

In the Matter of KINNER MOTORS, INC. and INTERNATIONAL ASSOCIATION
OF MACHINISTS, DISTRICT LODGE NO. 94 FOR AND ON BEHALF OF LODGE
No. 311, A. F. L.

Case No. 21-C-2307.—Decided July 22, 1944

DECISION
AND
ORDER

On January 25, 1944, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist therefrom and take certain affirmative action as set forth in the copy of the Intermediate Report annexed hereto. Thereafter, the respondent and the Association filed exceptions to the Intermediate Report and a joint brief in support of the exceptions. Oral argument, in which the respondent and the Union participated, was held before the Board in Washington, D. C. on May 16, 1944.

The Board has considered the rulings of the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following additions.¹

Shortly after the respondent's employees had commenced to organize through the Union, the Association was formed by three leadmen² in response to an address on forming an inside union, delivered at the plant by Walker³ with the knowledge and consent of Foreman

¹ The respondent has contended that the Board is barred from proceeding in this case by a limitation on the use of its funds contained in Labor-Federal Security Appropriations Act, 1944, 57 Stat. 494. This contention may no longer be urged because that Appropriations Act has expired.

² We agree with the Trial Examiner's finding that, regardless of the supervisory status of leadmen, their activities on behalf of the Association are imputable to the respondent because it is apparent from the record that they were acting with the support and approval of management.

³ Walker regularly took the place of Foreman Johnson one night each week and was characterized by Johnson as "top man" in the department on those occasions. We find that the conduct of Walker in urging the employees to form an inside organization is imputable to the respondent (1) because the speech was made with the knowledge and permission of Foreman Johnson and (2) because the employees could reasonably regard Walker as a spokesman for management.

Johnson. Thereafter, numerous leadmen, Foreman Johnson, and other supervisory employees openly distributed membership cards and solicited signatures at the plant during working hours, urging the employees to join the Association. Among the early officers of the Association were Christine Jagoe and Rose Minor, both employed as confidential secretaries to Personnel Director Sullivan in the respondent's personnel office, where all hirings, transfers, promotions, and discharges were cleared.⁴ Despite the adoption of by-laws which made these two employees ineligible for membership, Minor continued as secretary-treasurer of the Association and attended one of the bargaining conferences as an Association representative. Stevens also continued as president of the Association long after his promotion to a supervisory position in charge of the receiving department.

Within 2 months of the Association's first general meeting, the respondent granted it an exclusive recognition contract which, among other things, required the respondent to print and distribute copies of the contract to all employees. The respondent, however, went much further. At the request of the Association's president, the respondent bound within the covers of each contract detachable membership application and dues check-off authorization cards. The contracts with these inclusions were then distributed by the respondent to all employees, both members and non-members of the Association. When each new employee received from Jagoe in the personnel director's office material incidental to his employment, such as literature pertaining to a group insurance plan, he was also given a copy of the Association contract containing the membership application and check-off authorization cards. While Jagoe informed the new employee that participation in the group insurance plan was purely voluntary, no such assurance was given with respect to the Association. According to the Association's president, signed membership cards continued to be returned to the Association, presumably originating from the contract enclosures.⁵ In view of all the circumstances, we find that the distribution of the contracts containing the above-stated enclosures

⁴ Jagoe interviewed applicants for employment; filled out the application forms; and was at times called upon by Personnel Director Sullivan to give her opinion upon an applicant's suitability for a specific job. Upon being employed, the applicant was supplied by Jagoe with various pamphlets, work cards, and other literature incidental to his work. Minor was in charge of employee insurance and personnel records, to which Jagoe also had access. Both had limited authority to sign Personnel Director Sullivan's name to correspondence.

Because of the active participation in the affairs of the Association, particularly during the critical formative stage, of these two confidential employees who were in close touch with management, the employees could reasonably believe that the Association had the support and backing of management. We find that the respondent is responsible for the activities of Jagoe and Minor on behalf of the Association. *N. L. R. B. v. Southern Bell Telephone Company*, 319 U. S. 50; *International Association of Machinists v. N. L. R. B.*, 311 U. S. 72.

