

IN the Matter of UNION DIE CASTING COMPANY LTD., a CORPORATION;  
UDICO COLLECTIVE BARGAINING UNION *and* INTERNATIONAL UNION  
UNITED AUTOMOBILE WORKERS OF AMERICA, LOCAL No. 188

*Case No. C-360.—Decided June 11, 1938*

*Die Casting Manufacturing Industry—Interference, Restraint, and Coercion:* engendering fear of loss of employment for union activity; posting of antiunion notice—*Company-Dominated Union:* domination of and interference with formation and administration; support; activities of supervisory employees; disestablished, as agency for collective bargaining—*Discrimination:* discharges, for union membership and activity—*Reinstatement Ordered:* discharged employees who desire reinstatement—*Back Pay:* awarded.

*Mr. David Sokol*, for the Board.

*Mr. Richard A. Terrell*, of Los Angeles, Calif., for the respondent.

*Mr. William M. Burke*, of Los Angeles, Calif., for the United.

*Mr. William Charles Wade* and *Mr. H. A. Richart*, of Los Angeles, Calif., for Udico Collective Bargaining Union.

*Mr. Sumner Marcus*, of counsel to the Board.

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon charges duly filed by International Union United Automobile Workers of America, Local No. 188, herein called the United, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California) issued its complaint dated October 13, 1937, against Union Die Casting Company Ltd., a corporation, Los Angeles, California, herein called the respondent. The complaint and notice of hearing thereon were duly served upon the respondent and the United. The complaint alleged that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Thereafter, the respondent filed an answer denying substantially all the allegations of the complaint and setting forth a number of affirmative defenses.

On October 18, 1937, an amended notice deferring the hearing to a later date was duly served upon the respondent and the United. Pursuant to the amended notice of hearing, a hearing was held on November 5 and 6, 1937, at Los Angeles, California, before George W. Rochester, the Trial Examiner duly designated by the Board. During the course of the hearing, a motion to intervene was made on behalf of Udico Collective Bargaining Union, herein called Udico, an organization claiming to represent the respondent's employees. This motion was granted with the consent of all parties. At the same time, pursuant to a stipulation made by all the parties, the complaint was amended to include allegations that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (2) and Section 2 (6) and (7) of the Act. The requirements of notice were waived by all parties. Udico also waived any right it might have had to cross-examine the witnesses who had been examined prior to its intervention in the proceeding.

The Board and the respondent were represented by counsel, and the United and Udico were represented by officers of their respective organizations. All parties participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the close of the Board's case, the respondent moved to dismiss the complaint for lack of jurisdiction on the ground that the respondent's interstate business was not large enough to burden or obstruct interstate commerce. The Trial Examiner denied this motion. His ruling is hereby affirmed. During the course of the hearing the Trial Examiner made several other rulings on other motions and on objections to the admission of evidence. The Board has reviewed these rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On December 27, 1937, the Trial Examiner filed an Intermediate Report, copies of which were served upon all parties, finding that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (2) and (3) and Section 2 (6) and (7) of the Act. He recommended in substance that the respondent cease and desist from its unfair labor practices and, affirmatively, disestablish Udico as a representative of the respondent's employees for the purposes of collective bargaining, offer full reinstatement with back pay to three of the persons named in the complaint, and to give to the two remaining persons named in the complaint back pay for a period from the dates of their respective discharges to the dates on which they respectively obtained employment elsewhere.

On January 12, 1938, the United filed with the Regional Director for the Twenty-first Region a supplemental charge alleging that the respondent had posted in its plant a certain notice addressed to its employees, thereby committing an unfair labor practice affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of the Act. The notice attacked the Trial Examiner's Intermediate Report as unfair and prejudiced and, in addition, contained antiunion statements. Upon a motion made by counsel for the Board to reopen the proceeding, the Regional Director for the Twenty-first Region issued an order granting this motion. On January 13, 1938, copies of the motion and order were duly served upon the respondent, the United, and Udico.

