TWO VIEWS OF AMERICAN LABOR

FRANCES PERKINS
and
J. PAUL ST. SURE

INSTITUTE OF INDUSTRIAL RELATIONS
UNIVERSITY OF CALIFORNIA · LOS ANGELES

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INSTITUTE OF INDUSTRIAL RELATIONS

Social Sciences Building
University of California
Los Angeles, California 90024

FOREWORD

The Institute of Industrial Relations at UCLA has been privileged in recent years to have as its guests two distinguished authorities in the labor relations field. Miss Frances Perkins served as Regents Lecturer in the spring of 1963 and Mr. J. Paul St. Sure as Regents Lecturer in the fall of 1964. Among her many contributions to campus life, Miss Perkins gave a series of public lectures under the title "Labor under the New Deal and the New Frontier," the essence of which is preserved in this publication. Among his numerous activities, Mr. St. Sure delivered a lecture entitled "Reflections on Thirty Years of Collective Bargaining," which is being published substantially as he gave it.

Frances Perkins was born in 1882 and was educated at Mt. Holyoke College, the University of Pennsylvania, and Columbia University. She served the State of New York in many capacities, notably as Industrial Commissioner between 1929 and 1933. She was appointed Secretary of Labor by President Franklin D. Roosevelt in 1933 and served until 1945. As Secretary of Labor during the critical years of the thirties, she had an important hand in shaping much of the basic labor legislation of the United States. Miss Perkins is also the author of a notable biography, *The Roosevelt I Knew.*

J. Paul St. Sure was born in 1902 and received his education at the University of California, Harvard Law School, and the University of California School of Jurisprudence. For a time his concern was the practice and enforcement of the law. In the thirties his interest turned to labor relations and he soon became an outstanding negotiator representing management in collective bargaining in the San Francisco Bay area and on the Pacific Coast as a whole. Since 1952 he has been president of the Pacific Maritime Association and has been a principal architect of the "new look" on the waterfront which culminated in the heralded Mechanization Fund.

IRVING BERNSTEIN
Acting Director

LABOR UNDER THE NEW DEAL AND THE NEW FRONTIER

FRANCES PERKINS

I would like to make it quite clear that I am not going to compare the New Deal with the New Frontier. Perhaps it is the adjective "new" that makes us think there must be something alike about the two systems of government. The circumstances and backgrounds of the two periods are so different that they cannot possibly be alike. The New Deal and the New Frontier differ as a result of the times, in their personnel, in the problems they faced, and in their approaches to these problems. The New Frontier has inherited not only what was done during the Roosevelt Administration, but also what happened during the two succeeding administrations.

Today we have the tools with which to work. The programs I was so bold as to suggest to the President-elect in 1933 are a case in point. These proposals included immediate federal aid to the states for direct unemployment relief, an extensive program of public works, a study of and an approach to the establishment by federal law of minimum wages and maximum hours, unemployment and old age insurance, abolition of child labor, and the creation of a federal employment service.

In 1932 we did not have unemployment insurance; we had no old age insurance nor a reformed and reorganized Department of Labor. We did not have the National Labor Relations Act. We had no way at the federal level of regulating hours and wages. We did not have the tools of our trade; these things were yet to come. Now they have come. They have been in effect for thirty years. No one speaks of repealing the Social Security Act. Even the wildest opposition does not call for modification of the Fair

Labor Standards Act, which regulates hours and minimum wages. The current administration started with equipment never available before in the United States.

A State of Mind

I would first like to deal with questions that people ask me over and over again. What was the New Deal anyhow? Was it a political plot? Was it just a name for a period in history? Was it a revolution? To all of these questions I answer "No." It was something quite different. It was very real but it certainly was not a plot. It wasn't even a plan. It wasn't a platform put through by a faction of the Democratic Party, and certainly it wasn't the plan or program of the Democratic Party as a whole. If you had seen the Democrats assembled at their convention in 1932, you would have known they had no such thoughts in mind. No, it wasn't any of these things. It was, I think, basically an attitude. An attitude toward government, toward the people, toward labor. It was an attitude that found voice in expressions like "the people are what matter to government," and " a government should aim to give all the people under its jurisdiction the best possible life."

I remember hearing the Irish Diplomatic Minister say just this in a speech he made in Canada. When he returned, I congratulated him for his statements and he said, "Why, there's nothing strange or new in that, is there?" And I said, "No, only strange and new in America because it *hasn't* been the idea to require the government to provide the best possible life for *all* the people." Roosevelt wrote and talked about this, and an awareness developed that the working people had never received full recognition. They had no opportunities to take part in the organization of their lives, their effort, and their obligations—through political action. The people had been left out of the planning, except for the economic plans of their employers. So when I say that the New Deal was an attitude, I do not mean to ask you to follow me into the realm of the imaginary, but I do ask you to recognize the basic elements underlying the measures we adopted. Roosevelt always said that the New Deal lasted from 1933 until war preparations in 1941, but actually the New Deal went right on and has been going on ever since.

The New Deal was a state of mind. But how did it come about? It was born in 1932 at the Democratic National Convention at Chicago. When the newly nominated candidate appeared on the platform at that convention (a departure from the established practice of having the candidate receive a delegation a few weeks later to hear from them that he had indeed been nominated—as if he hadn't read it in the papers!) he delivered a speech on which he had worked very hard. It was a good speech, but with very little remarkable about it until the last phrases when he went off into what we called his "literary oratory." He began to describe the prosperous man at the top of the pyramid and the forgotten man, the little man, at the bottom. That was what made everyone sit up and listen. Then he said, "I pledge you—I pledge myself—to a new deal for the American people." No content, no specifics, no program. Nothing in particular mentioned—but the convention roared. We were going to have a new deal. It was a card playing term that every American understood. We get a new deal, the cards fall better, so we play better. We get a better hand, we play in luck. The audience got the idea at once. The reporters who had been following the speech with care had found nothing they could headline until that moment, but the "New Deal" would easily headline. (It was the right size. I don't think Roosevelt had that in mind when he used the words, but it was the right size.) It was a striking phrase and was headlined ROOSEVELT PROMISES NEW DEAL.

Everyone caught the phrase "New Deal." It became significant right away. And soon people began to ask just what the New Deal meant. At that time we didn't know. Because the man who had made the statement didn't know himself, I'm quite sure. He had no program. He had some vague ideas, but no real plan of what might be done.

Nevertheless, as he campaigned you heard reverberations of this same speech over and over again. You heard promises to do something about the unemployed, but never specifically what he was going to do about them. On one occasion he said, "We're going to put the unemployed men and women to work." Not how, or where, or for whom. We were just going to put them to work. He hadn't thought of the Works Progress Administration; that

was Harry Hopkins' contribution. He campaigned all those months before his election without a specific program in mind. But he knew something would have to be done so the unemployed could go back to work. I remember him saying, "I know men are eating out their hearts, walking up and down, doing nothing."

You may recall one of the promises he made during that campaign. He said over and over again that he was going to balance the budget. And, of course, we had to use deficit spending; it was necessary. Roosevelt meant to balance the budget but he had a very rudimentary sense of arithmetic. I think—I say this in the warmest friendship—that he couldn't add up his accounts any better than I can mine.

People by instinct soon came to some conclusion about what he meant by a New Deal. Roosevelt liked people, he had a way with them. They could see he liked them and people began to warm up to him. They didn't know him very well but they began to feel a kind of warmth toward him, due, as the newspapers say today, to his charm. Gradually there came to be a sense that the New Deal would be something warm and comfortable. You would be getting dealt out of whatever terrible predicament you were in—and the whole country was in a terrible predicament. This was the period of the Great Depression, and an almost impenetrable fog of suffering and distress hung over the whole country.

