

In the Matter of THE ASSOCIATED PRESS and AMERICAN NEWSPAPER
GUILD

Case No. C-84.—Decided May 21, 1936

News Collecting and Distributing Agency—Interference, Restraint or Coercion: engendering fear of loss of employment for union membership and activity; expressed opposition to labor organization; denial of right of employees to be represented by non-employees; questioning employees regarding union affiliation—*Discrimination:* transfer; discharge—*Reinstatement Ordered—Back Pay:* awarded.

Mr. David A. Moscovitz for the Board.

Davis, Polk, Wardwell, Gardiner & Reed, of New York City, for respondent. *Mr. William C. Cannon* and *Mr. Harry W. Bissell*, of counsel.

Greenbaum, Wolff & Ernst, of New York City, for the Union. *Mr. Morris L. Ernst* and *Mr. Callman Gottesman*, of counsel.

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

DECISION

STATEMENT OF CASE

On November 7, 1935, Jonathan Eddy, Executive Secretary of the National Executive Board of the American Newspaper Guild, hereinafter referred to as the Guild, filed with the Regional Director for the Second Region a charge that The Associated Press, New York, New York, had engaged in and was engaging in unfair labor practices contrary to the National Labor Relations Act, approved July 5, 1935, hereinafter referred to as the Act. On December 4, 1935, the Board issued a complaint against The Associated Press, hereinafter referred to as respondent. The complaint was signed by the Regional Director for the Second Region, and alleged that respondent 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 alleged in substance that respondent, by its officers and agents, terminated the employment of Morris Watson, an employee in its New York City office, for the reason that he joined and assisted the Guild, a labor organization, and, in particular, The Associated Press unit of the

Guild, hereinafter referred to as the Guild unit, said acts being 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 National Labor Relations Board Rules and Regulations—Series 1. On December 16, 1935, the Board ordered that the hearing in this matter be held in conjunction with a hearing on a question concerning the representation of the editorial employees of respondent in its New York City office, now known as Case No. R-26. The hearing was postponed from time to time,¹ until on April 2, 1936, the Regional Director issued a notice setting the hearing for April 7, 1936 which notice was duly served on the parties. Hearings were held in New York, N. Y., on April 7 and 8, 1936, before a Trial Examiner, Dean Charles E. Clark, of the Yale Law School, designated by order of the Board.

Respondent filed an answer to the complaint, admitting that it had terminated the employment of Morris Watson, but denying that the discharge was based on the fact that he had joined and assisted the Guild. At the hearing counsel for respondent appeared specially and moved that the complaint be dismissed on the grounds that the Act "attempts to regulate matters not within the powers conferred upon Congress by the Constitution of the United States and is in violation of the Tenth Amendment thereto;" that it is in violation of the First Amendment thereto in that, as attempted here to be applied, it abridges the freedom of the press, and is in violation also of the Fifth Amendment thereto. The Trial Examiner overruled the motion in so far as it rested on points "unconnected with interstate commerce". After a showing as to the nature of the activity of respondent, he overruled the motion on all grounds. The ruling is hereby affirmed. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded to all parties.

On April 23, 1936, the Trial Examiner filed an intermediate report finding that respondent had violated the Act in the respect and the manner alleged in the complaint. He recommended that Morris Watson be reinstated to his former position and be made whole for any loss of pay suffered by reason of his discharge after deducting any amounts earned elsewhere.² A copy of the intermediate report was duly served, and respondent was given ten days to comply or file ob-

¹ The postponements were the result of a bill in equity brought by The Associated Press in the United States District Court for the Southern District of New York to enjoin the hearing. The bill was dismissed on April 4, 1936, upon the motion of the Regional Director and Regional Attorney, defendants in the case.

² The Trial Examiner recommended also that respondent cease and desist from refusing to bargain collectively with its editorial employees through the Guild. Since the complaint did not charge respondent with failure to bargain collectively, we shall make no order with respect thereto.

jections. Respondent has neither complied with nor filed objections to the intermediate report.

