Michigan Law Review

Volume 36 | Issue 7

1938

LABOR LAW -- ANTI-INJUNCTION ACTS -- PRESENCE OR ABSENCE OF LABOR DISPUTE AS AFFECTING "JURISDICTION"

Michigan Law Review

LABOR LAW — ANTI-INJUNCTION ACTS — PRESENCE OR ABSENCE OF LABOR DISPUTE AS AFFECTING "JURISDICTION" — Plaintiff secured a temporary injunction against the picketing of her beauty shop by members of a union who sought an agreement as to the prices which plaintiff would charge her customers. None of plaintiff's employees were dissatisfied with the terms and conditions of employment. The trial court, on the basis of allegations in plaintiff's bill, affidavits and oral testimony, but without an answer being filed by defendant, held that the case did not "involve or grow out of a labor dispute" and awarded a temporary injunction. A Minnesota statute provided that no court of the state should have "jurisdiction" to issue an injunction in a case "involving or growing out of a labor dispute" except under certain conditions.[1] Defendant was convicted of contempt for violation of the injunction and brought certiorari to review his conviction. *Held*, with one judge dissenting, that the court had "jurisdiction" to decide either way; and even though the decision were erroneous, it was not a nullity, and could not be collaterally attacked. *Reid v. Independent Union of All Workers*, (Minn. 1937) 275 N. W. 300.

The Minnesota statute here involved was modelled on the federal Norris-LaGuardia Act which applies only to federal courts, but which has been widely copied in recent state legislation.[2] Proceeding on the assumption that Congress could withdraw all or part of the "jurisdiction" conferred by them on the lower federal courts,[3] the framers of the Norris Act adopted this ingenious device to prevent courts from issuing injunctions in labor disputes, in order to escape the limitations implied by *Truax v. Corrigan*.[4] It is at least questionable whether state legislatures are as free as Congress to withhold the protection of the equity injunction in labor disputes,[5] but this device has been widely used in state

[1] Minn. Stat. (Mason Supp. 1936), §§ 4260-1 to 4260-15.

[2] 47 Stat. L. 70, § 1 (1932), 29 U. S. C. (1935), § 101. Fourteen states have enacted laws which are substantial copies of this federal act: Colo. Laws (1933), c. 59; Idaho Laws (1933), c. 215; 8 Ind. Ann. Stat. (Burns, 1933), § 40-504; La. Laws (1934), c. 203; Md. Laws (1935), c. 574; Minn. Stat. (Mason, Supp. 1936), §§ 4260-1 to 4260-15; N. Y. Civ. Prac. (Cahill, 1937), § 876a; N. D. Laws (1935), c. 247; Ore. Code (Supp. 1935), § 49-1901; Pa. Ann. Stat. (Purdon, Supp. 1937), § 206a; Utah Laws (1933), c. 15; Wis. Stat. (1937), § 133.07; Wash. Laws (Spec. Sess. 1933), c. 7; Wyo. Laws (1937), c. 15. Five other states have anti-injunction legislation which is more limited: Ariz. Rev. Code (1928) § 4286; Ill. Rev. Stat. (1937), c. 48, § 2a; Kan. Gen. Stat. (1935), §§ 60-1104, 60-1107; Mass. Laws (1935), c. 407; N. J. Rev. Stat. (1937), § 2:29-77.

[3] Justice Holmes' suggestion of this possibility in Fauntleroy v. Lum, 210 U. S. 230, 28 S. Ct. 641 (1908), may have been the birth of the notion.

[4] 257 U. S. 312, 42 S. Ct. 124, 27 A. L. R. 375 at 411 (1921).

[5] In Truax v. Corrigan the Supreme Court held, concerning an Arizona anti-injunction statute, that if it legalized mass picketing, it effected deprivation of property without due process; and if it left mass picketing an actionable wrong, but pre-

legislation. The principal case is one of the first to consider the effect of this language on the powers of equity courts. It is particularly in equity cases that confusion has arisen as to the meaning of the word "jurisdiction." It is often employed, not in the strict sense of judicial power, but in the broader sense of propriety of the exercise of power; and this ambiguity survives under legislation of the type here involved. If "jurisdiction" in the sense of judicial power has been withdrawn, injunctions which fail to comply with the detailed provisions of such legislation are absolutely void, may be disregarded with impunity, and are subject to collateral attack.[6] In view of the general policy of excluding injunctive relief entirely in a field thought unsuited to this type of judicial control, it may be that Congress and the state legislatures intended so drastic a consequence. On the other hand, it may have been the purpose of the framers to give to the jurisdictional requirements in these statutes only the force and effect given to the jurisdictional requisite of diversity of citizenship in federal courts. It has long been held that, although these requirements are "jurisdictional," they go only to the propriety of the exercise of power; and a decision where no such diversity actually exists is erroneous merely, not void.[7] The same treatment has been given the requirement of a "case or controversy" necessary for jurisdiction to attach,[8] and the requirement of a jurisdictional amount for removal to federal courts.[9] Further, there is authority that, in certain other situations where "jurisdiction" depends upon the existence of a certain fact, an erroneous finding of that fact does not allow the decree to be disregarded with impunity.[10] Moreover, the very fact that the statute sets out

