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Industry's View

Continued From July 20th Issue

THE "RIGHT TO WORK" IS PROTECTED BY THE FIFTH AMENDMENT

The Supreme Court has consistently recognized that the right to work for a living is a fundamental right possessed by all people. Most of the decisions dealt with issues raised under the Fourteenth Amendment. The principles expressed are equally applicable to the Fifth Amendment, however. Coolidge v. Long, 282 U.S. 582 (1931); Twining v. New Jersey, 211 U.S. 78 (1908).

In *Truax v. Raich*, 239 U.S. 33, 41 (1915), Mr. Justice Hughes, speaking for the Supreme Court, put the basic proposition very simply when he said:

"... It requires no argument to show that the right to work for a living is the common occupations of the community is of the very essence of the personal freedom and opportunity it was the purpose of the Amendment to secure."

In that case the Court held void an Arizona statute requiring employers of five or more persons to employ eighty per cent United States citizens on the ground that such a law violated the Fourteenth Amendment.

In *Smith v. Texas*, 233 U.S. 630, 636 (1914), a Texas statute made it a misdemeanor for any person to act as a conductor on a railway train in that state without first having served for two years as a freight conductor or brakeman. The Court held this to be an infringement of the liberty of contract contrary to the Fourteenth Amendment. The Court said, in part:

"Life, liberty, property, and the equal protection of the law, grouped together in the Constitution, are so related that the deprivation of any of those separate and independent rights may lessen or extinguish the value of the other three. In so far as a man is deprived of the right to labor, his liberty is restricted, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords those who are permitted to work. Liberty means more than freedom from servitude, and the constitutional guaranty is an assurance that the citizen shall be protected in the right to use his powers of mind and body in any lawful calling."

Meyer v. Nebraska, 262 U.S. 390, 399 (1923), involved a conviction under a Nebraska statute which made it a crime to teach a foreign language to a child who had not completed the eighth grade. Holding the statute abridged the Fourteenth Amendment, the Court said:

"While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." (Emphasis added.)

Final v. Adams v. Tanner, 244 U.S. 590, 593 (1917), the Supreme Court quoted *Shylock* in *The Merchant of Venice*:

"You take my house when you do take the prop that do sustain my house;
You take my life when you do take the means whereby I live."

The worker, impaled on the horns of the dilemma whether to abide by his principles and forfeit his employment under a union shop contract or abandon his principles and submit to the unwanted obligations of union membership, might well explain, "You take my life when you do take the means whereby I live." The Constitution of the United States protects the employee in his right to work and he need not submerge his principles, ideals, liberties and freedoms to avoid economic suicide. We think the Nebraska Supreme Court summarized correctly and succinctly the principles established by the Supreme Court when it held:

"We also think the right to work is one of the most precious liberties that man possesses. Man has as much right to work as he has to live, to be free, to own property, or to join a church of his own choice, for without freedom to work the others would soon disappear. It is fundamental human right which the due process clause of the Fifth Amendment protects from improper infringement by the federal government. To work for a living in the occupations available to a community is the very essence of personal freedom and an opportunity that it was one of the purposes of these amendments to make secure. Liberty means more than freedom from servitude. The Constitutional guarantees are our assurance that the citizen will be protected in the right to use his powers of mind and body in any lawful calling."

The right to work is a liberty protected by the First, Fifth, Ninth and Fourteenth Amendments of the Constitution. As such it can only be restricted to prevent grave and immediate danger to interests which government is obligated to protect. *West Virginia State Board of Education v. Barnette*, supra; *Thomas v. Collins*, supra.

THE "RIGHT-TO-WORK" IS PROTECTED AGAINST IMPAIRMENT BY FEDERAL ACTION

It has been pointed out earlier that state "Right-to-Work" laws are designed to preserve and protect the right of employees freely to join or not to join labor organizations. It has been demonstrated that the right to seek, secure and retain employment, free of the necessity to join and remain a member of a labor organization as a condition to continued employment, is a fundamental right possessed by every citizen.