I am one who is convinced that the Great Depression was the proximal cause of the New Deal. Not that there weren't other factors entering into the cause of the New Deal. There was the factor of long neglect, for example. If something had been done about the depression in the year it began, or the year after, it wouldn't have been so bad by the time Roosevelt came into office. Without that depression many of the things that were done and many of the bold stands that were taken (somehow thought of as purely political) would not have come about.

Catastrophe

The depression began suddenly, although not so suddenly to those who could read the signs of the times. No one had been informed. The government hadn't told us that things were shaky; most people thought the economy was going on as usual. The

depression began with the stock market crash, which was so sudden it could be dated. It was total and took place within a few hours. It was a shocking thing for those who had investments and for the rest of the country as well, as the results began to be seen in the gradual falling off and decline of business. All business, banking, and agriculture declined; the whole economy dropped by 38 per cent in two years. And when competition became heavy, layoffs, part-time work, reductions in wages, and closedowns all occurred. It seemed that if wages were reduced and the product could be made for a lower price, it might sell. Sell in what? In a market that was declining? In a market where there were people with no money in their pockets? An example of this situation was an old sweater factory up in Poughkeepsie that the President saw and that was a fascinating experience for him. In order to sell his sweaters at all the employer had to forgo profit and ask his employees to take a terrific wage cut. His workers ended up earning $6 a week to make sweaters to sell for $2.50 that normally sold for $7 or $8. This was the kind of economy we were in, and this was the kind of decline that even the great steel mills were having in a much larger and more complicated way.

The depression also hit those who were not counted in the labor force—the great middle class, including the self-employed, the artists, the painters, the writers, the research people. These people couldn't find buyers for their work. They had not been employed by anyone, they had never been on a payroll, so they were never counted among the unemployed. But they were people who regularly supported themselves by the sale of their talents. These people did not get hurt as much, of course, but it was very painful. They saw all their savings disappear, when the little money they had was needed for daily living.

This was, of course, definitely an economic crisis. It was also a social crisis because the suffering grew more and more intense as more and more people were put out of work. I remember that we used to wonder how people restrained themselves from stealing food. Remarkably little stealing went on. If you lived in a great city, you saw sights you never could forget. One morning I saw two women in two different streets—old women, decently dressed—opening the lids of garbage cans and looking for pieces

of bread or meat, things that might be edible, and putting them in paper bags to take home. This kind of thing happened every day. The police turned their backs despite the laws against it that existed to prevent the spread of disease. The police could not bear to deprive anyone of this last remaining source of food.

The New Deal came into being in the worst part of the Great Depression, in the most terrible and alarming time of the general economic decline throughout the world. This made a great difference in the way we viewed our goals and the manner in which they might be obtained. The New Frontier, on the other hand, took control of government when we were on a relatively high level of economic prosperity. There was, to be sure, a recession, but to the people in the New Deal a recession would hardly have been noticed. By the time inauguration day came in 1933 the people of this country were almost exhausted. The last three months had been the worst in the depression. The banks were closing and long runs began on banks in every town. The banking examiners of the various states were in despair as to what they should do. They believed that the underlying support of the banks was sound, but no bank, no matter how strong, can stand a long run. And the small country banks, where many little people often have their life's savings, were the hardest hit of all because these banks did not have enough working capital.

All these patterns were working together to bring about a New Deal for the people of the United States. Now, how did it come about? The first thing the President did, of course, was to close the banks. However, the banks were closed not so much by presidential proclamation as by general consent of the community. This had to be done. The government had to put its strength behind the banks and help prepare a program by which they could be guided safely through the disaster. This may have been regarded as an economic matter but the President viewed it as a humanitarian move. The people's money was in the banks; therefore they must be saved.

Once the bank situation was taken care of, we had to turn to the problem of more adequate relief. Traditionally all relief had been a local function, but relief funds had been exhausted in practically every state. Many of us were afraid that there would

be some hesitancy to go ahead with a great relief program financed by federal appropriation. Congress was not in the habit of making appropriations for the relief of poverty. I recall that after we had discussed the various aspects of this at some length John Garner, the Vice President, turned to the President and said, "Mr. President, when we came into office we promised the poorer kind of people we were going to do something for them. I think we had better be about it." It was a simple, straightforward statement to which most of us agreed, and we subsequently petitioned Congress for relief money to be distributed to the states.

Putting People to Work

However, a few weeks of such distribution gave no real comfort to anyone and it made people feel restless. It's a horrid thing to have to take relief from the government. Harry Hopkins came up with the idea of the WPA—the idea of giving people something to do and paying them a flat rate of $15 a week, no matter what they did. Whether the person worked as an artist painting murals on the wall of a post office or as an ironmonger beating out iron bars for a public building, the rate was $15 a week. Now I suppose that many of you have been told the story of the leaf rakers. It is possible that someone saw some old men raking leaves and doing it very badly and the conclusion was drawn that they were doing make-believe work. The only leaf rakers I ever saw were those who were too sick and old to do anything else. These were men who wanted to do something rather than nothing to get their $15. For the most part, the WPA jobs were very well chosen. The program was run at the local level by social workers in every part of the country, and on the whole the WPA was a satisfying solution to an immediate problem. A great many people were put to work. They were not, of course, earning economic wages—they were earning relief wages—but if it had not been a relief operation no one would have had them working for $15 a week.

Another of the earliest projects was the Civilian Conservation Corps, which was a modern program designed to put young boys to work. The CCC was reserved for boys who could learn something from the experience. For the most part it was confined

to young men between the ages of 15 and 19, until a little later when it took in some veterans. The project was a great success because the boys went into the woods and did healthful work and got some education at the same time. The Forestry Service supervised their work, the Labor Department ran them through the employment offices for their qualifications and general health, and the Army took care of the physical side while they were in camp. The Army called in reserve officers, most of whom were also out of work, and set them up in charge of the camps. The Army also supplied all of the housekeeping services: uniforms, camp kitchens, trucks, bedding, etc.

The CCC was no problem at all. Discipline turned out to be very easy although not because military rules were enforced. The reserve officers were carefully instructed that they were not under any circumstance to apply military discipline; CCC camp life was regulated by example and persuasion. Some of the officers said to me afterwards, "You know, it was one of the greatest experiences we reserve officers ever had, because later when we got into the European war and problems arose that could not possibly be settled by military discipline, we had already learned how to manage by persuasion and diplomacy." If a boy became too obstreperous or if he were absolutely incorrigible, he was just asked to go home; he was sent back to the relief family from which he came.

Each boy had come from a family on relief and he was paid a dollar a day for his work. He had his board, lodging, clothes, education, and all basic needs met. He sent all of what he earned except 25¢ a week to the head of his family, and the family relief allowance was reduced by that amount. Hardly a week goes by in my life that I don't meet someone who says to me, "You knew Roosevelt; he was a great fellow. I was in the CCC and it was the best experience I ever had." This, I think, is the memory that many men have of their period in the CCC camps. It was a form of relief but it was creative, constructive, imaginative relief. It was relief that did the government good, the Army good, and the forests good. It was a public service and it did enormous good for the people who did the work.

I remember that the President was disappointed because the AFL did not endorse his bill for the CCC; the AFL was horrified by the idea of establishing $1 a day as the wage for any work. I expected they would react this way but the President didn't. He thought they would endorse it. I explained to the unions that it was relief money. "Nevertheless," said William Green, "it is wages—they are getting it as wages." I told him that it was called wages only to save face, but he couldn't bring himself to endorse the bill and he went before the committee on the Hill and testified against it. It was passed, of course, because this was the heyday of Roosevelt's popularity and William Green had no particular influence at that time, but it disappointed the President because he supposed that labor would be delighted with this operation.

