

In the Matter of C. A. LUND COMPANY and NOVELTY WORKERS UNION,  
LOCAL 1866 (A. F. of L.) SUCCESSOR

In the Matter of CHRISTIAN A. LUND, DOING BUSINESS AS C. A. LUND  
COMPANY AND NORTHLAND SKI MANUFACTURING COMPANY, A COR-  
PORATION, and WOODENWARE WORKERS UNION, LOCAL 20481

In the Matter of C. A. LUND COMPANY and NORTHLAND SKI MANU-  
FACTURING COMPANY and WOODENWARE WORKERS UNION, LOCAL  
20481

*Cases Nos. C-233, C-234, and R-204, respectively.—Decided  
April 5, 1938*

*Sporting and Athletic Goods Manufacturing Industry—Employer:* individual owner of manufacturing plant found to dominate and control corporate owner of similar plant—*Interference, Restraint or Coercion:* observation of union meeting; threat to remove business; threat to discharge employees joining union—*Company-Dominated Union:* fostering, encouraging, and granting immediate recognition of independent union by employer as effort to defeat outside union; list of employees given to men hostile to union by management; plant closed to permit solicitation of membership in office; mayor induced to address employees in favor of independent union; disestablished as agency for collective bargaining—*Discrimination:* discharge of president and secretary of union at height of organizing activities of rival labor organizations; refusal to reinstate for alleged violence—*Strike:* result of employer's unfair labor practices—*Lock-Out—Unit Appropriate for Collective Bargaining:* production employees of both plants; similarity of operations of two plants; unity of interest; transfers of employees; similarity of degree of skill required; absence of wage differentials—*Representatives:* proof of choice: comparison of membership records and pay roll; majority of company-dominated union disregarded—*Collective Bargaining:* refusal to recognize union as representative of employees in both plants—*Reinstatement Ordered:* of discharged employees; of strikers, upon application, dismissing newly hired employees if necessary—*Back Pay:* awarded discharged employees; awarded strikers whose applications for reinstatement are refused by employer—*Petition for Certification:* dismissed because of order to respondents to bargain.

*Mr. Thurlow Smoot, for the Board.*

*Mr. E. S. Stringer, of St. Paul, Minn., for the respondents.*

*Bradford, Cummins & Cummins, by Mr. Mundt Torrison and Mr.  
C. W. Cummins, of St. Paul, Minn., for the Independent Order.*

*Mr. Herbert Fuchs, of counsel to the Board.*

## DECISION

AND

## ORDER

## STATEMENT OF THE CASE

On June 4, 1937, Woodenware Workers Union, Local 20481, herein called the Union, filed with the Regional Director for the Eighteenth Region (Minneapolis, Minnesota) an amended petition alleging that a question affecting commerce had arisen concerning the representation of employees of Christian A. Lund, doing business at Hastings, Minnesota, as C. A. Lund Company, herein called the respondent Lund, and of Northland Ski Manufacturing Company, St. Paul, Minnesota, herein called the respondent Northland, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, herein called the Act. Separate petitions had been filed, on May 13, 1937, by Novelty Workers Union,<sup>1</sup> and on May 25, 1937, by Milton Schumann, on behalf of Independent Order of C. A. Lund Company.<sup>2</sup> On June 2, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

Upon charges and amended charges<sup>3</sup> duly filed by the Union, the Board, by Robert J. Wiener, Acting Regional Director for the Eighteenth Region, issued its complaint dated June 21, 1937, against the respondents, alleging that the respondents had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (2), (3), and (5), and Section 2 (6) and (7) of the Act. The complaint, in substance, alleges that the respondent Lund is engaged, at his plant in Hastings, Minnesota, in the manufacture, sale, and distribution of skis, ski accessories, hockey sticks, toboggans, snowshoes, and similar articles; that the respondent Northland is a corporation, engaged, at its plant in St. Paul, Minnesota, in the manufacture, sale, and distribution of skis, ski accessories, hockey sticks, toboggans, snowshoes, and similar articles; that through

<sup>1</sup> John Janosco, business agent of the Union, testified at the hearing that Novelty Workers Union is not yet set up as a complete organization. A charter has been applied for and granted, and it is contemplated that Novelty Workers Union will be the successor of the Union.

