

DETROIT REVOLUTIONARY MOVEMENT RECORDS

BOX 7 OF 16

FOLDER 32

ANN FAGAN GINGER MS THE
RELEVANT LAWYERS VICTOR
VAN BOURG

UNIONS ARE NEVER ESTABLISHMENT

VICTOR VAN BOURG

AFG: Victor Van Bourg is a partner in a large labor law firm with offices in several cities. Will you talk about being an establishment labor lawyer, rather than a lawyer for a dissident caucus, about the lifestyle of a labor lawyer, and how you got into that field?

Van Bourg: I think you ought to know a little bit about me personally so that you can evaluate what I say.

I am the product of a working class home. My father was a well-known *activist* in Southern California; *my mother* was an *activist, too.* She was an *educated* woman *in Russia, which* *they left* in the 1920^s.

They were political people. They organized people, in the troubled times, into study groups. She taught English to people who couldn't speak English; she taught Russian to their kids, to keep the culture going. She was an organizer and a leader. My dad was very active in the union, but not on the paid union staff. Connected with the union there was a cultural group, chorus, dramatic group, and a mandolin and string instrument group he was in. There were meetings constantly at the union hall or at the cultural center. Every weekend there was a picnic for a cause. *My parents took me with them, and I got a tremendous exposure to what they were doing. Sometimes I slept in a union cloakroom while the women were having a meeting and the men were having a*

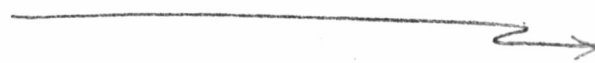
meeting, and then they would come together and argue!

And that was my life. It was a very close family,
and the group, the Ukrainians and
 Russians and Jews, kept together. To be frank with you, it was a
 communal setting. I am not acquainted with modern communes;
this was an old-country type of communal setting, where
 the language and the culture brought
 us together, *with some* communal functions and some separate functions.

the
 impact of what those people stood for was important to me. When
 I left home for college, the community had begun to disperse. But
 that's why I am what I am and why I'm doing what I'm doing.

I always worked for a living. I started when I was twelve
 as a bookbinder's apprentice. Later I drove a truck; I
 worked for meat companies and bottling companies in the summer.
 My father was a painter by trade, and
 I also worked as a painter and had a working card in that union.
 I teach classes now in various places, and since I consider it a
 requisite that I be a union member, I am a member of the American
 Federation of Teachers, which I also represent as a lawyer.

I have very strong feelings about unions, and since I was
 given the very uncomplimentary topic of speaking as the establish-
 ment union lawyer rather than the dissident union lawyer, I will
 say a few words about that.

There is no such thing as an establishment union and there
 is no such thing as a dissident union. A 

union is established to work in a nonrevolutionary sense, within the framework and laws established by society.

There are unions whose rank and file are oriented in a conservative way, which reflects very much the society in which we live. There are unions whose leadership and membership are very progressive. There are also unions with progressive leadership but with very conservative membership, and the reverse exists as well.

However, in my view, the unions are the only institution in the country--the only non⁵governmental, private institution--~~which~~ ^{that} represents masses of people. There is no other private organization in the country that has within its framework masses of people from every section of life.

It is my personal opinion that the worst union, no matter how bad it is, is better than the best boss, no matter how wonderful he is. That is based on a very simple economic premise: We live in a capitalist society. Then there must be a chasm between what working people see as their goal and aspirations, and what the boss sees. When they find themselves working and competing for a piece of the same dollar, no matter how wonderful a man the boss is, he is going to have to put down his workers to one degree or another. The weakest union, the union with the worst leadership, has got to set a collective goal of getting people together in order to take more of a share of society.

It's this very simple economic premise that led me to become a labor lawyer. I'm an anti-capitalist. I'm anti-~~E~~stablishment in that sense. (But I think I would be as much

in trouble in a socialist society as I am here because I do not like the show of force to put down the collective efforts of people, regardless of the system.)

The combination of my trade union background and my political background left me no choice. It required that I become a lawyer and that I represent working people in masses, in collective effort, rather than in individual cases. It required that I represent people who cannot pay, because that is what working people are all about. They don't have any money, and they're afraid. They have basic motivations: fear of losing their jobs, fear of dying -- all kind of things. And they have to operate with institutions that have been raped ever since they were established in this country.

Unions were illegal for the most part until our recent history. A few laws were enacted during the New Deal days that made it possible to say that being a union member was a lawful activity. But even so, the unions do not have an easy existence in large regions of the country, particularly the South and the far West, except for the coastal region.

The basic premise from which I operate is that the enemy is not other working people. No matter how racist they are, or how reactionary, or how dense, or how ignorant of the value of life and labor. In essence the enemy is the employer, and working people can never beat the employer in a capitalist society unless they're together, and they cannot get together if they exercise the luxury of fighting amongst themselves.

