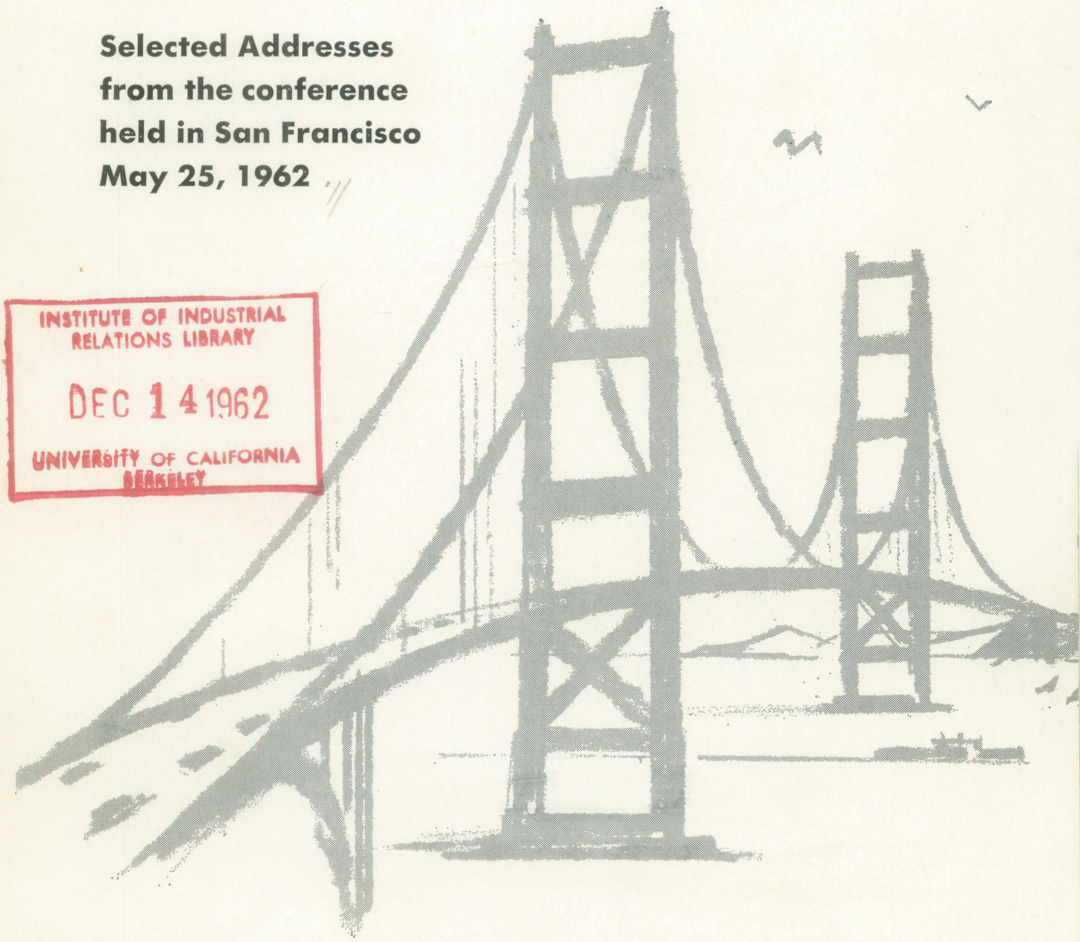
NEW PRESSURES ON COLLECTIVE BARGAINING

Selected Addresses from the conference held in San Francisco May 25, 1962



IIR INSTITUTE OF INDUSTRIAL RELATIONS
UNIVERSITY OF CALIFORNIA, BERKELEY

NEW PRESSURES ON COLLECTIVE BARGAINING

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San Francisco, California

May 25, 1962

Selected Addresses

by

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C O N T E N T S

FOREWORD

On May 25, 1962, the Institute of Industrial Relations presented a conference, "New Pressures on Collective Bargaining," in San Francisco, California.

In response to numerous requests, we have decided to make some of the addresses and discussions available to a wider audience, even though in some cases the speakers did not use a prepared text, and it was necessary to transcribe their remarks from tape.

Two addresses given at the conference are not included here because they have been published elsewhere. They are "Jobs of the Future," by Louis E. Davis (Industrial Relations, October 1962); and "Management Policy in the Future," by Dale Yoder (Personnel Administration, September 1962).

