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LEGAL RIGHTS -- FINALLY

By Dick Meister

By the time you read this, or certainly not long afterward, California will have experienced what Governor Jerry Brown has every right to call "a truly historic moment." For the governor will have signed legislation that guarantees California's farm workers a strong, effective union of their own choosing.

It's the climax to three-quarters of a century of bitter, bloody and frustrating struggle, the last decade of it under the crimson and black banners raised by Cesar Chavez and his followers on farms, at supermarkets, in meeting rooms and legislative halls, in churches and schools all across this country.

Much of the credit for the long-delayed victory belongs to the governor himself. He took over for the last few miles, steering the legislation through in a fascinating display of political skill.

But the greatest share of the credit, and the great victory, must go to Chavez and other leaders and members of the United Farm Workers of America and to the UFW's broad coalition of supporters. For ten years they waged a tough battle, rising up to win at the very moment they were being counted out by the many observers who overlooked the essential fact that they really would not give up.

The growers who had fiercely resisted genuine unionization finally had to bend to the unremitting pressure, as did the Teamsters Union leaders who came forward in recent years to help the growers resist. They sought a politic way out, and Governor Brown gave it to them in the Agricultural Labor Relations Act of 1975.

It's not over by any means. There are still hundreds of thousands of farm workers to organize, hundreds of union representation elections to be won. But the tool that will make it possible will be available and, as the history of the past ten years should now make clear to everyone, the UFW will undoubtedly use it with great effect.

The legislation is not all that the UFW demanded – growers and Teamsters had to be granted face-saving compromises – but it's close enough to virtually assure success. For it gives farm workers the right to election in which to choose a union, the right to the economic weapons necessary to realize their demands, and the right to government protection.

As promised in his election campaign, Brown made such legislation a top priority. His version, prepared over a period of three months by lawyers in the state's Agriculture and Services Agency, was the first major legislation proposed by the new governor. That was on April 11, in bills carried by two Democrats, Senator John Dunlap of Napa and the Assembly's majority floor leader, Howard Berman of Sherman Oaks.

The bills proposed gubernatorial appointment of a five-member Agricultural Labor Commission to operate in the farm field as the National Labor Relations Board operates in non-agricultural employment. Basically, this commission would conduct union representation elections whenever called for by a majority of a grower's employees, and it would handle unfair labor practice charges.

Brown set out immediately to win widespread support for his proposal. For two weeks he traveled the state, meeting daily with influential people on all sides of the issue. He also sent letters to 18,000 key people – “bankers and labor leaders, clergy and growers, those who are directly and even emotionally involved who might have had a description of the proposal from others,” according to Brown's executive secretary, Gray Davis.

The descriptions they were hearing from others were not complimentary. Each of the factions involved had its own bill that differed from the governor's measure, and was angered that Brown had not endorsed its proposal instead of offering his own.

Brown is much closer to the UFW than to the other factions; he has marched with Chavez, and his director of administration, Leroy Chatfield, was Chavez's administrative assistant for eight years. Yet the UFW raised the loudest objections. The union and its supporters attacked the governor's bill as “basically deceptive” and “inherently racist.

Andy Anderson, director of the Teamsters' Western Conference, called the bill “immoral.” Grower spokesmen were less vehement, but they did claim, as one key spokesman put it, to be “dead set” against an essential provision of Brown's bill.

That provision allows use of the secondary boycott – asking people not to shop at stores that sell the product of a struck employer rather than merely asking them to boycott the product. Industrial unions used the secondary boycott as an essential tool in the organizing drives of the 1930s and 1940s but lost that right in amendments to the Labor Relations Act after they established themselves as powerful entities.

(Growers historically have demanded that farm labor legislation also prohibit strikes at harvest time, but they said very little about it this time, in the face of strong argument from Rose Bird, Brown's secretary of agriculture and services. She noted, “If they don't strike at peak of harvest they really have no power in terms of trying to reach an agreement with the employer.”)

The UFW felt the rights to strike and boycott were too limited. The UFW's bill would have put no limit on their use, whereas Brown's measure says they may be used only to press contract demands against growers who already have recognized the union. They may not be used to demand recognition; that may come only through government-supervised elections.

