ILLEGAL WORK STOPPAGE

FEBRUARY 18-20, 1975

BY

A.F.G.M., LOCAL 6

AGAINST

CLINTON CORN PROCESSING COMPANY
A DIVISION OF STANDARD BRANDS INC.

PROCEDURE AND PRACTICAL CONSIDERATIONS

IN SECURING

INJUNCTIVE RELIEF

CONTENTS

FOREWORD

The passage of the Norris-LaGuardia Act in 1932 put an end to the use of the injunction by business and industry as a method of combating the excesses of labor organizations, particularly the strike. Specifically, Section IV of that act prohibits the federal courts from issuing injunctions against participants in a labor dispute.

Passage of the Taft Hartley Act in 1947 again made it possible, however, for management to secure injunctions under certain specific conditions as outlined in Section 301.

Various court decisions including the Lincoln Mills Case (1957) and the Steel Workers Trilogy (1960) showed that the courts equated the grievance-arbitration provisions to the no-strike covenant in contracts and thereby gave some protection to management with respect to illegal work stoppages. In the Sinclair case (1962), however, the courts reached a conclusion that unions did not necessarily have to obey their no-strike covenants and, thereby, took away any relief that management had gained under Taft Hartley Section 301--at least as far as federal courts were concerned.

In an effort to fill this gap created by the Sinclair decisions many employers turned to state courts for injunctions not available at the federal level. Unions resorted to many legal maneuverings to counteract this, but not until the Avco decision (1967) were they really successful in counteracting state court injunctions. In the Avco case it was held that the federal court had original jurisdiction to decide actions for injunctive relief against the breach of a no-strike covenant. For all practical purposes the results of this decision deprived management in almost every case from using the state courts to issue injunctions for the enforcement of a contract. In Iowa, however, it was possible for a company to secure an injunction in the state court due primarily to the conservative nature of Iowa courts. Given enough time such state injunctions could probably be overcome by a union; however, in practice a sympathetic judge could and often did exert effective control over a local union to the extent that they would heed his admonitions. As time passed, however, and union attorneys became more adept and knowledgeable with respect to injunctions issued by the State of Iowa, the effectiveness of this remedy rapidly diminished until the threat of an injunction in the mind of the local union became a laughing matter and meant nothing to them.

In 1970 the Supreme Court under much pressure, as the result of its decision in the Sinclair case, reconsidered federal labor relations policy and again made injunctive relief available to management as a result of its decision in the Boys Markets, Inc., versus Retail Clerks Local 770. In this situation, involving a dispute as to who would do what work, the company refused to grant union demands

and an illegal work stoppage occurred in breach of the no-strike covenant of the collective bargaining agreement. The company invoked the grievance-arbitration procedures but the union would not participate. The California state court issued a Temporary Restraining Order which was ultimately removed to the federal district court by the union. This court held that the dispute was subject to arbitration, that the strike was in violation of the no-strike provisions of the collective bargaining agreement, and enjoined the strike.

While this ruling would appear to clear the way for injunctive relief at the federal level it is important to note that there are a number of qualifications necessary to be met before such relief will be made available. Basically, it is necessary that the situation involve a contract containing a mandatory grievance adjustment or arbitration procedure, and a no-strike clause.

It is against this legal background that the events of February 18-20 took place and upon which our actions were based.

I.

SITUATION PRIOR TO THE ILLEGAL WORK STOPPAGE

The American Federation of Grain Millers, Local 6, was organized in 1939 and the first contract negotiated with them at that time. This contract contained a no-strike clause which was modified very slightly in 1941. The wording of the no-strike clause remained the same from that time until the present. This first contract contained, however, no arbitration clause.

In 1949 as a union demand an arbitration clause was negotiated into the contract and was considered "final and binding". Since that time only minor revisions have been made but the phrase "final and binding" was always included.

The no-strike clause was not changed at the time the arbitration clause was negotiated into the contract apparently because it was regarded as satisfactory by both parties and stated their respective purposes and intent.

Both parties felt that the two clauses--no-strike and arbitration--effectively prevented illegal work stoppages because the union in later years tried unsuccessfully but repeatedly to get rid of both.

This attempt in later years to negotiate out both arbitration and no-strike indicated the general trend of company-union relations. The years from 1939 until approximately 1965, generally speaking, had been peaceful from a labor relations standpoint with the company bargaining in good faith and making concessions in the interests of labor peace. In succeeding years the union became increasingly militant, both in its demands and approach to bargaining, as well as day-to-day labor relations.

It should also be noted that union activity on an industry basis began to pick up with the first attempts being made to organize the "Corn Council" made up of unions from all of the corn wet milling industries.

Beginning approximately in 1961 there was increasing emphasis by the union with respect to disciplinary actions taken by the company culminating in 1965 with one of the first threats for a "special meeting" which would lead to "drastic action". The implication here was that the members would walk out if their demands were not met.

Throughout the years and continuing until the illegal work stoppage of February 18, 1975 the union repeatedly threatened "wildcats" and actually engaged in two illegal work stoppages. In all cases the company made good faith concessions in order to avoid unnecessary hardship on employees and maintain production, each time stressing that such concessions were made in good faith and reminding the union that this was a two-way street.

In September 1974 two employees were discharged for theft of company property amounting to some $250. The union again threatened to walk out illegally over the discharge action taken. In the face of union attitude and activity and coupled with the fact that it was extremely important production continue without interruption, the company modified its position and avoided a work stoppage.

At the conclusion of the September occurrence the company stated that it would absolutely not submit to such pressure tactics in the future and that the union officers must understand that the union had a working agreement with which they must abide--that any future threats or actual carrying out of illegal work stoppages would have to be dealt with to the full extent of the law and that it was the company's firm purpose to do so.

The union's reaction to these statements was ill-concealed cynicism. Feedback from plant personnel indicated that the union leadership was not convinced the company would ever take disciplinary action because of an illegal work stoppage. This was a matter of great amusement to the union leadership who felt that they had a very effective weapon to get anything they wanted by simply threatening or actually precipitating a "walkout".

Even more important, however, was the fact that the membership as a result of the company's good faith concessions over past years, believed the union leadership was doing a great job. Management's forbearance, good faith bargaining, and compassion toward its employees--was not interpreted by union leadership as good faith but rather as weakness on the part of Management and strength on the part of the union. The membership though "grateful" and perhaps understanding of Management's efforts nevertheless felt their leadership had a good formula and again would consistently do as ordered (vote as recommended) by the leadership even when they did not know the facts--in fact without even wanting to know the facts!

In brief, Management's policy of accommodation was consistently interpreted to the union membership by their leaders as weakness on the part of Management. Union leadership failed its members and acted in a manner designed only to further their own personal ambitions at the expense of the membership.

This then is the situation that prevailed at the end of 1974 and resulted in the events of February, 1975.

II

EVENTS LEADING UP TO THE ILLEGAL WORK STOPPAGE

Tuesday, February 11, 10:30 p.m. - Jack Soesbe, a security guard for the company, was running a routine bucket check at the main time office. During the course of this bucket check employee Charles E. Dean came up to the check point and opened his lunch bucket. Soesbe saw it contained a box of nine panel light bulbs. The guard confiscated the bulbs and got the information as to employee name, number and department of the plant. The guard, Soesbe, then made a written report to Purcell, the security supervisor.

Thursday, February 13 - Charles Dean was questioned by Labor Relations Supervisor Oakley Carlsen and Robert Purcell, Security Supervisor. Dean told them that he had taken the light bulbs and knew it was wrong.

Following this interview Mr. Dean was suspended and told that further investigation of the matter would be conducted.

Friday, February 14 - The union requested a hearing for Dean.

Monday, February 17, 2:30 p.m. - The hearing was held at which time Dean again admitted his guilt, this time in front of the Union's Labor Relations Committee and Management.