<sup>2</sup> Schumann testified at the hearing that the petition filed by him was intended to be filed on behalf of Independent Order of Ski Workers, the intervenor herein.

<sup>3</sup> The original charges were filed on May 13, 1937, on behalf of Novelty Workers Union, and named only the respondent Lund. On May 28, 1937, the Union filed amended charges against both respondents.

stock ownership the respondent Lund dominates and controls the respondent Northland; that the plants of the two respondents are operated as one unit; and that production workers at the respondents' plants, exclusive of those employees engaged in supervisory and clerical capacities, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

In respect of the unfair labor practices, the complaint further alleges (1) that although a majority of the employees in said unit have designated the Union as their exclusive bargaining agent, the respondents have refused and continue to refuse to bargain collectively with the Union; (2) that on or about March 22, 1937, the respondents discharged Edward Hageman and Sigurd P. Nesseth for the reason that they had joined and assisted the Union and had engaged in concerted activities with other employees of the respondents for the purpose of collective bargaining and other mutual aid and protection, and have refused and continue to refuse to restate them; (3) that the respondents have dominated and interfered with the formation of a labor organization at the Hastings plant known as Independent Order of Ski Workers; and (4) that by the foregoing acts and refusals to act, and by persuading and warning their employees to refrain from becoming or remaining members of the Union, the respondents have interfered with, restrained, and coerced, and continue to interfere with, restrain, and coerce their employees in the exercise of the rights guaranteed by Section 7 of the Act. The complaint and accompanying notice of hearing were duly served upon the parties.

On June 25, 1937, each respondent filed a separate answer. Both answers deny domination and control by the respondent Lund of the respondent Northland, deny the appropriateness of the unit contended for in the complaint, and deny the commission of the unfair labor practices charged in the complaint. The answer of the respondent Lund alleges, in addition, that his employees separately constitute a unit appropriate for the purposes of collective bargaining; that he refused to bargain with the Union because it did not represent a majority of his employees, and because he had entered into an agreement with the Independent Order of Ski Workers which did represent a majority of his employees; and that Sigurd P. Nesseth was discharged for cause, and Edward Hageman was discharged for lack of work. The answer of the respondent Northland alleges that its employees separately constitute a unit appropriate for the purposes of collective bargaining.

On June 29, 1937, the Board, acting pursuant to Article III, Section 10 (c) (2), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered that the cases be consolidated for the purpose of hearing.

Pursuant to notice, a joint hearing upon the petitions and the complaint was held in Minneapolis, Minnesota, on July 6, 7, 8, and 9, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. The Board and the respondents were represented by counsel and participated in the hearing. At the opening of the hearing, the Independent Order of Ski Workers, herein called the Independent Order, filed a petition to intervene. The petition was granted. The Independent Order was represented by counsel and thereupon participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties.

The Board has reviewed the rulings of the Trial Examiner on the motions and objections made during the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On September 4, 1937, the Trial Examiner filed his Intermediate Report. He found that both respondents had engaged in and were engaging in unfair labor practices within the meaning of Sections 8 (1), (3), and (5) and 2 (6) and (7) of the Act, and that the respondent Lund had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (2) of the Act, and recommended that the respondents cease and desist from the unfair labor practices found; that the respondent Lund reinstate and make whole the employees discriminatorily discharged by him, and withdraw recognition from the Independent Order; and that both respondents post notices in their respective plants that they will cease and desist as aforesaid, and notify the Regional Director of the steps taken to comply with these requirements.

Exceptions to the Intermediate Report were thereafter filed by the respondent Lund. The Board has considered these exceptions and finds them without merit.

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

## FINDINGS OF FACT

### I. THE RESPONDENTS

#### A. *The business of the respondents*

The respondent Christian A. Lund has been doing business at a manufacturing plant in Hastings, Minnesota, since 1927 under the name of C. A. Lund Company, and is there engaged in the manufacture, sale, and distribution of skis, ski accessories, hockey sticks, toboggans, and snowshoes. Lumber imported from the States of Arkansas, Oklahoma, Texas, Wisconsin, Indiana, Mississippi, Tennessee, Alabama, and Louisiana constitutes not less than 70 per cent of the

raw materials used at the Hastings plant. In addition, rubber, tonkin, bamboo, rattan, leather, rawhide, enamel, stains, varnish, and shellac enter into the manufacturing processes of this respondent. With the exception of varnish and shellac, which constitute only 2 or 3 per cent of the materials used, all of these materials are purchased outside the State of Minnesota. Approximately 90 per cent of this respondent's finished products are sold outside the State of Minnesota. Gross sales for 1936 amounted to \$332,000 of which \$23,000 was received from sales within the State.

