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George B. Christensen

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LABOR UNIONS AND THE PUBLIC INTEREST— MANAGEMENT POINT OF VIEW

GEORGE B. CHRISTENSEN
Attorney, Chicago, Illinois

May I try to give myself a good character before I start by suggesting this: I have been in programs of like nature before; we may bore you to extinction before this evening is over, but I assure you that so far as the participants are concerned, that during the time each one of them is standing here, the hands on that clock are just flying around. This is a broad field and there is far more to cover than possibly can be covered in one evening's session. Therefore, to make the points that we shall make, we have to get to them pretty quickly and have to be pretty blunt. I understand that you catch more flies with sugar than you do with vinegar and that you should gently lead into controversial matters, but tonight the time is running and I'm going to get to my points fairly shortly. I hope you won't be shocked if I take some fairly blunt stands.

I presume you can't come into Wisconsin today and discuss this problem of labor unions and the public interest and be unaware that Wisconsin is receiving a great deal of attention in the newspapers as a result of the McClellan hearings. I presume that in this hall, there must be people of all varieties of opinion as to the individual Senators composing the McClellan Committee and what they are doing.

It is a rather interesting thing that this morning I had in my office one of the maddest police officers I had ever seen—Captain Barnes of the Chicago Police. Now, we have unions in Chicago and we have some pretty big industries. The fact is that during all these times of organization, pre-war, during the war and recently, there have never been in the City of Chicago the scenes of disorder and breakdown of law and order that they had up in Sheboygan a few years ago and that are now being recounted in Congress, with Congress trying, so it says, to make up its mind as to whether it ought to pass more laws.

One of the Sheboygan Police Officers, according to the newspaper reports, testified that he was fearful of what was going to happen during this Kohler strike because he thought he saw signs developing of the same pattern of violence that had happened in Detroit and Chicago. This is the point at which this Captain Barnes was outraged. He said, "We haven't had that in Chicago and what's the matter with those guys up in Wisconsin? Why haven't they got some coppers

that throw people in jail when they break the ordinary laws against civil violence?" And I think it's a very good question.

I doubt very much whether in the public interest we need any new laws to say that assault and battery and rioting are crimes. They have been crimes ever since I took the Wisconsin bar examination many years ago. They still are crimes, and there rests upon the citizenry of any community the right and the duty to see that the public officials act like public officials and enforce the law, whether they be police chiefs, mayors or what not.

Now to go into the questions that Professor Cox posed, and that they are very real questions is attested to by the fact that there is such a substantial turnout here on a rather miserable night.

It seems to me that the proper approach to the so-called public interest — labor-management problem is not from the point of view of what is selfishly best for profit making business organizations nor what is selfishly best for unions anxious to increase their memberships, but it is from the point of view of what is best for the public interest in a capitalistic society.

I don't think there can be any serious doubt, and I am proceeding upon the assumption, that ninety-nine percent of the people in this country seek a society and want a system of regulating our economy and our political life that will allow Americans to enjoy freedom politically, economically and any other way possible, consistent with living one with another and that will permit one to develop to the fullest extent such talents and abilities as he may have. There can't be much doubt about that.

And there can't be much doubt that basic to those objectives and to the creation of that kind of society is the concept of free access to the market for services, for goods, and for capital to create new ventures — free access to the market to employ your talents, your capital, your labor, whatever you may have, to the best of your ability and, you hope, to the best remuneration you may obtain.

To permit any one group to have such power, or such control, of an industry, or of the opportunity to work there, that that group can destroy any of those freedoms harms society, because when you allow such control you create a monopoly.

Monopoly power in private hands has no use save abuse. Now mark that well. We aren't talking now about a post office that is a monopoly by the public and for the public and we don't want any competition with it. We are addressing ourselves tonight to the matter of private monopolies. I am going to undertake to demonstrate that we have them and that they are harmful.