That's why I decided, when I became a lawyer, not to be

sectarian, not to attempt to represent a few unions that had strong memberships and militant leadership. They needed my help least of all. The unions that I thought best to represent are the unions in the AFL-CIO, the Railroad Brotherhoods, the Teamsters, and so on, because they represent large numbers of people who in the long run make very little money, who do not share in this life, and whose collective bargaining patterns are not creative.

We are in a bind in our collective bargaining system in America. We do not negotiate rent trust funds so that the employer pays the rent of all of the people. We do not negotiate the requirement that the employer build a beautiful housing park with green spaces. We do not negotiate with the employer that he employ us four days a week and pay for three days of leisure and send our children to college and do other things that make for a good life. We don't negotiate for those things with the employer because we're afraid to, because the laws bind us to what is a mandatory subject for collective bargaining and what is not. We have a lot of problems in making trade unions creative and in making working people, who are decent people, creative in terms of how they deal with the massive power of the employer, and, in particular, how they deal with the machine.

The machine, automation, and the great technology of this country is a creative force, and at the same time it is the force that will destroy working people if they don't begin to bridle it and to deal with the fact that efficiency for efficiency's sake is anti-human. Maybe we should have some inefficient machines


if it will make people happy! We might have to negotiate into our contracts the basic concept that we want machines that break down every so often because we need work for people, and it's not progress to increase unemployment.

The only goal for which a machine should be created is to make human beings happy rather than to make profit for one man or for one corporation. That's the only way that we can deal with the ten or twelve corporations that control the system in this country.

AFG: What happens when workers want to deal with subjects that are not normally subject to collective bargaining, like the quality of education, which the American Federation of Teachers has been talking about?

Van Bourg: Some unions do deal with such questions. Many union members want to get the unions involved in what they call community issues. Getting involved in those issues is not inimical to the institution of the union. As a matter of fact, most unions, contrary to popular belief, do get involved in these things.

The NAACP recently filed a suit to require a breakdown in the segregated pattern of school assignments in San Francisco. At a membership meeting the AFT authorized me to file an amicus brief or a parallel suit supporting the NAACP.



I represent the Social Workers Union. One of the things that they've authorized me to do is to file suits on behalf of welfare recipients to prevent the constriction of benefits.

STUDENT: So, why doesn't the Machinists

Union or the Teamsters Union authorize me to file a suit to support the NAACP on the question of equality of education? After all, it's their kids who are going to those schools. And many of those unions are industrial unions with a high percentage of black members. Why don't they do it? It would seem that it would be an issue that would be politically close to them.

VAN BOURG: The reason is very simple. It's that the unions are not political animals. And they're not political animals because of the law passed in 1947 which denuded the trade union movement of its intellectual force and of its *progressive* forces. In 1947, the Taft-Hartley Law was passed with two insidious provisions: a union ~~can~~ ^{could} not contribute to a political campaign, even though 100% of the members want the contribution to be sent, and Communists ~~can~~ ^{could} not hold union office. Since there were very few Communists in union office at that time, most of the people who were swept out by that legislation were not even close to being Communists, just solid trade union *progressives*. For 23 years the trade union movement has been virtually a eunuch, politically.

Congress didn't want working people organizing in a political sense after World War II. The reason bosses fear unions is

not because of their collective effect on wages, hours, and conditions of employment, but because of their collective effect on the politics of the nation, which can seriously affect wages, hours, and conditions of employment. Now the employers have the ability to shut us down. General Electric can close a plant when we get strong and they can move it down to Georgia, where we're weak. The runaway shop is a pattern of American history. Workers could stop runaway shops through legislation if they had strong political organization.

AFG: How strong are the unions today?

Van Bourg: There are about five rich unions in the country, and the minute there are layoffs, they start hurting, too, because dues payments go down immediately. More than 80% of all *local* unions have no office, have no secretary, have no telephone, and have nobody on their payroll. The officers of the union work full time for their employers with whom they have to deal on grievances. These unions often need tremendous help from the lawyer.

major industry, a local whose officers all work in production.
For example, I represent a local union in a X I go

down with them to their safety meetings with the bosses, just to give them beef. Not just because I'm beefy, but because they have to show management, "Look, we're not alone!" That's not a traditional role of the lawyer, but I sit there and I start yelling at management. the burden is lifted off these guys who have to work for the same people every day. Management gets mad at me and therefore they are no longer quite as mad at these guys. That way we get something done, like getting a fan in to get rid of noxious fumes.

At the bargaining table my role is much more dominant, because these guys come right out of the plant to the bargaining table. They don't even get the time off with pay--they get docked, and the union doesn't have any money to pay them. So the workers come right out of the plant with the noise of the machines still ringing in their heads, and they're dirty and not quite sure how to proceed because management is sitting there all in suits ^{white shirts,} and ties. They sit down to start bargaining on the conditions of the contract.

