

In the Matter of WILLIAM RANDOLPH HEARST, HEARST PUBLICATIONS, INC., HEARST CONSOLIDATED PUBLICATIONS, INC., HEARST CORPORATION, AMERICAN NEWSPAPERS, INC., and KING FEATURES SYNDICATE, INC. and AMERICAN NEWSPAPER GUILD, SEATTLE CHAPTER

Case No. C-136.—Decided January 13, 1937

Newspaper Publishing Industry—Interference, Restraint or Coercion: interference with organizational activity; discrediting and vilifying union; propaganda against union; questioning employees regarding organizational activity and union affiliation; efforts to secure disclosure of identity of union members; espionage; attempts to persuade employees to resign from union; expressed opposition to labor organization, threats of retaliatory action; engendering fear of loss of employment for union membership and activity—*Discrimination:* discharge—*Strike:* provoked by employer's violation of law—*Boycott—Reinstatement Ordered—Back Pay:* awarded.

Mr. Robert B. Watts and *Mr. E. J. Eagen* for the Board.

Mr. Edward G. Woods, of Chicago, Ill., and *Tanner & Garvin*, of Seattle, Wash., for Hearst Publications, Inc.

Mr. E. D. Salinger, of Chicago, Ill., for respondents other than Hearst Publications, Inc.

Mr. Aaron W. Warner, of counsel to the Board.

DECISION

STATEMENT OF CASE

On July 27, 1936, the American Newspaper Guild, Seattle Chapter, hereinafter referred to as the Guild, filed with the Regional Director for the Nineteenth Region a charge which, as amended, alleged that William Randolph Hearst, New York City; Post-Intelligencer Company, Seattle, Washington; Hearst Publications, Inc., San Francisco, California; Hearst Consolidated Publications, Inc., Wilmington, Delaware; Hearst Corporation, San Francisco, California; American Newspapers, Inc., Wilmington, Delaware; International News Photos, Inc., New York City, and King Features Syndicate, Inc., New York City, hereinafter referred to collectively, with the exception of Post-Intelligencer Company and International News Photos, Inc.,¹ as the respondents, had engaged in and were engaging in unfair labor practices within the meaning of the National Labor

¹ Post-Intelligencer Company and International News Photos, Inc., as appears later, were improperly included in the charge.

Relations Act, 49 Stat. 449, hereinafter referred to as the Act. On August 13, 1936, the Board issued a complaint against those named in the charge, signed by the Regional Director for the Nineteenth Region, alleging that they had committed unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7), of the Act.

In respect to the unfair labor practices, the complaint, as amended, alleged in substance:

1. That the respondent William Randolph Hearst is in direct control of the various respondent corporations, dictates the policy of such corporations and the newspapers published by them, and maintains supervision and control over the employment of their editorial staffs and photographers.

2. That the respondent Hearst Publications, Inc., under the control and supervision of the respondent William Randolph Hearst, publishes various daily and Sunday newspapers in San Francisco, Oakland, and Los Angeles, California, and the Seattle Post-Intelligencer in Seattle, Washington.

3. That the respondents, on or about July 6 and July 14, 1936, in the management of the Seattle Post-Intelligencer in Seattle, Washington, discharged and thereafter refused to reinstate Frank M. Lynch and Philip Everhardt Armstrong, employees of the Seattle Post-Intelligencer, because they joined and assisted the American Newspaper Guild, Seattle Chapter, a labor organization, and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection.

4. That the respondents by such acts, and by threats, promises, innuendoes, and acts of intimidation, have interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

On September 2, 1936, the respondent Hearst Publications, Inc., filed an answer to the complaint, and on September 11, 1936, an answer to the amended complaint, denying that the respondent William Randolph Hearst was in direct control of the various respondent corporations, or that he dictated or maintained supervision and control over the employment of their editorial employees and photographers. It averred that the Seattle Post-Intelligencer is published and distributed at Seattle, Washington, as a distinct and independent department of the Hearst Publications, Inc., with respect to receipts, disbursements, profits, losses, employment, editing, publication, and circulation. It admitted the discharge of Lynch and Armstrong but averred that their employment was terminated for good cause, and denied the alleged unfair labor practices. It alleged that the Act is unconstitutional and void, and that in any case the

American Newspaper Guild, Seattle Chapter, is estopped from seeking relief because of alleged illegal acts committed prior to the commencement of this proceeding. It then requested that the proceeding be dismissed.

An answer and motion to dismiss were also filed by the respondents William Randolph Hearst, Hearst Consolidated Publications, Inc., Hearst Corporation, American Newspapers, Inc., and King Features Syndicate, Inc., denying that either Frank M. Lynch or Philip Everhardt Armstrong had ever been employed by them, and denying further "each and every allegation in the amended complaint alleging that in cooperation with the Seattle Post-Intelligencer, the acts of these respondents constituted a current of commerce among the several states and with foreign nations and that any acts of theirs burdened or obstructed such commerce and the free flow thereof".

Pursuant to notice thereof, Edwin S. Smith, duly designated by the Board as Trial Examiner, conducted a hearing from September 10 to September 29, 1936, at Seattle, Washington. The respondents were represented by counsel, and 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 to all parties.

At the commencement of the hearing, the Trial Examiner denied the motions of the respondents to quash because of alleged improper service and to dismiss the proceeding as to some of the respondents because of their alleged improper joinder as parties. The Trial Examiner also denied a motion to dismiss the proceeding on the ground that the publishers of the Seattle Post-Intelligencer had been forced to abandon publication. The Trial Examiner, however, allowed a motion by the respondents to dismiss the proceeding as to International News Photos, Inc., on the ground that there was no corporation existing by that name. The complaint was subsequently amended in this respect, alleging that the "King Features Syndicate, Inc. is combined with, operates and controls the International News Photos". Many exceptions were made by the respondents to rulings of the Trial Examiner during the course of the hearing. The Board finds no prejudicial error in any of the Trial Examiner's rulings at the hearing and they are hereby affirmed.

