Non-Labor Picketing and the Thorness of Rights

The history of picketing has centered almost exclusively around labor unions, since they alone had enough at stake to organize to enter into a protracted struggle to obtain recognition and extension of their legal rights. As a result, "picketing" as a euphemism for "the labor strife." But as lawful labor picketing became an established part of our society, tenants began to picket their landlords, vendors, wholesalers their producers, business men picketing their competitors, and even husbands, picketing their wives.

At first picketing, peaceful or otherwise, was seen as an unwarranted invasion of private rights. But the need for unionization and collective bargaining to improve the position of employer and employee, and of course for picketing as a means of achieving these ends, means permission peaceful picketing in labor disputes. Similar to labor unions, the right to strike is also a matter of private rights, not public rights.

1 Research has revealed no non-labor picketing case in American law earlier than 1934. See, however, Gilbert v. Mickle, 4 Sand. Ch. 355 (1839); reserve injunction was denied to prevent a mayor carrying out his alleged "mock auctioneer" in order to warn the public of thefts and frauds.

2 See BLACK, LAW DICTIONARY (34th ed. 1933); BOSWELL, NEW INTERNATIONAL DICTIONARY, 4th ed. (1937); WEBSTER, NEW INTERNATIONAL DICTIONARY, 4th ed. (1934).

3 For long list of labor cases sustaining peaceful picketing, cf. 144 Colo. 386, 391-392, 391 P. (2d) 980, 991-992 (1958); cf. 139, 994-995, 994-998 (1939); 44 Dick. L. Rev. 38. For a history of labor picketing, see GREENE, THE LABOR INJUNCTION (1930); for a brief survey, FURTH, L. Rev. 95.

4 See infra p. 93.
5 See infra p. 97.
6 See infra p. 98.
7 See infra p. 98.
9 The idea apparently gained impetus from the case of Gaylor v. Gunther, 167 Mass. 44, 1177 (1898).
10 The cases are discussed in FURTH, L. Rev. 398.
11 The statutes are collected in 2 C. C. H. Labor Law 90 (1930). The number of them are listed infra p. 121, n. 90.