Following Dean's testimony the company informed the union that Dean would be terminated and the evidence turned over to the County Attorney for whatever action he might decide to take. The union was reminded that the company was doing exactly what it had said it would do after the September, 1974 Pitts and Eversoll theft.

The union caucused and then requested the company rehire Dean as a new employee. The company refused.

The meeting was adjourned with the union stating they would have to discuss this with the Executive Board. It should be noted here that when the union says they will have to "discuss this with the Executive Board" it is the opening statement with respect to a threatened "wildcat".

Monday, February 17, 8:00 p.m. - Joel Murphy, Business Agent, asked for a meeting with the company at 8:00 a.m. on Tuesday, February 18.

Tuesday, February 18, 8:00 a.m. - This meeting was held as scheduled with Murphy stating that he was under instruction of the Executive Board to say that they

wanted the job of Charles Dean back. The company asked him why it should consider such action. Murphy's reply was to restate specifically his previous comment and again asked whether the company intended to take Dean back. The company informed the union that Dean would not be taken back.

At 8:10 a.m. without further comment the union walked out of the meeting. The company asked Murphy where they were going and received no answer. Napolitano, the union President, did finally say that they were going to go back to meet with the Executive Board. The company then stated that they wanted a meeting with the Executive Board some time during the day at the union's convenience.

Tuesday, February 18, 9:15 a.m. - The union called and said the Executive Board would meet with the company at 10:00 a.m. This meeting was held and the company reviewed its position on the Dean case and the reasons which required the action taken by the company.

At 10:15 a.m. the union again stated they wanted Dean rehired and the company replied it would not do so. The meeting then adjourned with the union saying that the company should realize they must now take this issue to the "body" and the company reminding the union that they as officers were responsible for their keeping control of the membership and that they had a working agreement which they must abide.

COMMENT:

At this point in time the union was following its standard procedure of threatening to take the issue to the body, then meeting with the Executive Board and making the implied threat and actual comment that they would not be able to keep control of the situation.

Tuesday, February 18, 11:00 a.m. - Anticipating the possibility of a walkout the company began reviewing files on union officers and double checking other information necessary for the procurement of an injunction.

III.

THE ILLEGAL WORK STOPPAGE - FEBRUARY 18-20, 1975 and SECURING THE INJUNCTION

Step I - Have correct legal names, titles and addresses of the International, Local and all officers involved.

As previously mentioned our files on union officers and the union were reviewed for purposes of establishing correct names, titles and addresses. Though it may seem obvious, this information is often not legally correct and should be fully researched ahead of time. Sometimes these seemingly obvious matters are not updated as frequently or with the attention to detail that is necessary. Failure to have this information correctly stated on the petition could result in unnecessary delay.

Step II - Develop files on local union officers on the individual "living habits" of each person.

This was done with the idea in mind that we would be able to assist the federal marshalls in serving the injunction. The information consisted of who had recreational cabin facilities along the river, whether they were in Iowa or Illinois, what taverns the person frequented, and what motels or other meeting hideouts might be used by union personnel once they became aware that a temporary restraining order had been issued.

Step III - Make certain the situation meets conditions making injunctive relief possible.

In the securing of an injunction it is necessary that certain prerequisites or requirements be met if the judge is to look favorably on your petition for relief. These are as follows:

1. Complaint of concerted activity, whether it be strike, slowdown, or picketing must be prohibited by the no-strike clause of the collective bargaining agreement. It would be advisable to check your no-strike clause to be certain that over a period of time it has not been emasculated or limited in some way during negotiations. The Boys Markets case emphasized the narrowness of its holding and was quite specific with respect to the fact that the no-strike clause must be just that without limitation.

2. The contract must contain a compulsory arbitration provision. The grievance arbitration clause must require that when all other steps in the grievance procedure have been exhausted, final and binding arbitration will take place. If the contract contains only a grievance procedure but not a compulsory or binding arbitration provision, the judge may raise a question as to whether or not a temporary restraining order is required. The Boys Markets case did not answer this question since it dealt with a contract containing a compulsory arbitration as well as grievance procedure.

   Also implicit in the Boys Markets decision is the requirement that the company must be ready and willing to submit the labor dispute in question to the grievance procedure and abide by the arbitrator's award. If the company has a history of refusing to arbitrate or follow the grievance procedure, the court might question as to whether the grievance-arbitration procedure is actually effective enough to handle disputes meaningfully. In other words the company must have "clean hands" in the use of the grievance-arbitration procedure. If this is the case the court is more likely to issue an injunction since it is the purpose of the federal legislation to encourage the peaceful settlement of labor disputes through grievance and arbitration.

3. There must be some type of concerted union activity which is in violation of the no-strike clause of the collective bargaining agreement.

   This relates somewhat to the first condition but emphasizes that it is imperative for the company seeking an injunction to have a strong no-strike provision in its contract. Also, the company must be extremely careful to document the nature of the concerted activity in question to demonstrate to the court that such a conduct is prohibited by the no-strike provision. Where possible you should carefully document and establish past violations of the no-strike agreement.

   It is of utmost importance that a company avoid giving any impression or reason which might support a union's contention that the company has refused to utilize the grievance-arbitration procedure. An example of such a step is the notifying, in writing, of the local and the international union regarding the company's desire to utilize such a procedure and reminding the union of the availability of this procedure as the exclusive method of settling labor disputes.

4. The fourth condition involves the balancing of the effect in issuing an injunction against the effect of not issuing the injunction. The balancing of these two interests is normally one of the easier things for a judge to decide since usually the company stands to lose sufficient monetary sums should the injunction be denied.

5. The last criterion for determining whether or not an injunction should issue under the Boys Markets precedent is the existence of irreparable injury to the employer. In general injuries are considered irreparable if they cannot be ascertained or compensated for in a money judgement. Irreparable injuries can best be shown where the company can establish that a damage judgement will not reflect all injuries resulting from the continuation of the wildcat. Examples of such injury are effect on reputation, loss of good will by reason of undependable deliveries, the loss of unknown contracts and loss of a competitive advantage.

   Basically where the no-strike clause and the grievance-arbitration procedure in a collective bargaining agreement are properly coordinated, all matters which are subject to the grievance-arbitration procedure are also prohibited by the no-strike agreement. If the coordination between these two provisions has been varied, strange results may occur.

Tuesday, February 18, 12 Noon - At approximately this time we became aware that union stewards and other employees belonging to the union were telling employees not to report for work for the incoming shift. Others were circulating in the plant and telling people to walk off their jobs immediately. A number of them began to do this in direct defiance of supervisory orders which were that they were to remain on their jobs until properly relieved according to the working agreement.

Step IV - Supervisors or other members of Management inform as many employees as possible that they must stay on the job until properly relieved.

COMMENT:

Supervisory personnel must be very specific in how they inform their employees that they must stay on the job. This is key to all future action with respect to securing an injunction. Supervisors should state specifically that according to the applicable section of the working agreement the employee is required to remain on

the job until properly relieved and that failure to do so will result in immediate suspension and possible discharge or other disciplinary action. Supervisors should be able to testify which employees they specifically informed and that the action was witnessed by another supervisor. Although all who walk out are subject to discharge, your case is strengthened by this procedure.

Tuesday, February 18, 1:30 p.m. - The union announced over the radio stations that a general membership meeting would be held at 3:00 p.m. and that all members were urged to attend.

Step V - As soon as it has been established definitely that a walkout situation exists, begin immediately monitoring all newscasts and newspaper articles. This is extremely important not only as a record of what the union may be thinking or doing, but also from the standpoint of providing a basis for future legal action.

COMMENT:

As soon as you become aware that news media are being used tape recordings should be made of all newscasts and a file started for clippings from various newspapers. It is of utmost importance that a log be started immediately recording in detail date, time, place and people involved with respect to all events that occur--this includes telephone conversations as well as demonstrations, picketing and so on. It is also obvious that photographic evidence of picketing and any possible violence or other occurrence should be taken immediately.