On January 14, 1938, the Board, by the Regional Director for the Twenty-first Region, issued and duly served upon the respondent, the United, and Udico its supplemental complaint and notice of hearing thereon. On January 19, 1938, the respondent filed an answer admitting the posting of the notice, a copy of which was annexed to the supplemental complaint, and denying the other allegations of the supplemental complaint.

Pursuant to the notice of hearing, a hearing was held on January 21, 1938, before George W. Rochester, the Trial Examiner previously designated by the Board. The Board, the respondent, and the United were represented at the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing on the issues was afforded all parties.

At the commencement of the hearing, the respondent moved that the hearing be held before another Trial Examiner on the ground that the Trial Examiner was prejudiced and biased. The Trial Examiner denied the motion. The Trial Examiner was correct in not disqualifying himself in the absence of any proof substantiating the respondent's contention of bias and prejudice. His ruling is hereby affirmed. The respondent also objected to the introduction of evidence on the ground that the Act did not provide for a supplemental complaint and on the additional ground that the supplemental complaint did not state facts sufficient to constitute an unfair labor practice affecting commerce within the meaning of the Act, as required by Article II, Section 4 (c), of National Labor Relations Board Rules and Regulations—Series 1, as amended. The Trial Examiner overruled this objection. The ruling is hereby affirmed.

Counsel for the Board moved to introduce into evidence various formal papers. The respondent opposed this motion on two grounds, namely, that good cause for reopening the proceeding had not been shown and that the proceeding had not been reopened within a reasonable time. The Trial Examiner overruled the respondent's ob-

jections and granted the motion of the attorney for the Board. The ruling is hereby affirmed.

At the close of the Board's case, the respondent moved to dismiss the proceeding on the supplemental complaint on the ground that the evidence was insufficient to sustain the allegations of the supplemental complaint. The Trial Examiner reserved decision on this motion. The motion is hereby denied.

During the course of the hearing on the supplemental complaint, the Trial Examiner made rulings on other motions and on objections to the admission of evidence. The Board has reviewed these rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On January 21, 1938, the respondent filed exceptions with the Board to the Trial Examiner's Intermediate Report on the hearing of the original complaint. The Board has considered these exceptions and finds them to be without merit. The respondent annexed to its exceptions to the Intermediate Report a separate motion to dismiss the original complaint for lack of jurisdiction. This motion is hereby denied.

On April 26, 1938, the Board issued an order directing the Trial Examiner not to prepare an Intermediate Report on the hearing of the supplemental complaint. Copies of this order were duly served upon the respondent, the United, and Udico.

On May 4, 1938, the respondent, the United, and Udico were notified that they had a right to apply within 10 days for oral argument or for permission to file briefs, but none of the parties so applied.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE RESPONDENT

The respondent, a corporation organized under the laws of California in 1929, maintains its sole place of business at Los Angeles, California. It describes itself in its letterhead as "The Largest Exclusive Manufacturers of Die Castings in the West." It is engaged chiefly in the manufacture of parts for manufacturers of plumbing supplies, venetian blinds, stove hardware, gas appliances, and kindred commodities. The principal raw material used by the respondent in its manufacturing is "Zemak," a zinc alloy which the respondent purchases from two concerns in Los Angeles, California. The respondent also purchases for use in its manufacture certain screw machine products, washers, and small parts, which are shipped to it from Chicago, Illinois. The respondent also uses boxes which are

shipped to it from St. Louis, Missouri, and gloves for casters, which are shipped to it from Dayton, Ohio.

During the period from January 1, 1936, to October 15, 1937, the respondent's sales and shipments of its manufactured goods totaled \$432,148.95. Approximately 28.25 per cent of its shipments during this period were made to companies in New York, Pennsylvania, New Jersey, Ohio, Illinois, Washington, and Massachusetts. The remainder of its shipments were made to concerns situated in California. During the period from January 1, 1937, to June 30, 1937, approximately 38.32 per cent of its shipments were made to purchasers outside the State of California.

