Clark's apparent acceptance of Palcetti's version of the alleged occurrences at the mine and Clark's rejection of the alleged discriminatory plan of hiring new employees. Moreover, it is difficult, on the basis of the information now in our possession, to reconcile respondent's apparent avowed hostility to the Progressives with your conclusion that respondent nevertheless is dealing in good faith with the Progressives and is not recognizing or dealing with the United.

The Board desires that a more complete investigation be made with respect to these matters.

(3) In respect of the alleged acts of intimidation, threats and assaults, the Board is of the opinion that a thorough investigation is warranted.

(4) It is alleged that four employees, recently released from the penitentiary, included within the Consent Decree in C-854 have not been reinstated as required by said decree. On page 38 of Clark's report reference is made to these cases and Clark states that a supplemental report will be submitted. No such report appears to have been made. In this connection your attention is called to respondent's opposition to the entry of the Decree requiring the reinstatement of these four men, the Board's memorandum to the Court relating the circumstances in which the stipulation was negotiated, and the subsequent entry by the Court of the Decree requiring their reinstatement. As matters now stand it would seem that respondent is violating the Decree by refusing to reinstate these four individuals. Your conclusions concerning this matter are requested.

We are aware of the desirability of prompt consideration and action on these matters as well as on the petition for certification filed by the United Mine Workers, as suggested in your memoranda of October 5 and November 12, 1940. At the conference between Messrs. Thatcher, of the A. F. of L., Mr. [unclear], counsel for the Progressives, and Messrs. Halliday and Cross, [unclear] expressed his complete willingness to cooperate with your office and to furnish all assistance possible in aid of the investigation.

EAQ:gh

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

MINES LABOR RELATIONS BOARD

NOV 25 1940
DOCK HILL

WILLIAM CROMPTON after first being duly sworn on oath deposes and states that he is the present Board Member, District No. 4, P.M.W. of A.

Affiant states that shortly after an Order was entered by the National Labor Relations Board requiring the Mine B Coal Company to negotiate with Local Union #54, P.M.W. of A. as the exclusive representative of the employees of that mine in respect to rates of pay, hours of employment and other conditions of employment, Carl Kishoff, the principal owner and operator of Mine B Coal Company told this affiant and other members of the committee representing said Local Union #54 that it was useless to negotiate or attempt to negotiate a contract for the reason that he did not, at least for some time, intend to resume operation of his mine.

(signed) William Crompton

Subscribed and sworn to before me this 1st day of October, 1940

(signed) Edith C. Thomas
Notary Public

My commission expires Nov. 17, 1941

"Exhibit 1"

My name is John Groh. I am Board Member for District No. 4 P.M.W. of A. It is my duty to represent the Progressive Miners in this district in the handling of disputes and grievances.

Since the re-opening of Mine B I have been unable to get the Mine B Coal Company to follow either past custom or procedure or agreement between the company and the miners in regard to handling of disputes. In support of this charge I submit the following.

On December 12, 1939 I was called to Mine B on a shot-firers dispute in regard to the amount of wages due. After the re-opening of Mine B Elshoff failed to pay the miners the amount he paid on and prior to May 12, 1937. I could not reach an agreement with Falcetti, the Superintendent and Elshoff, and they refused to write up the case in accordance with past custom and procedure at the mine.

I was called out to the mine to handle the discharge case of William Molinskey on February 20th, 1940. We could not reach any agreement, and again the company refused to write up the case in accordance with past custom. At this meeting I again requested that the company write up the case of the shot-firers and they again refused saying that they would write up no cases as all disputes would have to be settled at the mine.

On April 9th, I again requested that Falcetti and Elshoff write up the shot firers case and Molinskey case, and they again refused.

After the company and the miners agreed upon the method of handling disputes, I went to the mine and requested that the discharge case of William Molinskey and the shot firers case be written up, and company again refused. This happened about the 17th or 18th day of May.

I went to the mine to handle the discharge case of Vincent Matjeka, and took this matter up with both Falcetti and Elshoff. We could not agree and again the company refused to write up the case in accordance with the agreement. On July 13th, I went to the mine to handle the discharge case of Lester Wilkerson. I took this matter up with Falcetti, and we could not agree and Falcetti would not write up the case. On July 30th, 1940, Charles Bohannan appeared on behalf of John Remac, discharged United Mine Worker, and argued his case in my presence. Company recognized Bohannan as the representative of Remac in handling of this dispute.

(signed) John Groh

"Exhibit 7"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

JOHN R. KANE, after first being sworn on oath deposes and states that he was designated by members of Local Union #54, Progressive Mine Workers of America as one of a committee to negotiate a contract with the Mine B Coal Company.

Affiant states that after the re-opening of the Mine, he, together with other members of the committee, met on several occasions for the purpose of negotiating a contract.

Affiant states that on either November 29th or November 30th, 1939, he met with Carl Elshoff at the Leland Hotel at the request of the said Carl Elshoff for the purpose of discussing the check-off provision of a contract. Affiant states that at this meeting Carl Elshoff stated that he would not grant the Progressive Organization a check-off because he did not like the Organization, and intended to do everything in his power to destroy it. He stated that while he would deal with his employees at the mine, he would not agree to anything that would be of any aid or benefit to the Progressive Organization. He further stated that he did not only dislike the Progressive Organization, but he did not like its officials or its attorney.