The union's 1:30 announcement over the radio stations calling for the general membership meeting indicated that they were definitely calling for an illegal walkout since no mention was made of holding the membership meeting on a holdover basis. In other words there would be no one at the plant to operate if all attended the general membership meeting.

Tuesday, February 18, 2:00 p.m. - Employees continued shutting down their jobs or refusing to work--particularly in the mechanical group. When told to restart jobs some did so, others did not and left the plant. At the end of the shift some employees simply walked off their jobs without proper relief leaving them running. Others held over for an hour or so and then walked off their jobs leaving them running. A number of mechanics refused to finish their scheduled day shift and went home early or stayed until the end of the shift but refused to do any work.

Pickets were seen at both the main and the north gates. These were supposedly of an "informational" type and were carrying signs which read "Local 6, Special Meeting, Odeon 3:00 p.m.". We immediately took Polaroid pictures of these pickets and identified those employees who were engaged in this unlawful activity.

Tuesday, February 18, 3:00 p.m. - Six men out of approximately 200 reported for work. Some employees, including the entire boiler house crew but one, held over for as much as eight or more hours. We continued such operations with such people as held over and salaried personnel.

COMMENT:

At all times a "war plan" should be ready and available for instant implementation to the extent that qualified salaried personnel are designated in advance as to what jobs will be run by whom in this type of situation. It is extremely important that supervisory and salaried personnel have enough actual operating experience and knowledge to do the job without endangering their lives or the equipment. The updating of an existing "Emergency Manning Table" enabled us to make a quick transition to salaried operation of the process.

Step VI - Contact attorneys and have them begin preparation of petition for injunction.

Tuesday, February 18, 3:30 p.m. - Contacted our attorneys and told them to begin preparing a request for a temporary restraining order. Our attorneys consisted of a local Clinton firm and a Peoria, Illinois firm specializing in labor relations matters.

COMMENT:

It should be noted here that because of prior experience, the Clinton attorneys were familiar with our situation and had much basis material and information in their files. It took little time to update basic information and prepare the necessary papers.

In the meantime, the principal labor law firm in Peoria was contacted with the following items being discussed.

1. Status of our working agreement as a result of the "wildcat".
2. The company's right to discharge all or retain certain individuals.
3. Rehiring.
4. Enforcement of contract.
5. Injunction procedures.

Generally, in spite of the union "walking out" and in effect breaking the contract, the courts still consider the Working Agreement in force.

Therefore, it is extremely important that Management at all times follow the Working Agreement, especially as it applies to warning employees of their responsibilities and consequences of their actions.

In considering at this early time whom to discharge permanently, rehire, or discipline in other ways, Management was preparing for the follow-up action to counter all possible union defense, especially the union's use of the unfair labor practice route, to overturn any action the Company had been successful in taking.

Concerning discharge of employees who walk off the job, Management may discriminate in its discharge of employees. All may be discharged, yet Management is not required to commit "industrial suicide" by doing so to avoid "discrimination" charges. In other words, Management may selectively discipline in an illegal work stoppage situation.

Tuesday, February 18, 3:30 p.m. - Freilinger, International Rep. of the American Federation of Grain Millers International, called the company and stated he had just become aware of the fact that there was a problem and asked for an 8:00 p.m. meeting.* The company agreed and set it up at the Holiday Inn.

At this time we began scheduling salaried people for plant operations on the assumption that the walkout might continue for several days if it followed previous patterns. Laboratory, office and operating supervisory personnel were allocated and scheduled for specific operations. It was decided immediately by management that everything possible would be kept operating to keep losses to a minimum.

Tuesday, February 18, 7:15 p.m. - Pictures of pickets with identification of same were taken to the attorneys and affidavits signed to the effect that these were pictures of men picketing our plant.

Step VII - Continue to meet with union as either they or Management may request.

COMMENT:

It is absolutely necessary that Management be able to document that it continually made every possible effort to settle the dispute, always within the confines of the Working Agreement.

* See asterisk on Page 11

Tuesday, February 18, 7:45 p.m. - Freilinger called and stated that he had had no idea that a 3:00 p.m. membership meeting had been called when he talked to the company earlier.* He wanted to be absolutely certain that we understood this. He further stated that the company had to realize what type of characters some of the Executive Board were and stated that there had been some drinking going on and he might have to call off the 8:00 p.m. meeting.

COMMENT:[1]

Freilinger's original 3:30 p.m. call occurred an hour and a half after the news broadcast. There was little doubt that he knew a general meeting had been called. His action was undoubtedly taken in an attempt to absolve the International of any responsibility for the incident. Subsequent information received confirmed he actually attended the 3:00 p.m. meeting.

Step VIII - Make certain you know the issue over which the illegal work stoppage is occurring!

COMMENT:

Courts have held that if a management is refusing (in the eyes of the court) to discuss or try to settle issues in general, a union may have the right to strike--in spite of grievance/arbitration and "no-strike" clauses in the contract. It was with this knowledge in mind that the union attempted (as will be seen in following events) to establish a different reason for the walk-out than the discharge of one employee for theft.

As later events were to prove, very detailed notes and log on this matter were probably the reason for the NLRB's refusal to issue an Unfair Labor Practice against the company at the union's request.

Tuesday, February 18, 8:00 p.m. - The meeting was held at the Holiday Inn with members of the company and the union's labor relations committee in attendance. Freilinger also attended. Freilinger stated he had asked for the meeting, that there was a serious problem, that members were stirred up and "a number of issues existed" which came to a head on the discharge of Dean.

COMMENT:

This is the first time that the union made reference to "other issues". The union at this point was attempting

* See COMMENT[1]

to establish the fact that the wildcat was justified because the company would not discuss grievances in the normal course of events. Reference was made by Murphy, the business agent, to some "45 unresolved grievances". (Subsequently it was established with Rajcevich, International Vice President and by this time Trustee of Local 6, that only 15 grievances were outstanding--a very low number. After going over these with Rajcevich it was agreed that there were actually only five open grievances, two of which were being held by mutual consent, one of which was later dropped by Rajcevich and two which had not even yet been formally presented and discussed).

Step IX - Inform the International as well as Local at the earliest possible date, preferably in writing, of the situation that exists and of action Management will take.

COMMENT:

To develop the best possible position in the mind of the court, Management must leave no doubt in the union's mind as to how it regards the situation and what action it will take. Management must show it has involved both International and Local officers, thus making them parties to the act. This is extrememly important from the standpoint of future damage suits that Management may file.

Tuesday, February 18, 8:00 p.m. meeting continued - In response to Freilinger's comment, "a number of issues existed", the company immediately stated that the only issue being discussed at that meeting was the unauthorized work stoppage since by now this was definitely a proven fact. The company went on to state that there would be disciplinary action taken and damages sought; that they as officers were liable; that the local was liable, and the International; that the longer the employees remained out the more severe disciplinary action would be taken and the more severe the damages sought would be; and that the 11:00 o'clock shift was expected in as scheduled or they too would be subject to disciplinary action.

Step X - In every meeting with the union while the petition for injunction is being prepared continually state the company's position leaving no doubt in mind as to what the issue is and the action that the company will take.

Tuesday, February 18, 8:00 p.m. meeting continued - After further discussion during which the union placed repeated emphasis on the "other issues" as being the reason for the walkout, the company continued to inform them that the Working Agreement specifically

provides an orderly procedure for handling differences, that the union had made no attempt to follow these, and that the men should be back in to work at 11:00 p.m. as scheduled. The Company again stated that the Executive Board walked out of the 10:00 o'clock meeting on the issue of Dean's return to work and on that issue only. They were told that we were now only discussing violation of the working agreement and that the people should report as scheduled; that we would discuss other issues during regular working hours in the normal course of events as we had always done and as was prescribed in the working agreement. The meeting adjourned at approximately 8:45 p.m.

