

In the Matter of ALUMINUM PRODUCTS COMPANY, METAL ROLLING AND STAMPING COMPANY, LEMONT STAMPING CORPORATION, BANNER STAMPING COMPANY, and STAINLESS STEEL PRODUCTS COMPANY and ALUMINUM WORKERS UNION No. 19064 and ALUMINUM WORKERS UNION No. 19078

*Case No. C-129.—Decided June 28, 1938*

*Aluminum and Stainless Steel Household Utensils Manufacturing Industry—Employer:* corporations subject to same ownership and control and constituting a single business enterprise—*Interference, Restraint, and Coercion:* antiunion statements; discrediting union; threats to abandon plant; shut-down of plant on opening days of hearing—*Company-Dominated Union:* domination of and interference with formation and administration; support; activities of supervisory employees; activities on company time and property; disestablished, as agency for collective bargaining—*Discrimination:* discharges, lay-offs, and refusals to reinstate; for union membership and activity; for filing charges under the Act; charges of, not sustained as to four employees—*Collective Bargaining:* charges of refusal to bargain collectively, not sustained—*Strike—Conciliation:* efforts at, by United States Department of Labor—*Agreement—Reinstatement Ordered—Back Pay:* awarded to employees discriminated against; awarded to all employees for period of shut-down.

*Mr. Harold A. Cranefield,* for the Board.

*Mr. Arthur W. Sprague,* of Chicago, Ill., for the respondents.

*Mr. William A. Peterson,* of La Grange, Ill., for the Utensil Makers.

*Mr. William Schoenberg,* of Chicago, Ill., for the Aluminum Workers.

*Mr. Lester Asher,* of counsel to the Board.

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon charges duly filed by Aluminum Workers Union No. 19064 Aluminum Workers Union No. 19078, herein referred to collectively as the Aluminum Workers, the National Labor Relations Board, herein called the Board, by L. W. Beman, Regional Director for the Thirteenth Region (Chicago, Illinois), issued its complaint dated April 15, 1936, against Aluminum Products Company, Metal Rolling

and Stamping Corporation,<sup>1</sup> Lemont Stamping Corporation, Banner Stamping Company, and Stainless Steel Products Company, herein referred to collectively as the respondents, alleging that the respondents had engaged in and were engaging in unfair labor practices within the meaning of Section 8 (1), (2), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, notice of hearing thereon, and notice of continuance of hearing were duly served upon the respondents and the Aluminum Workers.

Pursuant to the notices, a hearing was held at Chicago, Illinois, commencing on April 30, 1936, before Leon M. Despres, the Trial Examiner duly designated by the Board. At the outset of the hearing, Utensil Makers Organization, herein called the Utensil Makers, filed a petition for intervention in the proceeding. After denying the prayer of certain paragraphs requesting an investigation and certification of representatives pursuant to Section 9 (c) of the Act and the issuance of a cease and desist order against the Aluminum Workers, the Trial Examiner granted leave to intervene. Also at the commencement of the hearing, the respondents filed a motion to dismiss the complaint for lack of jurisdiction upon the grounds that the Act is unconstitutional and that the respondents are not engaged in interstate commerce. The Trial Examiner found the motion to be without merit in so far as it raised constitutional issues, reserved ruling at the hearing upon the contention that the respondents are not engaged in interstate commerce, but denied the motion in its entirety in his Intermediate Report subsequently filed with the Board. Following the motion to dismiss, the respondents filed an answer to the complaint denying the unfair labor practices charged, alleging that the operations of the five corporations are intrastate in character, but admitting that their activities constitute a single business enterprise under the control and management of Aluminum Products Company.

At the hearing the Board, the respondents, and the Utensil Makers were represented by counsel, and the Aluminum Workers by a representative of the American Federation of Labor. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing on the issues was afforded all parties. During the hearing, on May 19, 1936, counsel for the Board moved for leave to file amendments to the complaint alleging that the respondents had engaged in unfair labor practices within the meaning of Section 8 (4) of the Act, and on May 25, 1936, for leave to file, in lieu of the original complaint, an amended complaint which omitted allegations referring to certain acts of discrimination, but nevertheless alleged

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<sup>1</sup> Erroneously referred to in the complaint as Metal Rolling and Stamping Company.

that the respondents had engaged in unfair labor practices affecting commerce within the meaning of Section 8 (1), (2), (3), (4), and (5) and Section 2 (6) and (7) of the Act. The Trial Examiner granted these motions. It was thereupon stipulated by all the parties that the motion to dismiss and the answer filed by the respondents with reference to the original complaint stand as pleadings to the amended complaint.

During the hearing the respondents moved to strike certain testimony, and at the close of the Board's case and at the end of the hearing, the respondents renewed their motion to dismiss the complaint. The Trial Examiner reserved ruling on these motions, but subsequently denied them in his Intermediate Report. During the course of the hearing the Trial Examiner made several rulings on other motions and on objections to the admission of evidence. The Board has reviewed all the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On July 25, 1936, the Trial Examiner filed his Intermediate Report finding that the respondents had committed unfair labor practices affecting commerce within the meaning of Section 8 (1), (2), (3), (4), and (5) and Section 2 (6) and (7) of the Act. Exceptions to the Intermediate Report were thereafter filed by the respondents.

On November 23, 1936, counsel for the Board and for the respondents stipulated to amend the charges filed by the Aluminum Workers to conform to the allegations of the amended complaint.

On October 25, 1937, the respondents filed motions requesting the Board to reopen the record and receive further evidence, and praying for leave to offer oral argument and to file amended and supplemental exceptions and a written brief. The Board denied the motion to reopen the record and receive further evidence, but granted the remaining motions. Pursuant to notice, a hearing was held before the Board on December 8, 1937, in Washington, for the purpose of oral argument. The respondents were represented by counsel and participated.

The respondents filed amended and supplemental exceptions and second supplemental exceptions to the record and to the Intermediate Report, and also an answer to the amended complaint. The respondents also submitted a brief and supplemental brief in support of their exceptions. The Board has considered the exceptions to the record and to the Intermediate Report, and in so far as they are inconsistent with the findings, conclusions, and order set forth below, finds them to be without merit.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE RESPONDENTS

Aluminum Products Company, herein called Aluminum Products, an Illinois corporation organized about 1911, has its principal office at La Grange, Illinois. W. A. Hastings is its president and owns the majority of its stock. Until the latter part of 1935, Aluminum Products engaged in the manufacture and sale of aluminum household cooking utensils and equipment, and owned and operated an aluminum rolling mill together with an adjacent fabricating plant at La Grange, and also another fabricating plant at Lemont, Illinois, 15 miles away. When in March 1935 the Lemont plant started to manufacture a small percentage of stainless steel household utensils in addition to the regular line of aluminum ware, Stainless Steel Products Company, herein called Stainless Steel, was set up as an Illinois corporation for the purpose of maintaining a sales organization for stainless steel products. It is wholly owned by Aluminum Products and its offices are in the same building in La Grange.