(signed) John R. Kane

Subscribed and sworn to before me this 13th day of September, 1940

(signed) Edith C. Thomas
Notary Public

(seal)

"exhibit 8"

STATE OF ILLINOIS)SS
COUNTY OF SANGAMON)

John McCann after first being duly sworn on oath deposes and says that he is the duly elected, qualified and acting Secretary-Treasurer of District No. 1, Progressive Mine Workers of America; that as such Secretary-Treasurer he kept the minutes of meetings between the representatives of Mine B Coal Company and of Local Union #54, P.M.W. of A.

Affiant states that during the months of May, June and July, A.D. 1940 representatives of Mine B Coal Company did meet occasionally for the purpose of negotiating a contract. Affiant states however, that during said period of time Carl Elshoff, Operator and Principal Owner of the Company frequently and consistently continued and postponed the meetings.

Affiant states that from May 13th until June 13th said Carl Elshoff postponed meetings with Progressives three times, first on account of the death of his mother, 2nd on account of his own illness, and third, on account of his wife's illness.

Affiant further states that the scheduled meetings of both July 5th and July 6th were postponed by Carl Elshoff. Affiant states that again on July 9th representatives of Local Union #54, met at the designated place for the purpose of negotiating a contract. Elshoff failed to appear. Affiant states that on July 29th, Carl Elshoff attempted to again continue a scheduled but representatives of Local Union #54 went to the mine property and submitted definite proposals to the said Carl Elshoff which Elshoff agreed to accept or reject the following day. Affiant states that on July 30th said Carl Elshoff failed to appear at said meeting and failed to assign any reason or excuse for his failure to appear and accept or reject the proposition submitted to him the previous day.

Affiant further states that although Carl Elshoff has met with representatives of Local Union #54 at different times and has agreed to certain phases of the contract, he has clearly demonstrated his bad faith by refusing to put into force and effect the phases of contract agreed upon, as he has consistently refused to write up the evidence in all complaint cases, and has refused to submit them to arbitration in accordance with his agreement with the miners.

Further affiant sayeth not.

(signed)

John McCann

Subscribed and sworn to before me this 30th day of September, 1940

(Seal)

(signed)

Edith C. Thomas

Notary Public

"EXHIBIT 9"

STATE OF ILLINOIS } SS
COUNTY OF SANGAMON)

JOSEPH LAVERSO after first being duly sworn on oath deposes and says that he was on and prior to May 12, 1937 an employee of Mine B Coal Company.

Affiant states that he has recently made application for a job, on to wit, September 18th, 1940 at Mine B Coal Company, but has not been given a job.

(signed) Joe LaVerso

Subscribed and sworn to before me this 30th day of September, 1940

(Seal)

(signed)

Edith C. Thomas
Notary Public

My Commission expires November 17, 1941

"Exhibit 10"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

WILLIAM COLE STEWART, after being first duly sworn on oath deposes and says he made application for a job at Mine B with Carl Klahoff. Affiant states that Klahoff asked him how much experience he had and he told him 15 years.

Affiant states Klahoff asked him where he formerly worked and he told him Panther Creek No. 2.

Affiant states Klahoff said, "You are a Progressive Miner?" and he said "Yes". Affiant states Klahoff said, "Well I can't use you."

Affiant states he lives at 1901 South 16th Street, Springfield, Ill.

(signed) William Cole Stewart

Subscribed and sworn to before me this ____ day of _____
A.D. 1940

(signed) _____
Notary Public

My Commission expires _____

"Exhibit 133"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

JULES DUPRIE after first being duly sworn on oath deposes and says that he lives at 1145 Ohio Ave., Springfield, Illinois, that he formerly worked at Old West Mining Company in Springfield; that on the 25th and 27th of June, the 10th and 26th day of July, 1940 he made application for work at Mine B.

Affiant states that on the first occasion he made application for job to the Mine Manager Wm. Straights, and was informed company was not employing anybody. Affiant states that on the 10th day of July he made application to Oscar Falcetti, Mine Superintendent; and Falcetti asked him where he was from and where he had been working. Affiant states that he told Falcetti that he had been working at the Old West Mining Company for seven years; that Falcetti asked him where he had worked prior to that time, and affiant told him with Peabody Coal Company. Affiant states that Falcetti asked him then why he quit Peabody Coal Company and he replied that his local voted to go Progressive. Affiant states that Falcetti then told him he had no job at present but to come back later and he would talk to him about it.

Affiant states that he again went to Falcetti on the 26th day of July and asked him if there was an opening, and Falcetti told him, "there is nothing I can tell you." Affiant states that he then told Falcetti, "I will come and see you again later." Falcetti said, "I can't stop you from doing that."

Further affiant sayeth not.

(signed)

Jules Duprie

Subscribed and sworn to before me this 5th day of August, 1940

(signed)

Edith C. Thomas
Notary Public

(seal)

My Commission expires Nov. 17, 1941

"Exhibit 151"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

VINCENT CUIFFNI, after first being duly sworn on oath deposes and says that he resides at 1429 Pennsylvania Ave., Springfield, Illinois.

Affiant states that he formerly worked at Old West and is a member of the Progressives; that on or about the 9th or 10th of July he applied for a job at Mine B and was told that they were not hiring any men.

Further affiant sayeth not.

(signed) Vincent Cuiffni

Subscribed and sworn to before me this 8th day of August, 1940

(seal)

(signed)

Edith C. Thomas
Notary Public

My Commission expires Nov. 17, 1941

"Exhibit 15H"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

PAUL LAURENT after first being duly sworn on oath deposes and says that he lives at 849 N. 11th St., Springfield, Illinois; that some time about May of this year, he applied to Oscar Falcetti, Superintendent, at Mine B Coal Company for a job, and was told the company was not hiring anyone.

