Parent and Child: Adoption Statutes: Right of Adopted Child to Inherit from Natural Parents

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Stanley et al. v. Peabody Coal Co., 5 F. Supp. 612 (S.D. Ill. 1933) (invoking Section 7a of N.I.R.A.). It is difficult to see how comparison between the Norris-LaGuardia Act and the Wisconsin Labor Code lends the Court authority for holding that section 268.18 is a declaration of labor's rights. The comparison instead tends to create doubt as to the constitutionality of the Wisconsin Labor Code. State bills modelled after the Norris-LaGuardia Act have been deemed unconstitutional. In re Opinion of the Justices, (N.H. 1933) 166 Atl. 640 (invading rights of personal liberty and property under 14th Amendment, discriminatory, depriving Courts of inherent power); Opinion of the Justices, 275 Mass. 580, 176 N.E. 649 (1931) (depriving persons of property without due process, limiting power of courts); cf. Thoe v. Chicago M. & St. Paul R. Co., 181 Wis. 456, 195 N.W. 407 (1923) (legislative limitation on judicial powers of Circuit Courts field unconstitutional); see John F. Jelke Co. v. Beck, 208 Wis. 650, 660, 242 N.W. 576, 580 (1932); Legis. (1934) 9 Wis. L. Rev. 278, 284.

Section 268.18, if a valid declaration of labor's rights, does not give rise to any greater rights than Section 7a. Cf. Section 109.04 (2a), Laws of Wisconsin (1933) Chap. 476 (The "7a" of the Wisconsin Act for Emergency Promotion of Industrial Recovery). Doubt as to the practical advantages accruing to labor under Section 7a has been expressed. Comment (1934) 43 Yale L.J. 625; cf. Note (1933) 47 Harv. L. Rev. 85, 118; (1934) 47 Harv. L. Rev. 712. But in Wisconsin, as a result of Section 7a and its interpretation by the National Labor Board, labor unionization has made more progress than in any other State. Lacher, Rule by Riot, The Iron Age (Oct. 1934); Kohler, Interpreting Section 7a with Bricks, Nations Business (Nov. 1934). The interpretation in the instant case placed on the words "interference, restraint or coercion" imputes to them a meaning favorable to labor. A refusal to bargain with the chosen representative comes within their purview and being unlawful may be restrained. Trustees of Wisconsin State Federation of Labor v. Simplex Shoe Mfg. Co., supra; Fryns v. Fair Lawn Fur Dressing Co., 114 N.J. Eq. 462, 168 Atl. 862 (1933). Contra: H. B. Rosenthal v. Ettinger Co. v. Schlossberg, et al., 149 Misc. 210, 266 N.Y.S. 762 (1933) (refusal to bargain is not a violation of Section 7a); cf. Durable Sportswear Co. v. Hellman, N.Y.L.J., Sept. 13, 1933, at 8 (Sup. Ct.). But the decision leaves open the question of whether refusing to accept the preferred terms of the employee's chosen representative amounts to a refusal to bargain [discussed in McNatt, Organized Labor and the Recovery Act (1933-4) 32 Mich. L. Rev. 780; cf. Sargent, Majority Rule in Collective Bargaining under Section 7 (a) 29 Ill. L. Rev. 275, 295 (1934)]. Should that question be decided in the negative the injunction is worthless to labor. If it be decided in the affirmative, labor would virtually become the dictator.

The Wisconsin court hopes that capital and labor will deal justly, fairly, and considerately with each other. This can not result from having the courts vaguely, abstractly and broadly define and allegedly uphold the respective rights of capital and labor. The solution seems to lie in the formation within an industry of codes created by the joint action of both parties and containing concrete and specific determinations of the relationships between them. Note (1933) 47 Harv. L. Rev. 85,125.

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heir at law in the estate of the decedent by virtue of the adoption. Held, A and B are both heirs of the natural parent, adoption is not a bar to inheritance by B. *In re Estate of Martha Sauer* (Wis., 1934) 257 N.W. 28.


The adoption of children and strangers to the blood exists in this country only by virtue of statute. See, *Albing v. Ward*, 137 Mich. 352, 100 N.W. 609, 610 (1904). In the absence of common law authority, the various states have invaded the legal systems of continental Europe in search of nuclei about which to build their statutory scheme. See, *Power v. Hafley*, 85 Ky. 671, 14 S.W. 683, 684 (1887). In most American jurisdictions the courts have recognized that these statutory schemes permitting the adopted child to take by descent from the parents by adoption have not affected his right to inherit from his natural parents. *Patterson v. Browning*, 146 Ind. 160, 44 N.E. 993 (1896); *Wagner v. Varner*, 50 Ia. 532 (1879); contra, *Young v. Bridges*, (N.H., 1933), 165 Atl. 272.

It was argued by the appellant in the principal case that the local legislature had by its adoption statute indicated that the adopted child was not to take by inheritance from its natural parents. Wis. Stats., (1933) § 322.07. The court met this contention by pointing out that the legislature had deleted from the original bill before it a specific provision purporting to deny the right of the adopted child to take by inheritance from its natural parents. See, Assembly Bill No. 237A, Session of 1929. The court said that this indicated that the legislature did not mean that the adoption statute as eventually passed was to affect the right of inheritance from the natural parents. Had the legislature literally purported to affect the right of inheritance from the natural parents there is reason to believe that the Wisconsin court would have refused to uphold the statute. The court has suggested several times that such statutes interfering with the descent of property are subversive to the beneficent purposes of adoption, that they are contrary to the natural and the common law, and are an unauthorized invasion by the legislature of the rights of the individual. See, *Nunnenmacher v. State*, 129 Wis. 190, 108 N.W. 627 (1906); *Estate of Bradley*, 185 Wis. 393, 201 N.W. 973 (1925). It is submitted, too, that an attempted enforcement of such a statute might raise a federal question under the due process clause of the Fourteenth Amendment. See *Meyer v. Nebraska*, 262 U.S. 390, 43 Sup. Ct. 625, 67 L.Ed. 1042 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510, 45 Sup. Ct. 96, 69 L.Ed. 1070 (1925).

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**TORTS—JOINT ENTERPRISE—IMPUTED NEGLIGENCE.**—A husband and wife jointly owned an automobile and both were the named assureds in the liability policy issued thereon. In returning from a visit to their daughter's home and while the husband was driving, they collided with a freight car belonging to the defendant railway company. In the plaintiff wife's action against the defendant husband and the defendant railway company, the jury found the plaintiff free from contributory negligence and that she had assumed no risk; it found both de-