On October 9, 1936, the Board, acting pursuant to Article II, Section 37 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the proceeding to be transferred and continued before it. Pursuant to notice thereof, a further hearing for the purpose of taking additional evidence was conducted before the Board on November 9 and 10, 1936, at Washington, D. C.

At the close of this hearing, the respondents were granted adequate opportunity to request a further hearing and to file briefs. However, a further hearing was not requested, and no briefs have been filed.

Upon the entire record in the proceeding, the stenographic report of the hearings and all the evidence, including oral testimony and other evidence offered and received, the Board makes the following:

FINDINGS OF FACT

I. THE RESPONDENTS

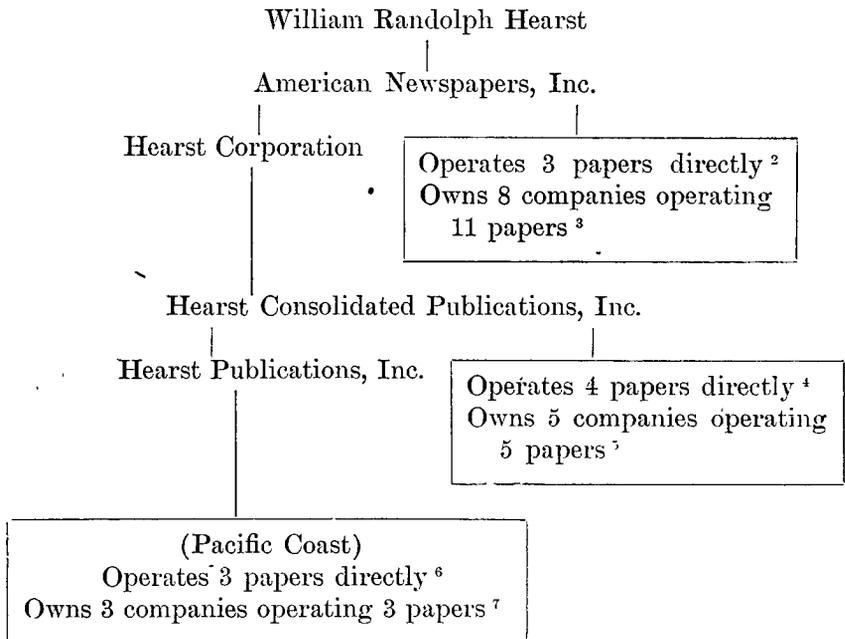
A. Corporate structure

The respondent William Randolph Hearst, who maintains his principal office and place of business in New York City, is the owner of a large number of newspapers, magazines, and other enterprises throughout the United States. His activities are conducted through an elaborate corporate structure. The four basic companies in this structure may be described briefly as follows: Hearst Publications, Inc. is a corporation duly organized and existing under and by virtue of the laws of the State of California, with its principal office and place of business at San Francisco, California, and is engaged in the publication of various daily and Sunday newspapers in San Francisco, Oakland, and Los Angeles, California, and the Seattle Post-Intelligencer in Seattle, Washington. All of the stock of Hearst Publications, Inc. is owned by Hearst Consolidated Publications, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, with its principal office in Wilmington, Delaware. All of the common stock of Hearst Consolidated Publications, Inc. is owned by Hearst Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of California, with its principal place of business in San Francisco, California. All of the stock of the Hearst Corporation is owned by American Newspapers, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, with its principal office in Wilmington, Delaware. All of the stock of the American Newspapers, Inc. is owned by the respondent William Randolph Hearst.

The entire corporate structure, hereinafter referred to as the Hearst organization, consists of approximately 38 corporations, owned and controlled, either directly or through intervening subsidiary companies, by Hearst. They engage in newspaper, news service, feature service, newsprint, radio, magazine, news-film, motion-picture, and financial activities, and publish 29 newspapers in

the following cities: Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Chicago, Illinois; Detroit, Michigan; Los Angeles, Oakland, and San Francisco, California; Milwaukee, Wisconsin; New York, Albany, Rochester, and Syracuse, New York; Omaha, Nebraska; Pittsburgh, Pennsylvania; San Antonio, Texas; Seattle, Washington; and Washington, D. C.

The following chart illustrates the relationship among the newspaper publishing companies of the Hearst organization:



King Features Syndicate, Inc., a subsidiary of the Hearst Corporation, is a corporation duly organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business in New York, New York. It supplies to the newspapers of the Hearst organization, and sells to other papers, a miscellany of newspaper features, such as comic strips, cartoons, feature articles, serial stories, and novelettes. It also supplies two wire

² New York American, Washington Times, Washington Herald

³ Albany Times-Union, Boston American, Boston Sunday Advertiser, Chicago Herald and Examiner, Milwaukee Wisconsin News, New York Mirror, Omaha Bee-News, Rochester American, Rochester Journal, Syracuse Journal, Syracuse Sunday American

⁴ Atlanta Georgian, Atlanta Sunday American, Baltimore News-Post, Baltimore Sunday American.

⁵ Chicago American, Detroit Times, New York Evening Journal, Pittsburgh Sun-Telegraph, San Antonio Light

⁶ Oakland Post-Enquirer, San Francisco Call-Bulletin, Seattle Post-Intelligencer

⁷ Los Angeles Examiner, Los Angeles Herald Express, San Francisco Examiner

services, International News Service and Universal Service, and a photograph service, International News Photos, which transmit news and photographs to and from all parts of the world. In the course of its business, it sells features and wire service to newspapers in 33 States, the District of Columbia, and foreign countries, among them Hawaii, Argentina, England, Australia, France, Italy, and Germany.