⁵ In this connection, it is significant to note that 156 new employees were hired during the month of October 1943 alone.

constituted powerful support to the Association and assisted in obtaining new members and thereby maintaining its claimed majority.

Shortly after the execution of the contract, the Association posted on the bulletin boards of both plants a notice in which it took credit for having negotiated in its contract a bonus for night workers. Although the contract contained no such provision, the respondent took no steps to repudiate the false claim of the Association. However, when, shortly thereafter, rumor credited an affiliated union with having obtained higher wages for the respondent's plant guards, the respondent quickly posted a notice, "correcting misstatements that are being made in the plant with reference to present wage raises" and informing the employees that "no Union or other organization was responsible for these raises."⁶ This disparate treatment of the two organizations enhanced the prestige and efficacy of the Association as a bargaining representative in the eyes of the employees and thereby assisted it in maintaining and increasing its membership.

The respondent rendered further support to the Association by permitting the employees on the night shift to elect a steward on the plant premises during working hours and in the presence of Foreman Johnson; by permitting leadman Cadaret to leave his work, without pay deductions, to attend Association meetings; and by Personnel Director Sullivan's advice to the night shift employees, assembled at the plant during working hours, that it would be best for them to join the Association. Further evidence of the Association's subservience to the respondent is the fact that the Association's president, Stevens, felt it necessary to obtain Chief Inspector Williams' permission to have his subordinate, Colburn, serve as secretary-treasurer of the Association. That the Association did not function as an effective collective bargaining agency is apparent from Personnel Director Sullivan's addresses to the employees in November 1943, at which time he in effect disposed of grievances unilaterally.

Like the Trial Examiner, we find that the respondent has dominated and interfered with the formation and administration of the Association and has contributed financial and other support to it, in violation of Section 8 (1) and (2) of the Act.

ORDER

Upon the foregoing findings of fact and the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the re-

⁶ The wage increases for the plant guards were approved by the Regional War Labor Board on July 5, 1943, subsequent to the effective date of the bonus for night shift employees. Robert Stevens, Association president, testified without contradiction that the respondent's notice was directed to a rumor or claim that Building Service Employees International Union, AFL, had secured higher wages for the respondent's plant guards.

spondent, Kinner Motors, Inc., Glendale, California, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Dominating or interfering with the administration of, or contributing support to, Kinner Motors Employees Association, Inc., and dominating or interfering with the formation or administration of, or contributing support to, any other labor organization of its employees;

(b) Giving effect to its contract of June 16, 1943, with Kinner Motors Employees Association, Inc., or to any revision, renewal, extension, modification, or supplement thereof or to any superseding contract which may now be in effect;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist International Association of Machinists, Lodge No. 311, affiliated with the American Federation of Labor, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act.

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

(a) Withdraw all recognition from Kinner Motors Employees Association, Inc., as the representative of any of its employees for the purposes of collective bargaining with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, and completely disestablish Kinner Motors Employees Association, Inc., as such representative;

(b) Post immediately in conspicuous places throughout its plant in Glendale, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a), (b), and (c) of this Order; and (2) that it will take the affirmative action set forth in paragraph 2 (a) of this Order;

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

INTERMEDIATE REPORT

Mr. Daniel J. Harrington, for the Board.

Mr. Victor Ford Collins and *Mr. James S. Wollcott*, both of Los Angeles, Calif., for the respondent.

Messrs. Pearson & Proctor, by *Mr. Marlan Proctor*, of Burbank, Calif., for the Association

Mr. Roscoe Iches, of Los Angeles, Calif., for the Union.

STATEMENT OF THE CASE.

Upon a charge duly filed on May 15, 1943, by International Association of Machinists, District Lodge No. 94, for and on behalf of Lodge No. 311, affiliated with the American Federation of Labor, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint on November 26, 1943, against Kinner Motors, Inc., Glendale, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and the charge, with notice of hearing thereon, were duly served upon the respondent, the Union, and upon Kinner Motors Employees Association, Inc., the labor organization alleged in the complaint to be company-dominated, and herein called the Association.