## II. THE ORGANIZATIONS INVOLVED

International Union United Automobile Workers of America, Local No. 188, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership the employees of the respondent.

Udico Collective Bargaining Union is a labor organization unaffiliated with any other labor organization. Its membership is limited exclusively to the respondent's employees.

## III. THE UNFAIR LABOR PRACTICES

### A. *Domination of and interference with the formation and administration of Udico*

From about June 9, 1937, until the time of the hearing on November 5 and 6, 1937, the respondent recognized an organization, known as Udico Collective Bargaining Union, as the exclusive collective bargaining agency of its employees. Udico's chairman is Eugene Fancher, the chief assistant of Henry Bishop, the respondent's general superintendent. Included within Udico's present membership is Fred Bishop, a brother and an assistant of Henry Bishop. While we are at the outset thus confronted with virtually conclusive evidence of the respondent's domination of Udico at the time of the hearing, an examination of the evidence relating to the formation of Udico reveals that Udico has been a creature of the respondent from its inception.

The first steps in the formation of Udico occurred late in April and early in May 1937 with the circulation among the respondent's employees of several petitions for the formation of an organization with no outside affiliations. The petitions were circulated principally by Fancher and William Wade. At this time Fancher had not yet been promoted to his position as chief assistant to the respondent's general superintendent. Wade is a youthful employee of the re-

spondent. His uncle is a major stockholder in the respondent; and his father is also a stockholder and a former director of the respondent. The preamble of the first petition was typewritten on company stationery bearing the respondent's letterhead. The stationery was secured by Wade. The subsequent petitions did not bear the respondent's letterhead because, Wade testified, he realized that the respondent's letterhead might suggest assistance by the respondent in the preparation of the petitions. It appears that the first and subsequent petitions were circulated during as well as outside of working hours.

The circulation of the first petition was approximately coincidental with the United's first major organizational drive by which the United secured the membership of 40 of the 63 eligible employees in the respondent's plant. Wade testified that thereafter the tempo of Udico's organizational efforts was attuned to the activity of the United, in that whenever the United became active, Wade and his associates circulated a petition to counteract the United's activity. While there is some conflict in the testimony respecting the precise dates on which the various petitions were presented to the respondent by Udico, it is quite certain that they were presented to Bishop, the general superintendent, shortly after their first circulation. The effect of these petitions in apprising the respondent of the membership of the United, by the absence of their names from the petitions, is obvious.

Sometime in May a meeting of the employees who had affixed their signatures to the several petitions was held. Fancher was elected chairman and the organization was named Udico Collective Bargaining Union. This meeting appears to have been the only official action taken by Udico up to the time of the hearing. As disclosed by the record, Udico has served no purpose other than to furnish the respondent at various times with lists of its membership and to serve as the "recognized" union in the respondent's plant. It has never adopted a constitution or bylaws or any rules for its conduct. It has never imposed or collected dues. It has no records. The officers of Udico testifying at the hearing knew very little or nothing of Udico's affairs. According to the testimony of the officers of Udico and the assertion of J. M. Davis, the respondent's president, the only person who had any knowledge of the administration, or the lack of administration, of Udico is Fancher, who has been the chief assistant of the respondent's general superintendent since June 1937. Fancher was on his vacation at the time of the hearing and did not testify.

It is clear from the evidence that the respondent has dominated and interfered with Udico from its inception. The extent of its

domination at the time of the hearing is revealed by the fact that Fancher, the chief assistant to the respondent's general superintendent, is the chairman of Udico and virtually the sole repository of information concerning Udico's affairs.

