

LUTHER Z. ROSSER  
MORRIS BRANDON  
JOHN M. SLATON  
BENJ. Z. PHILLIPS

ROSSER, BRANDON, SLATON & PHILLIPS

J. H. PORTER  
I. S. HOPKINS  
L. Z. ROSSER, JR.  
V. B. MOORE  
J. J. RAGAN

GRANT BUILDING

ATLANTA Feb'y 26, 1915 BZP

Mr. Oscar Elsas, President,  
Fulton Bag & Cotton Mills,

City,

Dear Sir:-

Your letter of 25th instant has been received in reference to obtaining legislative enactment in reference to the rights of a "striker" or "picket".

In our opinion it would be exceedingly unwise to go to the Legislature with this subject, for the very plain reason that the law of this State, as construed by the Supreme Court, at the present time ~~is~~ as favorable to the rights of the employer as could be hoped for, and any attempt to legislate on this subject would have the tendency to weaken, instead of strengthening this situation.

For your information we enclose you herewith the head-notes in the case of Jones et al v. Van Winkle Gin & Machine Works, 131 Ga. 336, a decision which is far in advance, practically, of any of the decisions throughout the country favoring the rights of employers. This decision has been approved and amplified by the decision in case of Kinney V. Scarbrough Co. 138 Ga. 84, where an injunction was granted preventing the defendant from inducing, or endeavoring to induce the agents and salesmen of plaintiff to violate their contracts with plaintiff, and to leave its service in violation thereof. This last decision was suggested in the Jones case, and makes it clear that notwithstanding the criminal sections of our Code, that equity would intervene to prevent such breach of contract.

Especially pertaining to the question you have in mind, the Jones v. Van Winkle case practically limits the word "picket" to ex-employees or those who have gone out on strike.

Our Supreme Court in the Jones v. Van Winkle case dicusses the word "picket" in the following language:

"The ~~very~~ word 'picket' is borrowed from the nomenclature of warfare, and is strongly suggestive of a hostile attitude toward the individual or corporation against whom the labor union has a grievance."

Quoting Mr. Eddy on Combinations, our Court says:

"It is conceivable, however, that a picket, entirely lawful, might be established about a factory, but such a picket would go no further than interviews and lawful persuasion and inducement. The slightest evidence of threats, violence or intimidation of any character ought to be sufficient to convince court and jury of the unlawful character of the picket, since the picket under the most favorable consideration means an interference between employer seeking employees, and men seeking employment."

*Handwritten notes:*  
\* How about police water bucket  
6/25/15  
Eddy

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-2-

ATLANTA

Oscar Elsas, President:  
Re. Picket & Strikers.  
Feb'y 26, 1915

It is further stated in the decision:

"The law does not forbid EMPLOYERS who have quit their employer from using legitimate argument to induce others to refrain from taking their places. The current authority is that a court of equity will not enjoin employees who have quit the service of their employer, from attempting to persuade, by proper argument, others from taking their places, so long as they do not resort to intimidation or do not obstruct the public thoroughfares."

While the expression here used is that employees are not so forbidden, we see no reason why others who sympathize with the employees can not aid by similar means, and we do not believe that legislation can be had which would so prevent. #

While the foregoing defines the right of former employee or striker, or one in sympathy therewith, to adopt the means referred to, this is entirely different from the right of such employee or sympathizer therewith to interfere with people in your employ under a contract of employment. In this latter situation you are protected not only by the criminal law of the State preventing any interference whatsoever with such relationship, but the employer would likewise be entitled to an injunction. Writes  
Notice

In this favorable aspect of the law we think it would be inadvisable to ask any change therein from the Legislature. It is only too frequent the case, that when changes are asked, those that are granted are entirely different from those requested.

Very truly,  
Rosser, Brandon, Slaton & Phillips,

Per. 

P. S. For your information we hand you herewith a copy of the Alabama Act which would cover picketing and loitering, or interfering with an enterprise.

R. B. S. & P.