During October 1935 Metal Rolling and Stamping Corporation, herein called Metal Rolling, was incorporated in Illinois and acquired the title to the two La Grange plants. Its stock is entirely owned by W. A. Hastings. Also in October 1935 Banner Stamping Company, herein called Banner, was organized as an Illinois corporation using the same office as Aluminum Products and with all of its stock owned by Aluminum Products. Metal Rolling is engaged solely in the business of manufacturing aluminum household utensils, and its finished products, which include aluminum kettles, pots, and pans, are sold by the two sales organizations, Banner and Aluminum Products.

Lemont Stamping Corporation, herein called Lemont Stamping, was organized as an Illinois corporation on December 7, 1935, with all of its stock owned by Aluminum Products. It acquired title to the Lemont fabricating plant and abandoned the production of aluminum ware in favor of the manufacture of stainless steel pots, pans, and household utensils and also picnic jugs. The sales of the stainless steel utensils are handled by Stainless Steel, while the picnic jugs, which are part aluminum and part earthenware, are sold through Banner.

The respondents concede that the five corporations are wholly subject to the same ownership and control and constitute a single business enterprise. Practically all of the raw materials used by the respondents come from States other than Illinois. Aluminum ingot

is obtained in Tennessee or Pennsylvania, at least one carload being received each month at the railroad siding which separates the La Grange plants. The wood trimmings used in the manufacturing processes come from Ohio, packing cases and various fittings and trimmings from Wisconsin, and steel sheets from Indiana.

In 1934 Aluminum Products ranked third among the 14 manufacturers in the field on the basis of monthly shipments of finished products, and at the time of the hearing the respondents ranked seventh or eighth. Approximately 50 per cent of the products of the manufacturing plants of the respondents are shipped to points outside the State of Illinois. The sales organizations maintain salesmen in New York City, in California, and throughout the country. The principal customers are wholesale distributors, mail-order houses, and chain stores which place blanket orders for large quantities of the respondents' manufactured products and then from time to time issue instructions to the respondents for the shipment of small amounts to various local outlets.

## II. THE ORGANIZATIONS INVOLVED

Aluminum Workers Union No. 19064, herein called the La Grange local, and Aluminum Workers Union No. 19078, herein called the Lemont local, are labor organizations affiliated with the American Federation of Labor, herein called the A. F. of L. The constitutions of both organizations provide for the admission to membership of aluminum workers, including watchmen, janitors, truckers, and shipping clerks, but excluding supervisory and clerical employees. The La Grange local limits its membership to eligible employees at the La Grange plants of the respondents, while membership in the Lemont local is open to eligible employees at the Lemont plant of the respondents and at Illinois Pure Aluminum Company which is also located in Lemont. Despite the fact that the Lemont plant has been engaged practically entirely in the manufacture of stainless steel products, the employees at the plant have retained their membership in the Lemont local.

Utensil Makers Organization, originally named Aluminum Products Employees Protective Association #1, is an unaffiliated labor organization. It admits to membership employees at the La Grange plant of the respondents.

## III. THE UNFAIR LABOR PRACTICES

### A. *Background of the unfair labor practices*

In March 1935 a joint committee of the La Grange local and the Lemont local commenced negotiations with W. A. Hastings, presi-

dent of Aluminum Products, for the purpose of obtaining a collective bargaining agreement. Each local had as its members practically all of the employees of the respective plants. Several conferences were held during April and the draft of an agreement was left with Hastings for submission to his attorneys. The joint committee was unable to obtain any appointment with Hastings during the following month, and early in June the locals voted to strike if no agreement was reached. On June 11 there occurred a lay-off of about 63 workers out of the total of 180 employed at both plants. Many employees possessing long seniority records were included in the lay-off. Moreover, this lay-off was far more drastic than the seasonal lay-offs in the past, which had been handled on a more gradual basis with only four or five men being furloughed each week.

On June 13 the joint committee obtained a conference with Hastings and requested the consummation of the draft agreement submitted to him in April. Hastings replied, "I can't do it, and you can go out and strike right now if that is what you want." The locals immediately called a strike, and from June 13 to July 29 the plants at both La Grange and Lemont were closed.

The negotiations for an agreement continued throughout the period of the strike, and finally on July 27 the form of a written contract was approved by the joint committee on behalf of both locals and by Aluminum Products. Despite the fact that the contract provided that it was to be in effect when signed, Hastings refused to sign the instrument. A conciliator representing the Department of Labor and the then Regional Director of the Board thereupon wrote upon the last page of the document a statement certifying that they had read the instrument to the parties and that both sides has signified that it should constitute the basis of their relationship. On the same day the strike was called off, and the picket lines were withdrawn.

At Lemont the men were gradually called back to work, and most of them were returned to the pay rolls by August 15. However, at La Grange the fabricating plant ran with less than half of its former force until September 1, and the rolling mill did not commence operations until about September 15.

#### B. *Utensil Makers Organization*

About August 15, Steve Snyder and Earl Wright, Jr., who had been employed at the La Grange plants, started circulating a petition for the purpose of forming the Aluminum Products Employees Protective Association #1, herein called the Protective Association. Snyder had heard rumors that resigning from the American Federa-

tion of Labor would help the men in getting back to work. Other leaders in the formation of the Protective Association also believed that the formation of a new organization would hasten the opening of the La Grange plants and the rehiring of men.

It is not difficult to determine the source of these rumors and beliefs. During August, Earl Wright, Sr., superintendent of the La Grange rolling mill, told two employees who were applying for reinstatement that there would not be any work available as long as they were members of the A. F. of L. J. K. Matter, vice president and general manager of Aluminum Products, on several occasions told A. J. Abrams, general foreman of the Lemont plant, that the management was trying to organize the men at La Grange into a company union, independent of the A. F. of L., and that if the men at Lemont did not go into it they would be left out. Abrams also had several conversations in which the superintendent of the Lemont plant, James J. Lynch, declared that Aluminum Products would never "go along with" the A. F. of L.

On the evening of August 26 the Protective Association held its first meeting. Edward Westphal, the employee who opened the meeting, and John Radke, who was named as the permanent presiding officer, both stated that the management knew that the meeting was being held and was expecting a representative of the new organization to appear at the office the next morning. The original petition which had been circulated was never used because it was felt that some of the persons who signed it had been uncertain of what was intended. At the meeting, therefore, two new proposed statements were discussed, one to be presented to the management and the other to go to the La Grange local. After a discussion of what was to be included in the statements, the persons present at the meeting signed two blank pieces of paper.

On the next day a petition was typed in above the 59 signatures appearing on one of the sheets of paper. The petition stated that the persons signing were dissatisfied with the July 27 agreement negotiated by the Aluminum Workers; that the agreement had not been submitted for their approval; that they were resigning from the La Grange local; that they were forming the Protective Association; and that a committee composed of Radke, Stanley Godzik, Adolph Fick, and Carl Dolgner had complete authority to negotiate a new agreement regarding wages and working conditions. The committee delivered their petition to Matter on the same day that it was prepared.