COMMENT:

The company must constantly maintain and state to the union that:

1. There are binding grievance/arbitration procedures and no-strike clauses in the working agreement and that the union has ignored them.

2. Until employees return to work no other issues will be discussed.

3. The International and Local are responsible.

4. The company will take all legal action available to it.

Tuesday, February 18, 10:00 p.m. - Radio station KROS newscast stated that there was an apparent walkout and that the dispute involved at least in part the company's firing of an employee who allegedly stole property.

Tuesday, February 18, 11:00 p.m. - Company lawyer (Clinton) leaves for Des Moines, Iowa with request for temporary restraining order to be presented to the federal judge the following morning.

Wednesday, February 19, 9:30 a.m. - Discussed by telephone with the Peoria lawyers the action to be taken following issuance of the temporary restraining order. At 9:45 a.m. we were informed that Judge Stewart of the Federal Second District Court Southern jurisdiction for Iowa had just signed the temporary restraining order which specified that a hearing be held February 28, 1975 at 3:00 p.m. in Des Moines. The lawyers recommended that we immediately make public the fact that the restraining order had been issued even though it had not yet been served. It was agreed that we would inform the union there would be disciplinary action taken but that the company was going to make complete investigation before taking any such action.

COMMENT:

Again it should be emphasized that where possible the petition for injunction should be presented to a "sympathetic"

judge. If your lawyers do not know them personally, the judge's record should be checked to see how he has ruled in past cases of a similar nature. While past rulings are no guarantee of future action, no possible favorable factor should be overlooked or neglected.

Making the temporary restraining order public immediately on issuance--even though not yet served--was done to encourage any striking employees who might be doubtful to return to work sooner than might otherwise be the case. Union officers had already disappeared from the scene in anticipation of an injunction attempt, so no element of "surprise" remained to be lost.

It should be noted that the injunction was secured within approximately 18 hours of the beginning of the strike; and in a Federal rather than State Court.

This quick action was the result of:

1. Careful analysis of the union's tactics or pattern of operation over a period of years so that the emergency was anticipated once events had reached a certain stage and all company attempts to reconcile peacefully had failed.

2. Advance preparation of basic information necessary for filing a petition for injunction.

3. A group of attorneys knowledgeable both with respect to the law and the personnel in the various courts--including the Federal Marshall's office.

4. Immediate action with continual "prodding" on the part of the company.

The speed with which the order was secured, together with the fact that it was in Federal Court, was a severe shock to the union. Feedback indicated that not until they were served by Federal Marshalls did they fully accept this was a Federal Court order.

Wednesday, February 19, 10:00 a.m. - Company began defining disciplinary groups and gathering data to support various actions. Categories for discipline included direct insubordination, initiators, originators, probationary employees, absenteeism (penalities as specified by the working agreement), employees who walked off the job without being properly released or who refused to holdover.

COMMENT:

While in a "wildcat" situation you may discharge discriminately; however, the company made the point repeatedly that it was adhering to the working agreement and would administer all discipline in terms of the working agreement. This was stated repeatedly so that the union would have the least possible grounds for any charges it might try to make later on.

Wednesday, February 19, 10:30 a.m. - Freilinger, International Rep., was contacted by phone after we were unable to contact officers of the local. He was told that the temporary restraining order had been issued and was asked where Local 6 officers could be found. He had no useful suggestions. He was informed that in view of the temporary restraining order all employees should be back to work at 3:00 p.m. as scheduled.

Step XI - Designate company spokesman

Wednesday, February 19, 12 Noon - Radio Stations KROS and KCLN carried a company news release which stated that the temporary restraining order had been issued and required all CCPC employees to cease their illegal work stoppage and to report for work as scheduled at 3:00 p.m. It further stated that anyone violating the temporary restraining order would be subject to being held in contempt of the Federal District court.

COMMENT:

The whole area of communications including both information to employees as well as Public Relations are of great importance and must be handled with extreme caution and care. Generally speaking the less said the better, since there will then be fewer opportunities for mistakes, misinterpretation, or misrepresentation of the facts. Under no circumstances should the issue be negotiated in the news media.

The temptation to say nothing at all under the guise that this is a private matter is also to be resisted. It is absolutely necessary, however, that open channels of communication be maintained with news media so that company information receives prompt, fair treatment.

The union wants publicity and is expert in propaganda making statements of half-truth and emotional appeal with great facility. For the company to try refuting such releases is futile on a point-by-point basis--or even on a release-by-release basis. This only results in negotiating in the news media--something they strongly desire (it sells) and constantly try to promote.

With the preceding in mind the company's approach to the problem of public relations involves the following:

1. A long range policy of being acquainted with various news media representatives.

2. Designation of one person as primary company spokesman with at least one "back-up" person. All requests for information were channeled to this individual. In so doing, the possibility of conflicting statements is avoided.

3. Issuance of brief, factual releases to the news media presenting such information as the Company desires published.

4. Refusal to negotiate in the media.

5. A "panel" of company executives to clear all written material prior to release.

Of equal importance with Management's concern about "saying too much" should be concern over "saying too little". The news media, in the absence of any information from the company, are prone to fill the vacuum thus created with what usually amounts to fanciful figments of their own imagination. It is therefore extremely important that Management maintain control of the situation through brief, factual releases as the need requires--but always from a positive standpoint and not a point-by-point refutation of union statements.

Wednesday, February 19, 12 Noon - Federal marshalls arrive and begin trying to serve papers on union officers.

Wednesday, February 19, 3:00 p.m. - Twenty-two employees out of approximately two hundred scheduled report for work.

Marshalls continue to attempt serving union officers.

Wednesday, February 19, 4:15 p.m. - Newscast by radio stations repeat their 12 Noon news releases.

Wednesday, February 19, 9:00 p.m. - Marshalls complete serving papers on all but Freilinger.

COMMENT:

There are a number of pitfalls other than outright legal entrapments which can be and usually are encountered in the securing and serving of an injunction, particularly in a Federal court.

1. The first of these, already mentioned, is the necessity for having immediately at hand the correct names, addresses and titles of the union and its officers.

2. Second is the necessity for having established a prior working relationship with a firm of knowledgeable labor attorneys who hopefully have access to and know judges who in general are favorable towards industry.

3. Having secured the temporary restraining order it is advisable to "encourage" the judge to set an early hearing date for purposes of keeping pressure on the union and encouraging them to return to work as quickly as possible.

4. Fourthly, a situation can occur over which you have little or no control but which can be disastrous--namely, the availability of Federal Marshalls to serve the papers. Most states do not have an over-abundance of marshalls and it is conceivable that though you secure the order it may be days or possibly weeks before it is served under normal circumstances. A friendly word from the judge to the Marshall's Office is of great help in securing their cooperation, but this largely depends on the judge's willingness to cooperate. Also, it must be realised that it may be totally impossible for the marshall to drop everything else and serve these papers in which case the illegal walkout may be prolonged for reasons beyond your control.

   In the case described here, two marshalls were able to drop the matters on which they were currently engaged and immediately began serving our papers.

5. Legally marshalls are required only to make a normal effort to serve the papers. If the union officers have gone into hiding, as is usually the case, much of the efficiency of service depends on the aggressiveness of the marshalls. In this case the marshalls were extremely aggressive and went far beyond what was legally required of them to do to the extent that they toured the adjacent area in both Iowa and Illinois checking motels, taverns and any other places that we were able to suggest. They did this in the company of one of our employees who acted as a "guide".

