CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1936.

NATIONAL LABOR RELATIONS BOARD *v.* JONES & LAUGHLIN STEEL CORP.*

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

No. 419. Argued February 10, 11, 1937.—Decided April 12, 1937.

1. The distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our federal form of government. P. 29.
2. The validity of provisions which, considered by themselves, are constitutional, *held* not affected by general and ambiguous declarations in the same statute. P. 30.
3. An interpretation which conforms a statute to the Constitution must be preferred to another which would render it unconstitutional or of doubtful validity. P. 30.
4. Acts which directly burden or obstruct interstate or foreign commerce, or its free flow, are within the reach of the congressional

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* No. 419, *National Labor Relations Board* v. *Jones & Laughlin Steel Corp.*; Nos. 420 and 421, *National Labor Relations Board* v. *Fruehauf Trailer Co., post,* p. 49; Nos. 422 and 423, *National Labor Relations Board* v. *Friedman-Harry Marks Clothing Co., post,* p. 58; No. 365, *Associated Press* v. *National Labor Relations Board, post,* p. 103; and No. 469, *Washington, Virginia & Maryland Coach Co.* v. *National Labor Relations Board, post,* p. 142, which are known as the "Labor Board Cases," were disposed of in five separate opinions. The dissenting opinion, *post,* p. 76, applies to Nos. 419, 420 and 421, and 422 and 423. The dissenting opinion, *post,* p. 133, applies to No. 365. The opinion in No. 469 was unanimous.

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power; and this includes acts, having that effect, which grow out of labor disputes. P. 31.

5. Employees in industry have a fundamental right to organize and select representatives of their own choosing for collective bargaining; and discrimination or coercion upon the part of their employer to prevent the free exercise of this right is a proper subject for condemnation by competent legislative authority. P. 33.
6. The congressional authority to protect interstate commerce from burdens and obstructions is not limited to transactions which can be deemed to be an essential part of a "flow" of such commerce. Pp. 34–36.
7. Although activities may be intrastate in character when separately considered, if they have such a close and substantial relation to interstate commerce that their control is essential, or appropriate, to protect that commerce from burdens and obstructions, Congress has the power to exercise that control. P. 37.
8. This power must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them would, in view of our complex society, effectually obliterate the distinction between what is national and what is local and create a completely centralized government. The question is necessarily one of degree. P. 37.
9. Whatever amounts to more or less constant practice, and threatens to obstruct or unduly to burden the freedom of interstate commerce, is within the regulatory power of Congress under the commerce clause; and it is primarily for Congress to consider and decide the fact of the danger and meet it. P. 37.
10. The close and intimate effect which brings the subject within the reach of federal power may be due to activities in relation to productive industry, although the industry when separately viewed is local. P. 38.
11. The relation to interstate commerce of the manufacturing enterprise involved in this case was such that a stoppage of its operations by industrial strife would have an immediate, direct and paralyzing effect upon interstate commerce. Therefore Congress had constitutional authority, for the protection of interstate commerce, to safeguard the right of the employees in the manufacturing plant to self-organization and free choice of their representatives for collective bargaining. P. 41.

1 Syllabus.

Judicial notice is taken of the facts that the recognition of the right of employees to self-organization and to have representatives of their own choosing for the purpose of collective bargaining is often an essential condition of industrial peace, and that refusal to confer and negotiate has been one of the most prolific causes of strife.

12. The National Labor Relations Act of July 5, 1935, empowers the National Labor Relations Board to prevent any person from engaging in unfair labor practices "affecting commerce"; its definition of "commerce" (aside from commerce within a territory or the District of Columbia) is such as to include only interstate and foreign commerce; and the term "affecting commerce" it defines as meaning "in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce." The "unfair labor practices," as defined by the Act and involved in this case, are restraint or coercion of employees in their rights to self-organization and to bargain collectively through representatives of their own choosing, and discrimination against them in regard to hire or tenure of employment for the purpose of encouraging or discouraging membership in any labor organization. §§ 7 and 8. The Act (§ 9a) declares that representatives, for the purpose of collective bargaining, of the majority of the employees in an appropriate unit shall be the exclusive representatives of all the employees in that unit; but that any individual employee or a group of employees shall have the right at any time to present grievances to their employer. *Held:*

(1) That in safeguarding rights of employees and empowering the Board, the statute, in so far as involved in the present case, confines itself to such control of the industrial relationship as may be constitutionally exercised by Congress to prevent burden or obstruction to interstate or foreign commerce arising from industrial disputes. P. 43.

(2) The Act imposes upon the employer the duty of conferring and negotiating with the authorized representatives of the employees for the purpose of settling a labor dispute; but it does not preclude such individual contracts as the employer may elect to make directly with individual employees. P. 44.

(3) The Act does not compel agreements between employers and employees. Its theory is that free opportunity for negotiation

with accredited representatives of employees is likely to promote industrial peace and may bring about the adjustments and agreements which the Act in itself does not attempt to compel. P. 45.

(4) The Act does not interfere with the normal right of the employer to hire, or with the right of discharge when exercised for other reasons than intimidation and coercion; and what is the true reason in this regard is left the subject of investigation in each case with full opportunity to show the facts. P. 45.

13. A corporation which manufactured iron and steel products in its factories in Pennsylvania from raw materials most of which it brought in from other States, and which shipped 75% of the manufactured products out of Pennsylvania and disposed of them throughout this country and in Canada, was required by orders of the National Labor Relations Board to tender reinstatement to men who had been employed in one of the factories but were discharged because of their union activities and for the purpose of discouraging union membership. The orders further required that the company make good the pay the men had lost through their discharge, and that it desist from discriminating against members of the union, with regard to hire and tenure of employment, and from interfering by coercion with the self-organization of its employees in the plant. *Held* that the orders were authorized by the National Labor Relations Act, and that the Act is constitutional as thus applied to the company. Pp. 30, 32, 34, 41.

14. The right of employers to conduct their own business is not arbitrarily restrained by regulations that merely protect the correlative rights of their employees to organize for the purpose of securing the redress of grievances and of promoting agreements with employers relating to rates of pay and conditions of work. P. 43.

15. The fact that the National Labor Relations Act subjects the employer to supervision and restraint and leaves untouched the abuses for which employees may be responsible, and fails to provide a more comprehensive plan, with better assurance of fairness to both sides and with increased chances of success in bringing about equitable solutions of industrial disputes affecting interstate commerce, does not affect its validity. The question is as to the power of Congress, not as to its policy; and legislative authority, exerted within its proper field, need not embrace all the evils within its reach. P. 46.

16. The National Labor Relations Act establishes standards to which the Board must conform. There must be complaint, notice and hearing. The Board must receive evidence and make findings. These findings as to the facts are to be conclusive, but only if supported by evidence. The order of the Board is subject to review by the designated court; and only when sustained by the court may the order be enforced. Upon that review all questions of the jurisdiction of the Board and the regularity of its proceedings, all questions of constitutional right or statutory authority, are open to examination by the court. These procedural provisions afford adequate opportunity to secure judicial protection against arbitrary action, in accordance with the well-settled rules applicable to administrative agencies set up by Congress to aid in the enforcement of valid legislation. P. 47.
17. The provision of the National Labor Relations Act, § 10 (c), authorizing the Board to require the reinstatement of employees found to have been discharged because of their union activity or for the purpose of discouraging membership in the union, is valid. P. 47.
18. The provision of the Act, § 10 (c), that the Board, in requiring reinstatement, may direct the payment of wages for the time lost by the discharge, less amounts earned by the employee during that period, does not contravene the provisions of the Seventh Amendment with respect to jury trial in suits at common law. P. 48.

83 F. (2d) 998, reversed.

CERTIORARI, 299 U. S. 534, to review a decree of the Circuit Court of Appeals declining to enforce an order of the National Labor Relations Board.

Mr. J. Warren Madden and *Solicitor General Reed*, with whom *Attorney General Cummings* and *Messrs. Charles E. Wyzanski, Jr., Charles A. Horsky, A. H. Feller, Charles Fahy, Robert B. Watts, Philip Levy,* and *Malcolm F. Halliday* were on the brief, for petitioner.*

* Arguments in this case are summarized from the briefs. Extracts from the oral arguments in this and in other Labor Act cases immediately following will appear in an appendix in the bound volume.

The National Labor Relations Act is an exercise of the power of Congress to protect interstate commerce from injuries caused by industrial strife.

Before this statute was enacted experience had shown that industrial strife was a recurrent burden upon the interstate commerce of the nation. Not only in its totality had such strife produced obstructions to commerce, but also in many individual instances such strife eventuated in conspiracies to restrain commerce or imposed such substantial burdens upon it that penalties or injunctions were applied under the Sherman Act. These facts are clearly shown by a survey of the results of individual disputes, the statistics with regard to the total number of such disputes, and repeated federal activities in connection with industrial strife.

