

AN ACT

Relating to employes and organizations thereof; defining labor disputes; prescribing the procedure by which and the conditions under which injunctions may be granted in such disputes, and the scope thereof; declaring certain undertakings and promises between employers and employes contrary to public policy and void; prescribing the nature of proof necessary in actions arising out of labor disputes against persons or associations; prescribing the terms and conditions for bonds to be furnished prior to the issuance of injunctions; prescribing the procedure in case of appeal from granting injunctions; limiting the duration of temporary and permanent injunctions in case of labor disputes; and providing for the payment of costs; and repealing all acts or parts of acts inconsistent herewith.

Be it enacted, &c., As follows:

Title.

Section 1. This act shall be known, and may be cited, as the "Labor Anti-Injunction Act."

Public policy
stated.

Section 2. In the interpretation of this act and in determining the jurisdiction and authority of the courts of this Commonwealth, as such jurisdiction and authority are defined and limited in this act, the public policy of this Commonwealth is hereby declared as follows:

(a) Under prevailing economic conditions developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint or coercion of employers of labor or their agents in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) Equity procedure that permits a complaining party to obtain sweeping injunctive relief that is not preceded by or conditioned upon notice to and hearing of the responding party or parties or that permits sweeping injunctions to issue after hearing based upon written affidavits alone and not wholly or in part upon examination, confrontation and cross-examination of witnesses in open court is peculiarly subject to abuse in labor litigation for the reasons that—

(1) The status quo cannot be maintained, but is necessarily altered by the injunction.

(2) Determination of issues of veracity and of probability of fact from affidavits of the opposing parties that are contradictory and under the circumstances untrustworthy rather than from oral examination in open court is subject to grave error.

(3) Error in issuing the injunctive relief is usually irreparable to the opposing party; and

(4) Delay incident to the normal course of appellate practice frequently makes ultimate correction of error in law or in fact unavailing in the particular case.

Section 3. When used in this act and for the purposes of this act— Definitions.

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in a single industry, trade, craft or occupation, or have direct or indirect interests therein, or who are employes of the same employer, or who are members of the same or an affiliated organization of employers or employes, whether such dispute is—(1) between one or more employers or associations of employers, and one or more employes or associations of employes; (2) between one or more employers or associations of employers, and one or more employers or associations of employes; or (3) between one or more employes or association of employes, and one or more employes or association of employes; 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 or it is engaged in the same industry, craft or occupation 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 employes engaged in such industry, trade, craft or occupation.

(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 or concerning employment relations or any other controversy arising out of the respective interests of employer and employe, regardless of whether or not the disputants stand in the proximate relation of employer and employe, and regardless of whether or not the employes are on strike with the employer.

(d) The term "court" includes every court of common pleas of the several counties of this Commonwealth, including the judge or judges thereof.

(e) The term "complainant" includes every person whether plaintiff or defendant in the cause who seeks affirmative relief.

(f) The term "defendant" includes every person whether plaintiff or defendant in the cause against whom affirmative relief is sought.

(g) The term "employer" is declared to include master, and shall also include natural persons, partnerships, unincorporated associations, joint-stock companies, corporations for profit, corporations not for profit, receivers in equity, and trustees or receivers in bankruptcy.

(h) The term "employee" is declared to include all natural persons who perform services for other persons, and shall not be limited to the employes of a particular employer, and shall include any individual who has ceased work as a consequence of, or in connection with, any matter involved in a labor dispute.

(i) The term "organization" shall mean every unincorporated or incorporated association of employers or employes.

(j) The term "labor organization" shall mean every organization of employes, not dominated or controlled by any employer or any employer organization, having among its purposes that of collective bargaining as to terms and conditions of employment.

(k) The term "employer organization" shall mean every association of, or agency representing, or maintained by, employers, having among its purposes or activities that of studying or advising concerning relations between employers and employes, or bargaining, negotiating or dealing with employes or labor organizations.

Section 4. No court of this Commonwealth shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case included within this act, except in strict conformity with the provisions of this act, nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this act. Exclusive jurisdiction and power to hear and determine all actions and suits coming under the provisions of this act, shall be vested in the courts of common pleas of the several counties of this Commonwealth.

Section 5. Any undertaking or promise such as is described in this section, or any other undertaking or promise in conflict with the public policy declared in section two of this act, is hereby declared to be contrary to the public policy of this Commonwealth, shall not be enforceable in any court of this Commonwealth, and shall not afford any basis for the granting of legal or equitable relief by any such court against a party to

Restraining orders must be issued in strict conformity to this act.

such undertaking or promise, or against any other persons who may advise, urge or induce either party thereto to act in disregard of such undertaking or promise, including specifically the following:

Every undertaking or promise hereafter made, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual, firm, company, association or corporation, and any employe or prospective employe of the same whereby—

(a) Either party to such contract or agreement undertakes or promises not to join, become or remain a member of any labor organization, or of any employer organization; or

(b) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes or remains a member of any labor organization, or of any employer organization.