The Board is in accord with the findings made and conclusions reached by the Trial Examiner in the intermediate report. In the decision already issued in the representation case—No. R-26—many of the findings and conclusions of the Trial Examiner were incorporated. These findings, in so far as appropriate, are also embodied below with the addition of such other of the Trial Examiner's findings and our own as are necessary and appropriate.

Upon the evidence adduced at the hearing and from the entire record before it, including the pleadings filed, the transcript of hearing, the exhibits introduced, and the intermediate report, the Board makes the following:

FINDINGS OF FACT

I. THE ASSOCIATED PRESS

Respondent was organized in 1900 as a membership corporation of the State of New York, being a non-profit association of certain persons who, owning or representing certain newspapers, operated for profit, united in a mutual and cooperative association for the collection and interchange of information and intelligence for publication in the newspapers owned or represented by them. It has at present about 1350 members. Of the 2000 daily newspapers in the United States, approximately 1200 are members of respondent; included among them are newspapers in every State. Respondent has members also in Alaska, Argentina, Bolivia, China, Colombia, Costa Rica, Cuba, Dominican Republic, Dutch West Indies, Ecuador, Guatemala, Hawaii, Mexico, Panama, Paraguay, Peru, Philippines, Puerto Rico, Spain, Uruguay, and Venezuela. Each member is entitled to at least a minimum news service, and each member supplies to respondent local news gathered by him.

Each member of respondent has one vote. However, bonds may be issued up to the aggregate sum of \$500,000, carrying a vote for each \$25 but not to exceed \$1,000 of registered bonds whereon interest is waived; on December 31, 1935, such bonds in the sum of \$235,525 were outstanding, which, being substantially held by the larger newspapers, carried increased voting power to such newspapers to the extent indicated.

The balance sheet of respondent for the year 1935 showed assets of \$2,697,128.80 and income of \$9,404,213.41, an excess of \$141,959.55 over its expenses of \$9,262,253.86. The income, outside of interest amounting to \$63,374.04, consisted exclusively of assessments levied upon its members according to a formula of assessment which, while adjusted to the type and amount of service received, is based fundamentally

upon the plan of distributing the cost of operation among its members in proportion to the population of the community served by each of them.

Advertised statements by respondent contain assertions that "it is the greatest clearing house for news in the world", and that "the revenues reach an annual aggregate of nearly \$10,000,000, while the number of words daily received and transmitted at each of the more important offices is over 200,000, or the equivalent of 125 columns of the average newspaper." These statements were not controverted at the hearing, and the extensive operations of respondent in all parts of the world were amply demonstrated by all the evidence. It appears to be substantially larger than the other competing press agencies in the United States. These others are organized as commercial corporations.

Respondent has in excess of 1,700 employees and an annual pay roll in excess of \$3,000,000.

The principal office of respondent is in New York City. It has its own representatives in important capitals and cities in the United States and in other parts of the world. It has an affiliate, The Associated Press of Great Britain, of which there is a branch office in Paris, whose function it is to obtain news pictures of news events abroad to be supplied to respondent. It also has an affiliate located in Berlin. It has reciprocal arrangements with important news agencies in foreign countries for the interchange of news: with Reuter, the Canadian Press—modeled after respondent—Domei-Tsuchin-Sha, a Japanese news bureau.

Respondent has established division points throughout the United States, each of which is responsible for the collection of news from its territories and for its distribution. These divisions are the Eastern, with headquarters in New York City; the Southern, Atlanta, Georgia; the Central, Chicago, Illinois; the Western, San Francisco, California; and the Southwestern, Kansas City, Missouri. Each division has regional offices and member newspapers reporting to it. In addition, respondent has a special bureau at Washington, D. C., and a Foreign Service, operating from its New York City office with offices, staffs, and correspondents in Africa, Asia, Europe, and Central and South America. The control of news is extremely decentralized or "broken-down." Each collecting agent—regional office, member newspaper, division point—determines the value to other regions, divisions, etc. of each item of news collected by or coming to it and sends it along to other points or distributes it throughout the territory of which it is the key point according to its judgment of its interest for those points. Consequently the individual editorial employee no matter where he may be situated has a measure of responsibility for the effective functioning of the entire system.