Congress, in dealing with this evil of industrial strife, might have approached the problem in either of two ways. It might have enacted a statute designed to remove the burden on interstate commerce after it had evinced itself in a particular case, as the Sherman Act did; or, it might have enacted a statute to deal with the causes of the burden in anticipation of their probable effect, as the Packers and Stockyards Act did. Congressional power to enact this second type of statute (hereinafter called the preventive power) extends at least as far as the power to enact a statute to control the burden after its appearance (hereinafter called the control power). *Stafford* v. *Wallace,* 258 U. S. 495, 525.

The National Labor Relations Act, which is an exercise of this preventive power, does not attempt to eliminate causes of strife in *all* enterprises. The statute and the mandate addressd to the administrative Board are specifically directed to the elimination of the proscribed practices only when they are found to be "affecting commerce." § 10 (a). This phrase "affecting commerce"

is defined in § 2 (7) of the statute as "in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce." These words are plainly patterned upon language used in decisions of this Court in cases arising under other statutes enacted by Congress under the commerce power. This jurisdictional limitation is manifestly a direction to the Board to exercise the national power within the limits permitted by the Constitution. In other words, Congress has taken as the ambit of this particular preventive statute the boundaries to which it would be restricted were it exercising to the full its control power under appropriate legislation.

Of course, in eliminating these proscribed practices in situations which are likely to come within the control power of Congress, the application of the Act will upon occasion result in the prohibition of activities which, even if allowed to spend their force, would not result in industrial strife which did in fact come within the federal control power. But, provided that when the practice was indulged in there was a reasonable likelihood that any industrial strife which resulted would be within the control power, the Board may apply the preventive measure. To hold otherwise would deprive Congress of any preventive power, since no one can predict with absolute accuracy, in advance of the complete development of the effects of a cause, exactly what those effects will be. Compare *Stafford* v. *Wallace,* 258 U. S. 495; *Chicago Board of Trade* v. *Olsen,* 262 U. S. 1. This lack of predictability is particularly true of industrial strife. Moreover, in eliminating the cause of an evil within the power of Congress, the Act may on occasion eliminate the cause of purely local evils. Indeed, this is almost inevitable, since a single event has multiple consequences.

Yet plainly the existence of a granted federal power cannot be limited by the collateral consequences of its exercise. *Ashwander* v. *Tennessee Valley Authority,* 297 U. S. 288.

The foregoing epitome of the statutory scheme makes it clear that the question of the validity of a specific application of the statute depends upon whether industrial strife resulting from the practices in the particular enterprise under consideration would be of the character which the federal power could control if it occurred. The question of primary importance therefore is the extent of the federal power of control. Since the language of this statute does not go beyond the ambit of this power, whatever it may be, the statute is clearly constitutional on its face, and the only issue is whether it has been constitutionally applied.

This Court has never had occasion to define the full extent to which industrial strife in the manufacturing, producing, or processing divisions of an enterprise engaged extensively in interstate commerce may be subjected to the exercise of the control power of Congress. It has, however, held that certain situations in these divisions are clearly within the control power, and has further laid down general principles which furnish standards for the proper appreciation of the full scope of that power.

It is well settled that an industrial dispute in such an enterprise involving an intent to affect commerce is within the control power of Congress. *United Mine Workers* v. *Coronado Coal Co.,* 259 U. S. 344; *Bedford Cut Stone Co.* v. *Stone Cutters' Assn.,* 274 U. S. 37; *Duplex Printing Co.* v. *Deering,* 254 U. S. 443; *Loewe* v. *Lawlor,* 208 U. S. 274. Consequently, where the situation in a particular enterprise presents a reasonable likelihood that industrial strife, if it occurred, would involve

an intent to affect commerce, the Board can apply the statute to that enterprise.

This Court has also recognized the principle that an industrial dispute having the necessary effect of substantially burdening commerce would be within the control power of Congress. *Industrial Association* v. *United States,* 268 U. S. 64, 81; *United Mine Workers* v. *Coronado Coal Co.,* 259 U. S. 344, 410–411. Hence, the statute is applicable to an enterprise which is shown by evidence before the Board to be of such a character that strife, if it occurred, would have such a necessary effect. The proper application of the statute to such situations depends, of course, on the precise scope of the "necessary effect" principle. Although the Court has recognized the principle it has not heretofore had occasion to define it.

Lastly, the scope of the control power extends to recurring evils which in their totality constitute a burden on interstate commerce. This Court has stated that such recurrent evils may, after appropriate findings, be subjected by Congress to national supervision and restraint. *Stafford* v. *Wallace,* 258 U. S. 495; *Chicago Board of Trade* v. *Olsen,* 262 U. S. 1. This principle extends to industrial strife in enterprises which receive a substantial part of their raw material from, or ship a substantial part of their products in, interstate commerce. *United Mine Workers* v. *Coronado Coal Co.,* 259 U. S. 344, 408; *United Leather Workers* v. *Herkert & Meisel Trunk Co.,* 265 U. S. 457, 469; *Texas & New Orleans R. Co.* v. *Brotherhood of Railway Clerks,* 281 U. S. 548. Here Congress has found, and experience shows, that industrial strife in such enterprises constitutes such a recurring evil. Under this view of the control power the statute may be applied to the individual instances of this recurring burden—that is, to any enterprise which

receives a substantial part of its materials from, or ships a substantial part of its products in, interstate commerce, and is dependent upon such commerce for the successful conduct of its business.

We believe that the instant case falls within each of these three situations in which the control power of Congress may be exercised.

The reasonable likelihood of a controversy with the intent to affect commerce might be demonstrated in either of two ways: First, evidence might be presented to the Board that in a particular situation the intent already exists; or second, evidence might be presented to the Board that the situation was comparable to, and of the same general type as, others out of which in the past there had evolved controversies with intent to affect commerce, or that in the particular situation confronting the Board, such definite intention might reasonably be expected to develop. In the case at bar it is not claimed that there is evidence of the first sort; but there is abundant evidence that the situation is fraught with the risk that after strife developed it would involve the purpose to curtail the movement of goods in commerce.

As previously stated, the Court has not yet determined the exact scope of the phrase "necessary effect of substantially burdening commerce." It undeniably includes situations in which the participants cannot be charged with a conscious specific desire to interrupt commerce. *United States* v. *Patten,* 226 U. S. 525. The statements of this Court make it clear that the application of this principle may depend upon the magnitude of the effect on commerce. The possible use of such a standard is entirely consistent with *Carter* v. *Carter Coal Co.,* 298 U. S. 238. Three possible definitions of the scope of the "necessary effect" principle may be advanced: (1) a necessary effect on commerce results from industrial strife occurring in

an enterprise which lies within a well-defined stream or flow of commerce, or (2) a necessary effect on commerce results from industrial strife which restrains a substantial part of all the commerce in a particular commodity, or (3) a necessary effect on commerce results from industrial strife which restrains the movement of a substantial volume of goods which would otherwise move in interstate commerce. The instant case falls within all three of these aspects of the principle, but this brief addresses particular attention to the first and second.

Neither *Schechter Corp.* v. *United States,* 295 U. S. 495, nor *Carter* v. *Carter Coal Co.,* 298 U. S. 238, is here applicable. In the *Schechter* case it was urged that wages and hours in local industry bore a relation to interstate commerce by reason of an intricate chain of economic causes and effects. An effect on commerce which occurred in such a manner the Court characterized as indirect. The Act involved in the *Carter* case had as its purpose the "stabilizing" of the bituminous coal industry through regulation of prices and wages. The effect of wage cutting on interstate commerce was held to be indirect on the basis of the *Schechter* case. The collective bargaining provisions of that Act were, as is clear from the face of the statute and from the opinion of the Court, ancillary to the wage fixing provisions and furnished the means through which regulations with respect to wages having the force of law were to be arrived at. On the other hand, the National Labor Relations Act is designed solely to eliminate the burden on interstate commerce caused by industrial strife. Such strife constitutes an interruption to commerce operating directly without "an efficient intervening agency or condition." Thus it deals with matters closely connected with commerce, does not go beyond what is necessary for the protection of commerce, and does not attempt "a broad regulation of industry within the State."

Mr. Earl F. Reed, with whom *Messrs. Charles Rosen* and *W. D. Evans* were on the brief, for respondent.

The respondent contends that the National Labor Relations Act is, in reality, a regulation of labor relations, and not of interstate commerce, and that, as a consequence, it is not within the power of Congress to enact. Even if it should be considered a true regulation of interstate commerce, it still has no application to the respondent's relations with its production employees, because they are not subject to regulation by the Federal Government. In addition, the provisions of the Act which the petitioner seeks to apply in the present cases are invalid, because they violate § 2 of Art. III of the Constitution, as well as the Fifth and Seventh Amendments.

The respondent is a corporation engaged in the manufacture of iron and steel products. In this connection, it owns and operates a large steel plant at Aliquippa, Pennsylvania, in which are employed approximately ten thousand men. The present case is, in reality, a controversy between ten individuals who were formerly employed by the respondent in production work at this plant, and the respondent. These individuals, with three others, filed a complaint with the petitioner, the National Labor Relations Board, charging that they had been discharged or demoted by the respondent because of union affiliations. The respondent objected to the jurisdiction of the petitioner, but its motion to dismiss was overruled and the petitioner, after hearing, determined that the complainants had been wrongfully discharged and ordered their immediate restoration, with compensation for lost pay.

