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Civil Rights Law--Labor Organizations --Prohibition of Racial Discrimination--Provision in Constitution of Association of Railway Postal Clerks Restriciting Membership to Persons of Caucasian Race and American Indian (Railway Mail Association v. Corsi, 293 N.Y. 315 (1944))

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RECENT DECISIONS

CIVIL RIGHTS LAW—LABOR ORGANIZATIONS—PROHIBITION OF RACIAL DISCRIMINATION—PROVISION IN CONSTITUTION OF ASSOCIATION OF RAILWAY POSTAL CLERKS RESTRICTING MEMBERSHIP TO PERSONS OF CAUCASIAN RACE AND AMERICAN INDIAN.—Anticipating the institution of legal proceedings by the Industrial Commissioner, who was supported by an opinion of the Attorney General,[1] the Railway Mail Association brought an action seeking a judicial declaration that it was not a labor organization within the purview of Section 43 of the Civil Rights Law,[2] prohibiting racial discrimination in labor organizations, and the provisions of the Labor Law. The Railway Mail Association is a corporation organized under the law of the State of New Hampshire with various branch associations pursuing its activities in the State of New York. It was constituted for the purposes of effectuating amelioration of employment conditions through the organized efforts and concerted demands of the members as a class, providing insurance benefits and promoting social relationships. It is composed of railway postal clerks of the United States Railway Mail Service and membership is restricted to male persons of the Caucasian race and native American Indians. Special Term rendered judgment in favor of the plaintiff and appeal was taken wherein the Appellate Division reversed the decision of the lower court.[3] *Held,* judgment of Appellate Division affirmed. *Railway Mail Association v. Corsi,* 293 N. Y. 315, 56 N. E. (2d) 721 (1944).

The plaintiff was fortified in its contention that it was not a labor organization within the contemplation of such laws by a prior decision rendered in its favor in the case of *Railway Mail Association v. Murphy.*[4] This was a Special Term decision stating that it would be incompatible with the spirit of democracy to hold that a combination of Civil Service employees is a labor organization. The decision was never appealed. Seeking to justify its position, the plaintiff noted the omission of collective bargaining as one of its constituted

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[1] 1942 Op. Att. Gen. 252. The Attorney General declared the plaintiff to be a labor organization. He also defended the enactment of Section 43 of the Civil Rights Law on the ground that New York State was exercising its police powers for the welfare of its inhabitants and was so justified in spite of its effect on instrumentalities of interstate commerce; and such legislation is not deemed to be disruptive of the free flow of interstate commerce.

[2] The documentary reports of the "Temporary Commission on the Condition of the Colored Urban Population" contained in New York Legislative Document No. 63 of 1938, pp. 28–39 and New York Legislative Document No. 69 of 1939, pp. 49–61, provided the impetus for the introduction and passage of this provision. It is accompanied by the punitive provisions of Section 41 and the Industrial Commissioner's power of enforcement of Section 45.

[3] Railway Mail Ass'n v. Corsi, 267 App. Div. 470, 47 N. Y. S. (2d) 404 (1944).

[4] 180 Misc. 868, 44 N. Y. S. (2d) 601 (1943).

purposes. The court conceded that Civil Service employees are not privileged to engage in collective bargaining because their employment conditions are determined by government authorities. But this does not destroy their right to organize.[5] The existence of a labor organization is not dependent upon collective bargaining as an essential element. Furthermore, the plaintiff's added contention that it is merely a fraternal beneficiary association because of its insurance provisions was held to be untenable. The provision for insurance benefits does not strip the organization of the existing attributes of a labor organization. Any association constituted for the purpose of effectuating material reforms in employment conditions is a labor organization within the purview of Section 43 of the Civil Rights Law.

The aforementioned law defines a labor organization as "any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection." But for an immaterial exception, the identical definition is contained in Section 701 of Article 20 of the Labor Law entitled "New York State Labor Relations Act". Article 20 of the Labor Law was enacted for the purpose of protecting the right of the worker to bargain collectively. In accordance with Section 715 of the same act, the members of the plaintiff organization are excluded from the applicability of said law. The plaintiff urged that the definition of "labor organization" contained in the Civil Rights Law must be read in connection with the provisions of Article 20 of the Labor Law and that so read it is excluded from the provisions of the Civil Rights Law.