The usual method of communication is by "leased wires" (or special service by contract with the Western Union Telegraph Company, the American Telephone & Telegraph Company, and the Pacific Telephone & Telegraph Company) although all forms of communication—telephone, messenger, wireless, mail—are employed. From each division point there stretches out to the East, the West, the North and South, trunk telegraph wires which are the principal intake and feeding lines for the division and which provide inter-divisional communication. Subsidiary regional circuits tie into the primary circuits. As news is received at a division headquarters, it is revised by editorial employees under the direction of supervising editors and then transmitted throughout the division and to the headquarters of other divisions to the extent warranted by the news. Each trunk line is controlled by a "filing editor" who must be aware of the capacity of the line, i. e., the amount of news which he can wire out during his shift—usually eight hours—and the amount of news which his line will be expected to receive; during his shift he is responsible for sending out—"filing"—over his line a "balanced" news report.

Respondent, through itself or its affiliates, also conducts extensive operations in the collection of photographs of persons and events which it transmits to and from Europe and among its members; when the immediate news value of these photographs is gone, they are sold to an agency for eventual use in magazines and other publications.

II. OPERATION OF THE NEW YORK OFFICE; THE EDITORIAL EMPLOYEES

The number of employees in the New York office of respondent, exclusive of the general office executives, is more than 350, and its annual pay roll in that office in excess of \$800,000.

The editorial work in the New York City office of respondent is divided into various departments to facilitate the speedy and efficient operation of its business. An executive news editor, assisted by supervising editors and editorial employees, has general charge of the revision of the news as it is received from the filing editors in immediate charge of the wires to and from various places; and there are other departments or desks covering Foreign, City, Sports, Financial, News Photo, and Feature Service, as well as a morgue or library for retaining items of potential future value.

The filing editors supervise the news as it goes out on trunk or primary circuits and the secondary wires from New York City, including the North wire to New York State and New England and Boston, the South wire to Atlanta, there breaking into subdivided regional extensions, the main West wire (with a parallel wire for

financial, commodity, and money market news) to Kansas City with trunk wires there to the Pacific Coast and the Southwest, a "Metro" wire for the newspapers of Greater New York City, and state wires to New York and Pennsylvania. Such editors determine what news, from the vast amount of copy delivered to them, is to be sent on their respective wires; they supervise its rewriting, as they determine to be desirable for the uses of their respective circuits, and its delivery to teletypewriter operators for transmission over such wires.

The operations described above are carried on in three daily shifts of employees; the day shift from 8:00 A. M. to 4:00 P. M., the night shift from 4:00 P. M. until midnight, and the early shift from midnight until 8:00 A. M.

The operations of the editors and editorial employees require a high degree of skill, for they must be able to determine the news value of items; and to rewrite copy with speed and the utmost accuracy, so that in the case of important news all the work on a particular item may be completed within a few minutes. Thus a story from abroad may be received, rewritten, and sent out over the leased wires in from 12 to 20 minutes, and an unusually important item, such as the death of the King of England, would be sent out in half that time. Less important news is handled in a more leisurely way, but all news is perishable and very quickly becomes valueless for the purposes of respondent as soon as it becomes generally known through competing press agencies or otherwise.

The Feature Service supplies to the member newspapers special stories covering particular events, or recurring features, such as articles on sports or scientific events or surveys of the news. These are often sent out as the product of special staff employees, and published over the "by line" or name of the writer; and such assignments are naturally among those most desired and sought after by the editorial employees.

The mechanical operations of the transmission of news are conducted by the Traffic Department, the employees of which perform no editorial functions and who are not classed as editorial employees. The actual sending of the news by wire is performed by the telegraph companies the use of whose facilities is purchased by the respondent. At the time of the hearing, approximately 157 of the employees in New York City were classified as editorial employees, including reporters and editors engaged in the preparation or revision of news for transmission and distribution in this country and abroad.

The operations of the respondent and of its editorial employees occur in the course and current of commerce among the several States and with foreign countries; are an integral part of the operations of the instrumentalities of such commerce; and constitute commerce among the several States and with foreign countries.