The petitioner has endeavored to justify its assumption of jurisdiction over the respondent's employment relations, by making a finding that the respondent has en-

gaged in unfair labor practices "affecting commerce" within the definition of the National Labor Relations Act. The respondent insists that the facts upon which this "finding" pretends to be based are, in law, insufficient to justify any such conclusion, and that this Court is entitled to reëxamine the facts for the purpose of determining the jurisdictional issue. *Crowell* v. *Benson,* 285 U. S. 22; *St. Joseph Stock Yards* v. *United States,* 298 U. S. 38.

The National Labor Relations Act is not a true regulation of interstate commerce.

The power of Congress is clearly defined by the commerce clause of the Constitution, and considerations of political expediency have no weight in fixing the dividing line between the powers of Congress and the reserved powers of the several States. The argument of the petitioner is, in the last analysis, a plea that, from an economic standpoint, Congress should have power to apply its legislation to the respondent's employment relations. This, we submit, is entirely beside the point if the exercise of such power would run counter to the Constitution.

The jurisdiction of Congress under the commerce clause includes the power to regulate, restrict and protect interstate commerce; but not the right to use such jurisdiction as a pretext for legislation which interferes with the local sovereignty of the separate States. *Gibbons* v. *Ogden,* 9 Wheat. 1. The use of an admitted power of Congress as a pretext to interfere with local activities which are not subject to its jurisdiction, is to be condemned. The commerce clause will not serve as an excuse for legislating with respect to labor relations, which do not constitute a part of interstate commerce. *Schechter Poultry Corp.* v. *United States,* 295 U. S. 495; *Railroad Retirement Board* v. *Alton R. Co.,* 295 U. S. 330; *United States* v. *Butler,* 297 U. S. 1.

The legislative history of the National Labor Relations Act and its substantive provisions are sufficient to demonstrate that the Act, although disguised as a regulation of interstate commerce, is, in actuality, a regulation of labor. The terms of the statute apply to almost every employer and every employee (§ 2), although the jurisdiction of the petitioner to enforce it is somewhat circumscribed.

The provisions of the statute, if carefully analyzed, will indicate that Congress is primarily concerned with the protection and establishment of labor organizations. The provisions condemning plant unions and sanctioning "closed shop" agreements, bear no reasonable relation to interstate commerce. Similarly, the express preservation of the right to strike indicates that Congress was not interested in preventing interruptions to the movement of commerce. The interference with the employer's discretion to hire and fire is another reason for believing that efficiency in the shipment of products in interstate commerce has not been the object of the statute.

Congress has endeavored to save the statute from the taint of invalidity by confining its enforcement to transactions "affecting commerce," which the Act defines as transactions which burden commerce or lead or tend to lead to a labor dispute which burdens commerce. § 2. Despite this limitation on the enforcement of the Act, the substantive provisions make no such exception and are, in fact, broad enough to cover almost every employment relation.

The petitioner has followed the same involved line of reasoning in endeavoring to "find" that the respondent's operations "affect commerce." Like Congress, it has found itself faced with the task of piling premise upon premise and hypothesis upon hypothesis to reach the conclusion that the discharge of a few production em-

ployees at the respondent's plant has a vital bearing upon the movement of interstate commerce. We submit that the ultimate fact remains that Congress has enacted a labor law, and not a regulation of commerce, and it does not help to sustain the pretext that there may be an indirect connection between the two. *Carter* v. *Carter Coal Co.,* 298 U. S. 238.

The National Labor Relations Act can have no application to the respondent's relations with its production employees.

Although the respondent purchases raw materials, which have a point of origin in other States, and ships a large portion of its finished products across state lines, its production activities, including its employment relations, are not thereby subjected to the jurisdiction of Congress. *Howard* v. *Illinois Central R. Co.,* 207 U. S. 463. There is no logical or legal connection between the respondent's limited participation in interstate commerce and the union affiliations of its production employees. *Adair* v. *United States,* 208 U. S. 161; *Hammer* v. *Dagenhart,* 247 U. S. 251; *Railroad Retirement Board* v. *Alton R. Co.,* 295 U. S. 330.

The principle which impeaches the validity of the National Labor Relations Act, viz., that federal power over interstate commerce must be confined to *bona fide* regulation of the movements of commerce, likewise prevents the application of the statute in the present case. An unbroken line of decisions under the commerce clause has established that manufacturing and production activities are not in or a part of interstate commerce, even though they may be preceded or followed by the movement of materials between States. *Kidd* v. *Pearson,* 128 U. S. 1; *Arkadelphia Milling Co.* v. *St. Louis Southwestern Ry. Co.,* 249 U. S. 134; *Oliver Iron Co.* v. *Lord,* 262 U. S. 172; *Utah Light & Power Co.* v. *Pfost,* 286 U. S. 165; *Chas-*

saniol v. *Greenwood,* 291 U. S. 584; *Industrial Association* v. *United States,* 268 U. S. 64. Although most of the decisions have dealt with the police or taxing powers of the States, they are based upon the fundamental principle that manufacturing activities are subject to the exclusive jursdiction of the separate States. *Bacon* v. *Illinois,* 227 U. S. 504; *Susquehanna Coal Co.* v. *South Amboy,* 228 U. S. 665; *Packer Corp.* v. *Utah,* 285 U. S. 105; *Nashville, C. & St. L. Ry.* v. *Wallace,* 288 U. S. 249; *Edelman* v. *Boeing Air Transport,* 289 U. S. 249; *Minnesota* v. *Blasius,* 290 U. S. 1; *Federal Compress Co.* v. *McLean,* 291 U. S. 17; *Cornell* v. *Coyne,* 192 U. S. 418; *Crescent Cotton Oil Co.* v. *Mississippi,* 251 U. S. 129; *Heisler* v. *Thomas Colliery Co.,* 260 U. S. 245; *Oliver Iron Co.* v. *Lord,* 262 U. S. 172; *Champlin Refining Co.* v. *Corporation Commission,* 286 U. S. 210; *United Mine Workers* v. *Coronado Coal Co.,* 259 U. S. 344; *United Leather Workers* v. *Herkert & Meisel Trunk Co.,* 265 U. S. 457; *Delaware, L. & W. R. Co.* v. *Yurkonis,* 238 U. S. 439.

The distinction between the local manufacturing activities of a business and its subsequent or precedent participation in interstate commerce has been maintained in the field of labor relations. *Hammer* v. *Dagenhart,* 247 U. S. 251; *Industrial Accident Comm'n* v. *Davis,* 259 U. S. 182. Even though an employee may be employed in directly assisting the movement of products in interstate commerce, his relationship to his employer is a status existing wholly within the State, whose incidents, such as wages, hours of labor and the like, are purely domestic in character. *Carter* v. *Carter Coal Co.,* 298 U. S. 238.

Congressional regulation of the labor relations of interstate carriers furnishes no precedent for the present Act. Because interstate carriers are instrumentalities of the movement of commerce, and because they are public

utilities, Congress has subjected them to an exhaustive scheme of regulation, of which the labor legislation is merely an incident. As a result, the decision in *Texas & N. O. R. Co.* v. *Railway Clerks,* 281 U. S. 548, is not controlling.

Decisions such as *Stafford* v. *Wallace,* 258 U. S. 495, and *Chicago Board of Trade* v. *Olsen,* 262 U. S. 1, which sustain federal regulation of stockyards and grain exchanges, have no application to the present case. Grain exchanges and stockyards are instrumentalities of interstate commerce in much the same sense as the actual carriers of interstate commerce. They are focal points through which the stream of commerce in grains and cattle sweeps on its way from producer to the ultimate consumer. The activities which were regulated in both cases were activities in the stream of commerce and exerted a direct effect upon its flow. Neither case sanctions the extension of the doctrine to production activities which may indirectly affect the stream of commerce. *Carter* v. *Carter Coal Co.,* 298 U. S. 238. Cf. *Swift & Co.* v. *United States,* 196 U. S. 376; *Hill* v. *Wallace,* 259 U. S. 44; *Tagg Bros. & Moorhead* v. *United States,* 280 U. S. 420; *Tyson & Bro.* v. *Banton,* 273 U. S. 418.

The petitioner relies upon decisions which have upheld the application of the Anti-Trust Laws to industrial conspiracies, such as *Coronado Coal Co.* v. *United Mine Workers,* 268 U. S. 295. These were cases involving conspiracies to restrain interstate commerce by means of local combinations. The element of an intentional interference with the movement of interstate commerce was essential in these cases, not only because an intent to restrain commerce was a part of the proscribed offense, but also because the existence of such an intent made the effect on interstate commerce necessarily direct. This is shown by a comparison of the first *Coronado* case, 259

U. S. 344, where there was no intent, with the second *Coronado* case, 268 U. S. 295, where there was both direct and inferential evidence of intent. Cf. *United Leather Workers* v. *Herkert & Meisel Trunk Co.*, 265 U. S. 457.