To hold that both statutes must be read in *pari materia* would be contrary to the legislative intent, the court observed. As a rule of construction, effect will be given by the court to the legislative intent whenever possible. Such intent is manifested by the opening phrase in both statutes, "when used in this article". Both statutes are mutually exclusive of each other, each seeking to attain different results, to wit: protection of the right to bargain collectively as set forth in the Labor Law and promoting equality of economic security, regardless of race, color or creed as provided in the Civil Rights Law. Therefore, the definitions contained in one statute are not to be affected in any way by the definitions contained in the other statute, though both statutes define the same terms.[6]

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[5] Matter of Hagan v. Picard, 171 Misc. 475, *aff'd*, 258 App. Div. 771 (1939).

[6] This interpretation by the court was in harmony with the prior decision in the case of *Metropolitan Life Ins. Co. v. Labor Relations Board*, 280 N. Y. 194, 20 N. E. (2d) 390 (1939), wherein the definition of the term "employee" was in dispute. The plaintiff there sought to apply the definition of Article I of the Labor Law to Article 20 of the same law because both articles are a part of Chapter 31 of the Consolidated Laws. The court held that Article 20 was not "intended to be touched by the narrow definition of 'employee' that had been previously laid down in Section 2, Article I". Similarly, in *Matter*

In the case under discussion, the plaintiff did not overlook, as a last resort, the possibility of the unconstitutionality of Section 43 of the Civil Rights Law. The plaintiff attacked the constitutionality of the statute as applied to it on the grounds of unequal protection of the laws, capricious and unreasonable classification, deprivation of property without due process, interference with government service and invasion of postal work from which the state is excluded. The court in treating these assertions rather lightly, held it not to be capricious and arbitrary to legislate against discrimination in an association of workers which purports to act in improving working standards. In its conclusion, the court is supported by the decision of the Washington Supreme Court in *State of Washington v. Wiles* [7] which stated that any state statute which provides merely indirect and immaterial interference with a federal instrumentality is not violative of the constitution of the United States; and it concluded that such questions must be governed by the "rule of reason" in order not to hinder the states in the course of their affairs.

In the decision of the principal case, the court, by Chief Justice Lehman, interpreted Section 43 of the Civil Rights Law to mean that "no association of workers, whether in industry or in the Civil Service, which undertakes to speak and act collectively for such workers in improving wages and working standards may deny membership to a worker because of race, creed or color relegating him to the wilderness where he must cry unheard." This interpretation may well be regarded as a stepping stone in furtherance of the public policy of industrial equality.

G. S.

COMMERCE—INSURANCE—ANTI-TRUST ACT.—The appellees, the South-Eastern Underwriters Association (S. E. U. A.), and its membership of nearly two hundred private stock fire insurance companies and twenty-seven individuals, were indicted in the District Court for alleged violations of the Sherman Anti-Trust Act. The indictment alleges two conspiracies. The first, in violation of Section 1 of the Act, was to restrain interstate trade and commerce by fixing and maintaining arbitrary and non-competitive premium rates on fire and specified allied lines of insurance in various southern states; the second, in violation of Section 2, was to monopolize trade and commerce in the same lines of insurance in and among the same states.[1]

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of City of Brooklyn, 148 N. Y. 107, 42 N. E. 413 (1895), the court refused to read two statutes involving condemnation proceedings in *pari materia*, holding that "each is complete in itself and prescribes a system of procedure each for itself, having many points of similarity as also many points of divergence."

[7] 116 Wash. 387, 199 Pac. 749 (1921).

[1] The pertinent provisions of Sections 1 and 2 of the Act of July 2, 1890, 26 Stat. 209, as amended, 15 U. S. C. A. §§ 1, 2, are commonly known as the Sherman Act, and are as follows: