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## Labor Law

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## LABOR LAW

Decisions in this area during 1953 predominantly reflect the importance of certain United States Supreme Court decisions of the past four years.

The federal courts, applying the United States' Constitution's First Amendment principles through the Fourteenth Amendment to strike down state court injunctions on peaceful picketing, enforced the "free speech" doctrine from *Thornhill v. Alabama*<sup>1</sup> in 1940 to *Cafeteria Employees Union, Local 302 v. Angelos*<sup>2</sup> in 1943. That doctrine has now shriveled substantially.

Peaceful picketing may be enjoined by a state even though it represents a restraint on labor unions to communicate their story in a labor dispute. The public policy of the state may now protect business enterprises in which no labor dispute exists between employer and employees. A union can be prohibited from peacefully picketing to induce the employees to join the union or to induce the employer to urge his employees to join a union.<sup>3</sup> Furthermore, what the state policy is can be determined by the courts as well as the legislature.<sup>4</sup>

The historic Ohio decision regarding enjoining of peaceful picketing, *Crosby v. Rath*,<sup>5</sup> appears now in full control, uninhibited by federal courts' decisions and to some individuals even supported by the recent federal decisions.<sup>6</sup> Lower Ohio courts spoke on the subject in 1953 and in all cases enjoined peaceful picketing where no labor dispute existed between

<sup>1</sup> 310 U.S. 88, 60 Sup. Ct. 736 (1940).

<sup>2</sup> 320 U.S. 293, 64 Sup. Ct. 126 (1943).

<sup>3</sup> *Building Service Employees Local 262 v. Gazzam*, 339 U.S. 532, 70 Sup. Ct. 784 (1950) (peaceful picketing to compel employer to induce employees to join union violated Washington public policy expressed in anti-injunction statute and so can be enjoined); *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 69 Sup. Ct. 684 (1949) (peaceful soliciting to compel Empire to stop selling ice to non-union peddlers violated Missouri anti-trust statute and can be enjoined).

<sup>4</sup> *Int'l Brotherhood of Teamsters v. Hanke*, 339 U.S. 470, 70 Sup. Ct. 773 (1950).

<sup>5</sup> 136 Ohio St. 352, 25 N.E.2d 934 (1940).

<sup>6</sup> *Stanley, Smoyer, & Schwartz, Picketing and Free Speech—The Pendulum Swings Back*, 23 OHIO BAR 586 (1950).

<sup>7</sup> *Grimes & Haur v. Pollock*, 115 N.E.2d 468 (Ohio App. 1953); *Bean v. Local Union No. 698*, 94 Ohio App. 361, 114 N.E.2d 445 (1953); *Johnson Bros. Furniture Co. v. Retail Clerks' Int'l Ass'n*, 51 Ohio Op. 122, 114 N.E.2d 492 (Lucas Com. Pl. 1951).

<sup>8</sup> *Gulf Refining Co. v. Oilworkers Int'l Union*, 51 Ohio Op. 133, 114 N.E.2d 534 (Lucas Com. Pl. 1953).

<sup>9</sup> 4 WEST RES. L. REV. 242 (1953).

<sup>10</sup> *Masetta v. Nat. Bronze & Aluminum Foundry Co.*, 159 Ohio St. 306, 112 N.E.2d 15 (1953).

<sup>11</sup> *Goodyear Synthetic Rubber Co. v. Woldmon*, 159 Ohio St. 58, 110 N.E.2d 778 (1953).