

IN the Matter of WHEELING STEEL CORPORATION and THE AMALGAMATED ASSOCIATION OF IRON, STEEL, AND TIN WORKERS OF NORTH AMERICA, NRA LODGE No. 155, GOODWILL LODGE No. 157, ROD & WIRE LODGE No. 158, GOLDEN RULE LODGE No. 161, SERVICE LODGE No. 163

*Case No. C-3.—Decided May 12, 1936*

*Iron and Steel Industry—Employee Representation Plan:* form and operation—*Company-Dominated Union:* domination and interference with formation and administration; financial and other support; initiation and sponsorship; discrimination in favor of in employment, benefits and privileges, conditions of work; coercion to join and attend meetings of; soliciting membership in; disestablished as agency for collective bargaining—*Interference, Restraint or Coercion:* expressed opposition to labor organization, threats of retaliatory action; villifying union and its leaders—*Discrimination:* discharge for refusal to join company-dominated union—*Reinstatement Ordered—Back Pay:* awarded.

*Mr. Robert B. Watts, Mr. A. L. Wirin and Mr. Thomas I. Emerson* for the Board.

*Mr. Earl F. Reed,* of Pittsburgh, Pa., for respondent.

*Mr. Edmund M. Toland,* of Washington, D. C., for General Council and Departmental Councils, Wheeling Steel Corp., Portsmouth Works.

*Mr. Arthur E. Reyman,* of Washington, D. C., for the Amalgamated Lodges.

*Mr. Louis L. Jaffe,* of counsel to the Board.

## DECISION

### STATEMENT OF CASE

On November 27, 1935 N. R. A. Lodge No. 155, Goodwill Lodge No. 157, Rod & Wire Lodge No. 158, Golden Rule Lodge No. 161, and Service Lodge No. 163, hereinafter called the Amalgamated Lodges, of the Amalgamated Association of Iron, Steel, and Tin Workers of North America, hereinafter called the Amalgamated Association, filed with the Board at Washington, D. C., a charge that the Wheeling Steel Corporation of Wheeling, West Virginia, hereinafter called the respondent, had engaged in and was engaging in unfair labor practices contrary to the National Labor Relations Act, approved July 5, 1935. At the same time the Amalgamated Lodges requested permission to file the charge directly with the Board at Washington, pursu-

ant to Article II, Section 35 of National Labor Relations Board Rules and Regulations—Series 1. Such permission was granted. On February 4, 1936, the Board issued a complaint against the respondent alleging that it had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1), (2) and (3) and Section 2, subdivisions (6) and (7) of the Act.

In respect to the unfair labor practices, the complaint alleged that the respondent has given and continues to give financial support to, and dominates and interferes with the administration of certain labor organizations of its employees in its Portsmouth Plant, known as Departmental Councils and the General Council, contrary to Section 8, subdivision (2) of the Act; that the respondent has refused to employ one William Patton because he refused to become a member of one of the aforesaid Departmental Councils and has otherwise discriminated in favor of the Departmental Councils and the General Council and its members, and against the Amalgamated Lodges, the Amalgamated Association and its members, contrary to Section 8, subdivisions (1) and (3) of the Act.

The complaint and accompanying notice of hearing were served on the parties in accordance with Article V of said Rules and Regulations—Series 1. The respondent filed a "Special Appearance and Answer." It admitted that it contributes financial support to the aforesaid Councils, but denied that it interfered with or dominated their administration; admitted that William Patton is not now employed but denied that this was due to his refusal to become a member of a Departmental Council, and denied any discrimination against the Unions, or in favor of the Councils or their members, with respect to terms and tenure of employment. It claimed that the Act is in violation of Article III, Sections 1 and 2 of, and the Fifth and Seventh Amendments to, the Constitution of the United States, and is in any case, inapplicable to it, because neither its business nor labor relations are in or affect interstate commerce. The respondent for these reasons moved to dismiss the proceedings.