We couldn't seem to get ahead with public works, which was one of the things I thought essential. The WPA was good, but the WPA was of such a nature that it did not make demands upon the construction industry. There was a considerable difference of opinion among the cabinet officers about public works. Lewis Douglas, Budget Director, felt it was wrong to take millions of dollars out of the public treasury during the depression and spend it for public works. Others in the cabinet felt that public works were the historic pattern for relief of unemployment. General Hugh Johnson wanted the program included along with the National Recovery Act. Harold Ickes, who eventually became administrator of the public works program, thought the WPA was doing too much of his work. I mention these things only to indicate the degree of experimentation that was necessary, and the resulting disagreements. One thing we never lost sight of, however, was that people had to be put to work. You couldn't live with 15 million people unemployed in the country.

One of the tragic things about the whole situation was that, try as hard as we could and do as much as we could do, we never could put all of the unemployed to work. We never could put even a fair proportion of them to work until the war orders began to come in. This was a very disheartening thing. We were making progress; the people felt better and they were willing to try again. They could stand low wages and believe it would all come out right in the end. But we never did see a time when the 15

million unemployed were all back to work. There was a great deal of going in and out of the labor market: people got a few weeks' work, a few months' work, and then were idle again because the economy was not stable. It had not leveled off. In 1937 we thought we had it, we thought the economy was going to be all right, and then suddenly it began to fall again. Employment began to drop and we never got to the point where we could say: "See? We have done what we said we would do—we have cured unemployment."

Rebuilding the Economy

But we had other strings to our bow in the unemployment insurance act and the old age insurance act, which by then were already introduced into Congress and which passed through concurrently. (We would have had health insurance, too, if we had been able to get to it, but we couldn't get our information together quickly enough to get that part ready to present in the winter of 1935, so we let it go a year and by that time it was too late: the medical profession had found its voice and was not going to let it pass.)

My project for Social Security was a little slow in coming into existence. It didn't come about as a true project for almost a year after the election, when in June 1934 the Wagner-Lewis bill for unemployment insurance failed to get committee agreement. The President then appointed a committee on economic security. (It was not economic at all but rather of a social insurance nature, but the President preferred to call it "economic security" to avoid the implication of a dole.) The committee, consisting of five cabinet members, faced a difficult operation because a bill had to be prepared quickly since we were confronted with the possibility of losing the good will of Congress if we let it go for another year. We had to bring to Washington a large number of professional people: economists, statisticians, and people knowledgeable in insurance matters in order to have our report ready by the deadline of January 1, 1935.

The passage of the Social Security bill was one of the extraordinary occasions of the New Deal. We had a bill that was really so unusual, so revolutionary, and so fundamentally controversial,

and yet when the Social Security bill came before Congress it was passed on a broad tide of acceptance.

The National Recovery Act was a piece of economic planning that was fostered by the Roosevelt Administration. This program called for each industry to set up a code with standards for both business and labor that each firm would abide by. The NRA proved to be a really remarkable instrument, first, from an educational standpoint and, second, by terminating bad practices and insuring compliance with the hours and wages provided for in the Act. The NRA stimulated the economy; workers spent their money on the necessities. The outlook of the business community took on a tone of success rather than failure. The program went very well for the first five or six different industries but then began to run into trouble. If the NRA had covered only eight or ten or even twenty or thirty of the larger and more important industries, it might have lasted to this day. The principal cause of its failure was its attempt to spread its jurisdiction over too many and comparatively insignificant industries.

In spite of its relatively short life, the NRA did make a great contribution. This was the recognition given by the government to organized labor. The establishment of labor representatives in prominent advisory positions gave impetus to a good relationship between government and labor. This was the first time that the government had realized its right, and even its duty, to consult with labor in regard to wages, hours, and other working conditions, as well as general business conditions.

However, the most important part of the Act as far as labor was concerned was Section 7(a). This section gave to labor the right to organize and bargain collectively. It is true that all through the New Deal period there ran an attitude toward the working people of the United States—that they must be recognized as our nation's most important resource—but those who wrote the NRA bill hardly anticipated the results of this particular section. The business community believed that Section 7(a) meant that those who were organized could remain so, and those who bargained collectively could continue to do so. But John L. Lewis and Sidney Hillman used their entire treasuries to conduct extensive organizing drives. They met with tremendous success and others

followed their lead. Their right to do this was protected by the NRA and later by the Wagner Act.

During the first year of the National Recovery Act, as I recall, William Green said that over a million people joined the labor movement. It was a period of great energy and activity in a group of people who had almost ceased to function as a movement. With this came a new spark of life in people who ought to have been organizing long before and who ought to have been taking the lead in expressing their views and opinions, but who had never had any political power or force. The self-propelling, self-directing activity began that made the modern labor unions of America so effective for their own people, and so persuasive to other people.

The New Frontier

One must also remember that there were a great many differences in the general patterns of life and in the personnel and equipment of those who took over the reins of government in 1961. Many of the tools with which to work had already been forged. They had already proved their worth when the New Frontier came into office. When the New Deal took office, on the other hand, there was very little to work with, particularly in the field of labor. We had a meager little department with only $3 million to spend on the whole scope of labor in the United States. We had a great variety of problems, with not enough personnel suited to handle them. In addition to tested techniques and improved administrative procedures, the New Frontier has a great asset in highly sophisticated personnel, people who know a great deal about economics and political science. Those of you who can remember the New Deal will realize at once, if you think about it, that you didn't have much confidence in those of us who came in with the administration in 1933. We did not have the academic background or training that government administrative personnel now have. When most of the New Deal leaders went to college, economics was barely taught at all. (Dan Roper, Secretary of Commerce, confessed to having read a book about economics and Mr. Roosevelt used to tease him about it and call him "our economist." It was a private joke.)

Thus, when President Kennedy came into office during a recession, he had the tools available. As a student of what had not been done and perhaps should have been done before the Great Depression developed to the extent it did, he felt it necessary to take action at once. Almost immediately the Kennedy cabinet began consulting with other experts concerning what should be done. I think it was an extremely wise thing that they moved so swiftly. This brought them the respect and full cooperation of the labor movement in their efforts.

A significant amount of unemployment still exists, although it is not great compared to the proportions of unemployment during the depression. But the problem of unemployment is still very deep and very difficult. Unemployment is spotty as to industries and centered in various occupations and age groups. There are some industries, for example, that are obviously dying. There are some that are being completely changed to another kind of industry. Older people, if they are out of work, find it almost impossible to get back into any job, particularly if they are unemployed because of automation and must try to find work in a new trade. The minority groups have also been very badly affected by unemployment. The question of discrimination has been looked into, but more work needs to be done. The Kennedy Administration is doing a good job in coping with this problem, but the responsibility lies with both labor and management. Additionally, young folks just coming out of school or those who have dropped out of school are finding it increasingly difficult to get jobs. Most often they are not well enough educated or they lack the necessary skills. Even summer work is hard for them to find and they are getting less and less. These are the kinds of problems we face today. Unemployment is not as generalized as it was in the thirties and it's not as bad in some communities as it is in others. But it is just as serious to those out of work.

What has been the approach of the New Frontier to this situation? The measures worked on thus far have been of a strictly economic nature. The Kennedy Administration has worked on utilizing expanded trade under the Reciprocal Trade Agreements. The plan has been to push for the development of a larger amount

of foreign trade in the hope that this will give us an opportunity ultimately to increase our exports.

A second important project is the proposed federal tax cut. The idea is that this tax reduction would stimulate the investment of tax savings in production enterprises. It is also anticipated that the individual will spend his tax savings on consumer goods. I see promise in the utilization of this tax reduction for the stimulation of investment and distribution of goods. It would appear that such a reduction would encourage an upward surge in our economy.

It is, of course, necessary to do something directly about the unemployed. The Youth Conservation Corps is a project of this nature. The Kennedy Administration is planning for a long-term program in training and actual work experience for young men. About 15,000 youths will work in public parks and on public lands and will be given accommodations similar to those of the old CCC. These boys also will receive broad industrial training so that they may become more effective members of the labor force.