Affiant states that again on August 3rd, 1940 he applied for a job and was again told the company was not employing anyone.

Affiant states that he has been acquainted with Falcetti for about two years and Falcetti is well aware that he is a Progressive Miner.

Further affiant sayeth not.

(signed) Paul Laurent

Subscribed and sworn to before me this 5th day of August, 1940

(signed) Edith C. Thomas
Notary Public

(seal)

My Commission expires November 17, 1941

"Exhibit 15G"

STATE OF ILLINOIS)
COUNTY OF SANGAMON)

LEONARD RIKER after first being duly sworn on oath deposes and states that he lives at 333 N. Lincoln St., Springfield, Ill.

Affiant states that he applied for work on or about the 16th day of July from Superintendent of Mine B, Falcetti, who told affiant that they were full up. Affiant states that he knows that Falcetti hired men on that day and the next day too.

Affiant states that he again applied for work about the 19th day of July, and Falcetti again refused him saying that they were full up and needed no men.

Affiant again applied for work a third time about the 26th day of July and was again told that they were full up and needed no men.

(signed) Leonard Riker

Subscribed and sworn to before me this 6th day of August, 1940

(signed) Edith C. Thomas
Notary Public

(seal)

My Commission expires November 17, 1941

"Exhibit 13F"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

CLARENCE WESTFALL after first being duly sworn on oath deposes and says that he lives at Divernon, Illinois and is a member of the Progressive Mine Workers of America. Affiant states that shortly after Mine B Coal Company resumed work he made application to Oscar Falcetti at the mine, and was told by Falcetti that he could not hire any men for thirty days. Affiant states that he talked with Oscar Falcetti again on December 7th and was told that he was filled up at the time, and suggested that affiant see him later. Affiant states that on December 14th he again went to see Falcetti in regard to a job but on this occasion Oscar Falcetti asked this affiant where he worked before. Affiant states that he told him he formerly worked at the Old West Mine, a Progressive Mine. Affiant states that he told him again he was filled up. Affiant states that he again made application for work on or about December 28th, 1939. Affiant states that he has made application at this mine every month since that time but has been refused employment. Affiant states that he was drawing unemployment compensation during the months of July and August and had to report in Springfield every week. Affiant states that when in Springfield he made application for a job on June 11th, June 25th, July 9th, July 23rd and August 6th and on each occasion was refused a job by Falcetti. Affiant also states that he again made application on September 10th and was again refused a job. Affiant further states after Joe Dubinick was employed by Mine B Coal Company as a boss, this affiant talked with Dubinick in regard to getting a job. Affiant states that he had known ~~Bakman~~ Dubinick for a long time and was friendly with him, and that he asked Dubinick to try to get him a job at the mine. Affiant states that Dubinick promised to see what he could do, but later reported to this affiant that the mine was filled up.

Further affiant sayeth not.
(signed)

Clarence Westfall

Subscribed and sworn to before me this 11th day of September, 1940

(signed)

Edith C. Thomas
Notary Public

(seal)

My Commission expires Nov. 17, 1941

"Exhibit 13E"

My name is THEODORE QUINTARD. I live at Pekin, Illinois. I have been acquainted with Louis Pol. His father and mother live at Pekin. Louis Pol has been living in Colorado. Louis Pol told me that Ray Edmundson sent him a telegram to Colorado that he would give him a steady job if he would come to Springfield. Pol also told me that Edmundson wired him \$20.00 to make the trip. Pol came to Springfield where he was given a job at Mine B. Louis Pol took me to Eddy Hecklebeck to get a job at the mine. Hecklebeck asked me to take some organizers to Auburn to get some Progressives signed over before giving me a job. I wanted him to give me the job first, and he said that he already had a lot of others that had worked for the organization for sometime, and had to give them jobs in preference to me. I heard Hecklebeck say in front of his own house in the presence of Louis Pol, myself and another man whose name that I do not know, that he had sixty places to put men to work in, but had to be sure that the men would be United Mine Workers and remain that way.

I live at the foot of Charlotte Street, Pekin, Illinois. I am staying at 2022 N. 16th Street in Springfield, Illinois for a few days. I am going to work at the Pekin Mining Company as a United Mine Worker on the 15th of the month.

My friend Pol told me that it would do no good to go see the Superintendent for a job. That I would have to go see Hecklebeck who had charge of hiring the men.

(signed) Theodore Quintard

"Exhibit 13D"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

MELCHOIR HAMEL, after first being duly sworn on oath deposes and says that he lives at Springfield, Illinois, R.F.D. #5. That sometime during the month of May or June he made application for a job at Mine B Coal Company.

Affiant states that on or about the middle of July he again made application for a job at Mine B but failed to secure a job. Affiant states that on July 29th he applied with Oscar Falcetti for a job and was turned down. Affiant stated that after leaving the office he went out to the pit head to wait for a friend of his. That while there, William Lansky, whom this affiant knew, came to him and asked him if he was looking for a job. Affiant told him that he was, and Lansky said, "If you get a job here, you will have to sign up with the United Mine Workers." Affiant states that on the morning of August 2nd, he asked Falcetti for a job; that Falcetti asked him where he had previously worked, and when he learned that he had been working at a Progressive Mine, the Panther Creek Mine, he told him he had no job for him.

Affiant again asked for a job on the evening of August 2nd, and 3rd and was refused on both occasions by Falcetti.