III. THE UNFAIR LABOR PRACTICES

The charge against respondent is that it discharged Morris Watson because he "joined and assisted" the Guild and "engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection."

In 1933 the unrest which had developed among editorial employees and reporters of newspapers had become acute, due to lowering of wages generally and the elimination of various newspapers, notably "The New York World," the sale of which threw many such employees out of work. The remuneration paid such employees was generally lower than that paid less highly skilled workers in the mechanical departments of newspaper service who had been organized in unions, who had had service contracts, and who had suffered less drastic wage cuts.

In view of these conditions the American Newspaper Guild was organized to obtain the benefits of unionization for editorial employees and reporters of press associations and newspapers. It comprised a national organization, of which the New York Newspaper Guild was a branch and of which local units were installed in individual newspapers or press associations in about 70 cities. The Guild is a labor organization.

Watson has been a newspaper man since 1923, serving on various newspapers before he went with respondent. He has been a police reporter, general assignment reporter, motion picture critic, state editor, and picture editor. In 1928 he joined respondent's organization in Chicago. Charles E. Honce was central division news editor in Chicago for respondent. Watson worked there and in Springfield, Illinois, as a reporter and rewrite man. He covered important assignments: the senatorial campaign of J. Hamilton Lewis, the endurance flight of the Hunter brothers, the National Air Show, the court contest of the merger between the Bethlehem Steel Company and the Youngstown Sheet & Tube Company. Charles Honce, who had since been transferred to New York, praised Watson's work and in 1930 secured his transfer to the New York office. There he was given important reportorial assignments. His specialty seems to have been the covering of court trials: the trial of Senator James A. Davis on federal lottery charges, of William Graham and James C. McKay on mail fraud charges. He covered the non-technical angles of the Lenz-Culbertson bridge match. He interviewed important personages: William Bullitt, Ramsay MacDonald, Maxim Litvinoff, J. P. Morgan, he being the only reporter who succeeded at the time in interviewing Mr. Morgan. As a reporter he scored a number of "beats"—i. e. he got stories to the newspaper before anyone else. On a number of these stories respondent received the compliments of

the newspaper world. For his excellent work in this connection, Watson was given a raise in salary. Watson also did a great deal of rewrite work in the office, the Lindbergh kidnaping being among the important stories on which he worked.

Watson joined the Guild at its inception in November, 1933; he was one of the organizers of The Associated Press Guild unit. He became Chairman of the unit; then Treasurer of the New York Guild, and at the same time Vice President for Wiring Services of the American Newspaper Guild, a position which he held at the time of his discharge by respondent. In November, 1933, Watson was a member of a committee which went to Washington to appear before the National Recovery Administration (NRA) hearing on the proposed newspaper code. He urged the administration to impose a code upon the Press Associations as well as on the newspapers. In December he was again in Washington, this time as a delegate to the organizing convention of the Guild. In cooperation with the Commercial Telegraphers Union of North America, he submitted to the NRA a proposed code for the Press Associations. On his return to New York, Elliott, Assistant General Manager of respondent in New York, berated Watson for cooperating with the Telegraphers Union; unionization was "very foolish," he said. Various executives objected to an open letter he wrote on March 27, 1934, to General Johnson, NRA Administrator, criticizing the failure to establish a press association code, which letter was published in the Magazine "Editor and Publisher." Thereafter Elliott talked to him several times to the effect that unionization was not for newspaper men because of the special character of their work, stating on one occasion that he could not understand why a man of Watson's abilities and talent would be interested in a reporters' union; and saying, "You are the best reporter we have"; the General Manager of respondent, Kent Cooper, in the summer of 1934 told Watson he could not give him a foreign assignment so long as he was active in the Guild; in December, 1934, on the occasion of another NRA hearing in Washington, D. C., respondent's executives tried to prevent Watson's going, revoking for a time the permission for leave which had been given and which was ordinarily given under the circumstances, Watson having arranged with his relief man to do his work.

