Mercer Law Review

Volume 1 | Number 2 Article 9

5-1950

Position of Labor in Georgia

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POSITION OF LABOR IN GEORGIA

Georgia has no uniform system of laws pertaining to industrial relations. The statutes which have been passed are designed primarily to serve a threefold purpose—to guarantee to the individual employee the fullest freedom in exercising his right to work, to protect the rights of employers in any lawful business, and to maintain peace and order in industrial disputes. The state laws, as a whole, follow a public policy somewhat resembling the doctrine of laissez-faire, with the scales tipped definitely in favor of the employer. There are no state laws patterned after the National Labor Relations Act,[1] the Federal Anti-Injunction Act (Norris-LaGuardia),[2] or the Fair Labor Standards Act.[3] No affirmative action seems to have been taken by the state to foster the growth of labor organizations, but, on the other hand, most of the laws are of a restrictive character, in respect to labor at least.

There is no state law establishing a minimum wage for intrastate industries not covered by the national wage and hour law,[4] or regulating the hours of female employment,[5] except as hereinafter pointed out. There are miscellaneous provisions in the Georgia Code regulating the hours of labor in particular industries and also provisions regulating child labor within the state.[6] Employers are prohibited from making contracts with employees for a work week exceeding sixty hours, with certain exceptions, in all cotton and woolen manufacturing establishments in the state.[7] There is another section in the Code which provides for the maximum hours of railroad employees operating trains.[8] The provisions limiting the hours of labor in cotton and woolen manufacturing establishments apply equally to male and

1. P-H STATE LABOR LAWS ¶ 46,101 (1947).
2. P-H STATE LABOR LAWS ¶ 46,121 (1947).
3. P-H STATE LABOR LAWS ¶ 46,201 (1947).
4. P-H STATE LABOR LAWS ¶ 46,601 (1947).
5. P-H STATE LABOR LAWS ¶ 46,711 (1947).
6. GA. CODE cc. 54-2, 54-3 (1933).
7. GA. CODE §§ 54-201, 54-202 (1933).
8. GA. CODE § 18-106 (1933).

female employees. This seems to be the only law affecting the working hours of female employees. However, there is a Code provision which requires employers in "manufacturing, mechanical, or mercantile establishments" to furnish seats to female employees, and to permit their use by such employees when they are not actually engaged in work.[9]

Aside from the provisions of the Georgia Code relating primarily to the general welfare of its citizens and those in the nature of police laws, the position of labor in the state can best be determined by looking into and examining the laws which more directly affect the processes of collective bargaining, such as the statutes affecting picketing, union security agreements, and the like. Labor organizations have long looked upon union security agreements as one of the favorite devices for securing the benefits of collective bargaining. In Georgia, the traditional union security contracts ("closed" and "union" shop agreements) are declared to be against the public policy of the state.[10] Although the National Labor Relations Act as amended by the Labor Management Relations Act (Taft-Hartley) permits "union shop" agreements,[11] it allows the states to make more restrictive laws governing union security agreements.[12] Thus, while the national law permits "union shop" agreements, it leaves the way clear for the states to wipe them

9. GA. CODE § 54-401 (1933).

10. GA. CODE ANN. §§ 54-902,54-904 (Supp. 1947); Act No. 140, Ga. L. 1947, p. 618, §§ 2, 4.

11. Pub. L. No. 101, 80th Cong., 1st Sess. § 8 (a) (3) (June 23, 1947); 29 U.S.C. § 158 (a) (3) (Supp. 1948). This Section provides in substance that a "union" contract is permitted, provided that the union has not been aided by the employer in establishing itself as the bargaining agent of the employees; that the union has been certified by the National Labor Relations Board as the bargaining agent in accordance with the most recent election; and that the employee may become a member "on or after the thirtieth day following the beginning of . . . employment or the effective date of such agreement, whichever is the later." An employer is not justified in dismissing an employee in accordance with a "union" contract except for non-payment of membership dues or initiation fees.