vented granting injunctions against it, this was a denial of equal protection of the laws. The equal protection clause of the Federal Constitution applies, of course, only to state action. Cf. Senn v. Tile Layers' Protective Union, 301 U. S. 468, 57 S. Ct. 857 (1937), where, although not expressly overruling Truax v. Corrigan, the Supreme Court upheld the constitutionality of a Wisconsin copy of the Norris Act. See 22 COL. L. REV. 252 (1922); 31 YALE L. J. 408 (1922); 37 COL. L. REV. 1227 (1937).

[6] A defense in a contempt proceeding, resting on the impropriety of issuing the decree, is generally conceded to be a collateral attack. See State ex rel. Tuthill v. Giddings, 98 Minn. 102, 107 N. W. 1048 (1906). The principal case is now before the Minnesota Court on a writ of habeas corpus, following defendant's commitment for contempt. This is also clearly a collateral attack. For an interesting case, exactly parallel, where the opposite result was reached on habeas corpus proceeding, see People ex rel. Sandnes v. Sheriff of Kings County, 164 Misc. 355, 299 N. Y. S. 9 (1937), noted in 51 HARV. L. REV. 747 (1938).

[7] Skillern's Exrs. v. May's Exrs., 6 Cranch (10 U. S.) 267 (1810); Des Moines Navigation & R. R. v. Iowa Homestead Co., 123 U. S. 552, 8 S. Ct. 217 (1887); Riverdale Mills v. Manufacturing Co., 198 U. S. 188, 25 S. Ct. 629 (1904); Foltz v. St. Louis & S. F. Ry., (C. C. A. 8th, 1894) 60 F. 316.

[8] Swift & Co. v. United States, 276 U. S. 311 at 326, 48 S. Ct. 311 (1927).

[9] Noble v. Union River Logging R. R., 147 U. S. 165 at 173, 13 S. Ct. 271 (1892) and cases cited.

[10] Toy Toy v. Hopkins, 212 U. S. 542, 29 S. Ct. 416 (1909); Showalter v. Hampton, (C. C. A. 8th, 1928) 26 F. (2d) 777; Lambert v. Central Bank of Oakland, (C. C. A. 9th, 1936) 85 F. (2d) 954. Several cases have drawn the distinction, as did the dissenting judge in the principal case, between questions of fact and questions of law in determining the presence of jurisdiction, insisting that where the question

in detail the findings necessary for grant of an injunction if a labor dispute exists [11] further points to the conclusion that the legislatures intended the word to connote propriety of the exercise of power merely. If an omission or incorrect ruling on any one of the numerous details were given the effect of nullifying the decree, the enforcement of judicial orders would be seriously encumbered, and the prestige of the courts and the respect in which their determinations should be held would be materially lessened.[12] This view that the statute does not withdraw the "power" of the courts is strengthened by a peculiar constitutional problem under the Minnesota constitution whereby the legislature seems to be precluded from regulating the "power" of the district courts.[13] Taking all these problems into consideration, it would seem desirable to hold, with the majority in the instant case, that the statute inescapably implies the power to decide the question of "jurisdiction" erroneously as well as correctly; that here "jurisdiction" is the power to make a mistake. Thus these statutory limitations on the exercise of the court's power may be adequately satisfied by reversal through the usual process of appeal. This position is further strengthened by the statutory provision, usual in anti-injunction statutes, for appeal without delay.[14]

is solely one of law, a judgment wrongly decided is void. See O'Donoghue v. Boies, 159 N. Y. 87, 53 N. E. 537 (1899). But there seem to be no decisions based squarely on the point, and it is submitted that the distinction cannot be kept clear. For example, in the principal case the statute states that "X" fact constitutes a labor dispute. "Y" fact was the situation alleged. Determining what "X" and "Y" are, and whether "X" equals "Y" would seem to involve both law and fact.

[11] Minn. Stat. (Mason, Supp. 1936), § 4260-7. The court must find that "unlawful acts" have been threatened or committed, or will be in the future; that "substantial and irreparable injury" will follow; that there will be greater injury to plaintiff by denial than there will be to defendant by granting the injunction; that there is no remedy at law; that the public officers are "unable or unwilling to furnish adequate protection"; and (most statutes add this requirement) that plaintiff has made "every reasonable effort to settle such dispute."

