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MISCELLANEOUS

CHARLES H. RANDALL, JR.*

Labor Relations

In *United States v. Laburnum Construction Corp.*[1] the Supreme Court of the United States held that the fact that conduct of members of a labor union violated the Labor Relations Act of 1947 (Taft-Hartley Act)[2] and was thus subject to the jurisdiction of the National Labor Relations Board, did not preclude a State court from entertaining a common law action for damages resulting from that conduct. The Act did not oust the State courts from common law[3] jurisdiction where the conduct, subject to the Act, was also tortious. Such a case was *Hall v. Walters.*[4] A non-union worker sued six individual defendants, the Textile Workers Union of America (C.I.O.), and Local No. 254 of that national union. The action against the national labor union was non-suited at the trial, and verdict and judgment for $1,000.00 actual and $25,000.00 punitive damages were awarded against the Local and its members, and the individual defendants.

Plaintiff alleged an assault and battery by the individual defendants during a strike. The individual defendants, as members of the Local, were picketing Capital City Mill, plaintiff's employer. Plaintiff returned to work while the strike was in progress, despite a warning by a member of the executive committee of the Local that "he would be sorry for it". On leaving the mill, he was accosted by the individual defendants, beaten and knocked down and chased away. Defendant Lucas, an officer of the Local, in charge of the picket line, was present during the attack and allegedly superintended the violence.

On demurrer, the Local raised the defense that the strike was lawful, and that its alleged acts were not actionable. The demurrer was overruled. The Supreme Court, by Mr. Justice Stukes, affirmed the judgment for the plaintiff. The court held that where the officers and members of the Union enter a conspiracy, and a tortious act is

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1. 347 U.S. 656 (1954).
2. National Labor Management Relations Act, 1947 (Taft-Hartley Act), 29 U.S.C.A. § 141 *et seq.*
3. Garner v. Teamsters, Chauffers and Helpers Local Union No. 776 (A.F.L.), 346 U.S. 485 (1953), held that the Act ousted the State courts of jurisdiction to grant equitable relief in such a situation.
4. 85 S.E. 2d 729 (S.C. 1955).

committed therein, in furtherance of the purposes of the Union, the Union and its members are liable, jointly and severally.[5] The court found evidence of ratification of the assault by the Local, in that union officials had arranged bond and provided for payment of the fine of one of the assaulters who was convicted in a criminal prosecution, and that the pickets who threatened and chased the plaintiff were retained on the picket line. The members of the Local were held individually liable whether participants in the tort or not, since the tort was committed by the association in furtherance of its purposes.[6]

Attorney and Client

The Supreme Court found occasion to repeat that it would demand "severe and rigorous fairness"[7] on the part of an attorney in an agreement between attorney and client relating to fees. In *Royal Crown Bottling Co. v. Chandler*,[8] an attorney was retained by a State association of bottlers of soft drinks, to bring some 240 actions for claims for refunds of State soft drinks taxes. The fee was to be contingent upon success in the actions, and no amount or percentage fee was set. Shortly after a test case involving legal problems common to all the actions was successfully prosecuted by the attorney in the Richland County Court, the General Assembly threatened by an amendment to the then current appropriations bill to defeat all the actions. The attorney entered negotiations with the Governor and the Chairman of the Senate Finance Committee which resulted in a proposed settlement, whereby the amendment was to be withdrawn and the actions settled for approximately forty per cent of the prospective recovery. The attorney informed the president of the association that settlement on these terms would be advisable. He also told the president that he would require a fee of fifty per cent of the settlement figure, to which the president agreed with expressed reluctance. The court found that the minds of the parties had not met, the president misunderstanding some terms of the settlement, and therefore the contingent fee arrangement was not binding. But the court went further and indicated that because of the confidential relationship between attorney and client, the "severe and rigorous fairness" test would apply to this negotiation, and the agreement might not meet that test. The case was remanded with directions

5. CODE OF LAWS OF SOUTH CAROLINA, 1952 §§ 10-215, 10-429 and 10-1516.
6. No liability arises against a member unless judgment is specifically entered against him. Elliot v. Greer Presbyterian Church, 181 S.C. 84, 186 S.E. 651 (1936).
7. Wise v. Hardin, 5 S.C. 325, 328 (1873).
8. 226 S.C. 94, 83 S.E. 2d 745 (1954).

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to the trial court to set a fee that would be reasonable under all the circumstances.

Elections

Two cases arose concerning the extent to which the judiciary would grant review of determinations of the State Democratic Executive Committee regarding disputed elections. The Supreme Court repeated settled doctrine that it would correct errors of law, but that where disputed questions of fact were involved, its review would extend only to the question whether the action of the committee was wholly unsupported by the evidence.

Breeden v. S. C. Democratic Executive Committee[9] raised a question of law under the South Carolina statute[10] requiring that candidates for election render (1) a pre-election statement "at the conclusion of the campaign and before the election," and (2) a post-election statement "immediately after the election." In a primary election for auditor of Marlboro County, three separate elections were required, and the successful candidate did not file a pre-election and post-election statement for each of the three. The Supreme Court held that one pre-election statement and one post-election statement covering all three elections satisfied the statute. The contrary determination of the Executive Committee and the County Committee was set aside.

Berry v. Spigner[11] was an original certiorari proceeding to review the actions of County and State Democratic Executive committees denying petitioner's protest of the declared result of a primary election. The committees had rejected as insufficient the evidence of the petitioner, contained in affidavits charging irregularities permitted and participated in by the managers of election of a precinct. The Supreme Court held that in view of the indefiniteness of the evidence, such action by the committees was not unwarranted.

9. 226 S.C. 204, 84 S.E. 2d 723 (1954).
10. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 23-265.
11. 226 S.C. 183, 84 S.E. 2d 381 (1954).