12. Pub. L. No. 101, 80th Cong., 1st Sess. § 14 (b) (June 23, 1947); 29 U.S.C. § 164 (b) (Supp. 1948).

out altogether. This is a very serious blow to labor and to collective bargaining, for it permits the states to pass laws which have the practical effect of so restricting labor organizations in their freedom of contract that collective bargaining agreements may be subject to the mercy of employers. During a period of widespread unemployment, a labor organization would have no standing whatsoever, since management could defeat the union by unrestricted hiring of prospective employees, whether they are union members or not. The policy of the Federal Government as enunciated by its present labor laws, plus the authority conferred upon the states to legislate concerning union security, are a far cry from the national policy announced by the Federal Anti-Injunction Act or the Wagner Act.

The Georgia "closed-shop" law provides that it shall be against the public policy of the state for an employer and a labor organization to enter into any agreement whereby it is made "a condition of employment, or of continuance of employment" that an individual be or become a member of a labor organization. The same statute prohibits agreements between an employer and an employee which require the employee "to refrain from membership . . . in a labor organization," during the term of his employment.[13] Thus, the Georgia law works two ways. It prohibits agreements requiring membership in a labor organization, and also prohibits agreements to refrain from membership, or what are commonly known in labor circles as "yellow dog" contracts, as a condition for, or continuance of, employment.

State anti-closed shop laws have recently been under attack in the Supreme Court of the United States. North Carolina has a statute which is substantially the same as the Georgia law,[14] and Nebraska adopted a constitutional amendment to the same effect.[15] In a recent decision of the United States Supreme Court it was held that both the North Carolina statute and the Nebraska constitutional

13. GA. CODE ANN. §§ 54-902,54-904 (Supp. 1947); Act No. 140, Ga. L. 1947, p. 618, §§ 2, 4.
14. Laws N.C. 1947, c. 328, § 2.
15. NEB. CONST. Art. XV, § 13 (1946).

amendment were valid; that they did not abridge freedom of speech or the right to assemble and petition for a redress of grievances; that they were not a denial of equal protection of the laws or due process of law; and that they did not violate the prohibition against impairment of obligation of contract.[16] Under this decision, it seems that there is no doubt as to the constitutionality of the Georgia anti-closed shop law, or to any future state or territorial law prohibiting union security agreements and passed in accordance with the authority conferred upon the states by the Taft-Hartley Law.

In Georgia, picketing is rather strictly regulated. The Supreme Court of the United States has declared that picketing is an expression of free speech, and as such is protected by the Federal Constitution.[17] The doctrine of this case, however, has been limited by a later decision of that Court which held that picketing is *more* than an expression of free speech and has in it an "element of coercion."[18] In the light of this case, it is difficult to say what category picketing will eventually fall into. It seems, however, that as long as it is peaceful and free from threats or intimidation, it will continue to be treated as an expression of free speech protected by the Federal Constitution. Like freedom of speech, however, the right to picket is not an absolute one but must be exercised reasonably and for a legitimate purpose. In Georgia, it has been held that though picketing is protected as free speech, the slightest evidence of violence will make it unlawful and subject to injunction.[19] The only means permitted in picketing are those which appeal to the reason and judgment and leave the mind free to act of its own free will.[20]

16. Lincoln Federal Labor Union v. Northwestern Iron & Metal Co., 335 U.S. 525, 69 S. Ct. 251, 93 L. Ed. 201 (1949).
17. Thornhill v. Alabama, 310 U.S. 88, 60 S. Ct. 736, 84 L. Ed. 1093 (1940).
18. *See* Giboney v. Empire Storage and Ice Co., 336 U.S. 490, 69 S. Ct. 684, 93 L. Ed. 649 (1949).
19. Jones v. Van Winkle Gin & Machine Works, 131 Ga. 336, 62 S.E. 236, 17 L.R.A. (N.S.) 848, 127 Am. St. Rep. 235 (1908).
20. McMicheal v. Atlanta Envelope Co., 151 Ga. 776, 108 S.E. 226, 26 A.L.R. 149 (1921).

