Celebrating Juneteenth: Its History and Role in Lancaster County's Legal Landscape

Lancaster Bar Association Diversity Committee
June 12, 2025

STATUTES

Public Accommodations Act of June 24, 1939, P.L. 872, § 654, 18 PS § 4654 – commonly referred to as the Equal Rights Act. Sometimes also referred to as Section 654 of The Penal Code of 1939, P.L. 872.

> "All persons within the jurisdiction of the Commonwealth shall be entitled to the full and equal accommodations, advantages, facilities, and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. Whoever, being the owner, lessee, proprietor, manager, superintendent, agent or employe of any such place, directly or indirectly refuses, withholds from, or denies to, any person, any of the accommodations, advantages, facilities or privileges thereof. Or directly or indirectly publishes...any ...notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such places shall be refused, withheld from, or denied to, any person on account of race, creed, or color is unwelcome, objectionable or not acceptable, desired or solicited, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars ($100), or shall undergo imprisonment for not more than ninety (90) days, or both."

Pennsylvania Human Relations Act of October 27, 1955-222, P.L. 744, *as amended,* 43 P.S. §§ 951-963. ("PHRA"). The PHRA makes it unlawful:

> "For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any public accommodation, resort

> or amusement to: (1) Refuse, withhold from, or deny to any person because of his race, color, sex, religious creed, ancestry, national origin or handicap or disability…any of the accommodations, advantages, facilities or privileges of such public accommodation, resort or amusement."
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> 43 P.S. § 955 (i)(1).

The term "public accommodation" is defined in the PHRA at 43 P.S. § 954(l) and now explicitly includes "swimming pools."

Note: The 1955 PHRA did not include prohibitions of discrimination in the selling, leasing, or financing of housing, and places of public accommodation. The Act of February 28, 1961, P.L. 47 added these provisions, effective Sept. 1, 1961.

CASES

Commonwealth v. Figari, 70 A.2d 666 (Pa. Super. Ct. 1950).

> **Holding:** The Pennsylvania Equal Rights Act statute, 18 P.S. § 4654, doesn't have to explicitly reference "swimming pools" to include a swimming pool in its coverage.
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> **Facts:** Father and son, owners and managers of Rocky Springs Park, a public amusement park, had a written agreement with a local county industrial organization ("C.I.O.") to use the park for a picnic on Labor Day, 1948. At the picnic, the Defendants denied entrance to the swimming pool to "two colored men." One man was a member of the C.I.O. and the other was not. Defendants were charged with violating the 1939 Equal Rights Act and were convicted by the jury and sentenced. Defendants appealed their judgment of sentence.

Rationale/Issues: The Superior Court finds no abuse by the trial court in rejecting voire dire on issue of whether potential jurors were also members of the C.I.O. The Superior Court explains that a juror's membership in the same religious organization or fraternal organization as a prosecution witness does not impact juror competency and neither should C.I.O. membership. The Superior Court rejects the statutory defense that a "swimming pool" is not enumerated explicitly in the statute, explaining the legislature intended a swimming pool to be incorporated into an amusement and recreation park because all places within the amusement and recreation park were intended to be covered by the language used.

Everett v. Harron, 110 A.2d 383 (Pa. 1955).

Holding: Defendants who violate the 1939 Equal Rights Act can be enjoined from preventing Blacks admission to Defendants' pools and recreational facilities that are open to the public.

Facts: Defendants own an establishment covering 7.5 acres in the City of Philadelphia. There are four pools, a tennis court, basketball court, volleyball court, ping-pong tables, swings, large lawn tract for sunbathing and picnicking, a sand beach, refreshment stands with ice cream, sandwiches, and soft drinks and a building with dressing and bathing facilities (including lockers and stalls and showers). Defendants did not admit operating "an amusement or recreation park" but did admit the swimming pools were operated for "public accommodation." Defendants admitted excluding Blacks from the use of all the facilities. Defendants also admit attempting to give the enterprise the character of a private club to justify a selective admission of applicants, which was a device to keep Blacks from the swimming pools.

Procedural History: The Court of Common Pleas granted a restraining order against Defendants for refusing admission to the premises of plaintiffs or anyone else on the sole ground of race or color.

Rationale/Issues: The PA Supreme Court applies Section 654 of the Penal Code of 1939, P.L. 872 (the "Equal Rights Act"). Defendants argued that the statute provides an inclusive list of 40 places that are covered locations and that "swimming pools" was not listed. The Court rejects the argument because the list in the statute is inclusive, not exclusive. Further, the Court notes coverage under the statute applies specifically to "bath-houses" and "amusement and recreation parks" and the court below properly found Defendants operations fell within those categories.

Defendants also argued the statute did not provide a private right of action. The Court found otherwise. First, the statute has language concerning "presumptive evidence in any civil or criminal action." This language indicates the legislature contemplated civil relief under the law. Second, a criminal penalty in a statute does not supersede or prevent an action in a civil proceeding, particularly where the law imposes upon any person a specific duty for the benefit of others where the duty is neglected or refused.