The petitioner's efforts to show an intended restraint in the present case are futile. Even if a strike should occur at the respondent's plant, the respondent could not be held responsible for the voluntary intervening act of outside agencies. The suggestion that the respondent might be charged with an implied intent to destroy interstate trade, if a labor dispute should occur, is obviously unsound.

The conspiracy cases, such as *United Mine Workers* v. *Coronado Coal Co.*, 259 U. S. 344, and *Local 167* v. *United States*, 291 U. S. 293, although primarily concerned with the application of the Anti-Trust Laws, prove the fallacy of the petitioner's argument, because they establish that Congress cannot regulate local transactions or relations unless they exert a direct effect on interstate commerce. The definition of "affecting commerce" in the National Labor Relations Act is a confession of the indirectness of the connection between the respondent's labor relations and the movement of interstate commerce. See *Schechter Corp.* v. *United States*, 295 U. S. 495; *Industrial Association* v. *United States*, 268 U. S. 64. The petitioner calls attention to the fact that strikes may and frequently do produce an inhibitory effect on the movement of interstate trade to and from the affected area. This is the fundamental error in the petitioner's argument, in that it assumes that it need only establish the connection between strikes and the stoppage of commerce. There has been no strike or labor dispute in the present case. In actuality, the petitioner means that the respondent's discharge of ten employees might have led to dissatisfaction, which might have led to a labor dis-

pute, which might have led to a strike and a consequent interruption of interstate commerce.

The findings of Congress that discriminatory discharges may lead to an interruption of commerce, are unavailing. A declaration by Congress of the need of regulation will not automatically justify its action, where its legislative findings run counter to established rules of construction, which hold that there is no necessary and direct connection between the relations of an employer and his employees and the movement of interstate commerce. In this respect, the present case is clearly controlled by the decision in *Carter* v. *Carter Coal Co.,* 298 U. S. 238.

There are dangerous implications in the petitioner's argument. If it be accepted, there would be no reason why Congress should not use its power over interstate commerce as a pretext to stifle the sovereignty of the States. We therefore believe that the Court will not suffer the powers of the States to be whittled away by a statute which piles speculation upon speculation to attain its ends. *United States* v. *Butler,* 297 U. S. 1; *Schechter Corp.* v. *United States,* 295 U. S. 495.

The National Labor Relations Act confers upon the petitioner exclusive original jurisdiction over controversies between an employee and his employer as to the propriety of the employee's discharge, and the Board is authorized to render affirmative relief to the employee, including the restoration of his employment and compensation for lost wages. The findings of fact of the Board are conclusive and only objections made before the Board will be heard. The Act does not make any provision for a trial *de novo* in the constitutional courts on constitutional or jurisdictional issues.

We submit that the Act is invalid because it authorizes the Board to award a money judgment, depriving the employer of his right to trial by jury in cases in-

volving more than twenty dollars. If, as the petitioner contends, the action of the Board should be considered in the nature of a suit in equity, with authority in the Board to award a mandatory injunction restoring employment, with incidental damages for back pay, then the Act violates the provision of Art. III of the Constitution, for it deprives the constitutional courts of their authority to try constitutional and jurisdictional issues.

The present case presents a controversy between employees and the respondent, in which the petitioner has directed the restoration to employment of the complaining employees, with back pay. This being the case, it is a controversy between private citizens, enforcing private rights. The failure to provide means for a trial *de novo* of jurisdictional issues in such a case is fatal. *Crowell* v. *Benson,* 285 U. S. 22.

The proceedings of the Board are not comparable to those of the Federal Trade Commission.

The petitioner's order constitutes an unlawful interference with the right of the respondent to manage its own business.

The law has always been hesitant to interfere in questions of employer-employee relationships. From the standpoint of the employee, the law has recognized that he should not be forced into a relationship which may be distasteful, and from the employer's viewpoint, the courts have held that the right to judge the capabilities of employees is absolutely essential to the efficient management of the employer's business. The question of retaining or discharging an employee involves delicate considerations of discretion which the law is loath to attempt to weigh. The facts of the present case show the dangers of bureaucratic interference, in that each discharge involved some admitted fault on the part of the complaining employee, but the petitioner determined that it was

better qualified to decide and that the respondent's action had been too drastic. This is clearly an interference with the normal right of the respondent to manage its own business, because it is a dictatorial usurpation of the respondent's discretion to determine the capabilities of its employees.

Another dangerous implication of the law and of the petitioner's decision is that it confers a kind of civil service status upon union employees, which will inevitably encourage laziness, insolence, and inefficiency. This is confirmed by a notice which the petitioner, in its decision, has ordered the respondent to post in its plants, to the effect that it will not discharge members of the union. It would be the equivalent of informing the employees that if they become affiliated with the union, they will be thenceforth immune from discharge.

We submit that the underlying philosophy of the National Labor Relations Act is a constant threat to the respondent's normal right to manage its own business. Not only does the Act provide, in effect, that an unqualified bureau will sit as a higher court over the respondent's employment office, but it also ordains that the respondent must deal with whatever union may be selected by a majority of its employees and refuse to negotiate with other employees or their representatives. The power which it delegates to a majority of the employees to bind the minority is arbitrary and unfair and will necessarily lead to the suffocation of minorities and to the closed shop, forcing the employer to herd his employees into an organization which is not of their own choice. This will in turn seriously disturb the discipline and morale of the respondent's employees, with obvious injury to them and to the respondent. Cf. *Carter* v. *Carter Coal Co.*, 298 U. S. 238.

MR. CHIEF JUSTICE HUGHES delivered the opinion of the Court.

In a proceeding under the National Labor Relations Act of 1935,[1] the National Labor Relations Board found that the respondent, Jones & Laughlin Steel Corporation, had violated the Act by engaging in unfair labor practices affecting commerce. The proceeding was instituted by the Beaver Valley Lodge No. 200, affiliated with the Amalgamated Association of Iron, Steel and Tin Workers of America, a labor organization. The unfair labor practices charged were that the corporation was discriminating against members of the union with regard to hire and tenure of employment, and was coercing and intimidating its employees in order to interfere with their self-organization. The discriminatory and coercive action alleged was the discharge of certain employees.

The National Labor Relations Board, sustaining the charge, ordered the corporation to cease and desist from such discrimination and coercion, to offer reinstatement to ten of the employees named, to make good their losses in pay, and to post for thirty days notices that the corporation would not discharge or discriminate against members, or those desiring to become members, of the labor union. As the corporation failed to comply, the Board petitioned the Circuit Court of Appeals to enforce the order. The court denied the petition, holding that the order lay beyond the range of federal power. 83 F. (2d) 998. We granted certiorari.

The scheme of the National Labor Relations Act—which is too long to be quoted in full—may be briefly stated. The first section sets forth findings with respect to the injury to commerce resulting from the denial by employers of the right of employees to organize and from the refusal of employers to accept the procedure of col-

[1] Act of July 5, 1935, 49 Stat. 449, 29 U. S. C. 151.

lective bargaining. There follows a declaration that it is the policy of the United States to eliminate these causes of obstruction to the free flow of commerce.[2] The Act

[2] This section is as follows:

"Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

"The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

"Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

then defines the terms it uses, including the terms "commerce" and "affecting commerce." § 2. It creates the National Labor Relations Board and prescribes its organization. §§ 3–6. It sets forth the right of employees to self-organization and to bargain collectively through representatives of their own choosing. § 7. It defines "unfair labor practices." § 8. It lays down rules as to the representation of employees for the purpose of collective bargaining. § 9. The Board is empowered to prevent the described unfair labor practices affecting commerce and the Act prescribes the procedure to that end. The Board is authorized to petition designated courts to secure the enforcement of its orders. The findings of the Board as to the facts, if supported by evidence, are to be conclusive. If either party on application to the court shows that additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearings before the Board, the court may order the additional evidence to be taken. Any person aggrieved by a final order of the Board may obtain a review in the designated courts with the same procedure as in the case of an application by the Board for the enforcement of its order. § 10. The Board has broad powers of investigation. § 11. Interference with members of the Board or its agents in the performance of their duties is punishable by fine and imprisonment. § 12. Nothing in the Act is to be construed to interfere with the right to strike. § 13. There is a separability clause to the effect that if any provision of the Act or its application to any person or circumstances shall be held invalid, the remainder of the Act or its application to other persons or circumstances shall not be affected. § 15. The particular provisions which are involved in the instant case will be considered more in detail in the course of the discussion.

The procedure in the instant case followed the statute. The labor union filed with the Board its verified charge.