A lawyer is very important to them at that point. They don't want him to take over. They don't consider that he is their intellectual superior, but they say to him, "You've got a suit and tie on and we need you here because their side also has people like that." They are very proud.

Then it becomes a battle. By afternoon they've forgotten that they're tired and we have caucuses and we smash it out toward the end of the time when the contract has to be negotiated. I'm already sitting over on the sidelines, and they are leading the fight in the negotiations. Invariably that happens if the lawyer is ~~negative~~ positive. If he doesn't inject his own ego into the negotiations.

STUDENT: Does it help the union to have a lawyer who is skilled in arbitration do the arbitration work for an individual client or a union, or does it make the client come to depend entirely on the lawyer? Does this keep them from _____

developing their own leadership ability to handle things and to have more confidence in themselves?

Van Bourg: Well, I'll answer it this way: Present-day arbitration is a very formal procedure, rather than informal, and there's a body of arbitration law, both state and federal-- statutory and case law. I would say that a union should never take on an arbitration, even on a simple discharge case or a discipline case, without a lawyer.

The reasons are simple. The arbitrators are by and large lawyers. And the companies by and large are represented by lawyers.

The leadership of trade unions are working people who have come up through the ranks. There is no such thing as a guy being a trade union leader who's a businessman; he's elected, he's a politician. And even the most intelligent, ~~the most~~ articulate, ^{and} ~~the most~~ trained guy, can not handle two lawyers speaking to each other. When the arbitrator speaks legally to the company attorney, and the company attorney answers him legally, or when the company attorney asks questions ~~on direct examination or on cross-examination~~ of ~~either~~ an adverse witness or a friendly witness, in legalese, our people are lost. And that's the procedure; it's an adversary procedure.

Student: Is there a difference between representing your clients in arbitration and in negotiation?

Van Bourg: A tremendous difference. Arbitration is usually a

step that takes place in the administration of a contract once it's been negotiated (unless you have arbitration over an impasse at the bargaining table). But negotiation is when, either for a first contract or for a normal contract reopening, we sit across the table from management and we bargain on the terms of the contract. I have various ways of handling negotiations. If the leadership of the union is capable of doing it on their own, I don't even come to the negotiations. About 80% of my clients are that way. But when the company gives them some language, it's our arrangement that they don't sign the contract until they submit it to me to see if there are any legal hooks in it. And I also prepare language ~~for the contract~~ for the union to submit, and then before the whole contract is wrapped up, I review it from top to bottom,

Student: Do you mean there isn't a lawyer on the other side in negotiation like there is in arbitration?

Van Bourg: Usually there's a lawyer on the other side, but I have enough confidence in my clients' ability to know their own policy, that they don't need me to speak their policy. They know a nickel. They know a dime. They know a concept. They're as bright and as sharp as anybody here. ~~But~~ what they can't do is joust with a judge or ~~with~~ a lawyer in the language of the courtroom, and arbitration is ~~the language of the courtroom.~~ Arbitration is a court proceeding, in essence.

But at the bargaining table my people can _____

screw up those company lawyers something terrible. The management makes a mistake; The only people who know management's problems are the personnel relations people ^{or foremen,} and they sit mute at the bargaining table while some lawyer comes in from an eastern office and starts negotiating with our people, and he just gets smashed. I don't have to be there; our guys know how to do that fine. But some unions don't have that kind of leadership. Sometimes I'm spokesman at the negotiating table and sometimes I'm simply there to participate in caususes or to watch what happens.

~~But~~ there are some parts of the contract that only lawyers negotiate normally, ^{such as} grievance and arbitration procedures, ~~are often negotiated by lawyers,~~ although the economic aspects were negotiated by the parties without lawyers. Other things, like hiring procedures, might be negotiated by lawyers because, although most of our people understand how their hiring halls operate, they don't understand how to put it all down on paper, and we do have that ability.

And now the question comes up, whether you're representing unions or any other group of people, such as tenants' unions: How do you not usurp the leadership position, [?] ~~of the union or the rank and file of the union?~~ It takes a great deal of thinking as to how you're going to relate. If you're good technically, and the union wins, it's probably the first time these people have ever won anything in a formal procedure. Their victories are usually in the street. They just absolutely don't believe that anything

can be won at arbitration or in court. So when you win for them consistently because you're good, if they trust you, the people will try to get you to make the decisions. This is the thing that we spend the most time with in our firm: the whole question of patronizing attitudes and how not to usurp the union position. We have an absolute rule, a prohibition, against getting involved in the policy decisions of the union. We're very firm with the client.

We say, "When you're asking, 'Should we do this?' that's a policy decision and you make up your mind. When you tell me what you want to do, then I'll tell you what the legal consequences might be which flow from it, which might make you reconsider your decision. But I want you to make your decision on the policy question first before you tell me about it.