Further affiant sayeth not.
(Signed)

Melchoir Hamel

Subscribed and sworn to before me this 5th day of August, 1940

(SEAL)

(signed)

Edith C. Thomas
Notary Public

My Commission expires November 17, 1941

"Exhibit 130"

STATE OF ILLINOIS
COUNTY OF SAMMARBON

22

RALPH KRESS after first being duly sworn on oath deposes and says that he lives at 1809 S 9th St., Springfield, Illinois and is a member of the Progressive Miners.

Affiant states that on or about July 11th, he went to Mine B and asked Falcetti, Supt. for a job. Affiant states that Falcetti asked him what mine he worked at and affiant told him that he had worked last at Old West Mine. Affiant states that Falcetti said, "that is a Progressive Mine." "I can't do anything for you." Affiant asked why he couldn't give him a job as he was hiring men and Falcetti said, "You are on the wrong side."

Affiant states that he then told Falcetti that the Old West Mine had been closed down for a long time and that he had been out off W.P.A. and had to have some work. Affiant says that Falcetti then said, "I can't do anything now, but will have someone to come out and see you." Affiant states that he waited and nobody came out to see him and that he went out again to see Falcetti on the 3rd day of August, 1940, and asked him for a job. Falcetti said, "Where have you been?" Affiant told him that he had been hunting a house and moving and that Falcetti then said, "I can't do anything for you now, but if I get something someone will be out to see you." Falcetti then took this affiant's name and address. Affiant states that since said date, no one has been to see him.

Further affiant sayeth not.

(signed)

Ralph Kress

Subscribed and sworn to before me this 8th day of August, 1940

J.C. Clark
Field Examiner, N.L.R.B.

"Exhibit 13A"

STATE OF ILLINOIS) SS
COUNTY OF SANGAMON)

DALLAS BAUSWELL after first being duly sworn on oath deposes and says that he made application for work at Mine B from Oscar Falcetti in November, 1939, and that Falcetti told this affiant that he could not hire him just then for he had to offer employment to his old employees first. Affiant states that he again went to Mine B Coal Company and made application for work from Oscar Falcetti in May, 1940. Falcetti told this affiant that he could not hire him because he was a Progressive but that if he had a United Mine Worker card he could get a job. Affiant states that he again went out to Mine B and asked Falcetti for a job along with four other fellows in the first week of September, 1940, and was told that they were filled up.

Further affiant sayeth not.

(signed)

Dallas Bauswell

Subscribed and sworn to before me this 11th day of September,
1940

(seal)

Edith C. Thomas
Notary Public

My Commission expires November 17, 1941

"Exhibit 13B"

MINE "B" COAL COMPANY

CARL N. ELSONOFF, PRESIDENT

OPERATING OFFICER MINE B

DEAL D-604



SPRINGFIELD, ILLINOIS

February 15th, 1941

Mr. Ray Himmelsen, President,
United Mine Workers of America,
Springfield, Ill.

Mr. Sam Cook, President,
Progressive Miners of America,
Springfield, Ill.

Gentlemen:

Your attention is directed to the decision of
Judge Briggie handed down from the bench this afternoon,
Feb. 15th, 1941.

We feel that the Judge's remarks were not fully
understood by the employees as only a few were present.
We ask that you demand of your members full compliance
with the injunction that is now in effect. We further
ask you to advise your members not to violate this decree
and that they refrain from any acts to provoke a violation.

Further action on the part of Judge Briggie is
in no way a "go sign" for violence. Any action on the part
of any employee in the way of intimidation or violence will
be dealt with under the injunction without fear or favor.

Very yours,
Carl N. Elsonoff
President

W. J. Burdick,
Acting Regional Director,
National Labor Relations Board,
Chicago, Ill.

(Chic 7)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
THIRTEENTH REGION

In the Matter of

MINE "B" COAL COMPANY
THE MINE B COAL COMPANY AND
KLSHOFF COAL COMPANY

CASE NO. NLR-9-475

and

PROGRESSIVE MINERS OF AMERICA
LOCAL 84

STIPULATION AND AGREEMENT

It is hereby stipulated and agreed by and between Mine "B" Coal Company and The Mine B Coal Company by Carl H. Klschoff hereinafter called respondents; Progressive Miners of America, by J. H. Fensler and G. E. Fearoy for and on behalf of Local 84, hereinafter called Progressive Union; International Union, United Mine Workers of America, District 12, United Mine Workers of America and Provisional Local 7469, United Mine Workers of America, by Tim Lewis hereinafter called United Union; and I. C. Dorfman and Jack Evans attorneys for the National Labor Relations Board, hereinafter called the Board, as follows:

That charges duly filed by the Progressive Union, through Joe Ozanic, an accredited agent and representative of Progressive Union, for this purpose, the Board, by Edward G. [Name], Regional Director for [Region] (Chicago, Illinois), acting pursuant to authority granted in Section 10 (b) of the National Labor Relations Act, 49 Stat. 442, hereinafter called the Act, acting pursuant to the policies and provisions of the Board, Series

607X

January 17, 1938

Mr. Carl H. Kishoff
Mine "B" Coal Company
Springfield, Illinois

My Dear Mr. Kishoff:

As you know, the National Labor Relations Board rendered its decision on January 9, 1938 giving Local Union #54 of Springfield, Illinois and Progressive Miners of America, exclusive bargaining rights over the Mine "B" Coal Company.