The Board thereupon issued its complaint against the respondent alleging that its action in discharging the employees in question constituted unfair labor practices affecting commerce within the meaning of § 8, subdivisions (1) and (3), and § 2, subdivisions (6) and (7) of the Act. Respondent, appearing specially for the purpose of objecting to the jurisdiction of the Board, filed its answer. Respondent admitted the discharges, but alleged that they were made because of inefficiency or violation of rules or for other good reasons and were not ascribable to union membership or activities. As an affirmative defense respondent challenged the constitutional validity of the statute and its applicability in the instant case. Notice of hearing was given and respondent appeared by counsel. The Board first took up the issue of jurisdiction and evidence was presented by both the Board and the respondent. Respondent then moved to dismiss the complaint for lack of jurisdiction; and, on denial of that motion, respondent in accordance with its special appearance withdrew from further participation in the hearing. The Board received evidence upon the merits and at its close made its findings and order.

Contesting the ruling of the Board, the respondent argues (1) that the Act is in reality a regulation of labor relations and not of interstate commerce; (2) that the Act can have no application to the respondent's relations with its production employees because they are not subject to regulation by the federal government; and (3) that the provisions of the Act violate § 2 of Article III and the Fifth and Seventh Amendments of the Constitution of the United States.

The facts as to the nature and scope of the business of the Jones & Laughlin Steel Corporation have been found by the Labor Board and, so far as they are essential to the determination of this controversy, they are not in dispute. The Labor Board has found: The corporation is

organized under the laws of Pennsylvania and has its principal office at Pittsburgh. It is engaged in the business of manufacturing iron and steel in plants situated in Pittsburgh and nearby Aliquippa, Pennsylvania. It manufactures and distributes a widely diversified line of steel and pig iron, being the fourth largest producer of steel in the United States. With its subsidiaries—nineteen in number—it is a completely integrated enterprise, owning and operating ore, coal and limestone properties, lake and river transportation facilities and terminal railroads located at its manufacturing plants. It owns or controls mines in Michigan and Minnesota. It operates four ore steamships on the Great Lakes, used in the transportation of ore to its factories. It owns coal mines in Pennsylvania. It operates towboats and steam barges used in carrying coal to its factories. It owns limestone properties in various places in Pennsylvania and West Virginia. It owns the Monongahela connecting railroad which connects the plants of the Pittsburgh works and forms an interconnection with the Pennsylvania, New York Central and Baltimore and Ohio Railroad systems. It owns the Aliquippa and Southern Railroad Company which connects the Aliquippa works with the Pittsburgh and Lake Erie, part of the New York Central system. Much of its product is shipped to its warehouses in Chicago, Detroit, Cincinnati and Memphis,—to the last two places by means of its own barges and transportation equipment. In Long Island City, New York, and in New Orleans it operates structural steel fabricating shops in connection with the warehousing of semi-finished materials sent from its works. Through one of its wholly-owned subsidiaries it owns, leases and operates stores, warehouses and yards for the distribution of equipment and supplies for drilling and operating oil and gas wells and for pipe lines, refineries and pumping stations. It has sales offices in

twenty cities in the United States and a wholly-owned subsidiary which is devoted exclusively to distributing its product in Canada. Approximately 75 per cent. of its product is shipped out of Pennsylvania.

Summarizing these operations, the Labor Board concluded that the works in Pittsburgh and Aliquippa "might be likened to the heart of a self-contained, highly integrated body. They draw in the raw materials from Michigan, Minnesota, West Virginia, Pennsylvania in part through arteries and by means controlled by the respondent; they transform the materials and then pump them out to all parts of the nation through the vast mechanism which the respondent has elaborated."

To carry on the activities of the entire steel industry, 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. Respondent has about 10,000 employees in its Aliquippa plant, which is located in a community of about 30,000 persons.

Respondent points to evidence that the Aliquippa plant, in which the discharged men were employed, contains complete facilities for the production of finished and semi-finished iron and steel products from raw materials; that its works consist primarily of a by-product coke plant for the production of coke; blast furnaces for the production of pig iron; open hearth furnaces and Bessemer converters for the production of steel; blooming mills for the reduction of steel ingots into smaller shapes; and a number of finishing mills such as structural mills, rod mills, wire mills and the like. In addition there are other buildings, structures and equipment, storage yards, docks and an intra-plant storage system. Respondent's operations at these works are carried on in two distinct stages, the first being the conversion of raw materials into pig

iron and the second being the manufacture of semi-finished and finished iron and steel products; and in both cases the operations result in substantially changing the character, utility and value of the materials wrought upon, which is apparent from the nature and extent of the processes to which they are subjected and which respondent fully describes. Respondent also directs attention to the fact that the iron ore which is procured from mines in Minnesota and Michigan and transported to respondent's plant is stored in stock piles for future use, the amount of ore in storage varying with the season but usually being enough to maintain operations from nine to ten months; that the coal which is procured from the mines of a subsidiary located in Pennsylvania and taken to the plant at Aliquippa is there, like ore, stored for future use, approximately two to three months' supply of coal being always on hand; and that the limestone which is obtained in Pennsylvania and West Virginia is also stored in amounts usually adequate to run the blast furnaces for a few weeks. Various details of operation, transportation, and distribution are also mentioned which for the present purpose it is not necessary to detail.

Practically all the factual evidence in the case, except that which dealt with the nature of respondent's business, concerned its relations with the employees in the Aliquippa plant whose discharge was the subject of the complaint. These employees were active leaders in the labor union. Several were officers and others were leaders of particular groups. Two of the employees were motor inspectors; one was a tractor driver; three were crane operators; one was a washer in the coke plant; and three were laborers. Three other employees were mentioned in the complaint but it was withdrawn as to one of them and no evidence was heard on the action taken with respect to the other two.

While respondent criticises the evidence and the attitude of the Board, which is described as being hostile toward employers and particularly toward those who insisted upon their constitutional rights, respondent did not take advantage of its opportunity to present evidence to refute that which was offered to show discrimination and coercion. In this situation, the record presents no ground for setting aside the order of the Board so far as the facts pertaining to the circumstances and purpose of the discharge of the employees are concerned. Upon that point it is sufficient to say that the evidence supports the findings of the Board that respondent discharged these men "because of their union activity and for the purpose of discouraging membership in the union." We turn to the questions of law which respondent urges in contesting the validity and application of the Act.

First. The scope of the Act.—The Act is challenged in its entirety as an attempt to regulate all industry, thus invading the reserved powers of the States over their local concerns. It is asserted that the references in the Act to interstate and foreign commerce are colorable at best; that the Act is not a true regulation of such commerce or of matters which directly affect it but on the contrary has the fundamental object of placing under the compulsory supervision of the federal government all industrial labor relations within the nation. The argument seeks support in the broad words of the preamble (section one [3]) and in the sweep of the provisions of the Act, and it is further insisted that its legislative history shows an essential universal purpose in the light of which its scope cannot be limited by either construction or by the application of the separability clause.

If this conception of terms, intent and consequent inseparability were sound, the Act would necessarily fall

[3] See Note 2, *supra*, p. 23.

by reason of the limitation upon the federal power which inheres in the constitutional grant, as well as because of the explicit reservation of the Tenth Amendment. *Schechter Corp.* v. *United States,* 295 U. S. 495, 549, 550, 554. The authority of the federal government may not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce "among the several States" and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our federal system. *Id.*

But we are not at liberty to deny effect to specific provisions, which Congress has constitutional power to enact, by superimposing upon them inferences from general legislative declarations of an ambiguous character, even if found in the same statute. The cardinal principle of statutory construction is to save and not to destroy. We have repeatedly held that as between two possible interpretations of a statute, by one of which it would be unconstitutional and by the other valid, our plain duty is to adopt that which will save the act. Even to avoid a serious doubt the rule is the same. *Federal Trade Comm'n* v. *American Tobacco Co.,* 264 U. S. 298, 307; *Panama R. Co.* v. *Johnson,* 264 U. S. 375, 390; *Missouri Pacific R. Co.* v. *Boone,* 270 U. S. 466, 472; *Blodgett* v. *Holden,* 275 U. S. 142, 148; *Richmond Screw Anchor Co.* v. *United States,* 275 U. S. 331, 346.

We think it clear that the National Labor Relations Act may be construed so as to operate within the sphere of constitutional authority. The jurisdiction conferred upon the Board, and invoked in this instance, is found in § 10 (a), which provides:

"SEC. 10 (a). The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce."

The critical words of this provision, prescribing the limits of the Board's authority in dealing with the labor practices, are "affecting commerce." The Act specifically defines the "commerce" to which it refers (§ 2 (6)):

"The term 'commerce' means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country."

There can be no question that the commerce thus contemplated by the Act (aside from that within a Territory or the District of Columbia) is interstate and foreign commerce in the constitutional sense. The Act also defines the term "affecting commerce" (§ 2 (7)):

"The term 'affecting commerce' means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce."

