SCHOOL OF LAW
CASE WESTERN RESERVE UNIVERSITY

Case Western Reserve Law Review

Volume 10 | Issue 2

1959

Labor Law--Jurisdiction of State Court over Employee's Personal Tort Action against Union

Margaret Ray

LABOR LAW — JURISDICTION OF STATE COURT OVER EMPLOYEE'S PERSONAL TORT ACTION AGAINST UNION

The plaintiff, Russell, was a non-union member and hourly wage earner in work connected with interstate commerce. In the course of a strike conducted by the defendant union, he was preventd from access to his place of employment by picketing union members alleged to have used threats and intimidation. The plaintiff brought a personal tort action in an Alabama court for malicious interference with his lawful occupation.

Counsel for both sides discussed the theories of false imprisonment and nuisance in blocking a public street. The trial court diregarded consideration of these theories and held that the unlawful and malicious prevention of the plaintiff from engaging in his employment is of itself a sufficent cause of action. Although evidence was presented to the effect that work would not have been available had the plaintiff been permitted access, and that the plaintiff was an active inciter against the union, the jury found that the defendant union was the proximate cause of plaintiff's loss of work.

The trial court had first overruled the plaintiff's demurrer to the defendant's plea to the jurisdiction on the basis of exclusive jurisdiction of the National Labor Relations Board over matters involving unfair labor practices. On appeal the Supreme Court of Alabama upheld the jurisdiction of the trial court and later affirmed a decision awarding the plaintiff $500.00 compensatory and $9,500.00 punitive damages.[1]

The United States Supreme Court granted certiorari to determine the issue of whether a state court has jurisdiction to entertain an action by an employee against a union for conduct subject to correction as an unfair labor practice under the Taft-Hartley Act. The Court upheld the jurisdiction of the Alabama court, reasoning that the Federal Act doesn't expressly grant exclusive jurisdiction precluding state courts from entertaining common law actions by either employer or employee.[2] Heavy reliance was placed on the *Laburnum* case[3] in which a Virginia court awarded compensatory and punitive damages to an employer against a union for tortious conduct which constituted an unfair labor practice covered by the Taft-Hartley Act. The court asserted that there is no duplication of state and federal remedies in that the remedy available to the individual is discretionary, inadequate, and only incidental to the main

1. UAW v. Russell, 264 Ala. 456, 88 So.2d 175 (1956).

2. UAW v. Russell, 356 U.S. 634 (1958).

3. United Construction Workers v. Laburnum Corp., 347 U.S. 656 (1954). Defendant, stranger union, used violence and intimidation in attempting to coerce employees into joining union, thereby making impossible for plaintiff employer to meet his contractual obligations with third party.

purpose of the Act which is to stop unfair labor practices. In support of the contention that the federal remedy is inadequate, it is pointed out that if the plaintiff had been physically injured the National Labor Relations Board would not have been able to provide medical expenses, compensation for pain and suffering, or property damages as would the state, nor can the Board award punitive damages. The awarding of punitive damages is justified by analogy to the exercise of police power by the state.

The dissenting opinion[4] presents equally valid arguments which contradict the main points set forth in the majority opinion. They are: (1) Although exclusive federal jurisdiction is not expressly granted, action should not be taken which will defeat the express or implied purpose of the Act or duplicate its remedies contrary to the legislative will.[5] A state may enforce its laws by means of its police power, prevent or curb violence, and award damages for physical injuries, but to provide a remedy for economic loss, which inevitably attends work stoppages, is a duplication of the remedy provided by the Federal Act.[6] (2) A basic purpose of the Act is to promote industrial peace[7] through uniformity of national labor regulation designed to balance the competing interests of employee, union, and management. Allowing state courts to provide additional remedies defeats the purpose of uniformity by subjecting labor disputes to differing attitudes of juries toward labor organization in the various states[8] and upsets the balance of competing interest. (3) The theory of punitive damages undermines the curative purpose of the Act. The deterrent effect of such damages serves to regulate, which duplicates the purpose of the Federal Act. (4) A plaintiff is more likely to seek a remedy which provides lucrative punitive damages than to resort to the means afforded under the Act. (5) At present there are a large number of similar suits pending, arising out of the same dispute. The result of

