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Address Delivered Before the National Conference of Teamsters Lawyers Entitled "The American Labor Movement"

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In a speech delivered in 1824, Daniel Webster stated: "Labor in this country is independent and proud. It had not to ask the patronage of capital, but capital subscribes the aid of labor." The truth of these words is well established today, but by today's standards there can be little doubt that the position of labor as pictured by Webster, was a grossly misleading one. It was not until the final quarter of the nineteenth century, which witnessed the lasting establishment of labor unions, that the pronouncement of Webster became a reality. The final realization of which had to until the legislative enactments under the New Deal, over a century after Webster's utterance. It is labor's struggle to consummate this prophecy through unions, which was probably not envisioned by Webster, that is the subject of this address.

The characteristics of the early unions were limited occupational
and industrial penetration, instability of membership, craft exclusion and absence of a permanent political labor front. These characteristics were to go through a metamorphosis as the unions grew to maturity.

Unions first appeared in this country about the close of the 18th and the beginning of the 19th centuries in the form of local craft unions, mainly among the printers, cordwainers, bakers, shipwrights and carpenters. At the earliest state the emergence of an employing group and relatively free competition, created a struggle between the employers and the wage earners which forced the latter to combine.

The unions took the craft form because of the nature of the principal problem facing them, the nature of the functions they were called upon to perform and the form of the business unit and extent of the market. The problem was to prevent the employers from lowering wages and increasing hours by taking advantage of the labor competition of "illegal" men. By illegal is meant those men who were not members of the crafts. Thus, the principal function of the union was to guard the competitive area. This area, on account of the trade character of the business unit and the local character of competition, was the craft in the local unit.
The functions of these unions were not definitely formulated in advance, but grew out of the conditions and problems which they had to face. It is this problem of defining the functions of unions which is to hamper their growth until Samuel Gompers finally successfully resolved it in 1890. Since the efforts of the employers were directed to lowering wages and increasing hours, the workers attempted the regulation of these through a union or a combined group. However, the efforts of the employers were successful because of the break-down of the practice of apprenticeship and the influx of illegal men. The unions attempted the defense of apprenticeship and the exclusion of those who had not passed through it. They attempted to enforce their demands by strikes. Moreover, since the employers proceeded against them for conspiring, and since under the competitive regime, they were thrown on their own resources, they were obliged to add to their functions such matters as making provision for legal defense, mutual insurance and sick and funeral benefits. Thus, in starting out to secure better wages, hours and conditions of work, in the face of local competition of inferior and "illegal" workmen, the unions were confronted with having to deal with the concomitant problems of
defending their actions in court, plus the care of their more
unfortunate members. Their inexperience with these complex and novel
problems militated against any successful resolution of them except
by the trial and error method.

In the two decades following 1820, some organizational strides
were attempted by the local craft groups. By 1836, the local groups
were estimated to include about 300,000 members in 160 local unions
in the five principal industrial centers of the Atlantic coast. Several
attempts were made to set up regional federations as well as national
organizations in individual crafts. Apparently disgruntled by their
failures in dealing with employers, the unions attempted to gain the
upper hand by participating in political groups and seeking legislation.
One such group was the Philadelphia Mechanics' Union of the Trade
Association which developed into the Workingmen's Party of Philadelphia.
It stood for shorter hours, free schools, the abolition of imprisonment
for debt, the reform of the militia system, mechanics lien law, equal
taxation, cheapened legal procedure, no religious legislation, direct
election of public officials and opposition to banks and anti-monopoly
legislation.