Since the National Labor Relations Board has rendered its decision on the above date, I have, on numerous occasions, endeavored to arrange for a joint conference between yourself and I so that we could enter into collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment for the employees of your mine, but, due to your arbitrary attitude, such conference has failed to materialize.

I am reliably informed that the supervisory force at your mine are performing work for which there is a scale of wages provided and which work properly belongs to members of Local Union #54, P.M. of A. having jobs at Mine "B". Such action on the part of your company is in strict violation of the Labor Board's ruling, and, in my opinion, this action will not be condoned by the Labor Board or the higher courts to which we shall immediately appeal.

In compliance with the order of the National Labor Relations Board, I am using this means to again insist that you meet me in conference for the purpose of collective bargaining for the employees of your mine.

I am enclosing for your information a copy of that contract that is in effect between the Coal Producers Association of Illinois and the Progressive Miners of America and which could be used as a basis in our negotiations.

I request that you advise me at an early date as to the time and place of conference.

Anticipating an early reply, I am

Sincerely yours,

Joe Ozanic

PRESIDENT
PROGRESSIVE MINERS OF AMERICA

(To Mine "B")

Springfield, Illinois

April 2, 1937

AGREEMENT

It is hereby agreed by and between District No. 1, Progressive Miners of America and The Mine B Coal Company of Springfield, Illinois respectively, that the contract made at Springfield, Illinois effective October 1, 1935, by and between the Coal Producers' Association of Illinois and District No. 1, Progressive Miners of America, shall continue in full force and effect pending further negotiation of the Joint Scale Committee.

It being understood that any and all features pertaining to the making of a contract will include the agreement of record adopted on March 29th, 1937 in Joint Scale Session.

This Agreement shall automatically terminate upon the ratification of a statewide contract.

PROGRESSIVE MINERS OF AMERICA

THE MINE "B" COAL COMPANY

Dan McGill

by Carl H. Elshoff
President

April 2nd, 1937

(Exhibit 1)

Members of the Progressive Miners were at said mine; that the work being done by the above named was not supervisory work but was labor such as should have been done by the regular employees of said mine and by members of Local Union No. 54 of the Progressive Miners of America.

That the above named President and Mine Committeemen of said Local Union No. 54, in a conversation with Oscar Falcetti asked for all work being performed or to be performed at Mine "B" to be given to members of Local Union No. 54, Progressive Miners of America in accordance with the decision of the National Labor Relations Board, handed down January 11, 1938, designating the Progressive Miners of America as the proper bargaining agency and representative of all employees of Mine "B" except the supervisory, official and clerical forces of said mine.

That Superintendent Oscar Falcetti said he would not consider any Progressives. He also said we have no contract. We made a contract with Bohannon, Austin and Skibbe by giving them some old mules. and in return and in pay for the mules, they are to work out the value of the mules at Mine "B" and that's what they are doing today. At that time, the above named, Bohannon, Austin and Skibbe were taking mules off the cage as they were being hoisted from the mine and putting them in barns and corrals and were trimming the hoofs and legs of the mules and taking care of them.

That Superintendent Falcetti also said we have no one on the payroll except the engineers and bosses. He said five men are below taking out their tools. That two bosses, Frank Sebeck and Charles Roth, were down in the mine and that they were putting the mules on the cage to be hoisted.

That the President of Local 54, P.M.A. and the Pit

(Handwritten initials)

AFFIDAVIT

Before me, Nellie D. Michaels, a Notary Public in and for the County and State aforesaid this day personally appeared Thomas Dillon, William Schewe, William Grompton and John Schneider and the above being severally sworn on their oaths depose and say.

That Thomas Dillon is President of Local Union No. 54, Springfield, Illinois, of the Progressive Miners of America and that William Schewe, William Grompton and John Schneider are the Mine Committeemen from said Local Union which is the Local Union representing the employees of Mine "B" Coal Company.

That on Tuesday, January 18, 1937, the above named Dillon, Schewe, Grompton and Schneider together with Fred Frewitt, Financial Secretary of the above named Local Union and Harvey Williams, an engineer, and employee of Mine "B" went to Mine "B" and had a conversation with Oscar Falocetti, Superintendent of the Mine "B" Coal Company. Affiants further state that at the time the above named visited the mine that there were present at the mine, Walter Sittin, Top Boss, Louis Capella, Mine Manager, Jack Falocetti, Bottom Boss, Douglas Falocetti, Superintendent, and also Charles Bohannon, the President of the Provisional Local Union No. 7459 of the United Mine Workers of America and Frank Austin, a member of the Provisional Local Union No. 7459 of the United Mine Workers of America and William Ekibbe, also a member of the Provisional Local Union No. 7459 of the United Mine Workers of America; that all of the above named including the bosses and the superintendent were going work on top on the surface of the Mine "B" Coal Company at the time the above named officials and

Committee asked if there was any work for engineer, Harvey Williams, who was present with the Committee and ready and willing to work and who has been an employe of Mine "B" for the past twelve years and worked const antly as an engineering job.

That in reply to the above Superintendent Falcetti stated in substance, I will let you know tonight whether there will be any work for Williams or any other engineers. That Superintendent Falcetti requested President Dillon to call Falcetti by telephone for his answer tonight.

That Superintendent Falcetti in the above conversation refused to consider the requests of the members of Local No. 54, P.M. of A. for work being done or to be done around said Mine "B".

The purpose of this affidavit made by the undersigned, is to state the substance of the requests made and the conversation had by the undersigned with Superintendent Oscar Falcetti of the Mine "B" Coal Company at Mine "B", this 13th day of January, 1938.