B. *The Seattle Post-Intelligencer*

The Seattle Post-Intelligencer is a daily and Sunday newspaper published in Seattle, Washington, by Hearst Publications, Inc. It was established in 1865, and was duly incorporated under the laws of the State of Washington as the Seattle Post-Intelligencer Company. On December 28, 1935, the Seattle Post-Intelligencer Company was merged, together with the Call Publishing Company and The Post-Enquirer Publishing Company, both California corporations, into Hearst Publications, Inc.

The Seattle Post-Intelligencer is distributed generally throughout the State of Washington, and also in Idaho, Montana, Oregon, and other States in the United States, and in Alaska and British Columbia. It has an average daily circulation of approximately 104,259, and a Sunday circulation of approximately 221,801 copies.⁸ Special editions of the newspaper, including a "predate" Sunday edition, are prepared for distribution outside of the State of Washington, and are delivered to their destinations by train, boat, and truck. Trips are made daily by truck, under contract with the Seattle Post-Intelligencer, from Seattle, Washington, to Vancouver, British Columbia, carrying approximately 1,000 copies of the daily editions, and between 4,000 and 5,000 copies of the Sunday editions, for distribution through dealers and through the mails in British Columbia.

Raw materials and machinery used in the publication of the Seattle Post-Intelligencer, including ink, linotype machines and press parts, are obtained outside of the State of Washington, and are delivered to the Post-Intelligencer plant in Seattle by train, boat, and truck.

⁸ The Audit Report of the Seattle Post-Intelligencer for the 12 months ending March 31, 1936, discloses the following daily and Sunday circulation figures: (See Board's Exhibit No. 5)

STATE	MORNING	SUNDAY
Washington-----	96, 799	172, 798
Idaho-----	2, 375	7, 532
Montana-----	2, 813	15, 523
Oregon-----	655	11, 239
All other States-----	308	310
Alaska-----	108	2, 399
British Columbia-----	1, 201	12, 000

C. Seattle Post-Intelligencer as part of the Hearst chain

The Seattle Post-Intelligencer is a member of The Associated Press,⁹ and uses daily between 100,000 and 150,000 words obtained from that source. It is also supplied with news from other States and foreign countries by International News Service and Universal Service, and uses daily about 40,000 words obtained from each of these sources. In addition to the news thus received, the Seattle Post-Intelligencer is also supplied by International News Service and Universal Service with feature articles, with instructions to editors from executives in the Hearst organization in regard to editorial policy, and with editorials which are frequently signed, sometimes by Hearst. The news and other materials thus received are taken by copy boys from a teletype machine, are scanned by the telegraph editor, and are then submitted to the managing editor for publication.

Advertising matter for both the daily and Sunday editions of the Seattle Post-Intelligencer is solicited and obtained by the Hearst International Advertising Service, a Hearst subsidiary representing all of the Hearst newspapers, with offices in New York and Rochester, New York; Chicago, Illinois; Detroit, Michigan; Cleveland, Ohio; Boston, Massachusetts; Philadelphia, Pennsylvania; Atlanta, Georgia; San Francisco and Los Angeles, California; and Seattle, Washington.¹⁰

In the publication of the Seattle Post-Intelligencer, a great deal of material is used in common with other newspapers of the Hearst organization. Thus, in the daily editions, it is supplied by King Features Syndicate, Inc. with comic strips, cartoons, puzzles, recipes, patterns, the late Arthur Brisbane's column "Today", and special articles on sports, science, Broadway, Wall Street, etiquette, movies, radio, and the like. In addition, it publishes editorials signed by William Randolph Hearst and news features which appear simultaneously in other Hearst papers. The Sunday editions include weekly supplements which form a part of every Hearst Sunday paper, and which are supplied by American Weekly, Inc. and Comic Weekly Corporation, both Hearst subsidiaries. These supplements, including The American Weekly, are published in San Francisco and Los Angeles,

⁹The Associated Press advertises that its news dispatches are sent to 1,376 newspaper members, that it operates 280,000 miles of newswires, and that it possesses the "world's most extensive system of news wires" (Board's Exhibit No 13. See also *In the Matter of The Associated Press and American Newspaper Guild*, Case No C-34, decided May 21, 1936 (1 N L R B 788))

¹⁰An advertisement of the Hearst International Advertising Service recited that "Uniformity in advertising response is the natural result of unity in editorial character and enterprise. Thirty Hearst newspapers pulling in unison for the national advertiser lift sales quickly and irresistably." (See Board's Exhibit No 63. See also Board's Exhibits Nos. 10 and 11.)

California, and are sent to Seattle, Washington, to be included in the Sunday editions of the Seattle Post-Intelligencer.¹¹ Copies which are distributed with the Seattle Post-Intelligencer bear its name.

The American Weekly affords advertisers a nation-wide medium by being published as a weekly supplement in all Hearst Sunday papers,¹² and includes among its important advertisers The American Tobacco Co., Chrysler Corporation, Eastman Kodak Co., General Electric Co., General Motors Corp., Goodyear Tire and Rubber Co., Inc., National Biscuit Co., The Procter and Gamble Co., Schenley Products Co., and The Standard Oil Co. Profits derived from the American Weekly are shared among the carrying papers.¹³

The editorial policies of the Seattle Post-Intelligencer are determined with reference to those of the other Hearst newspapers, and are under the constant supervision of William Randolph Hearst.¹⁴ The uniformity in editorial policy among the Hearst papers was mentioned in an editorial appearing in the Seattle Post-Intelligencer on August 13, 1936, which referred to "the attitude that the Hearst papers have maintained in connection with the Guild", and added that: "The management of the Post-Intelligencer as one of the Hearst Newspapers, is in accord with this position."¹⁵ It was testified at the hearing by Charles Lindeman, the associate publisher, that "suggestions" were received from time to time from Hearst or his secretary, Mr. Willicombe, as to the make-up of the paper. It was also testified by Joseph Corbett, the telegraph editor, that these "suggestions" sometimes took the form of instructions to the editors as to matters of policy and as to the time and manner of appearance of editorials. It appears from the record that these instructions were seldom, if ever, disregarded.