Wednesday, February 19, 9:15 p.m. - The Manager of Employee Relations and the Senior Vice President of the Company called the union business agent and president at the union hall and informed them that the Federal Marshalls were in the company's office and that the company, now that the Marshalls had completed serving papers for all practical purposes, were asking the union to state their position with respect to people reporting as scheduled at 11:00 p.m. and all future shifts. The company stated that the marshalls were waiting to know what answer the union would give and would then act accordingly. The union claimed that they didn't understand the court order and were told by the marshalls to read the document with which they had been served. The company told the union that assuming employees reported as scheduled and continued to do so, the company would within five days inform the union of the company's total plan for disciplinary action to be taken on an individual basis. The union was further told that assuming employees were back to work as scheduled the company was ready to meet with them at a mutually convenient time. The union replied that they could not possibly have a meeting until 8:00 a.m. February 20, and again stated that they did not understand the document with which they had been served. The federal marshalls agreed to go back to the union hall and explain it to them.

Wednesday, February 19, 10:00 p.m. - Newscast stated that the union had called an Executive Board meeting for 8:00 a.m., February 20.

Wednesday, February 19, 10:24 p.m. - Federal marshalls returned to the plant from the union hall and stated that "the union understands now". They further commented that they (the marshalls) had told the union they were served as a union and as individuals. They quoted the union as saying they would make every effort to get people back at 11:00 p.m. or as soon thereafter as possible. At the union's request one of the marshalls, while at the union hall, called one of the union's labor attorneys and explained the temporary restraining order to him. The marshalls stated they were representing the U. S. Government, not the company, and the union had better realize they were already in contempt of Federal District Court.

COMMENT:

This action on the part of the marshalls far exceeded anything they were legally required to do. The union, obviously stalling, was going to make no attempt to get people in at 11:00 o'clock.

Wednesday, February 19, 10:30 p.m. - The marshalls called the union hall after the company informed them of the 10:00 p.m. news broadcast by the union to the effect that there would be an Executive Board meeting at 8:00 a.m. on the 20th. The federal marshalls stated to the union that they would suggest the union put another

announcement on the radio informing the membership that the union officers had been served with the temporary restraining order and should return to work (the union did not heed this advice and apparently made no other attempt whatsoever to get employees to return to work).

Wednesday, February 19, 10:45 p.m. - Decision was made to send a company representative to Cedar Rapids early the morning of the 20th to deliver a copy of the court order to the federal marshalls there for service on Rajcevich and Freilinger, if possible.

Wednesday, February 19, 11:00 p.m. - Eleven of approximately two hundred employees scheduled reported for work. This indicated to us that the union had made absolutely no effort and had totally ignored the injunction and the statements made by the federal marshalls.

Thursday, February 20, 5:50 a.m. - Morning newscast stated that there would be a general membership meeting at 8:00 a.m. for all members of Local 6.

Thursday, February 20, 6:30 a.m. - Unidentified person was reported as being in the company parking lot and was supposedly threatening to slash tires of anyone going to work. Several other employees, who were identified, were seen talking to incoming personnel after which these people left the parking lot and did not come in to work as they apparently had intended to do.

Thursday, February 20, 7:00 a.m. - Ten of approximately two hundred employees report as scheduled.

Thursday, February 20, 7:55 a.m. - Company representative gave papers to the deputy federal marshall in Cedar Rapids for service on Rajcevich and Freilinger, if possible.

Thursday, February 20, 8:00 a.m. - KCLN read company news release of preceding day. KCLN stated that there would be a general union membership meeting at 8:00 a.m.

Thursday, February 20, 9:15 a.m. - Company talked to Peoria labor attorneys concerning the request for a "show cause" order and discussed the current status of the wildcat.

COMMENT:

It had been decided by the company and its attorneys to immediately press for a show cause order rather than wait for the judge to become aware of the situation (that the union was defying his order) and take whatever action he

might or might not feel was advisable. Great care, however, must be exercised in working with the federal judge to the extent that he not be antagonized by seeming overly-aggressive company action. Again having the proper judge and one with a favorable orientation towards business is a great asset.

Thursday, February 20, 9:30 a.m. - KROS newscast states that a temporary restraining order had been served on the union's officers and that it required employees to return to work.

Thursday, February 20, 9:30 a.m. - A union representative called for the company's Manager of Employee Relations, but was unable to reach him and informed the person speaking for the company that the employees had appointed an Ad Hoc committee to arrange terms of returning to work. The Ad Hoc committee was named. The company spokesman made no comment but relayed the message to the Manager of Employee Relations and the Senior Vice President.

COMMENT:

This was an attempt on the part of the union to get the company to begin bargaining with unauthorized representatives and, thereby, set themselves up for an unfair labor practice charge by the union. It is well to remember that in an illegal walkout situation most unions will have thoroughly competent legal advice. This maneuver is an illustration of this. It was well set up and cleverly executed.

Thursday, February 20, 9:35 a.m. - The Manager of Employee Relations and Senior Vice President talked to the union member referred to above and told him there would be no meetings until normal operations were restored. The Ad Hoc committee spokesman insisted on outlining conditions of employee return to work stating that employees were willing to return to work if management would sit down every day if necessary to resolve grievances; that there must be a written guarantee that there would be no repercussions. He stated that the employees didn't feel they could come back under the threat of disciplinary action. In reply the company said it would not meet with, discuss or negotiate with any individual or group other than officially elected and certified officers of Local 6.

COMMENT:

It is absolutely imperative that as nearly as possible all grounds for an unfair labor practice charge by the union be avoided. This action, however, on the part of the Ad Hoc committee could have provided grounds for a company unfair labor practice charge had we so desired or found it necessary to use.

It is also extremely important that any and all telephone conversations with union representatives--official or otherwise--be held with at least two company members present. If possible, tape recordings should be made even though they might not be used as evidence or rather be acceptable as evidence in court. If nothing else they provide excellent background for making notes and keeping the log accurate and up to date.

It early became apparent that the union would attempt to separate and talk individually to the Manager of Employee Relations and Senior Vice President in the hope that one or the other would either misspeak himself or inadvertently make a comment which the union could misconstrue. This is a standard union tactic; it is one which must not be overlooked in the general activity taking place during an illegal walkout.

Thursday, February 20, 10:00 a.m. - KCLN newscast quoted a union officer who was stating that the employee reaction to the company's temporary restraining order was that at the 8:00 a.m. membership meeting the union Executive Board and officers decided to comply with the federal injunction and told the membership that they must come back to work. This announcement was repeated several times.

COMMENT:

Feedback from various sources led the company to believe that at this point this announcement on the part of the union was purely propaganda and only a move to release officers from responsibility--that employees had actually been told at the 8:00 a.m. meeting to pay no attention when they heard the news announcement to the effect that they should return to work.

Thursday, February 20, 10:30 a.m. - The KROS newscast stated that the 8:00 o'clock meeting had adjourned and that union members were told to return to work. According to KROS the walkout appeared to be over.

Thursday, February 20, 10:50 a.m. - Word was received by the company that Rajcevich had been served with the temporary restraining order.

Step XII - Prepare request for the court to issue a "show cause" order.

Thursday, February 20, 10:50 a.m. - The company now begins activity to ask the judge for a "show cause" order.

COMMENT:

Though it may not be needed, the small additional expense measured against plant down-time more than justifies what might at this point be regarded as a precautionary measure.

The same procedures are followed as in securing an injunction.

The reason for such a petition is based on the fact that you can never be certain whether the union will obey the temporary restraining order. Experience has lead unions to believe that they can successfully defy the court--getting off lightly even if found guilty--or that they can confuse an issue enough to win outright.

It must be realized that the union's purpose in an illegal work stoppage is to cause the company immediate financial loss. Whether an injunction is issued against them or not is of relatively little concern to them since by that time the company will probably have given in anyway. In any event the union will have accomplished its continuing purposes of causing the company financial loss, increasing membership unity, and showing their strength to management. Usually any penalties are light or non-existent if the price of return to work includes management's dropping all charges--and it usually does.