Thos. Dillon

William Schewe

William Grempton

John Schneider

Thomas Dillon, William Schewe, William Grempton, John Schneider on their oaths state that they have read the foregoing affidavit by each of them subscribed and that the statements therein made are true in substance and in fact.

Thos. Dillon

William Schewe

William Grempton

John Schneider

Subscribed and sworn to before me this 13th day of January, A.D. 1938.

(Seal)

Hollis D. W.

State of Illinois)
County of Adams)

John Cook, after first being duly sworn on oath, deposes and says that he is the Board Member for District No. 4, P.M.W. of A. and that it is his duty to represent the Progressive Miners in that district in the handling of disputes and grievances.

Affiant states that since the reopening of Mine B he has been unable to get the Mine B Coal Company to follow either past custom or procedure or agreement between the company and the miners in regard to the handling of disputes. In support of this charge affiant submits the following:

That on December 18, 1939, he was called to Mine B on a shot firers' dispute in regard to the amount of wages due. After the reopening of Mine B., Elshoff failed to pay the miners the amount he paid on and prior to May 18, 1937. Affiant states that he could not reach an agreement with Falsetti, the Superintendent and Elshoff, and they refused to write up the case in accordance with past custom and procedure at the mine.

Affiant states that he was called out to the mine to handle the discharge case of William Molinsky on February 20th, 1940, that he could not reach any agreement with the company and they refused to write up the case. At this meeting he again requested that the company write up the case of the shot firers and they again refused saying that they would write up no cases as all disputes would have to be settled at the mine.

Affiant states that on April 9th, he again requested Falsetti and Elshoff to write up the shot firers' case and Molinsky case, and they again refused.

After the company and the miners agreed upon the method of handling disputes, affiant states that he went to the mine and requested that the discharge case of William Molinsky and the shot firers case be written up, and the company again refused. This happened about the 17th or 18th of May. Affiant states that he went to the mine to handle the discharge case of Vincent Matjeka and took this matter up with both Falsetti and Elshoff. No agreement could be reached and company refused to write up the case. Affiant further states that on July 15th, he again went to the mine to handle the discharge case of Lester Wilkerson. He took this matter up with Falsetti and no agreement could be reached and Falsetti would not write up the case. On July 20th, 1940, affiant states he again went to the mine and asked the three pending cases to be handled and Falsetti refused to write them up. On July 20th, 1940, Charles Bohannon appeared on behalf of John Reese, discharged United Mine Worker and argued his case in the presence of this affiant. Company recognized Bohannon as the representative of Reese in the handling of this dispute.

Subscribed and sworn to before me this 11th day of July, A.D. 1940

(Seal)

Notary Public

My Commission expires Nov. 17, 1941

(TYPE)

(TYPE)

(TYPE)

OFFICE OF THE DIRECTOR
BUREAU OF MINE SAFETY AND HEALTH
WASHINGTON, D. C. 20201

MEMORANDUM FOR THE DIRECTOR

(TYPE)

RE: [Illegible]

DATE: [Illegible]

TO: [Illegible]

FROM: [Illegible]

SUBJECT: [Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

2. Respondents shall jointly or severally, take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Upon request, bargain collectively with Progressive Miners of America, Local 34, as the exclusive representative of all production and maintenance employees of respondents employed at the mine, excluding clerical and supervisory employees, in respect to rates of pay, wages, hours of employment, and other conditions of employment until such time as the National Labor Relations Board should certify another labor organization as the representative of the employees in the said unit.

(b) Upon the reopening of Mine "B", offer to each of the employees on the permanent payroll of Mine "B" Coal Company on May 12, 1937, immediate and full reinstatement to the positions which they respectively held prior to May 12, 1937, without prejudice to rights and

privileges previously enjoyed by them, and that in the event conditions will not permit immediate reinstatement of employees on the payroll of May 12, 1937, the order of employment shall be in accordance with the practice heretofore established in the mine. No new employees shall be hired for any position formerly occupied by employees on the payroll of May 12, 1937, until all such former employees who as of said payroll did such work

shall have been offered said positions. (c) Post and copy available in prominent places in respondents' mine or mines operated by them jointly or severally, for a period of 30 days after the closing of any such mine, copies of the National Labor Relations Board's order in this matter.

(1) Respondents shall jointly and severally cease and desist:

(a) From in any manner interfering with, coercing, or intimidating employees in their right of self-organization to form, join, or assist labor organizations of their own choosing and engaging in concerted activities with other employees for the purpose of collective bargaining and other mutual aid or protection;

(b) From discouraging membership in Progressive Miners of America, Local 54, or any other labor organization of its employees or encouraging membership in the United Mine Workers of America, Provisional Local 7469 or any other labor organization of its employees, or otherwise discriminating in regard to hire or tenure of employment or any term or condition of employment;

(c) From refusing to bargain collectively with Progressive Miners of America, Local 54, as the exclusive representatives of all production and maintenance employees, excluding clerical and supervisory employees employed at the mine, in respect to rates of pay, wages, hours of employment, and other conditions of employment until such time as the National Labor Relations Board should certify another labor organization as the representative of the employees in the said unit.

(d) From giving effect to or in any manner enforcing or recognizing certain agreements dated August 18 and September 30, 1957, or any continuance or supplements thereto, between Mine "B" Coal Company and District No. 12, United Mine Workers of America and International Union, United Mine Workers of America.

Due to a strike by the employees, the mine has been in operation only three days during the period from May 12, 1937, to the date of this stipulation.