The respondent Northland Ski Manufacturing Company is a Minnesota corporation having its principal place of business and manufacturing plant at St. Paul, Minnesota. It is engaged in the manufacture, sale, and distribution of skis, ski accessories, and toboggans. Lumber imported from the States of Mississippi, Arkansas, Louisiana, Texas, Wisconsin, and Indiana constitutes 70 per cent of the raw materials used by this respondent. Hardware, brass, rubber, leather, bamboo, lacquer, stains, chemicals, cotton goods, and rope, all purchased outside the State of Minnesota, account for another 20 per cent of the raw materials used. Approximately 90 per cent of this respondent's finished products are sold to customers outside the State of Minnesota. Gross sales for 1936 amounted to approximately \$460,000.

Both respondents are among the leading concerns in the ski manufacturing industry. At peak of production the plants run 2 shifts and each employs 130 men.

### *B. The relationship between the respondents*

The Northland Ski Manufacturing Company was incorporated in 1912. In 1913, Christian A. Lund became associated with the business through the purchase of stock. Since 1916 he has been the owner of substantially all the stock of the corporation. At present, he is its president and general manager, and he and members of his immediate family comprise all of its officers, directors, and stockholders. The stock in the corporation is held as follows:

	Class A (voting common)	Class B (nonvoting common)	Class C (nonvoting preferred)
Owned by Christian A. Lund as trustee for members of his immediate family-----	98.4%	99. 0%	24.1%
Owned by Christian A. Lund, individually-----	.4%	.25%	74.8%
Owned by Christian A. Lund's wife and two sons-----	1 2%	.75%	1.1%
Total-----	100.0%	100.0%	100 0%

The trusts of which the respondent Lund is trustee are irrevocable; the trustee has full voting power over the stock and receives all dividends therefrom. This respondent and his sons, Carl F. and Ambrose C. Lund, draw salaries as officers of the corporation. Both sons also draw salaries from their father for services rendered the C. A. Lund Company.

We find that by virtue of stock ownership the respondent Lund dominates and controls the respondent Northland.

## II. THE ORGANIZATIONS INVOLVED

Woodenware Workers Union, Local 20481, is a labor organization. It is affiliated with the American Federation of Labor, and admits to membership all woodenware workers in Minnesota, excluding superintendents and clerical employees.

Independent Order of Ski Workers is an unaffiliated labor organization. It admits to membership employees of the C. A. Lund Company at Hastings, Minnesota.

## III. THE UNFAIR LABOR PRACTICES

### *A. Background of labor relations among the respondent's employees*

The first attempt to organize the respondents' employees was made by the American Federation of Labor, herein referred to as the A. F. of L., in the fall of 1935 at the Northland plant in St. Paul. At the same time an independent union was being organized under the name of Ski Workers Association. A consent election held on October 23, 1935, resulted in victory for the independent union. The respondent Northland and the Ski Workers Association thereupon entered into an oral agreement covering a period of 6 months. Christian A. Lund testified that he had been bargaining with the Association for the past 2 years. There is no evidence, however, that the original agreement was ever renewed or that anything of consequence in the way of collective bargaining was ever attempted or accomplished by the Association. In April 1937, its chairman publicly announced that it had ceased to exist.

On August 29, 1936, about 20 employees in the Northland plant joined the Furniture Workers Union, affiliated with the A. F. of L., and thereafter held regular meetings until late in December. On the occasion of the August 29th meeting, Olson, superintendent of the plant, was observed slowly circling the union hall in an automobile. A few days later the men who had attended the meeting were called before Christian A. Lund who threatened that he would move out of town in the event of any "labor troubles." There is evidence, also, that Lund threatened individual employees with discharge if they

joined the union. By January 1937 most of the men who had joined the Furniture Workers Union had been discharged. The few remaining union members decided against further organizational activities as long as the Hastings plant remained unorganized, and meetings were discontinued. We find that the respondent Northland has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