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With the expansion of the labor market there began in 1850
the development of national unions of workers in a single craft. Roughly
speaking these unions included the building crafts, the railroad workers
a few other skilled divisions of labor. Paralleling this step
forward, on the organizational front, was the emergence of a prevailing
labor philosophy. The unions accepted as their function the support
utopian, socialistic and social uplift legislation. To carry out this
purpose the Workingmen's Protective Union was organized in 1847, the New
England Workingmen's Association and the Land Reform Movement in 1844 and
1845. Industrial Councils and Working Class Congresses were held.
Their aims were the establishment of co-operative communities, land
reform, and the 10 hour day. Great waves of utopianism swept over
the country, resulting in the establishment of Brook Farm. There was a
general disposition to try communistic and co-operative schemes, all of
which resulted in practical failure. A general humanitarian and
democratic agitation resulted in attempts to form political parties.
The 10 hour day movement started out well but was unsuccessful. The
woman and child labor restrictions and free land laws were partially
accepted as legislative objectives. The free school movement succeeded, Numerous political reforms advocated by the unions tended to further democracy in government. However, after 1852, the slavery issue absorbed attention and the panic of 1857 killed the utopian movement.

Despite the inroads on stable labor organizations made by the Civil War, the Homestead Act of 1862 and the law permitting contract immigrant labor, the period of 1866 to 1869 witnessed a new revival of unionism to an estimated membership of about 400,000. This regeneration was due largely to the high cost of living resulting from currency inflation, machinery breaking down trade exclusiveness, markets becoming national, and the business units of industrial enterprises enlarging. It was in this period that the National Labor Union was founded in the year 1866, which, despite its dominant trade union membership, had other than trade union goals. The federation stood for an 8 hour day, cooperation, tenement house reform, and public lands only for settlers. It opposed strikes except as a last resort and was in favor of arbitration. It also dealt with the money question in 1867, and opposed the national banking system. Again it is to be noted that the National Labor Union was, like its predecessors, a
political labor group. The crisis of 1873 saw the downfall of this and similar groups, but the national craft unions continued to maintain themselves. However, even though the National Labor Union failed, its concept served notice of things to come: a federation of national craft unions.

During the next few years there was a widening of the market and increased competition both of which demanded enlargement of the union unit. The enfranchisement of more voters turned attention to legislation and the political arena. In view of these developments it is not surprising to find trade unions, local and national, with a legislative program added to their economic aims, and a tendency to political party activity. And from 1879 to 1890 one more attempt was made to found a universal union dedicated to the philosophy and theory of progress through political activity. The group which dominated this period was the Knights of Labor. Their aims being primarily idealistic, humanitarian and political. The political methods of the Knights of Labor failed, causing a return to economic means as the best instrument under the circumstances to further labor's demands.

The full significance of the failure of political methods and the
fact that the crafts remained outside the Knights of Labor to preserve their autonomy, did not go unnoticed by Samuel Gompers, the president of the newly reorganized American Federation of Labor in 1886. Gompers read the lessons of these failing political panaceas and faltering utopian schemes very clearly, and his substitute program for the workingman well appraised the tone and temper of labor. After Gompers' ascendance to leadership, labor was motivated by a pragmatic gradualistic, "no ultimate ends", "here and now" philosophy, seeking within the framework of a capitalist society, to advance the interests of particular groups of workers organized in trade unions. It placed primary emphasis on economic methods such as collective bargaining rather than upon independent political action or co-operatives in making "today better than yesterday and tomorrow better than today". The struggle between business and idealistic political uplift unions resulted in the triumph of business unions.

This triumph, which was to give labor its primary function, would not have been possible if the organizational set up of the American Federation of Labor was not attractive to the crafts. The unions which became members had precisely the degree of independence desired, which
was guaranteed by the loose federated structure of the American Federation of Labor, while at the same time protecting them from dual unionism.

The date of 1890, then, marks the beginning of the era of the modern union as we know it today. And it is also from this date that the struggle by unions commences for the right to assume a place alongside the other institutions in our democracy. In the bitter battle that raged over the years, unions fought the offensives of employers, police and national guardsmen, and the animosity of the courts, but notwithstanding these formidable obstacles, came through victorious.

There are many black spots in our judicial history in which the labor movement was involved. I will mention only three: In 1886, there was great industrial strife around Chicago over the attempt to introduce an eight-hour day. On May 3, a bloody encounter took place between police and laborers in which several workers were killed. An anarchist group printed a circular headed "Revenge! Revenge! Workmen to Arms" and called a meeting at Haymarket Square the next night. The meeting was orderly; even Chicago's Mayor attended. But the police undertook to break it up. Some unknown person threw a bomb, killing several
policemen. Four of the convicted men were hanged on November 11, 1887.
The sentences of two were commuted to life; one received fifteen years.
In 1892, John Peter Altgeld was elected Governor of Illinois, and one
of his first acts was to entertain a petition for pardon of the three
Samuel Fielden, Michael Schwab, and Oscar Nebe. Altgeld found that
the jury which convicted the men had been "packed" -- made up of men
selected, with the help of a special bailiff, because of their
prejudices; that there was no evidence connecting the three men with the
crime; that they had not received a fair trial. They had made
incendiary talks; they had perhaps been "anarchists." But there was no
shred of proof connecting them with the bomb. Altgeld felt they were
victims of the frenzy of passion that had swept Chicago in those days.
His pardon message was issued June 26, 1893. It served the cause of
justice, but it ruined Altgeld politically. He knew the bitter years.
He lost his health and his wealth under the pressure of his enemies.
The man who had the courage to give a despised minority the protection
of the Bill of Rights was hounded to his death.

Another sad example was the manner in which the federal courts
smote Eugene V. Debs, who led the railway workers in the famous
Pullman strike of 1894. The company reduced wages but not salaries, increased dividends. Management refused to make any concessions to the workers. When they went out on strike, the federal government allied itself with the company. Federal troops were called out; and the Department of Justice got an injunction against Debs which directed him in sweeping terms to have nothing to do with the strike. He defied the decree and was jailed for contempt. The Supreme Court sustained his commitment on grounds that would have made Jefferson, Hamilton and Marshall twinge. Federal courts, it was held, had an implied authority to supervise interstate commerce and transportation of the mails, even in absence of any Act of Congress granting the courts jurisdiction. No greater claim to judicial supremacy has ever been made, and significantly, it was made on behalf of vested interests that were callous to human rights.

On February 3rd, 1908, another instance occurred when the Supreme Court decided the Danbury Hatters case. The United Hatters were trying to organize the industry and were boycotting shops which hired non-union labor. The owners of a factory at Danbury, Connecticut, sued union for damages to the business suffered as a result of the
boycott. Treble damages were asked under the Sherman Act which made illegal "every combination or conspiracy, in restraint of trade or commerce among the several States." The defense argued that the purpose of the Sherman Act was to safeguard the public against the social and economic evils of massed capital. But the Court ruled that combinations of labor as well as combinations of capital were covered and that the sanctions of the Act applied where, as here, the trade restrained was interstate commerce. The legal battle impoverished both sides. It cost the union over $400,000. The employer ended in poverty. In 1947, his grandson was a member of the Hatters' Union, employed in a factory in New York.

In the period immediately preceding the Spanish-American War the newly formed American Federation of Labor had an amazingly small membership. After 1897, the rapid growth of the Coal miners' union and the affiliation of the building crafts raised the American Federation of Labor to a position in 1904 where it contained over 30 percent of the total trade union membership. However, this increase in membership was short lived, and from 1904 to 1909 the federation suffered large losses. Several factors contributed to the decrease. First, was the
economic depression of 1906 to 1912. Second, was the employers' offensive which attacked the unions on different fronts at once; employers were able to secure the rupturing of important trade agreements; and punitive anti-boycott court decisions in the Danbury Hatters' and the Buck Stove and Range cases dangerously undercut the union's chief economic weapons. Finally, the incursions of the Industrial Workers of the World among certain sectors of the American Federation of Labor contributed in large measure to the loss of membership.

With the economic upswing of the period from 1912 to 1914 there was a new spurt of activity, which included the expansion of the clothing unions, industrial and semi-industrial growth, and the growth of the coal miner's union. On the one hand, the challenge of the Industrial Workers of the World and the rise in influence of the industrial unions, and on the other, the movement toward amalgamation brought about stresses and strains in the union structure. To solve these internal conflicts and still adhere to the principle of a strong craft union rather than domination by the industrial union, led to the creation of departments within the federation, which sought to reconcile
and coordinate the craft unions within a single industry.

Outside the American Federation of Labor the Industrial Workers of the World conducted spectacular strikes in the textile and metal mining industries. A strong pro-labor swing was reflected not only in the largest socialist vote of 1912, but in the appointment of a labor man to the newly created post of secretary of labor. Legislative gains, such as restrictions on the sale of prison made goods, limitation of immigration, the Clayton Act of 1914, and the Seamen's Act of 1910, were outward signs of the new power of unionism in the American scene. Unions seized the initiative. Labor leaders were chosen for representation on government bodies; there was organization of large masses of semi-skilled and unskilled workers in the industries which gained through wartime activities; and the Adamson Eight Hour Act of 1916, which applied to the railroads -- all had repercussions in the rise of total union membership in 1920 to over 5,000,000.

Despite the gains of the American Federation of Labor and the new spirit of inter-union co-operation, there was a continued decline in the trade unions from 1920 on. The retrogression may be attributed to various developments, among them the failure of the steel strike,
and the weakness of the campaign in the automobile industry, and the neglect of industries in which women or Negroes predominated. More significant were the external forces working against union progress. The anti-radical legislation of the postwar period, often invoked against union organizers, seriously impeded advances in that direction. Employers did their bit: maintaining the open shop and introducing welfare campaigns. Company unions and employee representation plans increased in membership.

Disillusionment took hold of some segments of labor. Once again there was the upsurge and cry of "one big union" which movement culminated in the Seattle general strike. The attitude of capital of over-production and cut-throat competition caused under-employment and reduced the strength of the various trades even lower. These factors caused a swing away from progressive trends embodied in such manifestations as industrial unionism, workers' education, the type of policy exemplified by the Plumb Plan and the miners' proposals nationalization and an enlarged interest in a political labor movement.

Confronted by new challenges the labor unions turned to union-employer co-operation in order to encourage employers to deal with them.
Labor-management co-operation schemes were initiated. Through these efforts there was adopted the doctrine that increases in wages must be postulated on labor's contributions to increased production. This new strategy operated, however, only within those industries which were already organized, and little or no progress was made in the unorganized fields.

The most severe blow to union development came with the onset of the depression in 1929. Hour and wage standards in organized industry were broken down, and wages for those who still worked by 1932 were about 60 percent below the 1929 level. But assistance was to come shortly.

In reviewing the progress of labor as accomplished through unionism from 1900 the following points stand out: Unions demonstrated a marked aggressiveness in the economic field through an application of comprehensive trade agreements and shop rules. There was no lacking in readiness to strike whenever conditions were favorable. However, there was no unanimity of practice with regard to the introduction of machinery or of production standards. These latter problems were left to future resolution as the attention of the country was focused on rebuilding from
the economic disaster of the depression.

With the New Deal administration of Franklin D. Roosevelt came a new dawn for labor. Now government stepped in, not only to restore the most seriously deteriorated standards of employment but to pave the way directly for unionism. New Deal labor legislation originated in the National Industrial Recovery Act passed in June, 1933. Its labor provisions included both protective labor legislation such as child labor regulation, minimum wages and maximum hours to be set for each industry and labor relations legislation. The latter provisions pertaining to the right of employees to bargain collectively. However, the anti-union attitude of some members of the National Recovery Administration and the continuance of anti-labor decisions by local courts impaired the effectiveness of such legislation. As a partial reaction to the court decisions the Norris-LaGuardia Anti-Injunction Act was passed in 1932, forbidding the federal courts from issuing injunctions to sustain anti-union employment contracts or to prevent strikes, boycotts and picketing.

