in issue are stated in the form of commands. For the present command there is no mode of enforcement other than resort to the courts, whose jurisdiction and duty to afford a remedy for a breach of statutory duty are left unaffected. The right is analogous to the statutory right of employees to require the employer to bargain with the statutory representative of a craft, a right which this Court has enforced and protected by its injunction in *Texas & N.O.R. Co.* v. *Brotherhood of Railway & S.S. Clerks, supra* (281 U.S. 556), and in *Virginian R. Co.* v. *System Federation, supra* (300 U.S. 548), and like it is one for which there is no available administrative remedy.

"We conclude that the duty which the statute imposes on a union representative of a craft to represent the interests of all its members stands on no different footing and that the statute contemplates resort to the usual judicial remedies of injunction and award of damages when appropriate for breach of that duty."

The rule explained and emphasized in *Steele* has subsequently been applied by the Supreme Court on numerous occasions to uphold judicial protection of Federal statutory rights even in the absence of any express statutory provision authorizing judicial action. See, e.g., *Graham* v. *Brotherhood* (338 U.S. 232); *Conley* v. *Gibson* (355 U.S. 41); *Greene* v. *McElroy* (360 U.S. 474).

Thus, in a recent summary of the principle, the Supreme Court stated that "generally, judicial relief is available to one who has been injured by an act of a Government official which is in excess of his express or implied [statutory] powers." *Harmon* v. *Brucker* (355 U.S. 579, 581).

Moreover, the rule was recently applied by the Supreme Court in *Leedom* v. *Kyne* (358 U.S. 184), even in a situation where Congress had established a remedial administrative procedure, the Court ruling that in case of a clear statutory violation by a Federal agency, judicial review is mandatory. The Court provided the following significant explanation of its ruling:

"This case, in its posture before us, involves 'unlawful action of the Board [which] has inflicted an injury on the [respondent].' Does the law, 'apart from the review provisions of the act,' afford a remedy? We think the answer surely must be 'Yes.' This suit is not one to 'review,' in the sense of that term as used in the act, a decision of the Board made within its jurisdiction. Rather it is one to strike down an order of the Board made in excess of its delegated powers and contrary to a specific prohibition in the act. Section 9(b)(1) is clear and mandatory. It says that, in determining the unit appropriate for the purposes of collective bargaining, 'the Board *shall not* (1) decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit.' [Emphasis added.] Yet the Board included in the unit employees whom it found were not professional employees, after refusing to determine whether a majority of the professional employees would 'vote for inclusion in such unit.' Plainly, this was an attempted exercise of power that had been specifically withheld. It deprived the professional employees of a 'right' assured to them by Congress. Surely, in these circumstances, a Federal district court has jurisdiction of an original suit to prevent deprivation of a right so given.

"In *Texas & New Orleans R. Co.* v. *Brotherhood of Railway & S.S. Clerks* (281 U.S. 548, 549), it was contended that, because no remedy had been expressly given for redress of the congressionally created right in suit, the act conferred 'merely an abstract right which was not intended to be enforced by legal proceedings.' (Id. 281 U.S. at p. 558.) This Court rejected that contention. It said: 'While an affirmative declaration of duty contained in a legislative enactment may be of imperfect obligation because not enforceable in terms, a definite statutory prohibition of conduct which would thwart the declared purpose of the legislation cannot be disregarded * * *. If Congress intended that the prohibition, as this construed, should be enforced, the courts would encounter no difficulty in fulfilling its purpose * * *. The definite prohibition which Congress inserted in the act cannot therefore be overdidden in the view that Congress intended it to be ignored. As the prohibition was appropriate to the aim of Congress, and is capable of enforcement, the conclusion must be that enforcement was contemplated.' (Id. 281 U.S. at pp. 568, 569.) And compare *Virginian R. Co.* v. *System Federation*. (300 U.S. 151).

"In *Switchmen's Union of North America* v. *National Mediation Board* (320 U.S. 297), this Court held that the district court did not have jurisdiction of an original suit to review an order of the National Mediation Board determining that all yardmen of the rail lines operated by the New York Central system constituted an appropriate bargaining unit, because the Railway Labor Board had