

= Brown v. Hotel and Restaurant Employees =

Brown v. Hotel and Restaurant Employees , 468 U.S. 491 ( 1984 ) , is a 4 @-@ to @-@ 3 ruling by the United States Supreme Court which held that a New Jersey state gaming law requiring union leaders to be of good moral character was not preempted by the National Labor Relations Act ( NLRA ) .

= = Background = =

In 1976 , New Jersey amended their state constitution to permit casino gambling in Atlantic City .

On June 2 , 1977 , Governor Brendan Byrne signed the Casino Control Act ( N.J. Stat . Ann . Section 5 : 12 @-@ 1 et seq . ) into law . The act established the New Jersey Casino Control Commission and instituted comprehensive regulation of casino gambling ? including the regulation of labor unions representing gaming industry employees . In an attempt to forestall organized crime influence over labor unions , Sections 86 and 93 of the act imposed certain qualifications on officials of labor organizations representing casino industry workers . Among these qualifications were that the official be of " good moral character , " not been convicted of certain felonies , and was not associated with organized crime . If a labor union 's leaders did not meet these criteria , the union was prohibited from collecting or receiving dues from its members and from administering pension and welfare funds .

Hotel Employees and Restaurant Employees Union Local 54 represented about 12 @,@ 000 workers , 10 @,@ 000 of whom were employed in Atlantic City casinos . Almost all of these casino workers had been organized since the legalization of gambling in the state .

On May 13 , 1981 , the Casino Control Commission found that Frank Gerace , president of Local 54 , and Frank Materio , the local 's grievance manager , were associated with organized crime . The commission also ruled that Karlos LaSane , the union 's business agent , was ineligible to be a union officer or agent because he had previously been convicted of extortion . The commission also found that union officers refused to cooperate with Casino Control Commission investigators , and held stock in Resorts International , Inc . ( which owned one of the casinos in which Local 54 represented workers ) . Both actions contravened state regulations . The commission feared that Local 54 was being influenced by Nicodemo " Little Nicky " Scarfo , a reputed leader of the Scarfo organized crime " family " based in Philadelphia .

National and state AFL @-@ CIO officials , fearing the New Jersey law might open the door to extensive new state regulation of labor unions , asked Local 54 to test the New Jersey law in court . After a regulatory appeal , the Casino Control Commission unanimously rejected the union 's contention that the law was unconstitutional and preempted by the NLRA .

Local 54 then filed suit in federal district court , seeking a permanent injunction prohibiting enforcement of the act . At trial , the union argued that the law infringed on its members ' constitutional right of freedom of association and was preempted by federal labor law . The state countered that the regulation was a permissible infringement of the freedom of association because keeping criminal elements out of the gaming industry was a compelling governmental interest .

On March 22 , 1982 , the United States District Court for the District of New Jersey held ( 536 F. Supp . 317 , ( 1982 ) ) that the New Jersey statute was not unconstitutionally vague and did not impermissibly infringe on union members ' First Amendment rights .

The union appealed .

While the appeal was pending , the Casino Control Commission ordered Gerace and Materio to vacate their union positions . The commission demanded that both men relinquish their union offices by October 12 , 1982 , or the local would not be permitted to collect dues or administer its pension plan .

On June 30 , 1983 , a three @-@ judge panel of the United States Court of Appeals for the Third Circuit ruled ( 709 F.2d 815 ( 1983 ) ) 2 @-@ to @-@ 1 that the district court had erred . The appellate court granted the union 's injunction , finding that Section 93 of the act was preempted by Section 7 of the NLRA . The Court of Appeals relied heavily on the Supreme Court 's decision in Hill

v. Florida ex rel . Watson , 325 U.S. 538 ( 1945 ) , when it concluded that Section 7 conferred " an unfettered right on employees to choose the officials of their own bargaining representatives . "

The state sought a rehearing en banc , but the entire court of appeals refused to rehear the case after it deadlocked in a 5 @-@ to @-@ 5 vote .

The state appealed to the U.S. Supreme Court , which granted certiorari ( 464 U.S. 990 ( 1983 ) ) .

= = Decision = =

Justice Sandra Day O 'Connor delivered the opinion of the Court , in which Chief Justice Burger and Justices Harry Blackmun and William Rehnquist joined . Justice Byron White , joined by Justices Lewis F. Powell , Jr. and John Paul Stevens , dissented . Justices William J. Brennan , Jr. and Thurgood Marshall did not participate in the hearing or decision of the case .