It is evident, therefore, that the Seattle Post-Intelligencer is an integral part of an organization which is nation-wide in its scope and activities. The elaborate network of corporations, so far from

¹¹ See baggage waybills of such shipments from San Francisco, California, to Seattle, Washington. (Board's Exhibit No 22 See also Board's Exhibits Nos 23 and 24)

¹² The American Weekly advertises that, for the six months' period ending March 31, 1934, it had an average weekly circulation of 5,397,157 families, that it is distributed through 17 Hearst Sunday newspapers, and that 67 per cent of its circulation is concentrated in "597 of America's 995 towns and cities of 10,000 population and over". (Board's Exhibit No 9)

¹³ In addition to the centralized services described above, the Hearst organization has a "General Counsel on Labor for Hearst Newspapers", a centralized banking and auditing department, a centralized newsprint supply, centralized engineering services, and centralized legal services (See Board's Exhibit No 63)

¹⁴ The manner in which Hearst supervises the policies of his papers is illustrated in Board's Exhibit No. 27 On August 21, 1936, Hearst, in a signed editorial appearing in the New York American, referred to the Seattle Post-Intelligencer as "my paper". (See Board's Exhibit No 16)

¹⁵ See Board's Exhibit No. 15 The testimony of Charles Lindeman, associate publisher of the Seattle Post-Intelligencer, that the Hearst papers "published more news about the Reds than the usual newspaper" should also be noted

rendering the individual units independent as claimed by the respondents, serves in this instance as a convenient method for the integration of the many elements constituting the vast Hearst enterprises.

The editorial employees and photographers of the Seattle Post-Intelligencer¹⁶ collect and prepare news dispatches and pictures for publication in Seattle, and for the purpose of sale and distribution elsewhere. While much of the material so collected is local in character, it was testified at the hearing that reporters and photographers frequently covered assignments outside of the State of Washington. Copies of the news dispatches prepared by the editorial staff are supplied to The Associated Press, which selects items of general interest and importance for transmission and sale to its members throughout the world. Occasionally, stories of especial interest, such as the account of the Weyerhauser kidnaping, are also supplied to International News Service and Universal Service for distribution to their members. Photographs to be published with news items of general interest are selected by the Seattle Post-Intelligencer on behalf of the Central Press Association, a member of King Features Syndicate, Inc. This work is done by Clifford F. Erickson, the library clerk of the Seattle Post-Intelligencer, who also serves in the course of his duties as the northwest district representative for the Central Press Association. Acting on instructions received from Webster K. Nolan, the Pacific Coast manager of the Central Press Association, Erickson prepares captions for the photographs selected, supervises the preparation of mats of the photographs and captions for the use of the subscribing papers, and designates the list of subscribers to whom the photographs are to be sent.¹⁷ In addition, the photographers of the Seattle Post-Intelligencer, under the supervision of the city editor, take and prepare photographs on behalf of International News Photos, which are supplied to subscribers throughout the United States.¹⁸ They also receive through the mails and prepare photographs taken in other States and in foreign countries, and distribute them to subscribers on behalf of International News Photos. In return for this service, the photographers receive a commission from King Features Syndicate, Inc. However, this work is also a

¹⁶ There are approximately 79 employees in the editorial department, exclusive of office boys and a promotion manager, and approximately seven employees in the photographic department.

¹⁷ The size of the list used varies with the general interest and importance of the news items which the photographs are meant to accompany. The largest list includes subscribers in all parts of the United States except New England, and in Cuba, Mexico, Canada, Alaska, and Hawaii.

¹⁸ It was testified at the hearing that International News Photos was entitled to the use of all photographs taken for the Seattle Post-Intelligencer. The actual selection of the photographs to be serviced is made by the managing or the city editor. The captioning of photographs is done by the photographers themselves, who also select the list of subscribers to whom the photographs are to be sent. The size of the list used depends on the interest or importance of the photographs.

part of their regular employment. It was testified at the hearing by photographer Art French that when he attempted to secure his release from this type of work, he was informed by A. E. Dunning, the managing editor of the Seattle Post-Intelligencer, that "after all, we are all working for the same thing, the Hearst organization, and we must take care of it".

The Board finds that the operations of the respondents occur in the course and current of commerce among the several States and with foreign countries, and that the respondents, their editorial employees and photographers, are directly engaged in such commerce.

II. THE GUILD

The American Newspaper Guild is a national labor organization, affiliated with the American Federation of Labor, with approximately 260 local units among the editorial employees of individual newspapers or press associations throughout the country. It was organized in September, 1933, following a period of acute unrest among editorial and reportorial newspaper employees, due to unsatisfactory conditions of employment, particularly in respect to wages and uncertainty of tenure. The remuneration paid such employees was generally lower than that paid less highly skilled workers in the mechanical departments of newspaper service who were fortified with service contracts, and who suffered less drastic wage cuts. The purpose of the organization, as stated in its Constitution,¹⁹ is "to advance the economic well being of its members, to guarantee greater economic security for its employed and unemployed, to guarantee as far as it is able, constant honesty in the news, to raise the standard of journalism and ethics of the industry, to foster friendly cooperation with all other workers, and to promote industrial unionism in the newspaper industry". Since its organization, the Guild has conducted negotiations with about 44 newspapers, which have been productive of improved working conditions, increased salaries, and other benefits to its members, and have resulted in many cases in the creation of a harmonious working relationship between the respective newspapers and their editorial and reportorial employees.