We find that the respondent has dominated and interfered with the formation and administration of Udico and has contributed support to it, and thereby has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

### B. *The discharges*

#### 1. Events preceding the discharges on May 15, 1937

The United began to organize the respondent's employees in the middle of April 1937 and, by April 23, 1937, had secured a membership of 40 of the 63 eligible employees of the respondent. Early in May 1937 the United submitted a proposed agreement to the respondent. Davis, the respondent's president, informed the United by letter that the respondent would not, by itself, enter into negotiations with the United, but expressed a willingness to participate in negotiations attended by all companies in the same industry.

At about the same time that the United submitted its proposed contract to the respondent, the members of the United began wearing union buttons while at work, for which they were censured by Bishop. Bishop testified that he learned which employees were members of the United by their union buttons.

On May 10, 1937, shortly after the submission of the proposed contract and the commencement of the wearing of union buttons, the respondent notified its employees in the production department, as distinguished from the die-casting department, that on May 17, 1937, the night shift, except for certain casting operations, would be discontinued and that a 50-hour week would be instituted in accordance with the desire of a majority of the employees for a workweek of not less than 45 hours. The following day, May 11, a ballot was held among the 33 employees in the day shift of the production department to determine whether they preferred a 40-hour week in order to provide employment for more employees. Thirty employees voted for the 40-hour week. On the same day Burke, Ohling, Alten, and Anderson, who had previously been designated by the members of the United to represent them in negotiations with the respondent, informed Davis that the vote indicated that the employees preferred a 40-hour week to a 50-hour week. In reply Davis stated that he did not believe that the vote represented the opinion of the whole shop and told them to return after they had balloted the night

shift. Although he had been informed that the request for a 40-hour week was based solely upon a desire to spread the work, Davis declared that any able-bodied man should be able to work 10 hours a day. Davis' attitude is reflected by the following statements which Ohling testified Davis made during the course of the conference: "You men will have to take my orders as to hours; when you get your own business, then you can give orders;" and "if you don't like it, you can quit."

## 2. The discharges of May 15, 1937

On May 15, 1937, the respondent received from the United a copy of a proposed agreement and a letter proposing a conference of all shops in the industry to be held on May 24 at Los Angeles. On the same day, 14 employees on the day shift were discharged or laid off. Of these Burke, Godfrey, McNelly, Elder, and Gregory are alleged in the complaint to have been discriminatorily discharged. McNelly, Elder, and Gregory were informed that they were being temporarily laid off because of a decline in production. In view of the testimony of Bishop, who had exclusive power to hire and discharge, that under no circumstances would he have taken back the five employees named in the complaint, it follows that all five were permanently discharged on May 15, 1937. Moreover, the above testimony of Bishop shows conclusively that decline in production was not the reason for the permanent discharge of McNelly, Elder, and Gregory.

Before turning to the discussion of the discharge of each of the five persons named in the complaint, it is important to note that all but one of the 14 employees discharged or laid off on May 15, 1937, were members of the United and that none of them had signed the petition circulated in behalf of Udico. It is significant that Ohling, who was known by the respondent to have been, with Burke, the most active of the respondent's employees in the organization of the United, was not laid off. He had signed one of Udico's petitions on the preceding day.

## 3. William M. Burke

Burke had been in the respondent's employ for over a year prior to his discharge on May 15, 1937. The respondent's officials knew of his union activity and of the important part he played in bringing the United to the respondent's plant. As related above, he was a member of the committee which conferred with Davis on May 11 to protest the 50-hour week. About May 8, he had been warned by Bishop that he would be discharged if he discussed the United on company time. This occurred after Bishop overheard Burke, in the washroom, talking about the United to a fellow employee. Burke

testified that Bishop was very angry and not his normal self when he delivered this ultimatum.

The respondent maintained that the reason for Burke's discharge was that he failed to comply with the requests of foremen. Burke denied Bishop's testimony that he "grumbled", but admitted that he may have voiced occasional objections to a fellow employee in regard to certain jobs assigned to him. He testified that he always performed the work assigned to him.