Finally, the Court addresses whether the plaintiffs can seek equitable relief. Defendants first contend the penal section of the statute prevents equitable relief because equity cannot enjoin the commission of a crime. The Court, however, notes that "[t]he proper statement of the rule is …the mere fact the act complained of is a crime neither confers equitable jurisdiction nor ousts it." The Court gives the example of assault and battery as an example. Second, the Defendants argue that equity jurisdiction requires that a property right be involved. The Court reasons that equity jurisprudence requires flexibility and that strict rules constricting it would destroy the very essence of why equitable relief exists (where the law is deficient to address the harm). The Court also emphasizes that injuries to personal rights are perhaps more sacred and have more value than things measured by a purely monetary standard.

Commonwealth v. Gibney, 21 Pa. D.&C.2d 5 (Aug. 31, 1959).

Holding: The Commonwealth could enforce in an action in equity the Equal Rights Act of 1939. Defendant is enjoined and restrained from directly or indirectly refusing access of the swimming pool at Lenape Park, Chester County to individuals on account of race, creed or color.

Facts: Defendant John Gibney, was the proprietor of Lenape Park, a public amusement/recreation park in Chester County. In May 1959, he refused to permit a ninth grade class of Beverly Hills Junior High School use the pool at the Park unless they agreed that Black classmates would not use the pool. Gibney told state Justice Department officials that his practice was to avoid mixing of the races in the pool. He also told the same officials he would form a private club to keep out Blacks from the pool and other "undesirables." In June 1959, he denied a Black woman entrance to the pool, while on the same day admitting Caucasian women to the pool.

Procedural History: The Commonwealth of Pennsylvania, through the Attorney General's Office, filed the complaint in equity seeking a preliminary injunction and final decree enjoining the Defendant from refusing access to the pool based on race, creed, or color. Defendant filed preliminary objections and the Court of Common Pleas heard testimony on a request for a preliminary injunction.

Rationale/Issues: Defendant argued the Commonwealth was not the real party in interest and could not bring the action. The Court held the 1929 Administrative Code provides that the Attorney General has the authority to investigate violations of the laws of the Commonwealth to take steps as may be reasonable necessary to enforce the Commonwealth's laws. The Court reasoned that the Commonwealth, as a state, had the right to enforce the Commonwealth's laws independent of any statutory provision. The Court rejected Defendant's second argument that there was no equity jurisdiction because the act prohibited by law was also a crime. The Court also rejected an argument

that the individuals had to make separate and independent showing of irreparable injury or damage. The Court reasoned that when the Legislature declares certain conduct unlawful, it is tantamount to calling it injurious to the public and separate injury is not required.

Lackey v. Sacoolas, 191 A.2d 395 (Pa. 1963).

Holding: Decree affirmed enjoining defendants from excluding people from the swimming pool because of race or creed.

Facts: William T. Lackey and Blanch R. Lackey (husband and wife) are members of the "colored race" and they brought an action in equity to restrain Nicholas Sacoolas, d/b/a Maple Grove Amusement Park and Swimming Pool, in Lancaster County, from denying to them and another person the privileges of the Maple Grove Swimming Pool because of race, creed or color, in violation of 18 P.S. § 4654. Plaintiff's amended their Complaint to add as a Defendant the Maple Grove Recreation Association.

Plaintiffs appeared on June 11, 1960 at the swimming pool, "ostensibly open to the entire public." Defendants told Plaintiffs they could only swim if they were accepted as members of the Maple Grove Recreation Association. Defendants required Plaintiffs to complete applications, which they did, and were rejected. In contrast, white persons entered the pool without any such applications or requirements.

Procedural History: Motion for a preliminary injunction, trial on the merits. The chancellor found that no white person's perfunctory application for membership was ever rejected and that no formal application by a negro person was ever approved. The chancellor entered a decree enjoining Defendant from withholding from the plaintiffs and others similarly situated "the full and equal accommodations, advantages, facilities and privileges of the Maple Grove swimming pool and related facilities on account of the race, creed or color of such persons." Defendants appealed.

Defendants Arguments on Appeal: (1) Defendant Sacoolas, as an individual, has no legal responsibility because he is the owner of the property that he leased to the Maple Grove Recreation Association, a nonprofit organization; (2) the Court below could not rely on testimony taken at the preliminary injunction hearing for its final decree; (3) Plaintiff's did not have a private right of action of the statute because it is part of the penal code (which Defendants argued below but not on appeal to the Supreme Court).

Rationale: Sacoolas was paid only $1 a year by the Association, however he was the main individual running and operating the pool, including hiring the personnel and covers the business with insurance. He keeps all of the money collected in admissions. The Court finds the lease a "smoke screen" meant to evade the law. Testimony taken at the preliminary hearing could be considered by the court at the final hearing, particularly where the adverse party is allowed full opportunity to present additional direct testimony and subject preliminary hearing witnesses to cross-examination. The Court also opines that injunctive relief is available under the statute even though the commission of any act under the statute is subject to a criminal penalty.