ARTHUR M. ROSS, Director
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THE FIRST TWO YEARS OF LANDRUM-GRIFFIN*

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I. Introduction

A. The Labor-Management Reporting and Disclosure Act of 1959, popularly known as the Landrum-Griffin Act, really consists of two distinct parts.

1. The first part is described by the official name of the Act (LMRDA) and comprises the first six "titles."
2. The second part, Title VII, consists of a series of labyrinthine amendments to the National Labor Relations Act.

B. Anyone who has followed the course of the LMRDA from its inception to the present time will be struck by the singularly ironic turn of events.

1. The chief impetus for legislation was provided by the McClellan Committee's investigations and reports on allegedly improper activities in the fields of labor-management relations and internal union affairs.
2. These disclosures, which concentrated almost exclusively upon the internal administration of a relatively few unions, not only resulted in a demand for legislative control over the conduct of internal union affairs, but also gave organized employers a momentary but decisive advantage in the seesaw battle with organized labor over the amendment of the National Labor Relations Act.

a. Ever since the enactment of the Taft-Hartley amendments

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* The material presented here was derived from the speaker's outline, and does not represent the actual text of his address.

to the NLRA in 1947, both sides had striven without success to obtain additional amendments favoring their respective interests.

b. The NLRA amendments, adopted in 1959, which generally favor employers, represent the first major change in the law since 1947. They were enacted ostensibly as part of the program to eliminate corruption within unions, but actually they have nothing to do with that problem.

3. Since enactment of the LMRDA, however, the NLRA amendments have attracted most of the public attention; popular interest in the conduct of internal union affairs (except for those of the Teamsters) has diminished rather sharply; and there are not very many people who can tell you, even in a vague way, what the first six titles of the LMRDA are about.

C. My assignment today is to review experience under the entire Act since its adoption in September, 1959.

1. Obviously, in the time allotted, I can do this only in a general and sketchy way.
2. My review will be divided into two parts:

a. The first will deal with regulations affecting internal union government and the conduct of union officials, employers, and their respective agents (Titles I - VI).
b. The second will deal with the NLRA amendments affecting the conduct of collective bargaining (Title VII).

II. Internal union government and the conduct of union officials, employers, and their respective agents.

A. Title I: the union member's Bill of Rights

1. This title purports to guarantee to all union members the rights of equal participation in union affairs; freedom of speech and assembly; reasonable and uniform dues, initiation fees, and assessments; freedom to sue unions and their officers; fair treatment in disciplinary cases; and receipt of collective agreements and information concerning the provisions of the LMRDA.
2. Review of developments

a. Most of the cases that have reached the courts have arisen under Title I. These may be discussed under the following

headings:

(1) Right to membership

(a) Title I contains no provision prohibiting denial of membership to qualified applicants on the grounds of race, religion, color, or national origin; in fact, the legislative history manifests a congressional refusal to regulate the admission policies of unions.
(b) Thus, we are faced at the outset by the distressing anomaly of a statute designed to promote democracy within unions which deliberately ignores the right of qualified persons to join.
(c) This appears to be one of the few areas of union affairs that requires further statutory regulation.

(2) Attendance, participation, and voting at union meetings.

(a) These rights are subject to reasonable rules and regulations in the union's constitution and bylaws; thus, the problem of striking a balance between the specific guarantees and the general reservation presents many difficulties.
(b) The most frequent question to arise under this heading thus far is the propriety of union voting-eligibility rules.
(c) The Secretary of Labor has ruled that unions may "in appropriate circumstances, defer eligibility to vote by requiring a reasonable period of prior membership, such as six months or a year, or by requiring apprentice members to complete their apprenticeship training, as a condition of voting."
(d) Division of membership into Class A and Class B, with different voting privileges, was held to violate the LMRDA (this is probably illegal at common law as well).
(e) Right to vote at union meetings has been held not to include right to vote on acceptance or rejection of collective-bargaining agreement.

(3) Freedom of speech and assembly

(a) These rights are modified by a proviso permitting

unions to enforce "reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations."

(b) Courts have shown an increasing willingness to look behind vague and general charges of conduct "unbecoming a union member," or causing "dissension" or "disruption," etc., and to vindicate the individual member's right to speak out and challenge the union leadership.

(4) Dues, fees, and assessments

(a) Need for special legislation in this area was always doubtful, and experience under the LMRDA confirms that position.