The only reasonable inference from the evidence adduced at the hearing is that the respondent disregarded Burke's alleged "grumbling," which the respondent asserts became manifest after February 1937. On April 15, 1937, Burke received an increase in wages, at which time, according to Burke's testimony, Bishop told him that his work was satisfactory. Under these circumstances we conclude that the respondent utilized Burke's occasional grumbling as a pretext to conceal the real reason for his discharge, which was his union membership and activity.

We find that the respondent in discharging Burke discriminated in regard to his tenure of employment, thereby discouraging membership in the United and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### 4. James Francis Godfrey

Godfrey had been employed in various capacities by the respondent for approximately 7 years prior to his discharge. He was one of the employees who wore a United button in Bishop's presence.

When Godfrey was discharged he was told that his work was not up to par. Davis testified at the hearing that Godfrey was discharged "largely for moral reasons and the good of the shop." The "moral reasons" were that he drank and as a result failed to report to work at least once each month. Bishop also contended that Godfrey was extremely incompetent and that he had been retained during the major part of his 7 years' service solely because the respondent did not desire to discharge him during the depression when he would have been unable to secure employment elsewhere.

The evidence adduced at the hearing fails to sustain the reasons asserted by the respondent for Godfrey's discharge. Godfrey admitted that he had been absent from work on a number of occasions and that his absence on some of these occasions was due to drinking. He testified, however, that during the 3 months preceding his discharge he had been absent from work only once. Bishop testified that no particular incident was the cause of Godfrey's discharge, but that since the plant was growing it was bad for the morale of the

employees to retain a man who could not hold the respect of his fellow employees. In spite of this contention and also the contention that Godfrey was not discharged earlier because the respondent did not wish to terminate his employment during the depression, Godfrey's initial wage rate had been increased from 35 cents an hour to 55 cents an hour at the time of his discharge. Moreover, his last wage increase of 5 cents an hour occurred only 2 weeks prior to his discharge. The steady increase in Godfrey's wages is hardly consistent with the respondent's contentions as to his discharge. Under all the circumstances surrounding the discharge of Godfrey and the other members of the United, we conclude that the reasons asserted by the respondent for the discharge of Godfrey were culled *ex post facto* as a screen for its real reason, which was his union membership.

We find that the respondent in discharging Godfrey discriminated in regard to his tenure of employment, thereby discouraging membership in the United and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

5. Bert Leonard Elder, Emmett F. McNelly, and Lawrence Stephen Gregory

The respondent maintained that Elder, McNelly, and Gregory were discharged because they were incompetent and because they were temporary employees hired only for the period of peak production.

*Incompetency.* The evidence fails to sustain the respondent's contention that these three employees were incompetent, but on the contrary shows that they were not regarded as incompetent by the respondent at the time of their discharge. Davis and Bishop testified that Elder had been hired as an all-around employee and that he did not possess the requisite skill for the performance of his duties. This testimony is not consistent with the uncontradicted testimony of Elder that he was the recipient of several wage increases during the 6 months in which he was in the respondent's employ.

Bishop testified that McNelly, also, had been employed to do all-around work. According to Bishop, McNelly's incompetency lay in his inability to operate the drill-press and the kick-press with sufficient rapidity. The respondent offered no explanation, however, for its grant to McNelly on April 16, 1937, of a wage increase which he had requested; nor did Bishop explain his praise of McNelly's ability to operate the kick-press and the drill-press in a letter of recommendation written by Bishop on June 2, 1937.

Davis and Bishop did not agree as to the basis for their dissatisfaction with Gregory's work. Davis testified that Gregory, who had been employed to do rough work preparatory to the hand finishing and assembling of the products, regarded himself as superior to certain tasks assigned to him and made objections. Bishop testified that Gregory did not turn out sufficient production. Neither Davis nor Bishop made their criticisms to Gregory. About a week after his discharge Bishop told Gregory that he would be reemployed as soon as business warranted it.