I ask you to try to recall after you go home and think about this whether you know of any instance where private monopoly power was

ever created, or has ever had any real use except to cut somebody else off from something that they otherwise would get. It is no affront to any American, whether he be putting together a Standard Oil Trust or a labor combine, to tell him that he will not be allowed, either alone or in combination with others, to violate the basic principles of a free economy and a free society by creating and exercising a monopoly.

Thievery within unions and misconduct of union officers is not the real problem facing the country. There is no respectable element anywhere that approves those things. Likewise there can't be many thinking people who are adult enough to realize that human beings aren't perfect and never will be perfect, who don't realize that cupidity lies pretty deep in human nature, and that there always have been people who, for purposes of personal power and personal enrichment, will do things they shouldn't do. Such individuals must be corrected, and I think there are ample laws on the books today to correct them, and we will discuss that a little later on. But I don't think we should become excited and say the unions are bad simply because they have some thieves in them. We don't say that banks or insurance companies are bad because some people embezzle from banks or insurance companies or get into a corporate till now and then. We just recognize the fact that we have certain desirable institutions and that so long as they are operated by human beings we are going to have a miscreant now and then and the thing to do is get rid of the miscreant and proceed on with the business at hand, whatever it may be.

This hue and cry from our politicians, including the Secretary of Labor, that "We have to pass a lot of laws to keep people from stealing," is a lot of nonsense. It sounds fine and I'm sure you could pass such a bill. But it doesn't go to the real problem; it just puts another law on the books. There have been laws against stealing and thievery and cupidity ever since Moses came down from Mount Sinai and they have been obeyed and disobeyed from generation to generation just about as well as they are now.

The real problem we are facing today is not the problem of union leaders who violate the law. They can be taken care of, and in due time, one way and another, will be, terrible though some of their deeds are.

The real problem that we are faced with is that the law today permits unions and their officers vast powers over the economy and over the members of the unions. Those powers, under the laws as they stand today, are perfectly lawful and are legally exercised for the most part. Now the laws might have been construed differently. But be that as it may, the problem is not misuse, under existing laws of union power, the problem is the use of union power that today is held to be legitimate, lawful exercise of union power.

Secondary boycotts that destroy innocent parties, involve innocent people in labor controversies, put people out of work, put small businessmen to the wall and upset a community, they're lawful today. It's impossible to justify them.

Industry wide strikes shutting down all the railroads, all the coal mines, all the automobile factories, although deplored by everyone, are perfectly lawful under our laws as they're written and construed today. Our question then is, "Do you want such strikes to be lawful, are they proper?"

Union shop contracts, and I know I'm speaking to some people who aren't going to like what I have to say, union shop contracts that tell supposedly free citizens, "Before you can work for a living, doing a job for somebody who would like to hire you, you've got to join our union and pay dues to it," today are the lawful exercises of union power to set a barrier up for the benefit of a private organization. It is lawful today to set up a private barrier between a man and his livelihood.

Now, Professor Cox says that the problems are: Do we need legislation for financial accounting within unions? Do we need laws protecting admission and expulsion from membership? Do we need laws requiring secrecy in union elections? Should we have a law limiting the control that international officers may exercise over a local by appointing a receiver and telling the poor members, "You do this, that and the other thing and pay your dues and you won't elect anybody." That's what he's talking about. Do we need a law to control that? And he says, I think paradoxically, legislation should be devised which would solve these problems without weakening unions or impairing their independence.

Now, I can not follow Mr. Cox on that. I take it that if they can exercise those powers and those powers are bad things, then we want to weaken them, at least to the extent of disabling them from doing those bad things. And I take it that when he talks about "impairing their independence", that what we are seeking actually is to create independence within the unions. Let's address ourselves to those problems and let's see how they should be solved.

