

Michigan's New Deal

Book Tower Garage Inc., v. Local No. 415, International Union, U. A. W. A. (C. I. O.). (1940)
295 Mich. 580

In *Book Tower Garage v. U.A.W.*, the plaintiff was a corporation attempting to stop members of the United Automobile Workers union from peacefully picketing at a garage and hotel owned by the corporation. After a Wayne County court decided that the union would be allowed to picket peacefully, Book Tower Garage appealed to the Michigan Supreme Court by filing a writ of mandamus.

The plaintiff argued that under the common law, any form of picketing would be ended at the request of the place being picketed, and that previous Michigan Supreme Court cases such as *Beck v. Railway Teamsters' Protective Union*, 118 Mich. 497, had upheld the common law enjoining of picketing. The defendants, however, pointed out that two U.S. Supreme Court cases decided after *Beck*, (*Thornhill v. Alabama*, 310 U.S. 88 and *Carlson v. California*, 310 U.S. 106) had concluded that peaceful picketing was a right protected by the First Amendment to the U.S. Constitution, extended to the states by the Fourteenth Amendment.

In a unanimous decision, Justice Butzel concluded that the U.S. cases previously mentioned did override the *Beck* decision, because "the Constitution of the United States is the supreme law of the land," and the "controlling interpretation of Federal law rests with the supreme court of the United States." He also explained that cases such as *Beck* were correct at the time that they were decided, but that the changing labor environment had since obsoleted many of their conclusions.

When *Beck* was decided, 42 years prior to *Book Tower*, there was no concept of peaceful picketing, and as reflected in dictionary definitions at the time, picketing was thought of as a violent activity, part of which entailed the annoyance and/or harassment of any people attempting to utilize the services of the targeted business. Since then, again reflected by dictionary definitions of the time, picketing became distinguishable from harassment and annoyance, and such a thing as peaceful picketing became reasonable. So while *Beck* was correct to allow the enjoinder of picketing when it was a violent activity, the changing of the times called for a change in judicial ruling.

In a brief concurring opinion, Justice Wiest (joined by Justice Chandler) provided his view, that the protection of peaceful picketing was not in opposition with any of the previous holdings of the Michigan Supreme Court, and that if question arises as to whether the picketing has become non-peaceful (a question not in front of the court in *Book Tower*) the recent and aforementioned U.S. rulings would come into play.