"Furthermore, I'll tell you another thing: If you think it's important for the union to do a certain thing, I couldn't care less that it's illegal. You do it, and we'll get you out of trouble, *if possible.* If it means the survival of the union, and it means attacking the boss, all you've got to lose is your treasury, which you don't have anyhow, so go ahead and do it."

Now that's not a position that most lawyers will take. Remember, you have to be an officer of the court if you're admitted to the bar, and you have an obligation, under our very interesting system of Anglo-American jurisprudence, to advise people that what they're doing is illegal, and in essence to be a fink on your client. Well, I don't adhere to that. I

am an officer of the court, and I tell the courts exactly what I'm telling you, and that is that if I perceive the law to be immoral and unconscionable, even if it has been upheld on its constitutionality, I will advise my client that I think it's an immoral law. And if I can tell them that something is illegal but that nobody can go to jail for doing it, and the most that can happen is that ~~you~~^{they} can be sued for damages, I'll tell them that. Nobody's going to put me in a position of *advising*, "Don't do it because it's illegal," because I do not own my clients, and I do not tell them what to do or not to do.

You can only play the role I have just described when you have established yourself in the legal community. And you can only establish yourself ~~in the legal community~~ by being in a position where you can whip the best of them on any given day, even when they hate your guts because they disagree with your politics.

I'm not preaching now, but the one crucial political shortage that we have now is young people who are progressive and who are also willing to take the time to become good mechanics at the trade. When I put a man or woman in the courtroom as a lawyer for our office, to defend a case on an issue that might affect 50,000 people, and the judge is against us and the laws are against us and the whole system is against us, I expect that person to win, and the only way he or she can win is by dominating the proceeding and pushing everybody around. And you can only do that if you know how, and it takes a long time to learn.

Student: Do you have any suggestions about learning to dominate the courtroom?

Van Bourg: Spend two or three years of your life immediately after law school working for somebody who knows his way around pleadings and procedure, and who will give you tremendous exposure to trials. Let me tell you why:

To represent poor people you need to be very efficient because you can't charge them very much money, ^{if} ~~or~~ any.

~~You~~ You can't learn efficiency in law school. If you spend a couple of years in the Peace Corps, ~~or some other project,~~ or even clerking for a judge, which is always a very romantic idea, you won't get the work habits. Going to work for the government will just destroy you as a lawyer. You have to get where the action is, and that's not in the government.


You must become a mechanic, so you are sure of yourself. You need to have good work habits, like reading the latest court opinions regularly. When I have to research a question I don't have the luxury of time. I have to know the answer already, or exactly where to find it fast.

And, although it's a terrible thing to say, you must cut your hair as long as the majority of the people you want to help are straight. They won't trust you. It took me a long time to be able to grow a moustache and I still get comments, not from the leadership but from the rank and file, black and white. "Hanh hanh, hippie, huh?"

Of course, it goes deeper than how long your hair is. For example, I worked for eight years for the general counsel of the state AFL-CIO. I got the broadest orientation and training

imaginable. I drafted legislation; I lobbied, ~~in Sacramento,~~
I did all kinds of litigation and appellate work, ~~I got the~~
~~broadest kind of trial experience~~ in administrative ~~hearings~~ and
court ^{cases,} ~~trials.~~ I took workmen's compensation cases, unemployment
insurance cases, attended meetings at night. When I felt that
if I stayed in that job I would forget what I was, I made my
move. I went on my own and established a broad union base.

STUDENT: What about caucuses in unions based on race or nation-
ality?

VAN BOURG: My own philosophy is in a state of transition right 

now on that question. I believe in a mass organizational approach to all collective activity; that ^{the} organizations where people find themselves must be built, not torn down; and that the institution must *not be destroyed; it must be* ^{turned to good purposes.} I'm not sure that's correct, but that's the premise from which I have always operated.

If it is correct to have integration--and I'm saying it that way because I'm not sure--if it is correct to have integration rather than a partnership of races and nationalities, then it doesn't make sense to have divisions on a racial or national basis within the unions. The black caucuses in the United Auto Workers in Detroit are not unique. We have had many such organizations. Primarily they started on a religious basis, with a Jewish group or a Catholic group. That's always been true in America. I guess it's been true in all institutions where different human beings gather. But what happens is that all of the energy and creativity of the members of the caucus are focused against the union or the organization, and again the enemy slips by on his own.

It's like a jurisdictional dispute--two unions fight over one job. Who benefits? The boss. I don't know how unions are going to get truly unified, because union membership really reflects the country, the working people. White working people don't want their daughters to marry black guys, and vice versa, and Japanese-American working people don't want their kids to marry anybody but Japanese-Americans, and Jewish working people don't want their kids to marry gentiles. That's the way

it is. How do we overcome centuries of cultural tradition?

