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JUDICIAL INTERPRETATION OF THE TERM "LABOR DISPUTE" AS DEFINED IN THE NORRIS-LAGUARDIA ACT AND THE PENNSYLVANIA LABOR ANTI-INJUNCTION ACT

It is not the purpose of this note to make an exhaustive review of all the federal and Pennsylvania cases involving labor disputes since 1933, but rather it is the writer's plan to show how the federal and Pennsylvania courts have interpreted the same definition in cases involving almost identical fact situations and reached results which are, to say the least, not entirely harmonious.

First, let us examine briefly the history of injunction as applied to labor disputes. Until 1895, the equity powers of the courts had rarely been used in labor disputes to restrain the illegal acts of union sympathizers during strikes. The first important labor injunction case was *In re Debs*,¹ where the Supreme Court of the United States approved the granting of an injunction prohibiting the obstruction of railroads as used in interstate commerce in the Chicago railroad strikes. After this case, "the courts were frequently free in the support which they gave to employers by the issuance of injunctions to alter the entire status quo in a strike where some illegal acts had been perpetrated."²

In 1914, the Clayton Act³ was passed. The purpose of this act was to deprive the federal courts of the power to issue sweeping injunctions in labor disputes. The Act defined "labor disputes" as "controversies involving terms or conditions of employment." But this definition was emasculated by the courts interpreting it so as to remove from its scope cases where *all* of the contesting parties were not in the proximate relation of employer and employee.⁴

Then in 1933, the Norris-LaGuardia Act⁵ was passed. This Act provides:⁶

"(a) A case shall be held to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or who have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees whether such dispute is (1) between one or more employers or associations of employers, and one or more employees or associations of employees; (2) between one or more employers . . . and one or

¹158 U. S. 564 (1895).

²FRANKFURTER and GREENE, *THE LABOR INJUNCTION* (1930) 37.

³38 Stat. 738 (1914), 29 U. S. C. A. 52.

⁴*Duplex Printing Press v. Deering*, 254 U. S. 443 (1921); also Van Dusen, *The Progress of Labor Law* (1939), 14 *TEMPLE L. Q.* 1, at 13.

⁵47 Stat. 70 (1932), 29 U. S. C. A. 101 *et seq.*

⁶Stat. 70, sec. 13 (1932), 29 U. S. C. A. 113.

more employers . . . ; or (3) between one or more employees . . . and one or more employees . . . ; or when the case involves any conflicting or competing interests in a 'labor dispute' (as hereinafter defined) of 'persons participating or interested therein' (as hereinafter defined):

"(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he . . . is engaged in the same industry . . . in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry . . .

"(c) The term 'labor dispute' includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee."

Pennsylvania has the same provision substantially in its Labor Anti-Injunction Act passed in 1937.⁷

The purpose of this definition of "labor dispute" was obviously to overcome the restrictive definition as the courts interpreted "labor dispute" in the Clayton Act. An examination of the federal cases indicates that this purpose has been accomplished. In *Senn v. Tile Layer's Protective Union*,⁸ the State of Wisconsin had a statute similar to the Norris-LaGuardia Act, the statute defining labor dispute in the same way. Defendant Union attempted to get plaintiff to join their union. Plaintiff was a small tile contractor who employed several apprentices and journeymen, but plaintiff did most of the work himself. There was no dispute of any kind between the plaintiff and his employees. The plaintiff sought an injunction to restrain the defendant union from picketing his place of business. The Supreme Court of the United States held this to be a "labor dispute" within the meaning of the Act. Another case in point is that of *Lauf v. Skinner*,⁹ where the court repeated that there is a labor dispute within the meaning of the Norris-LaGuardia Act notwithstanding the absence of an employer-employee relationship between the parties to the suit.

⁷1937, P. L. 1198, 43 PS 206.

⁸301 U. S. 867 (1937).

⁹303 U. S. 323 (1938).

An even stronger case is that of *New Negro Alliance v. Sanitary Grocery Co.*¹⁰ In that case, plaintiff was a corporation which operated many stores, and employed both white and colored persons. Defendant was a corporation composed of negroes, organized for the promotion of educational, benevolent, and charitable enterprises. No relation of employer-employee existed between plaintiff and defendant, nor was plaintiff engaged in any business competitive with defendant. But defendant had made demands upon plaintiff that it employ more colored persons in its stores. Defendant threatened to persuade its members not to patronize plaintiff's stores, and in pursuance of this, it picketed them. Plaintiff sought an injunction restraining defendant from carrying on these activities. The court held this to be a labor dispute within the meaning of the Act and denied the injunction.

