

## No. 293

## AN ACT

To amend section three of the act, approved the twenty-fifth day of July, one thousand nine hundred and seventeen (Pamphlet Laws, one thousand one hundred ninety-five), entitled "An act for the encouragement of agriculture and the holding of agricultural exhibitions; providing State aid for certain agricultural associations, and regulating the payment thereof," reducing the number of days during which exhibitions need be held.

Section 3, act of July 25, 1917 (P. L. 1195), amended.

Section 1. Be it enacted, &c., That section three of the act, approved the twenty-fifth day of July, one thousand nine hundred and seventeen (Pamphlet Laws, one thousand one hundred ninety-five), entitled "An act for the encouragement of agriculture and the holding of agricultural exhibitions; providing State aid for certain agricultural associations, and regulating the payment thereof," is hereby amended to read as follows:

Section 3. No incorporated county agricultural association shall be entitled to the benefits of this act unless it shall hold an annual exhibition in the interest of stock-raising, grain, poultry, handiwork, dairy products, and the like. Such exhibitions shall continue at least three [consecutive] days: *Provided, That the Auditor General shall have power to extend the benefits of this act to any incorporated county agricultural association, whose exhibition continues less than three days, in any county where no county agricultural association holds an exhibition for a three day period.*

Section 2. This act shall become effective immediately upon final enactment.

APPROVED—The 1st day of June, A. D. 1937.

GEORGE H. EARLE

## No. 294

## AN ACT

To protect the right of employes to organize and bargain collectively; creating the Pennsylvania Labor Relations Board; conferring powers and imposing duties upon the Pennsylvania Labor Relations Board, officers of the State government, and courts; providing for the right of employes to organize and bargain collectively; declaring certain labor practices by employers to be unfair; further providing that representatives of a majority of the employes be the exclusive representatives of all the employes; authorizing the board to conduct hearings and elections, and certify as to representatives of employes for purposes of collective bargaining; empowering the board to prevent any person from engaging in any unfair labor practice, and providing a procedure for such cases, including the issuance of a complaint, the conducting of a hearing, and the making of an order; empowering the board to petition a court of

Annual ex-  
hibitions.

Proviso.

When effective.

common pleas for the enforcement of its order, and providing a procedure for such cases; providing for the review of an order of the board by a court of common pleas on petition of any person aggrieved by such order, and establishing a procedure for such cases; providing for an appeal from the common pleas court to the Supreme Court; providing the board with investigatory powers, including the power to issue subpoenas and the compelling of obedience to them through application to the proper court; providing for service of papers and process of the board; prescribing certain penalties.

Section 1. Short Title.—Be it enacted, &c., That this act shall be known, and may be cited, as the “Pennsylvania Labor Relations Act.”

Labor.  
Title.

Section 2. Findings and Policy.—(a) Under prevailing economic conditions, individual employes do not possess full freedom of association or actual liberty of contract. Employers in many instances, organized in corporate or other forms of ownership associations with the aid of government authority, have superior economic power in bargaining with employes. This growing inequality of bargaining power substantially and adversely affects the general welfare of the State by creating variations and instability in competitive wage rates and working conditions within and between industries, and by depressing the purchasing power of wage earners, thus—(1) creating sweat-shops with their attendant dangers to the health, peace, and morals of the people; (2) increasing the disparity between production and consumption; and (3) tending to produce and aggravate recurrent business depressions. The denial by some employers of the right of employes to organize and the refusal by employers to accept the procedure of collective bargaining tend to lead to strikes, lock-outs, and other forms of industrial strife and unrest, which are inimical to the public safety and welfare, and frequently endanger the public health.

Findings.

(b) Experience has proved that protection by law of the right of employes to organize and bargain collectively removes certain recognized sources of industrial strife and unrest, encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions, and tends to restore equality of bargaining power between employers and employes.

(c) In the interpretation and application of this act and otherwise, it is hereby declared to be the public policy of the State to encourage the practice and procedure of collective bargaining and to protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from the interference, restraint or coercion of their employers.

Policy.

(d) All the provisions of this act shall be liberally construed for the accomplishment of this purpose.

Police power.

(e) This act shall be deemed an exercise of the police power of the Commonwealth of Pennsylvania for the protection of the public welfare, prosperity, health, and peace of the people of the Commonwealth.

Definitions.

Section 3. Definitions. When used in this act—

(a) The term “department” shall mean the Department of Labor and Industry.

(b) The term “person” includes an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy or receiver.

(c) The term “employer” includes any person acting, directly or indirectly, in the interest of an employer, but shall not include the United States or the Commonwealth, or any political subdivision thereof, or any person subject to the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(d) The term “employee” shall include any employe, and shall not be limited to the employes of a particular employer, unless the act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute, or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any person in the home of such person, or any individual employed by his parent or spouse.

(e) The term “representative” includes any individual or labor organization.

(f) The term “labor organization” means any organization of any kind, or any agency or employe representation committee or plan in which employes participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any labor organization which, by ritualistic practice, constitutional or by-law proscription, by tacit agreement among its members, or otherwise, denies a person or persons membership in its organization on account of race, creed or color.

(g) The term “unfair labor practice” means only these unfair labor practices listed in section six of this act.

(h) The term “labor dispute” includes any controversy concerning—(1) terms, tenure or conditions of

employment; or concerning (2) the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employe.

(i) The term "Board" means the Pennsylvania Labor Relations Board created by section four of this act.

(j) The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 4. Pennsylvania Labor Relations Board Created.—

(a) There is hereby created a departmental administrative board in the department, to be known as the "Pennsylvania Labor Relations Board" (hereinafter referred to as the "Board"), which shall be composed of three members who shall be appointed by the Governor, but with the advice and consent of two-thirds of all the members of the Senate. Each member of the board at the time of his appointment shall be a citizen of the United States and a resident of the Commonwealth of Pennsylvania, and shall have been a qualified elector in the Commonwealth for a period of at least one year next preceding his appointment. No member of the board during his period of service as such shall hold any other office under the law of this Commonwealth or of the United States. One of the original members shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, but their successors shall be appointed for terms of six years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he is to succeed. The Governor shall designate one member to serve as chairman of the board.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and two members of the board shall at all times constitute a quorum. The board shall have an official seal, of which courts shall take judicial notice.

(c) The board shall at the end of every year make a report, in writing, to the Governor, stating in detail the work it has done in hearing and deciding cases, and otherwise, and it shall sign and report in full an opinion in every case decided by it.

(d) Each member of the board shall receive a salary of nine thousand dollars (\$9,000) a year, and shall be eligible for reappointment. The employes of the board shall be appointed by the Secretary of Labor and Industry, with the approval of the Governor. The board may establish or use such voluntary and uncompensated services as may, from time\* to time, be needed.

\* "time" inserted.

Offices.

(e) The principal office of the board shall be in the city of Harrisburg, but it may meet and exercise any or all of its powers at any place. The board may, by one or more of its members, or by such agents as it may designate, prosecute in any part of this Commonwealth any inquiry necessary to performance of its functions. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the board in the same case. Nothing in this act shall be construed to authorize the board to appoint individuals for the purpose of conciliation, mediation or arbitration (or for statistical work), where such service may be obtained from the Department of Labor and Industry.

Rules and regulations.

(f) The board shall have authority, from time to time, to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this act. Such rules and regulations shall be effective upon publication in the manner which the board shall prescribe.

Employes to have the right to organize.

Section 5. Rights of Employes.—Employes shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Unfair labor practices enumerated.

Section 6. Unfair Labor Practices.—It shall be an unfair labor practice for an employer—

(a) To interfere with, restrain or coerce employes in the exercise of the rights guaranteed in this act.