The Seattle Chapter was organized among the editorial and reportorial employees of the newspapers²⁰ of Seattle, Washington, in January, 1936, and received a charter as The Newspaper Guild of Seattle from the national organization on May 12, 1936. At the time of the hearing, approximately 38 employees of the Seattle Post-Intelligencer were members of the Seattle Chapter.

¹⁹ Board's Exhibit No. 37.

²⁰ The Seattle Post-Intelligencer, The Seattle Daily Times, and The Seattle Star.

III. RELATIONS BETWEEN THE RESPONDENTS AND THE GUILD PRIOR TO THE DISCHARGES

A. *Hostility of the Hearst organization toward the Guild*

The Hearst organization has made public its position in relation to the Guild. In an announcement published in the Seattle Post-Intelligencer on August 13, 1936, it stated:

"The New York World-Telegram, of which Roy W. Howard is editor, has announced that it cannot further discuss or sign any contract with any unit of the American Newspaper Guild.

"In a well written statement, the World-Telegram declares that after a long period of bargaining it found it impossible to reconcile the principles of that newspaper with those of the Guild.

"This statement is in accordance with the attitude that the Hearst papers have maintained in connection with the Guild.

"(The management of the Post-Intelligencer as one of the Hearst newspapers, is in accord with this position.)

"The World-Telegram statement, in part, follows: . . ."

This was also published in other Hearst papers, including the New York Evening Journal, the Pittsburgh Sun-Telegraph, the Baltimore News-Post, the Oakland Post Enquirer, and the San Francisco Call-Bulletin.²¹

B. *The respondents' reaction to the formation of the Seattle Chapter*

The management of the Seattle Post-Intelligencer reacted immediately to the organization of its employees in the Guild, and doggedly set to work to curb its influence and prevent its growth. In May, 1936, Oliver Morris, the city editor, who testified at the hearing that he was opposed to any organization of editorial employees, informed Richard Seller, an editorial employee and the president of the newly organized Seattle Chapter, that he had heard some talk in respect to the formation of a Guild chapter among the employees of the paper, and warned Seller that "members in the Guild would not get anywhere with the Hearst organization because Hearst would never recognize the Guild". He also said that he had "been on the liberal side of the fence himself and found that it did not pay; that there had been union organization of newspaper men begun before, that they had always failed, and the men who joined the unions had landed on

²¹ See Board's Exhibit No. 63. It is not without significance that of five important labor disputes to which the American Newspaper Guild has been a party, three have involved Hearst papers. (See Board's Exhibit No. 69.)

the wrong side of the fence at the end". A few days later, Morris asked Seller whether he had joined the Guild. Seller, who testified that he was afraid to admit his Guild membership because he "knew what was liable to happen, and so did a number of the other people in the Post-Intelligencer office", denied that he was affiliated with the Guild, but admitted that he had attended an organization meeting. Morris then requested the names of the employees who had also attended, and repeated his admonitions in regard to the Guild. Again, after several weeks had elapsed, while Seller was out on an assignment, Morris called him on the telephone, and said: "I don't know whether you want to answer this question or not. You know, you don't have to; but I am asking you for a fair answer. Do you or don't you belong to the Guild?" Seller answered "no", and Morris concluded the conversation by saying: "I told you what I thought about it in the past. I just wanted to find out."

Morris interrogated many of the employees as to their connections with the Guild, and gave full expression to his feeling of hostility toward the organization. He also assumed an unfriendly attitude toward those employees who he discovered were Guild members. This was illustrated in relation to Jack Heise, an employee in the photographic department. Morris had read and enjoyed a number of short stories which Heise had written in his spare moments, and offered to obtain for Heise an additional salary of \$10 a week for their use in the paper. About a week later, on May 15, 1936, Morris learned of Heise's affiliation with the Guild. He thereupon reprimanded Heise, and returned his stories, saying: "I am sorry, we haven't got the space, or the inclination or the money to pay for them." He thereafter avoided Heise. When Heise subsequently requested that Morris allow him to extend his vacation, which had been arranged with the approval of the management, Morris said abruptly: "You are not going on a vacation on June 14th," and refused to discuss the matter further. Heise, incensed, notified Morris that he would leave the paper's employ immediately and asked whether a week's notice would suffice. Morris replied merely, "Yes," and evinced no further interest. At the time of the hearing, Heise was employed by The Seattle Star.

Morris' treatment of Heise represented more than a casual change of heart. Evidencing, on the contrary, his deep feeling in the matter, he had gone to Lynch, the manager of the photographic department, to inform him that "a very bad situation has come up here in your department . . . A member here has joined the American Newspaper Guild". He described Heise to Lynch as a "very promising fellow" whose stories the Post-Intelligencer had considered for publication, but that "We are not going to pay anybody

money here to send East to fight Mr. Hearst with". He then requested Lynch to persuade Heise to resign from the Guild. Lynch replied that he was himself a member of the Guild, whereupon Morris wanted to know "how in hell did . . . (Lynch) ever get mixed up in such an organization". A long discussion followed, during which Morris said: "I am glad you have talked to me about this because . . . we have an espionage system that reaches everywhere." He added, "The newspaper publishers knew every member that belonged to the Guild in Seattle". He then asked Lynch, "Now, who else belongs here besides yourself?", and added, "I hope the boys upstairs don't find out about this, because they are pretty hot about it". He also said that there would be no advancement or pay increases or favors for anyone who belonged to the Guild.

Another employee accosted by Morris in relation to his Guild membership was photographer Art French, who testified that Morris was at first angry and abusive, but later apologetic and cajoling. About a week after the first encounter in which the Guild was discussed, Morris said to French: "Do you know everybody around here likes you . . . If I was you, I would play up to this fellow Sansone (who replaced Lynch as manager of the photographic department) because there is going to be a new manager in this department, and there is going to be good money in it". He added, "I will do all the boosting for you I can, and don't say anything to anybody else". However, in order that French should not mistake his meaning, he also stated: "It was awful foolish belonging to the American Newspaper Guild". French also testified that he overheard a conversation between Morris and A. E. Dunning, the managing editor, wherein Morris said: "By God, they all belong to the American Newspaper Guild," and Dunning replied: "I don't give a damn, we can get a whole new staff from California."