The next case for examination is that of *Milk Wagon Drivers' Union v. Lake Valley*.¹¹ Plaintiff was an Illinois corporation engaged in processing and distributing milk and dairy products. Milk is supplied to the plaintiff corporation, which pasteurizes and bottles it and sells it to persons known as "vendors," who individually own and operate their own trucks. After these "vendors" purchase the milk, they distribute it to stores which in turn sell it to the public. These vendors do not belong to Defendant Union. Prices at the stores are less than prices at private homes. Defendant Union picketed the stores which sold the milk of plaintiff dairy. Plaintiff brought suit to restrain the defendant Union from picketing. The District Court dismissed the suit, contending it had no jurisdiction because this was a labor dispute within the meaning of the Norris-LaGuardia Act. On appeal to the Circuit Court of Appeals, the District Court's decision was reversed, and the case was remanded. The court based its decision on the ground that the "vendors" were independent contractors, that no labor dispute was involved, and that the dispute was over the sale of cut-rate milk and the vendor system. (It is interesting in passing to note that to sustain its decision, this court cited the case of *Meadowmoor Dairies v. Milk Wagon Driver's Union*.¹² In that case, suit had been brought to enjoin defendant union from attempting to interfere with the sale of plaintiff's products by picketing stores where its products were sold, and doing other unlawful acts of violence in furtherance of a conspiracy to injure plaintiff's business. The court allowed the injunction to issue, but admitted that the Illinois Anti-Injunction Statute and its definition of "labor dispute" was analogous to the Clayton Act, not the Norris-LaGuardia Act, and that if Illinois had a statute similar to the latter, this would be a labor dispute within the meaning of that act.)

¹⁰303 U. S. 552 (1938).

¹¹108 Fed. (2d) 436 (1940).

¹²21 N. E. (2d) (Ill.) 308 (1939).

On further appeal to the Supreme Court of the United States, the decision of the District Court in the *Lake Valley*¹³ case was affirmed. The court held that the Norris-LaGuardia Act applies to labor disputes between "persons who are engaged in the same industry . . .; or have direct or indirect interests therein."¹⁴ Here all the parties had direct or indirect interests in the production, processing, sale and distribution of milk. The court went further and said that federal courts have no jurisdiction to grant injunctions in cases growing out of labor disputes merely because alleged violations of the Sherman Act are involved.

Thus it appears from a reading of these cases that the federal courts have taken the position that the Norris-LaGuardia Act operates irrespective of whether the persons sought to be enjoined are in fact employees, thus giving the Act the strength which the Clayton Act, by judicial interpretation, lacked, and at the same time allowing the Act to serve the purpose for which it was passed.

How have the Pennsylvania courts approached the problem of interpretation of the term "labor dispute"? Pennsylvania, by the Act of 1937¹⁵ adopted an Anti-Injunction statute; by this act, the term "labor dispute" is defined in almost identical language as in the Norris-LaGuardia Act. And yet the holdings of the two courts have been almost diametrically opposed in cases presenting the problem on substantially similar fact situations.

One of the first Pennsylvania cases involving the problem was that of *Dorrington v. Manning*.¹⁶ In that case, plaintiffs were employees. Their employer had made a contract with defendant labor union whereby the employer had agreed to a closed shop, with the understanding that all employees in the service of the employer at the time of the agreement would so continue and become members of the union. Plaintiffs sought to enjoin defendant union from interfering with the contractual relations with their employer, who had discharged plaintiffs under the closed-shop agreement after the union had denied membership to the plaintiffs. The court held that the controversy did not involve terms or conditions of employment within the meaning of the Labor Anti-Injunction Act, and said: "altho the definition of 'labor dispute' is comprehensive . . . it seems manifest that a dispute is not a dispute unless the controversy is over 'terms or conditions of employment' or the association or representation of persons in negotiating . . . or seeking to arrange terms or conditions of employment . . ." Here there was no controversy concerning the terms or conditions of employment."

¹³85 L. Ed. 91 (1940).

¹⁴47 Stat. 70, sec. 13(a) (1932), 29 U. S. C. A. 113(a).

¹⁵1937, P. L. 1198, 43 PS 206.

¹⁶135 Pa. Super. 194, 4 A. (2d) 886 (1939).

Another typical case showing the attitude of the Pennsylvania courts is that of *Yale Knitting Mills v. Union*.¹⁷ The Supreme Court held in that case that a trial court was justified in issuing a preliminary injunction without making the findings required by the Labor Anti-Injunction Act to restrain illegal acts where union members in the women's clothing industry were picketing and otherwise attempting to coerce complainant to employ none but members of defendant union. No employees of complainant belonged to defendant union, but the wages and hours in complainant's shop did not meet union requirements. In order to allow the preliminary injunction to issue, the court had to find that no labor dispute existed, and this they did, in spite of the unambiguous language of the statute.