The current retraining programs for displaced workers are equally important. These persons have become unemployed by the collapse of an industry or because of automation. It is my understanding that, for the year, seven out of ten people who have been retrained under this government project have already found jobs in a new industry. This is encouraging, but retraining is not an easy task. Often the results will be disappointing. Some men do not learn new trades easily or won't stay with the program long enough to do so.

One of President Kennedy's recommendations is for federal help to general education in the form of buildings and supplies. This attempt to raise the level of general education is necessary. A high level of qualification is going to be required of men and women going to work in technologically oriented factories. A general improvement in the educational level of all our people is vital to a growing economy.

As I hope I have made clear, I regard the differences in the activities and points of view of the two administrations to be based primarily on the dissimilarities of the times. The basic laws are now on the statute books, so the Kennedy Administration does

not have to go to great lengths looking for possible remedies, but for the most part has only to apply remedies already in existence. The Full Employment Act, which was passed in the first year of the Truman Administration but prepared in the last year of Roosevelt's, is an example. Under this Act the government may extend the duration of unemployment insurance when it becomes necessary. The Fair Labor Standards Act, passed in 1938, is another. This Act requires working hours and minimum wages to be established by law. It is really remarkable that this Act was passed at all, but it has been effective to this day.

Industrial relations, in particular, is an example of contrast between the New Deal and the New Frontier. We did not have the National Labor Relations Board at the beginning of our administration. We forged that tool in the course of a few years but didn't have it to work with for a strategic period of time. We now have standard hour and minimum wage laws, so we don't get too many problems in these areas today. On the other hand, the whole approach of the New Frontier to the problem of industrial relations has been a somewhat new one, that is, a greater amount of intervention on the part of the President and the Secretary of Labor in labor problems.

Labor Then and Now

Another difference in the situations that faced the two administrations is that the New Frontier comes to grips with economic life with a full-fledged labor movement with which to work. Labor can make suggestions not only concerning the general economic health of the nation, but also on needs at the industry and factory levels as well. No one except the man who has been exposed to noxious gases, dust, and fumes in a factory really knows what the dangers of factory life can be. The continued existence of industrial hazards, both accident and health, in our great American factories is one of our oldest disgraces. Much has been done to improve this situation but a great deal remains to be done, particularly as new techniques such as those involving nuclear energy are developed.

The Roosevelt Administration did not have the assistance of a full-fledged labor movement. This became increasingly appar-

ent when we attempted to get the advice of labor representatives in order to establish the industrial codes under the NRA. There often just wasn't anyone to consult with. For example, when I wished to have the textile workers represented at the first public hearing under the NRA, I couldn't find anyone to represent them. There was one organization, the United Textile Workers Association, with a very pleasant old man at the head of it. He confessed to me that he had no members at all outside Massachusetts and Rhode Island, and not very many in those two states. There was no one I could call on for technical advice concerning the industry. It was essential to know how the machinery was run, the work distributed, the looms operated, etc., in order to establish work standards. This kind of problem was faced with many other industries. Therefore, an industry often had to be represented by rather makeshift arrangements in which some officer of the Federation of Labor, with no technical knowledge of the particular industry, attempted to help work out a satisfactory code. Labor was organized in the well-established crafts, but the manufacturing trades were increasing enormously in size owing to our mass production system and there was almost no effective labor organization in those areas.

The recognition of organized labor as an integral part of society during the New Deal and its resulting involvement in civic, charitable, and educational activities cannot be overemphasized. When I proposed to the president of the American Red Cross that he invite John L. Lewis to become a member of the board of directors, his mouth fell open and I thought he was never going to close it. He thought it over for a long time and said finally, "I understand the Miners have a fairly large treasury." He then talked to Lewis about it and Lewis was delighted at the prospect. This kind of thing had never been thought about before. The same was true in a great many situations; even civic committees didn't have labor men on them. Today, for example, the Minneapolis Symphony Orchestra has two labor leaders on its board of directors; at Cornell we have three labor leaders as university trustees. I believe this kind of thing has added greatly to labor's prestige and broadened the scope of those with whom labor is associated.

I sometimes think the labor movement never fully recognized what the Roosevelt Administration did for it; not because Roosevelt was trying to do something for labor, but as incidental to the fixing of a floor to wages and putting a ceiling over hours. In this way the work of the whole United States could be spread over thousands of people who were out of work, and this work might be paid for at a scale high enough to support a family. The whole Social Security program was merely a continuation of this idea, just as the National Labor Relations Act was an effort to establish collective bargaining as the normal way to settle labor disputes. These elements of the regulation of wages and hours and the introduction of unemployment insurance and old age insurance together with the National Labor Relations Act (which resulted in the formation of the NLRB with the consequent right of workers to organize into unions and to bargain collectively on their own behalf) were the bedrock of the improvement that the Roosevelt Administration made for the working people of this country. And what was this but the result of a change of attitude toward the working people?

Today labor would appear to be better off than ever before. However, the number of strikes has constantly increased. We had 3,100 last year and it looks now as if we will have about 3,500, if the present rate continues, in 1963. My hope is that more contracts between labor and management will include an agreement for compulsory conciliation upon termination of the contract. If the negotiators fail to reach an agreement, the matter is to be referred to a conciliator appointed in the contract by name or in some other stated manner. Then, if the conciliator does not reach an agreement, the parties will agree in the contract that the matter will be referred to an arbitrator, the decisions of the arbitrator to be final and binding upon both parties. This may sound drastic, and many people regard it as so, but there are on file now in the Labor Department over 150,000 such contracts and I think in only two cases have they gone to arbitration.

I do not wish to suggest that we outlaw strikes. However, I do think it is important somehow to curtail strikes that endanger the general population. At the same time we should not try to cut out all strikes since some of them are necessary, both for the

expression of the feelings of the workers and for arousing public interest in issues that affect the life of the community. Sometimes a strike can insure greater future industrial peace. We must not forget, however, that the union and the employer have an obligation to the community to attempt to come to some agreement and hold themselves to it.

I have attempted to describe the background, and some of the causes and results, of the New Deal in contrast to the New Frontier. Roosevelt, I think, and perhaps all of us in his cabinet as well as leaders in the House and Senate derived more from the humanitarian reformers of the last fifty to one hundred years than we did from any political theorists or political party, or from any revolutionary concepts. The items that have been under discussion by the New Frontier people for stimulation of economic growth have been primarily economic measures. They have thought less about humanitarian measures, which are equally necessary to overcome the emotional depression that goes along with the problems of people who are out of work. The humanitarian aspect of the Roosevelt program ought to be emphasized to a greater extent.

It is not the nature of man, as I see it, ever to be quite satisfied with what he has in life. The discontent within the labor movement today we sometimes view as unreasonable, but it is a discontent of spirit as well as of mind, and when we think about it we all know this feeling ourselves. Contentment tends to breed laxity, but a healthy discontent keeps us alert to the changing needs of our time.

REFLECTIONS ON THIRTY YEARS OF COLLECTIVE BARGAINING

J. PAUL ST. SURE

In looking back over thirty years of labor-management negotiation, principally as a management representative, it seems to me that there have been at least six distinctive periods wherein major changes have occurred in the basic relationships between management and labor. I would list these six as follows:

1) The period of the Great Depression, during which the desperate competition of unemployed people determined the patterns of wages and conditions of work.

2) The period following the passage of the Wagner Act, when legal sanctions were applied to require recognition of and bargaining with organized labor.

3) The World War II period, with wage and price controls and the War Labor Disputes Act.

4) The Taft-Hartley Act period, when unions claimed they were being enslaved.

5) The period following the McClellan Committee hearings and the passage of the Landrum-Griffin Act, with exposure of union corruption and adoption of a "Bill of Rights" for union members.

