

WAGNER LABOR ACT UPHELD BY HIGH COURT IN 5 CASES; HUGHES LEADS MAJORITY

Dissents in Four of Contested Issues Is
Registered by Four Judges; Steel,
Auto, Clothing Affected.

(Continued from Page One)

cases. In the NRA and Guffey coal cases the Federal Government's interstate commerce powers were restricted.

The Court held that the issues of those cases were not the same as those of the Wagner test, said Hughes, noting the "close and intimate relation which a manufacturing industry may have to interstate commerce."

The decision commented vigorously upon the constitutional rights of employees to organize and asked:

"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?"

Pointing out that interferences must be appraised in accordance with "actual experience," the decision said:

"Experience has abundantly demonstrated that 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."

Followed NRA

The National Labor Relations Act represented effort of the New Deal to meet labor demands for protection in organization of unions and collective bargaining.

Known familiarly as the Wagner Act, the law was passed soon after the NRA was condemned by the Court in 1935. It was sponsored by Senator Wagner (D. N. Y.), author of the NRA. It enacted into separate legislation the collective bargaining principles of Section 7a of the NRA.

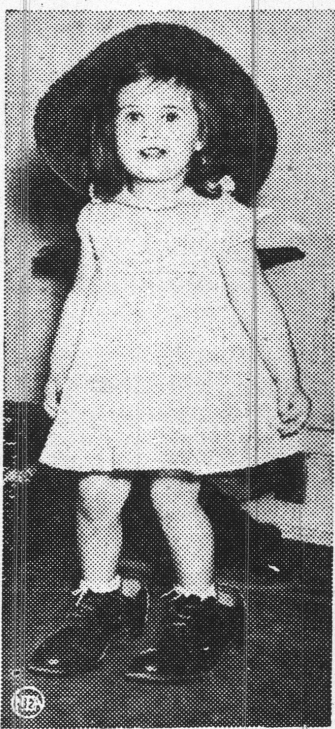
This section fell with the invalidation of NRA. Even before that, however, representatives of organized labor, including John L. Lewis, head of the Committee for Industrial Organization, had urged enactment of a separate law defining the rights of workers to organize and bargain collectively.

In addition to protecting workers in their activity from "interference, restraint or coercion by employers," the law sought to ban the company union and to keep employers from aiding or dominating such a union in its financial affairs by contributing to its finances.