(b) Union dues, with rare exceptions, are reasonable and determined democratically.

(5) Right to sue, testify, and petition

(a) Title I provides that unions may not place any limitations on rights of members to bring, or participate in, court or administrative actions against unions or officers. It also prohibits discipline for appearance as a witness in any judicial, administrative, or legislative proceeding, or for communication with legislators.

(b) A proviso requires, however, that members claiming violation of these rights "may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time)" within the organization before going to court. This provision, a model of ambiguity, has proved to be the most troublesome in all of Title I.

(c) This proviso is susceptible of a variety of interpretations: it can be read to mean that unions are prohibited absolutely from requiring exhaustion or disciplining union members for failure to exhaust; or that courts either may require four months' exhaustion or must require it. If the union requires less than four months' exhaustion, may a court require more? If the union's constitution and bylaws are silent on the matter of exhaustion, is the court's power

to require exhaustion thereby affected? Most union constitutions prescribe penalties for failure to exhaust internal remedies before bringing suit: are such provisions still legal, or does the proviso protect members from discipline and simply postpone the time when they may initiate legal proceedings? Finally, how do we interpret the word "reasonable" in the proviso? If the union's hearing procedures are not "reasonable," may the member resort to the courts without delay?

(d) Some, but not all, of these questions have been answered; but none has been answered conclusively. Perhaps the most important decision was one by the Court of Appeals for the Second Circuit, holding that exhaustion of internal remedies is not an absolute requirement. It construed the proviso to mean that a union member attempting to initiate proceedings before a court or administrative agency may be required by that court or agency to exhaust internal remedies of less than four months' duration before invoking outside assistance. However, several federal district courts have reached the opposite conclusion.

(e) Another significant decision by a federal district court in Pennsylvania held that internal union procedures which cannot be exhausted within a four-month period should not automatically be held unreasonable. Explaining that unreasonableness depends on all the surrounding facts and circumstances, the court said that if the problem raised does not stand in pressing need of immediate decision, plaintiff may be required to exhaust otherwise reasonable, internal remedies for the full four months before going to court, even though he has no hope of obtaining final review within that period.

(6) Improper disciplinary action

(a) Title I provides that no union member may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues, unless he has been served with written, specific charges, given a reasonable time to prepare his defense, and afforded a full and fair hearing.

(b) The principal questions raised thus far under this heading have involved the scope of the provision as a whole and the meaning of the phrases, "otherwise disciplined" and "a full and fair hearing."

(c) Most courts have agreed that the protections of the provision are not available to union officers or employees, as distinguished from union members. But if the employee's or officer's rights as a union member are violated, some judicial relief may be forthcoming.

(d) In construing the meaning of "discipline" several courts have held that the term applies to discipline meted out by the union and not by the union member's employer.

(e) One court has refused to take jurisdiction of a case in which a union member accused his union of persuading the employer to discipline him. Court ruled that acts complained of were "arguably" unfair labor practices and thus within exclusive jurisdiction of NLRB.

(f) Most of the "full and fair hearing" cases have involved such flagrant violations of due process that courts have not hesitated to grant relief.

(7) Right to run for office

(a) Title I specifically guarantees to union members only the rights to nominate candidates and to vote in elections or referendums.

(b) Title IV (Elections) provides, in addition to those guarantees, that every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed. (Discuss later.)

(c) Rights received by Title I may be enforced by an action brought by the complaining member in a federal district court.

(d) Courts have held thus far, however, that Title I does not give any member the right to be a candidate.

(e) Claim that a member has been illegally denied the opportunity to be a candidate must therefore be asserted in accordance with the procedures of Title IV, to be discussed later.

(8) Remedies against election misconduct

(a) The critical issue here is the availability of pre-election relief under either Title I or Title IV.
(b) Despite the fact that Title IV expressly empowers the federal courts to grant pre-election relief, and that at least one federal court has similarly interpreted Title I, courts have been reluctant to interfere with scheduled elections.
(c) The judicial rationale is that Title IV provides adequate post-election relief. This reasoning, as we shall see, is faulty.