It was not long before Congressional friends of labor recognized that something more was needed if further progress by unions was to be
realized. In 1935 the Wagner Act was passed. This provided for the creation of a National Labor Relations Board with power to determine collective bargaining units subject to elections it supervised at the request of the workers, to certify the duly chosen trade union, and to take testimony regarding unfair employer practices and issue cease and desist orders. The right of employees to join labor organizations and to bargain collectively through representatives of their own choosing was upheld.

But the passage of the Wagner Act did not automatically insure the acceptance of unions by industry, instead it seemed only to incite employers to even greater resistance. By 1936 the Congress of Industrial Organizations began to organize the motor and steel industries. On December 31, 1936, a few hundred workers seized a number of General Motors plants at Flint, Michigan, staging a spectacular sit-down strike which lasted 44 days. Sit-down strikes spread to various industries. Following a Supreme Court decision (1939) declaring sit-down strikes illegal, this technique was also discredited by organized labor.
On May 30, 1937, there occurred the Memorial Day Massacre. In the spring of 1937 the Steel Workers' Organizing Committee secured recognition by J. S. Steel as the bargaining agency, a wage boost of 10 per cent, and a 40-hour week with time and a half for overtime. Other employers challenged the constitutionality of the Wagner Act. "Little Steel" under the leadership of Republic Steel was adamant. The issue came to a head when a group of union demonstrators before the gates of the Republic plant in South Chicago were fired upon by police, with four killed and 84 injured. Finally in 1941, virtually all independent steel companies signed agreements with the Congress of Industrial Organizations.

In 1937, publication of a report by a Senate subcommittee, headed by Robert M. LaFollette, Jr., disclosed the anti-labor techniques employed to fight unions. The investigation revealed that blacklists, espionage, vigilante groups to curb labor organizers (Mohawk Valley Formula), recruiting of strikebreaking services, private armed forces, and private arsenals were all used. Such methods were clearly in violation of the law.
In 1938 the Fair Labor Standards Act was passed, protecting employees in interstate commerce.

The success of the union in winning their battles is indicated by membership roles which now were bulging. In 1944 the total union membership was 13 million out of an employment of 54 million workers.

The end of World War II also ended the no-strike pledge of the unions. A series of large scale strikes took place in the ensuing years. The unions, especially in the newly unionized industries, still to convince employers that they had taken root and proved it, successfully standing guard over the real wages and job control acquisitions in the collective bargaining agreements. But with these determined stands in the economic arena, unionism suffered a serious loss in its legal status. The 80th Congress under Republican control enacted in 1947 the restrictive labor law, which is familiarly known as the Taft-Hartley law.

The effect of this demotion in legal rights was to stop for a time at least a further unionization of the south. However, in view of their past history, this halt will be only temporary.
I have endeavored tonight to give you a brief resume of history of the labor movement in America. I have refrained from discussing labor law because I am sure that you are as familiar with it as I am. About a year ago I addressed a seminar for Trade Union leaders presented by the Institute of Industrial Relations of University of California. I then stated that any student of statutory law and court decisions on the subject of labor law must be impressed with the hodgepodge of conflicting rules and ideas which then existed. I do not believe the situation has improved since then. If anything, it has become more confused and complex. In view of the fact that there are now pending before the Supreme Court of California several cases involving the so-called right to work law, I am restrained by a well-known canon of judicial ethics from discussing the legal problems involved in these cases.

In conclusion, may I venture a word of optimism: While organized labor has its critics, it cannot be denied that it is now and has been for over 100 years a recognized American institution; that it has grown numerically and in economic, social and political influence to
a position where it must be reckoned with by our government in the adoption of any program or policy affecting our social or economic status. It has gained this position because of popular support and recognition to which it is justly entitled for its achievement in advancing the welfare of the working people of this country so that they are enabled to enjoy the highest standard of living ever known to exist since the dawn of civilization.

While the present trend of legislation and court decisions cast ominous shadows of coming events in the field of labor-management relations, they will never eclipse the dark days of the past. With intelligent, forthright and courageous leadership, I can envision organized labor taking her rightful place in directing forces which establish the standards of the social and economic welfare of the working people in this country and becoming the brightest star in our constellation.