Section 6. No court of this Commonwealth shall have jurisdiction or power in any case involving or growing out of a labor dispute to issue any restraining order or temporary or permanent injunction which, in specific or general terms, restrains or prohibits any person, association or corporation from doing, whether singly or in concert with others, notwithstanding any promise, undertaking, contract or agreement to the contrary; any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment.

(b) Becoming or remaining a member of any labor organization or of any employer organization.

(c) Paying or giving to, or withholding from, any person any strike or unemployment benefits, or unemployment insurance, or other moneys or things of value.

(d) By all lawful means aiding any person who is being proceeded against in, or is prosecuting* any action or suit involving, or arising out of, a labor dispute in any court of the United States, or of this Commonwealth, or of any state.

(e) Giving publicity to, and obtaining or communicating information regarding the existence of, or the facts or merits involved in, any labor dispute, whether by advertising, speaking or picketing or patrolling any public street or place where any person or persons may lawfully be, or by any other method not involving misrepresentation, fraud, duress, violence, breach of the peace or threat thereof.

(f) Organizing themselves, forming, joining or assisting in labor organizations bargaining collectively with an employer by representatives freely chosen and con-

Limitations on court's power to issue restraining orders.

* "proceeding" in the original.

trolled by themselves, or for the purpose of collective bargaining or other mutual aid or protection, or engaging in any concerted activities.

(g) Persuading by any lawful means other persons to cease patronizing or contracting with or employing or leaving the employ of any person or persons.

(h) Ceasing or refusing to work with any person or group of persons.

(i) Ceasing or refusing to work on any goods, materials, machines or other commodities.

(j) Assembling peaceably to do, or to organize to do, any of the acts heretofore specified, or to promote their lawful interests.

(k) Advising or notifying any person or persons of an intention to do or not to do any of the acts heretofore specified.

(l) Agreeing with other persons to do or not to do any of the acts heretofore specified.

(m) Advising, urging or otherwise causing or inducing, without misrepresentation, fraud or violence, others to do or not to do the acts heretofore specified; and

(n) Doing in concert with others any or all of the acts heretofore specified: Provided, That the specific enumeration in this section of acts which may not be restrained or enjoined shall not be construed to authorize the injunction or restraint of any act or acts not heretofore enjoined or restrainable.

Section 7. No court of this Commonwealth shall have jurisdiction or power in any case involving, or growing out of, a labor dispute to issue a restraining order or temporary or permanent injunction—

(a) Upon the ground that any of the persons participating or interested in the labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in section six of this act; or

(b) Forbidding any of the acts enumerated in section six upon the ground that illegal acts have been committed or threatened in the course of any labor dispute, or that any ends sought to be accomplished by any party to the labor dispute are illegal.

Section 8. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute as herein defined, shall be held responsible or liable in any civil action at law or suit in equity or in any criminal prosecution for the unlawful acts of individual officers, members or agents, except upon proof beyond a reasonable doubt in criminal cases, and by the weight of evidence in other cases, and without the aid of any presumptions of law or fact, both of—(a) the doing of such acts by persons who are officers, members or agents of any such association or

Liability of
officers and
members of
labor or-
ganizations.

organization; and (b) actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof by such association or organization.

Section 9. No court of this Commonwealth shall issue any restraining order or a temporary or permanent injunction in any case involving or growing out of a labor dispute, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect—

Basis upon
which court may
issue restraining
order.

(a) That unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained, but no temporary or permanent injunction or temporary restraining order shall be issued on account of any threat or unlawful act, excepting against the person or persons, association or organization, making the threat or committing the unlawful act, or actually authorizing or ratifying the same after actual knowledge thereof.

(b) That substantial and irreparable injury to complainant's property will follow unless the relief requested is granted.

(c) That, as to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by granting of relief.

(d) That no item of relief granted is relief which is prohibited under section six of this act.

(e) That complainant has no adequate remedy at law; and

(f) That the public officers charged with the duty to protect complainant's property are unable to furnish adequate protection.

Such hearing shall be held only after a verified bill of complaint and a verified bill of particulars specifying in detail the time, place, and the nature of the acts complained of, and the names of the persons alleged to have committed the same or participated therein, have been served, and after due and personal notice thereof has been given, in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city, within which the unlawful acts have been threatened or committed, charged with the duty to protect complainant's property. The hearing shall consist of the taking of testimony in open court with opportunity for cross-examination and testimony in opposition thereto, if offered, and no affidavits shall be received in support of any of the allegations of the complaint.

Restraining orders.

Bond.

Section 10. No temporary restraining order or temporary injunction shall be issued in any case involving or growing out of a labor dispute, except on condition that complainant shall first file an undertaking with adequate security, in an amount to be fixed by the court, sufficient to recompense those enjoined for any loss, expense or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs (together with a reasonable attorney's fee), and expense of defense against the order, or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

The undertaking herein mentioned shall be understood to signify an agreement entered into by the complainant and the surety, upon which a decree may be rendered in the same suit or proceedings against said complainant and surety upon a hearing to assess damages, of which hearing complainant and surety shall have reasonable notice, the said complainant and surety submitting themselves to the jurisdiction of the court for that purpose. But nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

Complainant must have complied with law in order for court to issue a restraining order.

Section 11. No restraining order or temporary or permanent injunctive relief shall be granted to any complainant in a case involving or growing out of a labor dispute who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute, either by negotiation, or with the aid of any available governmental machinery of mediation or voluntary arbitration, or has violated the public policy as declared in section two.

Section 12. No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction, and every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the bill of complaint or petition filed in such case, and as shall be expressly included in said findings of fact made and filed by the court, as provided herein, and shall be binding only upon the parties to the suit, their agents, servants and employes, who shall, by personal service or otherwise, have secured actual notice of the same.

Section 13. No court of this Commonwealth shall have jurisdiction or power in any case involving or growing out of a labor dispute to issue a temporary restraining order or temporary injunction where employes are defendants, or the employer, either in anticipation of, or at or subsequent to the inception of, a labor dispute, has employed persons or assigned other employes to perform the duties of employes then or subsequently not working because of the labor dispute, unless, prior to the granting of such restraining order or temporary injunction, the said employer has discharged such persons and reassigned the other employes back to their former duties, and such facts shall be averred under oath in the application for the temporary restraining order or temporary injunction, and no temporary restraining order or temporary injunction shall issue unless it contains the following provision:

“This order (or injunction) shall remain in effect only so long as.....(name of employer) shall not employ persons, or transfer employes to perform the duties of those now or hereafter not working because of the labor dispute.”

Section 14. Every restraining order, temporary or permanent injunction issued by a court of this Commonwealth in any case involving or growing out of a labor dispute, shall contain the following provision:

“That complainant and/or the employer and their or either of their agents or employes shall be enjoined from any and all acts or threats of violence, intimidation, coercion, molestation, libel or slander against the respondents or organizations engaged in the labor dispute.”

Section 15. Whenever any court of this Commonwealth shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings, and on his filing the usual bond for costs, forthwith certify, as in ordinary cases, the record of the case, including a transcript of the evidence taken, to the Supreme Court for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard and the temporary injunctive order affirmed, modified or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters, except older matters of the same character.

Appeals to the
Supreme Court.

Section 16. Every temporary injunction and temporary restraining order issued in a case involving or growing out of a labor dispute shall, by its terms, expire within such time after entry as the court may fix, not to exceed ten (10) days, unless the plaintiff is ready by the expiration of such period to proceed to trial, and shall pay the necessary calendar and trial fees. Every perma-

Expiration of
injunctions.

ment injunction issued in a case involving or growing out of a labor dispute shall expire at the end of one hundred eighty (180) days after the date on which the judgment is signed: Provided, however, That the duration of the injunction may be extended for another one hundred eighty (180) days if, after a further hearing, initiated and conducted in the same manner as the original hearing, the court shall determine that the injunction shall be continued or modified in accordance with the findings of fact on the subsequent hearing.

Costs.

Section 17. Upon denial by the court of any injunctive relief sought in an action involving or growing out of a labor dispute, the court shall order the complainant to pay reasonable costs and expenses of defending the suit and a reasonable counsel fee.

Constitutional provision.

Section 18. The provisions of this act are severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Repeals.

Section 19. The following acts are hereby specifically repealed:

The act approved the twenty-third day of June, one thousand nine hundred thirty-one (Pamphlet Laws, nine hundred twenty-six), entitled "An act defining labor disputes; and prescribing the procedure by which, and the conditions under which, injunctions may be granted in such disputes."

The act approved the twenty-fourth day of May, one thousand nine hundred thirty-three (Pamphlet Laws, nine hundred ninety-five), entitled "An act declaring certain agreements between employes and employers and others to be contrary to public policy and void."

All other acts and parts of acts inconsistent herewith are also hereby repealed.

When effective.

Section 20. This act shall become effective immediately upon its final enactment.

APPROVED—The 2d day of June, A. D. 1937.

GEORGE H. EARLE

No. 309

AN ACT

Relating to memorial halls in counties of the second class, erected in memory of the soldiers, sailors and marines who served in the Civil War; and providing for the use, upkeep, and management and control of such halls.

Memorial halls
in counties of
the second class.

Section 1. Be it enacted, &c., That when heretofore there has been erected in any county of the second class