B. Title IV: elections

1. The principal remedy available to union members for violation of election procedures established in Title IV is, after exhaustion of internal remedies, to file a complaint with Secretary of Labor. If the Secretary, after investigating the complaint, finds probable cause to believe a violation has occurred, he is required to bring an action against the union in federal court. This post-election remedy is exclusive.
2. The trouble with this procedure is that since the challenged election is presumed valid pending a final decision by the courts, it is very difficult to prevent those who may have violated the statutory rules governing elections from enjoying the fruits of their wrongdoing.
3. The Secretary of Labor has filed suit in number of cases, but none has gone to trial; most have been disposed of by consent decree, which necessarily involves some compromises.

   a. The Solicitor of the Department of Labor has said, however, that the very act of bringing suit to set aside union elections has a salutary effect.

4. Thus, pre-election relief in Title IV cases becomes increasingly important.

C. Title III: trusteeships

1. Under Title III, trusteeships can be challenged in three ways: by complaint to the Secretary of Labor, and an action presented by him in federal district court; by suit brought directly by member or local union in federal district court;

or by suit by member or local in state court under state law.

2. When LMRDA was first enacted, it was generally believed that abuses in establishment and administration of trusteeships were so serious and widespread that there would be many Title III cases. This prediction proved to be false.
3. Several courts have held, erroneously in my opinion, that no private action is available unless complaint has first been filed with Secretary of Labor and he has found violation; the better view is that the remedies provided in Title III are alternative.

D. Title V: safeguards for labor organizations

1. This title deals generally with fiduciary responsibility of union officers.
2. Several criminal convictions for theft and embezzlement of union funds have been obtained, and attacks on constitutionality of law have failed.
3. In a leading case coming under this title, a union was enjoined from using its funds to pay legal expenses of officers accused of defrauding union of large sums of money, even though membership had approved expenditure.

E. Title II: reports by unions, union officers and employees, and employers

1. About eighty per cent of unions required to file annual financial reports now may use simplified, one-page forms.
2. Report forms have also recently been issued for so-called "management middlemen."
3. Litigation has been minimal.

   a. Broad powers of Secretary of Labor to subpoena records have been upheld in several cases involving teamsters.
   b. A union representing nonprofessional employees at approximately twenty hospitals in Minneapolis, St. Paul, and Brainerd, Minnesota, has been compelled to file report as organization engaged in an industry affecting commerce.

F. Title VI: miscellaneous provisions (nothing of importance to report)

G. Summary and conclusions

1. It is still too early to make assessment of effect of first six titles of LMRDA.

2. There are many weaknesses in the Act.

   a. Poor draftsmanship creates many problems.
   b. Chief substantive defect: failure to deal with problems of racial discrimination against non-members.

3. There are many good points.

   a. Has caused a number of unions to revise internal procedures, constitutions, bylaws, etc.
   b. Reporting and disclosure provisions make it vastly more difficult for dishonest union officers and employees to avoid detection.

4. Administration by BLMR has been good.
5. Interpretation by courts has been disappointing -- narrow and unimaginative.

III. Amendments to the NLRA

A. The NLRA amendments included in Title VII dealt with such matters as NLRB jurisdiction, picketing, secondary boycotts, "hot cargo" agreements, and the status of economic strikers.
B. Chief characteristic of these amendments is their execrable draftsmanship, which has to be read to be believed and which, once read, defies rational analysis [e.g., §704(c)].
C. An intelligible review of experience under these amendments cannot be accomplished in the time remaining, and I doubt if it would be worthwhile anyway.
D. The most interesting development is that the NLRB is interpreting the new provisions in a way which Representatives Landrum and Griffin -- the principal sponsors -- say is "frustrating" the congressional intent.
E. The charge that the Board is "frustrating" congressional intent has been made many times in the past by representatives of labor and management, as well as by members of Congress. This suggests that desired changes in the NLRA or its administration can be more readily secured through the medium of executive appointments to the Board than by the legislative process of amending the law.

THE UNION OF THE FUTURE

Joseph T. DeSilva
Executive Secretary
Retail Clerks Union, Local 770, Hollywood

Mr. Chairman, fellow panel members, ladies and gentlemen. I appreciate very much your invitation to me to discuss the "Union of the Future." It is clear that unions are here to stay, but whether they grow in size and importance, or only hold their own in size while they decline in relative importance, depends to a large extent upon what long-range programs are adopted at the local union level.