Godzik testified that Matter took the petition and said, "That is fine, now we can do some business"; that Matter also stated that he would help the new organization obtain a new charter; and that in

closing the conference Matter remarked, "Boys, I don't want you to think I had anything to do with this. This is your own free act." None of the testimony adduced by Godzik was specifically controverted by the other representatives present at the meeting with Matter. Steve Snyder testified that although he was not a member of the committee he was asked to come along, but that he did not remember what was discussed with Matter. Dolgner testified that Matter took the petition and said he would look into it further and see what could be done. Radke testified that Matter told them that the strike had caused the loss of many customers; that Matter said he was uncertain when the rolling mill would start operations, but that it might be around September 10; and that the expression on Matter's face showed that he did not care whether the men stayed in the A. F. of L. or not. Radke's testimony is so completely contradictory and confused that in several instances the Trial Examiner found it to be untrue. We are of the opinion that belief in the testimony of Godzik is more reasonable.

That evening, August 27, both locals of the Aluminum Workers held a joint meeting. Representatives of the Protective Association attended and presented the second list of signatures to which there had been attached a preceding page setting forth the reasons prompting those signing to resign from the La Grange local. The dissatisfaction with the July 27 agreement and the failure of the A. F. of L. to fulfill the promises which had been made prior to the calling of the strike were listed as the chief reasons for the resignation. Radke announced that a committee from the new Protective Association had met with Matter and that positions were available for the workers when they dropped the A. F. of L. However, after several speakers had discussed the grievances set forth in the letter of resignation, the representatives of the Protective Association joined in a vote pledging allegiance to the A. F. of L. and decided not to resign.

On August 28 Matter sent a letter to Radke and a copy to the Aluminum Workers in which he stated that since the petition of the Protective Association carried the signatures of a clear majority of the La Grange employees, Aluminum Products was granting recognition to the new organization and was willing to negotiate a new agreement with its committee.

The Protective Association held a meeting that night and invited the members of the Aluminum Workers to be present. Again a vote was taken which resulted in a reaffirmance of the decision to continue as members of the A. F. of L. After this meeting Radke and his committee conferred and decided to notify Matter that they were not resigning from the La Grange local. When on the next

morning Matter was so advised he suggested that Radke and the committee see the then Regional Director of the Board, H. L. McCarthy. The meeting with the Regional Director on August 29 left Radke's group convinced that the July 27 agreement was valid. They determined to ask Matter to return the petition in which they resigned from the A. F. of L.

When the committee saw Matter, that evening, he said, "Now, Radke, if you are hinting that you boys want that petition back again . . . why that would be a foolish thing for me to do, to open up the safe and give it back to you boys." Radke's testimony establishes the fact that "it seemed like a joke to Mr. Matter, to tell him that the (July 27) agreement was valid . . . He said, 'I think I will go down to Mr. McCarthy's office with you boys.' . . . Right then and there he made arrangements with Mr. McCarthy . . . for Saturday (August 31)."

After Radke and his committee returned from the August 31 conference at McCarthy's office, in which Matter participated, they were of the opinion that the agreement obtained by the A. F. of L. was worthless and that their activities in connection with the formation of the Protective Association did not violate the provisions of the Act. Yet McCarthy and N. W. Shefferman, a former Board employee who joined in the conference, both offered testimony which is more convincing and which leads to the conclusion that the discussion centered around Radke's fear of going to jail because of his activities in creating the new organization and that he was assured that he need have no fears of being sent to jail even though the organization which he was heading seemed to be under company domination.

Early in September many of the La Grange employees were called back to work. Signatures for another petition of the Protective Association, the contents of which neither Radke nor Dolgner were able to describe at the hearing, were at this time obtained in the shops during working hours. On September 11 the Protective Association held a meeting and Matter, Luttringhaus, another official of the respondents, and Lynch, superintendent of the Lemont plant, attended. Prior to the meeting and in the company of Dolgner, Joe Virtel, a foreman in the La Grange fabricating shop, told one employee that it was to be a special meeting and that if he did not attend he would be discharged. At the meeting Matter made a speech in which he told the men that the July 27 agreement was not what they thought it was and was not worth the paper it was written on, and in which he declared, "All that the American Federation of Labor is looking for is their 35 cents. Otherwise they don't care about you."

While the meeting was going on Jesse Greene, secretary of the La Grange local, and George C. Boe, a member of the Lemont local and of the joint negotiating committee, requested admission. Radke turned to Matter and said, "Boe and Greene are out there, do you want them in here?" Matter answered, "No."

During working hours on October 2, Radke, Dolgner, and Fick left the La Grange shops and drove over to Lemont to explain to the Lemont employees that the July 27 agreement was void.<sup>2</sup> Dolgner arranged with his superintendent, Perrott, for leaving his work that afternoon and was paid for his time. Radke made his arrangements with Matter who telephoned Lynch and authorized the closing down of the Lemont plant during their speeches. To quote the words of Radke, the events at Lemont were as follows: ". . . The power was shut off and then everybody gathered up there at the head end of the shop. Mr. Lynch told them what we come for . . . He did not have to explain who we were . . . They knew we were officers of the Protective Association . . . At this point Mickel (president of the Lemont local) said, 'Mr. Lynch, do we have to listen to these fellows if we don't want to?' Lynch said, 'Well, if you don't want to, you don't have to.' And Mickel started walking out of the door and the rest of them followed, and then when they got 15 or 20 feet away they started laughing and booing us. That was the end of it . . . They went back to work . . . We went home . . . We fooled along the road . . . We were not docked."

Various petitions and statements of the Protective Association were circulated in the La Grange plants during October and November 1935, and signatures were solicited during working hours and in the presence of supervisory employees. When Henry Anderson was called back to work on October 12, Virtel, the foreman, told him to see Dolgner about signing one of the petitions, and subsequently Perrott, the superintendent asked Dolgner whether it had been signed.

Near the end of November, Metal Rolling, the corporation then operating the La Grange plants, entered into a collective bargaining agreement with its employees. The brief filed by the respondents contends that this agreement was reached between Metal Rolling and the Protective Association. However the agreement itself contains no reference to the Protective Association. Although Radke's testimony concerning this agreement is entirely confused, when pieced

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<sup>2</sup>As more fully stated by Radke, the purpose of the trip to Lemont was as follows: ". . . our investigation of the agreement showed there was no agreement. We thought it was as little as we could do to give this information to the Lemont fellows because they were kidding themselves up to this time and it seemed they wanted to continue to do that . . . They thought they had an agreement that was worth something and according to the information we had it was valueless . . . It was a message of brotherly love."

together it establishes that Matter obtained a copy of an agreement between the Aluminum Company of America and its employees; that this copy was posted on the shop bulletin board; that no negotiations concerning any of the specific provisions ever took place; and that the agreement was never submitted for approval by any meeting of the Protective Association.<sup>3</sup> Since the respondents place great emphasis upon the fact that the Protective Association was established by its employees as a voluntary protest against the failure of the La Grange local to submit the July 27 agreement for approval by its membership, the placid acceptance of the agreement sent down by Matter is particularly significant of the independent spirit of the new organization.