You must understand the culture of the unions that you deal with. Some have their own national and ethnic cultures built in; some have a subculture--like one of the construction unions has a very bad record in keeping out members of one minority ethnic group, but it has the highest percentage of members of another minority ethnic group. *There is a*

*numbers of
substantial*

*union in Hawaii with
perhaps
there is*
Filipinos and Japanese, and

discrimination against Chinese and Portuguese.

In general, our trade union movement is beset with the central issue of society, namely, "Can we live together as human beings?" We're thrown into competition for jobs, since there are more of us than there are jobs. I'm not sure what some of the solutions are.

Student: I've noticed that one of the major factors keeping blacks from becoming more radicalized is the racism practiced by unions. Whenever black workers look from the historical or philosophical reasons for organizing ~~the~~ workers, or for socialism, to the reality, they find that management somehow seems to be more responsive to black needs than the unions. The racism in unions is of the most blatant kind.

Van Bourg: Well, that's a blunt assertion. Don't put me in the position of being an apologist for racism among my clients or any other institution. But I think you're dead wrong. Let me tell you why:

We have now approximately 18 million union workers in America. We have much more than ~~two and a half~~^{2 1/2} million black union members. So that's a higher proportion of blacks in unions than in ~~this~~^{the} society as a whole. How does a union get members? If it has a contract in ~~a plant or in~~ a place of employment, it usually has what we call a union shop. This means everybody who goes to work for the boss must become a member of the union. In order for him to become a member of the union, he's got to get hired, right? Which means that the employer has the absolute right to hire whomever he pleases and the union has no control.

Less than 15% of American workers secure their jobs through union hiring halls. In all other companies, management advertises and hires as it pleases when people come to the door for a job. The biggest employers are the huge manufacturing plants. You have no doubt that the Auto Workers are an integrated union?

Student: No.

Van Bourg: They have 1.8 million members. You can take another 75 unions and put them ~~all~~^{all*} together and they'll have less than 50,000 people. Even if all of them discriminate, the effect of that discrimination versus the 1.8 million people in the Auto Workers

must be compared. Not to say that discrimination is good, but to consider ^{what} the results of discrimination by unions *are*.

Student: In the Auto Workers case, management hired more blacks than were hired through the union.

Van Bourg: That's right. The management hired blacks and the union did not resist it.

Student: I want to to talk about the union practices.

Van Bourg: I'm willing to talk about it.

Student: ~~the~~ the fact that they have training programs, apprentice programs.

Van Bourg: Unions don't have many programs. That's the whole point, and that's what we've got to talk about--where the bodies are. Almost no unions have apprenticeship programs. If you could make every apprentice in the state of California today black, there would ^{still} be *a comparatively small number.*

Student: Why does it always come up when blacks try to get in the union?

Van Bourg: I think there is no point in talking about it unless you have the statistics. Again, I'm not apologizing for unions that are led by reactionaries or racists. I've got my own prob-

lems with them.

Let's talk about the 15% of unions which have hiring halls. The two largest unions in the Bay Area with hiring halls are the ILWU and the Laborers' Union. Neither one has an apprenticeship program.

You and I are subject to the same stereotyped attitudes that everyone else puts on. I represent the Laborer's Union. The normal attitude is that the laborer is not a skilled worker, right? Just a pick and shovel man. That's just not accurate. Much more than half of the classifications covered by the Laborer's contract are skilled classifications. Machine operators, handtool operators, tunnel workers. Some locals in the Laborers Union in the Bay Area have as high as 80% black members, some as low as 40%, none lower. The lowest is in San Jose, which has about 40% black and 40% Chicano. The leadership reflects the majority of the members, so there are black business agents, black presidents, and so on. That's in the building trades, the skilled crafts. Incidentally, the wage for laborers in the lowest classification is in excess of \$5 an hour. That's just to do pick and shovel work or clean^up work.

One of the highest skilled building trades union³₁ is the Plaster and Cement Masons.)

It has about the same percentage of blacks in this area as the Laborers Union, and ~~they have~~ ^{it has} a hiring hall. ~~They~~ ^{It} also ~~has~~ ^{has} an apprenticeship program, and about 80% of the apprentices are black. The Carpenters Union has 18,000 members in the Bay Area; it has a hiring hall, and strange as it may seem ^{to you}, it has

1,800 black members. I represent that union. I represent a local of *skilled mechanics in San Francisco*; it has an apprenticeship program, and no hiring hall. This is an integrated local with 8,000 members who work at *one industrial location*.

And I represent a black local of the Paper, Pulp & Sulphite Workers in Bogalusa, Louisiana working at Zellerbach Paper Company. There is also a white local of the Paper, Pulp & Sulphite Workers; the president of that local at one point was head of the Ku Klux Klan in Bogalusa.

AFG: So what you're saying is that you wear many hats simultaneously.

VAN BOURG: What I'm saying is that I've kept my pants on and I've kept my dignity, and nobody has made me somebody else's man. I've been able to keep my ideals and my beliefs and nobody's taken them away from me.

