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CIRCUIT COURT RULING UPHOLDS UNION; ORDERS BARGAINING RETIREMENT PLAN

Chicago.—Retirement and pension plans must be submitted to collective bargaining negotiations by employers at the demand of unions, according to a unanimous decision of the United States Circuit Court of Appeals here.

In a second phase of the same case, the court upheld by a vote of 2 to 1 the constitutionality of the Taft-Hartley law's requirement that union officers file non-Communist affidavits to qualify their unions before the National Labor Relations Board.

The decision was handed down in an NLRB case involving the Inland Steel Co. and the CIO's United Steel Workers.

Judges Otto Kerner, Sherman Minton and J. Earl Major joined in the decision concerning the retirement and pension plans. Judge Major holding that the non-Communist oath section of the law to be unconstitutional dissented from the majority opinion on that issue.

The case arose when the union demanded that it be given the right to bargain over the case of each employe eligible for retirement and to include the terms of the pension plan in collective bargaining as it related to all employes.

Contending that neither the question of retirement age nor pension-privileges was in the field of collective bargaining, the company refused to discuss either with the union. The union appealed successfully to the NLRB, which ordered the company to bargain, but attached to its order the condition that the union's officers file non-Communist affidavite within 30 days.

The decision placing retirement and pension plans in the area of collective bargaining said that the "controversy has to do with the construction to be given or the meaning to be attached to the (language) 'for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment'."

"We are convinced that the language employed by Congress, considered in connection with the purpose of the act, so clearly includes a retirement and pension plan as to leave little, if any, room for construction," the opinion read.

"While, as the company has demonstrated, a reasonable argument can be made that the benefits flowing from such a plan are not 'wages,' we think the better and more logical argument is on the other side, and certainly there is, in our opinion, no sound basis for an argument that such a plan is not clearly included in the phrase 'other conditions of employment'."

The company held in its brief that a fixed retirement age was advantageous to employes because it gave advance notice of the time of retirement, eliminated disputes, provided incentive for younger men and applied alike to all employes.

"We are unable to differentiate between the conceded right of a union to bargain concerning a discharge, and particularly a non-discriminatory discharge, of an employe, and its right to bargain concerning the age at which he is to retire," the opinion said.

In either case, the opinion said, the effect upon the "conditions" of employment was that employment was terminated and the "affected employe is entitled under the act to bargain collectively through his duly selected representatives concerning such termination."

In his dissent on the affidavit question, Judge Major pointed out that the law was directed not at unions as such, but at individual officers "each of whom has been empowered to stymie the entire bargaining process and thus deprive the union of its right to act as bargaining agent."

"And a single official can do this very thing by refusing to make the affidavit for any reason or no reason," he added.

Citing numerous decisions holding that the right of workmen to organize and select bargaining agents came from the Constitution, irrespective of any rights conferred by the Labor Relations Act, Judge Major's opinion described as "shallow" the reasoning that union members had in their own hands the power to select officers willing to sign affidavits.

ECA SENDS LABOR MEN TO 6 NATIONS

Washington. — Economic Co-operation Administrator Paul Hoffman announced the appointment of labor advisers to the chiefs of ECA missions in six participating nations of Europe. They are:

To Holland, Lee R. Smith, vice president of the Brotherhood of Railway Signalmen.

To Italy, William L. Munger, executive secretary of the United Hatters, Cap and Millinery Workers.

To Belgium and the Luxembourg, Albert L. Wegener, assistant to the president of the International Brotherhood of Electrical Workers.

To Norway and Denmark, John Gross, former president of the Colorado State Federation of Labor.

Even though it could be a fantastic idea, it has been rather difficult to avoid speculation as to whether the defiance of the Army by Harry Bridges' West Coast longshoremen might have had some relation to the simultaneous mounting "communist drive for power" in strategic southeast Asia.

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