On March 9, 1936, a hearing was had at Portsmouth, Ohio, before Walter Wilbur, the Trial Examiner designated by the Board, and testimony was taken. The Departmental Councils and General Council asked leave and were granted permission to intervene. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues was afforded to all parties. By stipulation there was incorporated into the record pages 1 to 180 of the Transcript of Testimony and the accompanying exhibits in Case No. R-1, *In the Matter of Wheeling Steel Corporation* and certain lodges of the Amalgamated Association, being an investiga-

tion as to the representatives of the employees of the respondent at its Portsmouth Plant. Counsel for the respondent objected to the jurisdiction of the Board on the grounds stated in its Special Appearance and Answer, and then withdrew from further participation in the hearing. Counsel for the Departmental Councils participated in the hearing during the examination by the Board of certain officers of those Councils and then withdrew on the ground that the Board was without jurisdiction. The motions to dismiss the proceedings are herewith denied.

A further hearing was held in Washington, D. C., April 2 to April 8, 1936.

The material introduced into this record in connection with the steel industry in general is substantially the same as that *In the Matter of Jones & Laughlin Steel Corporation*, decided by us on April 9, 1936. The findings made in the decision in that case have been adapted to this one.

Upon the evidence adduced at the hearings and from the entire record now before it, including the transcript of the hearings and exhibits introduced, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE RESPONDENT

The respondent manufactures and sells iron and steel and the products thereof. It has 15 plants located in Ohio and West Virginia with assets valued at \$106,531,202.99 as of December 31, 1934; during the year 1934, it employed 15,186 men, had a payroll of \$19,759,347, produced 438,253 gross tons of ore, 1,086,385 net tons of coking coal, 471,940 net tons of heating coal, 840,452 net tons of coke, 445,973 gross tons of pig iron and 876,822 gross tons of ingots, and sold \$48,924,844 worth of products. It has an annual capacity of 959,200 tons of pig iron, 1,500,000 tons of steel, and 974,000 tons of finished hot rolled products. The respondent also prepares and sells a number of by-products, chiefly coke, of which it has an annual capacity of 1,175,000 tons.

The respondent is an integrated vertical unit. It mines iron ore and coal from its own mines. It has ore reserves of 20,000,000 tons; coal reserves sufficient to meet its needs for 100 years. With its barges and other equipment, it takes a part in transporting these materials from the mines in Minnesota, Ohio, West Virginia and Pennsylvania to its plants. There it produces the coke used in reducing the ore; casts the ore into pig iron; converts the pig into a great variety of finished and semi-finished products. During the progress through the plant materials move out again at numerous stages of the process.

Semi-fabricated materials—pig iron, blooms, billets, sheets—go to special steel fabricators for further work; go also for use in other industries such as manufacture of automobiles, food canning. Wire, roofing, pipes, nails, boilers, drums, heaters, go into building and construction. Tie plates, track-metal, tar and creosote—the two latter by-products of the coal to coke process—go to the railroads for operation and maintenance. To insure the nation-wide distribution of its product respondent maintains 14 sales offices and 14 warehouses located all over the United States.

The respondent has aptly characterized this continuous, fluid quality of its whole vast enterprise by its motto "From Mine to Market". Concluding in a Company brochure its description of its business it is said:

"Throughout all processes, . . . the raw material which has come from Wheeling ore mines as ore has never once left the confines of Wheeling plants . . . the many forms of Wheeling steel products are ready for the markets of the world, either to supply a raw material of prescribed character for industry beyond the limits of steel manufacture, or to go directly into use in the hands of the consuming public.

"It is beyond question, . . . that the facilities of the Wheeling Steel Corporation are a combination of every factor necessary to efficient manufacture of sheet products."

The facts relating to the respondent's Portsmouth Plant make more concrete certain aspects of the respondent's activity. This plant is located on the Ohio River upon which the respondent has a harbor. There the respondent's barges carrying coal to the Portsmouth Plant and steel and coke from the plant are unloaded and loaded. The respondent is served by the Norfolk & Western Railroad, which has a terminal directly adjacent to the plant, and by the Baltimore and Ohio Railroad. On the plant's property there is an elaborate system of tracks running through, around, and among the various mills comprising the plant. Over these tracks the respondent operates its own flat cars, hand luggers, gondolas, tanks, locomotives, cranes, and loading apparatus. This equipment is used both for hauling in and out of the plant and among the various units of the plant. The foreign railroad cars are brought to the shipping and receiving points of the plant by the respondent's locomotives and there they are loaded or unloaded by the respondent's employees. Engaged in operating and maintaining the respondent's railway and the loading apparatus are approximately 565 employees. In preparing materials for shipment and in actual loading and unloading approximately 246 more men are employed.