This definition is one of exclusion as well as inclusion. The grant of authority to the Board does not purport to extend to the relationship between all industrial employees and employers. Its terms do not impose collective bargaining upon all industry regardless of effects upon interstate or foreign commerce. It purports to reach only what may be deemed to burden or obstruct that commerce and, thus qualified, it must be construed as contemplating the exercise of control within constitutional bounds. It is a familiar principle that acts which directly burden or obstruct interstate or foreign commerce, or its free flow, are within the reach of the congressional power. Acts having that effect are not

rendered immune because they grow out of labor disputes. See *Texas & N. O. R . Co.* v. *Railway Clerks,* 281 U. S. 548, 570; *Schechter Corp.* v. *United States, supra,* pp. 544, 545; *Virginian Railway* v. *System Federation, No. 40,* 300 U. S. 515. It is the effect upon commerce, not the source of the injury, which is the criterion. *Second Employers' Liability Cases,* 223 U. S. 1, 51. Whether or not particular action does affect commerce in such a close and intimate fashion as to be subject to federal control, and hence to lie within the authority conferred upon the Board, is left by the statute to be determined as individual cases arise. We are thus to inquire whether in the instant case the constitutional boundary has been passed.

Second. The unfair labor practices in question.—The unfair labor practices found by the Board are those defined in § 8, subdivisions (1) and (3). These provide:

Sec. 8. It shall be an unfair labor practice for an employer—

"(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7."

"(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: . . ."[4]

[4] What is quoted above is followed by this proviso—not here involved—"*Provided,* That nothing in this Act, or in the National Industrial Recovery Act (U. S. C., Supp. VII, title 15, secs. 701–712), as amended from time to time, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 9 (a), in the appropriate collective bargaining unit covered by such agreement when made."

Section 8, subdivision (1), refers to § 7, which is as follows:

"Sec. 7. Employees shall have 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."

Thus, in its present application, the statute goes no further than to safeguard the right of employees to self-organization and to select representatives of their own choosing for collective bargaining or other mutual protection without restraint or coercion by their employer.

That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers and agents. Discrimination and coercion to prevent the free exercise of the right of employees to self-organization and representation is a proper subject for condemnation by competent legislative authority. Long ago we stated the reason for labor organizations. We said that they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equality with their employer. *American Steel Foundries* v. *Tri-City Central Trades Council,* 257 U. S. 184, 209. We reiterated these views when we had under consideration the Railway Labor Act of 1926. Fully recognizing the legality of collective action on the part of employees in

order to safeguard their proper interests, we said that Congress was not required to ignore this right but could safeguard it. Congress could seek to make appropriate collective action of employees an instrument of peace rather than of strife. We said that such collective action would be a mockery if representation were made futile by interference with freedom of choice. Hence the prohibition by Congress of interference with the selection of representatives for the purpose of negotiation and conference between employers and employees, "instead of being an invasion of the constitutional right of either, was based on the recognition of the rights of both." *Texas & N. O. R. Co.* v. *Railway Clerks, supra.* We have reasserted the same principle in sustaining the application of the Railway Labor Act as amended in 1934. *Virginian Railway Co.* v. *System Federation, No. 40, supra.*

Third. The application of the Act to employees engaged in production.—The principle involved.—Respondent says that whatever may be said of employees engaged in interstate commerce, the industrial relations and activities in the manufacturing department of respondent's enterprise are not subject to federal regulation. The argument rests upon the proposition that manufacturing in itself is not commerce. *Kidd* v. *Pearson,* 128 U. S. 1, 20, 21; *United Mine Workers* v. *Coronado Coal Co.,* 259 U. S. 344, 407, 408; *Oliver Iron Co.* v. *Lord,* 262 U. S. 172, 178; *United Leather Workers* v. *Herkert & Meisel Trunk Co.,* 265 U. S. 457, 465; *Industrial Association* v. *United States,* 268 U. S. 64, 82; *Coronado Coal Co.* v. *United Mine Workers,* 268 U. S. 295, 310; *Schechter Corp.* v. *United States, supra,* p. 547; *Carter* v. *Carter Coal Co.,* 298 U. S. 238, 304, 317, 327.

The Government distinguishes these cases. The various parts of respondent's enterprise are described as interdependent and as thus involving "a great movement of

iron ore, coal and limestone along well-defined paths to the steel mills, thence through them, and thence in the form of steel products into the consuming centers of the country—a definite and well-understood course of business." It is urged that these activities constitute a "stream" or "flow" of commerce, of which the Aliquippa manufacturing plant is the focal point, and that industrial strife at that point would cripple the entire movement. Reference is made to our decision sustaining the Packers and Stockyards Act.[5] *Stafford* v. *Wallace,* 258 U. S. 495. The Court found that the stockyards were but a "throat" through which the current of commerce flowed and the transactions which there occurred could not be separated from that movement. Hence the sales at the stockyards were not regarded as merely local transactions, for while they created "a local change of title" they did not "stop the flow," but merely changed the private interests in the subject of the current. Distinguishing the cases which upheld the power of the State to impose a non-discriminatory tax upon property which the owner intended to transport to another State, but which was not in actual transit and was held within the State subject to the disposition of the owner, the Court remarked: "The question, it should be observed, is not with respect to the extent of the power of Congress to regulate interstate commerce, but whether a particular exercise of state power in view of its nature and operation must be deemed to be in conflict with this paramount authority." *Id.,* p. 526. See *Minnesota* v. *Blasius,* 290 U. S. 1, 8. Applying the doctrine of *Stafford* v. *Wallace, supra,* the Court sustained the Grain Futures Act of 1922[6] with respect to transactions on the Chicago Board of Trade, although these transactions were "not in and of themselves interstate commerce." Congress had found

[5] 42 Stat. 159.

[6] 42 Stat. 998.

that they had become "a constantly recurring burden and obstruction to that commerce." *Chicago Board of Trade* v. *Olsen,* 262 U. S. 1, 32; compare *Hill* v. *Wallace,* 259 U. S. 44, 69. See, also, *Tagg Bros. & Moorhead* v. *United States,* 280 U. S. 420.

Respondent contends that the instant case presents material distinctions. Respondent says that the Aliquippa plant is extensive in size and represents a large investment in buildings, machinery and equipment. The raw materials which are brought to the plant are delayed for long periods and, after being subjected to manufacturing processes, "are changed substantially as to character, utility and value." The finished products which emerge "are to a large extent manufactured without reference to pre-existing orders and contracts and are entirely different from the raw materials which enter at the other end." Hence respondent argues that "If importation and exportation in interstate commerce do not singly transfer purely local activities into the field of congressional regulation, it should follow that their combination would not alter the local situation." *Arkadelphia Milling Co.* v. *St. Louis Southwestern Ry. Co.,* 249 U. S. 134, 151; *Oliver Iron Co.* v. *Lord, supra.*

We do not find it necessary to determine whether these features of defendant's business dispose of the asserted analogy to the "stream of commerce" cases. The instances in which that metaphor has been used are but particular, and not exclusive, illustrations of the protective power which the Government invokes in support of the present Act. The congressional authority to protect interstate commerce from burdens and obstructions is not limited to transactions which can be deemed to be an essential part of a "flow" of interstate or foreign commerce. Burdens and obstructions may be due to injurious action springing from other sources. The fundamental principle is that the power to regulate commerce is

the power to enact "all appropriate legislation" for "its protection and advancement" (*The Daniel Ball,* 10 Wall. 557, 564); to adopt measures "to promote its growth and insure its safety" (*Mobile County* v. *Kimball,* 102 U. S. 691, 696, 697); "to foster, protect, control and restrain." *Second Employers' Liability Cases, supra,* p. 47. See *Texas & N. O. R. Co.* v. *Railway Clerks, supra.* That power is plenary and may be exerted to protect interstate commerce "no matter what the source of the dangers which threaten it." *Second Employers' Liability Cases,* p. 51; *Schechter Corp.* v. *United States, supra.* Although activities may be intrastate in character when separately considered, if they have such a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions, Congress cannot be denied the power to exercise that control. *Schechter Corp.* v. *United States, supra.* Undoubtedly the scope of this power must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government. *Id.* The question is necessarily one of degree. As the Court said in *Chicago Board of Trade* v. *Olsen, supra,* p. 37, repeating what had been said in *Stafford* v. *Wallace, supra*: "Whatever amounts to more or less constant practice, and threatens to obstruct or unduly to burden the freedom of interstate commerce is within the regulatory power of Congress under the commerce clause and it is primarily for Congress to consider and decide the fact of the danger and meet it."