[12] And yet some courts have said in dicta that each requirement goes to the power of the court to act: "the court is denied the *power or jurisdiction to act* until resort is had to agencies and means . . . [for arbitration]." Dean v. Mayo, (D. C. La. 1934) 8 F. Supp. 73 at 77 (italics added), affd. Mayo v. Dean, (C. C. A. 5th, 1936) 82 F. (2d) 554. See also Heintz Mfg. Co. v. Local No. 515 of United Automobile Workers, (D. C. Pa. 1937) 20 F. Supp. 116; Cupples Co. v. American Federation of Labor, (D. C. Mo. 1937) 20 F. Supp. 894.

[13] Minn. Const., art. 6, § 5. For an excellent and complete discussion of the constitutional problem involved, see McClintock, "The Minnesota Labor Disputes Injunction Act," 21 MINN. L. REV. 619 (1937). To be sure, several other state courts have upheld the constitutionality of various features of these state copies of the Norris Act; but the differences in the acts themselves and in the state constitutions lessen the value of these decisions in predicting future action by the Minnesota court. See Fenske Bros. v. Upholsterers' International Union, 358 Ill. 239, 193 N. E. 112 (1934); Dehan v. Hotel & Restaurant Employees, etc. Assn., (La. App. 1935) 159 So. 637; Starr v. Laundry & Dry Cleaning Workers' Local Union No. 101, 155 Ore. 634, 63 P. (2d) 1104 (1936); Aberdeen Restaurant Corp. v. Gottfried, 158 Misc. 785, 285 N. Y. S. 832 (1935). *Contra*: Blanchard v. Golden Age Brewing Co., (Wash. 1936) 63 P. (2d) 397.

[14] Minn. Stat. (Mason, Supp. 1936), § 4260-9.

The principal case also raises the question how the existence of a labor dispute should be determined. No answer or testimony was interposed by defendant in the case; and the determination was based upon plaintiff's allegations, affidavits, and oral testimony. If this be the proper method, it would seem to be possible, despite recent broad interpretations of the term, "labor dispute," [15] for complainants to subvert the operation of the statute by so wording the complaint that no labor dispute appears. True, determination from the complaint may be justified by the technical reasoning that the act requires a hearing *only* where a labor dispute exists. But to say that there must be certain findings of fact when a labor dispute exists does not prove that there should not be a hearing to determine the existence of such a dispute. Certainly, determination of the question should not rest on affidavits merely, even though filed by both parties; for affidavits are untrustworthy guides to judicial action, particularly in the field of labor law. It would seem, then, that the trial judge should hear both parties and receive testimony of their witnesses in open court to answer the question whether he is confronted with a "labor dispute." [16]

[15] Lauf v. Shinner & Co., (U. S. 1938) 58 S. Ct. 578.

[16] It would appear, however, that in most of the recent cases the method of determination of the existence of a labor dispute from the pleadings of the parties has been used. Coryell & Son v. Petroleum Workers' Union, (D. C. Minn. 1936) 19 F. Supp. 749; Fehr Baking Co. v. Bakers' Union, (D. C. La. 1937) 20 F. Supp. 691; Oberman & Co. v. United Garment Workers, (D. C. Mo. 1937) 21 F. Supp. 20. A hearing before a master was employed in Scavenger Service Corp. v. Courtney, (C. C. A. 7th, 1936) 85 F. (2d) 825, and a hearing before the court in Lauf v. Shinner & Co., (U. S. 1938) 58 S. Ct. 578. And, it has been suggested, in Garrison, "Government and Labor—The Latest Phase," 37 COL. L. REV. 897 (1937), that where the dispute involves a sit-down strike, upon submission of a bill for an injunction, the whole matter be referred for preliminary findings to the state board set up by the National Labor Relations Act. But see Donnelly Garment Co. v. Garment Workers' Union, (D. C. Mo. 1937) 20 F. Supp. 767, where it is insisted that the plaintiff's complaint alone is to be used to decide the question in issuing temporary restraining orders. Judge Otis points out, in refusing to dismiss the bill, that there is no harm done if it later develops that there is, in truth, a labor dispute involved after it has been decided there was none, for the injunction will then be dissolved. But because of the temporary nature of labor controversies, the effect of the wrongfully issued injunction will often be to destroy the workers' one weapon and result in their defeat. It will be little consolation or help to them later to learn that the injunction should never have issued. In the Donnelly case, however, before an injunction was substituted for the restraining order, hearings were held; and when the district court finally granted the injunction Judge Otis dissented on the ground that the hearings had shown there was a labor dispute involved. (D. C. Mo. 1937) 21 F. Supp. 807.