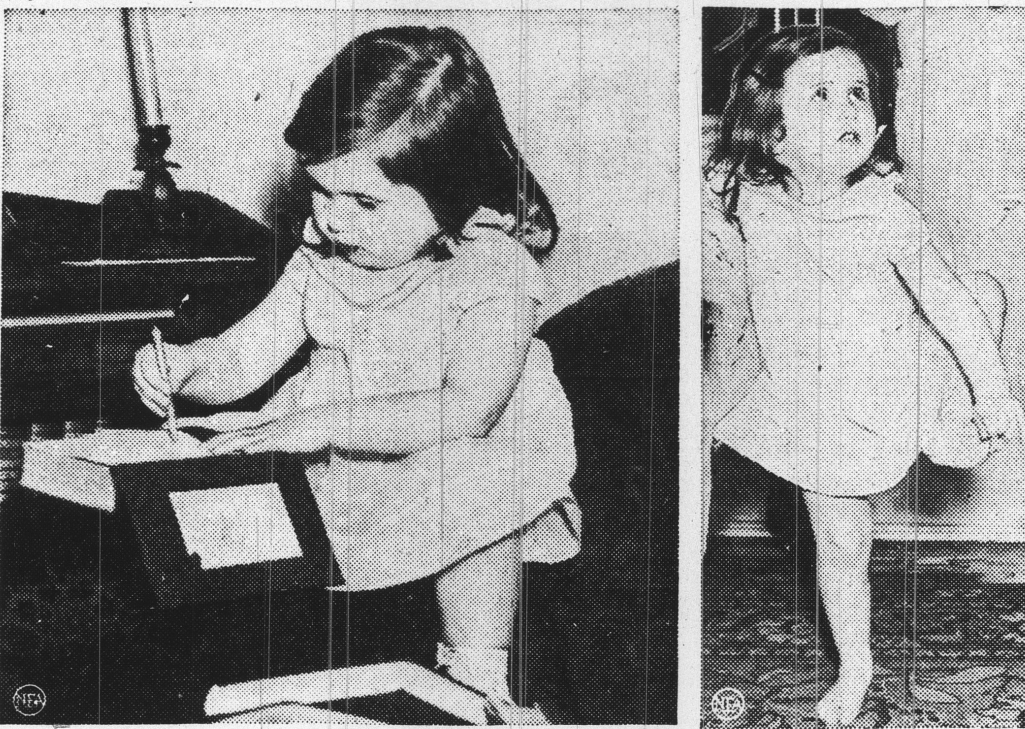
NRA Principle Included

The principle of majority rule, established in Labor Board rulings under the NRA, was written into the law. The principle provides that

Even Child Genius Cries When She Stubs Her Toe



Playing at grownup, left, copying from her books, center, and tearfully wailing like any other child when she stubbed her toe, right, Mary Christine Dunn, 28 months old, amazed psychologists with her precocity. The Bonne Terre, Mo., child, daughter of Mr. and Mrs. Lawrence T. Dunn.



Dunn, converses easily on world events, hopes the Duke of Windsor and Mrs. Wallis Simpson will be "very happy." She uses multi-syllable words, has a vocabulary of 3600 words, knows 100 songs, reads and copies pictures in her own small library and knows grammar rules.

TEXT OF MAJORITY RULING IN WAGNER ACT TEST

(Continued from Page One)

members and from other sources throughout the United States and foreign countries and the compilation, formulation, and distribution thereof to its members.

"In the process the news is prepared for members' use by editing, rewriting, selecting, or discarding information received in whole or in part. The product is transmitted to member newspapers and also to foreign agencies pursuant to mutual exchange agreements. The service is not sold but the entire cost is apportioned among the members by assessment."

"Petitioner maintains its principal office in New York City but has also division points scattered over the United States each of which is charged with the duty of collecting information from a

chosen, it was indicated, because of the varying degrees of interstate commerce involved in the operations of the companies.

"The Associated Press case, growing out of the discharge of an editorial worker in the association's New York office, was accepted by the Government as the focal point of the case for which it was brought, because it was the first Wagner act case to be carried to the tribunal."

It was said that Labor Board officials regarded it as important because of what they considered interstate commerce phases involved.

Contention Challenged

That contention was challenged by the Associated Press counsel, John W. Davis, an anti-New Deal Democrat and one of the Court's most experienced pleaders. Mr. Davis contended that, at least in its relationship with an editorial employee, the A. P.'s operations were not in interstate commerce. The case involved the issue of freedom of the press, raised by Mr. Davis, who asserted that freedom was infringed when the Federal Government attempted to dictate the cause for which an employee might be discharged.

The wire service controversy grew out of the discharge of Morris Watson, a member of the American Newspaper Guild. Mr. Watson charged he was discharged for union activities, and the Labor Board's intervention sought. It asserted that his discharge on the eve of contemplated collective bargaining negotiations with the association indicated that the dismissal was for guild activity.

Officials of the association said the dismissal was solely on the ground that Mr. Watson was not doing the work of which he had shown himself capable.

When the case was heard before the Labor Board the A. P. challenged the jurisdiction of the board. It offered no counter evidence.

Ordered Watson Reinstated

The Labor Board found that Mr. Watson's discharge was for guild activities. It ordered him reinstated with back pay, directed the association to "cease and desist" from discrimination against guild members, and ordered notice to that effect posted by the A. P.