Approximately 80% of the materials coming into the Portsmouth Plant are from outside of Ohio, and 90% of the materials shipped from that plant are consigned to places out of the State. Eighty percent of the business of the Norfolk & Western Railroad and 85% of the business of the Baltimore & Ohio Railroad in Portsmouth, are constituted by shipments to or from the respondent's plant there. If operations at the Portsmouth Plant were interrupted by labor or other difficulties, the Portsmouth business of these interstate carriers would be seriously crippled.

The ramifications of the Wheeling Steel Corporation are, thus, as broadly extended as the nation. It is impossible to isolate the operations of its work in Ohio and West Virginia or to consider them as detached, separate—"local"—phenomena. In practically all respects the business of the respondent shows the characteristics of the steel industry as a whole. This industry had, as of 1934, an investment of \$4,705,976,350. To support its activity 33,000 men mine ore, 44,000 men mine coal, 4,000 men quarry limestone, 16,000 men manufacture coke, 343,000 men manufacture steel, and 83,000 men transport its product. The conception of the industry as a conduit through which materials pass in a continuous stream from mine to consumer, undergoing transformations en route, at the mine, at the mill, at the fabricating plant, until they are delivered to the consumer becomes, for technical and economic reasons, more and more exact.

The steel industry involves enormous movements of materials back and forth across the length and breadth of the nation. Of approximately 25,000,000 tons of ore mined in the United States in 1934, 15,000,000 were mined in Minnesota, 5,000,000 in Michigan, and 2,000,000 in Alabama. These states, on the other hand, accounted for less than 2,000,000 of the 15,686,442 tons of pig iron manufactured in that year. In Pennsylvania, Ohio, Illinois and Indiana, producing 11,285,014 tons of pig iron, only 524,657 tons of ore were mined. Additional iron ore is imported from Cuba and Chile. States producing 9,429,305 tons of pig iron, 55.7% of the total, import all the coal used by them in the manufacture of coke. Of the approximately 114,000 tons of manganese used in the industry, 95,000 tons are imported from Brazil, India, and Russia; the remainder is mined in states of the United States producing little or no pig iron or steel. A great steel company will, for example, dig out and pick up its materials in one state, carry them to its plant in another, there melt them down and fashion them into shapes, transport them out of its plant, itself initiating the rail shipment—sometimes performing all of a water shipment—, further fabricate them at the conclusion of this shipment in still another state, and then deliver them to the customer. This vertical integration of

the entire process through the medium of a single company is typical of a few giant corporations which control the bulk of the steel production in this country. Two corporations, the United States Steel Corporation and the Bethlehem Steel Corporation, have over 50% of the steel capacity of the country. Add to this eight more companies, among them the respondent, and 91% of the nation's capacity is accounted for. This great size is in part an outgrowth of technical forces. It has been estimated that the investment required for the most efficient blast furnace operation is in the neighborhood of \$100,000,000. Vertical integration, a further source of economy, may increase capital requirements. The great capacities thus built up, whatever their causes, require large markets and have molded the steel industry as a whole and in its most important units into a nationwide system.

The device of the "transit rate" for steel products—"transit rates" on numerous products are permitted by the Interstate Commerce Commission—which is used in the steel industry illustrates in particular that processing and fabrication are simply transformations of materials en route in the stream of commerce. Under the transit rate a steel fabricator who buys steel forms from a steel producer at point A, performs on them certain limited work at point B and then ships the product to point C, receives from the railroads the privilege of the through rate from A to C (point B being considered only as a temporary stopping place where service is performed in transit). The great importance of transportation to the steel industry and of the steel industry to the railroads is shown by the fact that 12% of the railroads' freight is attributable to the activity of the steel industry.