The testimony of Radke and Dolgner concerning the settlement of grievances is equally indefinite and confused. Both referred very vaguely to the fact that they had settled several cases with Matter, but, we are persuaded that no regular machinery for presenting grievances or obtaining appeals was ever established and that no reports were ever made to the membership.

From September 11, 1935, the Protective Association held no meetings until about May 1, 1936, at which time the hearing in this proceeding had commenced. The notice of this May meeting was posted on the bulletin boards within the plants.

During April 1936, at about the time the complaint was issued, bylaws and dues cards were printed, and dues were collected for the first time. At the May meeting the name, "Aluminum Products Employees Protective Association #1," was abandoned in favor of "Utensil Makers Organization."

We find that the respondents have dominated and interfered with the formation and administration of the Utensil Makers, and have contributed support to it, and have thereby engaged in unfair labor practices within the meaning of Section 8 (2) of the Act. We further find that, coupled with the illegal sponsorship of the Utensil Makers, the respondents made clear their antagonism towards the Aluminum Workers by the statements of Earl Wright, Sr. that no work would be available at the La Grange plant to members of the A. F. of L.; of Lynch that Aluminum Products would never "go along with" the A. F. of L.; and of Matter that the A. F. of L. only cared about "their 35 cents" and that the July 27 agreement was not worth the paper it was written on. The respondents thereby inter-

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<sup>3</sup> Radke's own words confirm the method by which the agreement was approved by the members of his organization: "I told them that our agreement was there, and that everybody had a chance to look at it, and if there was anything there that did not suit them, to let it be known, and nobody said anything, so we took it for granted that it was satisfactory."

ferred with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

### *C. The strike during October*

On October 7, Superintendent Lynch announced that the piece-work rates at the Lemont plant were being reduced and would be reset upon a 40 cents an hour basic rate. This was in violation of the July 27 agreement, which provided that piece-work rates should be based upon a minimum of 44 cents an hour. In protest against this violation, the Lemont local went out on strike on October 7. A picket line was maintained at Lemont from this date until December 3, and operations within the plant were entirely discontinued.

On October 12 a notice was posted at the La Grange plants announcing wage reductions which would bring the scale for many operations down to 35 cents an hour. That day about seven employees went out on strike and, with the aid of the Lemont local and of other members of the La Grange local who had never been recalled to work, a picket line was maintained at La Grange until December 3. However, the La Grange plants kept open and operations continued.

The respondents contend that the strike was illegal because the Aluminum Workers failed to comply with the provision of the July 27 agreement requiring submission of disputes to the Chicago Regional Labor Board. Our findings, conclusions, and order, as herein set forth, do not depend upon a determination of the question whether the strike involved a breach of an agreement. If its determination were relevant, it might well be questioned whether the Aluminum Workers were still bound by the terms of the agreement after its deliberate breach by the respondents in their reduction of the piece-work rates. Moreover, after sponsoring a movement to have their employees withdraw from the La Grange local on the pretext that the agreement obtained for them by the A. F. of L. was worthless, the respondents would seem to be estopped from invoking the terms of that agreement.

### *D. The respondents' campaign to break the strike*

During the strike the respondents held many conferences with representatives of the Aluminum Workers. Efforts at mediation were also initiated by the United States Department of Labor. However, throughout the period of these negotiations the respondents engaged in activities designed to break the morale of the strikers and to further discredit the A. F. of L.

On October 23 Lynch presented to a meeting of the Lemont village board and released to the newspapers a letter from W. A. Hastings which contained the following statements:

Owing to most regrettable strikes and labor difficulties fermented (sic), in our opinion, by outside professional labor organizers the Directors of the Aluminum Products Company have decided to abandon all manufacturing activities at the Lemont plant.

Machinery and equipment will be removed in due course and contracts for such removal are now ready for signatures.

We are unfortunately convinced that we cannot operate our Lemont plant successfully if workers are intimidated, coerced and held under the domination and influence of professional agitators who have neither interest nor understanding of community relations.

Our La Grange plants are now being operated 19 hours daily.

The La Grange workers select their own conference committees and no outside organizers can influence the committees' decisions.

Hastings at the same time wrote several letters to the Lemont employees all of which announced that Aluminum Products had decided to abandon its manufacturing activities at Lemont and to offer the plant for sale or lease. About November 7 the Lemont newspapers carried the following advertisement as an announcement by Stainless Steel:

The Stainless Steel Products Company being an Independent Company and not a subsidiary are now negotiating for a lease of the property on New Avenue vacated by the Aluminum Products Company.

The administration of this company will be handled in Lemont and as we have no agreement with any Union, we are ready to receive applications for Employment through Mail at once.

The respondents were at this time forming Lemont Stamping which, as we have shown above, is entirely owned by Aluminum Products, as is Stainless Steel. When the strike ended Lemont Stamping was the new subsidiary corporation which acquired title to the Lemont plant and took over the manufacturing operations there.

A mimeographed letter from Hastings to the Lemont strikers, dated November 18, contained the following statement:

It seems to me that a well selected strike committee should consist of one representative from each department in the plant. Why should four members of an important strike committee come from the shipping department? How many representatives have the men from the manufacturing departments? Is this fair to the men in the manufacturing departments?

The following statements are included in a letter from Hastings sent out to the Lemont employees on November 29:

Why should the LaGrange situation be allowed to keep the Lemont plant closed? That's for the Lemont men to answer and no one else.

You were also told to expect 25% increase in wages. Did your leaders get that increase for you? What promises to you did they actually make good? Haven't you actually been deceived with promises?

Do you want to stick to the July 27th agreement? If not, why don't you say so?

I don't blame you for not wanting to stick to it because it was and still is a "sour ball" for the workers and I mean by "workers" the men who do the hard work on the machines—Spinners, Buffers, Pressmen and Burnishers.

The threats to abandon all manufacturing activities at Lemont because of the domination of the Lemont workers by "professional agitators," the denunciation of the strike committee as not being representative, and the disparaging remarks concerning the A. F. of L. leadership and the July 27 agreement were all calculated to bring the A. F. of L. into disrepute and to hamper the self-organization of the respondents' employees. We find that the above acts of the respondents constitute additional interference with, restraint, and coercion of their employees in the exercise of the rights guaranteed in Section 7 of the Act.

*E. The alleged refusal to bargain collectively*

On December 3 the strike was called off in pursuance of several telegrams from the respondents and a letter from the Aluminum Workers, all directed to the conciliator representing the United States Department of Labor. The picket lines were withdrawn, and the

Lemont strikers returned to work. To certain members of the La Grange local the respondents made a qualified offer of employment at the Lemont plant which we will discuss in greater detail below.

