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A LABOR OFFICIAL'S COMMENT

by John E. Cosgrove*

As leader of the free world in its struggle with the most efficiently organized and most powerful tyranny that history has known, the United States must put its own house in order, but in an order based on social justice and constitutional democracy.

An essential element in obtaining both social justice and meaningful democracy, under our constitutional system, is the now well established device of collective bargaining. Collective bargaining, by definition, assumes trade unions sufficiently strong to bargain at arm's length with corporate management. It is not only a procedural device, although it is importantly that, but it is also a substantive social right. Admittedly, collective bargaining, and the right to freely join trade unions is new, even within the relatively short history of the United States. It was, of course, not until 1914 in the Clayton Anti-Trust Act that the national legislature stated as public policy what Lincoln had said during the Civil War era about the superiority of human labor to capital. It was even later, in 1933, that Section 7(a) of the National Industrial Recovery Act established national policy as specifically favoring trade unions and the collective bargaining only they could bring.

The *Schechter* case announcement of the repugnance of the National Industrial Recovery Act required the enactment of the National Labor Relations Act of 1935, thus giving an age of only 25 years to the federal policy of favoring and assisting the development of trade unions. It, of course, must be admitted that even this policy has not had consistent application in fact.

The reality is that we now have a widespread acceptance of trade unions, of collective bargaining and of the right to join trade unions without discrimination. Since 1935, or at least since *NLRB vs. Jones & Laughlin Steel Corporation* in 1937, we have established that industrial relations will be conducted by collective bargaining, where the members so choose. In other words, the law of the economic jungle, society decided, would not determine whether collective bargaining would apply. Instead, the National Labor Relations Act as amended provides, representative election machinery would be established and federally-supervised secret ballot elections would be held among covered workers to determine their choice as to collective bargaining.

To suggest at this date that we return to the social anarchy of the days of the Mohawk Valley formula, and other social licenses of the Harding-Hoover era when America was suffering the vestigial remains of the amoral economic liberalism of the 19th century, is not only irrelevant, but dangerous, and it would be bordering on the ludicrous if it were not so serious.

More sophisticated is the argument that, while unions are good, they cause inflation. It would seem to this writer that the economic events and statistics indicate there is far more of a profit-price push than there is any

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wage-price push. However, this is only an argument on the premises, as important as these are. The real argument is the conclusion — that labor is simply one of the elements of production and therefore, like the others, subject to the definition and proscription applying to monopoly or other restraints of trade. The central answer is that, while labor is an element of production, it is an element of a higher order because it is the activity and investment of life itself by animals with immortal souls. The distinction is real, central, decisive.

As to the great debate over national emergency disputes, the Notre Dame Symposium seems to be in essential agreement that any system of Australian-like labor courts or compulsory arbitration is foreign to our free-enterprise and free-labor economic system. Undoubtedly, great improvements can be made by government-appointed fact-finders, possibly with the power to recommend solutions. Certainly a variety of courses of action must be made available to the Executive. One does not have to agree with every aspect of Professor Cox's paper to find in it rich food for thought on this serious problem. It seems to this writer that the chief consideration here is that there must be an improvement of the collective bargaining process to avoid national emergencies. It certainly is true that at some point a real national emergency could be reached through a halt in the production of goods or the providing of services in major industries. The sovereignty, of course, could not tolerate such a situation for a prolonged period. But on the other hand it must be realized that the 13th Amendment is one of the most important parts of our Constitution. Involuntary servitude cannot be justified as in the "public interest" in a nation dedicated by its fundamental law to protecting the liberty of individuals. There is no push button answer. Like democracy, the system of free enterprise and free labor is not easy. It is a difficult system; but it is worth every bit of difficulty we encounter.

Labor and management are now beginning their own "summit" conferences — it is to be hoped with better results than the international "summit" conferences. There seems to be a recognition by management and labor in this country that the collective bargaining relationships which have been deteriorating in recent years must be improved.

We might very well come to include in our definition of collective bargaining, as a concept, not only the negotiation procedure and the administration of the agreement — usually now considered twin elements — but also the general discussion by councils in each industry, by regional councils, and by a national council, of all the areas of concern in labor-management relations. This council idea, in no sense novel, would, of course, involve the appropriate levels of labor and management representatives. This is the next logical development for those who believe in labor-management cooperation and in the interdependency of social groups.

We all need a recognition that free collective bargaining must be made to work, to insure industrial democracy within our political democracy. Labor and management cooperation must be perfected to continue disproving the Marxist fallacy of inevitable class conflict and the classical capitalist fallacy of an industrial "divine right."