In July, 1934, the Guild unit adopted a resolution sponsored by Watson, addressed to the Guild, asking the Guild to undertake collective bargaining on behalf of the unit. Among the points at issue an important one was the securing of a five-day week for editorial employees, instead of the six-day week then in force.

Thereafter the Guild sent to Frank B. Noyes and Kent Cooper, respondent's president and general manager respectively, formal let-

ters, signed by the executive secretary of the Guild and by Watson, asking for an appointment for the purposes of collective bargaining.

Thereafter the executives of respondent interviewed the editorial employees individually in respect to their Guild connections, and strongly objected to such connections, so that membership of the unit fell off sharply and the collection of dues likewise declined substantially. As a result the unit held a meeting on August 17, 1934, and suspended its request for collective bargaining pending the creation and report of a committee from the unit to discuss the matter with Cooper.

On the following day the committee of the Guild unit met with Cooper, who declined to bargain collectively, stating that he would quit his job rather than bargain with "an outsider"—referring to the Guild—and intimating that, if Guild activities were given up, the five-day week would be granted. He also stated that he had received many letters from respondent's members demanding the discharge of Watson and that every time Watson's "by line" was used on a story it brought protest from the members of The Associated Press because of his Guild activities.

Thereafter, on August 21, 1934, the Guild unit voted to suspend indefinitely its request for collective bargaining at a meeting which was largely attended, because respondent's executives actively worked to induce attendance and in some cases themselves relieved the employees of their duties to that end. The vote was taken against the protest of Watson that the action was a weakening of the Guild, and that the employees would hold the five-day week for only a little while.

Thereupon respondent instituted the five-day week and continued it in force until October 7, 1935.

Thereafter the executives, at staff meetings held for the different shifts of employees, protested the action of the Guild unit in only suspending the request for collective bargaining and not rescinding it, asking the employees if they were not thereby "binding themselves to outsiders and ceasing to be free agents," particularly unless they obtained back their authorizations to bargain collectively, which were held by Watson as an officer of the Guild unit and which he refused to deliver up.

Immediately after these events Watson was transferred to serve as filing editor of the South wire, a position for which he was not fitted either by experience or by temperament, because it involved sitting at a desk all day and did not employ his experience and skill as a reporter and was one where complaints were usual and the people served were difficult to please. The transfer was a punishment for Watson's Guild activities and was so considered by him and by the other employees.

Watson continued his work on the South wire until about January 1, 1935, and performed it satisfactorily, receiving only one complaint: respondent's Atlanta office objected to the prefix "Mrs." used in front of the name of a prominent married Negro woman, stating that they had repeatedly complained of calling a Negro "Mrs." or "Mr."

Watson continued his Guild activities after his transfer, being one of a delegation to call upon President Roosevelt in November, 1934, to request a code for press associations, and in December, 1934, representing the Guild at a code hearing in Washington, D. C., against the protests and objections of respondent, as referred to above.

In January, 1935, a special department or desk was set up in respondent's New York office to handle the copy coming over five special wires from the Hauptmann murder trial in Flemington, New Jersey, and Watson was assigned as head of the desk with one assistant. During the period of about a month while the trial lasted, he had full charge on the day shift of supervising the sending out of news of that trial, which was the most important news event of the period. Watson was asked to assume this important responsibility because respondent at that time had no other available and sufficiently experienced and capable man, and his service in that capacity was much praised by member editors. At the conclusion of the Hauptmann trial and as a result of the difficult and strenuous activities connected therewith, following his harsh and unpleasant experience on the South wire, Watson had an illness in the nature of a breakdown, causing him to take two weeks' leave in addition to his regular vacation period.

Thereafter Watson continued his Guild activities and in the summer of 1935 was spokesman for the Newspaper Guild of New York in attempting to negotiate with the "Brooklyn Eagle," a member newspaper of The Associated Press.