An increasingly large part of this activity does not consist in processing goods in the expectation of further sales but is a direct response to the customer's orders. The steel industry is becoming predominantly a special order business. It has been estimated that the industry must be prepared to produce no less than 100,000 variations of the approximately 500 different kinds of steel products. Though no one plant will meet all these needs, it will seek—particularly where it is large—to fill all the demands possible for a plant of its type; it will be ready to provide variations on its staple products. But to carry sufficient inventories of such varieties becomes an increasing burden. Thus, the consumer's order directly initiates particular plant activity and conversely, a breakdown in this activity makes likely stoppage of shipment. This is true of the Portsmouth Plant, where a considerable part of the product is manufactured on special order.

The significance of the special order system, and the ramifying effect of stoppage, are made clearer by an inquiry into the uses of

basic steel products. Steel, of course, is used to a great extent in operations involving further manufacture and transportation. Recent estimates show that about 20% of all steel products are used by the automobile industry. The railroads take nearly 12% of the steel output. Other important uses are food packing—9% ; agricultural implements—5% ; building and fabrication of materials for building—12%. Furthermore, a large pig iron and ingot plant such as Portsmouth will produce semi-finished products to the order of special steel fabricators. A stoppage of steel production hinders normal operations in these many industries which depend on steel.

The price system of the steel industry emphasizes the close relation between shipment and manufacture of the product. We refer to the famous basing point system of quoting prices. "The essence of the multiple basing point system in the steel industry," says the Federal Trade Commission<sup>1</sup> of the price system now in use, "is to be found in its use of a device of calculation whereby buyers of a commodity located at any given point are charged by the industry a definite uniform price for delivery at that point, regardless of the point of shipment . . ." This system enlarges the market in which many companies can compete, since it neutralizes transportation differentials based on differing distances between the plants of competitors and a given customer. It no doubt assists many of the companies in maintaining their great size, their broad structures of distribution, and their high degree of integration. It reveals fully the fact that transportation of the product is not only the final stage of that integration, but one which conditions the extent and nature of the earlier stages. The mining of materials, their transportation to and collection at a point, their transformation there into pig iron, into steel shapes in all stages of finish, their reshipment for further fabrication, for use in railways, automobiles, buildings: all this is one giant, indivisible economic process: it is commerce among the states.

We conclude that the operations of the respondent constitute a continuous flow of trade, traffic, and commerce among the several States.

## II. ORGANIZATION OF THE AMALGAMATED LODGES

Shortly after the passage of the National Industrial Recovery Act (NIRA) in August, 1933, the employees at the Portsmouth Plant held a mass meeting for the purpose of deciding on a collective bargaining agency. A committee of four was chosen to report back on the matter of a choice of organization. C. C. Caudill, general manager of the Portsmouth Plant, and Korn, general superintendent, asked this committee to confer with them. Caudill asked that the committee dis-

<sup>1</sup> Report of Federal Trade Commission to the President with Respect to the Basing Point System, p 2, November 1934.

suade the men from organizing a "bona fide organization", and instead suggest to the men the forming of a company organization; he assured them that he would pay them for time lost from the job in so doing. Shortly after, the men voted to affiliate with the Amalgamated Association. On August 12, 1933, N. R. A. Lodge No. 155 of the Amalgamated Association was organized. Thereafter, were organized the four other lodges of the Amalgamated Association now functioning in the Portsmouth Plant: Goodwill Lodge No. 157, Rod & Wire Lodge No. 158, Golden Rule Lodge No. 161, Service Lodge No. 163. The Constitution of the Amalgamated Association provides that where two or more lodges are active in the same plant there shall be, for the purpose of taking care of any matter which might concern more than one lodge, a joint committee composed of three delegates from each lodge. The Lodges deal with respondent through the medium of such a Joint Committee.