Mass picketing in Georgia is prohibited outright when it interferes with or obstructs, in any way, the free entrance to or egress from any place of employment, whether such entrance or egress is public or private.[21] Violation of this statute is subject to injunction.[22] Independently of statute, it has been said that mass picketing, *in itself,* will amount to intimidation, and as such would be subject to injunction.[23]

The right to join a labor union and the question of whether to join in a strike are left strictly up to the individual,[24] and the use of any kind of force or intimidation is subject to injunction under Georgia law.[25]

An employer and a labor organization are also prohibited in Georgia from entering into agreements requiring the employer to deduct union dues from the wages of employees, unless the employee voluntarily requests that such a deduction be made.[26] Such an arrangement is revocable at the will of the employee. Under the statute, such an agreement would seem to be void even with the *solicited* consent of the employee, since it requires his *voluntary act* and not merely his *passive* consent. In any case, facts showing any undue persuasion would make the agreement void. This statute is in line with the policy of the Taft-Hartley Act, which prohibits the employer from deducting membership dues in accordance with a collective bargaining agreement unless the employee gives his written consent.[27] Willful violation of this statute will subject the offender to a fine of not more than $10,000.00, or imprisonment for not more than one

21. GA. CODE ANN. § 54-803 (Supp. 1947); Act No. 141, Ga. L. 1947, p. 620, § 3.
22. Pedigo v. Celanese Corp. of America, 205 Ga. 392, 54 S.E. 252 (1949), *cert. denied,* .....U.S. ....., 70 S. Ct. 345, ... L. Ed. ..... (1950).
23. *Ibid.*
24. GA. CODE ANN. § 54-804 (Supp. 1947); Act. No. 141, Ga. L. 1947, p. 621 § 4.
25. GA. CODE ANN. § 54-805 (Supp. 1947); Act No. 141, Ga. L. 1947, p. 621 § 5.
26. GA. CODE ANN. § 54-906 (Supp. 1947); Act No. 140, Ga. L. 1947, p. 618 § 6.
27. Pub. L. No. 101, 80th Cong., 1st Sess. § 302 (c) (4) (June 23, 1947); 29 U.S.C. § 186(c) (4) (Supp. 1948).

year, or both.[28] Violation of the Georgia statute is subject to injunction, plus any other available remedy.[29]

Georgia also has a law which makes it a misdemeanor for any one or more persons to assemble near a place of business for the purpose of preventing, by force or violence, any person from engaging in a lawful vocation.[30] Arkansas has a similar statute,[31] which was upheld in a recent decision of the Supreme Court of the United States, as not abridging the freedom of speech or assemblage or denying due process of law.[32]

As far as the police laws of the State are concerned, there are no undue restrictions on the rights and privileges of labor organizations in carrying on the functions of collective bargaining. Laws against violence, intimidation, mass picketing as tending toward violence, and other similar measures are all designed to preserve peace and order within the state. Passage of such laws has always been within the province of the police power of any sovereign or quasi-sovereign state. But in other measures which are outside the orbit of ordinary police power, the public policies of the state regarding health, general welfare, and the like are formulated. It seems that the public policy of Georgia in regard to labor and labor disputes is, on the whole, of a purely restrictive nature. No statutes can be found which affirmatively protect employee organizations in their efforts to secure higher wages and better working conditions, but the laws in effect seem to restrict those organizations within certain bounds, in order to protect the individual in certain abstract rights, such as the right to work whether a member of a labor organization or not, the right to join or refrain from joining a labor organization, and other simi-

28. Pub. L. No. 101, 80th Cong., 1st Sess. § 302(d) (June 23, 1947); 29 U.S.C. § 186(d) (Supp. 1948).
29. GA. CODE ANN. § 54-908 (Supp. 1947); Act No. 140, Ga. L. 1947, p. 618 § 6.
30. GA. CODE ANN. § 54-802 (Supp. 1947); Act No. 141, Ga. L. 1947, p. 620 § 2.
31. Acts Ark. 1943, Act No. 193 § 2.
32. Cole v. State of Arkansas, ... U.S. ....., 70 S. Ct. 172, 94 L. Ed. 139 (1949).

lar individual rights. The laws of the state definitely reflect the public opinion of the people, which is, for the present at least, anti-union, though the people themselves are in favor of higher wages and better working conditions. Occurrence of widespread strikes following World War II and the passage of the Taft-Hartley Act have combined to create, to a large extent, an anti-union sentiment. The widespread publicity given to the requirement of the Taft-Hartley Act that officials of labor organizations had to sign anti-Communist affidavits before their unions could take advantage of the agencies created under the Act, also helped create this general distrust of labor unions. It is apparent that the laws of the State reflect the general sentiment expressed by the Federal legislation, as embodied in the Taft-Hartley Act.

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