### *B. Organization of the Union*

Sentiment for a union among the employees of the Hastings plant, which began to manifest itself during February 1937, came to fruition on the night of March 19, when Sigurd P. Nesseth and another worker secured the signatures of 84 men, comprising a majority of the employees of the plant, to a paper professing to favor unionization. The next day, Nesseth and four other workers went to Minneapolis and induced John Janosco, an A. F. of L. organizer who had assisted the Furniture Workers Union's attempt to organize the Northland plant, to agree to go to Hastings and address a meeting. On Sunday evening, March 21, an organization meeting was held at Hastings at which Janosco spoke. About 50 employees signed applications for membership in the Woodenware Workers Union and elected temporary officers. Nesseth was elected president and Edward Hageman, treasurer. The Union was subsequently chartered by the A. F. of L. as Local 20481.

### *C. Organization and recognition of the Independent Order*

On March 20, when Carl Lund learned of the organizing activities of the preceding night, he called a number of supervisory employees into his office, questioned them concerning rumors that a union was being started, and invited them to meet him again on the next day with such further information as they were able to obtain. At 1 o'clock on the following day (a Sunday), the men met Carl Lund at his office. Olaf Skjefstad, plant superintendent, and E. P. Fritts, office manager, as well as Adrian T. Driscoll and Royal F. Sutton, supervisory employees who later figured prominently in the affairs of the inside union, were also present. The testimony as to what was said on this occasion is conflicting. Carl Lund testified that the men present expressed preference for an "official" group over an outside union and asked for the names of all employees so that they might meet and persuade them. A witness for the Board testified that Carl Lund, himself, urged the men to explain to the other workers that he would never recognize the A. F. of L. union. That Lund gave the men lists of the employees working in the respective departments is uncontradicted.

That evening, Driscoll and 20 or 25 other men who had attended the organization meeting of the Woodenware Workers Union gathered in the office of the Hastings plant. They decided to form an inside union, elected Driscoll temporary chairman, and called a meeting for the next evening. Carl Lund, who was still at the office, discussed certain phases of the A. F. of L. meeting with Driscoll. The same evening Lund posted a notice to the effect that the plant would be closed until further notice. He testified that this act was prompted by fear of a sit-down strike.

Men coming to work on Monday morning, March 22, found the plant closed, but the office open. Inside the office they encountered Driscoll and Sutton, in the presence of Carl Lund, Skjefstad, and Fritts, circulating a paper in favor of an independent union.

That evening, the inside union met, adopted the name of Independent Order of Ski Workers, adopted a constitution and bylaws, and elected seven directors, including Driscoll, Sutton, and two other foremen. There is some conflict as to the origin of the constitution adopted by the Independent Order. Witnesses for the intervenor testified that a former employee, absent from the hearing, happened to have a form constitution in his pocket when appointed to the constitution committee. Witnesses for the Board testified that Carl Lund had admitted securing the form and giving it to Driscoll.

On Tuesday, March 23, the plant reopened and Nesseth and Hageman were discharged. In the evening, the directors of the Independent Order met with Christian and Carl Lund and presented demands for recognition, a closed shop, and a wage increase. The Lunds immediately granted recognition of the Independent Order as sole bargaining agent and promised to answer the other demands in 48 hours. Shortly before midnight, Carl Lund escorted Herman A. Fasbender, mayor of Hastings, to the plant and ordered the night foreman to turn off the power. Fasbender thereupon entered the shop and addressed the night crew. He urged them to abandon the A. F. of L. and to fall in with the Lunds' wishes for an inside union.

On Thursday, March 25, the Lunds again met with the directors of the Independent Order, rejected the demand for a closed shop, and granted a partial wage increase for a period ending January 31, 1938. The next day the terms of this oral agreement were posted on the time clock.

Consideration of the events of March 20 through March 25 leads to the inescapable conclusion that the Lunds fostered and encouraged the organization of the Independent Order, and hastened to recognize it in a determined effort to discourage and defeat the formation of the Union. Every step in the organization of the inside Union was dominated by the management. Carl Lund gave the initial



impetus by putting employee lists into the hands of men known to him to be hostile to the A. F. of L. By closing the plant on March 22 and tacitly permitting supervisory employees to solicit signatures in his office, he sped the success of their efforts. The alleged collective bargaining between the Lunds and the Independent Order is most unconvincing. Recognition was granted upon the presentation of a paper reading, "We, the undersigned, are in favor of organizing an independent union", and signed by 97 men, but without proof that any such union in fact existed. The good faith of the act of recognition and of Carl Lund's testimony at the hearing that the efforts of the A. F. of L. had amounted to nothing significant is thrown sharply in doubt by Lund's own testimony that he had feared a sit-down strike of the night crew. Perhaps aware that they had recognized a union with little or no support among the men, the Lunds availed themselves of the influence of the mayor of Hastings to persuade the workers to their point of view,—in itself a flagrant violation of the Act.