### III. ORGANIZATION OF THE DEPARTMENT COUNCILS

In the summer of 1934 the Portsmouth Plant was shut down. Shortly after a movement was set on foot to organize "local" labor organizations called Departmental Councils, in each of the departments of the plant. One of the earliest to be formed was the Coke Workers Council. This Council was inaugurated by a document signed by 178 employees. This petition addressed to the respondent stated that the undersigned employees in the Coke Works, "desire a better and more direct way of handling matters of wages, etc. We are not satisfied with the present employees representative plan (this plan, long antedating the formation of the Amalgamated Lodges, was practically defunct at the time) and we do not wish any national organization to represent us. . . . Our purpose is to obtain steady work, as good wages as possible, satisfactory working conditions and have peaceful and harmonious relations with our employers." The management, through L. D. Huestis, superintendent of the Coke Plant, acknowledged receipt of the "petition" and expressed itself as very glad to meet with the committee. "We will be glad to render you any assistance you request in the holding of an election." The Coke workers held an election and adopted a constitution and by-laws. The constitution, a very short document, provides for a Board of Directors periodically elected from among the members, regular meetings of the Board of Directors, and the handling of grievances, first through one of the Board of Directors, who will take it up with the respondent, and, if unsuccessful, will refer it to the full Board which will conduct further negotiation. It is also provided that: "The members of the Council will not have to pay any dues, but if at any time the Council should need money for necessary expenses members may be assessed

the amount of the expenses. Members will not have to pay for the cost of elections." By-laws may be amended by a majority vote of the Board of Directors. The plan and structure of the Council, which is typical with minor variations of the other Councils,—all are labor organizations—do not, *per se*, involve participation or control by the employer.

The Coke Workers Council, nevertheless, was in fact established by the respondent and has been and continues to be financially supported by it. The petition during the course of its circulation was kept in the office of one of the coke department foremen. Its purpose was explained to employees by Huestis, the superintendent. The first elections were held in the offices of the department. Voting booths were constructed by the respondent. The constitution and by-laws were presented for approval to Huestis, who had them mimeographed without preliminary presentation to the members. The meetings were held in the plant and attended by company officials, until, when the present Act was passed, it was considered advisable to move the offices to an outside place. The council members were told that they would have preference with respect to work and working conditions. No dues were ever collected. There was never a treasury. Workers who lost time attending the meetings of the Council were paid by the respondent. In July, 1935, Huestis addressing a Council meeting, told the members that they were on the winning side and he would stick by them as long as he could do anything for them.

The histories of the Range Boiler Department and Mechanical Department Councils are practically the same. Both were inaugurated by "petitions" to the respondent, which the respondent graciously acknowledged and granted. In July, 1934, the general foreman of the Range Boiler Department called his foremen together, presented them with the form of petition used in forming the Coke Workers Council, made some changes, and directed the foremen to circulate the petition. The petition provided that there should be no dues and that the respondent should provide a suitable meeting place. The employees wanted "steady work", a reiterated plea, by which it was made clear that the respondent's grace in reopening the plant was directly connected with its employees taking an acceptable stand on the question of organization. Applications for membership were stenciled on the back of certain cost card forms in use by the respondent. One of the Council directors hired a hall for the first meeting; he was reimbursed by the superintendent of the Range Boiler Department. No dues were ever collected; there was no treasury. Yet in January, 1935, this Council ostensibly sent a representative to Washington to protest in a hearing being held by the National Steel Labor Relations Board against the holding of an election asked

for by the Amalgamated Association. This representative was, in fact, sent at the request of the respondent which guaranteed to coach him as a witness. As to the Mechanical Department, Nunmaker, the superintendent, paid an employee during one whole month for circulating a petition for the Council in that department. Cards were printed, membership books bought, a hall hired; yet no dues were ever collected. We do not know the history of all the Councils. In some it appears that dues of 25¢ per month were levied. But there can be no doubt that in the scheme of the Councils as a whole the respondent was the active initiator and the continuous prop.

Once having launched the Departmental Councils or enough of them to serve as models the respondent has continued to care for and foster them. It assists in maintaining a meeting hall in a building in Portsmouth. It permits them the use of its bulletin boards, at the same time denying the use of these bulletin boards to the Union. Foremen bring pressure on the men to join the Departmental Councils. William Patton, for example, after being hired, was asked by his foreman to join the Council so as to make "it 100% for the Company." Patton replied that he did not wish to. "Well", said the foreman, "you will sign it if you work." At the end of his first week, Patton was told that when he was needed again, Lewis (the foreman) would call him. Lewis has never called him. We find that the respondent discriminated against William Patton in regard to hire and tenure of employment in order to encourage membership in a Departmental Council. Men were not only urged to attend, but threatened with consequences if they did not attend Departmental Council meetings. On one occasion the mill was stopped to make it possible for everyone to be present at such a meeting. Company officials appear at these meetings lauding the Councils, and suggesting their antagonism to the Amalgamated Lodges.