Morris denied some of the foregoing testimony, but admitted the essential features, and testified bluntly that he "was not in favor of the Guild". However, he sought to avoid the consequences of his indiscreet behavior by declaring that his expressions of rancor toward the Guild were simply those of "Oliver Morris", and were made in an entirely unofficial capacity. This is belied by the testimony in regard to the return of Heise's stories, and by Morris' statement to Lynch that there would be no advancement or pay increases to members of the Guild. Even if Morris' contention were believed, the Board has in more than one instance noted the speciousness of this type of argument. In his relations with employees Morris boasted of, and at the hearing admitted, his influence in the determinations of the management in relation to the tenure and salaries of the editorial, reportorial, and photographic staff. It is obvious

that employees, dependent upon the will of the management for the means of their livelihood, must regard the opinions of one in the position of Morris with gravity, especially when expressed with particular vehemence in regard to conditions affecting their employment. It can make no difference that these opinions are called "personal"; employees can as ill afford the "personal" as the "official" hostility of their employers. Examined in any light, therefore, the record discloses that the attempt by Morris to discredit the Guild and to prevent the effective organization of the employees constitutes interference with the rights of the employees guaranteed by Section 7 of the Act. Furthermore, the responsibility for this illegal conduct rests with the respondents engaged in the management and operation of the Seattle Post-Intelligencer.

Other representatives of the management were also active in discouraging Guild activity. Roy Colvin, the day managing editor in charge of personnel, testified at the hearing that he was opposed to the Guild "from the day it was inaugurated", that it was his conviction that those who were backing the Guild were communists and "reds", and that "any newspaper man on any newspaper is very foolish to join the Guild". In June, 1936, Colvin inquired of R. D. Holmes, the librarian of the Seattle Post-Intelligencer and a member of the Executive Committee of the Seattle Chapter of the Guild, how many of the employees in his department were members of the Guild. Holmes informed Colvin that all of them had become members. Colvin then exclaimed that the Guild "was run by a bunch of Reds". There was a long discussion, during which Colvin, in reference to Holmes' membership in the Guild, said: "I think you are misguided, Holmes, and I want you to promise to study this over for a few days and then come back and tell me if you have changed your mind." However, Holmes did not change his mind, and Colvin expressed his disappointment by saying: "I think, Mr. Holmes, that I have misjudged you in the past, because I thought you had a better analytical mind than you seem to have." Colvin's attitude toward Holmes thereafter grew hostile.

On July 16, 1936, Mrs. Marion Stixrood, the Woman's Editor, summoned all of the employees in her department to a meeting, announcing, according to several witnesses, that Lindeman, the associate publisher desired that she should express to them her reasons for not joining the Guild. She then stated that membership in the Guild constituted an act of disloyalty to the management. She added that although employees who desired to join the Guild would not be discharged by the management, they "would have an excellent opportunity for martyrdom" and could expect "no favors, no promotions, and no raises". After the meeting, she gave instructions that

any employee who did not intend to join the Guild should so advise her before the following Saturday.

Both Colvin and Mrs. Stixrood testified that their actions were personal and unrelated to their managerial duties. The force of this contention has already been discussed in relation to a similar claim by Oliver Morris. It is noteworthy, however, that in support of this contention it was testified that their actions were contrary to instructions by Lindeman that the management was not to concern itself with the Guild, and that the employees could do in respect to it as they pleased. There is no evidence that the employees were notified of this alleged guaranty of tolerance. If Lindeman issued such instructions, it is obvious they were unheeded. Moreover, Lindeman was aware of the activities of his subordinates. Mrs. Stixrood testified that after her talk with the employees Lindeman informed her "that he had been told that . . . (she) had intimidated . . . (her) girls", and that "maybe . . . (she) had better give him a little memo on it". Possessed of this knowledge, it was Lindeman's duty, if acting in good faith, to have offset whatever injustice may have been done by offering the employees his unmistakable assurance that there would be no further interference with the exercise of their rights. This he never did. It is not unreasonable to assume, therefore, that Lindeman's attitude was also one of hostility, in keeping with the policy adopted by the entire Hearst organization in regard to the Guild.

The respondents have contended that the Guild is estopped from seeking relief from the Board for the reason that the Guild had been engaged in a boycott of the respondents' business in publishing the Seattle Post-Intelligencer and other papers.²² The respondents have further sought to imply in their testimony in this regard that the Guild was unduly prejudiced against the Hearst organization for reasons unrelated to conditions of employment,²³ and was consequently not functioning in this proceeding as a labor organization. This is not to be taken seriously. It is apparent from the evidence that the alleged prejudice of the Guild toward the Hearst organization is nothing more than the respondents' characterization of the Guild's persistent efforts to organize the editorial employees and to secure recognition from the newspapers of the Hearst chain as the representative of their employees for the purposes of collective bargaining. In the present case, the Guild was engaged in organizing the editorial and photographic employees of the Seattle Post-Intelligencer. This

²² The Guild participated in the boycott instituted by the Milwaukee Chapter during the strike of the Guild members employed by the Hearst-owned Milwaukee Wisconsin News (See Board's Exhibit No 73)

²³ On frequent occasions, the respondents have referred to the leaders of the Guild as Communists.

was certainly within the scope of the activity of a labor organization. Furthermore, it is clear that the right of employees to join a labor organization, guaranteed by the Act, cannot be affected by the participation of that organization in a boycott against the employer. The existence of the boycott is, in fact, an instance of the need of invoking the machinery provided by the Act for the peaceful adjustment of labor disputes.

