



**THE SMITH
CENTER**

*for Private Enterprise
Studies*

EEOC Affidavit

of

Charles W. Baird, Ph.D.

Regarding my Religious Beliefs Concerning Unions

9-24-01

I, Charles W. Baird, am competent to testify, have first hand knowledge of the following matters and after being duly sworn state as follows:

I have written many articles in various professional journals and magazines over the last twenty years explaining my objections to American unionism as it is defined in the National Labor Relations Act and in similar state statutes covering their respective state and local governmental employees. I never referred to my religious beliefs in these professional writings because they were irrelevant to issues I addressed therein.

My Religious Background

Nevertheless, I have always objected to the American model of unionism on religious, as well as economic, grounds. Although I became a Catholic only two years ago, I have been a practicing Christian for my entire life. I was brought up in the Presbyterian Church, became an Episcopalian at age 22, and a Catholic at age 61. In my view the obligations of Christianity, whether Protestant or Catholic, include abstinence from all forms of coercion and violence. As a young boy I witnessed many episodes of gratuitous violence during strikes that took place in my home town, Whitinsville, MA, against Whitin Machine Works, my father's employer. My late father, Wilbur G. Baird, was a union member only because he was forced to be. He taught me that the violent strikers, who were almost all professing Christians, were hypocrites because Christianity forbids such behavior. He also taught me that those Christians who forced him and others to be represented by, and to join, unions against their will were also hypocritical. He and his brother were once beaten by picket line thugs for their opposition to a strike.

I did not acquire my religious beliefs regarding coercive unionism when the California Faculty Association was empowered to take money from me. I acquired them at my father's knee.

In his and my view, forced payment of agency fees is contrary to the Eighth Commandment.

Catholic Teaching on Coercive Unionism

Now, what are the formal grounds for my religious beliefs regarding coercive unionism?

Inasmuch as I am now a Catholic, I shall answer that question by reference to several papal encyclicals starting with three of Pope Leo XIII.

Leo XIII on Unionism

In *Libertas* (1888) Leo wrote:

Liberty, then, as We have said, belongs only to those who have the gift of reason and intelligence. Considered as to its nature, it is the faculty of choosing means fitted for the end proposed, for he is master of his actions who can choose one thing out of many. Now, everything chosen as a means is viewed as good or useful, and since good, as such, is the proper object of our desire, it follows that freedom of choice is a property of the will, or, rather, is identical with the will in so far as it has in its action the faculty of choice (§5).

Liberty requires many things from which to choose, and freedom of making a choice is an important property of free will. This implies, for example, that in the market for representation services, workers should have many alternatives from which to choose, including self-representation, and their choice should be constrained only by right reason and the good as taught by the Church. It is inappropriate for secular authority to abrogate freedom of choice.

Leo XIII's *Rerum Novarum* (1891) was the beginning of Catholic Social Teaching. The Latin title of the encyclical means "Of New Things," but the standard English title, "On The Condition of the Working Classes," better conveys its message.

Leo clearly did not subscribe to the unionist view that labor and the owners of capital (capitalists) are natural antagonists. In §21 he wrote:

Just as the symmetry of the human body is the result of the disposition of the members of the body, so in a State it is ordained by Nature that these two classes [workers and capitalists] should exist in harmony and agreement, and should, as it were, fit into one another, so as to maintain the equilibrium of the body politic. Each requires the other; capital cannot do without labour, nor labour without capital. Mutual agreement results in pleasantness and good order; perpetual conflict necessarily results in confusion and outrage.

While it is true that capitalists can abuse workers and workers can abuse capitalists this does not mean they are natural enemies. Leo would have the protagonists work out their differences by mutually beneficial agreements, not by mutually antagonistic conflict.

One remedy workers have to abuse by employers is, according to Leo, voluntary Catholic workers associations organized and run on religious principles. But his endorsement of these associations does not extend to unions in general. In §58, he wrote:

[T]here is a good deal of evidence which goes to prove that many of these societies [secular unions] are in the hands of invisible leaders, and are managed on principles far from compatible with Christianity and the public well-being; and that they do their best to get into their hands the whole field of labour, and to force workmen either to join them or to starve.

Leo didn't think workers should be obliged to join or support unions whose actions are either unchristian

or contrary to the public interest. The whole idea behind such arrangements as closed shops, union shops, agency shops and forced dues is to shut workers who do not affiliate with unions out of employment, and the unions couldn't care less about whether those they have shut out starve. Inasmuch as it is well documented that many contemporary American unions e.g., the Teamsters, the United Mine Workers, the Laborers International, and the International Longshore Workers frequently turn to violence to get what they want, workers should not be obliged to support them. Inasmuch as the National Education Association, with which the California Faculty Association is affiliated, has long been on record as supporting unrestricted abortion rights including partial birth abortion workers should not be obliged to support it.