That the respondent was and is the motive force activating the whole structure is made clear by the founding of the General Council in May or June of 1935. When the Departmental Councils were being formed, the respondent had suggested in a letter to one of them that there be formed a general council of delegates from all the Departmental Councils to handle matters of plant-wide concern. This suggestion had not met with favor. After the Steel Labor Board in 1935 ordered an election in the plant, the respondent, apparently, revived the idea. To head this General Council, the respondent had in mind an employee, Earl H. Kalb, the president of the Electrical Department Council, who was, in fact, elected president-chairman of the General Council.

The General Council is composed of the presidents of the Departmental Councils. Its by-laws provide that the respondent shall pay

each year to the General Council 50¢ for every employee in the plant eligible to vote, whether he belongs to a Council, to one of the Amalgamated Lodges, or to no labor organization at all. The first payment of \$2,500 was made at the end of June, 1935. The by-laws provide also that the members of the Council shall be paid by the respondent for all time spent on Council business whether or not in negotiation with the respondent; this, since August, 1935, has amounted to a flat monthly payment of \$10 per councilman regardless of work time lost. The money paid into the Council's treasury is controlled by a finance committee which may use and has used the funds for General Council or Departmental Council expenses. The Council holds meetings prior to regular conference with the respondent; elects its officers; and has power to amend its by-laws, except that the respondent has stated that "if there should be any radical change in the Plan by which it should become not fairly representative of the whole body of our employees, we may have to terminate our obligations as to payments to be made to representatives or for expenses, unless such charges are submitted to us and our consent obtained." Edmund M. Toland, the attorney who appeared at the hearing on behalf of the Councils, has given them continuous legal service at least since the formation of the General Council. He it was who transmitted to the respondent the by-laws and constitution of the General Council. Yet Mr. Toland has never rendered a bill for services or made any arrangements for payment with the General Council. We conclude that he has been retained and is paid by the respondent for his work in this connection.

We are convinced that the respondent initiated the formation of the Departmental Councils and the General Council, and that by means of financial support, by favoritism and subtle devices of coercion is sustaining the life of those organizations. It is true that in form they are independent and that the employees may on their own initiative espouse and join such organizations. But from the beginning employee initiative with respect to the organization and perpetuation of the Councils—even assuming any existed—has been determined by fear of the respondent. The power of an employer over the economic life of an employee is felt intensely and directly; and in the case of a company, which like the Wheeling Steel Corporation has a great number of plants—some idle, some running below capacity—this power is enormously increased. The employee is sensitive to each subtle expression of hostility upon the part of one whose good-will is so vital to him, whose power is so unlimited, whose action is so beyond appeal. Prior to the organization of the Councils, the respondent had emphatically declared its antagonism to the Amalgamated. Subsequently, it had let it be understood that the continued operation of the plant depended upon the inauguration of acceptable labor organiza-

tions, which it itself started and in considerable measure supported by money and by favoritism. As a result, the Councils in the minds of the employees are indissolubly linked with the respondent's will and desire.

Simply to order the respondent to cease supporting and interfering with the Councils would not set free the employee's impulse to seek the organization which would most effectively represent him. We cannot completely eliminate the force which the respondent's power exerts upon the employee. But the Councils will, if permitted to continue as representatives, provide the respondent with a device by which its power may now be made effective unobtrusively, almost without further action on its part. Even though he would not have freely chosen the Council as an initial proposition, the employee, once having chosen, may by force of a timorous habit, be held firmly to his choice. The employee must be released from these unlawful compulsions. Consequently the respondent must affirmatively withdraw recognition from the Departmental and General Councils, as organizations for the purpose of collective bargaining upon behalf of its employees.

