

Chapter 662

Labor Disputes

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CASE CITATIONS: Gilbertson v. Culinary Alliance and Bartenders' Union, (1955) 204 Or 326, 282 P2d 632; Loder Bros. Co. v. Lodge 1506 Intl. Assn. of Machinists, (1957) 209 Or 305, 306 P2d 411; Gilbertson v. McLean, (1959) 216 Or 629, 341 P2d 139; Fianza CIA Nav. S.A. v. Benz, (1958) 178 F Supp 243.

ATTY. GEN. OPINIONS: As patterned after federal legislation, 1952-54, p 118; tape recording as sole record of hearings, 1960-62, p 333; board's power to direct mail ballot election, 1960-62, p 368; effect of legislative failure to provide funding, (1970) Vol 34, p 114.

662.010 to 662.130

CASE CITATIONS: Coin Millwork Co. v. Lbr. & Sawmill Workers Union, (1967) 248 Or 617, 435 P2d 1015.

662.010

NOTES OF DECISIONS

1. Constitutionality
2. Construction
3. Purpose
4. Labor Dispute
5. Picketing

1. Constitutionality

This Act (ORS 662.010 to 662.130) is not unconstitutional as class legislation, denial of equal protection of the laws, violation of due process, or deprivation of the inherent power of the courts to grant equitable relief. Geo. B. Wallace Co. v. Intl. Assn. of Mechanics, (1937) 155 Or 652, 63 P2d 1090.

2. Construction

Since this Anti-Injunction Act was copied almost verbatim from the Federal Act, the Oregon Supreme Court, although not bound, should be strongly persuaded by the construction given the Federal Act by the Supreme Court of the United States. Peters v. Cent. Labor Council, (1946) 179 Or 1, 169 P2d 870.

3. Purpose

This Act is a plain mandate to the courts not to grant equitable relief in labor disputes, unless fraud, violence, or intimidation is involved. Geo. B. Wallace Co. v. Intl. Assn. of Mechanics, (1937) 155 Or 652, 63 P2d 1090.

The restraint on injunctive process was intended to permit bargaining equality of employes and employers, not to leave unions free to inflict wanton injury upon fellow workers and to accomplish the building of a monopoly of labor. Schwab v. Motion Picture Mach. Operators Local, (1941) 165 Or 602, 109 P2d 600.

This Anti-Injunction Act was patterned after the Federal Norris-LaGuardia Act and has for its primary purpose the restriction of the power of the courts to issue injunctions

in labor controversies. Peters v. Cent. Labor Council, (1946) 179 Or 1, 169 P2d 870.

4. Labor Dispute

The statutory definition of a "labor dispute" is broad enough to include any controversy relating to conditions of employment or industrial relations, regardless of whether or not the disputants stand in the proximate relation of employer and employe. Geo. B. Wallace Co. v. Intl. Assn. of Mechanics, (1937) 155 Or 652, 63 P2d 1090.

The definition of a labor dispute extends the scope of the Clayton Act as interpreted by the United States Supreme Court by placing a greater restriction upon courts in the matter of issuing injunctions. Id.

The immunity from injunctions clearly extends to disputes between persons engaged in the same industry or craft who have a "direct or indirect" interest therein, and is not limited to disputes between an employer and his immediate employes. Id.

A labor dispute existed where an employer discharged employes for joining a union and refused to recognize the union in dealing with the employes, and some of the employes on strike claimed that their pay was inadequate and the sanitary conditions bad. Starr v. Laundry & Dry Cleaning Workers' Local Union No. 101, (1937) 155 Or 634, 63 P2d 1104.

There was no labor dispute where an employer substantially conforming to union requirements refused to sign a union contract because it required that he discharge his present employes. Schwab v. Motion Picture Mach. Operators Local, (1941) 165 Or 602, 109 P2d 600.

Where American union members voluntarily appeared at dock protesting wages and work conditions of foreign ship's crew, and picketed without making demands or seeking collective bargaining, there was no "labor dispute." Fianza CIA Nav. S.A. v. Benz, (1958) 178 F Supp 243.

5. Picketing

The end to be accomplished by picketing may be considered in determining whether a labor dispute exists. Schwab v. Moving Picture Mach. Operators Local, (1941) 165 Or 602, 109 P2d 600.

Picketing, even though peaceful, must be for a lawful purpose; otherwise, it should be enjoined. Peters v. Cent. Labor Council, (1946) 179 Or 1, 169 P2d 870.

This Act was not designed to deprive the courts from enjoining picketing which has for its sole purpose coercion of the primary employer to do that which the National Labor Relations Act forbids it to do, particularly when the manner of that picketing by the offending unions in and of itself constitutes an illegal labor practice under the Federal Act. State v. Dobson, (1952) 195 Or 533, 245 P2d 903.

