

By Mr. White of Boston, petition of W. Paul White and another for legislation to limit the jurisdiction of the courts relative to the issuance of injunctive relief in cases involving strikes by public employees. The Judiciary.

**The Commonwealth of Massachusetts**

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

AN ACT LIMITING THE JURISDICTION OF THE COURTS IN REGARD TO THE ISSUANCE OF INJUNCTIVE RELIEF IN CASES INVOLVING STRIKES BY PUBLIC EMPLOYEES.

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

1 Chapter 214 of the General Laws is hereby amended by  
2 inserting after Section 9B thereof the following section: —

3 *Section 9C.*

4 (1) No court shall have jurisdiction to issue a temporary  
5 restraining order a preliminary or permanent injunction in any  
6 case involving a threatened or actual strike by municipal  
7 employees except after hearing the testimony of witnesses in open  
8 court (with opportunity for precise examination) in support of  
9 the allegations of a complaint made under oath, and testimony in  
10 opposition thereto, if offered, and except after findings of fact by  
11 the court to the effect —

12 (a) That unlawful acts have been threatened and will be  
13 committed unless restrained, but no injunction or temporary  
14 restraining order shall be issued on account of any threat or  
15 unlawful act excepting against the person or persons, association  
16 or organization making the threat or committing the unlawful act  
17 or actually authorizing or ratifying the same after actual  
18 knowledge thereof,

19 (b) That substantial and irreparable injury to the com-  
20 plainant's property will follow,

21 (c) That as to each item of relief granted greater injury will be  
22 inflicted upon the complainant by the denial of relief than will be  
23 inflicted upon the defendants by the granting of relief,

24 (d) That the complainant has no adequate remedy at law,

25 (e) That the public officers charged with the duty to protect the  
26 complainant's property are unable or unwilling to furnish  
27 adequate protection, and

28 (f) That the continuation of the strike endangers the health and  
29 safety of the community in which the strike exists.

30 (2) No temporary restraining order or preliminary or perma-  
31 nent injunction shall be issued except on condition that the  
32 complainant shall first file an undertaking with adequate security  
33 in an amount to be fixed by the court sufficient in its opinion to  
34 recompense those enjoined for any loss, expense or damage  
35 caused by the improvident or erroneous issuance of such order or  
36 injunction, including all reasonable costs (together with a  
37 reasonable attorney's fee) and expense of defense against the  
38 order or against the granting of any injunctive relief sought in the  
39 same proceeding and subsequently denied by the court.

40 (3) The undertaking herein mentioned shall be understood to  
41 signify an agreement entered into by the complainant and the  
42 surety upon which a decree may be rendered in the same suit or  
43 proceeding against said complainant and surety shall have  
44 reasonable notice, the said complainant and surety submitting  
45 themselves to the jurisdiction of the court for that purpose. But  
46 nothing herein contained shall deprive any party having a claim  
47 or cause of action under or upon such undertaking from electing  
48 to pursue his ordinary remedy by action at law or suit in equity.

49 (4) No restraining order or injunctive relief shall be granted to  
50 any complainant who have failed to comply with any obligation  
51 imposed by law which is involved in the labor dispute in question,  
52 or who has failed to make every reasonable effort to settle such  
53 dispute either by negotiation or with the aid of any available  
54 governmental machinery of mediation or voluntary arbitration.

55 (5) Every restraining order or injunction granted in a case  
56 involving a dispute to which this section is applicable shall  
57 include only a prohibition of such specific act or acts as may be  
58 expressly complained of in the bill of complaint or petition filed  
59 in such case and as shall be expressly included in said statement of  
60 grounds or findings of fact made and filed by the court as  
61 provided herein.

62 (6) Whenever the court shall issue or deny a preliminary  
63 injunction in a case involving a dispute to which this section is

7] applicable, the court, upon the request of any party to the  
proceeding, shall forthwith report any questions of law involved  
in such issue or denial to the supreme judicial court and stay  
further proceedings except those necessary to preserve the rights  
of the parties. Upon the filing of such report, the questions  
reported shall be heard in a summary manner by a justice of the  
supreme judicial court, who shall with the greatest possible  
expedition affirm, reverse or modify the order of the superior  
court. The decision of such justice of the supreme judicial court  
upon the questions so raised shall be final, but without prejudice  
to the raising of the same questions before the full court upon  
exceptions, appeal or report after a final decree in the case.