In a later encyclical, *Longinqua* (1895), written to American bishops on Catholicism in the United States, Leo goes directly to the point of justice and unionism.

[W]orking classes assuredly have the right to unite in association for the promotion of their interests . But it is very important to take heed with whom they are to associate, lest whilst seeking aid for the improvement of their condition they may be imperilling [sic] far weightier interests. The most effectual precaution against this peril is to determine with themselves at no time or in any matter to be parties to the violation of justice (§16).

[W]hilst it is proper and desirable to assert and secure the rights of the many, yet this is not to be done by a violation of duty; and that these are very important duties; *not to touch what belongs to another; to allow everyone to be free in the management of his own affairs; not to hinder any one to dispose of his services when he please and where he please.* The scenes of violence and riot which you witnessed last year in your own country [referring to the nationwide Pullman strike of 1894] sufficiently admonish you that America too is threatened with the audacity and ferocity of the enemies of public order (§17, emphasis added).

The italicized lines from §17 leave no doubt whatsoever that Leo XIII would not endorse modern unionism in America. Specifically, California's Higher Education Employee Employer Relations Act, under which the California Faculty Association operates, allows union leaders to touch and take what belongs to another (forced dues), and denies workers the right to manage their own affairs (exclusive representation).

Pius XI on Unionism

Pope Pius XI wrote *Quadragesimo Anno* (1931), to take stock of the situation of working people forty years after *Rerum Novarum*. In it he applauds the development of voluntary Catholic worker's associations, based firmly on the principle of freedom of association, and says they have an indispensable role to play in a just society. In §79 of the encyclical Pius wrote:

Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.

In §80 he developed this idea:

The Supreme authority of the State ought, therefore, to let subordinate groups handle matters and concern of lesser importance, which would otherwise dissipate its efforts greatly . Therefore, those in

power should be sure that the more perfectly a graduated order is kept among the various associations, in observance of the principle of 'subsidiary function,' the stronger social authority and effectiveness will be the happier and more prosperous the condition of the State.

This is, of course, what has come to be known as the principle of subsidiarity. According to Pius XI voluntary workers associations, unions or guilds are examples of "subordinate groups" that the State should refrain from destroying or absorbing. They are closer to their members than the State is, and therefore they are better able than the State to serve the interests of their members.

Moreover, for these groups to be effective in serving those interests, individuals must be free to choose to decide with which groups to associate. In §86 of the encyclical Pius wrote:

The teaching of Leo XIII on the form of political government, namely *that men are free to choose* whatever form they please, provided that proper regard is had for requirements of justice and of the common good, is equally applicable in due proportion, it is hardly necessary to say, to the guilds of the various industries and professions (emphasis added).

There is no room for compulsory unionism in Pius' view of the just society.

To put Pius XI's statements in historical context, Mussolini had set up a corporatist state based on "syndicates" of workers (unions) and employers (employer associations) collaborating with government in economic planning. In § 92 of the encyclical Pius described the syndicates and commented on their legitimacy.

Anyone is free to join a syndicate or not, and only within these limits can this kind of syndicate be called free; for syndical dues and special assessments are exacted of absolutely all members whether they are workers or employers.

Note that forced joining is enjoined on the basis that members have to pay dues. This clearly means that forced dues are violations of freedom of association. Note also the "or not" part of Pius' statement. As I understand this teaching, freedom of association clearly includes the freedom not to associate.

One could argue that here Pius was talking only about unions in fascist Italy, and therefore his admonition doesn't apply to modern unions. But in 1931 Mussolini's fascism was not associated with Hitler and Nazism. Mussolini's corporatist state was considered by many merely as an alternative form of government. Indeed, in 1933 Roosevelt's New Deal under the National Industrial Recovery Act was to a large extent a corporatist arrangement partially inspired by the early Mussolini. Why would the pope apply different standards to officially endorsed Italian unions and officially endorsed American unions? If freedom of association is the key, it logically applies equally in both cases.

John XXIII on Individual Rights in Associations

In *Mater et Magistra* (1961) John XXIII reiterated the teachings of Leo XIII and Pius XI on freedom of association for all people including workers. He spoke of workers' individual, natural right to form associations to pursue their legitimate interests and emphasized the rights of individuals in those associations.

Pope Leo XIII also defended the worker's natural right to enter into association with his fellows. Such associations may consist either of workers alone or of workers and employers, and should be structured in a way best calculated to safeguard the workers' legitimate professional interest. And it is the natural

right of the workers to work without hindrance, freely, and on their own initiative within these associations for the achievement of these ends (§22).

Governments should promote such freedom of association, but in so doing must not allow trespass against individual rights.

[H]owever extensive and far-reaching the influence of the State on the economy may be, it must never be exerted to the extent of depriving the individual citizen of his freedom of action. It must rather augment his freedom while effectively guaranteeing the protection of his essential personal rights (§ 55).