#### IV. INTERFERENCE WITH UNION ACTIVITY AND DISCRIMINATION

The respondent in organizing and supporting a labor organization has interfered with the rights of its employees. But it has gone further. Its general manager, its superintendents, its foremen consistently and continuously have shown the hostility of the respondent to the Amalgamated Association and the Lodges. A superintendent said that the Amalgamated was "a bunch of high class racketeers." Foremen have been ordered to prefer Council men to union men; a foreman who gave a union man a good job was demoted; Council men received better wage rates than union men doing equivalent work; men were told that it was against the rules of the respondent to join the Amalgamated Lodges and that they must join the Departmental Councils. To an official of a Departmental Council, a general superintendent suggested the wrecking of Lodge headquarters. Men active in union organization were warned and threatened with discharge. Indeed, as has been found above, the respondent warned the men when affiliation with the American Federation of Labor was first suggested that it was absolutely against such an idea. The Amalgamated nevertheless having gained many adherents, the respondent set on foot rival organizations; it let it be felt that membership in these organizations was a test of "loyalty."

We find that the respondent has interfered with, restrained and coerced its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively

through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, and by discrimination in regard to hire and tenure of employment and terms and conditions of employment, and by threats of such discrimination, has encouraged membership in the Departmental Councils and discouraged membership in the Amalgamated Lodges.

In the past, disputes relating to the organizational activities of labor have seriously disrupted operations in the steel industry. There was the great steel strike of 1919 in which it is said more than 360,000 employees went out on strike because the steel companies refused to meet any union representatives whatsoever for the purposes of collective bargaining. Judge Gary of the United States Steel Corporation said at that time that it is "the policy of our corporation not to deal with union labor leaders." Coming to more recent times in this industry, in 1934, 9,844 men suffered a loss of 264,810 man-days of work with consequent serious injury to industry and commerce. We find that the aforesaid acts of the respondent tend 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 the Board makes the following conclusions of law:

1. N. R. A. Lodge No. 155, Goodwill Lodge No. 157, Rod & Wire Lodge No. 158, Golden Rule Lodge No. 161, and Service Lodge No. 163, Amalgamated Association of Iron, Steel and Tin Workers of North America, are labor organizations, within the meaning of Section 2, subdivision (5) of the Act.

2. The Departmental Councils and the General Council are labor organizations, within the meaning of Section 2, subdivision (5) of the Act.

3. By its domination and interference with the administration of the Departmental Councils and the General Council and by contributing financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (2).

4. By its discharge of William Patton for the reason that he refused to join a Departmental Council, the respondent did discriminate in regard to hire and tenure of employment to encourage membership in a labor organization, and by said act did engage in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of said Act.

5. By discriminating in regard to hire and tenure of employment and terms and conditions of employment, and by threats of such discrimination, the respondent did encourage membership in the Departmental Councils, and did discourage membership in the Amalgamated Lodges, and by all said acts and each of them, did engage in and is thereby engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of said Act.

6. By all of the acts set forth in these conclusions of law, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

7. The unfair labor practices in which the respondent has engaged and is engaging are unfair labor practices affecting commerce, within the meaning of Section 2, subdivisions (6) and (7) of the Act.

### ORDER

On the basis of the findings 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 respondent, Wheeling Steel Corporation, and its officers and agents, shall:

1. Cease and desist from in any manner interfering with, restraining or coercing its 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;

2. Cease and desist from encouraging membership in the Departmental Councils or any other labor organization of its employees, or from discouraging membership in the Amalgamated Lodges or any other labor organization of its employees, by discrimination in regard to hire or tenure of employment or any term or condition of employment, or by threats of such discrimination;

3. Cease and desist from in any manner dominating or interfering with the administration of the Departmental Councils or General Council, or any other labor organization of its employees, and from contributing financial or other support to such Councils or any other labor organization of its employees, except that nothing in this paragraph shall prohibit the respondent from permitting its employees to confer with it during working hours without loss of time or pay;

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

(a) Offer to William Patton immediate and full reinstatement, to his former position without prejudice to the rights and privileges previously enjoyed;

(b) Make whole said William Patton for any loss of pay he has suffered by reason of his discharge by payment of a sum of money equal to that which he would have normally earned as wages during the period from the date of his discharge to the date of such offer of reinstatement, less any amounts earned by him during such period;

(c) Withdraw all recognition from the Departmental Councils and the General Council, as representative of its employees, for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(d) Post notices in conspicuous places in each of the yards and shops of the Portsmouth Plant, stating (1) that the Departmental Councils and General Council are so disestablished, and that the respondent will refrain from any recognition thereof; (2) that the respondent will cease and desist in the manner aforesaid; and (3) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.