Any Act of Congress which seeks to remove those protections is government action impairing the right of association in violation of the First Amendment and is a deprivation of liberty and property in contravention of the Fifth Amendment.

That valuable personal and property rights are involved in compulsory union membership contracts and are protected by "Right-to-Work" laws is a matter common knowledge and might well be judicially noticed. As stated by Judge Carter in *Hanson vs. Railway Employees' Dept., AFL*, 160 Neb. 669 (1955):

"If an employee is compelled to join a union against his

will in order to continue in his employment, he not only pays his share of the cost of the union's bargaining processes, but he is compelled to support many other principles, policies, programs, and activities to which he may not subscribe. Some unions support a form of life insurance which pays death benefits; some support a welfare fund for the benefit of needy members. Some unions maintain a strike fund to protect employees when on strike; some establish funds to be used in the furtherance of economic and political principles in which the employee may have no confidence. In some instances compulsory union membership would compel support, financial and otherwise, of policies which an employee might deem objectionable from the standpoint of free government and the liberties of the individual under it. An employee may neither desire the benefits of such programs nor desire to contribute to their support. He may object to certain programs and activities of the union for reasons of his own and, consequently, not desire to contribute to their promulgation. To compel an employee to make involuntary contributions from his compensation for such purpose is a taking of his property without due process of law... To compel him to contribute to the support of economic or political programs adopted by a union, which may be abhorrent to him, is as constitutionally wrong as if similar programs were compelled by the employer. The Fifth Amendment protects against the forced appropriation of one's property for the support of ideals which he may desire to oppose. The right to work and to be compensated therefor is a fundamental principle in our democratic thinking. To force contributions against one's will in the manner here employed is a violation of his fundamental rights and privileges... An employee not only has a right to work, but he has the guaranteed right to have his earnings protected against confiscation against his will. Forcing an employee to join a union and compel him to financially support principles, projects, policies, or programs in which he does not believe and does not want, is clearly a taking of his property without due process."

Workers in 18 states with "Right-to-Work" laws are protected and permitted to exercise their fundamental rights to associate or refrain from association as they may see fit without being required to become and remain a member of a labor organization as a condition to continued employment. These rights of employees are not granted by the Constitution but are protected by the Constitution against impairment by governmental action.

(THE END)

"What They're Saying—"

A Summary of Current Editorial Opinion and Comment

PRESIDENT DWIGHT D. EISENHOWER

"In private, and often in public too, one Democratic governor after another frankly conceded his state to President Eisenhower in November."

—Newsweek Magazine, July 9

"(The Eisenhower-Republican Administration has) successfully carried out one of the most important of all the promises Mr. Eisenhower made to the American people in his election campaign of 1952—namely, the promise to balance the Federal Budget."

—New York Times, July 9

"As the November election draws closer, the character of the Democratic campaign against President Eisenhower becomes increasingly clear. The poverty of real issues is driving those who oppose him to unprecedented extremes..."

—Frank R. Kent, Washington Star, July 8

"... It's time to recall that Candidate Eisenhower's biggest boost in 1952 came from his implied promise 'I shall go to Korea' to take us out, and keep us out, of other people's wars. This was the '52 turning point."

—Columnist Holmes Alexander, July 1

"Perhaps the greatest political fallacy of the times is the notion that President Eisenhower is being dragged into running for a second term... The trouble with the story is this: It just doesn't square with the facts in the case."

—Edward T. Follard, Washington Post & Times Herald, July 3

"The country would like to reelect Eisenhower and have him continue."

—Columnist Walter Lippmann, July 5

"With remarkable uniformity, leading Democratic Governors, except a few in the deep South, conceded that, if the election were held today, President Eisenhower would carry their state."

—Columnist Roscoe Drummond, June 27

VICE PRESIDENT RICHARD M. NIXON

"(Vice President Nixon) is the best ambassador we've sent to foreign lands in this generation. His sole mission is to make friends and explain the American viewpoint. His JULY 4 speech on the 10th anniversary of the Philippines independence was a masterpiece."