6) The current period of "human relations committees," automation pressures, government intervention, bargaining experimentation, and increasing uncertainties in the relationships between big labor, big management, and big government.

The San Francisco General Strike

In the San Francisco Bay area, during the first period, a major event occurred at the time of the 1934 waterfront strike which boiled over into a general strike affecting the entire metropolitan

community. Its repercussions had a lasting effect on employer-employee attitudes throughout the nation.

I was then a practicing lawyer in Oakland, with no contact with labor-management problems. I know the strike caused me, as well as other members of the communities affected, to become acutely aware of great areas of potential social conflict which I had not realized existed. Personally, these events changed the course of my professional life. In a situation where the normal operation of an entire community, encompassing more than a million people, was brought to a grinding standstill by the refusal of workers to report to their jobs in sympathetic support of a violent strike on the San Francisco docks, few could avoid reacting to what seemed to amount to a class revolution.

Even though neither the employers nor the unions involved in the basic strike had any direct connection with our community, the people of Oakland nevertheless found themselves without public transportation, without communications, without gasoline, without restaurants, without retail stores, without factory operations; in fact, with a complete paralysis of normal business activities. Since the people of our community had no direct involvement in the issues that caused the waterfront strike, they had no power to bring about its settlement. Quite naturally, the business community and the public authorities were not only confused but also frightened.

Although I had had no experience in labor-management bargaining at that time, I was employed by a rapidly formed organization, sponsored by the Oakland Chamber of Commerce, to act as liaison between various public agencies and employer groups on both sides of the Bay, primarily for the purpose of trying to find out what was going on. Hopefully, I was given additional assignments to make plans for avoiding violence and at the same time to try to devise some means of restoring essential services in our city.

The atmosphere was one of near hysteria. Public authorities were so convinced that we were experiencing a form of revolution that hastily contrived protective steps were taken. All the pawn shops and sporting goods stores were ordered to remove all firearms from window displays. The high school and university

military training units were directed to remove the firing mechanisms from all firearms and other weapons that were stored on their premises. The governor of the state was prevailed upon to send a unit of National Guardsmen into the city to maintain order. Numerous home guard volunteer organizations sprang up in residential areas, and these assumed the responsibility for intercepting and identifying all persons appearing on the streets of their particular neighborhoods.

The termination of the general strike came about as dramatically as it had begun. Largely through the intervention of a committee of the publishers of the daily newspapers in the Bay area, representatives of the federal government intervened and a formula was devised to induce the sympathetic strikers to return to work. General Hugh Johnson of NRA Blue Eagle fame came to San Francisco and a script was prepared whereby he, as a representative of the federal government, was to call upon the local head of the Teamsters Union to urge all unions to end their sympathetic strike in the public interest. The formula worked—albeit not as quickly as planned, for on the first day when this confrontation was to be staged, General Johnson discarded his prepared script and delivered a denunciation of unions in general. The program had to be rescheduled for the following day. On the second occasion the proper lines were spoken, the union leader issued his appeal for resumption of work, and that portion of the strike ended.

The basic waterfront strike was resolved finally by submission of all issues to a board named by the President of the United States. The findings of this board provided the basic coast-wide longshore agreement, including a six-hour day and rotational dispatch of workers, which is still operative in all Pacific Coast ports. Related strike issues involving the seafaring unions were also disposed of as a result of the publishers' committee announcing (without prior approval of the shipowners) that the employers had abandoned their refusal to arbitrate.

Much has been written about the San Francisco general strike and the violent clashes between strikers and public authorities, culminating in "Bloody Thursday." It is not my purpose to dwell upon the subject further except to suggest that it signaled the

beginning of a major change in management and labor attitudes. Unions obviously had demonstrated convincingly that by unified, concerted action, even with limited organization, they could paralyze an entire community. Employers learned of the tremendous pressures that unions could apply in any situation involving a conflict between management and labor. Bitter animosities persisted, long after the settlement.

But, as so frequently happens when situations involving great dangers end, my recollection is that as soon as operations had returned to normal, the immediate reaction of the community in general—as distinguished from the direct participants in the basic dispute—was that the strike was one which could not recur and that it should be looked back upon as a kind of nightmare to be forgotten as quickly as possible. Needless to say, however, organized labor, with its new-found strength, had reason to plan to consolidate its position for future bargaining. At the same time some employer groups came to believe that management should, of necessity, give more attention to labor-management relations.

The Development of Collective Bargaining

Against this dramatic background, the employers in the San Francisco Bay area and in the nation as a whole soon found themselves confronted with a new matter of concern, the passage of the Wagner Act in 1935. The second period began. For the first time in our history, a federal statute not only required that employers bargain with labor unions as representatives of employees, but also directed that employers not interfere with the self-organization of workers into unions, and protected concerted activity by unions.

My recollection is that a large segment of management viewed this statute simply as another piece of New Deal legislation and rather confidently expected that it would be declared unconstitutional. Much of the planning developed by management groups in this period was directed to a test of constitutionality, rather than accommodating to the impact of the new legislation.

When the first complaint case in the 20th Region of the newly established National Labor Relations Board was filed in San Francisco against the Santa Cruz Fruit Packing Company, I repre-

sented the employer in that proceeding. We made no defense other than to challenge the constitutionality of the Act. The NLRB found the company guilty of an unfair labor practice and the case rather quickly made its way to the Court of Appeals for an enforcement order, and then to the United States Supreme Court. I can assure you that I had a great deal of help in the preparation of my brief and oral argument before the Supreme Court. Counsel for many substantial employers volunteered to assist. Despite the fact that the Supreme Court had decided that the Act was constitutional in the *Jones & Laughlin* case, many employers held the view that the Court would drastically limit its application in local situations. Suffice it to say that the Supreme Court did not fulfill their expectations.

Following the court tests employers generally, and many of them for the first time, began to face up to the prospect of having to deal and bargain collectively with greatly expanding union organization. The Act imposed sanctions on those who might refuse to bargain or who interfered with "self-organization." It provided protection for concerted actions—that is to say, strikes—by workers in seeking improvement in wages, hours, and working conditions.

There followed a period of organizational drives by existing unions. Picket lines were established, in many instances, for "organizational" purposes. The structure of the labor movement itself underwent drastic changes. Craft jurisdictional claims were enlarged. Unions were chartered to "organize the unorganized"—unions for miscellaneous workers—unions for production workers. The major split between the American Federation of Labor and the Committee of Industrial Organizations (later the Congress of Industrial Organizations) developed by reason of the conflict between the philosophies of vertical and of horizontal organization.

Employer responses during this second period took a variety of forms. Some employers seized upon the statutory reference to "self-organization" to encourage or even promote what were referred to as independent unions (that is, not affiliated with organized labor) but which later came to be known as "company-dominated unions." A great deal of time and money as well as litigation costs was spent in connection with this activity. The

new agency of the National Labor Relations Board, usually acting upon complaints of pre-existing unions, was diligent in investigating the origin, structure, and support of these independent unions and most of them were disestablished by Board or court orders, based upon findings of management interference in the process of self-organization. During this period, I had on several occasions to advise disbelieving management that their encouragement of "inside unions" amounted to a violation of law.

Other employers elected to encourage organization of their employees by old-line established unions, limiting their influence to attempting to select the union deemed by management to be the most desirable to deal with. Still other employers embarked upon programs of resisting any type of organization, using various forms of communication with their employees to convince them that they had much to lose and little to gain by joining a union of any kind. The Labor Board promulgated rigid rules limiting the right of management to discuss the pros and cons of union organization with employees.

In a number of cities broadly-based employer organizations were formed to attempt to deal with organized labor on a community-wide basis. In the city of San Francisco, for example, an organization known as The Committee of 43 was established, and this led ultimately to the formation of the San Francisco Employers' Council, which is still in existence as a bargaining representative for its members. Another outgrowth of this type of organization is the Federated Employers of the Bay Area, which does not engage in collective bargaining, but does supply statistical information and policy advice to its employer members. On the mainland side of the Bay, an organization was launched under the name of The Oakland Plan whereby a group of employers sought to form a group with both employer and union participation. The unions declined to participate, and the employer sponsors modified the project to establish an organization now known as United Employers of Alameda County.