The parties met at various times subsequent to the conclusion of the strike, but were unable to arrive at an understanding of the terms of the settlement contained in this correspondence of December 3. The evidence fails to sustain the allegations of the amended complaint in this respect, and we therefore find that the respondents did not refuse to bargain collectively with the Aluminum Workers. The allegations contained in the amended complaint that the respondents have engaged in unfair labor practices within the meaning of Section 8 (5) of the Act will therefore be dismissed.

*F. The discriminatory refusals to reinstate and discharges*

1. At La Grange

*Harry Arthur Anderson* and *Christopher Courtley* were laid off on June 11, 1935, and thereafter participated in the strike which began on June 13. Anderson was first employed by the respondents in 1917 and after several interruptions during the war period worked continuously from 1923 on. He was employed the last 6 years as a metal polisher. He was the financial secretary of the La Grange local from the time of its organization in 1933. Courtley commenced his employment with the respondents in July 1933 as a watchman and janitor in the fabricating plant. He was one of the trustees of the La Grange local.

The respondents concede that on June 11 the two men were not discharged but were "laid off." In addition, Anderson was specifically told by his foreman that he would be recalled when work was available. Since the respondents did not contradict testimony setting forth the general custom which was followed, we conclude that it was the practice for the management to take the initiative in recalling employees temporarily laid off. Yet after the strike was concluded neither of these men was ever recalled, despite the fact that new employees were added to the pay rolls and that by October 1, 1935, there were a greater number of persons employed at the La Grange plants than there had been at the time of the strike.

During October Courtley and Anderson, as two of the representatives of the Aluminum Workers, attended a conference with the management concerning a settlement of the strikes. During the discussions Courtley declared that his position had been taken over by a new employee who was not a member of the La Grange local. The response which this remark brought may best be set forth in Court-

ley's own words: "Mr. Lynch stated that it was too bad that I had been on the first union committee, that if I had not he did not think my troubles would have been as hard as they had been."

At the hearing the respondents offered no reasons for the refusals to reinstate Anderson and Courtley. In their brief the respondents contend that they offered work at the Lemont plant in December 1935 to all the La Grange employees named in the amended complaint. During the negotiations designed to end the October strike the respondents submitted many proposals concerning the possibility of reinstating the La Grange employees at Lemont. These offers were all conditioned upon a settlement of other issues and upon a settlement of the entire strike. The respondents' telegram of December 3 contained the statement:

PROVIDING STRIKE IS CALLED OFF TODAY WE  
AGREE THAT ALL LA GRANGE WORKERS AFFILI-  
ATED WITH AMERICAN FEDERATION OF LABOR  
UNIONS AND WHO WERE ON LA GRANGE PAY ROLLS  
OCTOBER EIGHTH SHALL BE GIVEN EQUAL OPPOR-  
TUNITIES AND PRIVILEGES TO WORK AS QUICKLY  
AS POSSIBLE AT LEMONT PLANT . . .

Anderson and Courtley do not come within the terms of this offer. The language of the telegram further shows that it does not constitute an actual offer of reinstatement. Even assuming that an offer providing for immediate employment was made, we do not concede that a position at the Lemont plant would constitute an offer of reinstatement to an individual who had been employed at the La Grange plants. We find this entire defense to be an admission of the respondents' desire to segregate at the Lemont plant all employees retaining membership in the Aluminum Workers, in order that the domination of the organization which had been formed at La Grange could be continued without interference.

We find that on October 1, 1935, the respondents failed to reinstate Harry Arthur Anderson and Christopher Courtley because of their membership in the La Grange local and their activities in its behalf.

*Jesse Greene* was employed by the respondents from September 1921 until April 1925 and from August 1932 until the commencement of the strike on June 13, 1935. When the La Grange local was organized Greene became the recording secretary. He was a member of the joint committee of the Aluminum Workers which carried on negotiations with the management both prior to and during the June strike. He was particularly active during the strike, the basement of his house being used as the headquarters of the La Grange local.

When the strike was ended on July 27, he made several visits to the plant and requested reinstatement. His requests for reinstatement were refused. We are convinced by Greene's uncontradicted testimony that Wright, superintendent of the La Grange rolling mill, told him "that as long as the men continued with the American Federation of Labor, they couldn't get back to work, they couldn't be put back to work."

We find that the respondents failed to reinstate Jesse Greene on October 1, 1935, because of his membership in the La Grange local and his activities in its behalf.

*Lyman E. Perry* was employed by the respondents from May 1924 until the beginning of the strike on June 13, 1935. At his last job in the rolling mill he was earning 57 cents an hour. During the strike he was president of the La Grange local and the chairman of the joint negotiating committee of the Aluminum Workers. Accompanied by Greene he saw Superintendent Wright shortly after the strike ended. Perry's uncontroverted testimony that, "We were informed that there would not be any work as long as we were members of the American Federation of Labor," is conclusive of the reason for the respondents' failure to reinstate him.

Perry obtained a position with another concern on October 1, 1935, and was at the time of the hearing receiving employment at 50 cents an hour. He was retaining his membership in the La Grange local, although he was no longer the president.

We find that the respondents failed to reinstate Lyman E. Perry on October 1, 1935, because of his membership in the La Grange local and his activities in its behalf.

*John Kromray* was employed by the respondents from 1913 to 1923, and from 1932 to June 13, 1935, when the strike began. He was a member of the La Grange local and was on the picket line during the strike. Although he applied for reinstatement on five or six occasions, he was never called back to work.

The Trial Examiner found that insufficient evidence was introduced to sustain the allegations of the amended complaint with respect to John Kromray. To this finding no exceptions were filed by the Aluminum Workers. Upon consideration of the evidence we are of the opinion that the allegations of the amended complaint with respect to John Kromray should be dismissed.

*Stanley Witkowski* was employed as a watchman and janitor in the rolling mill from 1926 until he was laid off on June 11, 1935. He was at that time told that the respondents had too many watchmen and were reducing their force. He was a member of the La Grange local and participated in the June 13 strike. At the hearing there was no testimony as to whether anyone else had been employed to take over his position.

The Trial Examiner found that although Witkowski's work was satisfactory, his discharge came as an economy measure. We agree with this finding and the allegations of the complaint with respect to Stanley Witkowski will be dismissed.

*Leo Kozlowski, Stanley Nickleski, and Frank Sniegowski* were laid off on October 4, 1935. Kozlowski was employed by the respondents for 22 years, from September 1913 to June 13, 1935, and was recalled to work on September 11. Nickleski and Sniegowski had each been employed for 10 years, from 1925 to June 13, 1935, and had been recalled, respectively, during August and on September 20. Although all three of the men lived in Lemont, they were employed at the La Grange plants, were members of the La Grange local, and had participated in the strike and picketing at La Grange.