The "show cause" order, promptly executed, puts additional pressure on the union to return. Defying a court order once is not too good--but even a union hesitates to do so twice.

Thursday, February 20, 11:00 a.m. - KCLN newscast repeated the statement made earlier by a union representative and asked the question, "Will members obey the order?".

Step XIII - Present "show cause" petition to court.

Thursday, February 20, 11:20 a.m. - The Manager of Employee Relations and a member of the local law firm flew to Des Moines to secure the show cause order from the judge.

COMMENT:

Judges are prone to take a very leisurely or cautious approach to injunctive procedures even at best. For this

reason, it was felt desirable that the Manager, Employee Relations appear with the company lawyer to convince the judge that time was of the essence and therefore to set the earliest possible date for a hearing on the show cause order--assuming he would issue it.

Thursday, February 20, 11:40 a.m. - Union business agent called and said that the officers and the Executive Board had no control over the membership and that they, the Executive Board, were willing to come to work so they could sit down and discuss problems with us. He asked if we wanted them to come down and discuss these problems. The company replied that we wanted all employees, including the Executive Board, union officers, stewards, and all members to come in during their respective shifts. When all were complying with the federal government's restraining order, we would meet and discuss the problems as we had always done.

The business agent kept repeating his request. The company repeated its stand and finally the business agent said the Executive Board would come in on the scheduled shift.

Thursday, February 20, 11:50 a.m. - The union president called in stating he would be out of town on union business for a few days and, therefore, would not report to work.

Thursday, February 20, 12 Noon - A portion of the Executive Board reported for work. They were allowed to come in and work and were held over on the second shift.

COMMENT:

These people were held over so that the company would have ready access to them when the "show cause" order would be ready for serving by the federal marshalls around 8:00 p.m.

Thursday, February 20, 1:45 p.m. - Newscast from KCLN stated that an Ad Hoc committee had been appointed by the employees of Clinton Corn Processing and that the committee had tried to return employees to work and contacted company management for a meeting. The Ad Hoc committee stated the company would not meet until all employees returned to work, and that employees would not accept this company condition because it included systematic termination of all employees. (This was not true and is a prime example of the union's duplicity.) The newscast further stated that this employee action followed a general membership meeting which had been held at 8:00 a.m. where a union spokesman reported that there was only in his words "breathing room" at the meeting and that it was doubtful if more than a small percentage of the union members were working at Clinton Corn that afternoon.

COMMENT:

This Ad Hoc committee was just another instance of clever scheming by the union's advisers and served the purpose of keeping the issue before the public as well as the employees. By dealing in half-truths and outright lies or misstatements of fact (which incidentally it should be noted that the official union representatives could and did repudiate because it was coming from an Ad Hoc committee) the union did confuse the issue in the minds of employees and made it easier for the official union leadership to maintain control of the situation and keep the employees away from the plant, while at the same time leaving themselves in a position of saying they were telling people to return to work.

Thursday, February 20, 1:50 p.m. - A member of Employee Relations received a phone call from an individual employee who wanted the company to settle grievances so he could come back to work. He stated he was afraid to come back at this time. He was told to return to work and that in any event he could not be negotiated with as an individual.

COMMENT:

Here was another attempt of the union to get the company to deal with an unauthorized representative or party so that an unfair labor practice charge might be filed. It must be recognized that the union will always try any and all tactics it possibly can.

Thursday, February 20, 3:00 p.m. - KCLN newscast repeats the 1:15 newscast.

Thursday, February 20, 3:30 p.m. - KROS newscast commented on the strike to the general effect that it was still continuing in spite of the restraining order. It stated that union officials apparently had returned to work but that the general membership remained away from work. Newscast continued by stating that according to a member of the Ad Hoc committee the union members were afraid of disciplinary action and could not possibly return to work until they were given a guarantee of immunity. Reference was again made to the many grievances that the company had refused to consider. The union Ad Hoc spokesman went on to state that he felt the next step was up to the company and that it must agree to meet with the employee committee. The broadcaster commented that the company refused to reply.

COMMENT:

The union had by this time obviously decided to take every opportunity to claim the strike was over company refusal to discuss grievances. This was an outright lie as can be seen from earlier statistics quoted on this subject. Lie or not, the information was effective in establishing in employee minds a reason for walking out. It is important to note that feedback at this time indicates to the company the employees walked out with almost no knowledge of the reason for doing so!

Thursday, February 20, 3:30 p.m. - Company news release was given to the news media stating that the temporary restraining order had been issued and directing all employees to return to work immediately. Further, that when this had been accomplished the company would discuss any and all grievances with authorized union officials as specified in the contract. It went on to state that no meetings of any kind with any group could be held as long as the illegal work stoppage continued.

Thursday, February 20, 4:15 p.m. - Federal Judge Stewart issued the show cause order for Monday, February 24 at 1:00 p.m. with the provision that if the union requested a delay he would consider it.

COMMENT:

In asking the judge to issue the show cause order it is necessary that the earliest possible date be set for a hearing. Judges usually have a tendency to pick a date too far in the future, not really being aware of the company's position with respect to loss of production. The Manager of Employee Relations took great care to point out to the judge several facts.

1. That although we were making every effort to mitigate damages by keeping the plant running to as near full capacity as possible, we could not continue this indefinitely, and

2. That salaried employee health and safety was increasingly being endangered as they were required to work long hours at unfamiliar jobs.

The judge ultimately set the hearing a week earlier than he had originally intended. Extreme care must be exercised in such a discussion with the judge so that he not take offense and feel he is being pushed or guided into a decision.

Thursday, February 20, 4:30 p.m. - KROS newscast included company news release and went on to comment that "on the employees side at CCPC it is not clear who is calling the shots". The newscast continued by commenting on the Ad Hoc committee's remarks saying that "an official with the employee committee set up this morning in the meeting at the Odeon Club says there might be another news release from that committee before the day is out".

Thursday, February 20, 5:00 p.m. - KCLN newscast quoted earlier material about the 8:00 a.m. meeting and the Ad Hoc committee again mentioning that the Ad Hoc committee planned to meet in the evening to discuss the current status of the strike.

Thursday, February 20, 5:30 p.m. - KROS newscast quoted the earlier company statement and said that "at this point the Ad Hoc committee says that it is concerned over employees being fired after returning to work".

Thursday, February 20, 7:00 p.m. - The Manager of Employee Relations and the lawyer delivered the "show cause" order to Cedar Rapids deputy federal marshalls for serving on Rajcevich and Freilinger.

Thursday, February 20, 7:20 p.m. - Two representatives of the Ad Hoc committee called the Senior Vice President at his home. The conversation was witnessed on an extension phone. The union stated that they wanted to talk to someone to find out what to do, that the employees were afraid to return to work and asked for advice on what to do. They were told they should come back to work as they were ordered to do by the federal government. The Ad Hoc committee man said that they couldn't communicate with the union officers--that the officers wouldn't tell them anything. The conversation continued in this vein with the final comment being made by the company to the effect that the Ad Hoc committee should tell union members to come in, that the company wanted them to come in on their jobs and that after that the company would discuss with union elected officials each case on an individual basis--fairly, justly and according to the working agreement.

Thursday, February 20, 8:00 p.m. - Marshalls received show cause order and began serving union officers.

Thursday, February 20, 9:00 p.m. - Senior Vice President was again called at home by the Ad Hoc committee who proceeded to read a statement to see if the company would agree. He cut the statement short making the point that he had at no time talked with or indicated a willingness to talk with other than officially elected representatives of the union. He further stated that with respect to the previous call as far as the company was concerned he had talked

to two members of the union and not to any member of an Ad Hoc committee which the company absolutely refused to recognize. He again stated that the company would not discuss or negotiate with any committee other than officially elected officers of Local 6. He also stated that the Ad Hoc committee and its representatives were in enough trouble already and asked if he has made himself clear. The union Ad Hoc committee spokesman replied that he understood.