= = = Majority opinion = = =

Justice O 'Connor concluded that Section 7 of the NLRA did not contain explicit pre @-@ empty language nor indicate congressional intent to usurp a state role in labor @-@ management relations . " [ A ] ppropriate consideration for the vitality of our federal system and for a rational allocation of functions belies any easy inference that Congress intended to deprive the States of their ability to retain jurisdiction over such matters . "

O 'Connor then rejected the appellate court 's reading of Hill v. Florida ex rel . Watson . Subsequent to Hill , O 'Connor noted , Congress had enacted the Labor Management Reporting and Disclosure Act ( the " Landrum @-@ Griffin Act " ) . Section 504 ( a ) of the Landrum @-@ Griffin Act explicitly barred from office for a five @-@ year period union officers convicted of any number of crimes . By enacting Section 504 ( a ) , O 'Connor concluded , Congress " unmistakably indicated that the right of employees to select the officers of their bargaining representatives is not absolute ... " Citing the plurality opinion in De Veau v. Braisted , 363 U.S. 144 ( 1960 ) , O 'Connor noted that the Court had previously held that the Landrum @-@ Griffin Act had not preempted the role of state legislation in regulating union officials .

O 'Connor next addressed the New Jersey statute 's enforcement mechanism . O 'Connor recognized the continuing controlling nature of Hill in this regard , and acknowledged that questions of constitutionality and preemption must " be assessed independently in terms of its potential conflict with the federal enactment . " O 'Connor concluded , however , that the record was too incomplete on this issue , and remanded the issue to the appellate court so that it could order further proceedings .

= = = Dissenting opinion = = =

Justice White , writing for the dissent , argued that the linkage between Section 93 and Section 86 of the New Jersey act rendered the act preempted by federal law . If Section 86 merely imposed qualifications on union officials , White concluded , the law would not be preempted by the NLRA . But the act went far beyond that , and imposed sweeping penalties on the union . For the dissent , this proved critical :

It is not clear what portion of the statute the Court upholds since it expressly refuses to decide whether the dues prohibition and fund administration provisions are valid . Section 93 ( b ) does nothing more than impose those two restrictions on unions whose officials are disqualified under the criteria set forth in § 86 . It does not , by its terms , provide a mechanism for disqualifying any union officer . Therefore , while it appears that the Court holds that a State is free to disqualify certain individuals from acting as union officials as long as it does not impose sanctions on the union itself , it is not clear that anything in § 93 ( b ) enables the State to do that .

White noted that although Section 7 of the NLRA granted employees the absolute right to choose collective bargaining representatives of their choosing , that right was not coextensive with the less absolute right to determine who should serve as officers in that organization . In the current case ,

White noted , the workers had chosen an organization rather than an individual as their collective bargaining agent . White agreed with the majority that the state can permissibly impose qualifications on the officers of Local 54 . But the language of Section 7 of the NLRA as well as the Court 's ruling in Hill permitted the state to impose sanctions only on the officers , not on the union . Interfering with the relatively untrammelled right of the union to carry out its duties as collective bargaining agent was impermissible as a matter of federal law :

Allowing the State to so restrict the union 's conduct infringes on the employees ' right to bargain collectively through the representative of their own choosing because it prevents that representative from functioning as a collective @-@ bargaining agent . ... A union which cannot sustain itself financially obviously cannot effectively engage in collective @-@ bargaining activities on behalf of its members .

The record , White noted , was quite clear in showing that Local 54 would not be able to function if either of the Casino Control Commission 's sanctions were imposed . Thus , White would have overturned the statute on grounds of preemption under Section 7 of the NLRA :

I am willing to hold that , as a matter of law , a statute like § 93 ( b ) , which prohibits a union from collecting dues from its members , impairs the union 's ability to represent those members to such an extent that it infringes on their § 7 right to bargain through the representative of their choice .

= = Consequences of the ruling = =

Gerace resigned shortly after the Supreme Court 's ruling . However , Local 54 immediately rehired Gerace as a \$ 48 @,@ 000 @-@ a @-@ year " consultant . " The Casino Control Commission declared this " a subterfuge . " The gaming commission declined to impose either of its statutory sanctions , and instead sought a court injunction forcing Gerace to resign his consultancy . In November 1984 , a New Jersey state superior court ruled that the gaming commission had the right to force Gerace 's resignation . Gerace initially fought the court 's order , but eventually resigned after concluding that the continuing legal battle would " be disruptive to the operation of the union . " Materio and LaSane also resigned , but were later hired by the union as business agents to handle non @-@ casino related matters .

Five years after the ruling in *Brown v. Hotel and Restaurant Employees Union* an academic study concluded that the Casino Control Act had been only marginally successful in preventing or eliminating organized crime influence in New Jersey 's casino unions . The study noted that the law had not been used since its initial 1981 enforcement action , and that many union officials were merely rehired as consultants rather than as elected officers . The state gaming commission never again attempted to use its two statutory sanctions against any union , and relied instead on the threat of injunctions to remove officials it suspected of links to organized crime .