But the UFW's main objection was that the governor's bill would not have automatically voided the 400 contracts signed over the past five years by grower and Teamster representatives in a move to destroy the farm workers' union, without any vote by the 50,000 people who must work under the contracts and pay dues to the Teamsters.

The UFW, which once held most of the contracts, is down to a mere dozen, even though it is likely the workers would vote for UFW representation if given the chance. Brown's bill will invalidate contracts held by growers whose employees do vote for UFW representation. But this will be done only after the election is held, and the UFW protested that allowing the Teamster contracts to remain in force for any period gives them an unmerited legal standing.

Brown overcame the grower and UFW objections with compromises worked out during two all-night sessions in his office. Growers accepted the secondary boycott, and the UFW agreed to the restrictions on its use. The UFW nevertheless got most of the important concessions carried in the 26 amendments which were put into Brown's bill.

Teamster representatives refused to participate. They maintained their opposition and voiced new concern because some growers were refusing to renegotiate contracts which are to expire in July, on grounds that elections might invalidate them soon anyway.

Worse, new opposition arose from the state AFL-CIO, its Building and Construction Trades Council and the packinghouse workers. They protested an amendment, demanded by the UFW, which would put all of a grower's employees into a single voting unit, whatever their job. This was seen as a clear threat to the building trades' jurisdiction over carpenters, heavy equipment operators and other farm craftsmen, and the packinghouse workers' jurisdiction over packing shed workers.

Brown was fearful of upsetting the delicate compromise worked out among UFW and grower representatives, but he had to meet the heavy pressure of the Teamster and AFL-CIO forces by proposing three new amendments to satisfy them.

The amendments would set up separate voting units for packing shed workers, exclude craftsmen from the bill and guarantee that the Teamster contracts will remain in effect until they expire or are successfully challenged by an election – or successfully challenged in court.

The guarantee removed the Teamsters' excuse for opposing the bill, but it also gave another important concession to the UFW. That union wanted something in return for dropping its insistence on an amendment that would have voided the Teamster contracts immediately. It got it with the specific right to try to void the contracts, not just in elections but also in court actions charging they are illegal "sweetheart contracts."

The amendments were accepted by all parties during another long session in Brown's office, and the governor moved quickly for legislative agreement. He called a special session to hear the bill, and though the legislature's Republican minority continued to oppose the measure in behalf of a few grower groups, this had no decisive effect. The rules were waived so the bill could be heard immediately and go into effect 90 days after passage, in time for some of this year's harvests.

The legislature was presented with a farm election bill which, if passed, would satisfy all the fiercely competing interests whose intense distrust of each other had made compromise impossible until Brown, by refusing to side with any one interest, became a powerful neutral figure though whom they could compromise. Assembly Speaker Leo McCarthy called it "a magnificent example of leadership."

Brown was helped considerably by significant changes in the political climate. The UFW was eager to reach an agreement on just about any measure that would guarantee legitimate elections, since it now seemed certain to win such votes.

The Teamsters could no longer politically oppose free elections, and growers realized the Teamsters could not save them after all.

The Growers had called in the Teamsters five years ago to avoid trouble, but the trouble had worsened. The UFW boycotts were hurting especially. Additionally, growers and Teamsters were faced with a liberal governor and legislature who were not going to grant them any special favors. They knew the chance to be involved in a compromise settlement was the best deal they could get, and they took it.

The most important thing about the compromise legislation is, as the Catholic Bishops Council of California noted, its “focus on protecting the rights of individual farm workers.” They will have the same means to take effective and lasting economic action, and that’s vitally important. But most vital is that nothing can be done until they vote to do it.

The legislation will prompt a hectic summer of UFW organizing in the fields and legal action before the state Supreme Court, all of it aimed at voiding Teamster contracts and putting as many of California’s farm workers as possible under UFW contracts. Teamster leaders say they will challenge the action with a major organizing drive of their own, but even if they do, the odds are they will not get very far.

The action in California will be just a beginning. Legislators and organizers in other states will be quick to follow the precedent set by the nation’s number one agricultural state. Phillip Burton of San Francisco, a key leader in Congress, is ready to introduce a bill to create a national agricultural labor relations act similar to California’s new law.

Incredible. That’s the only possible conclusion. Incredible.