The Associated Press informed the Board it would not comply. In accordance with legal procedure of the act the Board applied to the Second Circuit Court of Appeals for an enforcement order.

Following argument before the New York Federal bench, a ruling was handed down upholding the act as applied to the A. P. Appeal to the Supreme Court followed.

written news to teletype operators for transmission over their wires. "The function of editors and editorial employees such as Watson is to determine the news value of items received and to write the copy delivered to them, so that the rewritten matter shall be delivered to the various filing editors who are responsible for its transmission, if appropriate, to the areas reached by their circuits."

"Upon the basis of these facts the Board concluded that the Associated Press was engaged in interstate commerce; that Watson's services bore a direct relation to petitioner's interstate commerce activities; and that labor disputes between petitioner and employees of its class and labor disputes affecting that class of employees tend to hinder and impede interstate commerce. These conclusions are challenged by the petitioner."

"Section 2 (6) of the act defines the term 'commerce' as meaning 'trade, traffic, commerce, transportation, or communication among the several states . . . or between any foreign country and any state . . . Subsection (7) provides: 'The term 'commerce' includes means in commerce, or burdening or obstructing commerce or the free flow of commerce.'"

"The Associated Press is engaged in interstate commerce within the meaning of the statute and the meaning of Article I, Section 8 of the Constitution. It is an instrumentality set up by constituent members who are engaged in a commercial business for profit and as such instrumentalities acts as an exchange or clearing house of news as between the respective members and as a supplier to members of news gathered by its own domestic and foreign activities. These instrumentalities involve the constant use of channels of interstate and foreign communication."

"They amount to commercial intercourse and such intercourse is commerce within the meaning of the Constitution. Interstate communication of a business nature, whatever the means of such communication, is interstate commerce regulable by Congress under the Constitution. This conclusion is unaffected by the fact that the petitioner does not sell news and does not operate for profit, or that technically the title to the news remains in the petitioner during its transmission. Petitioner being so engaged in interstate commerce, the Congress may adopt appropriate regulations of its activities for the protection and advancement and for the insurance of the safety of such commerce."

The National Labor Relations Act seeks to protect the employees' right of collective bargaining and prohibits acts of the employer discriminating against employees for union activities and advocacy of such bargaining by denigrating them unfair practices to be abated in accordance with the act.

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not be subjected to the regulatory provisions of the National Labor Relations Act.

Second, Does the statute, as applied to the petitioner, abridge the freedom of speech or of the press safeguarded by the First Amendment? We hold that it does not. It is insisted that the Associated Press is in substance the press itself, that the membership consists solely of persons who own and operate newspapers, that the news is gathered solely for publication in the newspapers of members. Stress is laid upon the facts that this membership consists of persons of every conceivable political, economic, and religious view, that the one thing upon which the members are united is that the Associated Press shall be wholly free from partisan activity or the expression of opinions, that it shall limit its function to reporting events without bias in order that the citizens of the country, if given the facts, may be able to form their own opinions respecting them.

"The conclusion which the petitioner draws is that whatever may be the case with respect to employees in its mechanical department, it must have absolute and unrestricted freedom to employ and to discharge those who, like Watson, edit the news, that there must not be the slightest opportunity for any bias or prejudice personally entertained by an editorial employee to color or to distort what he writes, and that the Associated Press cannot be free to furnish unbiased and impartial news reports unless it is equally free to determine for itself the partiality or bias of editorial employees in its mechanical department, or the right collectively to bargain on the part of such employees, is necessarily an invalid invasion of the freedom of the press."

"We think the contention not only has no relevance to the circumstances of the instant case but is an unsound generalization. The ostensible reason for Watson's discharge, as embodied in the records of the petitioner, is solely on the grounds of his work not being on a basis for which he has shown capability." The petitioner did not assert and does not now claim that he had shown bias in the past.

