Michigan Law Review

Volume 54 | Issue 3

1956

Labor Law - Federal Procedure - Stay of State Court Proceedings Involving Matters Within the Exclusive Jurisdiction of the NLRB

Arne Hovdesven S.Ed.
University of Michigan Law School

LABOR LAW — FEDERAL PROCEDURE — STAY OF STATE COURT PROCEEDINGS INVOLVING MATTERS WITHIN THE EXCLUSIVE JURISDICTION OF THE NLRB — Richman Brothers sought and was granted a state court injunction against organizational picketing conducted by the union.[1] The complaint alleged acts which were unfair labor practices under section 8 (b) (2) of the amended National Labor Relations Act.[2] The union, after failing to obtain removal of this action,[3] unsuccessfully applied for a federal district court injunction against the state court proceedings.[4] On appeal, *held,* affirmed. Section 2283 of the Judicial Code[5] prevents a federal court injunction of a state court proceeding, despite the fact that the activities involved are within the exclusive jurisdiction of the National Labor Relations Board.[6] *Amalgamated Clothing Workers of America v. Richman Brothers Co.,* 348 U.S. 511, 75 S.Ct. 452 (1955).

Section 2283 has its roots in section 5 of the Act of March 17, 1793,[7] which provided: ". . . nor shall a writ of injunction be granted [by any court of the United States] to stay proceedings in any Court of a state. . . ." This provision remained substantially unchanged until 1948.[8] But, in the

1 51 Ohio Op. 145, 116 N.E. (2d) 60 (1953).

2 Labor-Management Relations Act, 1947, 61 Stat. L. 141, 29 U.S.C. (1952) §158 (b) (2). Essentially the conduct involved a demand that the employer require his employees to join the union. See Garner v. Teamsters Union, 346 U.S. 485, 74 S.Ct. 161 (1953).

3 Richman Brothers v. Amalgamated Clothing Workers, (D.C. Ohio 1953) 114 F. Supp. 185, reh. den. (D.C. Ohio 1953) 116 F. Supp. 800.

4 The unreported opinion of the district court was unanimously affirmed in Amalgamated Clothing Workers v. Richman Brothers Co., (6th Cir. 1954) 211 F. (2d) 449.

5 "A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 28 U.S.C. (1952) §2283.

6 The victory soon proved to be a hollow one, however, for the injunction was dissolved on the rationale of Garner v. Teamsters Union, note 2 supra. Richman Brothers v. Amalgamated Clothing Workers, (Ohio Com. Pl. 1955) 28 CCH Lab. Cas. ¶69,320.

7 1 Stat. L. 334-335 (1793).

8 The only exception made was a provision enabling a stay in bankruptcy proceedings. Rev. Stat. (1874) §720.

interim, many exceptions to this seemingly absolute prohibition were created, either by implication from legislation,[9] or by judicial fiat.[10] Although the Reviser's notes indicate that section 2283 was designed to express approval of all these exceptions,[11] it still limits substantially the power to enjoin state court proceedings. Federal courts continue to refuse to stay state court proceedings in labor cases involving pre-empted issues, on the ground that section 2283 requires that redress for the improper exercise of state court jurisdiction be obtained by appeal through the state court system to the United States Supreme Court.[12] However, where the NLRB itself has invoked the jurisdiction of the district court, state court proceedings have been enjoined on the basis of the exception in section 2283 permitting the stay when in aid of the court's jurisdiction.[13] The Court in the principal case distinguished a resort by a private party to the district court for a stay of state court proceedings by noting that since there had been no resort to the federal procedure for processing labor-management disputes, the necessary jurisdiction had not vested in the federal courts. The Court's interpretation of section 2283 is subject to some question. Recognizing that Congress meant to make the federal system of handling labor disputes supreme in the areas covered, and that section 2283 is essentially a rule of comity,[14] it may be argued that the amended NLRA was intended to be another exception to this section.[15] Since time is of the essence in a labor dispute, this interpretation is particularly desirable. On the other

[9] Injunctions have been issued in cases involving statutes affecting removal jurisdiction, interpleader, limitation of liability in admiralty, relief of farmers from mortgage indebtedness, and enforcement of price control regulations. Toucey v. New York Life Ins. Co., 314 U.S. 118, 62 S.Ct. 139 (1941); Bowles v. Willingham, 321 U.S. 503, 64 S.Ct. 641 (1944).

[10] Injunctions were issued to prevent relitigation of cases determined by federal courts [Julian v. Central Trust Co., 193 U.S. 93, 24 S.Ct. 399 (1904)], to prevent enforcement of unconscionable or fraudulently obtained judgments [Wells Fargo and Co. v. Taylor, 254 U.S. 175, 41 S.Ct. 93 (1919)], to prevent interference with the exclusive authority of the United States Government [United States v. McIntosh, (D.C. Va. 1932) 57 F. (2d) 573], and to prevent clashes of authority in in rem cases [Kline v. Burke Construction Co., 260 U.S. 226, 43 S.Ct. 79 (1922)].