That intrastate activities, by reason of close and intimate relation to interstate commerce, may fall within federal control is demonstrated in the case of carriers who

are engaged in both interstate and intrastate transportation. There federal control has been found essential to secure the freedom of interstate traffic from interference or unjust discrimination and to promote the efficiency of the interstate service. *Shreveport Case*, 234 U. S. 342, 351, 352; *Wisconsin Railroad Comm'n* v. *Chicago, B. & Q. R. Co.*, 257 U. S. 563, 588. It is manifest that intrastate rates deal *primarily* with a local activity. But in rate-making they bear such a close relation to interstate rates that effective control of the one must embrace some control over the other. *Id.* Under the Transportation Act, 1920,[7] Congress went so far as to authorize the Interstate Commerce Commission to establish a state-wide level of intrastate rates in order to prevent an unjust discrimination against interstate commerce. *Wisconsin Railroad Comm'n* v. *Chicago, B. & Q. R. Co., supra; Florida* v. *United States*, 282 U. S. 194, 210, 211. Other illustrations are found in the broad requirements of the Safety Appliance Act and the Hours of Service Act. *Southern Railway Co.* v. *United States*, 222 U. S. 20; *Baltimore & Ohio R. Co.* v. *Interstate Commerce Comm'n*, 221 U. S. 612. It is said that this exercise of federal power has relation to the maintenance of adequate instrumentalities of interstate commerce. But the agency is not superior to the commerce which uses it. The protective power extends to the former because it exists as to the latter.

The close and intimate effect which brings the subject within the reach of federal power may be due to activities in relation to productive industry although the industry when separately viewed is local. This has been abundantly illustrated in the application of the federal Anti-Trust Act. In the *Standard Oil* and *American Tobacco* cases, 221 U. S. 1, 106, that statute was applied to combinations of employers engaged in productive industry.

[7] §§ 416, 422, 41 Stat. 484, 488; Interstate Commerce Act, § 13 (4).

Counsel for the offending corporations strongly urged that the Sherman Act had no application because the acts complained of were not acts of interstate or foreign commerce, nor direct and immediate in their effect on interstate or foreign commerce, but primarily affected manufacturing and not commerce. 221 U. S. pp. 5, 125. Counsel relied upon the decision in *United States* v. *Knight Co.*, 156 U. S. 1. The Court stated their contention as follows: "That the act, even if the averments of the bill be true, cannot be constitutionally applied, because to do so would extend the power of Congress to subjects *dehors* the reach of its authority to regulate commerce, by enabling that body to deal with mere questions of production of commodities within the States." And the Court summarily dismissed the contention in these words: "But all the structure upon which this argument proceeds is based upon the decision in *United States* v. *E. C. Knight Co.*, 156 U. S. 1. The view, however, which the argument takes of that case and the arguments based upon that view have been so repeatedly pressed upon this court in connection with the interpretation and enforcement of the Anti-trust Act, and have been so necessarily and expressly decided to be unsound as to cause the contentions to be plainly foreclosed and to require no express notice" (citing cases). 221 U. S. pp. 68, 69.

Upon the same principle, the Anti-Trust Act has been applied to the conduct of employees engaged in production. *Loewe* v. *Lawlor*, 208 U. S. 274; *Coronado Coal Co.* v. *United Mine Workers, supra; Bedford Cut Stone Co.* v. *Stone Cutters' Assn.*, 274 U. S. 37. See, also, *Local 167* v. *United States*, 291 U. S. 293, 397; *Schechter Corp.* v. *United States, supra.* The decisions dealing with the question of that application illustrate both the principle and its limitation. Thus, in the first *Coronado* case, the Court held that mining was not interstate commerce, that the power of Congress did not extend to its regulation as such,

and that it had not been shown that the activities there involved—a local strike—brought them within the provisions of the Anti-Trust Act, notwithstanding the broad terms of that statute. A similar conclusion was reached in *United Leather Workers* v. *Herkert & Meisel Trunk Co., supra, Industrial Association* v. *United States, supra,* and *Levering & Garrigues Co.* v. *Morrin,* 289 U. S. 103, 107. But in the first *Coronado* case the Court also said that "if Congress deems certain recurring practices, though not really part of interstate commerce, likely to obstruct, restrain or burden it, it has the power to subject them to national supervision and restraint." 259 U. S. p. 408. And in the second *Coronado* case the Court ruled that while the mere reduction in the supply of an article to be shipped in interstate commerce by the illegal or tortious prevention of its manufacture or production is ordinarily an indirect and remote obstruction to that commerce, nevertheless when the "intent of those unlawfully preventing the manufacture or production is shown to be to restrain or control the supply entering and moving in interstate commerce, or the price of it in interstate markets, their action is a direct violation of the Anti-Trust Act." 268 U. S. p. 310. And the existence of that intent may be a necessary inference from proof of the direct and substantial effect produced by the employees' conduct. *Industrial Association* v. *United States,* 268 U. S. p. 81. What was absent from the evidence in the first *Coronado* case appeared in the second and the Act was accordingly applied to the mining employees.

It is thus apparent that the fact that the employees here concerned were engaged in production is not determinative. The question remains as to the effect upon interstate commerce of the labor practice involved. In the *Schechter* case, *supra,* we found that the effect there was so remote as to be beyond the federal power. To find "immediacy or directness" there was to find it "almost

everywhere," a result inconsistent with the maintenance of our federal system. In the *Carter* case, *supra,* the Court was of the opinion that the provisions of the statute relating to production were invalid upon several grounds,—that there was improper delegation of legislative power, and that the requirements not only went beyond any sustainable measure of protection of interstate commerce but were also inconsistent with due process. These cases are not controlling here.

Fourth. Effects of the unfair labor practice in respondent's enterprise.—Giving full weight to respondent's contention with respect to a break in the complete continuity of the "stream of commerce" by reason of respondent's manufacturing operations, the fact remains that the stoppage of those operations by industrial strife would have a most serious effect upon interstate commerce. In view of respondent's far-flung activities, it is idle to say that the effect would be indirect or remote. It is obvious that it would be immediate and might be catastrophic. We are asked to shut our eyes to the plainest facts of our national life and to deal with the question of direct and indirect effects in an intellectual vacuum. Because there may be but indirect and remote effects upon interstate commerce in connection with a host of local enterprises throughout the country, it does not follow that other industrial activities do not have such a close and intimate relation to interstate commerce as to make the presence of industrial strife a matter of the most urgent national concern. When industries organize themselves on a national scale, making their relation to interstate commerce the dominant factor in their activities, how can it be maintained that their industrial labor relations constitute a forbidden field into which Congress may not enter when it is necessary to protect interstate commerce from the paralyzing consequences of industrial war? We have often said that interstate commerce itself is a practical

conception. It is equally true that interferences with that commerce must be appraised by a judgment that does not ignore actual experience.

Experience has abundantly demonstrated that the recognition of the right of employees to self-organization and to have representatives of their own choosing for the purpose of collective bargaining is often an essential condition of industrial peace. Refusal to confer and negotiate has been one of the most prolific causes of strife. This is such an outstanding fact in the history of labor disturbances that it is a proper subject of judicial notice and requires no citation of instances. The opinion in the case of *Virginian Railway Co.* v. *System Federation, No. 40, supra,* points out that, in the case of carriers, experience has shown that before the amendment, of 1934, of the Railway Labor Act "when there was no dispute as to the organizations authorized to represent the employees and when there was a willingness of the employer to meet such representative for a discussion of their grievances, amicable adjustment of differences had generally followed and strikes had been avoided." That, on the other hand, "a prolific source of dispute had been the maintenance by the railroad of company unions and the denial by railway management of the authority of representatives chosen by their employees." The opinion in that case also points to the large measure of success of the labor policy embodied in the Railway Labor Act. But with respect to the appropriateness of the recognition of self-organization and representation in the promotion of peace, the question is not essentially different in the case of employees in industries of such a character that interstate commerce is put in jeopardy from the case of employees of transportation companies. And of what avail is it to protect the facility of transportation, if interstate commerce is throttled with respect to the commodities to be transported!

These questions have frequently engaged the attention of Congress and have been the subject of many inquiries.[8] The steel industry is one of the great basic industries of the United States, with ramifying activities affecting interstate commerce at every point. The Government aptly refers to the steel strike of 1919–1920 with its far-reaching consequences.[9] The fact that there appears to have been no major disturbance in that industry in the more recent period did not dispose of the possibilities of future and like dangers to interstate commerce which Congress was entitled to foresee and to exercise its protective power to forestall. It is not necessary again to detail the facts as to respondent's enterprise. Instead of being beyond the pale, we think that it presents in a most striking way the close and intimate relation which a manufacturing industry may have to interstate commerce and we have no doubt that Congress had constitutional authority to safeguard the right of respondent's employees to self-organization and freedom in the choice of representatives for collective bargaining.

Fifth. The means which the Act employs.—Questions under the due process clause and other constitutional restrictions.—Respondent asserts its right to conduct its business in an orderly manner without being subjected to arbitrary restraints. What we have said points to the fallacy in the argument. Employees have their correlative

[8] See, for example, Final Report of the Industrial Commission (1902), vol. 19, p. 844; Report of the Anthracite Coal Strike Commission (1902), Sen. Doc. No. 6, 58th Cong., spec. sess.; Final Report of Commission on Industrial Relations (1916), Sen. Doc. No. 415, 64th Cong., 1st sess., vol. I; National War Labor Board, Principles and Rules of Procedure (1919), p. 4; Bureau of Labor Statistics, Bulletin No. 287 (1921), pp. 52–64; History of the Shipbuilding Labor Adjustment Board, U. S. Bureau of Labor Statistics, Bulletin No. 283.