The Board finds that the respondents in the management and operation of the Seattle Post-Intelligencer have interfered with, restrained, and coerced 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 and other mutual aid and protection.

IV. THE DISCHARGES

During the period described above, the organization of the Seattle Chapter of the Guild was prosecuted with great vigor. Among the active leaders in this undertaking were Frank M. Lynch and Philip Everhardt Armstrong, whose discharges by the Seattle Post-Intelligencer, allegedly for their activity in the Guild, constitute the basis of the complaint in this proceeding. Their cases will now be considered.

Frank M. Lynch was employed as a photographer by the Seattle Post-Intelligencer in 1921, and was made manager of the photographic department in 1925. His ability as a photographer was recognized and praised both by his fellow employees and by the management, and remained unquestioned up to the time of the hearing. He was the highest paid employee in his department, and had received an increase in salary approximately four or five weeks prior to his discharge on July 6, 1936. The reason assigned for his discharge by the respondents was that he had mis-managed his department.

Lynch had been interested in the Guild from its inception, and was an outspoken exponent of its policies. He attended the early meetings of the organization prior to the receipt of its charter, and openly assumed the leadership in the recruiting of new members. Lynch made no effort to conceal his activities from the management, and, as has already been described, revealed his membership in the Guild to Morris. He testified that he offered his resignation to Morris in view of the latter's accusations of disloyalty. About a week or two later, a new manager was installed in the photographic department, and Lynch was informed by Colvin that his increase in salary, which had been granted shortly before his conversation with Morris,

would now be rescinded. His discharge occurred three or four weeks later, when he was abruptly informed that he was no longer needed.

The respondents have testified that the operation of the photographic department under the management of Lynch had long been unsatisfactory, and that repeated efforts had been made over a period of several months to better the quality of the photographic work produced. During this period, there was also an attempt to improve several of the other departments of the paper. The defects in the quality of the photographic work were first noticed by R. V. Edwards, the production manager of the Los Angeles Examiner, who, on February 3, 1936, noted in a letter to Mr. Guild, an official of the Hearst organization, that "In looking over copies of the Post-Intelligencer I am of the opinion that something is radically wrong with the pictorial content of the paper."²⁴ Then followed a complete investigation of the mechanical processes used in the production of pictures in the Post-Intelligencer plant. On May 23, 1936, Lindeman and Colvin went to Los Angeles, California, to discuss the problem with Mr. Van Ettisch, the managing editor of the Los Angeles Examiner. As a result of this meeting, Van Ettisch sent Samuel Sansone, an employee in the photographic department of the Los Angeles Examiner, to investigate the photographic department of the Seattle Post-Intelligencer. Sansone arrived at Seattle on June 6, 1936, and was immediately made manager in place of Lynch. His report to Lindeman, submitted about a week after his arrival, indicated that there had been a great deal of waste in the department, and that a reorganization was desirable. On July 6, 1936, a conference was held in Lindeman's office, attended by Lindeman, Edwards, Sansone, Dunning, Morris, Colvin, and others, but not including Lynch, and it was determined that a reorganization of the photographic department was necessary, and that Lynch should be discharged.

After a careful review of the evidence, it must be concluded that Lynch was discharged because of his activity in the Guild. He had been in the employ of the respondents for 15 years, and the manager of the photographic department for 11½ years. Although it is obvious from the record that there was a waste of materials and some disorder in the disposal of the pictures taken, there can be no doubt that Lynch was conscientious and skillful in his efforts as a photographer. He testified that his department was understaffed, and that there was seldom time to devote much attention to the routine of the office. In any case, the distinction is clear between his position as a manager and his work as a photographer. With the arrival of Sansone, Lynch had already been demoted from the former posi-

²⁴ See Respondents' Exhibit No. 51.

tion, and was employed merely in his capacity as a photographer. The Board is convinced that his ultimate discharge was due to the respondents' displeasure at his refusal to abandon his Guild activities.

Philip Everhardt Armstrong was employed by the Seattle Post-Intelligencer in April, 1919, and was the dramatic editor at the time of his discharge on July 14, 1936. As in the case of Lynch, he became interested in the Guild at the time of its formation, and was one of the charter members of the Seattle Chapter. He was also a member of the executive board. After the discharge of Lynch, Armstrong became increasingly active in organizing the employees of the Seattle Post-Intelligencer.

On July 13, 1936, Armstrong was asked by Colvin to complete his work for the Sunday edition of that week and "to go on vacation Thursday morning". Armstrong, who had been accustomed in the past to take his vacation in August, replied that he was not prepared to leave on such short notice. After considering Colvin's request for some time, and after discussing it with Holmes, Seller, and Erickson, the library clerk of the Seattle Post-Intelligencer and the treasurer of the Seattle Chapter of the Guild, Armstrong concluded "that the vacation was what you might call a euphemism, that . . . (he) was being fired". He testified that in his "years of experience in newspaper work, which covers a quarter of a century, . . . (he had) never heard of an involuntary vacation that did not carry with it dismissal". He therefore informed Colvin that he would rather forego his vacation, and requested Colvin's assurance that the vacation was not in fact intended to be a dismissal. Colvin replied that "to the best of his knowledge it was to be a vacation". Armstrong, still unsatisfied, finally said: "If you make it an order I shall go." Colvin thereupon indicated that he intended his request to have the force of an order, and Armstrong began his preparations for the vacation. However, on the following day, he was notified by Colvin that he was discharged.