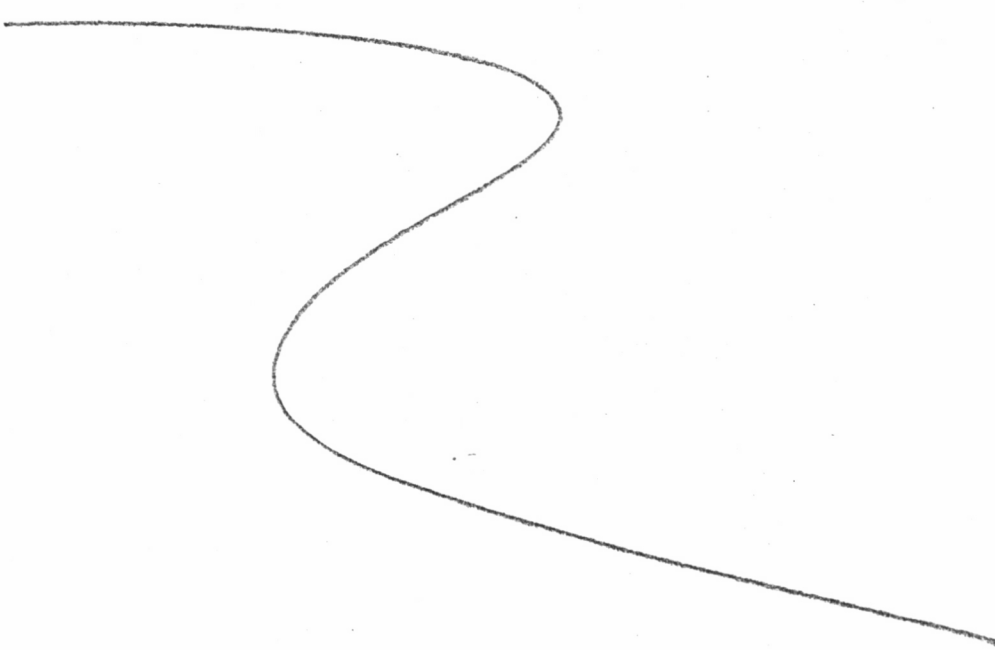
Now let's take the problem a step further.)

There are very few blacks in the Pressman's Union here. Why? There has been a seniority clause in collective bargaining agreements with management since 1898. There are members of that union still working at machines who went to work in the 1920's, when there were virtually no blacks in this area. The seniority

clause is something that working people have always fought for. And it takes a fantastic amount of education ^{before you can} to say to them, "Give it up."

Now let's talk about the Molders Union, which is predominantly black. Molders work in foundries. Foundries are always closely associated with shipyards. The first place that blacks came when they came to the shipyards in the Bay Area was to the foundries. So there are guys in the Molders Union, blacks, with 30 years' seniority. And I would ask them to give up the seniority clause? *Of course not.*

Seniority is an issue of job security for a worker, black or white. How are we going to educate the people to give it up? It's the same problem we have between young and old workers. Old workers want pension plans. When they go on strike, they want a portion of that raise to go to the pension plan. The young workers say, "I'll never get old. I want it all on my paycheck now."



~~AFG: I would like to stick in one small comment about the Typographical Union. They had women members early. Even in the late 1800s women could sometimes get jobs in print shops.~~

Student: Would you represent a group in one of these white unions, a group of blacks, say, who wanted to break through on this? That's the issue.

Van Bourg: Sure, and I have. I don't call that a dissident group. But I would pick and choose whether I would represent such a group, because one of the rules I have is that I will never sue a union. I've represented groups of minority workers in various unions against the union. But not in litigation, because I've been able to accomplish what I wanted without litigation.

AFG: What if you couldn't?

Van Bourg: I would sue, but I would first advise my clients that the purpose of the suit would be self-defeating. I also will not represent a union, even when it pays me a retainer, in any action against it before the Fair Employment Practices Commission, unless it's a frivolous action.

AFG: Would you represent a complainant against a union before a Fair Employment Practices Commission?

Van Bourg: Against a union that I represent? No, that would be a conflict of interest. I wouldn't mind losing the client. I have kicked union clients out of the office because they were resisting taking ⁱⁿ a black guy.

Just because a person is a lawyer doesn't mean that he can't take sides on philosophical and social questions, and I do all the time. There are unions that I will not represent even though they ask me every day, because I feel that their self-interests as they see them are incompatible with my ideas.

But I also feel this way: I am truly a believer in a united front. And I believe the reason that human beings have not yet seized the reins of their own power is that they have never stopped fighting among each other. I don't know what the answers are. But I do believe that management continually creates situations that get us into this box.

AFG: Do you mean that you never represent a union in a jurisdictional dispute with another union? And you wouldn't go to court in a jurisdictional dispute?