(b)\* To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules and regulations made and published by the board pursuant to this act, an employer shall not be prohibited from permitting employes to confer with him during working hours without loss of time or pay.

(c) By discrimination in regard to hire or tenure of employment, or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this act, or in any agreement approved or prescribed thereunder, or in any other statute of this Commonwealth, shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require, as a condition of employment, membership therein, if such labor organization is the representative of the employes, as provided in section seven (a) of this act, in the appropriate collective bargaining unit covered by such agreement when made.

\*“(d)” in the original.

(d) To discharge or otherwise discriminate against an employe because he has filed charges or given testimony under this act.

(e) To refuse to bargain collectively with the representatives of his employes, subject to the provisions of section seven (a) of this act.

Section 7. Representatives and Elections. — (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employes in a unit appropriate for such purposes, shall be the exclusive representatives of all the employes in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: Provided, That any individual employe or a group of employes shall have the right at any time to present grievances to their employer.

Representatives chosen by a majority of employes shall be exclusive representatives of all employes.

Proviso.

(b) The board shall decide in each case whether, in order to insure to employes the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.

Board to decide type for purposes of collective bargaining.

(c) Whenever a question arises concerning the representation of employes the board may investigate such controversy and certify to the parties, in writing, the name or names of the representatives who have been designated or selected. In any such investigation, the board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under section eight, or otherwise, and may take a secret ballot of employes or utilize any other suitable method to ascertain such representatives.

Board may investigate and certify representatives in case of a dispute.

(d) Whenever an order of the board, made pursuant to section eight, subsection (c), is based, in whole or in part, upon facts certified following an investigation pursuant to subsection (c) of this section, and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under subsections (a) or (b) of section nine, and thereupon the decree of the court enforcing, modifying or setting aside, in whole or in part, the order of the board, shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

Section 8. Prevention of Unfair Labor Practices.— (a) The board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice listed in section six of this act. This power shall be exclusive and shall not be affected by any other

Board empowered to prevent unfair labor practices.

means of adjustment or prevention that have been or may be established by agreement, law, or otherwise.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any member or designated agent thereof, shall have authority to issue and cause to be served upon such person a complaint, stating the charges in that respect, and containing a notice of hearing before the board, or any member or designated agent thereof, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the board, member or agent conducting the hearing at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person, or otherwise, to give testimony at the place and time set in the complaint. In the discretion of a member or agent conducting the hearing or of the board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding, the rules of evidence prevailing in courts of law or equity shall not be controlling.

(c) The testimony taken at the hearing shall be reduced to writing and filed with the board. The board upon notice may take further testimony or hear argument. If, upon all the testimony taken, the board shall determine that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, the board shall state its findings of fact, and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employes with or without back pay, as will effectuate the policies of this act. Such order may further require such person to make reports, from time to time, showing the extent to which the order has been complied with. If, upon all the testimony, the board shall be of the opinion that the person or persons named in the complaint has not engaged in or is not engaging in any such unfair labor practice, then the board shall make its findings of fact and shall issue an order dismissing the complaint.

(d) Until a transcript of the record in a case shall have been filed in a court as hereinafter provided, the board may at any time, upon reasonable notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

Section 9. Judicial Review.—(a) The board shall have power to petition the court of common pleas of any county wherein the unfair labor practice in ques-

Board may petition courts of common pleas to enforce orders.

tion occurred, or wherein any person charged with the commission of any unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No objection that has not been urged before the board, its members or agent shall be considered by the court unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show, to the satisfaction of the court, that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence at the hearing before the board, its members or agent, the court may order such additional evidence to be taken before the board, its members or agent, and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court of common pleas shall be exclusive, and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court on appeal by either party, irrespective of the nature of the decree or judgment or the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Supreme Court, and the record so certified shall contain all that was before the court of common pleas.

Procedure before court.

Review by Supreme Court.