[9] See Investigating Strike in Steel Industries, Sen. Rep. No. 289, 66th Cong., 1st sess.

right to organize for the purpose of securing the redress of grievances and to promote agreements with employers relating to rates of pay and conditions of work. *Texas & N. O. R. Co.* v. *Railway Clerks, supra; Virginian Railway Co.* v. *System Federation, No. 40.* Restraint for the purpose of preventing an unjust interference with that right cannot be considered arbitrary or capricious. The provision of § 9 (a)[10] that representatives, for the purpose of collective bargaining, of the majority of the employees in an appropriate unit shall be the exclusive representatives of all the employees in that unit, imposes upon the respondent only the duty of conferring and negotiating with the authorized representatives of its employees for the purpose of settling a labor dispute. This provision has its analogue in § 2, Ninth, of the Railway Labor Act which was under consideration in *Virginian Railway Co.* v. *System Federation, No. 40, supra.* The decree which we affirmed in that case required the Railway Company to treat with the representative chosen by the employees and also to refrain from entering into collective labor agreements with anyone other than their true representative as ascertained in accordance with the provisions of the Act. We said that the obligation to treat with the true representative was exclusive and hence imposed the negative duty to treat with no other. We also pointed out that, as conceded by the Government,[11] the injunc-

[10] The provision is as follows: "SEC. 9 (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided,* That any individual employee or a group of employees shall have the right at any time to present grievances to their employer."

[11] See *Virginian Railway Co.* v. *System Federation, No. 40,* 300 U. S. 515.

tion against the Company's entering into any contract concerning rules, rates of pay and working conditions except with a chosen representative was "designed only to prevent collective bargaining with anyone purporting to represent employees" other than the representative they had selected. It was taken "to prohibit the negotiation of labor contracts generally applicable to employees" in the described unit with any other representative than the one so chosen, "but not as precluding such individual contracts" as the Company might "elect to make directly with individual employees." We think this construction also applies to § 9 (a) of the National Labor Relations Act.

The Act does not compel agreements between employers and employees. It does not compel any agreement whatever. It does not prevent the employer "from refusing to make a collective contract and hiring individuals on whatever terms" the employer "may by unilateral action determine."[12] The Act expressly provides in § 9 (a) that any individual employee or a group of employees shall have the right at any time to present grievances to their employer. The theory of the Act is that free opportunity for negotiation with accredited representatives of employees is likely to promote industrial peace and may bring about the adjustments and agreements which the Act in itself does not attempt to compel. As we said in *Texas & N. O. R. Co.* v. *Railway Clerks, supra,* and repeated in *Virginian Railway Co.* v. *System Federation, No. 40, supra,* the cases of *Adair* v. *United States,* 208 U. S. 161, and *Coppage* v. *Kansas,* 236 U. S. 1, are inapplicable to legislation of this character. The Act does not interfere with the normal exercise of the right of the employer to select its employees or to discharge them. The employer may not, under cover of that right, intimidate or coerce its employees with respect to their

[12] See Note 11.

self-organization and representation, and, on the other hand, the Board is not entitled to make its authority a pretext for interference with the right of discharge when that right is exercised for other reasons than such intimidation and coercion. The true purpose is the subject of investigation with full opportunity to show the facts. It would seem that when employers freely recognize the right of their employees to their own organizations and their unrestricted right of representation there will be much less occasion for controversy in respect to the free and appropriate exercise of the right of selection and discharge.

The Act has been criticised as one-sided in its application; that it subjects the employer to supervision and restraint and leaves untouched the abuses for which employees may be responsible; that it fails to provide a more comprehensive plan,—with better assurances of fairness to both sides and with increased chances of success in bringing about, if not compelling, equitable solutions of industrial disputes affecting interstate commerce. But we are dealing with the power of Congress, not with a particular policy or with the extent to which policy should go. We have frequently said that the legislative authority, exerted within its proper field, need not embrace all the evils within its reach. The Constitution does not forbid "cautious advance, step by step," in dealing with the evils which are exhibited in activities within the range of legislative power. *Carroll* v. *Greenwich Insurance Co.*, 199 U. S. 401, 411; *Keokee Coke Co.* v. *Taylor*, 234 U. S. 224, 227; *Miller* v. *Wilson*, 236 U. S. 373, 384; *Sproles* v. *Binford*, 286 U. S. 374, 396. The question in such cases is whether the legislature, in what it does prescribe, has gone beyond constitutional limits.

The procedural provisions of the Act are assailed. But these provisions, as we construe them, do not offend against the constitutional requirements governing the

creation and action of administrative bodies. See *Interstate Commerce Comm'n* v. *Louisville & Nashville R. Co.*, 227 U. S. 88, 91. The Act establishes standards to which the Board must conform. There must be complaint, notice and hearing. The Board must receive evidence and make findings. The findings as to the facts are to be conclusive, but only if supported by evidence. The order of the Board is subject to review by the designated court, and only when sustained by the court may the order be enforced. Upon that review all questions of the jurisdiction of the Board and the regularity of its proceedings, all questions of constitutional right or statutory authority, are open to examination by the court. We construe the procedural provisions as affording adequate opportunity to secure judicial protection against arbitrary action in accordance with the well-settled rules applicable to administrative agencies set up by Congress to aid in the enforcement of valid legislation. It is not necessary to repeat these rules which have frequently been declared. None of them appears to have been transgressed in the instant case. Respondent was notified and heard. It had opportunity to meet the charge of unfair labor practices upon the merits, and by withdrawing from the hearing it declined to avail itself of that opportunity. The facts found by the Board support its order and the evidence supports the findings. Respondent has no just ground for complaint on this score.

The order of the Board required the reinstatement of the employees who were found to have been discharged because of their "union activity" and for the purpose of "discouraging membership in the union." That requirement was authorized by the Act. § 10 (c). In *Texas & N. O. R. Co.* v. *Railway Clerks, supra,* a similar order for restoration to service was made by the court in contempt proceedings for the violation of an injunction issued by the court to restrain an interference with

the right of employees as guaranteed by the Railway Labor Act of 1926. The requirement of restoration to service, of employees discharged in violation of the provisions of that Act, was thus a sanction imposed in the enforcement of a judicial decree. We do not doubt that Congress could impose a like sanction for the enforcement of its valid regulation. The fact that in the one case it was a judicial sanction, and in the other a legislative one, is not an essential difference in determining its propriety.

Respondent complains that the Board not only ordered reinstatement but directed the payment of wages for the time lost by the discharge, less amounts earned by the employee during that period. This part of the order was also authorized by the Act. § 10 (c). It is argued that the requirement is equivalent to a money judgment and hence contravenes the Seventh Amendment with respect to trial by jury. The Seventh Amendment provides that "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." The Amendment thus preserves the right which existed under the common law when the Amendment was adopted. *Shields* v. *Thomas,* 18 How. 253, 262; *In re Wood,* 210 U. S. 246, 258; *Dimick* v. *Schiedt,* 293 U. S. 474, 476; *Baltimore & Carolina Line* v. *Redman,* 295 U. S. 654, 657. Thus it has no application to cases where recovery of money damages is an incident to equitable relief even though damages might have been recovered in an action at law. *Clark* v. *Wooster,* 119 U. S. 322, 325; *Pease* v. *Rathbun-Jones Engineering Co.,* 243 U. S. 273, 279. It does not apply where the proceeding is not in the nature of a suit at common law. *Guthrie National Bank* v. *Guthrie,* 173 U. S. 528, 537.

The instant case is not a suit at common law or in the nature of such a suit. The proceeding is one unknown to the common law. It is a statutory proceeding. Reinstatement of the employee and payment for time lost are

requirements imposed for violation of the statute and are remedies appropriate to its enforcement. The contention under the Seventh Amendment is without merit.

Our conclusion is that the order of the Board was within its competency and that the Act is valid as here applied. The judgment of the Circuit Court of Appeals is reversed and the cause is remanded for further proceedings in conformity with this opinion.

Reversed.

For dissenting opinion, see p. 76.

NATIONAL LABOR RELATIONS BOARD *v.* FRUEHAUF TRAILER CO.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Nos. 420 and 421. Argued February 11, 1937.—Decided April 12, 1937.

The National Labor Relations Act, and orders made under it by the National Labor Relations Board, *sustained* upon the authority of *National Labor Relations Board* v. *Jones & Laughlin Steel Corp., ante,* p. 1, as applied to a manufacturer of commercial "trailers," (vehicles designed for the transportation of merchandise), having its factory in Michigan, but which obtained from outside of Michigan more than 50% in value of the materials and parts used in the plant, and shipped to States other than Michigan and to foreign countries more than 80% of its finished products. P. 53.

85 F. (2d) 391, reversed.

CERTIORARI, 299 U. S. 534, to review two decrees of the Circuit Court of Appeals, one dismissing a petition of the National Labor Relations Board for the enforcement of an order made by it under the National Labor Relations Act, the other setting the order aside at the petition of the trailer company.

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