My discussion will be concerned with the local union of the future. The successful local union of the future will have a much broader scope of activities than most local unions which have functioned effectively in the past. We feel that we in the Retail Clerks Union Local 770 in Los Angeles are building such a union of the future. And so, instead of describing in abstract terms, the general characteristics of some union that might exist someday, I am going to use examples from the programs and the future plans of Local 770.

Most people think of a union primarily as an organization which is constantly engaged in negotiations for better wages, decreased hours, the elimination of substandard conditions, and the improvement of general working conditions in any given industry. This description has been appropriate in the past. The union of the future will resemble the union of the past; it will include complex services for the benefit of humanity but with its primary duty, of course, to its membership.

Like many business enterprises and systems of education, the union of the future must, because of its limited income structure, be large enough to support the many services which are required to implement the modern union contract. Years ago, when the major issues to be negotiated were wages and hours, and slight improvements in working conditions, union contracts were customarily of one-year duration. The questions of low wages, long hours, and very poor working conditions were not subject to research as to whether or not there was justification for a demand

for improvements. There were bare facts, understandable by anyone and, at that time, the majority of the working population was generally affected by these adversities.

As the standard of living of the workers began to rise, it was discovered that other issues became even more important to the worker than an increase in pay. This brought about a transition in the thinking of those involved in collective bargaining. During eras of wage and price control characterized by the War Labor Board and the Wage Stabilization Board, it was found that certain benefits which we now recognize by the term "fringe benefits" were permitted in order to arrest the inflationary spiral, which had begun due to the changes brought about by war-time spending conditions. Some unions pursued the fringe-benefit theory at the expense of increases in wages. Other unions ignored fringe benefits during the early stages of their development and maintained a steady course of increased wage demands. Still other unions, such as ours, had a dual problem. It was faced with the substandard wage and working-condition pattern of the retail industry and by the greater need of its members for social benefits which could not be obtained by the individual member even if the member were given the fringe-benefit cost as part of his pay. This problem had to be met in a bold fashion to bring about a successful conclusion to the union's objectives. It was necessary to develop a research program and, with the aid of university personnel, we were able to develop statistical data and theoretical arguments which, combined with a militant and educated membership, resulted in great success. Today this union has established one of the highest wage scales for white-collar, unskilled workers in the country. But this in itself would have been considered an empty achievement by the leadership of this union; all students of collective bargaining will readily admit that wages alone are not the answer to a successful union's future, nor even to its right to survive.

The union of the future will be known to coming generations as a force which represents the public good by developing benefit programs for those whom it represents. Some people say that these benefits should be achieved by social legislation; it is a well-known fact, however, that although legislation never precedes a crisis, it inevitably follows. Therefore, to wait for the legislative processes to institute appropriate pensions, medical care, dental care, psychiatric care, and supplemental unemployment and disability benefits would limit the expression of concerted action by a given group of wage earners, and would place the task in the hands of political forces; because of our compromise form of legislative action, this would result only in compromises by politicians.

The union of the future must not wait for a desperate condition to develop and for public sentiment to be aroused so that legislation can remedy the injustices to humanity; a union must be an inspirational

force which senses the needs of the people and leads the way, through the method of collective bargaining. In line with this thinking, Local 770 has developed a large number of fringe benefits which in years to come will not be considered as extraordinary provisions of a modern union contract. You might ask what forces develop within a local union to bring about such radical developments as the achievement of complete care for the workers' needs and the needs of his family, especially under present conditions in which small and intermediate businessmen are disappearing; unless a broadening of the collective bargaining processes takes place, the large corporation would become the dominant factor that would unilaterally determine the standard of living of its personnel.

A union must be sensitive to the social as well as the economic needs of its members -- especially in an occupation where the time for study by the individual is limited for many reasons. Local 770 developed a fringe benefit program primarily aimed at benefiting the entire family. Through an extensive educational program, the member was convinced of the value of greater family benefits. Time does not permit detailing the evolution of each individual program, but it should be stated that the leadership of this union has carried on a constant search for methods by which the family unit could become more secure. An early project was the implementation of a complete medical-care program which covered the entire family and eliminated any medical, hospital, surgical, or laboratory cost to the member, thereby relieving the pressure of insecurity because of unforeseen catastrophic illness. The medical plan and the other fringe benefits were negotiated only after research and detailed surveys showed what benefits were required by the member and his family, and what amount these benefits would cost the employer on a cent-per-hour basis. After the membership had been made fully aware of the survey results, the problem of presenting the facts to the employers became relatively simple. The purpose of the benefits, their extent and cost, acceptance by the worker, and recognition on the part of the employer that the presentation was reasonable, resulted in the success of this first program, the Kaiser Permanente Health Plan. The thoroughness of this original medical benefit is pointed up by the fact that the medical policy has not changed except as to cost during the eleven years of its existence.