We find that the respondent Lund dominated and interfered with the formation and administration of the Independent Order and has contributed support to it, thereby interfering with, restraining, and coercing his employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### *D. The discriminatory discharges*

From some time in the spring of 1936 to and including the night of March 19-20, 1937, Sigurd P. Nesseth worked on ski-shaping machines at the Hastings plant and earned approximately \$95 per month. On the last night of his employment Nesseth burned the head of the machine on which he had been working. The night foreman was near at hand but was unable to state how the machine had been damaged. Nesseth telephoned to Driscoll at his home and requested him to come to the plant and inspect the machine. Driscoll complied, stated that the machine would have to be repaired, but did not indicate that Nesseth had been at fault. The evidence is conflicting as to the condition of the machine before it was damaged. There is testimony that it had previously been broken and that repairs had necessitated changes in operation of which Nesseth had not been apprised. Driscoll testified at the hearing that the damage resulted from Nesseth's neglect. Nesseth finished the night shift doing other work and left the plant on the morning of March 20 without any intimation that he was to blame for the damage. Because the plant was closed on March 22, Nesseth next reported for work on the evening of the twenty-third. He was met by Skjefstad, the superintendent, who told him he was discharged. When Nesseth refused to accept his

check unless given the reason for his discharge, Skjefstad took him to Carl Lund and there told him, "I suppose it is because you burned the head." Nesseth offered to show Lund that the accident had been caused by changes in operation of which he had not been informed, but Lund refused.

Nesseth's work had always been satisfactory. Although the records of the C. A. Lund Company show that his discharge took place on Saturday, March 20, there is no evidence that he was informed of it before he reported for work on the evening of the twenty-third.

Edward Hageman was employed by the C. A. Lund Company on October 7, 1935. He was laid off for lack of work on December 23, 1936, and rehired on February 1, 1937. Although his work record bears the notation "poor", Hageman received three wage increases during the course of his employment. At the time of his discharge he was working at unloading lumber and was earning approximately \$15 per week.

When Hageman reported for work on March 22, the day the plant was closed, Sutton requested him to join the inside union which was then in the process of formation. Hageman refused. During working hours on the following day Driscoll made a similar request of Hageman. Hageman, who had been accused by Driscoll of talking about union matters during working hours, responded by reproaching Driscoll in similar terms. Shortly afterwards, Skjefstad told Hageman that he would be laid off for lack of work. There is testimony to the effect that another carload of lumber was delivered at the plant on the next day.

The words "N. G. Do not rehire" were later added to the work records of both men. Fritts, the office manager, testified that this was done because both had participated in violence before the plant on March 30.

Nesseth and Hageman were active members of the Union. Nesseth had been the leading figure in its organization and was elected president at its first meeting, on March 21. At the same meeting Hageman joined the Union and was elected treasurer. Driscoll, the supervisory employee who became the president of the Independent Order, attended the meeting at which Nesseth and Hageman were elected and discussed it with Carl Lund. It is a significant coincidence that both men were notified of their discharge on the day after the plant had been closed and at the height of the organizing activities of the Union and the Independent Order. It is also peculiar that Skjefstad, the plant superintendent, was unable or unwilling to tell Nesseth the reason for his discharge until supported by the presence of the general manager. The reasons given by the Lunds for discharging these men are contradicted by the fact that at a

number of conferences the Lunds based their refusal to rehire them solely on the charge of violence. The alleged violence consisted of participation in a fight between strikers and non-strikers. There is no evidence that any serious consequences resulted or that Nesseth or Hageman took a prominent part. At the hearing it developed that one worker whose employment record was similarly marked "Do not rehire" for alleged participation in acts of violence had since joined the Independent Order and was once more working at the plant.