When Kozlowski was given his lay-off notice he was told by the superintendent, Perrott, "My orders are to keep those working, nearest the plant." Nickleski and Sniegowski were given no reasons for their lay-off. The respondents contend that the three men were laid off because they lived in Lemont, while it was the desire of the management to keep on the La Grange pay rolls those workers who lived nearest the plant.

As we have stated above, the respondents were at this time adding new workers at La Grange and were increasing their pay rolls beyond the number employed prior to the strike. During the same period there were being circulated at the La Grange plants petitions to withdraw from the La Grange local and the A. F. of L. and to participate instead in the formation of the Protective Association. The foremen and superintendents had knowledge of and approved the distribution of these petitions.

On September 24 a petition of the Protective Association was placed on a box near the dressing room. One of the leaders in the organization which we have found to have been dominated by the respondents indicated to Kozlowski that he had better sign the petition in order to avoid being laid off. Kozlowski answered, "I worked here 22 year without signing anything. Why should I sign anything now?" Five days later Kozlowski received his lay-off notice. When the shop machinist asked Nickleski to sign a petition relating to the formation of the new organization, he answered, "I have no time, I can't be bothered."

Sniegowski was not asked to sign any petition signifying his withdrawal from the La Grange local, and he never signed such a petition and never attended any meeting of the Protective Association. When he was laid off, Radke and Westphal, who had been active in circulating the petitions, came over and told him "that the fellows would have to go their way, if they wanted to make their bread and butter, or else stay on relief."

The contention which is advanced by the respondents that these three men were laid off solely because they lived in Lemont adds strength to our conclusion that they were discharged at the La Grange plants because of their affiliation with and refusal to abandon the La Grange local. Kozlowski had lived in Lemont during his entire period of employment at La Grange, and as for the other two men there is no showing that they had suddenly moved to Lemont. The Lemont employees at all times maintained their affiliation with the American Federation of Labor, and we are persuaded that the respondents desired to keep this affiliation restricted to the Lemont plant.

None of the three men was ever called back to work at La Grange. As we have found above, the respondents' contention concerning an offer of employment at Lemont is without merit. We find that on October 4, 1935, the respondents discharged Leo Kozlowski, Stanley Nickleski, and Frank Sniegowski because of their membership in and assistance to the La Grange local, and because of their refusal to transfer allegiance to the Protective Association.

*Henry Anderson* was employed by the respondents from 1917 until he was laid off on June 11, 1935. He lived in La Grange, was a member of the La Grange local, and participated in the strike of June 13. On October 12 he was called back to work.

When Anderson arrived at the plant that day he saw Dolgner, who asked him to sign a petition relating to the Protective Association. He refused to sign the petition, and Dolgner said, "Well, then you can't go to work." He next saw the foreman, Virtel, who told him to go to work. He told Virtel that he belonged to the A. F. of L. and "would not sign up the company union." Virtel said, "Go to see Carl Dolgner."

Anderson found Dolgner with Perrott, the superintendent, in the latter's office. Dolgner told Anderson that he could work if he signed the petition. The superintendent then gave Anderson a time card and told him to go to work. Anderson thereupon gave the time card back to Dolgner and said, "I ain't going to work."

The respondents contend that Anderson's own testimony proves that neither the foreman nor the superintendent indicated that he was required to sign anything. However from the foreman's action in sending him to Dolgner, from Dolgner's presence in the superintendent's office, and from the superintendent's failure to offer any assurance that Dolgner's statements were unauthorized, we are persuaded that it was reasonable for Anderson to assume that his offer of employment was conditioned upon a transfer of his allegiance from the La Grange local to the Protective Association.

We find that on October 12, 1935, the respondents failed to reinstate Henry Anderson because of his membership in the La Grange

local and because of his refusal to transfer allegiance to the Protective Association.

*Arnold Kling, Michael Snyder, Stanley Godzik, and Stanley Janca* are referred to in the amended complaint in connection with the allegation that they were refused reinstatement after their participation in the second strike at La Grange which lasted from October 12 to December 3, 1935. No testimony was offered concerning Arnold Kling. The allegations of the amended complaint with respect to Arnold Kling will therefore be dismissed.

Stanley Godzik was employed by the respondents from 1923 to 1925, from 1927 to 1929, from 1930 to 1931, and from August 1932 until June 13, 1935. He was called back to work during August 1935 and with the exception of a temporary lay-off of 3 weeks was regularly employed until October 12 when he joined the La Grange picket line. Stanley Janca was employed from 1924 until June 13, 1935. He was the first employee to be reinstated at the La Grange plants after the first strike and he continued to be employed until October 12, 1935, when he joined the strike. Michael Snyder was employed from June 1932 until June 13, 1935. He was called back to work on August 6, 1935, and was regularly employed until he joined the picket line on October 12. Prior to their participation in this second strike called by the Aluminum Workers, by which they reaffirmed their membership in the La Grange local, Janca and Snyder had signed petitions of the Protective Association, while Godzik had not only signed petitions but, as stated above, had acted as a member of the representation committee of the new organization.

When the strike was concluded on December 3, 1935, the circumstances surrounding the settlement were such that Godzik, Janca, and Snyder knew at once that they would not be reinstated at the La Grange plants. The respondents in their telegram of December 3 recognized the desires of Godzik, Janca, and Snyder to be reinstated and included them within the terms of the offer of employment at Lemont. Our conclusions with reference to this alleged offer of employment have been stated above.

We find that on December 4, 1935, the respondents failed to reinstate Stanley Godzik, Stanley Janca, and Michael Snyder because of their membership in and assistance to the La Grange local and because of their withdrawal of allegiance to the Protective Association.

Harry Arthur Anderson, Courtley, Greene, Perry, Kozlowski, Nickleski, Sniegowski, Henry Anderson, Janca, and Snyder had failed to secure regular and substantially equivalent employment at the time of the hearing. Godzik had secured other employment and, at the time of the hearing, was earning \$1.20 an hour as compared to about 50 cents, his wage rate when last employed by the respondents.

By refusing to reinstate Harry Arthur Anderson, Christopher Courtley, Jesse Greene, Lyman E. Perry, Henry Anderson, Stanley Godzik, Stanley Janca, and Michael Snyder, and by discharging Leo Kozlowski, Stanley Nickleski, and Frank Sniogowski the respondents discouraged membership in the La Grange local and encouraged membership in the Protective Association, and interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

## 2. At Lemont

*Peter Sniogowski* was employed as a watchman at the Lemont plant from October 1928 until June 13, 1935. He was a member of the Lemont local and served on the picket line during the first strike. He was recalled to work on March 4, 1936.

The amended complaint alleges that the failure to offer him reinstatement until March 4, 1936, constituted an unfair labor practice. The Trial Examiner found that insufficient evidence was introduced to sustain this allegation, and the Aluminum Workers failed to except. We agree with the findings of the Trial Examiner and the allegations of the amended complaint with respect to Peter Sniogowski will be dismissed.