Again, when pensions were considered, the study of age groups, the number of hours worked, and actuarial assumptions provided by the experts, gave us the exact amount needed to institute a $100.00 per month pension in addition to social security for any member employed in the industry for a period of thirty years. The pension plan, which was started in 1957, at present has assets of 21 million dollars, and today, there are 532 food store retirees receiving pensions in Southern California. It is important to note that this pension plan covers an area from Santa Barbara to the Mexican border, and that employees of

the food and drug industries covered by the pension plans may move from one county to another and from one employer to another without losing any of their pension rights. This is unlike any private company pension plans now in existence. After several years of experience it was found that a retiree was at a great disadvantage after he retired mainly because, as he withdrew from the collective-bargaining unit, he no longer was covered by medical care, and few insurance companies were willing to give any kind of medical care to the elder citizens. In 1959 this union established the principle of complete medical care fully paid by the Pension Fund, and full coverage for the retiree and his spouse for the rest of the life of the retiree.

An important but low-cost phase of another fringe benefit is that of supplementary unemployment and disability benefits. Under this program, also established in 1959, the member receives sixty-five per cent of his average weekly salary as long as he received unemployment benefits from the State; and eighty per cent of his average weekly salary in the event of disability and workmen's compensation cases. The benefit is for a duration of up to twenty-six weeks, and one year in workmen's compensation cases.

There are two other important programs. One is dental care, for which an extensive survey was made, with statistics gathered from all over the United States. The result of this survey was startling; it was found that in order to give complete dental care to the member and his family, the cost of this type of dental care would be more expensive than the cost of complete medical care. A dental program was negotiated, however, and today we operate a closed-panel dental clinic which eventually will cover all dental care except orthodontic work; and children will be included for ordinary dental-care procedure. The cost to the member is one-third of the Veteran's Administration's dental-fee schedule. Acceptance and appreciation of this type of program by the members cannot be overstated.

The last program -- and one of the most important -- is psychiatric care. The union, being on the observing end of developments within the membership, discovered quite by accident that in a closed-panel medical group, in which the medical file of the member follows him from doctor to doctor, members suffering from psychosomatic illnesses were on a virtual merry-go-round trying to find relief. In an unguarded moment, one doctor stated that if we were to treat only those physically ill, there would be an overabundance of doctors. This produced a study in the mental-health field and, after a period of about two years, the union was ready to lead the way in the community and propose that psychiatric care be added to the union contract.

At this point public relations had to be considered. The decision

was whether or not to use the term "psychiatric care" or "mental health." Since it was evident that a struggle was impending and that the term "psychiatric care" was being used only in "hush-hush" conversations, the union decided to take the bull by the horns and make a public issue of the term "psychiatric care," focusing the attention of all concerned on the importance of this problem. After much criticism by the uninformed, we succeeded in establishing, by union contract, a psychiatric program to provide a complete range of services in family counseling to care for those who are mentally disturbed and who, by proper care in the early stages, can be relieved of the danger of possible eventual confinement. Stresses and strains in modern-day society require that people have an outlet -- someone to talk to, someone experienced in the ways of the mind and able to advise and counsel. It is our belief that even the medical profession is not too sure in many cases as to whether or not an illness is psychosomatic in nature or strictly somatic.

Of all the programs which we have instituted, it is our belief that psychiatric care will develop into one of the major assets that this union has established, and that society eventually will have to accept. We feel that a union should point to the future to bring about changes in our society which will benefit all. Toward this general end we have maintained a weekly, public-service television show for the past eleven years. Although we are now discontinuing this show, instead we are sponsoring the "Ten O'clock Wire" news broadcast on C.B.S., five days per week, in which we will bring the usual type of news broadcast to the public but we expect our commercials to do a hard-selling job.

Our major plans for the future include an extensive organizing program for the large number of unorganized employees in retail trade, and plans for a multi-storied home for the aged which will provide a satisfying and healthful environment for members in their declining years.