4. The Progressive Miners of America Local 54 is a labor organization as defined in Section 2, Subdivision (5) of the Act.

5. A unit consisting of the production and maintenance employees of respondents employed at the mine, excluding clerical and supervisory employees, would insure to the employees the full benefit of their right to self-organization, and would otherwise effectuate the policies of the Act, and is a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

6. This stipulation and agreement, together with the Complaint, Notice of Hearing, Affidavit of Service, Second Amended Charge, Motions, Orders, Answer to Complaint, and the National Labor Relations Board Rules and regulations, Series 1, as amended, may be introduced as evidence by filing them with the Chief Trial Examiner of the Board at Washington, D. C., and respondents jointly and severally waive their right to hearing as set forth in Section 10 (b) and (c) of the Act.

7. Upon the basis of the record and this stipulation and agreement, and upon application by the Board, and upon application by the Board the Circuit Court of Appeals for the appropriate Circuit may enter a decree ordering and decreeing that:

Mine B Coal Company operated a mine, known as Mine B, located near Springfield, Illinois, hereinafter called the mine, under a lease from on or about the date of its incorporation up to November 22, 1937, at which time it transferred all of its property and mining rights pertaining to said mine to The Mine B Coal Company and thereafter by right of subrogation or otherwise took possession of, operated, and paid royalties on said mine, 98% of the stock of Mine B Coal Company and 98% of the stock of the Mine B Coal Company and the control and management of each corporation, is and has been vested in Carl E. Kishoff since the incorporation of the respective corporations.

S. Respondent, Mine B Coal Company, from the date of its incorporation to November 22, 1937, has been engaged at the mine in the extraction, purchase, sale and distribution of bituminous coal. During the year from July 1, 1938, to

June 30, 1939, said Respondent mined, sold, and distributed approximately 540,000 tons of bituminous coal at a gross value of approximately \$590,928.82. Of this amount approximately 38% was shipped from the mine in the State of Illinois to points outside of the State of Illinois, and approximately 62% was shipped from the mine in the State of Illinois to points within the State of Illinois. During the same period said Respondent purchased large quantities of granulated blast furnace slag, lumber, mine timbers, cables, machinery, oil, greases, steel, iron, and electrical supplies which cost approximately \$70,000.00. Of this amount approximately 80% was shipped from points outside of the State of Illinois to the mine in the State of Illinois, and approximately 20% was shipped from points in the State of Illinois to the mine in the State of Illinois.

1, as amended, Article IV, Section 1, and Article II, Section 23, duly issued a Complaint and Notice of Hearing thereon, on the 1st day of August, 1938, against respondents, and each of them. The Complaint, Notice of Hearing thereon, Second Amended Charge and Rules and Regulations of the Board, Series 1, as amended, were duly served on August 2, 1938, upon the respondents and each of them, Progressive Union, and the United Union. Hearing was scheduled for 10 A.M. on August 8, 1938, in the Post Office Building in the City of Springfield, County of Sangamon, State of Illinois. Subsequently on August 6, 1938, respondents filed a motion for continuance with Leonard C. Bajork as Regional Director for the Thirteenth Region of the Board and an order was issued by said Leonard C. Bajork and duly served upon each of the parties granting continuance until August 11, 1938, at 10 A.M., the hearing to be held in the Illinois Appellate Court Room, Supreme Court Building, Springfield, Illinois.

2. Respondent, Mine "B" Coal Company, is now, and has been a corporation organized and existing under and by virtue of the laws of the State of Illinois since December 22, 1937, having its principal office and place of business in the City of Springfield, County of Sangamon, State of Illinois. Respondent, the Mine B Coal Company,

organized and existing under and by virtue of the laws of the State of Delaware, and is now and has been since November 2, 1937, authorized and licensed to transact business in the State of Illinois, having its principal office and place of business in the City of Springfield, County of Sangamon, State of Illinois.

STATE OF ILLINOIS
COUNTY OF SANGAMON

John Greb after first being duly sworn on oath deposes and states that he is Board Member of District No. 4, Progressive Mine Workers of America; that Mine B Coal Company located at Springfield, Illinois is in his district and he is familiar with the provisions of previous contracts at Mine B Coal Company, and also familiar with the provisions of contracts between labor unions and various coal operators in the State of Illinois.

Affiant states that practically, if not all of the contracts now in force and effect between coal operators and labor unions in the State of Illinois contain a provision for the check-off of union dues and a check-off for the payment of employees' check weighman. Affiant also states that for many years up until 1937 at Mine B Coal Company such a check-off system has prevailed. Affiant further states however, that since the Progressive Organization was designated the exclusive bargaining agent or representative of the employees at Mine B Coal Company, the Company has refused and still continues to refuse to recognize this check-off system that has prevailed both by custom and by contract at said Mine for many years.

Further affiant sayeth not.

John Greb

Subscribed and sworn to before me this 1st day of August, 1940

(Seal)

Edith C. Thomas
Notary Public

My Commission expires Apr 17, 1941

(Exhibit 9)

STATE OF ILLINOIS } 33
COUNTY OF SANGAMON }

John Groh after first being duly sworn on oath deposes and says that Floyd Golden and John H. Dental transferred their cards from Local Union #50 to Local Union #77, Progressive Mine Workers of America on February 5, 1940.

Affiant states that since that time they have neither paid dues nor filed exoneration blanks and in accordance with the provisions and Constitution of the Progressive Mine Workers of America are not Progressive Miners, and were not Progressive Miners at the time they received employment at Mine B Coal Company.

