10-1-1986

Opening Remarks

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DETROIT COLLEGE OF LAW REVIEW

VOLUME 1986 FALL ISSUE 3

DETROIT COLLEGE OF LAW REVIEW'S 1986 LABOR LAW SYMPOSIUM ON THE GLOBALIZATION OF UNITED STATES INDUSTRY

OPENING REMARKS BY DEAN ROBERT A. MCCORMICK

Members of the Board, my colleagues on the faculty, students and distinguished guests. On behalf on the Detroit College of Law Review, I welcome you to the college and the 1986 Labor Law Symposium.

I would like to say a few words about the way in which this symposium came into being. As many of you know, Law Reviews are published by every major law school in the United States. Indeed the Index to Legal Periodicals lists more than 1,000 titles devoted to legal scholarship and commentary. With rare exception these journals follow a uniform pattern. In structure, they feature lead articles, authored usually by law professors, which describe and criticize a statute, decision or doctrine. They often suggest and argue for a better approach to the law or, at least caution as to pitfalls which lie ahead. When done well, they are carefully crafted and solidly supported by the use of copius footnotes. These volumes also include writings by students at various stages in their law review careers. In their second year, students write case notes which, as their name suggests, analyze and put into perspective a single case. Commentaries, usually written in the student's last year, undertake broader criticism of a line of cases or a developing doctrine. These journals, then, frequently end with reviews of recently published books related to legal matters.

There are occasional variations on this approach. Thus, reviews are sometimes devoted to special areas of the law such as wildlife law or urban law or air and space law; others focus on special

groups such as native Americans. The writing itself, however, while perhaps narrower in subject matter, is not dissimilar in style or substance from mainstream legal scholarship.

There is, then, a great abundance of legal writing most of which, I fear, is rarely read. It has often been noted that we who write for the law reviews write largely for ourselves. We can expect that, besides our truly devoted friends, other scholars in the field, and the occasional practitioner who faces a problem or a case in that particular area, our writings will take their place along countless others in the library with little benefit to anyone. This a great misfortune because legal literature can be of real interest and enlightenment to the student of the law that good lawyers must always be.

At the same time, these observations about the limitations of our law reviews are hardly new. Fifty years ago in the University of Virginia Law Review, professor Fred Rodell, then of the Yale Law faculty, penned a delightful article entitled "*Goodbye to Law Reviews.*"[1] In it he wrote "[t]here are two things wrong with almost all legal writing. One is its style. The other is its content."[2] As far as style was concerned he observed:

> [I]t seems to be a cardinal principle of law review writing and editing that nothing may be said forcefully and nothing may be said amusingly. This, I take it, is in the interest of something called dignity. It does not matter that most people - and even lawyers come into this category- read either to be convinced or to be entertained. It does not matter that even in the comparatively rare instances when people read to be informed, they like a dash of pepper or a dash of salt along with their information. They won't get any seasoning if the law reviews can help it. The law reviews would rather be dignified and ignored.[3]

But he saved his heavier criticism for the content of what the law schools publish.

> It would be hard to guess, from most of the stuff that is published in the law reviews, that law and the lawyers had any other job on their hands than the slinging together of neat, legalistic arguments and the building up, rebuilding, and sporadic knocking down of pretty houses of theory foundationed in sand and false assumptions.[4]

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1. Fred Rodell, *Goodbye To Law Reviews*, 23 VA. L REV. 38 (1936).
2. *Id.*
3. *Id.* at 38-39.
4. *Id.* at 42.

While my own estimation of our law reviews is substantially more charitable, there is little doubt that law schools and their literature are widely perceived as isolated, arcane, and, at worst, irrelevant to the events and social changes that necessarily shape the law.

This symposium is an effort on the part of the law review at the Detroit College of Law, past and present, to add an additional dimension to their publication. In so doing, their purpose is to bring to a broader public the collective thoughts and observations of those persons who shape and cope with the social and economic forces at work in the world. Those forces and events to which, if it operates properly, the law must ultimately respond.

In undertaking this symposium, it seems to me, the Detroit College of Law performs an important function beyond its primary mission of training future members of the legal profession. It serves as a meeting place, a forum where the interested public can gather to learn, debate and reason together.

Since 1983, the Detroit College of Law Review has devoted one of its 4 issues to labor law matters. Thus, it is a natural extension of that concentration that this gathering should focus on the issues affecting industry and the employment relationship. It is similarly natural that such a symposium should take place in Detroit. Our city is, after all, synonomous in the eyes of the entire world, with large industry, the industrial union and the development of modern labor-management relations. Just as the industrial conflicts that shaped the National Labor Relations Act (NLRA) converged in Detroit and Flint and River Rouge, so, too, will the future of labor relationships be forged here if American industry and unions are to adapt to the changing world.

What, then, are the issues facing labor and management that warrant illumination? There are many. Certainly there are numerous anniversaries around which retrospectives could be organized. 1985 marked the fiftieth anniversary of the NLRA and next year marks the same anniversary of the Act's validation by the Supreme Court in the case of *NLRB v. Jones and Laughlin Steel.* The Flint sit-down strike and the recognition of the UAW as the exclusive representative of General Motor's employees is also an event of which we have recently been reminded. Among these many choices, the editors have decided to address a phenomenon which is in no way looking backward. The globalization of industry is new

to us and, therefore, bewildering and somewhat frightening. At the same time, it appears inexorable and, therefore, worthy of our attention.

The world of manufacturing and trade is not the world it once was a mere dozen years ago. It is without question, a global marketplace. Where once U.S. labor and management contested one another over the remarkable fruits of their industry, today they join to face the common threat of foreign competition. Entire industries and millions of people have been directly affected by the fundamentally different character of production and commerce. In many industries, particularly apparel and textiles, steel, automobile, rubber, farm machinery, and consumer electronics, American management and labor have felt the harsh results of global competition. Today we daily read with concern and confusion of massive trade imbalance, the relative rise and fall of the yen and the mark, protectionist trade legislation and voluntary import quotas. We also read of joint ventures between General Motors and Toyota, IBM and Nippon Telegraph and Telephone, RCA and Matsushita Corporation. Major foreign manufactures like Honda, Nissan and Mazda now operate production facilities in our states.

The world of labor management relations has changed. The reason we gather together today is to gain a glimpse of how we might respond and adopt to that change. If I may return to Professor Rodell,

> I do not wish to labor the point, but perhaps it had best be stated once in dead earnest. With law as the only alternative to force as a means of solving the myriad problems of the world, it seems me that the articulate among the clan of lawyers might, in their writings, be more pointedly aware of those problems, might recognize that the use of law to help toward their solution is the only excuse for the law's existence...[5]

His article ends rather pessimistically, "[a]nd so I suspect that the law reviews will keep right on turning out stuff that is not fit to read, on subjects that are not worth the bother of writing about. Yet I like to hope that I am wrong."[6]

By this symposium, the editors of the law review, in some small part, have proved him wrong.

But you did not come to hear me speak and for this audience

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5. *Id.* at 43
6. *Id.* at 45

our first speaker literally needs no introduction. Without further comment, it gives me great pleasure to present the latest in a series of labor statesmen who have served as President of the UAW, Owen Bieber.