With respect to the unfair labor practices, the complaint alleged, in substance, that from about February 1942, to the date of the issuance of the complaint herein, the respondent has expressed to the employees its opposition to any labor organization except and employer-dominated organization; that on or about March 15, 1943, the respondent inaugurated, sponsored, promoted, and formed the Association among its employees and at all times since that date has: (1) dominated, and interfered with the administration of the Association; (2) contributed financial and other support to it; (3) solicited and advised its employees to join it; and (4) attempted by means of threats to persuade its employees to become members thereof; and that on or about June 16, 1943, the respondent entered into a written collective bargaining agreement with the Association as the exclusive representative of the employees which agreement was in full force and effect at the time of the issuance of the complaint herein. On or about December 6, 1943, the respondent filed an answer admitting all the allegations of the complaint pertaining to the existence of the respondent and the nature, character, and extent of the business transacted by it, as well as the allegations that the Union and the Association are labor organizations within the meaning of the Act and that it did, on or about June 16, 1943, enter into a written collective bargaining agreement with the Association as the exclusive representative of its employees. The answer denied, however, all the allegations of the complaint with reference to the engagement by the respondent in any unfair labor practices.

Pursuant to notice, a hearing was held on December 13, 15, 16 and 17, 1943, at Los Angeles, California, before Howard Myers, the undersigned Trial Examiner, duly designated by the Chief Trial Examiner. At the opening of the hearing, the Association moved to intervene. The motion was granted without objection. Thereafter the Association filed an answer denying, among others, the allegations of the complaint that the respondent inaugurated, sponsored, promoted, and formed the Association; dominated and interfered with its administration; or gave it financial or other support. The Board, the respondent, and the Association were represented by counsel. The Union appeared by one of its official representatives. All parties participated in the hearing where full opportunity was afforded them to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues. At the commencement of the hearing, counsel for the respondent moved, in which motion counsel for the Association joined, to dismiss the proceeding on the ground the proceeding was barred by the rider attached to the Federal Security Appropriation Act of 1944, Chapter 221, Public Law 135, 78th Congress.¹ The motion was denied.

¹ The rider is commonly referred to as the "rider to 1944 Appropriation Act."

This motion was again renewed, and each time joined in by counsel for the Association, at the conclusion of the Board's case and at the end of the hearing. The motions were again denied. At the conclusion of the taking of all testimony, the motion of Board's counsel to conform the pleadings to the proof was granted over the objections of the respondent's counsel and the Association's counsel. The motion was made applicable only as to the correction of dates, names, and other minor recitals. Motions by the respondent's counsel and by the Association's counsel to dismiss the entire proceeding for failure of proof were taken under consideration and are now denied. Oral argument, in which counsel for the Board, for the respondent, and for the Association participated, was heard at the conclusion of the taking of the evidence and is a part of the record. The parties were granted leave to file briefs with the undersigned on or before December 22, 1943. A brief has been received from the respondent's counsel.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes, in addition to the above, the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Kinner Motors, Inc., a California corporation, owns and operates two plants at Glendale, California, where it is engaged in the manufacture of aircraft engine parts and the assembly of aircraft engines. From January 1, 1943, to November 3, 1943, the respondent purchased raw materials amounting to approximately \$6,162,648 in value. Of this total, materials valued at about \$2,930,169 were transported to its plant from points outside California. During the same period the respondent sold products amounting to \$3,054,314 in value, of which amount sales approximating \$458,157 in value were made for delivery outside California.

The respondent conceded that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists Lodge No 311 is a labor organization affiliated with the American Federation of Labor and admits to membership employees of the respondent.²

Kinner Motors Employees Association, Inc., is an unaffiliated labor organization admitting to membership only employees of the respondent

III. THE UNFAIR LABOR PRACTICES

A. The respondent's interference with and domination of the formation of the Association

In the early part of March 1943, the Union started to organize the respondent's employees. Soon after the Union organizing campaign began, R F. Walker, who had charge of the night shift once each week, obtained permission from Foreman B. C. Johnson to ask the 'boys' about forming an inside organization.³ During a lunch period Walker called together all of the employees on his shift and, in

² The instant proceeding was instituted by Lodge 94 for and on behalf of Lodge 311.