It does not claim that by reason of his connection with the union he will be likely, as the petitioner honestly believes, to show bias in the future. The actual reason for his discharge, as shown by the unattacked finding of the board, was his guild activity and his agitation for collective bargaining. The statute does not preclude a discharge on the ostensible grounds for the petitioner's action; it forbids discharge for what has been found to be the real motive of the petitioner.

These considerations answer the suggestion that if the petitioner believed its policy of impartiality was likely to be subverted by Watson's continued service, Congress was without power to interdict his discharge. No such question is here for decision. Neither before the board, nor in the Court below nor here has the petitioner professed such belief. It seeks to bar all regulation by contending that regulation in a situation not presented would be invalid. Courts deal with cases upon the basis of the facts disclosed, never with nonexistent and assumed circumstances.

"The act does not compel the petitioner to employ anyone; it does not require that the petitioner retain in its employ an incompetent editor or one who fails faithfully to edit the news or to reflect the facts without bias or prejudice. The act permits a discharge for any reason other than union activity or agitation for collective bargaining with employees. The restoration of Watson

RULING STAMPS STEEL WORKERS AS INTERSTATE

High Tribunal Reverses 5th
Circuit Appeals Court;
Lewis in Limelight.

By United Press

WASHINGTON, April 12.—The Supreme Court in upholding the Wagner Act as applied to the steel industry reversed the decision of the Fifth Circuit Court of Appeals which held that the act did not apply to the steel company because its relations with its employees were not a part of interstate commerce and therefore not subject to Federal regulation.

The case was considered the most significant of those pending before the court not only because of the size of the industry but because, also, John L. Lewis has focused his Committee for Industrial Organization activities in this industry.

Hughes Reads Decision
Chief Justice Charles Evans Hughes read the decision in the steel case.

He said: "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."

to his former position in no sense guarantees his continuance in petitioner's employ. The petitioner is at liberty, whenever occasion may arise, to exercise its undoubted right to sever his relationship for any cause that seems to it proper save only as a punishment for, or discouragement of such activities as the act declares permissible. "The business of the Associated Press is not immune from regulation because it is an agency of the press. The publisher of a newspaper has no special immunity from the application of general laws. He has no special privilege to invade the rights and liberties of others. He must answer for libel. He may be punished for contempt of court. He is subject to antitrust laws. Like others he must pay equitable and nondiscriminatory taxes on his business. The regulation here in question has no relation whatever to the impartial distribution of news. The order of the Board in nowise circumscribes the full freedom and liberty of the petitioner to publish the news as it desires it published or to enforce policies of its own choosing with respect to the editing and rewriting of news for publication, and the petitioner is free at any time to discharge Watson or any editorial employee who fails to comply with the policies it may adopt."

Third—The contentions that the act deprives the petitioner of property without due process, that the order of the Board deprives petitioner of the right to trial by jury, and that the act is invalid on its face because it seeks to regulate both interstate and intrastate commerce, are sufficiently answered in the opinion in Texas and N. O. P. Co. v. Brotherhood of Railway and Steamship Clerks, supra, and in National Labor Relations Board v. Jones & Laughlin Steel Corp., No. 419, decided the day, and need no further discussion here.

The judgment of the Circuit Court of Appeals is affirmed.

IN INDIANAPOLIS

MEETINGS TODAY

Indiana University Club, luncheon, Columbia Club, luncheon, Hotel Lincoln, noon.
North Side Realtors, luncheon, Hotel Washington, noon.
Indiana Ladies' Council, luncheon, Indianapolis Athletic Club, noon.
Scientific Club, luncheon, Board of Trade, noon.
Building Owners and Managers, luncheon, Columbia Club, noon.
Indiana Tuberculosis Association, meeting, Hotel Lincoln, 9 a. m.; luncheon, noon.
Indiana Trade Council, luncheon, Hotel Washington, noon.
United Association of Women, meeting, Hotel Washington, 8 p. m.
Monday Club, luncheon, Columbia Club, noon.
National Republican Club, meeting, 844 E. Washington St., 8 p. m.
Salesmen's Club, luncheon, Hotel Washington, noon.
Bella Vista, luncheon, Board of Trade, noon.
Indiana Casualty and Surety Field Men's Club, luncheon, Hotel Washington, noon.
The Signet, luncheon, Columbia Club, 8 p. m.
Labor Union, meeting, Plumbers' Central Hall, 8 p. m.
Casualty Adjusters, luncheon, Hotel Washington, noon.
Community Fund, luncheon, Columbia Club, noon.
Brokers' Association, luncheon, Hotel Washington, noon.

