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Labor Law

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charitable purpose, it would be best to convey to the school board or the trustees of the religious society the fee simple absolute. Then when it is no longer desirable to continue to use the land as a school or as a church, it can be sold and the money used to purchase other more suitable land. The possibility of reverter and the right of entry never were and are not a proper means of controlling the use of land in a subdivision.[45]

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LABOR LAW

PICKETING

Two interesting cases were reported during the past year on the subject of picketing.

In *Liberty Mfg. Corp. v. United Steelworkers of America*[1] the employer sought injunctive relief against union picketing. The trial court ex parte granted a temporary restraining order enjoining the defendants from interfering with or intimidating the plaintiff and its agents, from congregating, loitering, or trespassing on plaintiff's property, and limiting the pickets to two at each entrance to the plant. The defendants filed an answer to the petition and thereafter the employer filed a reply together with an affidavit that the defendants were wilfully disobedient to the court's restraining order. A hearing was held on the employer's motion to punish for contempt, and the trial court found all but two of the defendants guilty. The appeal was from this finding.

The defendants had argued that the jurisdiction of the subject matter had been pre-empted under the terms of the Labor Management Relations Act. The court of appeals ruled, however, that the doctrine of preemption in the field of labor relations did not prevent state courts by injunction from controlling picketing so as to prevent mass picketing, threats of physical injury or property damage, obstruction of streets, trespass on private property, or attempts at peaceful persuasion which amount to harassment, citing the decisions of the United States Supreme Court in *Youngdahl v. Rainfair, Inc.*[2] and *UAW v. Wisconsin.*[3] Most of these exceptions are recognized in the Supreme Court's opinion in *Garner v. Teamsters Union.*[4] However, the reference to attempts at peaceful persuasion which amount to harassment may be subject to some doubt, depending upon the facts, since this would not necessarily be a threat to the preservation of public peace.

45. See Simes, *Restricting Land Use in California by Rights of Entry and Possibilities of Reverter,* 13 HASTINGS L.J. 298 (1962).

The court in *Liberty Mfg.*[5] found that there was sufficient evidence to support the sentences imposed upon two of the defendants, but that the evidence as to the third defendant found guilty of contempt was insufficient and the action was dismissed as to him.

In the second case[6] it was held that peaceful and orderly picketing by members of a union which represented at least one person still employed by a tavern, such picketing being for the purpose of causing the tavern to meet the union's demands for better work standards, was lawful and could not be enjoined. However, the court ordered that such picketing be limited to one picket at a time and be done in a quiet and peaceful manner without interference with the customers or representatives of businesses entering or leaving the premises.

ENFORCEMENT OF ARBITRATION AWARDS

Two cases concerned the enforcement of arbitration awards in Ohio.

In *Clover v. Columbus Retail Merchants Delivery, Inc.*[7] the plaintiff had received an injury arising out of his employment and was awarded temporary total disability benefits for a period of thirteen weeks under the Workmen's Compensation Act. The collective bargaining agreement between the employer and the union provided that the employer should secure accident and health insurance for all members of the union, the benefits payable from the first day of disability caused by accident and the fourth day of disability caused by sickness, up to a maximum of thirteen weeks during any one period of disability. The policy which the employer obtained, however, contained an exclusion of injuries insured under the Workmen's Compensation Act. When the employer refused to pay additional benefits over and above those awarded under the Workmen's Compensation Act, suit was instituted in municipal court to recover the amount alleged to be due under the collective bargaining agreement.

Upon motion the municipal court postponed further proceedings in the pending case until the plaintiff's claim could be submitted to arbitration in accordance with another provision of the collective bargaining agreement. A four-man panel was designated for this purpose, two members representing the employer and the other two representing the union.

1. 179 N.E.2d 102 (Ohio Ct. App. 1961).
2. 355 U.S. 131 (1957).
3. 351 U.S. 266 (1956).
4. 346 U.S. 485 (1953).
5. 179 N.E.2d 102 (Ohio Ct. App. 1961).
6. Arnault v. Bryant, 179 N.E.2d 173 (Ohio C.P. 1961). At one time the union apparently had represented all the employees of the tavern.
7. 115 Ohio App. 437, 185 N.E.2d 658 (1962).

This panel reached the unanimous conclusion that the plaintiff's claim should be denied. Thereafter, the municipal court found that the provisions of the collective bargaining agreement were clear and required double compensation, and that the decision of the arbitration panel, therefore, was not "legally correct." Judgment was rendered for the plaintiff and this decision was appealed.

Since there was no evidence in the record of fraud, manifest mistake, collusion, irregularity, or misconduct on the part of the arbitrators, the court of appeals ruled that the municipal court was without authority and committed prejudicial error in ruling that the results reached by the arbitration "were not legally correct." The judgment of the municipal court was reversed and final judgment rendered for the defendant employer. This result is in accord with the almost universal view that where the parties have agreed to submit their differences to arbitration, the decision of the arbitrator is final and binding.

In the other decision[8] it was ruled that the arbitration statutes in Ohio do not oust the jurisdiction of courts, but merely provide for an additional remedy which the party is free to choose, and that once he has done so he cannot then complain that the courts are no longer open to him.

A rather unusual situation arose in the case of *Steigauf v. Ohio Bell Tel. Co.*[9] An action was brought by employees complaining that the employer did not have a right to permanently adjust their net credited service under the terms of the collective bargaining agreement between the union and the employer.

During negotiations for a new agreement a strike had occurred. While the strike was still in progress, the union brought suit in the federal district court claiming that it had orally accepted an offer of the company concerning wages and working conditions, but without limitation on strike action. During the course of the trial the union and the company entered into a separate contract concerning adjustments to be made in net credited service. The parties agreed that during the pendancy of the federal litigation, the employer would be permitted to deduct from the employees' net credited service the time spent in the strike that year for the purpose of determining the employees' rights in connection with pensions, disability and death benefits, sickness disability pensions, termination allowance, and amount of vacation. The contract further provided that the adjustments in net credited service thus made would remain in effect during the litigation in federal court but would be rescinded or made permanent upon the procurement of a final judgment

8. Tuschman Steel Co. v. Tuschman, 181 N.E.2d 322 (Ohio C.P. 1961). The court also held that an action to enforce an arbitration agreement is properly brought in the county where the party failing to perform the agreement resides.

9. 185 N.E.2d 777 (Ohio Ct. App. 1961).