John applauded the affiliation of Catholics with secular associations that respect and protect individual rights.

We wish further to praise those dear sons of Ours who in a true Christian spirit collaborate with other professional groups and workers' associations which respect the natural law and the freedom of conscience of their members (§102).

Finally, John summed up the essence of Catholic Social Teaching as a concern for individual human beings, not collectives. Rights of individuals are not to be subordinated to rights of associations.

The permanent validity of the Catholic Church's social teaching admits of no doubt (§218).

This teaching rests on one basic principle: individual human beings are the foundation, the cause and the end of every social institution. That is necessarily so, for men are by nature social beings. This fact must be recognized, as also the fact that they are raised in the plan of Providence to an order of reality which is above nature (§219).

The whole unionist argument in support of exclusive representation and agency fees is based on the subordination of individual rights to rights of collectives.

John Paul II on Unions and Immoral Public Policy

Pope John Paul II decries close association between unions and political parties. In *Laborem Exercens* (§ 20) he wrote:

[T]he role of unions is not to 'play politics' in the sense that the expression is commonly understood today. Unions do not have the character of political parties struggling for power; they should not be subjected to the decision of political parties or have too close links with them. In fact, in such a situation they easily lose contact with their specific role, which is to secure the just right of workers within the framework of the common good of the whole of society; instead they become an instrument used for other purposes.

One of these "other purposes" for which union dues money is used in the United States in the political marketplace is the promotion of unrestricted abortion rights including partial birth abortion. Through my reading I have learned that the National Education Association, with which the California Faculty Association is affiliated, has adopted formal "pro-choice" resolutions in support of abortion rights including partial birth abortion. Moreover, it and the California Faculty Association have supported so-called "pro-choice" politicians. This is in conflict with my religious beliefs. As I understand the Holy Father, unions leave their legitimate spheres of influence when they seek to become involved in these public policy issues as opposed to securing the legitimate rights of workers.

No workers, much less Catholic workers, should be forced to pay fees to such organizations involved in these public policy issues that run counter to the teachings of the Church. Based on my religious beliefs, I cannot support unions that are involved in these issues. Even if forced dues were abolished, it seems to me that Catholics are morally obliged to refuse to support unions that support abortion rights. I know I certainly cannot support them.

John Paul II on Strikes

At the end of §20 of *Laborem Exercens* (1981), John Paul wrote:

One method used by unions in pursuing just rights of their members is the strike or work stoppage. This method is recognized by Catholic social teaching as legitimate in the proper conditions and within just limits.

While admitting that it is a legitimate means, we must at the same time emphasize that a strike remains, in a sense, an extreme means. It must not be abused; it must not be abused especially for 'political' purposes.

Furthermore, it must never be forgotten that, when essential community services are in question, they must in every case be ensured, if necessary by means of appropriate legislation. Abuse of the strike weapon can lead to the paralysis of the whole of socioeconomic life, and this is contrary to the requirements of the common good of society, which also corresponds to the properly understood nature of work itself.

I understand the last paragraph to refer clearly to strikes of employees in government employment, especially strikes by police, firefighters, emergency medical technicians, sanitation workers, and government school teachers. I have read publications of the California Faculty Association which support the right for it (us) to engage in "job actions." I believe this to be the equivalent of teachers striking and therefore in conflict with the teachings of the Holy Father and my personal religious beliefs. The middle paragraph quoted above implies John Paul would consider such behavior an abuse of society.

What are the "proper conditions" and "just limits" referred to by John Paul in the first paragraph above? He does not say. However, in §44 of *Centesimus Annus* (1991) he writes that man

is by his very nature the subject of rights which no one may violate no individual, group, class, nation or State. Not even the majority of a social body may violate these rights, by going against the minority, by isolating, oppressing, or exploiting it, or by attempting to annihilate it.

In my opinion, strikers in the United States routinely attempt to isolate, oppress, exploit and in some cases annihilate non-strikers and striker replacements. Note that the pope says that not even a majority vote justifies the abrogation of fundamental human rights. Any worker has a natural right to refuse to work for compensation he considers inadequate. It follows that any number of like-minded workers can withhold their labor together. But no individual or no group has a natural right to prevent workers who disagree with them from continuing to work. A majority vote does not, cannot, change natural rights granted by God. I cannot support a labor union that seeks to limit rights I believe are God-given.

In Conclusion

For all of the reasons cited above I sincerely believe that I am forbidden by my religious convictions to

support the California Faculty Association in any way.

Further affiant sayeth naught.

Charles W. Baird, Ph.D.

Before me, a Notary Public in and for the State of California, personally appeared Charles W. Baird, who swore that the contents of this Affidavit are true and subscribed to the same on the line provided for his signature.

Notary Public

My commission expires: _____