—John O'Donnell, New York Daily News, July 6

"Mr. Nixon is young, but his behavior, has been mature. President Eisenhower gave him larger responsibilities than had ever been placed in the past on the Vice President, and he discharged them faithfully and well."

—Columnist Drew Pearson, July 5

"Vice President Nixon likes to travel and has done a fine job representing the United States abroad."

—Columnist Doris Fleeson, June 28

"During his 3½ years as Vice President, Mr. Nixon has been called upon to handle a great variety of important assignments... The Vice President's successful executive of these assignments has made a major contribution to the success of the Eisenhower Administration."

—San Diego Union, June 24

"Vice President Nixon made in Manila on the Fourth of July the greatest speech of his career."

—Columnist David Lawrence, July 5

DEMOCRATS

"Democrats... are uneasy on several counts, including: The President's high showing in polls... Full employment which, they fear, will keep labor's rank and file away from the polls on election day... Finally, Democrats wonder if Stevenson can keep up that California pace and excite the electorate."

—Columnist Doris Fleeson, June 28

"Almost everyone knows that the subject of civil rights constantly rends the Democratic party internally, but the DEMOCRATIC DIGEST, the national committee's monthly publication, never mentions the issue."

—Commentator Edward P. Morgan, ABC, July 5

"The old-line professionals... are now saying what they had been muttering for months. Bluntly, they think that National Chairman Paul Butler of Indiana is doing a poor and amateurish job."

—John O'Donnell, New York Daily News, July 5

"Adlai Stevenson said Sunday at a fund-raising picnic in Chicago 'let he feels he is the man to beat. Adlai felt the same way in '52 and said if he wasn't right, I'd beat him.'"

—Bob Considine, New York Journal American, June 19

"Democratic candidates may speak out for civil rights in the North, but they couldn't even mention the subject during the coming campaign in Dixie... The party's national committee has been warned... The admonition came from the Democratic National Committee's research division..."

—Washington Star, July 1

WHY PRESIDENT EISENHOWER NEEDS A REPUBLICAN CONGRESS

"The facts bear out this view... The President needs strong party support in the next Congress. He cannot depend upon Democratic help."

—Raymond Moley, Newsweek Magazine, July 2

"(A Democratic Congress) would mean four more years of the

division and confusion that have marked relations between the executive and legislative departments in this 84th Congress."

—Columnist Marquis Childs, June 27

"After almost six months in session the legislators have completed action on less than 20 per cent of President Eisenhower's 1956 legislative proposals. Obstruction has replaced accomplishment. The responsibility for this lies directly with the Democratic leadership... Lacking a real political issue, Democratic leaders cynically have ignored their legislative responsibilities while attempting to manufacture some basis for a campaign."

—San Diego Union, July 2

"The possibility that this Congress won't do enough or will do the wrong things politically is a real cause for worry among the more liberal Democrats of both North and South."

—Columnist Peter Edson, June 29

"The feeling persists, however, that the President has a personal stake, and the country with him, in having a Republican-controlled Senate in the Congress which takes over next January. Certainly, if the President is to succeed with his program, which he has described as both progressive and dynamic, he must have a Republican Senate and a Republican House to back him up, and put through the necessary legislation. He has been hampered and hamstrung by the present Democratic Congress."

—Gould Lincoln, Washington Star, July 10

THE TRUMAN SCANDALS, by Jules Abels, Henry Regnery Co., \$3.75
 "... The whole mass of misfeasance presented as documenting 'the most corrupt' era of government we have known. Mr. Abels sets out to sustain it by a patient, case-by-case examination and report of every scandal... So far as one can judge his facts are accurate and documented... Mr. Abels has rendered a service to all sides by getting it together in one place and presenting it for public scrutiny."

—Walter Millis, Saturday Review of Literature

Religion Day By Day

BY REV. CLINTON M. MARSH

Witherspoon United Presbyterian Church

Last week this column dealt with some aspects of the problem of segregation in the Churches. We are forced to face the fact that Sunday morning at 11:00 IS THE MOST SEGREGATED HOUR IN THE WEEK.