*George C. Boe* was employed in the shipping room at the Lemont plant from January 25, 1933, to June 13, 1935. The amended complaint alleges that the failure to reinstate him prior to December 9, 1935, and his subsequent discharge on April 8, 1936, constituted unfair labor practices.

Boe was a member and the auditor of the Lemont local and the secretary of the joint negotiating committee of the Aluminum Workers. He participated in the conferences and negotiations in connection with the June and October 1935 strikes.

At the time of the October strike the number of employees at the Lemont plant was smaller than the number employed prior to the June strike. No evidence was introduced as to whether anyone else had been employed to take over Boe's position. The allegations of the amended complaint with respect to the failure to reinstate George C. Boe until December 9, 1935, will therefore be dismissed.

On March 24, 1936, Boe, as secretary of the Aluminum Workers' negotiating committee, joined in signing the original charge filed in this proceeding. On April 4 Superintendent Lynch handed Boe a notice that he would be laid off at the end of 4 days and, at the same time, told Boe "that he had orders from Mr. Hastings to lay (him) off, due to the fact that there was not sufficient work for two maintenance men, and (Hastings) asked to keep the most valuable of those two maintenance men." Although most of Boe's work after

December 9 had been as a maintenance man, during April he was employed in the shipping room at the duties which he had performed for over 2 years prior to the June strike. In the light of the entire record, we do not find that the reduction in the maintenance force offers a convincing reason for Boe's lay-off from the shipping room.

At the time of the hearing Boe had failed to secure regular employment. We find that the respondents laid off George C. Boe on April 9, 1936, and thereafter failed to reinstate him because of his membership in and activities on behalf of the Lemont local and because he had filed charges under the Act. The respondents thereby discriminated against him because he filed charges under the Act, discouraged membership in the Lemont local by discriminating with respect to his hire and tenure of employment, and interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

*G. The shut-down of the Lemont plant on April 30 and May 1, 1936*

The amended complaint alleges that on April 30<sup>4</sup> and May 1, 1936, the respondents closed the Lemont plant for the purpose of restraining and coercing their Lemont employees from testifying in this proceeding and thereby engaged in unfair labor practices within the meaning of Section 8 (1) and (4) of the Act.

The hearing in this case began on Thursday, April 30, 1936. On the day before, Kettman, a foreman at the Lemont plant, announced that Bruce Hastings, son of W. A. Hastings, and Superintendent Lynch had told him that they "would be tied up in this hearing, and there would be nobody there to run the plant, so they were going to close it down for that week." Thus the Lemont plant was shut down on Thursday and Friday, April 30 and May 1. Operations appear to have been resumed during the following week. The La Grange plants were not shut down for the hearing.

Neither Lynch nor Bruce Hastings participated in the hearing until June 16, on which day they testified as witnesses for the respondents. In their testimony they made no mention of the shut-down of the Lemont plant nor offered any reason for it. We are not impressed with the reason for the shut-down as announced to the Lemont employees. Bruce Hastings never worked at the Lemont plant until after the close of the second strike, and he was primarily in charge of the shipping of the finished products. He and Superintendent Lynch were present at other sessions of the hearing. There

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<sup>4</sup>Erroneously referred to in the amended complaint as March 30. However the respondents raised no question concerning this variance between the amended complaint and the proof and finding of the Intermediate Report.

is no showing that the Lemont plant was closed down on June 16 when they both testified.

We believe that the Lemont plant was shut down on April 30 and May 1, 1936, as a means of indicating to the Lemont employees, who were practically all members of the Lemont local, the opposition of the respondents to the activities of and the proceedings instituted by the Aluminum Workers. This shut-down of the Lemont plant did not constitute an unfair labor practice within the meaning of Section 8 (4) of the Act. However, we find that the respondents thereby interfered with, restrained, and coerced their employees in the exercise of rights guaranteed in Section 7 of the Act.

#### H. *The discriminations against Emanuel Mickel*

Emanuel Mickel was first employed by the respondents in 1927 in the shipping department of the Lemont plant. He was laid off in 1930, recalled to the same department in 1931, and was thereafter employed until June 13, 1935. After the June strike he was recalled to work about August 7.

He was the president of the Lemont local and a member of the joint negotiating committee of the Aluminum Workers. As we have stated above, when Radke, Dolgner, and Fick appeared at the Lemont plant on October 2, Mickel raised the question of whether it was necessary to listen to them and started to walk away after he received Lynch's answer. Fifteen minutes later Mickel was laid off by his foreman who told him that he did not know when he would get back to work.

When Mickel called for his wages on October 4, the foreman asked him why he had not come back to work, and told him to see the superintendent. Lynch stated that the foreman had been excited and was supposed to have told Mickel to return after a lay-off of 1 day. Lynch asked Mickel to report for work on October 7. When Mickel came to the plant on October 7 the wage reduction was announced and the Lemont employees went out on strike.

We find that the respondents laid off Emanuel Mickel from October 2 until October 7, 1935, because of his membership in the Lemont local and his activities in its behalf. By this lay-off the respondents discriminated in regard to hire and tenure of employment, thereby discouraging membership in the Lemont local, and interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

At the conclusion of the strike Mickel was reinstated on December 9. After the latter part of December he acted as shipping clerk and made out and signed all bills of lading. Shipments of finished products from the Lemont plant were generally made out in the name of

either Stainless Steel or Banner, as the consignor. Around March 1936 Mickel asked Bruce Hastings how to make out the bill of lading for an order purchased by Great Northern Products Company, a Chicago dealer, and being shipped to Canada. Mickel testified that Hastings instructed him to designate Lemont Stamping as the consignor, and that he thereafter continued to make out the bills of lading in this manner for all Great Northern Products Company orders. Bruce Hastings denied that he had ever given Mickel such instructions, but testified that he did not want to show his ignorance concerning the handling of the Canadian order and that he therefore told Mickel to take up the problem with one of the girls in the office. Hastings further stated that for some period of time he had observed that the bills of lading were naming Lemont Stamping as consignor, and that he told the owner of the trucking service which handled some of the orders, "We will just let Mickel go ahead and you change them in your office." We are of the opinion that belief in the testimony of Mickel is more reasonable, and that Mickel's method of handling the bills of lading was in pursuance of his instructions and was known to his superior for a period of several months.

On March 24, 1936, Mickel joined in filing the original charge in this proceeding which he signed as the president of the Lemont local. On April 30 the hearing was started with evidence being adduced with respect to the question of interstate commerce. On May 4 Lynch called Mickel into his house and said, "Mickel, the company has a very serious charge against you. You may be pinched . . . Bruce has told me that you changed some bills of lading down there, in order to make your case all set on the interstate commerce. However Bruce has changed all these bills of lading, and I don't think nothing will come of it myself." Lynch then stated that he had orders to let Mickel stay home until after the hearing and that he believed that neither Boe nor Mickel would ever get back to work for the respondents. We interpret Lynch's final remark, which he did not deny having made, to be a notification to Mickel of his discharge.<sup>5</sup>

We are impressed by the fact that the conversation with respect to Mickel's discharge includes a reference to Boe whose employment had been terminated a month before, but whose activities appear to have made a lasting impression in Lynch's mind. We find that

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<sup>5</sup>The brief filed by the respondents contains this statement: "It seems that Lynch volunteered his own opinion on various matters to Mickel." Lynch was the superintendent of the Lemont plant and the highest supervisory employee in connection with its operations. As such, the respondents are answerable for his statements.