Another case which raised the problem is that of *Schwartz v. Laundry & Linen Supply Drivers' Union*.¹⁸ In that case, plaintiffs were "bob-tail" drivers of laundry trucks who operated these trucks for the solicitation of business and the delivery of laundry. While they were not employees of the laundries, they did perform the same work as the employee-drivers of the laundries who were members of defendant union. Defendant union and the laundry-employers had entered into a contract, the provisions of which related to these "bob-tail" drivers and the purpose of which was to make them join the union or be forced out of business. The "bob-tails" sought an injunction against the carrying out of these provisions of the contract between defendant union and the laundries. The court allowed the injunction to issue, saying in effect that this was not a labor dispute within the meaning of the Labor Anti-Injunction Act because it did not deal with labor relations between the laundry companies and their employees, but with trade relations between the laundry companies and the "bob-tails". In view of the express wording of the statute that the term "labor dispute" includes "any controversy concerning terms or conditions of employment . . . regardless of whether or not the disputants stand in the proximate relation of employer and employee", it would appear that the court overlooked this latter provision and fell back upon the definition of labor dispute as it was interpreted under the Clayton Act by the federal courts.

The *Schwartz* case invites a comparison with the *Milk Wagon Drivers' Union* case. Although the problem did not arise in the same manner, the facts are substantially similar, while the holdings are directly opposed. It is interesting to speculate in passing whether the result of the *Schwartz* case would have been different if the court would have had the authority of the *Milk Wagon Drivers' Union* case to rely on, for in point of time the *Schwartz* case preceded the other by about four months.

¹⁷334 Pa. 353, 5 A. (2d) 323 (1939).

¹⁸339 Pa. 353, 14 A. (2d) 438 (1940).

However that may be, Pennsylvania has not modified its position. In *Ralston v. Cunningham*,¹⁹ the dispute was essentially between two labor unions. In 1939, defendant union, an affiliate of the C.I.O., had been elected as the bargaining agent for the employees of Hood & Co. The contract between the defendant union and Hood & Co. provided that any employee who was a member of the defendant union or who had made application for membership and had failed to pay his weekly union dues for three weeks could be laid off and not be permitted to work until he had paid his dues. Plaintiffs were employees of Hood & Co. and had filed application for membership in defendant union in 1937. In 1938, plaintiffs joined the United Leather Worker's Union, affiliated with the A. F. of L., and took an active part in the affairs of that union, but did not resign from defendant union. Upon being informed that they were in the group covered by the agreement between Hood & Co. and the defendant union, plaintiffs filed a bill in equity seeking to enjoin Hood & Co. from discharging plaintiffs from their employment, and from requiring plaintiffs to pay dues to the defendant union. The court dismissed the bill, but in so doing, stated categorically that "we do not regard this controversy as a labor dispute. . . We know of no case which compels us to hold that the disputed interpretation of an admittedly legal (labor) contract is a 'labor dispute' within the intendment of labor law."²⁰ And, at page 111 of the same case, the court continues, "The instant case is the result of a difference of opinion as to the construction of a contract which apparently settled a labor dispute. The controversy involves and grows out of the contract, and in no way involves or grows out of a labor dispute . . ."

Having examined these federal and Pennsylvania cases, it is difficult to make any generalizations. Each case is confined to its facts, none of the cases in each court are the same, although they may involve the same problem. The result in the *Milk Wagon Drivers' Union* case,²¹ while not *contra* to that of the *Schwartz* case²² is certainly not entirely in harmony with it. Suffice it to say that the federal courts generally have been liberal in their construction of the term "labor dispute", using this label to attain results which are indicative of the courts' desire to limit the use of the hitherto much-used, oft-abused weapon of the labor injunction to quell many justifiable strikes and disputes. The Pennsylvania courts on the other hand are more conservative in construing what is a labor dispute, and in so doing they adhere more closely to the judicial interpretation of the term as used in the Clayton Act which required that the parties be in the proximate relation of employer and employee.

¹⁹— Pa. —, 18 A. (2d) 108 (1941).

²⁰*Ibid* at 110.

²¹85 L. Ed. 91 (1940).

²²339 Pa. 353, 14 A. (2d) 438 (1940).

It will be interesting to see if the present prevalent strikes in defense industries will result in any change in the federal courts' liberality in determining the scope of the term "labor dispute" as defined in the Norris-LaGuardia Act.

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