The fact is indisputable, but the common interpretation of the fact is open to question. We rather blindly and blandly accept the theory that the fact is chargeable wholly to the poor attitudes of the white churches and their constituency. No one can deny that the situation has not been largely created by decades of hostility on the part of white congregations, nor that there are many churches who still maintain their anti-integration philosophies and policies. Yet we are victims of either our own prejudices or our thoughtlessness when we assume that the absence of widespread integration in local congregations is due wholly to the attitudes of white church members.

We must consider the bald fact that most Negroes do not want to belong to an integrated church. At least not enough to make an effort to join one. The result is that the heart of most white churches has never been given a test, and they should not be prejudged on their attitudes, when those attitudes are not really known. The writer is pastor of a Presbyterian Church. There are white Presbyterian churches in this city who would receive Negroes if any sought to join. But the several hundred members of the lone Negro church never considered joining one of the white churches. Many of the same people would be quick to condemn the sister churches for segregation. The truth is that much of our segregation is self-inflicted.

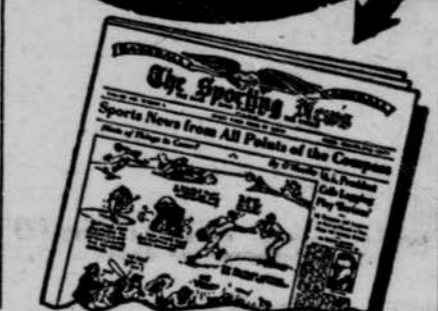
The type of worship sought has something to do with the condition.

A Negro Catholic would feel at home in any Catholic Church because of the uniformity of worship and procedure. This is not so in the rich variance of Protestantism. So often Negroes who visit white churches find the dif-

ferences in worship patterns so great that they do not feel inspired to return.

The segregated residential pattern contributes to the situation. Even in these days of easy transportation, a church ministers primarily to its geographical community. In a city like Indianapolis, which has no really integrated communities, there is not

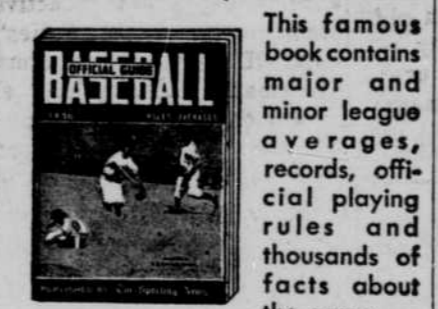
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the neighborhood pattern that would give rise to easy mixing of races in local churches.

When The Church of The Brethren at 32nd and Capitol announced its open door policy two years ago, they were handicapped by the fact that not a single member of their church lived in the area, and so had no friends among the Negroes in the community that they might normally invite to church. Conversely, the Negroes in the community knew no one in the church, and so had little incentive to visit it.

These are just a few of the factors that have to be considered in making judgements on the state of segregation in the Church.

MAYOR HITS SEGREGATION ARTICLE AS 'UNFAIR' TO PHILADELPHIA

New York, July 23—Mayor Richardson Dilworth asserted today that "Philadelphia has gone further toward solving the problem of race relations than any other big city in the United States."

Irked by a recent Look Magazine article which had pictured Philadelphia as typical of racial practices in the North, the Mayor declared in a letter to the current issue of Look:

"I believe I am safe in saying that, for the first time in the city's history, Negroes are today employed by the city in every department and in positions of every degree of responsibility."

Mayor Dilworth stressed that "the Commission on Human Relations and the police, working in close cooperation, have been able to prevent any violent incidents when Negroes have moved for the first time into white areas."

Philadelphia's civic organization and the Quaker community have played a tremendous part in the field of human relations, the Mayor said.

"The implication in your article that Philadelphia is no better and no worse than the average large city north of the Mason-Dixon line is an extremely unfair one," he concluded.

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