The respondents have alleged that Armstrong was discharged for "gross insubordination". They have also introduced evidence to prove that Armstrong was irritable and temperamental, and was an undesirable employee. However, the Board is satisfied that the activity of Armstrong on behalf of the Guild was the cause of his discharge. In viewing the record as a whole, it becomes obvious that all of the testimony in regard to Armstrong must be considered in relation to the respondents' open hostility toward the Guild. Viewed in this light, it is readily observable that Armstrong's conspicuous position as a member of the Guild made him subject to the respondents' severest disapproval. For the same reason, Armstrong, in spite of his 17 years of service, was necessarily uncertain of the

security of his position. The encounter between Armstrong and Colvin thus generated strong feelings on both sides. However, the Board cannot believe that the respondents would have regarded Armstrong's attitude seriously enough to discharge him if they had not been dominated by antagonism towards the Guild. Under the circumstances, therefore, the discharge is attributable to the illegal acts of the respondents rather than to the alleged "insubordination" of Armstrong.

In accordance with the foregoing findings of fact, the Board concludes that the respondents have discriminated with respect to the hire and tenure of employment of Frank M. Lynch and Philip Everhardt Armstrong for the purpose of discouraging membership in the Guild, and have thereby interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed in Section 7 of the Act.

V. EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

On August 13, 1936, after several unsuccessful attempts were made by the Guild to secure the reinstatement of Lynch and Armstrong, a strike was called at the plant of the Seattle Post-Intelligencer. Publication of the paper was immediately suspended, and the plant was completely shut down. The strikers picketed the plant, and were assisted by members of several unions, including those of the teamsters and the longshoremen. Access to the plant was thereby made difficult. In addition, the Guild was supported in the strike by the Seattle Central Labor Council, which placed the Seattle Post-Intelligencer on its unfair list. The Guild newspaper published in Seattle also called upon the public to boycott the papers of the Hearst organization. The strike continued in effect until November 25, 1936, when it was terminated by an agreement of settlement between the Seattle Newspaper Guild and the Seattle Post-Intelligencer. The agreement provided, in part, that "all striking employees shall be returned to work without discrimination or prejudice and without reduction of salaries upon resumption of publication by the Seattle Post-Intelligencer, publication to be resumed within 96 hours after settlement is reached and the Post-Intelligencer is removed from the 'unfair' list of the Seattle Central Labor Council". The agreement also provided that "The cases of Frank Lynch and Philip E. Armstrong will continue in the hands of the National Labor Relations Board."²⁵

During the period of the strike, the servicing and transmittal of news items, features and photographs on behalf of The Associated

²⁵ For the full text of the agreement of settlement, see Respondents' Exhibit No 90

Press and King Features Syndicate, Inc. by the editorial and photographic employees, as hereinbefore described, and the receipt of news, features and supplements for the daily and Sunday editions, were discontinued. Material which was prepared for publication or distribution at the inception of the strike was rendered unusable, due to the picketing of the plant by the strikers and the cessation of publication, and shipments to Seattle, Washington, from San Francisco, California, of supplements which were intended for inclusion in the Sunday editions of that week were consigned instead to a waste paper company.

The acts of the respondents, interfering with, restraining, and coercing their employees in the exercise of their rights, and discriminating in regard to the hire and tenure of employment of Frank M. Lynch and Philip Everhardt Armstrong, have thus led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding the Board finds and concludes as a matter of law:

1. American Newspaper Guild, Seattle Chapter, is a labor organization, within the meaning of Section 2, subdivision (5), of the Act.

2. By discriminating in regard to the hire and tenure of employment of their employees, thereby discouraging membership in the labor organization known as American Newspaper Guild, Seattle Chapter, the respondents have engaged in unfair labor practices, within the meaning of Section 8, subdivision (3), of the Act.

3. 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, subdivision (1), of the Act.

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

ORDER

Upon the basis of the findings of fact and conclusions of law, and pursuant to Section 10, subdivision (c), of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondents William Randolph Hearst, Hearst Publications, Inc., Hearst Consolidated Publications, Inc., Hearst Corporation, Ameri-

can Newspapers, Inc., and King Features Syndicate, Inc., and their officers and agents, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing their employees in the exercise of their rights 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 and other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

2. Cease and desist from in any manner discouraging membership in American Newspaper Guild, Seattle Chapter, or any other labor organization of their employees, by discriminating in regard to hire and tenure of employment or any term or condition of employment, or by threats of such discrimination.

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

(a) Offer to Frank M. Lynch and Philip Everhardt Armstrong, and each of them, immediate and full reinstatement, respectively, to their former positions, without prejudice to their seniority or other rights and privileges previously enjoyed;

(b) Make whole Frank M. Lynch and Philip Everhardt Armstrong, and each of them, for any losses of pay they have suffered by reason of their discharge, by payment to them, respectively, of a sum of money equal to that which each of them would normally have earned as wages during the period from the date of the severance of his employment to the date of such offer of reinstatement, computed at the average weekly wage earned by each at the time of such discharge, less the amounts, if any, which each earned during such period;

(c) Post notices in conspicuous places in the editorial, reportorial, and photographic departments of the Seattle Post-Intelligencer, stating (1) that the respondents will cease and desist as aforesaid, and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.

[SAME TITLE]

AMENDMENT TO DECISION

February 9, 1937

The Board, being duly advised in the premises, hereby amends the Decision in the above entitled case by adding the following additional findings of fact, before the paragraph beginning "In accordance with the foregoing findings of fact . . ." (*supra*, p. 548).

FINDINGS OF FACT

The Board finds that Frank M. Lynch and Philip Everhardt Armstrong were employees of the respondents at the time of their discharge, and ceased work because of the aforementioned unfair labor practices.

CONCLUSIONS OF LAW

On the basis of the foregoing findings of fact the Board makes the following additional conclusions of law:

2: Frank M. Lynch and Philip Everhardt Armstrong were employees of the respondents at the time of their discharge, within the meaning of Section 2, subdivision (3) of the Act.

It is hereby ordered that conclusions of law now numbered 2, 3 and 4, be renumbered 3, 4 and 5.