³ At the hearing, Foreman Johnson denied that Walker acted in his stead during the one night each week when he was off duty. When confronted with an affidavit previously signed by himself, however, he finally admitted that, although without the title of foreman, Walker was "top man" during his absence. Walker's testimony is uncontradicted that during the period in question Johnson was absent one day each week, and that on these occasions he was in charge.

Johnson's presence.⁴ told them, according to his own admission, that the "A. F. of L. was handbilling us at the gate," and "that we were going to have some sort of an organization pretty soon, and I thought it would be a good idea if we had one of our own."

Shortly after Walker's speech,⁵ Leadman John Williams, father of Chief Inspector George Williams, consulted with Leadmen Orville Gilbert and Howard Sharrar concerning the organization of an inside union. John Williams conferred with Attorney Marlan Proctor. Acting upon Proctor's advice, John Williams, Gilbert, and Sharrar signed articles on March 22 incorporating the Association.

The three leadmen then had cards printed bearing the following text:

I, the undersigned, hereby designate and appoint KINNER MOTORS EMPLOYEES' ASSOCIATION, Inc., as my exclusive bargaining agent under and by virtue of the terms of the National Labor Relations Act.

Williams distributed these cards among other leadmen who, in turn, solicited the signatures of employees throughout the plant during working hours.⁶ Foreman Johnson and W. J. Kroening, a supervisory employee⁷ also distributed these cards and urged employees to join the Association.⁸ Foreman Earl H. Friar told employees during smoking periods at the plant that he favored the association, and paid initiation fees into the organization.⁹

The first general meeting of the Association was held April 16, at a public hall. At the request of John Williams and Sharrar, Receiving Clerk R. L. Stevens acted

⁴ Johnson was not questioned about giving Walker permission. He admitted that the speech was made and that he was present, but stated that when Walker started "some sort of gabble" he went down to the end of the shop, began to operate a noisy machine and did not hear what was said. Whether he heard Walker's speech or not is immaterial, since it is undisputed that after being informed of the nature of the speech he authorized its delivery.

⁵ Walker testified that he delivered his speech 2 or 3 weeks before the Association was "heard of."

⁶ This finding is based upon the credible testimony of Leadmen Orrill and Gardner.

⁷ The confused state of the record does not permit a finding as to Kroening's exact classification. According to information read into evidence by Personnel Manager Sullivan, from purported company records, Kroening was hired in 1941 as a test mechanic, was reclassified to sub-foreman in July 1942, reclassified to test operator in January 1943, and reclassified to leadman in August 1943. Sullivan also testified, however, that classifications had been listed correctly in a document which he prepared in September 1943, and this document, in evidence, lists Kroening as a foreman. Kroening testified that while he had been hired as a test mechanic, he had always performed the same duties, and that in August 1943, when obtaining information for the Draft Board, he was told by Test Superintendent Gerber that he was a foreman. The evidence is clear that at the time of his activity on behalf of the Association Kroening had supervisory powers, whatever his title or classification. Personnel records show that from March until August 1943, he had charge of a test crew. Kroening stated that he had up to 10 men under his supervision, that he checked their work, instructed new employees, and that several employees whom he recommended for wage increases received them. The undersigned finds that his position and duties were such that employees reasonably considered his Association activities as having the approval and support of management.

⁸ Kroening admitted engaging in this conduct. Johnson denied having either passed out cards or advising employees to join. The undersigned does not accept his denial as true. The finding rests upon the credible testimony of employee J. M. Davis who testified that Johnson distributed cards among the employees, saying "Boys, we've got some thing here." Davis named two other employees who were present at the time. Neither was called as a witness by the respondent.

⁹ At the hearing Friar denied that he was or is a foreman. He admitted, however, that he assists Chief Inspector Williams, assigns jobs to and "looks after" 8 employees, assumes responsibilities for the department when Williams is away, and recommends pay increases for the men in the department. Furthermore, Friar is classified as a foreman on a list of employees prepared by Personnel Director Sullivan in September 1943, and verified by him at the hearing.

as temporary chairman. At the second meeting held on April 23, Stevens was elected president, and he continued in this office until about a month before the hearing. Although promoted on May 1, being placed in charge of the receiving department, with supervision over three other clerks and a mover, Stevens remained in office as head of the Association. Christine Jagoe, secretary to Personnel Manager Sullivan, acted as secretary at the first Association meeting. Thereafter Rose Minor became secretary of the organization. Miss Minor is also employed in the personnel office, in charge of employee insurance and personnel records.