Immediately thereafter Watson was transferred to the early shift, from 12:00 midnight to 8:00 A. M., in spite of the fact that the day city news editor had requested his services for that staff and that by long tradition in respondent's office the day city editor had always his pick of men, since it was the most desired of the positions open to editorial employees. Work on the early shift is not desired, since it is routine activity, without outside assignments of special reporting, along the lines for which Watson had shown himself peculiarly fitted, and particularly unpleasant in the matter of hours for a man who, like Watson, lived with his family. It was customary for respondent to put its less experienced men on the early shift, and the assignment of Watson to it was as punishment for his Guild activities. Watson protested many times against this transfer to his executive news editor, J. M. Kendrick, and asserted that it was punishment for his representation of the "Brooklyn Eagle";

Kendrick denied that he knew of the affair of the "Brooklyn Eagle," but did say that Watson's activities with the Guild had lessened his value to respondent and that, if he had said the things about respondent which Watson had, then he would quit it.

Thereafter Watson served on the early shift until his discharge. Even here he was called upon to handle certain important news items, one being the events wherein the steamer "Dixie" struck a reef and at the same time a hurricane struck Florida, and the other being the death of Senator Huey Long of Louisiana. On both of these the headlines sent in from the local representatives of respondent at the scenes of the news were held unsatisfactory by the news editor; they were rewritten under Watson's direction though credited to the local offices, and as a result the local offices were complimented by respondent's general manager and members upon their handling of the news.

While the story of the "Dixie" was still being reported, Kendrick wrote a note to the acting early editor on official white paper of the kind used to make up personnel records of the employees, and not upon the message paper ordinarily used for general directions to editorial employees, which note stated: "Tell Watson to give it all he has. His work the last two nights has not been up to snuff."

On October 7, 1935, the editorial employees were notified that the five-day week was withdrawn and that a six-day week was effective at once. On October 9, 1935, Watson introduced before the Guild unit a resolution, asking the Guild to begin collective bargaining on behalf of the unit. The resolution recited particularly the fact that the respondent had rescheduled the six-day week without notice to the workers and without affording opportunity for discussion or adjustment; it asserted that an agreement continuing the policy of the five-day week was needed to safeguard the interests of employees and was otherwise fair and equitable. It was resolved that the Guild by its proper committee should act as the exclusive representative of the unit for the purpose of collective bargaining in respect of conditions of employment and particularly in respect of hours of employment. A referendum on the resolution was completed on October 11, 1935. Seventy-two voted on the referendum and the vote was all but unanimous in favor of and adopting the resolution. At the time, the Guild contained about 95 or 96 members.

On October 17, 1935, the Guild, by its National Executive Board (that being the board or committee which, under the constitution of the Guild, was authorized to conduct collective bargaining for guild units), wrote to Kent Cooper, respondent's general manager, referring to the resolution by the unit adopted on October 11, 1935, and asking for an opportunity to "discuss with you the subject of

hours and conditions of employment, with the purpose in view of negotiating a collective agreement.”

This letter was received by respondent the next day, October 18, 1935. Thereupon Watson was discharged, with a month's pay in advance, the executive news editor Kendrick stating to him as the reason, "Because we are dissatisfied with your work, you are dissatisfied with us, and I am convinced that you will be happier elsewhere." Kendrick on that day had recommended to Cooper, respondent's general manager, that Watson be discharged for five reasons, of which the second was, "He is an agitator and disturbs the morale of the staff at a time when we need especially their loyalty and best performance". Cooper had approved the recommendation with the notation, "But solely on grounds of his work not being on a basis for which he has shown capability," with the "But" heavily written in pencil and the "solely" underlined.

Since October 18, 1935, Watson has not been employed by respondent, and has been refused re-employment, although he has been ready, able, and willing to work for respondent. Watson secured work from the Federal Theatre Project of the Works Progress Administration of the United States Government, and was employed by them from November 21, 1935; to the time of the hearing as manager-producer of "The Living Newspaper," at a salary of \$200 a month; whereas his salary paid by respondent prior to November 18, 1935, had been at the rate of \$295 a month.

On October 22, 1935, Cooper replied to the letter of the Guild of October 17, 1935, and stated among other things, that he could not without instructions from his board of directors "consider negotiations with outsiders looking toward such an eventuality as you have suggested." Thereafter further correspondence was had between the attorneys for the Guild and respondent's executives, wherein the former pressed for a hearing to discuss collective bargaining and the latter referred the matter to the meeting of respondent's board of directors to be held in January.