(b) Any person aggrieved by a final order of the board granting or denying, in whole or in part, the relief sought, may obtain a review of such order in the court of common pleas of any county where the unfair labor practice in question was alleged to have been en-



gaged in, or wherein such person resides or transacts business by filing in such court a written petition praying that the order of the board be modified or set aside. A copy of such petition shall be forthwith served upon the board, and the board shall file in the court a transcript of the entire record in the proceeding certified by the board, including the pleadings and testimony and order of the board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the board under subsection (a), and shall have the same exclusive jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board, and the findings of the board as to the facts, if supported by evidence, shall in like manner be conclusive.

(c) The commencement of proceedings under subsection (a) or (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(d) When granting appropriate temporary relief or a restraining order or making and entering a decree enforcing, modifying, or enforcing as so modified, or setting aside, in whole or in part, an order of the board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by acts pertaining to equity jurisdiction of courts. The act of June twenty-third, one thousand nine hundred and thirty-one (Pamphlet Laws, nine hundred twenty-five), entitled "An act defining the rights of persons accused of contempt of court arising out of violation of injunctions; limiting eligibility of judges in such cases; and prescribing procedure and penalties," shall not be applicable to orders of the board, or to court orders enforcing orders of the board, or any provision of this act, or to violations of any order of the board, or of court orders enforcing orders of the board, or any provision of this act.

(e) Petitions filed under this act shall be heard expeditiously and, if possible, within ten days after they have been docketed.

Section 10. Investigatory Powers.—For the purpose of all hearings and investigations which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by sections seven and eight—

(a) The board or its duly authorized agents shall at all reasonable times have access to, for the purpose of examination and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in ques-

Jurisdiction of  
courts sitting in  
equity.

Board to have  
power to ex-  
amine records

tion. Any member of the board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board, its members or agent conducting the hearing or investigation. Any member of the board, or any agent designated by the board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) If any witness resides outside of the Commonwealth or through illness or other cause is unable to testify before the board or its members or agent conducting the hearing or investigation, his or her testimony or deposition may be taken within or without this Commonwealth, in such manner and in such form as the board or its members or agent conducting the hearing, may by special order or general rule prescribe.

Depositions.

(c) In case of contumacy or refusal to obey a subpoena issued to any person, the court of common pleas of any county within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board, shall have jurisdiction to issue to such person an order requiring such person to appear before the board, its members or agent, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Courts to enforce subpoenas of the board.

(d) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the board on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Self incrimination.

(e) Complaints, orders, and other process and papers of the board, its members or agent may be served, either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or

Service.

telegraph receipt therefor when registered and mailed or telegraphed as aforesaid, shall be proof of service of the same. Witnesses summoned before the board, its members or agent shall be paid the same fees and mileage that are paid witnesses in the courts of this Commonwealth, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of this Commonwealth.

(f) All process of any court to which application may be made under this act may be served in the county wherein the defendant or other person required to be served resides or may be found.

(g) The several departments, commissions, divisions, authorities, boards, bureaus, agencies and offices of the Commonwealth, or any political subdivision or agency thereof, shall furnish the board, upon its request, all records, papers, and information in their possession relating to any matter before the board.

Penalties.

Section 11. Penalties.—Any person who shall wilfully resist, prevent, impede or interfere with any member of the board, or any of its agents, in the performance of duties pursuant to this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment for not more than one year, or both.

Inconsistent acts repealed.

Section 12. Repealer.—All acts or parts of acts, whether special or local, inconsistent herewith, are hereby repealed.

Section 13. Limitations.—Nothing in this act shall be construed so as to interfere with, impede or diminish in any way the right of employes to strike.

Constitutional provision.

Section 14. Separability.—If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act and the application of such provision to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that this act would have been adopted had such invalid provisions not been included.

When effective.

Section 15. Effective Date.—This act shall take effect immediately upon its final enactment.

APPROVED—The 1st day of June, A. D. 1937.

GEORGE H. EARLE