MEETINGS TOMORROW

American Chemical Society, meeting, Hotel Severn, 8 p. m.
Rotary Club, luncheon, Claypool Hotel, noon.
Alpha Tau Omega, luncheon, Board of Trade, noon.
Purchasing Agents, luncheon, Hotel Washington, noon.
Home Builders' Association, dinner, Hooper Athletic Club, 6:30 p. m.
Coke Club, luncheon, South Arms Hotel, noon.
Bakers' Association, luncheon, Hotel Washington, noon.
Merchants Club, luncheon, Columbia Club, noon.
Indiana Hunting and Fishing Club, meeting, Hotel Washington, 8 p. m.
Construction Architects and Builders Bldg., luncheon, noon.
Bakers' Association, luncheon, Hotel Washington, noon.
University of Michigan Club, luncheon, Board of Trade, noon.
Cathedral Club, dinner, Hotel Washington, 8:30 p. m.
University Club, luncheon, Columbia Club, noon.

MARRIAGE LICENSES

(These lists are from official records at the County Courthouse. The Times is not responsible for any errors of names or addresses.)
Harold F. Matthews, 24, of 1734 N. Madison St., to Susan B. Dooly, 22, of 1734 N. Madison St., 25 of Pleasanton, Ill.
Richard A. Schmidt, 25, of 1236 N. New Jersey St., to 1236 N. New Jersey St., 19, of 24 St. St.
St. to Dorothy Pauline Shaler, 18, of 2106 Ripkade Parkway.
John A. Young, 24, of 7410 W. 25th St., to Marie Elizabeth Davidson, 22, of 2469 Bond St., Hathaway, 25, of Greenville, O.
Tessa Marie Sentman, 24, of 1814 Southeastern Ave.
Ford Kuhn, 23, of Greenfield, to Virginia Ames, 20, of Cumberland St.
John L. Gillette, 458 E. Washington St., to Opal Ling, 458 E. Washington St., 507 E. Washington St.
Ernest L. Roberts, 35, of Brook to Florence Jane Roberts, 35, of 3102 Ruckel St.
Harold F. Schilling, 29, of R. R. 5, Indianapolis, to Beatrice Nae, 24, of R. R. 5, Indianapolis.
Harold Kuhn, 52, of Fairview, O., to Hazel Kendall, 42, of 50 N. Keystone Ave.
Edgar M. Rees, 21, of Indianapolis, to Mae Emma Opel, 21, of Indianapolis.
Howard Edward Jenkins, 30, of 124 S. Sheridan Ave., to Madeline N. Gaskin, 18, of 122 S. Sheridan Ave.
Frank R. Harriman, 22, of 1240 Shepard St., to Frances Kime, 22, of 55 N. Sherman St.
William S. Hutson, 35, of Linden Hotel, to Elizabeth Durrall, 29, of 317 N. Wallace St.
Wallace W. Pearson, 34, of R. R. 5, Indianapolis, to Virginia Owen, 26, of 2650 E. New York.
Carl P. Thomas, 26, of 3550 W. Michigan St., to Doris L. Stark, 22, of 5631 Delway Ave.
Donald B. Fobes, 24, of Detroit, to Sheila T. Brown, 22, of 6633 Riverside Drive.

Robert Charles Hanke, 26, of 3540 N. New Jersey St., to Ruth Paterson, 24, of 4450 N. Pennsylvania St., 299 Charles St., Joe Clark, 29, of 909 Charles St.