I don't think that any intelligent man in this day is going to debate, or should debate, the desirability and necessity of unions. Mr. Cox stressed some of the reasons why they came into existence, why they have secured the lawful recognition they have. It seems to me that it's quite obvious, if we forget technicalities and simply realize that with the marvelous growth we have had in technical processes and in power equipment that enables us to do things that people didn't dream of as recently as a hundred years ago, that we need large aggregations of capital to furnish this marvelous and intricate equipment and to set

up the factories. No one person has, or should have, enough money to do it; nor would the ordinary old time partnership be able to do it. The device to meet this problem that has been created in this country has been the corporation in which many many investors put in money to create the necessary capital to utilize some of these tremendously expensive processes that ultimately turn out goods and wares for all of us, all we want and that can come only through a large aggregation of capital. It is quite obvious that an individual man faced with getting a job and regulating his own employment with an organization of that kind, in most cases certainly needs to combine with his fellows in order to bargain intelligently and effectively. That simply means labor unions. It's just that simple to my simple mind.

To make the modern advances in science and technology work you need both aggregations of capital and of labor. The question then is, how far will you let these aggregations acquire power and how will you regulate them? So far as labor unions are concerned, I want to suggest that acceptance of their desirability didn't start with the Wagner Act. The real growth of our present philosophy came in the first World War when we had a World Labor Board which recognized the desirability of unions. The Transportation Act of 1920 sketched out further ground. Finally, we came to a highly controversial law, one that is still controversial: I want to read you the Declaration of Policy of the Norris-LaGuardia Act, the so-called anti-injunction act. Its Declaration of Policy says in part what I have just said (and in better grammar and perhaps a little more complicated fashion) and goes on to say, and this, so far as I know, is still the policy of this country:

"Whereas, under prevailing economic conditions developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual, unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment; Wherefore [now please listen] though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association and self-organization and designation of representatives of his own choosing to negotiate the terms and conditions of his employment."

Now that, you will see, expressed a double barreled philosophy: The individual man should have freedom to decide what he wants to do, to associate or to decline to associate. The philosophy of that law is that American people who work in factories are not dumb. Leave them alone, give them a little freedom and they can pretty well decide what is best to do; can decide better than the bosses in the front office of a corporation, or better than the bosses sitting in swivel chairs in

a union office, and certainly better than the boys sitting in swivel chairs in the halls of Congress.

Now where do we get to today?

Professor Cox says, do we really have these union monopolies or is this just a boogie man that someone has raised — have union monopolies led to inflation and have they done these other things? I suggest that if we lay aside our prejudices and emotions, that there is no intelligent person who has read the newspapers and magazines of the last fifteen or twenty years who can doubt or have an conscientious disbelief of the fact that John L. Lewis today has, and for some years has had, a greater monopoly over the production of coal than John D. Rockefeller ever dreamed of having of oil. And can there be anybody that doubts that the Railway Brotherhoods have a complete monopoly on the transportation industry of this country insofar as railroads are concerned? They're organized from top to bottom, sideways and across the deck in every major railroad in the country.

Now let's go to brother Reuther, that great shining knight in white armor, so says he. Can there be any person who has the faintest doubt that Walter controls the production of automobiles in this country? And if you don't believe me, ask him. He's the boy who last fall got out a letter to all the automobile manufacturers and said "Boys, I'll be good and I'll make a deal with you so that you can reduce the price of cars by \$100."

Now, ladies and gentlemen, he wasn't kidding. Only a monopolist can speak like that. Reuther has it within his power to do that if he would choose to do it. And if he has that in his power, need I remind you that he has it in his power to raise the price of cars by \$100, that when you can control that spigot of production, you can turn it off or you can turn it on, and when you've got only three or four spigots that are turning out automobiles in this country, and that's all there are anymore, you can turn off one spigot or you can turn on the other until you get the proper mixture or you run one dry and you let another one fill up? You don't need an economist to tell you those things. Those are matters that are matters of common knowledge and should be faced.

But Mr. Cox says, "Are the labor boys just chasing an increased cost of living trying to keep up with these manufacturers who have put prices way out of hand?" Well, I've got some figures here. I'm not an economist, but I think my figures are accurate. We checked them today with the U. S. Bureau of Labor Statistics.