B. The respondent's domination of and interference with administration of the Association

On May 1, Proctor wrote to the respondent, asking that the Association be recognized as the exclusive collective bargaining agent of the employees, and accompanying the request with a number of signed cards, the text of which has been noted above. On May 7, President Herring of the respondent wrote to the Association, stating that the cards had been checked, that the respondent would grant the request for recognition, and that it "would be pleased" to discuss "any matters" with it.

On June 16, the respondent and the Association entered into a collective bargaining agreement for 1 year, by terms of which the respondent recognized the Association as the exclusive bargaining agent for all the employees except certain exclusions. The contract covered wages and working conditions. The respondent, at its own expense, thereafter had copies of the contract printed. Within its covers were bound detachable cards, one an application for membership in the Association, and the other authorizing the respondent to make certain deductions monthly and to pay the deductions to the Association. Copies of the contract were distributed to all employees, and thereafter were given to each new employee at the time of hiring, by the personnel office.

In July the respondent permitted the following notice to be placed on the plant bulletin boards:

NOTICE TO NIGHT SHIFT EMPLOYEES

Please be advised that commencing immediately a bonus for night shift employees of five cents an hour will be paid by Kinner Motor Company, Inc., in accordance with the terms of the contract recently executed by and between Kinner Motor Company, Inc., and Kinner Motors Employees Association, Inc.

Please be further advised that this bonus has been approved by the War Labor Board

KINNER MOTORS EMPLOYEES ASSOCIATION, INC.
By ROBT. L. STEVENS,
President

The contract contains no such provision as that referred to in the notice.

During the summer an election was conducted among the employees of the night shift, during working hours and with the knowledge of Foreman Johnson,¹⁰ to select a steward to attend Association meetings. Leadman Cadaret was elected. He thereafter attended Association meetings, which were held during his working hours, without punching out his time cards. There is no evidence that any deduction was ever made for time thus lost from his work. Cadaret

¹⁰ This finding is based upon Johnson's admission at the hearing

testified that he did not ask to be "excused" for such absences. Under the circumstances it is reasonable to infer, and the undersigned finds, that Cadaret was permitted by the respondent to leave his work, without pay deduction, to attend Association meetings.

In September President Stevens of the Association and employee Colburn consulted Chief Inspector Williams and obtained his permission to have Colburn serve as secretary-treasurer of the Association.

In November Sullivan assembled all employees during working hours, on both the day and the night shift, and delivered extemporaneous speeches. Among other things, he urged employees to submit their grievances through the Association and advised them to consult with either their "superiors" or with the Association "officials" in obtaining "official" answers or opinions relating to grievances. At the night shift meeting he also told employees that while he had no right to solicit their membership in the Association, it had been organized for them and he thought it best for them to join.¹¹

C. Conclusions

Upon the entire record, the undersigned is convinced and finds that the Association is the creature of the respondent and was brought into existence and utilized by the respondent to defeat and forestall the organizational efforts of the Union. The contention of the respondent that the Association was the spontaneous result of the organizational desires of its employees is not supported by the record. As noted above, just before the Association was formed, Foreman Johnson permitted his assistant, Walker, to address all employees on the night shift and urge the formation of an inside organization. The Association was thereafter formed. Solicitation of members occurred openly and during working hours. Association cards were distributed by Johnson and Kroening. Foreman Friar joined the organization and told employees that he favored the Association.¹² Nor did the respondent cease to interfere with and give support to the Association after its organization. As found above, Leadman Cadaret was permitted to leave his work on the night shift to attend Association meetings, without pay deduction, Chief Inspector Williams was consulted as to whether or not one of the employees under him could serve as an Association officer, and Sullivan plainly advised employees on the night shift in November, that it would be best for them to join the Association.