BIRTHS

Boy
George, Iris Robinson, at 128 Smith.

DEATHS

Dale D. Golden, 48, at St. Vincent's, carcinoma.
Nathan Townsend, 42, at 307 E. New York, chronic myocardiitis.
William H. Wade, 61, at Methodist, peritonitis.
Francis Z. Wolf, 44, at Veterans, apoplexy.
George S. Morris, 60, at Norway, cerebral hemorrhage.
Eugene E. Tinscher, 44, at 2338 N. Talbot, lung pneumonia.
Edward R. Hines, 57, at City, cardiovascular.
Catherine A. Mitchell, 72, 2260 Exeter, apoplexy.
Edward Kessler, 71, at 1227 N. Rural, cerebral hemorrhage.
Patricia A. Rybolt, 8 months, at City.
Hazel H. Munger, 47, at City, cerebral.
Carl Klink, 49, at Methodist, brain tumor.

BUILDING PERMITS

Elizabeth B. Birt, 2617-19 W. 17th St., foundation, \$200.
W. E. Brown, 2517 N. Station St., basement, \$125.
Rumell, 822 S. Addison St., dwelling, \$900.
Harry Calwell, Illinois and 22d St., alteration, \$300.
C. H. Moran, 1114 N. Wallace St., addition, \$700.
Pierpatrick, 6107 Forrest Lane, basement and foundation, \$1000.
Ross Neaves, 5733 Wildwood, \$150.
Ray Watts, 6419 Pleasant Run Blvd., \$150.

OFFICIAL WEATHER

United States Weather Bureau
INDIANAPOLIS FORECAST—Increasing cloudiness; probably showers late tonight or tomorrow; warmer tonight.

TEMPERATURE
—April 12, 1936—
7 a. m. 43 1 p. m. 56
BAROMETER
7 a. m. 30.14 1 p. m. 30.35

Precipitation 24 hrs. ending 7 a. m. 0.0
Total precipitation 12.23
EXPOSURE 2.16

MIDWEST WEATHER

Indiana—Increasing cloudiness, probably showers beginning tonight or Tuesday; warmer Tuesday.
Illinois—Mostly cloudy tonight and Tuesday; probably showers except Tuesday in the northwest; slightly warmer tonight or Tuesday.
Michigan—Increasing cloudiness, slightly warmer; showers west portion tonight; Tuesday cloudy and warmer, possibly showers in west and north portions.
Kentucky—Increasing cloudiness and warmer tonight; Tuesday cloudy and warmer.
Ohio—Increasing cloudiness and warmer tonight; Tuesday cloudy and warmer.
Weather in other cities at 7 a. m.
Amarillo, Tex. P. C. 29.96 54
Bismarck, N. D. P. C. 30.12 42
Boston P. C. 30.12 42
Butte, Mont. P. C. 30.12 42
Cincinnati P. C. 30.12 42
Cleveland, O. P. C. 30.12 42
Denver, Colo. P. C. 30.12 42
Detroit, Mich. P. C. 30.12 42
Havana, Cuba P. C. 30.12 42
Jacksonville, Fla. P. C. 30.12 42
Kansas City, Mo. P. C. 30.12 42
Little Rock, Ark. P. C. 30.12 42
Miami, Fla. P. C. 30.12 42
Mobile, Ala. P. C. 30.12 42
New Orleans, La. P. C. 30.12 42
New York P. C. 30.12 42
Ocala, Fla. P. C. 30.12 42
Omaha, Neb. P. C. 30.12 42
Portland, Ore. P. C. 30.12 42
San Antonio, Tex. P. C. 30.12 42
San Francisco, Calif. P. C. 30.12 42
St. Louis P. C. 30.12 42
Tulsa, Okla. P. C. 30.12 42
Washington, D. C. P. C. 30.12 42

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