Between 1947 and December, 1957, the Combined Cost of Living Index rose from 95.5 points to 121.6 points, an increase of 27.3%. Bear that 27% increase in mind.

Average hourly earnings of people engaged in the production of

Tires and Tubes in the same identical period rose from \$1.60 to \$2.68, an increase of 67%; in Primary Metals, from \$1.38 to \$2.55, an increase of 84%; in automobiles, from \$1.47 to \$2.51, an increase of 70%; blast furnaces and steel workers, \$1.44 to \$2.72, an increase of 89%.

Remember, in the identical period the cost of living went up only 27.3%.

Now, you haven't heard it all yet. Those increases are only hourly earnings. High though those percentages are and much greater were they than the increase in cost of living, actually the percentages are still higher because included in those computations are only cash wages and not the fringe benefits. There isn't anyone in this hall tonight interested enough in a subject like this who is unaware of the fact that along about 1949 or 1950 most of the major companies in the various industries that I have cited began putting in expensive pension plans and otherwise adorning their fringe economic benefits, which benefits are not reflected in the percentage figures I read.

Now, I'm still not quite through. You can't get comparable statistics on what happened for example to lawyers, but I'm amongst friends and I'll tell you this: If there is any law shop in the City of Milwaukee that has been able to raise its rates of charge to its clients, big, small or in between, by an average of 70% during the last ten years, I would like to know it because I'm going to apply for a job. You know very well that teachers, retired persons, have had no such increase in the actual cash money they took home.

The Department of Agriculture collects statistics on average farm income and during the same period, and here's a figure that's going to shock you, average per capita cash farm income in 1947, according to the Department of Agriculture, was \$641.00, in 1957 it was \$684.00, an increase of slightly over 6%.

It's quite obvious that the effect of some of the monopoly powers has been through the exercise of them to create inflation in certain lines of manufactured goods beyond their economic worth, and that an excess of money has gone into those enterprises, necessarily to the detriment of other segments of the economy.

It is no pleasure to stand before an audience that has people in it belonging to unions, as I am standing tonight, and say, "Boys, you have been getting a little bit too much of that cream off the top of the bottle," but that is the fact as demonstrated by statistics.

I don't suspect that anybody is willingly going to take a lesser amount of cream if he can avoid it, but we are talking about the public interest. We are also talking about the long term good of the people affected because in the long run, it isn't going to do the automobile workers, or the steel workers, any good to price themselves out

of the market, to bring about an inflation that ruins the entire economy. If they do so, we will all go down the drain together. And the fact that the heaviest unemployment is being felt today in the very industries that show up on this tabulation as having gotten way ahead of the cost of living, and I am talking about steel and autos, is not an unrelated phenomena. Some of these boys in Detroit who are having to go on unemployment are there precisely because in effect they priced themselves out of the market with relation to the rest of the economy.

Now, if this problem is one of monopoly and if a monopoly must always feed upon the rest of us, how do we correct it? There is only one way and that is to get rid of it.

Let me make one more demonstration of the fact that we are really dealing with monopoly. Basically, a labor union is a restraint on trade. I think everyone can agree that if people get together and say, "Here, we are going to band together. Boss, we are going to sell our services only at so many cents or so many dollars per hour," they are placing a restraint on trade. It's a price fixing combination if you will. That doesn't mean it's necessarily wrong. We recognize many restraints on trade, so long as they are partial restraints, as desirable. But never forget that a union has that factor of restraint of trade in it, is intended to have it, and it is probably socially desirable that it does have it, but to a reasonable degree only.

Permitting a union to say, "We can get together as many people as will band together and will stand up and tell the boss, 'We will not sell our work for less than \$2.00 an hour, or whatever it may be, and we mean it and we will stay out until you pay it.'" and protecting them in the lawful exercise of that right is step number one.

Step number two is quite different and it is the so-called closed shop or union shop. I don't care how you dress it up, a man's got to belong to that union or pay dues to it to have his job. To give the union shop is to give a monopoly of the jobs in that factory to a union.