FURTHER CITATIONS: Markham & Callow v. Intl. Woodworkers Union, (1943) 170 Or 517, 135 P2d 727; Stone Logging Co. v. Intl. Woodworkers Union, (1943) 171 Or 13, 135 P2d 759; Baker Hotel v. Employes Local 161, (1949) 187 Or 58, 207 P2d 1129; Sloan v. Journal Publishing Co., (1958)

213 Or 324, 362, 324 P2d 449; Hyatt Chalet Motels, Inc. v. Carpenters Local 1065, (1970) 430 F2d 1119.

LAW REVIEW CITATIONS: 14 OLR 242, 501; 15 OLR 13, 229; 16 OLR 192; 19 OLR 81, 201; 26 OLR 132; 28 OLR 138, 391; 36 OLR 175.

662.020

CASE CITATIONS: Geo. B. Wallace Co. v. Intl. Assn. of Mechanics, (1937) 155 Or 652, 63 P2d 1090; Schwab v. Motion Picture Mach. Operators Local, (1941) 165 Or 602, 109 P2d 600; Markham & Callow v. Intl. Woodworkers Union, (1943) 170 Or 517, 135 P2d 727.

662.040

NOTES OF DECISIONS

No court of this state can issue an injunction which will have the effect of hindering proceedings pending before the National Labor Relations Board. Oregon Shipbuilding Corp. v. Nat. Labor Relations Bd., (1943) 49 F Supp 386.

Court restraint of picketing designed to force plaintiff to enter a labor dispute to which it is not a party is not an injunction involving or growing out of a labor dispute. State v. Dobson, (1952) 195 Or 533, 245 P2d 903.

The Labor-Management Reporting and Disclosure Act of 1959 was not intended to apply retroactively. Kempf v. Carpenters and Joiners Local Union, (1961) 229 Or 337, 367 P2d 436.

When jurisdiction of the dispute has been preempted by federal law the state court may not assume jurisdiction. Id.

ATTY. GEN. OPINIONS: Authority to restrain picketing, 1952-54, p 118.

662.050

NOTES OF DECISIONS

Action of pickets in taking auto license numbers of customers for purpose of writing letters to them explaining the strike issues was not subject to injunction. Loder Bros. Co. v. Intl. Assn. of Machinists, (1957) 209 Or 305, 306 P2d 411.

FURTHER CITATIONS: Schwab v. Motion Picture Mach. Operators Local, (1941) 165 Or 602, 109 P2d 600; Peters v. Cent. Labor Council, (1946) 179 Or 1, 169 P2d 870.

662.070

CASE CITATIONS: Skinner v. Lynch, (1966) 244 Or 347, 418 P2d 498.

662.080

NOTES OF DECISIONS

Mere procedure to be followed is prescribed by Laws 1933 c. 355 [ORS 662.080 to 662.110], which does not purport to deny the right to injunctive relief. Starr v. Laundry & Dry Cleaning Workers' Local Union 101, (1937) 155 Or 634, 63 P2d 1104.

FURTHER CITATIONS: Markham & Callow v. Intl. Woodworkers Union, (1943) 170 Or 517, 135 P2d 727; Baker Hotel v. Employes Local 161, (1949) 187 Or 58, 207 P2d 1129.

662.090

NOTES OF DECISIONS

See also cases under ORS 662.080.

Until a statutory notice has been given to the officer named, no hearing upon the merits of the plaintiff's demand for a permanent injunction should be held. Starr v. Laundry & Dry Cleaning Workers' Local Union 101, (1937) 155 Or 634, 63 P2d 1104.

662.100

NOTES OF DECISIONS

See cases under ORS 662.080.

662.110

NOTES OF DECISIONS

See cases under ORS 662.080.

662.130

LAW REVIEW CITATIONS: 48 OLR 360.

662.415

ATTY. GEN. OPINIONS: Authority to offer mediation services, (1969) Vol 34, p 765.

662.425

ATTY. GEN. OPINIONS: Providing conciliation services to local governmental units, (1969) Vol 34, p 765.

662.435

ATTY. GEN. OPINIONS: School district authority to enter collective bargaining contracts, 1962-64, p 75; legality of procedure to determine board-teacher disputes, 1964-66, p 187.

662.705 to 662.795

ATTY. GEN. OPINIONS: Exclusive procedure, 1960-62, p 353.

662.705

ATTY. GEN. OPINIONS: Conflict with statute governing labor relations in general, 1960-62, p 353.

662.765

ATTY. GEN. OPINIONS: Conflict with statute governing labor relations in general, 1960-62, p 353.

662.805 to 662.825

ATTY. GEN. OPINIONS: Validity of prohibition against picketing during harvesting of perishable crops, (1970) Vol 35, p 305.

662.815

ATTY. GEN. OPINIONS: Validity of this section, (1970) Vol 35, p 305.