4. UAW v. Russell, 356 U.S. 634, 647 (1958).

5. Labor Management Relations Act (Taft-Hartley Act) § 101-§ 1, 61 Stat. 136 (1947), 29 U.S.C. §§ 141, 151 (1952).

6. See Labor Management Relations Act (Taft-Hartley Act) § 101-§ 10 (c), 61 Stat. 147 (1947), 29 U.S.C. § 160 (c) (1952) provides that if it is found that the person named in the complaint is found to have, or be, engaged in an unfair labor practice, the Board will require such person to cease and desist and ". . . to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this Act."

7. Labor Management Relations Act (Taft-Hartley Act) § 101-§ 1, 61 Stat. 136 (1947), 29 U.S.C. §§ 141, 151 (1952).

8. Garner v. Teamster's Union, 346 U.S. 485, 490 (1953). ". . . Congress evidently considered that centralized administration of specially designed procedures was necessary to obtain uniform application of its substantive rules and to avoid these diversities and conflicts likely to result from a variety of local procedures and attitudes towards labor controversies. . . ."

multiplicity of actions such as these might seriously deplete the economics resources of a union or render it bankrupt. (6) The majority's interpretation of and reliance upon the *Laburnum* case[9] is criticized and the conclusion is that the facts of that case and the results of the decision are so different from the present one that it should not be controlling. (a) In this case the right (to work during a strike) is protected by the Act. In the *Laburnum* case the right (to meet an existing contractual obligation to a third party) was not protected by the Act and it was only incidental that the means employed to infringe upon that right happened to constitute an unfair labor practice. (b) In the *Laburnum* case there was no prospect of a continuing relationship between the parties so that a tort action would not impair existing peaceful labor relations. (c) The *Laburnum* case involved the possibility of only one lawsuit while here there is the possibility of a multiplicity of suits brought by other non-union employees.

The law in this area, where social policy is constantly changing and not easily determined, is in a state of flux. It has been fairly well established however that where the grievance constitutes an unfair labor practice within the scope of the Federal Act, state remedies are precluded.[10] The decision in the *Russell* case[11] and in a companion case[12] might be a reflection of the difficulty of predicting whether or not the National Labor Relations Board will take jurisdiction of such complaints, much less provide adequate remedy.[13]

The *Russell* case[14] may be not only a serious blow to organized labor but indicates a new shift in emphasis in the conflict between public and private rights. In early times the employer and employee were not so far apart economically and socially and the relationship was more personal. But with the growth of industry they grew farther apart, the employee becoming a mere numerical unit with accompanying loss of self-expression and dignity. Through the union he found a means of gaining an increasing measure of independence and control over his own affairs and of re-establishing contact with the employer. Now because

9. United Construction Workers v. Laburnum Corp., 347 U.S. 656 (1954).

10. Garner v. Teamster's Union, 346 U.S. 485, 500 (1953). "We conclude that when federal power constitutionally is exerted for the protection of public or private interests, or both, it becomes the supreme law of the land and cannot be curtailed, circumvented or extended by a state proceedings merely because it will apply some doctrine of private right . . ."; PROSSER, TORTS § 106, at 739 (2d ed. 1955); annot. 32 ALR2d 1032 (1953).

11. UAW v. Russell, 356 U.S. 634 (1958).

12. International Association of Machinists v. Gonzales, 356 U.S. 617 (1958).

13. MATHEWS, LABOR RELATIONS AND THE LAW, 103 (1953); 19 U.S. L. Week 2147 (Oct. 10, 1950).

14. 356 U.S. 634 (1958).