

SENATE . . . . . No. 684

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The Commonwealth of Massachusetts

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SENATE, May 13, 1957.

The committee on Labor and Industries, to whom was referred the petition (accompanied by bill, Senate, No. 301) of Matthew L. McGrath, Jr., for legislation relative to the definition of "labor dispute", and "lawful labor dispute"; the petition (accompanied by bill, Senate, No. 302) of Matthew L. McGrath, Jr., for legislation relative to peaceful persuasion in labor disputes; the petition (accompanied by bill, Senate, No. 303) of Matthew L. McGrath, Jr., for legislation relative to injunctions in labor disputes; and the petition (accompanied by bill, House, No. 1376) of the Massachusetts Federation of Labor for legislation to clarify certain provisions of the anti-injunction law, report the accompanying Bill (Senate, No. 684).

For the committee,

FRANCIS X. McCANN.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT RELATIVE TO INJUNCTIONS IN LABOR DISPUTES, AND FURTHER DEFINING THE TERM "UNLAWFUL LABOR DISPUTE."

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Subsection (1) of section 9A of chapter 214 of  
2 the General Laws, as appearing in section 4 of chapter 407  
3 of the acts of 1935, is hereby amended by striking out clause  
4 (b) and inserting in place thereof the following clause:—  
5 (b) That substantial and irreparable injury to the com-  
6 plainant's physical property will follow;

1 SECTION 2. Subsection (4) of said section 9A of said chap-  
2 ter 214, as so appearing, is hereby amended by adding after  
3 the word "arbitration", in line 7, the following words:— or  
4 to submit such dispute or matter in controversy to the state  
5 labor relations commission if the same be within the juris-  
6 diction of said commission.

1 SECTION 3. Said section 9A of said chapter 214 is hereby  
2 further amended by adding after subsection (6) the follow-  
3 ing two subsections:—

4 (7) Whenever a court shall issue a permanent injunction  
5 in a case involving or growing out of a labor dispute, such  
6 injunction shall be effective for a period not to exceed six  
7 months from the date of its issuance and shall become void  
8 and inoperative at the expiration of said six months and shall  
9 not be subject to renewal unless full opportunity for a full  
10 hearing has been given to all parties involved with a right to  
11 cross-examine witnesses and except after findings of fact by  
12 the court in said hearing as required by subsections (a)

13 through (e) of subsection (1). This section shall apply to all  
14 pending labor injunction cases.

15 (8) In the interpretation of this section and in determining  
16 the jurisdiction and authority of the courts in labor matters,  
17 the public policy of the commonwealth is hereby declared to  
18 be to recognize that peaceful picketing is a form of free speech  
19 and to limit and curtail the use of restraining orders and  
20 injunctions against picketing in a labor dispute, as that term  
21 is defined in section twenty C of chapter one hundred and  
22 forty-nine.

1 SECTION 4. Section 36 of said chapter 214, as appearing  
2 in the Tercentenary Edition, is hereby amended by adding  
3 at the end the following sentence:— In any case arising  
4 under section twenty C of chapter one hundred and forty-  
5 nine or section nine A of this chapter, in which monetary  
6 damages are sought by the complainant, the superior court,  
7 upon the request of any of the defendants before or at the  
8 commencement of the trial on the permanent injunction, shall  
9 frame issues of fact with respect to damages to be tried by a  
10 jury, and order them to be tried in the county in which such  
11 cause is pending or was originally brought.

1 SECTION 5. Section 20C of chapter 149 of the General  
2 Laws is hereby amended by striking out subsection (e), in-  
3 serted by section 2 of chapter 452 of the acts of 1950, and in-  
4 serting in place thereof the following subsection:—

5 (e) The term “unlawful labor dispute” is limited to the  
6 following controversies arising out of a demand—

- 7 (1) That an employer commit a criminal offence;
- 8 (2) That an employer commit an unfair employment prac-  
9 tice in violation of chapter one hundred and fifty-one B.
- 10 (3) That an employer recognize or bargain collectively  
11 with any labor organization as the representative of its em-  
12 ployees in any bargaining unit while another labor organiza-  
13 tion is the representative of such employees certified by the  
14 labor relations commission established by section nine O of  
15 chapter twenty-three, or by the National Labor Relations  
16 Board, prior to the time said commission, or board, would

17 conduct a new investigation and certification of representa-  
18 tives.

19 (4) That an employer recognize or bargain collectively  
20 with any labor organization as the representative of its em-  
21 ployees in any bargaining unit within one year after the labor  
22 relations commission established by section nine O of chap-  
23 ter twenty-three has determined in a proceeding under sec-  
24 tion five of chapter one hundred and fifty A that such em-  
25 ployees do not desire to be represented by such labor organi-  
26 zation; or

27 (5) That an employer commit a violation of the criminal  
28 laws or the state anti-trust laws or breach a valid and exist-  
29 ing contract with a certified labor organization; or

30 (6) Made by any party to a jurisdictional dispute as de-  
31 fined in section nine B of chapter two hundred and fourteen  
32 who has failed to abide by any voluntary arbitration pro-  
33 cedure applicable to such dispute or to comply with the  
34 terms of the arbitration award.

35 Except for the disputes specified in this subsection, and  
36 except for unlawful secondary boycotts, as defined in sub-  
37 section (f), all other peaceful labor disputes, whether there is  
38 any demand of any character or not shall be lawful and not  
39 subject to any temporary restraining order or preliminary  
40 injunction or permanent injunction under section nine A of  
41 chapter two hundred and fourteen or any other section of  
42 the General Laws.

1 SECTION 6. If any provision of this act or the applica-  
2 tion thereof to any person, court or circumstances is held  
3 unconstitutional or otherwise invalid, the remaining pro-  
4 visions of the act and the application of such provisions to  
5 other persons, courts or circumstances shall not be affected  
6 thereby.