The Lunds' frequently expressed hostility to the Union, and their encouragement and speedy recognition of the Independent Order, contribute to the conclusion that Nesseth and Hageman were discharged not for the reasons given by the respondent Lund but for union activities. Neither man has been able to secure steady employment since his discharge.

We find that the respondent Lund discharged Sigurd P. Nesseth and Edward Hageman because they had joined and assisted the Union, thereby discriminating against his employees in regard to hire and tenure of employment and interfering with, restraining, and coercing his employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### *E. The strike*

On the day following the discharge of Nesseth and Hageman, a committee of members of the Union called on Carl Lund and demanded their reinstatement. Lund refused. Between March 25 and March 27, several employees quit work in protest, and on March 28, at a meeting attended by a great majority of the employees, the Union voted unanimously to strike. Next day a picket line was established at the Hastings plant. The plant was open but did not operate. Mayor Fasbender, at the request of the Union, attempted to induce Christian A. Lund to discuss settlement. The mayor testified that Lund said, "I will absolutely not have anything to do whatsoever with any union connected with the A. F. of L., and that is final."

On Tuesday morning, March 30, Driscoll and a number of his followers marched to the plant and a fight ensued between them and the pickets. The Lunds later refused to reinstate several men because of their alleged participation in that fight. Although the testimony leads to the conclusion that Driscoll's men provoked the encounter, this attitude was taken by the Lunds only toward members of the Union, including Nesseth and Hageman, and not toward any member of the Independent Order.

During the next few days, Mayor Fasbender and Harold E. Stassen, County Attorney of Dakota County, Minnesota, attempted to medi-

ate the strike, but Christian A. Lund steadfastly refused to meet the Union. On one occasion he permitted his son, Carl, to meet with a committee limited to employees of the C. A. Lund Company, with the proviso that he refrain from bargaining. When such a meeting took place, Carl Lund reaffirmed his previous stand, and refused to recognize the Union or reinstate the blacklisted employees.

On April 12, a group of strikers from Hastings went to St. Paul and spoke to some of the employees at the Northland plant. Within a few days, most of the Northland workers had joined the Union and gone on strike. The Northland plant closed on April 14 and had not reopened at the time of the hearing. The Hastings plant was closed from the end of March until shortly before the end of June when about 60 men returned to work. At the time of the hearing, the strike had not been settled.

#### *F. The refusal to bargain collectively*

##### *1. The appropriate unit*

The St. Paul plant manufactures higher-priced, better-grade products than does the Hastings plant. It sells primarily to retailers, whereas the products of the Hastings plant are sold to wholesalers. Snowshoes and hockey sticks are manufactured at the Hastings plant exclusively, and approximately 25 per cent of the employees of that plant are engaged in their production. The two plants are 20 miles apart. These are the principal differences between the St. Paul and the Hastings plants.

The record abounds in proofs of the similarity of the operations at the two plants, and of the unity of interest which exists between their managements, on the one hand, and among their employees, on the other. Workers have, from time to time, been transferred between the plants. Joint purchases of raw materials are sometimes received at one plant for both, and a portion is later reshipped. Products partially manufactured at one plant are not infrequently finished at, and shipped from, the other. Although each plant ordinarily uses its own trade-marks, products manufactured at one plant have been sold under the other's mark.

The production employees of both plants, in general, do the same kind of work, requiring approximately the same degree of skill. No appreciable wage differential exists between the plants. All the employees recognize the authority of Christian A. Lund and of his son, Carl. At each plant, the workers are hampered in the exercise of their rights of self-organization and collective bargaining by the threat that union activity will result in the abandonment of that plant and the transfer of its business to the other. Having found (Section I-B, above) that the respondent Lund dominates and controls the respondent Northland, we find that the production employees of both

respondents together, excluding supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit insures to employees of the respondents the full benefit of their right to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

## 2. Representation by the Union of the majority in the appropriate unit

The Union submitted its membership records as proof of its majority. Comparison of the records with the pay roll of the respondent Northland indicates that by April 19, 1937, more than 80 per cent of the employees of that respondent had signed the Union's application cards.

At the Hastings plant, the Union commanded a majority on March 19, when Nesseth secured 84 signatures on its behalf; on March 28, when a majority of the employees voted unanimously to strike; and again on about June 9, when a majority signed a petition favoring the Union. The Union's membership records, compared with the pay roll of the respondent Lund, indicate, also, that by April 19, a majority of the employees of that respondent had signed applications for membership.