Similar groups were formed in other communities in northern California and the Central Valley. Some of these continue to operate and are active in the negotiation of collective bargaining contracts for member companies. Others such as the Associated

Farmers—avowedly antilabor—have disappeared. In addition, a number of industry groups, comprised of competing employers, dealing with the same unions, producing the same products or selling the same services, banded together to form associations for collective bargaining purposes. Many major corporations established industrial relations departments and assigned executive officers to the responsibility of dealing with labor-management matters. The growth of these employer organizations led to a congressional investigation by a committee chairmaned by Senator Robert M. La Follette as to their nature and motivation.

Whatever the posture assumed by management, organized labor reacted promptly and aggressively. Where independent unions claimed the right to represent the workers, established unions challenged the validity of their claimed independence and frequently succeeded in securing their dissolution under the new Act. Where employers sought out existing unions and encouraged them to claim the right to represent their employees, other existing unions in many situations challenged such representation either on the ground of conflicting jurisdiction or on the ground of employer sponsorship or both. Where employers sought to persuade their employees to join no union, such operations became a target for existing rival unions. And even those employers who sought to maintain a strictly neutral position and to allow "self-organization" to develop without employer direction or interference frequently found themselves under attack by unions having conflicting jurisdictional claims.

The jurisdictional conflicts on the Pacific Coast initially resulted from the rather loose federation of international unions which made up the American Federation of Labor, inasmuch as many of the international union constitutions contained claims of jurisdiction which overlapped with other crafts. The jurisdictional confusion was further aggravated by the fact that the American Federation of Labor rather indiscriminately granted new charters to so-called Federal Unions, with no international union affiliation, for the purpose of organizing in areas as yet unclaimed by the craft groups.

Above and beyond these conflicts, a major division developed when the CIO entered the national field to parallel and challenge

the jurisdictional claims of all American Federation of Labor unions. Although this division had its formal impact in California later than in the East, it was during this period that such basic conflicts as those created by the contest between the longshoremen and the teamsters for warehouse jurisdiction erupted in what was referred to as the "inland march" of the waterfront unions. In this situation not only the rival claims to represent men engaged in warehouse work clashed, but also the philosophical differences between horizontal and vertical type organization.

In the fruit and vegetable canning industry in California, for example, the employers and workers and contending unions became involved in jurisdictional strife which persisted over a period of many years and led to a series of Labor Board hearings. An interim resolution was reached by a consent decree in the Court of Appeals which validated a contract that had been entered into by a group of employers with a group of AFL unions in defiance of a Labor Board direction that such a contract should not be negotiated. Seven or eight years later the jurisdictional battle was renewed, and the NLRB again held extensive hearings.

In many areas and in many industries during this period organizing efforts and jurisdictional conflicts brought about mass picketing and frequently violence. Police and sheriffs' deputies were called upon to preserve order and to protect plant operations, in the face of mass picket lines. On numerous occasions they became embroiled in riotous situations. Organized labor regarded police as enemies. Management was insistent that law officers were obligated to protect property—including the protection of workers who crossed picket lines.

Many local ordinances purporting to outlaw picketing or even the displaying of placards or banners were challenged in the courts by the unions. They contended that these ordinances conflicted with the protections guaranteed by the Wagner Act as well as the right of free speech. In the main, these challenges were successful. The broad scope of the Supreme Court's application of the Wagner Act to labor disputes affecting commerce, together with the provisions of the Norris-LaGuardia Act taking from the federal courts the right to issue injunctions in cases of labor disputes, and the later doctrine of pre-emption, left many employers

with a conviction that all means of legal redress in labor disputes had been taken from them by federal legislation.

But in spite of this chaos of picketing, violence, litigation, Labor Board activity—or perhaps because of it—a number of new labor-management bargaining relationships were established, some by consent, some by coercion, some by court direction. Because the relationships were new, the initial issues, once majority representation had been established, had to do with such things as the fact and extent of recognition, the establishment of seniority, and the acceptance of what were referred to as management prerogatives.

The Wagner Act provided that a union authorized to represent a majority of employees was the bargaining agent for all employees, whether union members or not. Most employers resisted granting a "union shop" for two reasons: (1) some hoped that the majority might change from union to nonunion, and (2) others sincerely believed that they should not force nonunion employees to join the union under threat of discharge. The union-shop issue continued to be a basic one throughout this second period. Many contracts were executed providing recognition for "union members only," even though the union as a matter of law bargained for nonmembers as well. The conflict continued largely unresolved through the third period, when the War Labor Board developed the rather remarkable compromise formula of "maintenance of membership." This compromise required union members to remain members for the duration of a contract, but provided an "escape period" wherein employees could redetermine their union allegiance.

The issue of seniority also created a considerable area of conflict. Although employers generally agreed that length of service should be recognized as a factor in protecting against layoff and for promotion, many resisted the idea that a mere claim of length of tenure on a job should supersede considerations of merit or promise of future usefulness. The assertion by unions that seniority rights must be recognized brought into sharp focus a new concept that jobs, as such, were no longer the property of the employer but rather were the property of the union or of the individual on the job.

The whole area of management prerogatives, whereby management claimed that the right to manage should not be interfered with by unions' rules or restrictions, pointed up another major conflict in the field of collective bargaining that continues to this day.

Wartime Controls

With the onset of World War II, labor-management relations entered into what I have referred to as the third period. Even before Pearl Harbor, while we were officially neutral but regarded our productive establishment as an "arsenal of democracy" for the enemies of the axis powers, greater and greater attention was given to the need for avoiding strikes that might curtail defense production. The very magnitude of the defense effort contributed largely to the elimination of problems of depression and unemployment and led to increasing concern about such things as manpower shortages and inflation.

This third period involved a suspension by federal law of normal collective bargaining as well as the introduction of price controls. The right to strike was continued in theory under the War Labor Disputes Act, but the emergency powers of the federal government were held in reserve to provide for a take-over by the military of any plant or industry wherein a strike would interfere with war production. A War Labor Board was established on a national as well as a regional basis, and wages and conditions of work were frozen unless the tripartite panels representing management, labor, and the public, after formal hearing, approved increases. Even the decisions of the Board were subject to modification and review by administrative officials at the Washington level. These were the years when broad formulas were developed, such as the Big Steel formula and the Little Steel formula, whereby patterns of wage movement were applied as a guide for employers and unions generally.

During these years the theory of pattern bargaining was extended under War Labor Board direction, together with concepts of labor market areas within which equal pay for equal work should be recognized. Because of pressures developed by manpower shortages, employers and unions—previously at loggerheads—frequently made joint representations to the War Labor

Board for permission to increase wages and to provide so-called fringe benefits which began to appear as major issues in the collective bargaining process.

There is no gainsaying the fact that during this period of patriotic restraint both employers and unions looked forward to the day when the restrictive procedures of the War Labor Board and the Office of Price Administration would be removed. Immediately following V-J Day, major pressures developed to return to peacetime operation of the free enterprise system, which both parties seemed to regard as the right to go to Hell in their own way without government interference. In due course, although a technical state of war with certain belligerents continued, the wartime controls of wages and prices were removed and labor and management entered what I refer to as the fourth period.

Striking a Balance

Now management took the legislative offensive. It argued that the Wagner Act was aimed deliberately at encouraging the expansion of organized labor and that it had created an imbalance between the economic power of unions and that of employers. It claimed also that the Act had permitted abuses and excesses on the part of labor which should be corrected.