Van Bourg: I will not.

AFG: That's quite an important statement, because unions are always getting into fights with each other.

Van Bourg: I've had only one jurisdictional dispute before the

National Labor Relations Board, and that had a peculiar issue. The union I represented had people out of work, and the union that was contending for the job had members who were already employed during the daytime and they wanted to work at night. I'm opposed to moonlighting. I believe a man ~~sh~~ould have his full rest. I thought it was very important to resolve that issue of moonlighting, and I fought on that issue and not on the issue of who had the God-given right to the work.

STUDENT: How would you handle a situation like the one in Chicago, where the Transport Workers, bus drivers who are about 75% black, have gone out on strike twice in the last two years, and whites, including the union management, keep the system going as much as possible?

VAN BOURG: You mean they're scabs? I'd deal with those scabs just like I'd deal with any other scabs.

STUDENT: But they control the union!



VAN BOURG: A scab is a scab, it really doesn't matter if he's a black scab or a white scab; he's not really a human being. I really believe that. I mean, if a man makes a profit out of another man's suffering, he's as bad or worse than the boss, because the boss--at least his interests are clear. This guy is not with the boss. He's been bought off. He's like a fink.

AFG: Can a labor lawyer play an educational role on the question of relations between men and women?

Van Bourg: Of course, Ann, and you do that by hiring women lawyers and showing the clients that you believe a woman lawyer can be as good as a man. Some of our toughest *building trades men* become injured and a woman lawyer handles their cases. They say, "I never had a woman lawyer . . .," but then they go down to the court and she whips the opposition, and they're convinced. That's probably the best thing we can do in a liberating way. Of the 24 lawyers in our various law offices around the state we have three women lawyers, one of whom is one of the top six partners.

Women lawyers have had a difficult time getting jobs, except in the domestic relations field or in government. The only other place where there have been substantial numbers of women has been in labor firms. The women do hard-hitting, aggressive, cooperative work. My partner Arleigh Woods, a black woman, works out of the Los Angeles office. She has

been considered one of the top three workmen's compensation lawyers in the state, and is a fantastic criminal lawyer.

In addition, we talk about these issues all the time. I

inject my economic and political philosophy in every relationship I have.

Student: What about women in the unions?

Van Bourg:

In some unions I represent, women predominate--waitresses, culinary workers of various types, and a lot of manufacturing unions where there is sitting-down bench work on an assembly line basis.

Student: Isn't that sometimes a problem in the same way that the conflict between old and young union members is? The conflict between men and women, like on maternity benefits?

Van Bourg: Yes, but where we have large numbers of women, such as in an office employees' union, maternity benefits are normally negotiated and the men kind of sheepishly say, "Yeah-yeah." the men usually have higher wage rates, so they concede on maternity benefits.

One of the big problems is that the fore^amen in a plant where there are a lot of women very often ^{has} have liaisons with many women workers at one time. It's a real exploitation in the plant. And this comes up in collective bargaining. It is a very difficult situation to have women sitting on a negotiating committee at the collective bargaining table across from the guys under whom they work and from whom favors are given on this very debased level.

Student: Do you think women are harder to organize into unions?

Van Bourg: No. The hardest people to organize are white collar men and professional groups. Industrial women workers are some of the most militant people we have.

Student: I asked because I know a few people who work as stewardesses.

AFG: But that's another question--that's sexism, too. They're hired because they're beautiful and a certain age. That's not the ordinary woman worker.

Van Bourg: Women aren't hard to organize. The groups that are most amenable to organization are all minority groups, if you think of that in the broad sense. The people who are not getting a fair shake in our society are easier to organize if they are aware of that. And most people who have a bond with other people on the basis of nationality or sex or something like that, do a lot of talking among themselves; they have ties. And they are already organized when you get to them. You just have to convince them to join the union; you don't have to convince them to organize.

For example, take the farm workers. I went out into the delta in the San Joaquin area in the first organizational drive in the last 15 years among the asparagus workers. The asparagus cutters are Filipinos and they already had crews organized. They had a crew boss; they shared their earnings and everybody got exactly the same amount. You could always tell a Filipino camp because they all went out in one car or several cars which they shared; they were totally organized. The union sent a Filipino organizer to tell them what the union was about. They met, and they came into the union just like that. They still pay^s dues, ~~to this day, although the union is now in Delano.~~ And they're still organized among themselves.

You see, the same people who cut the asparagus also tie the grapevines and harvest the grapes. They used to drive up the prices even before they had a union. They'd simply cut the grapes and leave them on the ground. Let them sit there and wait

for the boss to come out. You've got to cut the grapes early in the morning and get them boxed and into the cooling shed, because as the heat rises during the day, the sugar content of the grapes changes. So they just sat there until the boss came out. ~~They organized themselves; they did that by themselves without any union.~~ It was no problem to ^{sign} organize these people. *up.*

STUDENT: Do you think union lawyers have a different approach to their clients than other lawyers?

