Michigan Law Review

Volume 47 | Issue 1

1948

LABOR LAW-LABOR-MANAGEMENT RELATIONS ACT-JURISDICTION OF FEDERAL COURTS TO ENJOIN UNFAIR LABOR PRACTICES

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LABOR LAW—LABOR-MANAGEMENT RELATIONS ACT—JURISDICTION OF FEDERAL COURTS TO ENJOIN UNFAIR LABOR PRACTICES—Following a breakdown in negotiations over contract extension, plaintiff union, the certified representative of defendant's employees, sued in a federal district court, alleging that defendant was guilty of an unfair labor practice under the Labor-Management Relations Act [1] in refusing to bargain in good faith. An injunction was sought requiring defendant to bargain with the union. The district court overruled

[1] 29 U.S.C.A. (Supp. 1947) § 158.

motions to dismiss for lack of jurisdiction and granted the relief requested.[2] On appeal, *held*, reversed. The district court lacked jurisdiction to entertain the suit. *Amazon Cotton Mills Co. v. Textile Workers Union*, (C.C.A. 4th, 1948) 167 F. (2d) 183.

The issue raised by the case turns principally upon the construction of section 10(a) of the L.M.R.A.[3] and its omission to state, as did the corresponding section of the National Labor Relations Act[4] which it amends, that the board's jurisdiction in preventing unfair labor practices shall be exclusive. Relying on this omission, together with section 301(b) of the new act conferring on unions capacity to sue in federal courts, the trial court held that private parties might now sue to enjoin these unfair practices without applying to the board. Unquestionably, the N.L.R.A. did not allow this.[5] As the appellate court points out, it seems clear that the change in section 10(a) was not intended to vest the federal courts with general jurisdiction over unfair practices, but merely to recognize the jurisdiction specifically conferred on the courts by other sections of the L.M.R.A.[6] In explaining the significance of the amendment to section 10(a), the Conference Committee of the House and Senate reported that the word "exclusive" had been omitted ". . . because of [the Act's] provisions authorizing temporary injunctions enjoining alleged unfair labor practices, and . . . making unions suable."[7] Neither does it appear that those sections granting jurisdiction in particular circumstances were intended to have any broader significance. In introducing the amendment which was incorporated into the final bill as sections 10(j) and 10(l), Senator Morse said: "My proposal would in no way impair the legitimate rights of labor under the Norris-LaGuardia Act and the Clayton Act, since I do not propose that employers be allowed to obtain injunctions against labor. . . ."[8] This was affirmed by the Senate committee report which stated that the board may seek such temporary injunctive relief ". . . acting in the public interest and not in vindication of

[2] Textile Workers Union v. Amazon Cotton Mill Co., (D.C. N.C. 1948) 76 F. Supp. 159 at 165.

[3] The pertinent part of the section states: "This power [of the N.L.R.B. to prevent unfair practices as defined by the act] shall not be affected by any other means of adjustment or prevention . . . established by agreement, law, or otherwise."

[4] 49 Stat. L. 449-457 (1935), 29 U.S.C. (1946) §§ 151-166.

[5] Amalgamated Utility Workers v. Consolidated Edison Co., 309 U.S. 261 at 269, 60 S.Ct. 561 (1940); United Brick & Clay Workers v. Robinson Clay Products Co., (C.C.A. 6th, 1946) 158 F. (2d) 552.

[6] These sections are: §§ 10(j) and 10(l) (jurisdiction to grant temporary injunctions against unfair practices upon petition by the board); § 303(b) (to award damages for certain unfair practices by unions); § 208 (to enjoin strikes or lockouts in national emergencies when sought by the attorney general); and § 301(a) (to enforce collective bargaining agreements; see, 57 YALE L.J. 630 (1948); Cox, "Some Aspects of the L.M.R.A., 1947," 61 HARV. L. REV. 274 at 303 (1948).

[7] H. Rep. 510 on H.R. 3020, 80th Cong., 1st sess., p. 52 (June 3, 1947).

[8] 93 CONG. REC. 1912 (March 10, 1947). The Conference Committee adopted this version over that proposed by the House which provided for injunctions at the request of private persons, rather than by the Board. H. Rep. 510 on H.R. 3020, 80th Cong., 1st sess., p. 57 (June 3, 1947).

purely private rights. . . ." [9] After expressions of apprehension that the addition of section 303(b) might give rise to granting injunctive relief to private suitors in cases of jurisdictional strikes and boycotts, its author, Senator Taft, replied that ". . . this is not the intention of the author of the amendment," and that he did not believe ". . . any court would construe the amendment along the lines suggested. . . ." [10] To the contention of the trial judge that section 301(b) confers such general jurisdiction on the federal courts, the appellate court replied that the purpose of this section was simply to make clear the capacity of unions as parties to suits. Such a provision was necessary to effectuate section 301(a) making unions liable for breach of contract.[11] Furthermore, if section 10(a) and section 301(b) had the effect which the court below ascribed to them, the other sections of the L.M.R.A. conferring on the federal courts jurisdiction over unfair practices under specific circumstances would have been unnecessary. Administration of the act would become chaotic if more than two hundred federal district courts were clothed with jurisdiction concurrent with that of the board, and the policy of placing responsibility for this administration in the hands of an expert body would be repudiated.[12] In addition, such an interpretation would virtually repeal the Norris-LaGuardia Act [13] by allowing injunctions against unfair union practices at the suit of individual employers. It is unlikely that Congress would have taken so significant a step without stating its intentions expressly. The position of the trial court would create a further paradox by making futile the provisions of section 9(f), (g), and (h) requiring the filing of financial statements and other information by unions and affidavits of non-Communist affiliation by their officers, before the board can investigate complaints of unfair practices made by such unions. By direct petition to the federal district court, a union could circumvent these requirements. It is not suggested, of course, that the federal courts could not assert jurisdiction in the case of excesses by the board or in other unusual circumstances, or in diversity of citizenship cases to enforce rights under state law.

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[9] S. Rep. No. 105 on S. 1126, 80th Cong., 1st sess., p. 8 (April 17, 1947).

[10] 93 CONG. REC. 5074 (May 9, 1947). This prophesy has been proved inaccurate by a recent decision holding that § 303 created federal rights, enforcement of which comes within the inherent jurisdiction of equity. Dixie Motor Coach Corp. v. Amalgamated Assn., (D.C. Ark. 1947) 74 F. Supp. 952. The Senator's intention was followed, however, in Gerry v. I.L.G.W.U., (Superior Ct., Los Angeles County, Cal. 1948) 48 P-H. AM. LAB. CAS. 149.

[11] S. Rep. No. 105 on S. 1126, pp. 15-18 (April 17, 1947).

[12] Foley, "Unfair Practices Under the Taft-Hartley Act," 33 VA. L. REV. 697, 723 (1947). See the dicta in Fitzgerald v. Douds, (D.C. N.Y. 1948) 76 F. Supp. 597.

[13] 47 Stat. L. 70 (1932), 29 U.S.C. (1946) § 101.