*Temporary employment.* There is some conflict in the evidence as to whether or not these three men were hired only temporarily for the peak period of production. The testimony of Davis and Bishop is supported to some extent by the fact that all three men were hired during the period from November 1936 to January 1937, a period just preceding the usual commencement of the respondent's peak period of production. On the other hand, McNelly and Gregory denied the respondent's contention that they were informed that they were being hired only for temporary employment. It appears, moreover, that these men received one or more wage increases during their period of employment. When they were discharged, they were informed that they would be recalled when business improved. All these circumstances indicate that these men were not treated as temporary employees by the respondent. It is unnecessary, however, for us to determine whether or not these men were in fact temporary employees, since we are satisfied that the circumstances surrounding their discharge, including the facts next set forth, reveal that this was not the real reason for their discharge.

*Particular incidents.* All but one of the 14 persons discharged or laid off on May 15, 1937, were members of the United. Prior to that date Bishop, by his own admission, had learned which of the employees were members of the United by the union buttons which they displayed. Elder, McNelly, and Gregory all wore union buttons while at work. The evidence, although conflicting to some extent, indicates that Elder continued to wear his button after having been told by Bishop to throw it out of the window and to "keep his damn mouth shut" about the United and that Bishop told Gregory that if he wanted to keep his job he had better "take that damn button off." McNelly's discharge was accurately foreshadowed early in May when, upon refusing to sign one of Udico's petitions, the circulator of the petition declared, "This is the union the company is in favor of, and your job would be more secure if you signed it." We find that the respondent discharged Elder, McNelly, and Gregory because of their membership in the Union.

We find that the respondent in discharging Elder, McNelly, and Gregory discriminated in regard to their tenure of employment, thereby discouraging membership in the United and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

### C. *The notice*

On December 29, 1937, the Los Angeles Daily News, a Los Angeles newspaper, published an account of the contents of the Intermediate Report of the Trial Examiner on the case heard under the original complaint. On December 30, 1937, Davis attached this account to the following notice which he placed on the bulletin board in the respondent's plant:

#### ALL EMPLOYEES

To those who are concerned over the news clipping appended let it be distinctly understood that the Examiner, Mr. Rochester referred to, is not vested with power to order anything.

This party simply forwards his villanous, partial, one-sided and otherwise unfair report of *his* desires to N. L. R. B. together with transcript of the hearing to Washington and we file an answer bringing out the decent, impartial, two-sided and otherwise fair side of the matter as borne out by said transcript. If there is a spark of common sense and justice in N. L. R. B. which, together with the abomination of abominations—The Wagner Act—is dehydrating and paralyzing business and industry—*they* will make recommendations and give the orders which will be far different from this erroneous Daily News item.

Regardless of all the controversy and unpleasantness so unfortunately dumped upon us by certain contemptible persons, we know that *right will prevail*. By right we mean just this: When our employees are laid off for lack of full personnel requirement or discharged for inefficiency and unwillingness to perform as instructed they will not be paid for services not rendered nor will they be re-engaged on orders from any outsider. Our employees may be members of any Union they choose or no Union, *but this will be an open shop*.

My employers, and yours, have had cash dividends during the past seven years equal to exactly what a Federal or National Bank savings account would have paid them. I am sure you will readily agree this is a very small return on investment and that we should not be spending hundreds of dollars to satisfy rotten politicians and grafting parasites. The stockholders back me in

these determinations, and very plainly speaking, I hope by now you all realize what a hell of a mess certain labor racketeers have made of things and what a big ass our government has become to tolerate such acts and actions as have been hampering business and industry to the present climax of increased lay-offs and shut-downs.

I just want you all straight on this entire matter and if anyone ever wants to talk with me about anything, get facts and truths as to our business or policies please come in. Outside opinions and gossip on any subject are invariably false.

Finally; if we are to be successful during the New Year we must work out our own salvation, peddle our own papers and saw wood like hell. So, until then, Cheerio.