The undersigned finds that by the foregoing acts the respondent has dominated and interfered with the formation and administration of the Association and has contributed financial and other support to it, thereby interfering with, restraining, and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent as described in Section I

¹¹ The findings as to the additional remarks made by Sullivan at the night shift meeting rest upon the credible testimony of employee Davis. As to the other remarks, the findings are based upon a document in evidence which Sullivan described as being the transcription of notes made by his stenographer of his statement to the day shift. No stenographer was present at the night session. He denied having advised employees to join the Association. The undersigned does not accept his denial as true.

¹² Although the record contains persuasive evidence that leadmen who formally organized and became officers of the Association possessed supervisory powers, the undersigned considers it unnecessary to determine that point here. Whatever their supervisory powers, it is clear that they were acting with the support and approval of management.

above, have a close, intimate, and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY.

Having found that the respondent has engaged in certain unfair labor practices, it will be recommended that the respondent cease and desist from such conduct and take certain affirmative action which the undersigned finds necessary to effectuate the policies of the Act.

Having found that the respondent dominated and interfered with the formation and administration of the Association and contributed support to it, the undersigned therefore will recommend, in order to effectuate the policies of the Act and to free the respondent's employees from such domination and interference, and the effects thereof, that the respondent withdraw all recognition from the Association as representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment and completely to disestablish it as such representative.

It has also been found that the agreement of June 16, 1943, entered into by and between the respondent and the Association has been a means whereby the respondent has utilized an employer-dominated labor organization to frustrate self-organization and defeat genuine collective bargaining by its employees. Under these circumstances any continuation, renewal, or modification of this agreement would perpetuate the conditions which have deprived the employees of the rights guaranteed to them by the Act and would render ineffectual other portions of these remedial recommendations. It will therefore be recommended that the respondent cease giving effect to any agreement between it and the Association, or to any modification or extension thereof. Nothing in these recommendations, however, should be taken to require the respondent to vary those wage, hour, and other substantive features of its relations with the employees themselves, if any, which the respondent established in performance of the said agreement as extended, renewed, modified, supplemented or superseded.

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

CONCLUSIONS OF LAW

1. International Association of Machinists, Lodge No. 311, affiliated with the American Federation of Labor, and Kinner Motors Employees Association, Inc., are labor organizations within the meaning of Section 2 (5) of the Act.

2. By dominating and interfering with the formation and administration of Kinner Motors Employees Association, Inc., and contributing financial and other support to it, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (2) of the Act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

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

RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that the respondent, Kinner Motors, Inc., its officers, agents, representatives, and assigns shall

1. Cease and desist from

(a) Dominating or interfering with the administration of Kinner Motors Employees Association, Inc., or with the formation or administration of any other labor organization of its employees, or from contributing financial or other support to Kinner Motors Employees Association, Inc. or to any other labor organization of its employees;

(b) Recognizing Kinner Motors Employees Association, Inc., as the exclusive representative of its employees for the purposes of collective bargaining;

(c) Giving effect to its contract of June 16, 1943, with Kinner Motors Employees Association, Inc., or any revision, renewal, extension, modification, or supplement thereof, or to any superseding contract which may now be in effect.

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

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

(a) Withdraw all recognition from Kinner Motors Employees Association, Inc., as the representative of any of its employees for the purposes of collective bargaining with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment; and completely disestablish Kinner Motors Employees Association, Inc., as such representative;

(b) Post immediately in conspicuous places throughout the respondent's Glendale plants, and maintain for a period of sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is recommended that it cease and desist in paragraphs 1 (a), (b), (c) and (d) of these recommendations; (2) that the respondent will take the affirmative action set forth in paragraph 2 (a) of these recommendations;

(c) Notify the Regional Director for the Twenty-first Region, in writing within ten (10) days from the receipt of this Intermediate Report what steps the respondent has taken to comply therewith;

It is further recommended that unless on or before ten (10) days from the receipt of this Intermediate Report the respondent notify said Regional Director in writing that it has complied with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 3, effective November 26, 1943, any party or counsel for the Board may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he

relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing within ten (10) days from the date of the order transferring the case to the Board.

HOWARD MYERS,
Trial Examiner.

Dated January 25, 1944.