

TESTIMONY

OF

**FRANK SNYDER, SECRETARY-TREASURER
OF THE
PENNSYLVANIA AFL-CIO**

**BEFORE THE PENNSYLVANIA HOUSE
OF REPRESENTATIVES, JUDICIARY COMMITTEE**

AUGUST 22, 2013

**REGARDING HOUSE BILL 1154 OF 2013,
PRINTERS NUMBER 1411**

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Good morning Chairman Marsico, Chairman Caltagirone, and members of the House Judiciary Committee. My name is Frank Snyder. I am the Secretary-Treasurer of the Pennsylvania AFL-CIO. I am here today on behalf of our affiliated Labor Organizations, which represent over 800,000 hardworking women and men in our Commonwealth.

Thank you for the opportunity to present testimony regarding House Bill 1154, a bill which would amend several sections of Pennsylvania's Crimes Code to remove language that deals with their application.

Specifically, we are here to discuss the removal of the following language, "*this section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937, known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.*" This language currently exists in three sections of our Crimes Code, sections 2709, 2709.1, and 2715; respectively, these sections deal with harassment, stalking, and the threat to use weapons of mass destruction.

Let me first say that the Pennsylvania AFL-CIO does not condone any criminal activity, nor do we believe it was the intent of this language to provide legal favoritism towards our organizations. In fact as I will soon discuss, we believe that these provisions provide far greater protections to employers than to ourselves. We do not believe that our movement will grow, if our membership exists on the basis of fear, harassment, or intimidation. What we do believe, and what the courts have concluded, is that it is a worker's right to collectively bargain and organize.

The part of Pennsylvania law that House Bill 1154 seeks to repeal was enacted in 1993, and was included to protect labor and management involved in a labor dispute from counterfeit charges intending to subvert constitutionally protected activity, causing protracted and costly litigation.

Representative Jerry Birmelin (R-Pike, Wayne) first began this conversation when he introduced and successfully included an amendment that excluded from the law constitutionally protected activity. After reviewing the transcripts of the floor debate, it becomes clear that Representative Birmelin's intent was to protect activities such as picketing, whether part of a labor dispute or not. The bill was then further clarified by the Senate Law and Justice Committee to include parties to a labor dispute; this amendment was in response to concerns expressed by both labor and management, who were concerned that unscrupulous individuals and organizations from either party to a labor dispute would willfully subvert constitutionally protected activities of the other in order to accomplish their respective objectives and goals.

From our perspective, the language being discussed today provides basic protections to workers pursuing their rights to collective bargaining. It stops union-busting employers and their attorneys from manipulating the criminal code to further their anti-union, anti-worker agenda. It provides no protections to organizations or individuals who seize, hold, damage, or destroy the plant, equipment, machinery, or other property of the employer with the intention of compelling the employer to accede to any demands,

conditions, or terms of employment, or for collective bargaining. Additionally, intimidating, restraining, or coercing any employee for the purpose and with the intent of compelling such employee to join or to refrain from joining any labor organization would be an unfair labor practice under Pennsylvania's Labor Relations Act.

The study by the US Chamber of Commerce is disingenuous and self-serving, implying that we may stalk, harass or even threaten to use weapons of mass destruction without the threat or chance of being charged criminally like anyone else, which is ridiculous. But what is perhaps most shameful about this claim, is that employers are overwhelmingly proven to be the party which violates these laws, and therefore are equally if not greater protected from this exemption than workers are.

I think it's also important to briefly make a note regarding the Pennsylvania case law that the US Chamber cites in their national report. In the first case, *PHAR-MOR, Inc.*, the Supreme Court described the union's actions as "nothing more than peaceable leafleting and brief contacts with its employees by union agents." In the second, *Solvent Machinery*, the Superior Court determined that the plaintiff (Solvent Machinery) failed to introduce evidence that property was seized, or that the defendant (Teamsters Local 115) caused the "minimal evidence" of property damage. It seems to me, this study is nothing more than a solution in search of a problem, otherwise they would have had stronger case law to include in their study, but instead they present peaceable leafleting, and a case where the employer could not present any evidence whatsoever. These of course, are included under the heading "Systemic Favoritism: Hamstringing

Courts.” Me personally, I would call peaceable leafleting, our right, and requiring a plaintiff to present evidence, a protection of our justice system.

The facts speak for themselves. Regarding labor disputes involving union organizing activities, the facts reported by the National Labor Relations Board show employers routinely, and with total disregard for the law, intimidate, harass, stalk, and even fire people who try to form unions. This data includes employees' reports of: employers interrogating workers as to their position on union representation; employers threatening to relocate or close worksites if workers unionize; employers stalking union organizers and workers who support union representation; employers threatening to demote and fire employees who support union representation; and employers who fired employees who tried to form a union.

The NLRB has reported that 89.1% of complaints issued were against employers, and only 9.8% of complaints were against unions. This record proves beyond a shadow of doubt that the current law is not favorable to organized labor, but is providing far greater protections to the paying members of the Chamber of Commerce.

I would hope that the members here today, now recognize that these so-called “special state laws for labor unions,” are in fact a protection for employers, which they now hope to use as a weapon against workers in their effort to organize. Because, as long as unions exist, unscrupulous employers will continue to not only manage their way around

criminal laws, but also will remain committed to seeing the destruction of unions and the middle class.

As Pennsylvania AFL-CIO President Rick Bloomingdale and I hear in our constant travels throughout the Commonwealth, talking with workers, organized and not, they tell us in chorus, that “we want a better economy that works for all” and “a government that works for all.”

We will continue that admirable pursuit in search of social and economic justice for all, in which a union worker is an employer’s most valuable natural resource, and not a cost, but a customer and a partner.

Many forward-thinking businesses already embrace that notion.

Thank you for your time and consideration. I would be glad to answer any questions at this time.