On about March 22 and about June 19, Driscoll and Sutton, supervisory employees, secured the signatures of a majority of the Hastings employees to petitions favoring the Independent Order. Having found that the Independent Order was dominated and assisted in its formation by the respondent Lund, we shall disregard these evidences of a majority on the ground that they were obtained through interference and coercion and do not reflect the free will of the employees.

We find that the Union has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining.

## 3. The refusal to bargain

We have seen that by April 19, 1937, the Union had achieved a majority in the appropriate unit. On April 19, a committee of Union men called at the office of Christian A. Lund with a proposed union contract, fixing wages and conditions in both plants, and drawn by a committee of workers from both plants. Lund was absent. The committee left the contract with an office employee who promised to bring it to Lund's attention. On May 26, Lund not having replied, Janosco, the business agent of the Union, sent him a registered letter requesting a meeting with the management. This letter, also, remained unanswered.

On about June 4 a Union committee succeeded in meeting Christian A. Lund in his office in St. Paul. They referred to the Union's pro-

posed contract and asked whether he had any counterproposal to make. Lund stated that the men were always welcome to come and see him, and that he would be glad to discuss the question of working hours. He rejected as unreasonable the proposed wage scale, and flatly refused to recognize the Union as the bargaining agent for employees of both plants. Lund testified at the hearing that he had never bargained with an A. F. of L. union.

We find that the respondents have refused to bargain collectively with the representatives of their employees and that by such refusal the respondents have 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-A above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead and have led to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### THE REMEDY

We have found that Nesseth and Hageman were discriminatorily discharged. They are entitled to reinstatement with back pay.

The strike of the respondents' employees was caused by unfair labor practices. We shall order the respondents, upon application, to offer reinstatement to their former positions to those of their employees who went on strike, dismissing, if necessary, employees hired since the beginning of the strike. Our order will also provide that employees whose application for reinstatement is refused by the respondents in violation of the order herein shall be entitled to back pay accruing from the date of the refusal of the application to the date of reinstatement.

#### THE PETITION

Our findings in Section III-F will serve in lieu of certification of representatives. The petition for investigation and certification of representatives will accordingly be denied.

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. Woodenware Workers Union, Local 20481, and Independent Order of Ski Workers are labor organizations within the meaning of Section 2 (5) of the Act.

2. The respondent, Christian A. Lund, doing business as C. A. Lund Company, by dominating and interfering with the formation and administration of Independent Order of Ski Workers and by contributing support to it, has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (2) of the Act.

3. The respondent Christian A. Lund, doing business as C. A. Lund Company, by discriminating in regard to the hire and tenure of employment of Sigurd P. Nesseth and Edward Hageman, and thereby discouraging membership in Woodenware Workers Union, Local 20481, has engaged in, and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

4. All of the production employees of the respondent Christian A. Lund, doing business as C. A. Lund Company, and of the respondent Northland Ski Manufacturing Company, together, excluding supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

5. By virtue of Section 9 (a) of the Act, Woodenware Workers Union, Local 20481, having been selected as their representative by a majority of the employees in an appropriate unit, was, on April 15, 1937, and at all times thereafter has been, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

6. By refusing to bargain collectively with Woodenware Workers Union, Local 20481, as the exclusive representative of their employees in an appropriate unit, the respondents, Christian A. Lund, doing business as C. A. Lund Company, and Northland Ski Manufacturing Company, have engaged in and are engaging in unfair labor practices, within the meaning of Section 8 (5) of the Act.

7. The respondents Christian A. Lund, doing business as C. A. Lund Company, and Northland Ski Manufacturing Company, by interfering with, restraining, and coercing their employees in the exercise of the rights guaranteed in Section 7 of the Act, have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (1) thereof.

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

### ORDER

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

1. That the respondent, Christian A. Lund, doing business as C. A. Lund Company, his agents, successors, and assigns, cease and

desist from in any manner dominating or interfering with the administration of Independent Order of Ski Workers, or any other labor organization of his employees, and from contributing support to Independent Order of Ski Workers, or to any other labor organization of his employees.