Thursday, February 20, 9:10 p.m. - The business agent called and stated that the people were coming back to work on the 11-7 shift; that the stewards would contact the people; but that we should be aware that some might not make it because they lived out of town. He asked if the company was prepared to drop the injunction. The company spokesman stated that he would not talk to him about that.

COMMENT:

It should be pointed out that a decision had earlier been made by the company that the only company representative who would officially talk to any union representative would be the Manager of Employee Relations and/or the Senior Vice President. In the preceding case a member of the Employee Relations Department received the call and for that reason stated that he could not talk about the issue. This is a highly recommended practice in that it restricts the number of people to whom the union has access and prevents them from "dividing and conquering".

Thursday, February 20, 10:00 p.m. - The business agent called the Senior Vice President at home and asked what the score was on this second paper (the "show cause" order) with which the union officers have now been served. He wanted to know if the company intended to drop "these injunctions". He was told that the company could not render an opinion on what happened with the show cause order: that we fully intended to go ahead with the first notice with which they were served (the temporary restraining order). The business agent commented that the February 28 hearing would interfere with the Pitts arbitration and was told by the company that if mutually agreeable the arbitration date could be changed.

Thursday, February 20, 10:00 p.m. - KROS newscast--a member of the Ad Hoc committee identified himself and stated that all employees should return to work as soon as possible on their respective shifts.

COMMENT:

It would appear obvious that the Ad Hoc committee was in the full confidence of the union officials, as evidenced by the fact that they could speedily coordinate efforts when they wanted to.

Thursday, February 20, 10:10 p.m. - The company called the business agent and told him the company would not lift the injunction and would proceed with the February 28 show cause hearing as scheduled.

Thursday, February 20, 11:00 p.m. - For all practical purposes all employees reported for work as scheduled.

At this point, for operating purposes, the illegal work stoppage had come to an end and normal operations were resumed with few production problems occurring in the transition from salaried to hourly operation.

IV.

SUBSEQUENT EVENTS

Friday, February 21 - The morning paper (the Davenport Democrat) carried an article headed "Workers to End Strike at Clinton Corn" stating that workers were asked Thursday night to return to their jobs because assurances had been given by company officials that there would be no reprisals against union members who participated in the walkout. They went on to comment about the Ad Hoc committee and said the company also agreed to discuss grievances. The Ad Hoc committee representative was quoted at some length.

Friday, February 21, 7:30 a.m. - KROS newscast carried the Ad Hoc committee's announcement requesting all employees to return to work as soon as possible and went on to say that a tentative settlement appeared to have come about after the union Ad Hoc committee agreed with CCPC to work out numerous grievances and not take action against union members who had walked off.

Friday, February 21, 8:30 a.m. - KROS news repeated the preceding and summarized previous comments about the special 7 member Ad Hoc committee talking with the company. It ended by saying "originally CCPC refused to deal with the union but apparently they changed their minds; the union has now ordered all employees to return to work with their next shift".

COMMENT:

Here again the union made every attempt to use the news media to further their cause. The lies, half-truths and total misstatements of fact show the all-out nature of their attack and their total lack of integrity or responsibility to either themselves or the membership.

This is, of course, standard union procedure but must constantly be kept in mind. The company is not dealing with honorable men and in most cases this will probably be true. Failure to recognize this fact can be disastrous for the company. There is neither honesty nor logic involved in a union's approach to illegal walkouts. There is, however, no lack of cleverness and intelligence even though this may not seem to be the case.

In the face of such blatant lies, the company felt compelled to issue a "position paper". Work was immediately begun to meet a 12:00 Noon newscast.

Friday, February 21, 8:50 a.m. - The business agent called wanting to know if the February 24 hearing could be postponed at least a week because they "have so many papers". This was apparently with reference to the "show cause" order which had been served. The company stated it was in the court's hands to decide about postponement. The B. A. wanted to know when we could get together and discuss grievances and was told we would meet to discuss preliminaries only.

Friday, February 21, 9:05 a.m. - The federal marshalls called and stated that Rajcevich had been served with the "show cause" order.

Friday, February 21, 9:20 a.m. - The union called and asked for a labor relations meeting at 2:00 p.m. The company agreed.

Friday, February 21, 12 Noon - The company issued a news release to the news media. This stated that news releases from Local 6 had presented false and misleading information and presented the facts to clarify the record. Four basic points were made as follows:

Until such time as all employees return to work as scheduled,

1. We will discuss only the unauthorized work stoppage.

2. There will be disciplinary action taken and damages sought from the local union, the members and officers and the international union.

3. The longer employees are off the job the more severe the disciplinary action and the greater the damage will be, and

4. Employees not reporting for the 11:00 p.m. shift as scheduled will be subject to disciplinary action.

The news release also commented that there had been no meetings with any officials or other group of the union and no agreements of any kind had been made with any individual or any committee. KROS news made reference to the Ad Hoc committee's earlier statement with regard to the company granting immunity.

Friday, February 21, 1:00 p.m. - KCLN news repeated earlier broadcast.

Friday, February 21, 1:30 p.m. - KROS news commented that the company was firm in its stand, that there would be no immunity and that the company would talk only with union officials and not with any member of any Ad Hoc committee.

COMMENT:

Throughout the illegal work stoppage the company tried to avoid discussing or negotiating the issue in the news media; hence, the relatively few releases from the company. It is necessary, however, that some factual communication be made through the news media. Union news release prior to the last company release referred to above was such a blatant misstatement of fact--outright lies--that it was felt necessary to set the record straight on the part of the company. This was accordingly done. Whether or not it was effective can only be judged by the fact that employees continued to report as scheduled throughout the remainder of the day and all following shifts.

Saturday, February 22, 7:00 p.m. - Meeting with the union's Labor Relations Committee. The company at this time informed the union of the following:

1. That this was not a complete investigation and additional individuals would be dealt with as the investigation proceeded.

2. That a given list of employees would be suspended immediately with intent to discharge for direct insubordination.

3. That a given list of employees would be discharged as initiators or originators.

4. That probationary employees would be dealt with according to the contract.

5. Absenteeism penalties would be imposed as specified by the contract.

6. That employees who walked off the job without being properly relieved would be given disciplinary action of varying degrees.

7. That all action depended on current conditions of operations and that any threats, vandalism or other acts would result in appropriate action on the part of the company.

8. That the union was still under injunction and the rule to "show cause" was still in effect.

Saturday, February 22, 7:30 p.m. - Foremen and superintendents were called in and given the foregoing information. They were told that a partial list of employees had been given the union during the meeting of 7:00 p.m.

Sunday, February 23 - Labor Relations Supervisor and several staff worked on assembling data as backup for all disciplinary action.

Sunday, February 23, 10:30 p.m. - Union business agent called Employee Relations Manager and stated that "we've got problems at the plant". The union's International Vice President and local President also got on the phone and discussed with the Employee Relations Manager the need for a meeting. The company offered to meet with the International Union Vice President, business agent and stewards in the company cafeteria if the union so desired.

Sunday, February 23, 11:05 p.m. - Union stated that they did not want to meet as the company suggested and requested instead that a meeting be set up for Monday, February 24. The International Vice President suggested that the company meet with him, the union attorney and the company attorney on Monday afternoon. It was finally agreed that the Labor Relations Committee would meet Monday in the afternoon.

Monday, February 24 - At the union's request, the Monday Labor Relations meeting tentatively agreed to Sunday night was cancelled in favor of a session at the offices of the company's local lawyers at which time the company labor attorney, local attorney, Employee Relations Manager and Senior Vice President would meet with the union attorney, local business agent, local president and another union member.