The argument was that the Wagner Act had swung the pendulum so far to the side of labor that the law should now be amended to swing the pendulum back, if not to the side of management, at least to a point of balance. Among the proposals was one to require that all bargaining be conducted on a single-plant basis with employees of that plant only. The amendment failed of passage by one vote in the Senate. After lengthy hearings before committees of Congress and debate in the Senate and the House, the amendments to the Wagner Act, which are referred to as the Taft-Hartley Act, evolved.

These amendments provided that unions, as well as employers, could be charged with unfair labor practices in certain situations, including those involving hot cargo and secondary boycott. They directed that the Labor Board should seek injunctions in certain cases of jurisdictional disputes. The amendments provided further for the establishment of an independent office of General

Counsel for the Board for the purpose of meeting employer criticism that the Labor Board, under the Wagner Act, acted as investigator, prosecutor, and judge. The unions promptly described the Taft-Hartley amendments as amounting to a slave labor act.

I think it is fair to say that the union spokesmen who coined the phrase "slave labor act" have been hard put to demonstrate that the Taft-Hartley amendments placed undue restrictions on the legitimate activities of organized labor. But it is true that the mood of Congress in passing the amendments did indicate a change of political atmosphere. Further evidence of this change was reflected in the composition of the National Labor Relations Board itself. New appointees of a new administration began to reinterpret many of the rules promulgated by previous boards, as well as to develop new doctrines for governing labor-management relationships.

In addition to the Taft-Hartley amendments, which were intended to bring into balance procedural remedies available to employers and unions, Congress reacted to the problems presented by major conflicts between big unions and big management by creating a new procedure which could be invoked by the President in strikes affecting the public health, safety, and welfare. No attempt was made to provide a specific definition of such strikes. Procedures were established whereby, upon determination by the President of the United States that a given strike threatened the national interest, the Executive was authorized to instruct the Attorney General to apply to a federal court for an injunction to prevent or call off the strike for an eighty-day "cooling off" period. No provision was made for any additional mechanism for preventing the resumption of such a strike after the expiration of the eighty-day period, except to direct the President to report to Congress his recommendations for legislative action if the strike should be resumed.

As another indication of the temper of the times, Congress included in the Taft-Hartley amendments a requirement that union officials subscribe to a loyalty oath specifically renouncing or denying any affiliation with Communism, and provided that if union officials failed to take such oath, the union would be denied access to the Labor Board or protection of the basic Act.

Perhaps the most dramatic evidence of the existing atmosphere of labor-management relationships in this period is to be found in the story of the Pacific Coast longshore strike in 1948. The ILWU—by now expelled from the CIO—announced as a matter of policy that none of its officials would execute the anti-Communist oath. The union also announced that it had no intention of seeking access to the National Labor Relations Board or the protection of the Labor Management Relations Act in any situation.

During the course of contract negotiations in that year an impasse was reached. The employers decided to add to the economic issue a declared public position that they would refuse to do business with the union because its leaders had rejected the oath-taking requirement. The employers' slogan became: "We won't do business with Communists."

When a strike was called by the Longshoremen's Union, the injunctive provisions of the newly enacted Taft-Hartley Act were invoked. The union promptly announced that the eighty-day "cooling off" period would be considered by it as a "heating up" period. No effective bargaining occurred during the term of the injunction. When the procedural provisions of the Act which called for a plebiscite by union members to accept or reject the final offer of the employers by secret ballot were implemented, the union instructed its membership to boycott the ballot and refuse to vote. The net result was that when the injunction expired and the Attorney General moved for its dismissal as required by law, the strike resumed and persisted for a period of 100 days. The President did not report to Congress his recommendations for further legislation. Ultimate settlement was reached largely by reason of a substantial abdication by the employers.

Perhaps the best that can be said for this experience is that both union and management leadership concluded that a recurrence of this type of conflict should be avoided in the future and that collective bargaining efforts should be directed to economic issues rather than political and emotional ones. It appears that this lesson was well learned. There has been no longshore strike on the Pacific Coast since 1948. The parties recently have negotiated long-

term agreements that have gained national recognition as partial solutions, at least, for the troublesome problems of restrictive work rules and mechanization.

Another thing emerged from this experience. It demonstrated that the eighty-day injunctive process under Taft-Hartley did not amount to a practical device for avoiding or settling national emergency strikes.

Grist for the McClellan Committee

I mentioned earlier that following the passage of the Wagner Act, the initial areas of labor-management conflict were related to recognition, union shop, seniority, and management prerogatives. Of course, basic economic issues having to do with wages and hours of work also were involved, but many of the numerous items which are now referred to as fringe benefits did not then enter the bargaining. In many industries overtime premiums were not paid, holidays were not recognized as premium days, vacations were not provided for hourly-rated workers, nor were weekends considered to be other than regular work periods. As bargaining experience progressed, more and more attention was given by the unions to seeking improvements in these areas. Today these items constitute a substantial portion of the cost package contained in a union contract.

Even later, unions began to seek "welfare" fringes in the form of employer-paid hospitalization and medical fee protection and pensions, as well. In most instances when union demands of this kind were presented, employers took the position that social benefits of this type were not included within the bargaining areas—wages, hours, and conditions of work—delineated in the Wagner Act. Many characterized the union demands as seeking employer-financed benefits from "womb to tomb."

Disputes concerning interpretation of the statutory language in this connection found their way to the National Labor Relations Board. Various employers' groups were not satisfied to allow the Board and subsequent court appeals to decide the questions raised. They presented to Congress a specific Labor Act amendment which, if passed, would exclude such welfare benefits from the bargaining area defined by the statute. Unfortunately for the pro-

ponents of the amendment, it failed of passage. The Labor Board promptly adopted the view that inasmuch as Congress had failed to pass the amendment, the legislative intent was now clear that such welfare items were not to be excluded from bargaining. The courts sustained this position. Thus, a complete new field for bargaining was opened to the unions.

A popular demand during this period was for what the unions called "health and welfare" coverage to provide payments for hospital care and medical fees. Neither employers nor unions nor insurance companies had had any experience which would permit them to determine what protections could be provided at predetermined costs. Blue Cross and Blue Shield were not in existence. Insurance companies which were asked to quote a premium for a list of minimum benefits declined to do so. Organized medical groups argued that such programs were a step toward socialized medicine.

Nevertheless, the pressures of bargaining led to the establishment of health and welfare funds on the basis of a cents-per-hour contribution to be made by the employer, with benefits to be determined after the fact. In this fashion, most of the early health and welfare programs were priced at $8.65 per month, this being the equivalent of a 5¢ per hour contribution for 173 straight-time working hours in an average month of 40-hour weeks. Only after these funds were established did insurance companies and other organizations begin to compete to provide a schedule of benefits. Over the years both the benefits and the costs have multiplied.

As to pensions, many employers had been providing plans, usually on a contributory basis, in the hope that such programs encouraged continuity of employment as well as loyalty to the employing organization. Unions soon sought to establish or extend pension plans on a noncontributory basis and to require that the negotiated programs be administered not by the employer but by joint trustees and in the name of the union.

As these fringe benefit funds and other negotiated funds became more numerous, the unions insisted upon handling the detailed administration of the payment of benefits. Many millions of dollars were accumulated to provide the benefit payments which had been negotiated. In a number of situations, employers abdi-

cated their joint legal responsibility to supervise administration, including the placing of insurance policies on a competitive basis and the manner of investing the trust funds being accumulated.

Situations of this kind, as well as complaints lodged by union members about the internal mismanagement of union affairs, led to the senatorial investigations conducted by Senator McClellan's committee. Testimony before that committee led directly to the Landrum-Griffin amendments to the earlier Wagner and Taft-Hartley Acts. The main thrust of these amendments was to provide what was referred to as a "Bill of Rights" for union members and to establish a detailed reporting system in connection with the management of the administration of joint welfare, pension, and other fringe benefit funds as well as internal union business. There can be little doubt that these provisions relating to the management of funds have corrected and will in the future prevent abuses of the kind that have led to the prosecution of numerous union officials.