Now what happens when you let a union have a monopoly of the jobs not merely in Chrysler's factories, but also in General Motors', also in Ford's, also in American Motors' and also in Studebaker? It then has a monopoly of all of the jobs in a basic industry of the country and it can control that production just as much, and just as effectively, as if it owned all of the factories.

Our law has always recognized, and should, that we will allow no business to control all of the assets in any one line of endeavor. *Per se*, completely, and with no questions asked, a monopoly in any line of enterprise in this country is, and should be, illegal and our courts have so said. However, you can effectively shut off that industry if you achieve your monopoly, not by owning the plant, the mine, the factory,

the fixtures, the bricks and the mortar, but achieve it by controlling the men necessary to the industry. That is what you have when you let labor organization proceed to the point that a single union has all of the manufacturers of one variety and requires anybody working in that industry to join that union.

How do you cure that? How do you cure these other evils?

Professor Cox says, and this is the only other point on which I am going to differ with him very severely, that any of these problems require a good deal of definition before one can talk about them intelligently—let's not really face them now, let's split hairs, cross t's and dot i's.

Well I say, with due respect to Archie, that is the fallacy of becoming so enmeshed in the trees and the underbrush you are in, that you never do get to see the forest. Until you know in general what your problem is and can see it in broad outline, you never can get down to discuss ways, means and details. Regardless of theoretical definitions, I suggest that there can't be any intelligent person in this country today who will analyze the matter unemotionally who will fail to realize we have a monopoly problem here and that it must be dealt with as such.

Now, what is the present so-called anti-trust approach as applied to business? Basically, our laws, although ramified, do two things: They say, number one, any monopoly is bad, period. Second, they say any combination designed to fix prices is illegal, but to that we apply a so-called rule of reason. Sometimes that rule of reason has been applied wisely, sometimes unwisely.

It seems to me that if we could orient our thinking to two basic propositions that we could work the matter out.

Those two basic propositions are this, one, *per se*, when any union gets so big that it can control all of an industry, it's got to be broken up, just as you broke up Standard Oil and you have broken up other business combinations.

Now, there are so many variations and degrees of economic power that the mind of man is not ingenious enough to define them all, and certainly I am too untutored to know what they all are, and that is why I suggest a second thing: that is that we enact a statute to be construed by the courts and applied on the so-called rule of reason basis with the objective of permitting unions to integrate themselves within an industry, within a business, to the same extent, but to the same extent only, that you would permit capital to integrate and organize itself and no further. When you have done that, you will roughly have struck a balance of power that will require real access to market for labor and that will make each side think before they take an extreme stand one way or the other.

If you add to that a third ingredient of outlawing the union shop, of enforcing the freedom of choice for the individual that is inherent in Taft-Hartley, and of enforcing the Norris-LaGuardia policy that men have freedom of choice to join or not join as they wish, by and large you will place real power in American workingmen to protect themselves against thieving officers, union receiverships, political machinations and other improprieties.

The average fellow who works for a living isn't too interested in going to union meetings. Mr. Cox deplors that, and perhaps rightly so, but we live in a very practical world. If a man works eight hours a day he wants to go home; he doesn't want to sit around and jaw all night with a lot of people at a meeting in which professionals confuse and frustrate him with complex or brutal parliamentary procedures and endless oratory. Every organization I ever knew of complains that no one comes to membership meetings. But, nevertheless, in these other organizations the members, even if they don't go to meetings, have an effective control, in that they don't have to belong to the organization. If you outlaw the union shop you will give working men that same control and free them from predatory monopolies. If the union proves to be corrupt, if it does bad things, the man simply stops paying his dues and quits, and, believe me, that will bring the union officers to time quite quickly.

The average American working man may not know parliamentary procedure or how to file a case with a slow moving federal bureaucracy, but he knows when he's getting a good deal from his union or when he isn't. He has the intelligence to, and will protect himself if you will just give him the freedom to voluntarily get in or get out of the union without going through complex procedures. Then he will have real control over his officers.