[11] H. Rep. 308, 80th Cong., 1st sess., pp. A181-A182 (1947).

[12] International Electrical Workers v. Underwood Corp., (2d Cir. 1955) 219 F. (2d) 100; Johnston v. Colonial Provision Co., (D.C. Mass. 1954) 128 F. Supp. 954; International Union of Operating Engineers v. Baker, (D.C. Pa. 1951) 100 F. Supp. 773.

[13] When the NLRB has taken jurisdiction over an unfair labor practice charge, §§10 (j) and 10 (*l*) of the amended NLRA authorize it to apply to the federal district court for an injunction against the alleged activities. Labor-Management Relations Act, 1947, 61 Stat. L. 149, 29 U.S.C. (1952) §§160 (j), (*l*). Jurisdiction of the federal court having been created in this manner, a stay of state court proceedings interfering with this jurisdiction is authorized. Capital Service Inc. v. NLRB, 347 U.S. 501, 74 S.Ct. 699 (1954); International Electrical Workers v. Underwood Corp., note 12 supra.

[14] Oklahoma Packing Co. v. Oklahoma Gas & Electric Co., 309 U.S. 4, 60 S.Ct. 215 (1940).

[15] See note 9 supra. However, this would not be as clear as in the case of the interpleader process or the price control system. See Bowles v. Willingham, note 9 supra; Brown v. Wright, (4th Cir. 1943) 137 F. (2d) 484.

hand, although the facts of the principal case clearly indicate exclusive NLRB jurisdiction, the federal-state question is not always so easily resolved. The Court chose to eliminate the problems which would arise from an unwarranted federal court injunction in those cases where the state courts have concurrent or exclusive jurisdiction, and forego the advantages of having the federal courts interpret the extent of supersedure inherent in the federal labor statutes. Justice Frankfurter expressed confidence that the state courts will be careful to refuse to exercise jurisdiction in those areas pre-empted by the amended NLRA.[16]

As a result of this decision, a party improperly summoned before a state court must devise other means of divesting that court of jurisdiction in order to avoid the costly delays inherent in an appeal. If he invokes the jurisdiction of the NLRB by charging activities amounting to an unfair labor practice, *Capital Service v. NLRB*[17] enables the Board to apply for a stay of the state proceedings. As the principal case illustrates, the utility of this method is limited, for the party often will not be able to make this allegation. Some federal courts have granted removal of an action over which a state court has improperly assumed jurisdiction[18] despite the fact that the court would not have had jurisdiction over the dispute had it been brought in that forum originally.[19] The NLRB has indicated that it might go so far as to find an unfair labor practice in a party's resort to the state court for an injunction against activity protected under the amended NLRA.[20] One state supreme court has granted mandamus to require the immediate dismissal of an injunction issued by a lower court which lacked jurisdiction.[21] These alternatives are less reliable than a federal court order staying the state court proceeding. It may be necessary for Congress, in the interest of implementing the administration of the federal labor policy, to relax the restriction of section 2283 in this area.

Arne Hovdesven, S.Ed.

16 Already there are decisions suggesting that this will not always be the case. Arkansas Oak Flooring Co. v. United Mine Workers, (La. 1955) 81 S. (2d) 413; Denver Building and Construction Trades Council v. Shore, (Colo. 1955) 28 CCH Lab. Cas. ¶69,402.

17 Note 13 supra.

18 Retail Clerks Union v. Your Food Stores, (10th Cir. 1955) 28 CCH Lab. Cas. ¶69,415; Davis v. Nunley, (D.C. Ala. 1947) 13 CCH Lab. Cas. ¶64,140, affd. (5th Cir. 1948) 168 F. (2d) 400. The contrary holding seems the more accurate one, however. Direct Transit Lines v. Starr, (6th Cir. 1955) 219 F. (2d) 699; Community Builders v. Painters and Decorators Local Union 246, (D.C. Iowa 1955) 132 F. Supp. 694; Food Basket Inc. v. Amalgamated Meat Cutters, (D.C. Ky. 1954) 124 F. Supp. 463. See, generally, 52 MICH. L. REV. 726 (1954).

19 A federal court has no original jurisdiction in a case involving activities constituting an unfair labor practice. Amazon Cotton Mill Co. v. Textile Workers Union, (4th Cir. 1948) 167 F. (2d) 183.

20 W. T. Carter, 90 N.L.R.B 2020 (1950); *contra,* NLRB Administrative Ruling 1090, 35 L.R.R.M. 1451 (1954).

21 Amalgamated Meat Cutters v. Johnson, (Kan. 1955) 28 CCH Lab. Cas. ¶69,374.