Monday, February 24, 12:55 p.m. - International Vice President called and stated that he and the international were no part of the illegal walkout; that he was in Cedar Rapids at the time it all happened.

Monday, February 24, 1:00 p.m. - Company and union met in offices of company's Clinton attorney. The union's attorney admitted the fact that it was an illegal walkout and thought it would be a good time to name all disciplined employees and get things cleared as opposed to the thirty-three names they now had but which contained no mention of leaders or anything like that. He asked that the company be good winners. Essentially the union attorney asked for complete amnesty in the interest of restoring good relations. He also asked that all names of those being disciplined in any degree be given immediately.

Monday, February 24, 2:00 p.m. - Company agreed to give complete list of all disciplinary action at a Joint Labor Relations Committee meeting set for Tuesday, February 25 at 10:00 a.m.

COMMENT:

Though it was a massive job to compile complete statistics in such a short time (it was necessary that every peronal file be reviewed and absence or disciplinary action documented and tabulated) the company wanted to be able to show it had done everything possible to avoid prolonging the suspense of disciplinary action to be taken. In so doing, the union was forestalled in any attempt it might make to charge the company with harrassment. To accomplish this the entire Employee Relations staff worked from 2:00 p.m. Monday until 9:00 a.m. Tuesday.

Monday, February 24, 4:30 p.m. - Employee Relations Manager called the union's International Vice President and informed him that the company had issued a bulletin specifying that there would be a Joint Labor Relations Committee meeting February 25 at 10:00 a.m. at which time the company would publish complete disciplinary action to be taken as a result of the illegal work stoppage. The International Vice President was also informed that we had met with the lawyers (union and company) earlier in the day. The International Vice President again stated that the international was not a part of the illegal walkout and that they did not condone it.

COMMENT:

As mentioned earlier it is necessary that the international union be kept informed and be established as a part of the illegal walkout.

The purpose of the call by the Employee Relations Manager was to keep the International involved as a matter of record in spite of International denials that they were not a part of the walk-out. Though legally the local business agent is regarded as a representative of the International as well as the local, every effort must be made to keep the International informed and involved in all actions.

During this same conversation the Employee Relations Manager confronted the International Vice President with the fact that we had reason to believe the union was holding "informational" meetings at which a secret ballot strike vote was being taken. He expressed surprize and hoped the membership would not do anything foolish but again maintained he was not involved.

COMMENT:

It was later determined that a number of informational meetings were held by the union and that strike talk was prevalent; however, no secret ballot or any type of vote to do so was ever taken.

Tuesday, February 25, 10:00 a.m. - The Joint Labor Relations Committee met as scheduled and the company gave the union all disciplinary action that was to be taken. Following is a summary of this action:

1. Three consecutive no report's — 46
   6 months probation

2. Walked off job - without proper relief or release — 66

   a. Loss of department seniority, unassigned to Extra Board — 20
      Probation and review at end of one year

   b. Stay in department with seniority 2/25/75 by alphabetical order — 46
      Probation and review at end of one year

   Penalties on basis of individual review. Above would normally be discharged, and therefore the discipline being taken for the above at this time does not constitute a precedent for future. In the future all such actions will result in discharge under the normal procedure.

3. Probations - discharged — 4

4. Absentees - ten unexcused - discharged — 4

5. Insubordination - discharged — 31

   a. Discharged — 17

   b. Discharged and rehired on probation with review after one year — 14

6. Initiators - discharged 6

7. Originators - discharged 13

Total 170

In addition to the above there were twelve people who received three days off for unexcused absences under provisions of the contract.

COMMENT:

Original figures given the union were somewhat higher in that a total of 178 people were to receive disciplinary action of some type. Rechecks of absenteeism and other records resulted in modification of some penalties so that ultimately 170 people were disciplined as shown above.

The company stated that it would extend the normal 48 hour period to 72 hours for purposes of requesting hearings and that any hearings taking place would be held March 3-11 excluding Saturday and Sunday.

COMMENT:

This extention of Working Agreement provisions covering hearings was given to strengthen the company's legal position showing they went beyond Working Agreement requirements in the interest of immediately making an effort to establish positive working relations with its employees and the union.

In giving the union the final word on disciplinary action the company stressed that action taken was subject to the grievance procedure of the contract including arbitration.

COMMENT:

This point was stressed so that the union would be also forced to operate under the working agreement or be faced with further violation of the federal injunction. Further, this action was taken in anticipation of the union's seeking other legal action (some type of unfair labor practice) on which to base overturning of the disciplinary action and perhaps ultimately the whole "walkout".

The union immediately indicated they would request hearings for all people discharged and demanded that the hearings be held on "class action" basis because it would be less time consuming. The company refused to do this requiring individual hearings for all 44 who were discharged.

COMMENT:

It should be noted that by requesting "class action" the union was attempting to:

1. make a better case for themselves by limiting any future company testimony that might be desirable with respect to individual cases

2. secure better "settlements" for individuals as part of a group than they might be able to justify as individuals

3. put itself in a position of being able to justify lesser disciplinary action for all members of that class (if successful in disproving an individual case within a class).

Tuesday, February 25, 10:45 a.m. - Minutes of the preceeding meeting were posted throughout the plant.

Tuesday, February 25, 11:00 a.m. - Employee Relations Manager in the presence of company attorney and Senior Vice President called International Vice President and informed him that the company had just discharged the entire Executive Board of Local 6 with the exception of one man who was hospitalized and had not taken any part in the illegal walkout.

Friday, February 28 - The company requested a list of the official officers of Local 6. The International Vice President gave the company a signed statement that the old officers were still the officers.

March 3-11 - The hearings were held as scheduled. It was obvious the union had coached almost every man because their statements were, with a few exceptions, almost identical. Following the hearings the company stated it had received no information that would justify changing its position in any of the cases and that, therefore, the disciplinary action as previously described would stand.

From the standpoint of seeking the injunction, getting it served, bringing the illegal work stoppage to an end and administering the disciplinary action the incident was closed.

V.

SUMMARY

As a result of the 1970 Boys Market Decision, management once again has an effective remedy with which to handle illegal work stoppages--namely the federal court injunction. This decision of the court, though it appears quite favorable on the surface, is not as broad or all encompassing as it might at first seem. As noted, there are very specific limitations implicit in the Boys Market Decision and anyone attempting to secure an injunction for the purpose of stopping an illegal walkout must be very sure that

1. His working agreement contains the proper clauses, and

2. That his history of past labor relations including use of these clauses has been consistent.

In deciding the Boys Market Case, the Supreme Court reverted to original decisions of the Court which maintained that the purpose of the National Labor Relations Act, as amended by the Taft-Hartley Act, was to encourage the peaceful settlement of labor disputes, that peaceful could best be attained through use of a grievance procedure, and that no-strike clauses had been agreed to by unions in return for grievance procedures and binding arbitration.

This fact must be kept in mind when negotiating the proper clauses into contracts (or resisting union demands to negotiate them out) and in administering the contract to the extent that the grievance procedure and arbitration clauses are rigidly adhered to in every day practice.

The five conditions previously outlined must exist if a company is to be reasonably sure of getting an injunction under Boys Market. Certainly competent legal advice is a must.

Assuming the proper clauses exist in the working agreement and that the five conditions described as a result of the Boys Market Decision exist, the federal court injunction can be an effective means of controlling irresponsible union activities. It should be remembered, however, that there are a number of pitfalls in the actual securing and serving of an injunction which have nothing to do with legal aspects of the case. These include the availability of the Federal judge, Federal marshalls to serve the notice, and the ability to locate people to be served.

With the preceding in mind, every effort must be made to deal in a fair, but firm, consistent manner with any and all labor relations matters, effectively communicating company policies, goals and other factual information which involve the employee and his personal well being on a daily as well as long-range basis.