

**Opinion No. 636****Labor—Unions—County Employees.**

**HELD:** There is no law which prohibits a labor union from soliciting county employees to become members of it or which prohibits county employees from seeking membership in a labor union.

October 31, 1934.

Your letter to us of the 15th inst., is as follows:

"The question has been presented to our office as to whether or not an employee of the county and particularly those men who are employed by the county surveyor's office who work on the roads, can be unionized?"

"It is our opinion from examination of the statutes that there is nothing prohibiting an employee of the county belonging to the union or is there any provision in the statute prohibiting the union soliciting employees of the county from joining their union.

"Would you kindly give us your opinion as to whether or not employees of the county can be unionized?"

In this state and happily in every state of the Union so far as we know, combinations of workmen are lawful. (*Empire Theatre Co. v. Cloke*, 53 Mont. 183; *Martin's Modern Law of Labor Unions*, sec. 6; *Oakes' Organized Labor and Industrial Conflicts*, sec. 2.) This must of necessity be so in Montana because its statute expressly protects the union label against counterfeiting or any unlawful use. (Sections 11204-11208, *Revised Codes 1921*; *Tracy v. Banker*, 170 Mass. 266, 49 N. E. 308, 39 L. R. A. 508.)

It is now well settled that workmen may band themselves together for the purpose of bettering their condition, either financially or socially, by every legitimate and fair means, and such an association is not a monopoly or in restraint of trade. (*Martin's Modern Law of Labor Unions*, sec. 6; *Blumauer v. Portland etc. Union Local*, 17 Pac. (2d) 1115.) The view prevails everywhere that labor has the same right to or-

ganize as has capital. It has been said that "organized labor is organized capital consisting of brains and muscle, and has as lawful a right to organize as have the stockholders and officers of corporations, who associate and confer together with relation to wages of employees or rules of employment, or to devise other means for making their investments more profitable." Labor organizations are no more unlawful than any organization or combination of farmers or manufacturers, doctors or lawyers. The right of laborers to organize unions is an exercise of the common-law right of every citizen to pursue his calling, whether of labor or business, as he, in his judgment, thinks fit. Hence it is that the organization of workmen is not against any public policy and that labor unions are not unlawful combinations. They are not only legitimate, but, because their aim and purpose is to better the living conditions of a large part of the body politic, they are a necessary part of the social structure. (*Oakes' Organized Labor and Industrial Conflicts*, sec. 2; *Martin's Modern Law of Labor Unions*, sec. 6.) It is no exaggeration to say that in many instances labor organizations in the exercise of their rights have made men out of serfs and given them a dignity in the social life of their communities that they did not theretofore possess.

Some years ago public school teachers of the city of Cleveland formed an organization known as the Grade Teachers' Club, the two main purposes of which were to secure higher wages for the teachers and to correct certain methods of the school system which were claimed to be unnecessarily burdensome to both pupils and teachers. After unsuccessfully devoting its efforts to that field for a time, the club adopted a plan to affiliate with the American Federation of Labor in order to gain the influence of union labor organizations. A controversy thereafter arose when the superintendent of schools, in obedience to a resolution passed by the school board, failed to reappoint six teachers who had been active in the club's movement to affiliate with the American Federation of Labor. In dealing with the question the court of appeals of Cuyahoga County in *Frederick v. Owens*, 35 Ohio, C. C. 538, among other things said: "We have

not here for consideration and determination the question of whether it was wise or unwise for the teachers' club of Cleveland to affiliate with union labor organizations, and we have no opinion to express upon that subject. That they had a perfect right to affiliate with these organizations and the organizations with them, if they saw fit, everybody must concede. That right is guaranteed to both by the constitution."

We know of no law which prohibits a labor union from soliciting county employees to become members of it or which prohibits county employees from seeking membership in a labor union.