Michigan Law Review

Volume 41 | Issue 2

1942

LABOR LAW - ANTIRACKETEERING ACT NOT APPLICABLE TO LABOR UNIONS

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LABOR LAW — ANTIRACKETEERING ACT NOT APPLICABLE TO LABOR UNIONS — Defendant Teamsters Union and twenty-six individual defendants were convicted for the violation of the Antiracketeering Act.[1] Defendants had by threats of violence forced the owners of all trucks entering the city of New York to pay members of defendant union the regular union wage for driving and unloading a truck regardless of whether the tendered services were accepted.[2] *Held*, the act was not intended to apply to such labor activity,[3] and defendant did not violate the act if the money was received with the intention of rendering services therefor, even if the services were not accepted. Such payments constituted "bona fide wages," the payment of which was exempted from the operation of the act. *United States v. Local 807 of International Brotherhood of Teamsters*, 315 U. S. 521, 62 S. Ct. 642 (1942).

The instant decision marks still another defeat for the Department of Justice in its attempt to subject labor unions to federal criminal sanctions[4] and is in line with the recent trend of the Supreme Court to construe federal legislation

[1] 48 Stat. L. 979, 18 U. S. C. (1940), § 420a et seq. The act provided that it was a crime to exact the payment of money under threat of or use of violence if it in any manner affected interstate commerce.

[2] The charge was $9.42 for each large truck and $8.41 for each small one. The evidence was conflicting, but it appeared that in some cases services were actually rendered in return for the payments, and in others it was clear that there was no intent to perform any services even if they were requested. There was a record of the use of violence to enforce the union demands. Many of the truck drivers that had driven the trucks into New York were members of unions but they belonged to the locals at the points of origin of the haul.

[3] The act excluded from its operation the "payment of wages by a bona fide employer to a bona fide employee." 48 Stat. L. 979, 18 U. S. C. (1940), § 420b (b). Another section said "no court of the United States shall construe or apply any of the provisions of this Act in such manner as to impair, diminish, or in any manner affect the rights of bona fide labor organizations in lawfully carrying out the legitimate objects thereof, as such rights are expressed in the existing statutes of the United States." 48 Stat. L. 980, § 6, 18 U. S. C. (1940), § 420d.

[4] The case was originally tried under the Antiracketeering Act and under the Sherman Act, 26 Stat. L. 209 (1890), 15 U. C. S. (1940), § 1 et seq. The circuit court below reversed the convictions under the Sherman Act and the government did not appeal from this part of the judgment. (C. C. A. 2d, 1941) 118 F. (2d) 684.

most favorably in favor of labor groups.[5] The Court relied heavily on legislative history in holding that the act was designed to enable the federal government to proceed against criminal racketeers of the "Kelley and Dillinger" types whose shakedowns of business for so-called protection had reached scandalous proportions when the act was passed.[6] The Court refers to the fact that after consultation with the head of the American Federation of Labor, the bill was revised to assume its present form, which expressly provides that payment of wages is not within the meaning of the act and that the act is not to be construed as depriving labor of any rights that it now has by virtue of existing law.[7] This language was held to mean that the intent with which the union members exacted their payments determines whether those payments constitute "wages" as the term is used in the act. If the defendants intended to render services in return for the payments, then the payments constituted wages. Under this analysis it becomes quite immaterial what motivated the employer in making these payments, whether it was the desire to pay for services or to buy protection.[8] By the same token it becomes quite immaterial that the defendants resorted to violence in enforcing their demands. It is not necessary that the defendants be existing employees before the payments to them constituted "wages." The very crux of any labor union activity is to procure jobs for the members, and it would restrict the present act too narrowly to say that it protects only those who have already secured employment. Congress was familiar with this sort of labor practice when the act was passed, so it was one of the ordinary union activities that it intended to leave unaffected.[9] Undoubtedly, the decision in the instant case renders the statute largely nugatory as a means of imposing sanctions against

[5] Apex Hosiery Co. v. Leader, 310 U. S. 469, 60 S. Ct. 982 (1940); United States v. Hutcheson, 312 U. S. 219, 61 S. Ct. 463 (1941). See also New Negro Alliance v. Sanitary Grocery Co., 303 U. S. 552, 58 S. Ct. 703 (1938); Lauf v. E. G. Shinner & Co., 303 U. S. 323, 58 S. Ct. 578 (1938).

[6] See Cummings, "Immediate Problems for the Bar," 20 A. B. A. J. 212 (1934); Chamberlain, "Federal Criminal Statutes," 20 A. B. A. J. 501 (1934); 48 HARV. L. REV. 489 (1935); 21 VA. L. REV. 568 (1935).

[7] See note 3, supra.

[8] Chief Justice Stone, writing a vigorous dissent, said that to adopt the view of the majority that the guilt of the defendants is personal and cannot be made to rest upon the acts of another would "render common law robbery an innocent pastime." 315 U. S. at 540.

[9] The Court cited the "stand-by" device that had long been used by musicians unions. It is a common practice that when a visiting orchestra comes within the territorial jurisdiction of a musicians' local, it must substitute members of the local for its own members or at least pay them the union wages even though these people would do nothing but hold themselves available if their services would be required. This practice is conceded to be legitimate. Chief Justice Stone said of this argument, that when the Antiracketeering Act was before Congress, "no member of Congress and no labor leader had the temerity to suggest that such payments, made only to secure immunity from violence and compelled by assault and battery, could be regarded as the payment of 'wages by a bona fide employer' or that compulsion of such payments is a legitimate object of a labor union, or was ever made so by any statute of the United States." 315 U. S. at 541.

union misconduct.[10] That the act does retain some vitality is evidenced by a circuit court ruling that this act does apply where the union pressure is employed to exact the payments for the personal benefit of the union leaders, but not where the payments are made for the benefit of the entire union membership.[11]

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[10] On March 27, Rep. Hobbs introduced a bill in the House of Representatives, H. R. 6872, 77th Cong., 2d sess., designed to amend the present statute in light of the decision in the instant case. The proposed bill would re-enact the present statute without any exceptions, whatsoever, in favor of labor. See Editorial, NEW YORK TIMES, March 27, 1942, p. 22:2.

[11] Nick v. United States, (C. C. A. 8th, 1941) 122 F. (2d) 660, cert. den. 314 U. S. 687, 62 S. Ct. 302 (1941), rehearing den. 314 U. S. 712, 62 S. Ct. 411 (1941).