2. That the respondent, Christian A. Lund, doing business as C. A. Lund Company, his agents, successors, and assigns, cease and desist from discouraging membership in Woodenware Workers Union, Local 20481, or any other labor organization of his employees, by discharging or refusing to reinstate any of his employees, or in any other manner discriminating in regard to hire and tenure of employment of any of his employees.

3. That the respondents, Christian A. Lund, doing business as C. A. Lund Company, and Northland Ski Manufacturing Company, their officers, agents, successors, and assigns, cease and desist from refusing to bargain collectively with Woodenware Workers Union, Local 20481, as the exclusive representative of the production employees, excluding supervisory and clerical employees, in their employ.

4. That the respondents, Christian A. Lund, doing business as C. A. Lund Company, and Northland Ski Manufacturing Company, their officers, agents, successors, and assigns, 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 purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

5. That the respondents, Christian A. Lund, doing business as C. A. Lund Company, and Northland Ski Manufacturing Company, their officers, agents, successors, and assigns, take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Woodenware Workers Union, Local 20481, as the exclusive representative of the production employees, exclusive of supervisory and clerical employees, in their employ, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

6. That the respondent Christian A. Lund, doing business as C. A. Lund Company, his agents, successors, and assigns, take the following additional affirmative action, which the Board finds will effectuate the policies of the Act:



(a) Offer Sigurd P. Nesseth and Edward Hageman immediate and full reinstatement to their former positions without prejudice to their seniority and other rights and privileges;

(b) Make whole Sigurd P. Nesseth and Edward Hageman for any loss of pay they have suffered by reason of their discharges, by payment to each of them of a sum of money equal to that which he would normally have earned as wages from March 23, 1937, the date of his discharge, to the date of such offer of reinstatement, less any amount earned by him during such period;

(c) Upon application, offer to those of his employees who were on the pay roll on March 25, 1937, and who went on strike, immediate and full reinstatement to their former positions, without prejudice to their seniority or other rights or privileges, dismissing, if necessary, all persons hired for the first time since March 25, 1937;

(d) Make whole all of his employees who were on the pay roll on March 25, 1937, for any loss they may suffer by reason of any refusal of their application for reinstatement in accordance with paragraph 6 (c) herein, by payment to each of them of a sum equal to that which he would normally have earned as wages during the period from the date of any such refusal of his application to the date of reinstatement, less the amount, if any, which he earned during said period;

(e) Withdraw all recognition from Independent Order of Ski Workers as the representative of any of his employees for the purpose of dealing with this respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, and disestablish Independent Order of Ski Workers as such representative;

(f) Immediately post notices in conspicuous places throughout his plant and maintain such notices for a period of thirty (30) consecutive days stating (1) that this respondent will cease and desist as aforesaid; and (2) that this respondent will withdraw all recognition from Independent Order of Ski Workers as the representative of any of his employees for the purpose of dealing with this respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(g) Notify the Regional Director for the Eighteenth Region in writing within ten (10) days from the date of this order what steps this respondent has taken to comply therewith.

7. That the respondent Northland Ski Manufacturing Company, its agents, successors, and assigns, take the following additional affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Upon application, offer to those of its employees who were on the pay roll on April 14, 1937, and who went on strike, immediate and

full reinstatement to their former positions, without prejudice to their seniority or other rights or privileges, dismissing, if necessary, all persons hired since April 14, 1937;

(b) Make whole all of its employees who were on the pay roll on April 14, 1937, for any loss they may suffer by reason of any refusal of their application for reinstatement in accordance with paragraph 7 (a) herein, by payment to each of them of a sum equal to that which he would normally have earned as wages during the period from the date of any such refusal of his application to the date of reinstatement, less the amount, if any, which he earned during said period;

(c) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of thirty (30) consecutive days stating that this respondent will cease and desist as aforesaid;

(d) Notify the Regional Director for the Eighteenth Region in writing within ten (10) days from the date of this order what steps this respondent has taken to comply herewith.

8. That the complaint, in so far as it alleges that the respondent Northland Ski Manufacturing Company has engaged in unfair labor practices by discriminating in regard to the hire and tenure of Sigurd P. Nesseth and Edward Hageman; or by dominating or interfering with the formation or administration of a labor organization, or contributing support to it, be, and it hereby is, dismissed.

9. That the petition for investigation and certification of representatives be, and it hereby is, dismissed.