After the discharge of Watson membership in the Guild unit fell off to about 85 and there was a falling off in the collection of dues; at the time of the hearing the membership was increasing and the collection of dues had improved. The reduction in Guild membership was due directly to the opposition of respondent to the Guild activities and the fear of the employees of reprisals for such activities.

We think that it is beyond dispute that Watson was discharged and discriminated against in regard to hire and tenure of employment to discourage membership in the Guild. Respondent did not choose by evidence to rebut the clear implications of the Board's testimony, but chose, rather, to rely on its point that the Board is without jurisdiction

in the premises. We find further that by the discharge of Morris Watson respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

The aforesaid acts of respondent tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce. Watson and the other editorial employees of respondent at its New York office in the activities hereinbefore described were directly engaged in interstate and foreign commerce by facilitating and making possible the flow of news from place to place throughout this country and other countries; and any interference with or cessation of such activities would hamper, impede, and interfere with such commerce.

Any cessation of editorial activities at the New York office would cause a break in the flow of foreign news and of some of the important domestic news and, until such break could be repaired or in some manner overcome, would seriously impede, if not prevent, the issuance of newspapers in all parts of the country. Random daily tests of the dependence of newspapers variously located on respondent's continued service showed a paper in Dayton, Ohio, with nineteen stories and one photograph on its front page credited to respondent; one in Portland, Maine, with eight such stories and one photograph; one in San Francisco, California, with nine such stories; one in Phoenix, Arizona, with eleven such stories; one in Memphis, Tennessee, with twenty-seven such stories; and with each of such papers carrying, in addition to such stories appearing on its front page, many other such stories on other pages.

The facts as to the wide extent and character of respondent's business were presented by the assistant general manager of respondent (produced as a witness at the request of the Board), by documentary evidence, by the allegations of the respondent in its answer and motions in this matter, and by its affidavit in the injunction suit brought to restrain these proceedings. While respondent took no part in the production of evidence referring to the discharge of Watson, nevertheless the documentary and other evidence respecting it was clear and decisive. It is clear that respondent's challenge to these proceedings is based not on any substantial dispute as to the facts, but upon its claim that there are factors peculiar to its business, requiring accuracy in news gathering and freedom of the press, which make the Act inapplicable or invalid with respect to it. Yet the policy of the Act seems clearly applicable to the situation here disclosed; and, pursuant to its policy, accuracy or other requirements of this form of employment would appear not to be hampered, but even promoted by the presence of contented employees under labor relations determined

by the Congress to be generally desirable, and freedom of the press would be facilitated by a freedom of organization granted to its highest skilled, equally with its other, employees.

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

2. Respondent, by discriminating in regard to the hire and tenure of employment of Morris Watson, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

3. Respondent, by interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

4. Such unfair labor practices 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 of fact and conclusions of law and pursuant to Section 10, subdivision (c) of the Act, the Board hereby orders that respondent, The Associated Press, and its officers and agents shall :

1. Cease and desist :

(a) From discouraging membership in the American Newspaper Guild or in any other labor organization of its employees, by discharging, threatening to discharge, or refusing to reinstate any of its employees for joining the Guild or any other labor organization of its employees; and

(b) From in any other manner discriminating against any of its employees in regard to hire or tenure of employment or any term or condition of employment for joining the Guild or any other labor organization of its employees; and

(c) From in any other 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. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer to Morris Watson immediate and full reinstatement, to his former position, without prejudice to any rights and privileges previously enjoyed by him.

(b) Make whole said Morris Watson for any loss of pay he has suffered by reason of his discharge, by payment to him of a sum of money equal to that which he would normally have earned from the date of his discharge to the date of offer of reinstatement, computed at the rate of \$295 per month, less the amount earned by him in that period.

(c) Post immediately notices to its employees in its New York office stating (1) that respondent will cease and desist in the manner aforesaid, and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.