VAN BOURG: I can't speak for other labor lawyers. I'm a lawyer because of political conviction and I'm not a religious zealot with a mission. But I do have some _____ basic premises upon which I operate. I've told you about some of them.

I also think that man is basically good and not evil, no matter how terrible are all generalizations like that. But I have to have some general approach as a lawyer because every guy that comes to you, you make a judgment about. ~~He tells you his arm hurts. You have to either believe him or disbelieve him because later you will have to convince the judge that his arm hurts if you take the case.~~ If he's fired, and management says he was sleeping on the job and he says, "I wasn't sleeping on the job," you have to determine right then whether you're going to believe him, *because if you take the case you will have to convince the judge later that he was awake.*

Most lawyers are jaded and cynical people, from a very young age, and they don't believe people. And being able to believe

somebody, and at the same time be critical about his circumstances, from a legal standpoint, is not easy. You have to make a legal evaluation in rapid fire order. Like after you've seen the guy for about five minutes, you're already making the decision on whether you are going to be able to convince the judge, or the arbitrator, or the trial examiner, about the facts of the case.

By the way, I think you're making a mistake, [#] Ann. The guys that are coming ^{to this Tom Paine School} ~~here~~ ^{all} to talk are cut out of the same tree. You ought to get a down-town lawyer here.

I really think that radicals won't do anybody any good unless they know the face of the enemy, and I think you have to relate to them on a daily basis. When I'm representing a guy who's been fired who has worked for a company for 18 years, and I know I'll lose the arbitration for some reason, I have to call up the management lawyer and say, "I want this guy put back. Please put him back." And if I can get him reinstated I'll spend some time talking to the company lawyer, take him to lunch and buy him a drink afterwards.

AFG: What if McCarthyism really takes hold again? Could you settle cases that way with the company lawyers?

VAN BOURG: Of course not. As a matter of fact, if I were attacked publicly because of my politics I'd lose my clients, about half of them.

Issues like that still come up. For example, I was the one who brought Walter Reuther to Delano and originally got the Auto Workers and the Farm Workers together down there. There was a big rousing rally at the Filipino hall in Delano, and I sat on the same stage with Larry Itliong, who is a very good friend of mine. He's the Filipino guy in the Farm Workers, the assistant director under Chavez. And "American Opinion", a John Birch Society magazine, wrote an article about him, accusing him of being a Communist and we filed libel suits.

A labor lawyer does all kinds of things. He has to be able to be a good trust lawyer, a good contracts lawyer. I get involved in libel actions all the time. Some of the biggest trials I've had have been on that.

But I missed the worst of McCarthyism because I became a lawyer in 1956. And it's very clear that progressive lawyers of my generation are essentially alone in this world. You young guys have it over us--there are more like you. When I was in law school I was almost totally isolated. Now I think I'd be in the majority in some law schools; not many, but some.

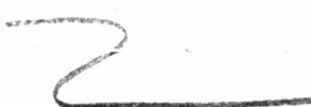
I think this generation is tremendous. If I could get kids interested in unions, I would feel the battle was almost halfway won.

AFG: Interested in unions affirmatively. Some of them are interested in unions; they hate them!

Van Bourg: There is an anti-intellectual feeling on the part of working people. And an anti-working people feeling on the part of intellectuals. You have to understand that, in this area, traditionally the strike breakers were students.

AFG: Football players particularly.

Van Bourg: When the longshoremen struck the waterfront, students came in school buses and took their jobs. When the farm workers strike, high school students come down and scab. Don't be too hard on workers who remember who was scabbing on them a few years ago. And they don't understand you guys; they don't understand how come you're like you are. All this is new to them.



STUDENT: How does your law firm operate? What's the structure?

VAN BOURG: We have 24 lawyers, with offices in *eight cities*

STUDENT: Are the employees in your office in a union?

VAN BOURG: Yes; they're paid union wages, and they sign a union contract with us.

And, while we don't make that much money individually, everyone in the firm makes a good living. There's a difference between making a living and becoming rich. ~~And,~~ in terms of the world's population, I earn something that puts me in the top 5% of the world. It's not hard to be there. You make more than 25 grand and you got it. And at the same time I don't have to screw people in order to get it.

STUDENT: What's your perspective about law practice?

VAN BOURG: After a couple of years of going through some real serious problems, I've decided to continue being a lawyer and ~~to~~ ~~that I'll~~ try to convince others to become lawyers. I would like to see 2,500 progressive lawyers in the state of California--250 could turn it upside down.

I'd like to hire every one of you. But by the time you graduate, we'll be in group legal practice.

I think that as long as our legal institutions are about the same as they are now--that is, our statutory and common law, and our courts--we should move toward a prepaid legal system that operates on a very large basis, like a prepaid medical system.