With regard to the "Bill of Rights" provisions, however, many employers, as well as many union leaders, believe that the kind of democracy now available to union members has encouraged unwarranted rank-and-file revolts in some instances against established union leadership and has created complications in the process of bargaining. This is not to say that rank-and-file members should be denied their democratic rights, but it is to suggest, rather, that when democracy is construed to encourage minority challenges to responsible union leadership, collective bargaining mechanisms are bound to suffer.

As some union officials have expressed it, employers who cried out for democracy within unions are now finding that rank-and-file committees are obtaining too much democracy. Many union leaders are unwilling or are refusing to exercise their authority to influence their union membership in the making of decisions for fear that they, as officials, will be faced with charges by individuals or dissident groups that they have denied democratic rights to the objectors. Grievance complaints have multiplied because business agents are reluctant to refuse to process any claim, however unfounded.

The Situation Today

It seems to me that in the current or sixth period of the developing relationships that I have been attempting to describe, we have now reached a period of uncertainty as to the direction and future of labor-management bargaining. Although Congress and the administrative agencies and the courts have tried to maintain a kind of balance between the economic weapons that could be brought to the bargaining table by the parties, there can be no denying the fact that many changes in the structure of our economy and its organization have taken place since the passage of the Wagner Act.

Beginning in 1935, that Act gave great impetus to the organization of workers. While it is true that in recent years the rate of growth of unions has declined, I suspect that this has more to do with the changing character of the work force than it has to do, as some have suggested, with the exposure of certain union practices by the McClellan Committee.

Basic crafts and basic industries were generally organized, even before World War II. Since that time, a tremendous shift has taken place in the composition of our work force. Whereas blue-collar workers used to constitute a major portion of the total, the proportion of white-collar workers in the fields of engineering as well as in technical and clerical work has materially increased. Furthermore, the ratio of women employed now amounts to one out of three. Historically, labor has found it difficult to organize white-collar and professional groups, perhaps because union identification over the years has been with manual workers. Despite these shifts, however, unions continue to represent the workers in basic crafts and basic industries.

The changes in the composition of the work force are, in large measure, the result of the technological change which has taken place in our economy. Introduction of laborsaving machines, data processing, automation—whatever the elements are that are now referred to as cybernation—has created grave problems affecting not only union organization but our total social structure.

The management sector also has undergone structural changes. Improvements in communication and transportation, as

well as mass production, have led to an increasing interdependence within industry. Mergers of competitive corporations increase in number. Major corporations diversify and reach into new areas of service or production. Big industry tends to become bigger. Smaller industry tends to become more dependent on larger industry for materials, parts, services, and distribution of products.

The involvement of government has changed materially also. Whether it be considered the result of our moving away from isolationism in World War I, or the result of our participation in World War II, or the result of the "cold war" which even now continues, it cannot be denied that an increasing number of strikes or lockouts are claimed to affect the public interest. It appears that the consolidated strength of unions, the increasing interdependence of industry, and our international responsibilities and commitments have combined to contribute to this state of affairs. For whatever reasons, whether we like it or not, protection of the public interest against the impact of major work stoppages has become a matter of greater and greater concern.

It appears, however, that among the three major elements directly involved—big labor, big management, and big government—there is no agreement as to sharing responsibility or even as to the manner of approaching such an agreement. Big labor wants no interference by big government in any private war it may be waging with big business. Big business wants no interference by big government in any private war it may be waging with big labor. Cynically, it may be suggested that these basic objections are at times modified if the "interference" amounts to support, and the objections are loudest if governmental pressure is applied to bring about a change of position.

Big government itself seems unable to make up its pluralistic mind whether to get into or stay out of labor-management disputes that are big enough to cause economic losses to many people, inconvenience to many others, and consequently produce a substantial public clamor for government action. Even a definition of "public interest" escapes agreement. Recent experience suggests that even when a determination has been made on a case-by-case basis that the public interest is involved, there still is disagreement over what to do to protect the public and who should do it.

The current relationship between labor and management—and I think government must now be added—is further complicated by a number of uncertainties of rather recent origin. The uncertainties affecting labor have to do, among other things, with a declining authority of its leadership. Current challenges to union leadership among the auto workers, steel workers, electrical workers, and paper workers, as well as the restlessness in the teamsters' organization, all seem to indicate not only Landrum-Griffin reactions, but also the changing attitudes of a new generation of union members who may be more concerned with job security and the fear of technological layoff than they are with increased pensions for their declining years. The pressures of reduced work opportunity resulting from cybernation have created new problems, whose solutions are beyond the experience of many union officials. The very lack of solutions leads to increasing strike threats in substantial segments of industry, and this in turn to increasing demands by other than unions for government intervention to provide coercive mechanisms for settlement.

The uncertainties of management, in some degree, are a reflection of the uncertainties as well as the pressures of labor, but they are aggravated, in my opinion, by a sense of uneasiness related to the competitive need for improving productivity and efficiency by replacing men with machines, without knowing how to provide a cushion against resulting hardships to individuals—not only those displaced but those not yet employed. Further, a new generation of management has assumed responsibility and has little patience with the advice perhaps too freely offered by those who lived in a different period. Possibly the strange but deep divisions implicit in our recent national election have aggravated these uncertainties.

The uncertainties of government have to do not only with those of labor and management but also with its responsibilities in the undefined area of protecting the public interest. For even if a definition of such interest is achieved, the question of intervention remains troublesome, and the mechanism to be adopted undetermined. The Taft-Hartley injunctive process has proven ineffectual; direct intervention by the White House controversial

and sometimes divisive; and coercion by act of Congress—as in the recent railroad cases—inconclusive and impermanent.

Altogether, it appears to me that there are many new elements in current labor-management relationships that may lead to conflicts which will not be solved by attempting to apply methods of accommodation that have been developed in the past thirty years. New approaches through "human relations committees," "modernization and mechanization agreements," "long-range planning," and various other forms of experimentation seem to offer some hope. The proposal to substitute what has been called preventive mediation as a substitute for crisis bargaining would, if generally accepted, have undoubted value.

All of these techniques recognize the need for dropping the rigid connotations of the labels "labor," "management," and "government" in order to seek reasonable and broad solutions for all of the people who are involved in the public interest. As matters now stand, the expression "public interest" seems to be, as Secretary of Labor Wirtz recently said, "a substantially semantic fraud." I suggest that we should spend more time clarifying our notions about the true meaning of this expression without regard for our private labels.

The alternative seems to me to be illustrated by a favorite but somewhat shopworn story of mine. Shortly after General Douglas MacArthur and our army of occupation established a government in Japan in the American image, a young American-educated Japanese who had been named by the Supreme Commander to be chairman of the National Labor Relations Board of Japan was allowed to visit San Francisco to meet with selected management and labor representatives. Congressman Jack Shelley, now Mayor of San Francisco, and I were asked to have lunch with him. During our discussions, he described how Japanese workers and employers had been directed to affiliate with newly organized Japanese counterparts of the AFL, CIO, National Association of Manufacturers, and United States Chamber of Commerce. He described to us in detail also the organization of the Japanese National Labor Relations Board and its operations under a decree which paralleled the Wagner Act, or possibly the Taft-Hartley Act.

We asked if Japanese workers could strike. He assured us they could, but said that they had not done so because strikes would make the Supreme Commander unhappy. He added, however, that workers could not strike if the work stoppage would affect the public interest. Congressman Shelley and I immediately sought the answer to this troublesome matter of definition. We inquired how strikes affecting the public interest were defined under the newly proclaimed Japanese democratic system. After a long pause for reflection, our Japanese visitor replied, "The Supreme Commander hasn't told us yet."

I trust that we will find a better alternative.