Emanuel Mickel was discharged on May 4, 1936, because he had filed charges under the Act and because of his membership in the Lemont local and his activities in its behalf. In discharging Emanuel Mickel the respondents discriminated against him because he filed charges under the Act, discouraged membership in the Lemont local by discriminating with respect to his hire and tenure of employment, and interfered with, restrained, and coerced their employees in the exercise of 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 respondents set forth in Section III above, occurring in connection with the operations of the respondents described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Inasmuch as we have found that the respondents have dominated and interfered with the formation and administration of the Utensil Makers Organization and have contributed support to it, the respondents must cease contributing financial or other support to it and must withdraw all recognition from the Utensil Makers Organization as the representative of its employees, for the purpose of dealing with the respondents concerning grievances, labor disputes, rates of pay, wages, hours of employment, or conditions of work.

Having found that the respondents by the refusals to reinstate and the discharges discriminated in regard to the hire and tenure of employment of 13 employees, we shall order the reinstatement of all of the employees who were discriminated against, with the exception of Michael Snyder, with back pay from the dates of the discriminatory acts, less any amounts earned by them in the meantime. At the hearing Michael Snyder testified that he did not desire reinstatement with the respondents.

Furthermore, we shall order the respondents to make whole all the employees on the pay rolls of the Lemont plant on April 29, 1936, for the losses of pay that they suffered in consequence of the respondents' illegal conduct in shutting down the plant on April 30 and May 1, 1936. The amount to be paid each employees is to be computed upon the basis of his average daily wage for the 1-week period immediately prior to April 30.

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

#### CONCLUSIONS OF LAW

1. Aluminum Workers Union No. 19064, Aluminum Workers Union No. 19078, and Utensil Makers Organization, are labor organizations within the meaning of Section 2 (5) of the Act.

2. By dominating and interfering with the formation and administration of Utensil Makers Organization, and contributing support to it, the respondents have engaged in and are 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 Harry Arthur Anderson, Christopher Courtley, Jesse Greene, Lyman E. Perry, Leo Kozlowski, Stanley Nickleski, Frank Sniegowski, Henry Anderson, Stanley Godzik, Stanley Janca, Michael Snyder, George C. Boe, and Emanuel Mickel, and each of them, and thereby discouraging membership in a labor organization, the respondents have engaged in and are engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

4. By discriminating against George C. Boe and Emanuel Mickel because they had filed charges under the National Labor Relations Act, the respondents have engaged in and are engaging in unfair labor practices, within the meaning of Section 8 (4) of the Act.

5. By interfering with, restraining, and coercing their employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (1) of the Act.

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

7. The respondents have not engaged in unfair labor practices within the meaning of Section 8 (3) of the Act with respect to John Kromray, Stanley Witkowski, Arnold Kling, and Peter Sniegowski.

8. The respondents have not engaged in unfair labor practices within the meaning of Section 8 (5) 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 respondents, Aluminum Products Company, Metal Rolling and Stamping Corporation, Lemont Stamping Corporation, Banner

Stamping Company, and Stainless Steel Products Company, and their officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) In any manner dominating or interfering with the administration of Utensil Makers Organization, or the formation or administration of any other labor organization of its employees, and contributing support to Utensil Makers Organization, or to any other labor organization of its employees;

(b) Discouraging membership in any labor organization of their employees, by discharging or refusing to reinstate any of their employees or in any other manner discriminating in regard to their hire or tenure of employment or any terms or conditions of their employment;

(c) Discharging, refusing to reinstate, or otherwise discriminating against an employee because he has filed charges under the National Labor Relations Act;

(d) In any other manner interfering with, restraining, and coercing their 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 purposes of collective bargaining or other mutual aid and protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Withdraw all recognition from Utensil Makers Organization, as representative of any of their employees for the purpose of dealing with the respondents concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and completely disestablish Utensil Makers Organization as such representative;

(b) Offer to Harry Arthur Anderson, Christopher Courtley, Jesse Greene, Lyman E. Perry, Leo Kozłowski, Stanley Nickleski, Frank Sniegowski, Henry Anderson, Stanley Godzik, Stanley Janca, George C. Boe, and Emanuel Mickel immediate and full reinstatement, respectively, to their former positions, without prejudice to their seniority and other rights and privileges;

(c) Make whole Harry Arthur Anderson, Christopher Courtley, Jesse Greene, Lyman E. Perry, Leo Kozłowski, Stanley Nickleski, Frank Sniegowski, Henry Anderson, Stanley Godzik, Stanley Janca, and George C. Boe, for any loss of pay they have suffered by reason of the respondents' discrimination in regard to their hire and tenure of employment, by payment to each of them of a sum of money equal to that which each would normally have earned as wages during the

period from the date of such discrimination against him to the date of the offer of reinstatement, less any amount earned by him during such period;

(d) Make whole Emanuel Mickel for any loss of pay he has suffered by reason of the respondents' discrimination in regard to his hire and tenure of employment, by payment to him of a sum of money equal to that which he would normally have earned as wages during the period from October 2 to October 7, 1935, and during the period from May 4, 1936, to the date of the offer of reinstatement, less any amount earned by him during such periods;

(e) Make whole all the Lemont employees who were employed by the respondents on April 29, 1936, for the loss of pay they suffered by reason of the closing of the Lemont plant on April 30 and May 1, 1936, by payment to each of them of a sum of money equal to that which each would have earned as wages during said days, such sum to be calculated in the manner set forth in Section V of this Decision, less any amount earned by each of them during said days;

(f) Immediately post notices in conspicuous places where they will be observed by the respondents' employees, and maintain such notices for a period of at least thirty (30) consecutive days, stating that the respondents will cease and desist in the manner aforesaid, and that the respondents will withdraw all recognition from Utensil Makers Organization as the representative of any of their employees for the purpose of dealing with the respondents concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and that Utensil Makers Organization is disestablished as such representative;

(g) Notify the Regional Director for the Thirteenth Region in writing within ten (10) days from the date of this order what steps the respondents have taken to comply herewith.

And it is further ordered that the amended complaint be, and it hereby is, dismissed in so far as it alleges that the respondents have engaged in unfair labor practices within the meaning of Section 8 (5) of the Act and within the meaning of Section 8 (3) of the Act with respect to persons other than those referred to in paragraph 3 of the Conclusions of Law.