Affiant further states that they have made no application to join the Progressive Mine Workers of America.

Further affiant sayeth not.

John Groh

Subscribed and sworn to before me this 12th day of September, 1940

My commission expires November 17, 1941

Edna C. Jones
Notary Public

P41A-24D-8-1-3

State of Illinois } .SS
County of Sangamon }

Matthew Console after first being duly sworn on oath deposes and says that he formerly lived next door to Tony Plotch and is well acquainted with his son William Plotch.

Affiant states that he knows of his own knowledge that William Plotch never worked in a mine prior to the time he worked at Mine B.

Matthew Console

Subscribed and sworn to before me this 28th day of August, 1940

Eric C. Jones

My commission expires *December 17, 1941*

State of Illinois } SS
County of Sangamon }

James Schneider after first being duly sworn on oath deposes and says that he is employed at Mine B Coal Company, and is well acquainted with Gilbert Rees, Samuel Reeves and S. Davidson.

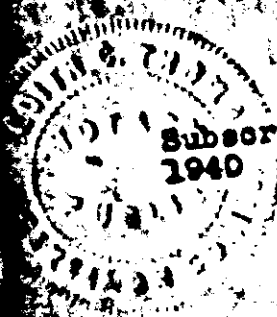
Affiant states that he knows of his own knowledge that these three young men have never worked in a mine prior to the time they worked at Mine B.

James Schneider

Subscribed and sworn to before me this 28th day of August, 1940

Eddie C. Jones
Notary Public

My Commission expires *November 17, 1941*



STATE OF ILLINOIS }
COUNTY OF SANGAMON } 88

We, the undersigned, after being first duly sworn on oath, depose and say that during the conferences held on July 12th, 18th, 23rd, and 29th between the representatives of the Progressive Mine Workers of America and the representatives of the Mine B Coal Company when protests were made by the representatives of the Progressive Mine Workers of America about the intimidative and coercive acts of the organizers of the United Mine Workers of America against the members of the Progressive Mine Workers of America on the Coal Company property Mr. Elshoff denied knowledge of such acts and said it was against the policy of the coal company to permit such activities or any activities tending to further the interest of either organization on the property of the Mine B Coal Company.

In fact, in every conference held with Mr. Elshoff, in which the question of organization activities of the United Mine Workers organizers on the Mine B Coal Company property was discussed, Mr. Elshoff denied any knowledge of such activities on the part of any one and persistently insisted and said that the Mine B Coal Company would not, under any circumstances, permit any organization work by the representatives of either organization on the property of the Coal Company.

Wm. Beck
Wm. Schewe
John McEade
John Grah

P39-0-8-7

Subscribed and sworn to before me this 12th day
of September, 1940.

Elmer C. Loran
Notary Public

My commission expires November 17, 1941

MEN WHO CLAIM THEY HAVE BEEN PROGRESSIVES:

- 24 Gilbert Rees--Father Progressive--boy never worked at mine. signed before getting job.
- 25 Samuel Reeves--Father Progressive Mine B. Boy never worked at mine.
- 34 F. DiProffo - *Jan 1934*
- 38 B. Davidson--Father P.M.W. Boy never worked at mine.
- 52 Joe Azaro-- *Payroll old west 7/24*
- 64 Joe Pasqual--Father Dominick expelled 1937--Boy never worked
- 65 Joe Caccioppo--
- 68 Wm. Plotch--Father Tony Plotch expelled 1937. Boy never worked.
- 806 H. Carver--Former Engineer Dunkard Mine, discharged, negligence *last fall by dropping down PMW.*
- 816 L. Durham--Dropped from membership Jan. 1935-
- 819 Galton Sacco--Expelled Nov. 1939 for working non-union.
- 841 A. Wands--
- 857 Dolan Dubinick--Never belonged to PMW. Son of mine manager from Virden, Ill. *Jr.*
- 858 Ed English-- Ky. for several years, from Virden but not member of PMW. Never worked in Mine
- 859 Ralph English--From Virden but not member of PMW. Dropped several years ago (4 or 5) years ago. (Last worked '32 UMW)
- John Clusker--Was dropped from PMW Sept. 1, '34. Went scabbing at Peabody '35
- Joe Yano--Was told he had to sign UMW to work at Mine B - *still member P.M.W. or*
- Geo. Wiessing-- *not a member in 1936 - no payroll of date*
- Sylvester Burch-- *not a member until Sept. 1939 - Sept.*
- Fred Prere--
- Joe Zini-- *son of mine manager at*
- Merle Bungarner--Was dropped from membership Sept. 1, 1936--Check with Schneider
- E. English--Ky. for number of years.
- Joe Olari-- *P.M.W.*

E. Pasquale--went to work when mine opened in Nov, 1939 but was not on payroll until 12, 1937.

*231 PMW co-lands
229 constant*

State of Illinois
County of Sangamon 1940

Ed Reeves after first being sworn on oath deposes & states that he resides at Dawson, Illinois.

Affiant states that Homer Baumgardner who also resides at Dawson & rides to work with affiant, told affiant that Charles Bohannon, known as Bellingreen, had told Baumgardner that affiant could get his boy on at the mine providing affiant switched his affiliation to the United Mine Workers. It was understood that son also had to join United Mine Workers. Affiant did switch affiliation from Progressives to United Mine Workers & both son and affiant are working at mine & under United Mine Worker cards.

ED X REEVES

Ed Reeves

Subscribed & sworn to before me this
day 7 ——— AD 1940

Notary Public

my Commission expires ———