Very truly yours,

UNION DIE CASTING COMPANY, LTD.,

(Signed) J. M. DAVIS, *General Manager.*

The clear intent of the above notice was to arouse the emotions of the employees against labor organizations and to warn them against such organizations at a time when their efforts to organize were being summarily interfered with by their employer. We find that the respondent by posting the above notice interfered with, restrained, and coerced its employees in the rights guaranteed in Section 7 of the Act.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### THE REMEDY

Since the respondent has been found to have dominated and interfered with the formation and administration of Udico, and to have contributed support to it, and since it has recognized Udico as the sole bargaining agent for the respondent's employees, the respondent will be ordered to withdraw all recognition from it as a representative of the respondent's employees for the purpose of dealing with the respondent concerning grievances, labor disputes, rates of pay, wages, and hours of employment, and to disestablish it as such representative.

Since the respondent has been found to have discriminated in regard to the hire and tenure of employment of five of its employees, thereby discouraging membership in the United, the respondent will be ordered to reinstate McNelly, Burke, and Godfrey to their former positions and to pay to each of them an amount of money equal to that which he would normally have earned from May 15, 1937, to the date of the offer of reinstatement less any amounts he may have earned during that period. Since Elder and Gregory do not desire to be reinstated, we will not order the respondent to reinstate them, but we will order it to pay to each of them an amount of money equal to that which he would normally have earned from May 15, 1937, to the date of the commencement of the employment in which he was engaged at the time of the hearing, less any amounts he may have earned during that period.

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

#### CONCLUSIONS OF LAW

1. International Union United Automobile Workers of America, Local No. 188, and Udico Collective Bargaining Union are labor organizations within the meaning of Section 2 (5) of the Act.

2. By dominating and interfering with the formation and administration of Udico Collective Bargaining Union, and by contributing support thereto, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (2) of the Act.

3. By discriminating in regard to the hire and tenure of employment of Lawrence Stephen Gregory, Bert Leonard Elder, William M. Burke, Emmett F. McNelly, and James Francis Godfrey, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

4. 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.

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

#### ORDER

Upon the basis of the above findings of fact and conclusions of law and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respond-

ent, Union Die Casting Company Ltd., a corporation, Los Angeles, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) In any manner dominating or interfering with the administration of Udico Bargaining Union, or dominating or interfering with the formation or administration of any other labor organization of its employees, or from contributing financial or other support to Udico Collective Bargaining Union or any other labor organization of its employees;

(b) Discouraging membership in International Union United Automobile Workers of America, Local No. 188, or any other labor organization of its employees, by discharging its employees or in any manner discriminating in regard to their hire and tenure of employment or any term or condition of employment because of their membership in or activity in connection with any such labor organization;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist 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 the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from Udico Collective Bargaining Union as a representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of employment, and completely disestablish Udico Collective Bargaining Union as such representative;

(b) Offer to William M. Burke, James Francis Godfrey, and Emmett F. McNelly immediate and full reinstatement to their former positions without prejudice to their seniority or other rights and privileges;

(c) Make whole William M. Burke, Emmett F. McNelly, and James Francis Godfrey for any loss of pay they have suffered by reason of their respective discharges, by payment to each of them of a sum equal to the amount each would normally have earned as wages during the period from May 15, 1937, the date of the discharge, to the date of such offer of reinstatement, less any amounts he may have earned during this period;

(d) Make whole Lawrence Stephen Gregory and Bert Leonard Elder for any loss of pay they have suffered by reason of their respective discharges, by payment to each of them of a sum equal to the

amount each would normally have earned as wages during the period from May 15, 1937, the date of the discharge, to the date he commenced the employment in which he was engaged at the time of the hearing, less any amounts that he may have earned during this period;

(e) Post immediately, and maintain for a period of at least thirty (30) consecutive days, notices to its employees in conspicuous places throughout its plant, stating that it will cease and desist as provided in paragraph 1 (a), (b), and (c), and that it withdraws all recognition from Udico Collective Bargaining Union as a representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and that Udico Collective Bargaining Union is disestablished as such representative;

(f) 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.