

ELR 625 Processes of Collective Bargaining

First Case Analysis

1. (five points) The year is now 1909. Over the past couple of years, the International Union of Widget Molders (IUWM) organized workers in 80 widget factories in the states of Alabama, Arkansas, Virginia, New Jersey and Pennsylvania. These factories produce 75% of the world's widgets. The widgets are shipped by rail and by sea throughout the United States also to several foreign countries. The organizing campaign was long and hard fought. In winning the right to represent the widgeteers (widget molders were called widgeteers) the union used a variety of tactics, some considered to be violent and some considered to be non-violent.

For example in the Alabama campaign, the union started a leafleting campaign where they handed out literature to those who were coming into the factory. None of the leafleteers were employees of the factory. Those handing out leaflets did not speak to those entering the factory but merely handed out the literature. When this quiet tactic did not work, the union representatives started shouting requests to those entering the plant to not do so. There was no physical contact with any of those entering the plant.

In Virginia, the union organizers dressed in costumes depicting Thomas Jefferson and espoused the right to certain freedoms as something that Jefferson would want were he alive today. In particular, the freedom to organize for the common good. Many persons in the community, customers and non-customers were swayed by this depiction and did not do business with the Virginia factory and business fell off a good bit.

In New Jersey, things became a bit more active. Members of the IUWM put together a crew of organizers who drove wagonloads of garbage onto company property and deposited millions of tons of garbage in the entryways of the New Jersey plants. As a result the factories were overrun with large rats. The factory owners were reduced to calling out sharpshooters to kill the rats and hiring workers to remove all of the trash at great cost. The end result was that the New Jersey plants were shut down entirely for a substantial period of time.

Later in the campaign the IUWM put motor oil on the rails of the Baltimore and Ohio Railroad line from Pittsburgh to Washington, D.C. By doing this the wheels were unable to grip the rails and the cars carrying the widgets were seriously delayed. The widget manufacturers lost many contracts. Some of the widgets made it through but most of the widgets traveling by rail were stalled in their delivery.

For your response to this scenario, please assume the role of an attorney hired to advise the

owners of the factories what they should do in the future to thwart these tactics by the IUWM. They are thinking perhaps they could have gone out and obtained an injunction, but foolishly they didn't hire an attorney and these tactics were not stopped. They want to be prepared if any of this happens again. You must examine the law as it stands in 1909 (based on the materials in the book and from our class discussions and PowerPoints) and

explain to them what their chances are to succeed in obtaining an injunction against each of the various IUWM tactics, along with any other remedies or discouragements that might be used to limit the success of the IUWM. In doing so, you will provide some history for them as to how the courts and the legislature have looked at this type of behavior (but do not discuss anything prior to 1850 (I'm just trying to help you out by focusing this assignment only on the period 1850 to 1909). Examine each action separately, apply the various **laws/statutes** up until the time as well as the relevant **case**

law (from the book) and also tell them how **Justice Holmes** would have handled this, if he was deciding the case. Evaluate the owners' chances of prevailing in each situation. It is imperative that you substantiate your answer.

2. (ten points) The year is now 1933. Assume that the events from question 1 involving the IUWM and the factory owners did not occur in the years just prior to 1909, but assume instead that they occurred in 1933. Trucks have now replaced the wagons, of course, but the rest of the facts are the same.

For your response to this revised scenario, please again assume the role of an attorney hired to advise the owners of the factories what they should do in the future to thwart these tactics by the IUWM. They are thinking perhaps they could have gone out and gotten an injunction but foolishly they didn't hire an attorney and these tactics were not stopped. They want to be prepared if any of this happens again. You must examine the law as it stands in 1933 (based on the materials in the book and from our class discussions and PowerPoints) and explain to them what their chances are to succeed in obtaining an injunction against each of the various IUWM tactics, along with any other remedies or discouragements that might be used to limit the success of the IUWM. In doing so, you will provide some history for them as to how the courts and the legislature have looked at this type of behavior (but do not discuss anything prior to 1910 in your response as we addressed that in the previous question). Examine each action separately, apply the various **laws/statutes** as well as the relevant **case law** (from the book). And again, please limit your discussion to laws and cases from the period 1910 to 1933, and to materials covered in the book. There is no need to discuss Justice Holmes as part of your response to this question. Evaluate the owners' chances of prevailing in each situation. It is again imperative that you substantiate your answer.