Finally, the union of the future must maintain an experienced and dedicated staff -- experienced in every phase of the union contract. The staff must be supplemented by expert advisors and counselors in order better to safeguard the conditions created and to administer the collectively bargained welfare plans. Dedication is the key to success for the union of the future -- dedication to the service of its members, to the public good, and to the education of the public in general, as well as to the rallying of political forces to bring about social changes for the benefit of those over whom the union has no jurisdiction. A union in a society as complex as ours should be able to recognize danger signs and change its way of doing business and serving its members -- thus adjusting to the needs of future generations.

The union of the future may not be known to us by such a present-day term as "the union," but it will be a union among people -- people

of different races, colors, and creeds -- people who will not permit the forces of reaction to destroy the onward rush of liberation from the slavery of the past. The union of the future will be headed by dedicated people who must have the qualities of leadership, and the ability not only to interpret the needs of the people but also to devise solutions for the ever existing problems which face humanity. In this fashion we can remain a free people, free to develop our inner instincts, and free to enjoy the good things of life.

THE ROLE OF GOVERNMENT IN COLLECTIVE BARGAINING

William E. Simkin
Director
Federal Mediation and Conciliation Service

The role of the government in collective bargaining has generated much debate and discussion in recent weeks. The so-called "productivity guidelines" disseminated by the Council of Economic Advisers, the recent steel price controversy, and the even more recent report by the President's Advisory Committee on Labor-Management Relations have created an increased awareness in the general public of our labor-management problems. Topics once reserved primarily for the hallowed halls of academia or sophisticated meetings of skilled practitioners, such as this one, are now discussed with vigor and abandon by many people.

In most respects, this is a healthy development. Our faith in democratic processes rests upon a presumed enlightened and interested electorate. Moreover, the planning and administration of the government's role in the collective-bargaining scene should rest upon the broadest possible base of comment and discussion.

Notwithstanding the value of vigorous discussion, the controversial nature of the topic causes me to wonder whether I've been selected to play the role of a defenseless matador. Having no sword, I feel that Ben Aaron and Art Ross should at least provide me with a cape.

Most speeches about the role of government in collective bargaining begin with the assertion that collective bargaining should remain free. But the nature of the freedom which develops may do violence to Webster; one is reminded of those lines from the well-known musical, Kiss Me Kate:

> "I'm always true to you, darling, in my fashion,
> I'm always true to you, darling, in my way."

Use of the word "free" is valid only in the sense that all freedom is relative. Freedom of the individual is restrained by self-imposed responsibilities and by the externally imposed laws and mores of the community.

Freedom of a company and a union in the voluntary decision-making process has always been restrained by a whole host of factors, both internal and external.

Since we are concerned here primarily with governmental restraints, a single recounting of some past events may be a helpful reminder. The Railway Labor Act incorporated Emergency Board procedures at a time when union organization was limited to relatively few industries. The Wagner Act, famous for its encouragement of collective bargaining as the cornerstone of governmental labor policy and for the creation of the NLRB to facilitate that policy, included very substantial limitations on employer freedom and some limitations on union freedom. The Wage and Hour and Bacon-Davis Acts limit freedom with respect to wage and overtime practices. The necessities of World War II transferred many of the most critical decision-making functions away from individual bargaining tables to the tri-partite War Labor Board. The Taft-Hartley Act imposed more restraints on union freedom, spelled out limits on union security provisions (the first generalized excursion into the terms of labor agreements), and created the well known emergency-disputes procedures. The Atomic Energy Labor Relations Panel procedures are a form of restraint in that industry. The President's Executive Order creating the Missile Sites Labor Commission one year ago made any type of labor dispute on a missile site potentially subject to a directive. These are some of the ways by which the government already reaches in to influence or restrain either a company or a union, or both, as their representatives sit at the bargaining table.

I have no doubt but that there are many in this room who believe that the government is already too big a force at the bargaining table by reason of the laws and procedures just recounted. As a form of academic exercise, I would join you in a number of particulars. But within the context of world affairs today and in the immediate future, it is not very realistic to talk about less government in labor relations. The real question is whether government must play a still larger role and, if so, how.

My remarks hereafter will be directed to three areas, all oriented around mediation since that is now my primary concern. The three areas are:

1. The productivity "guideposts" offered by the Council of Economic Advisers.

2. The President's Advisory Committee report as it relates to Emergency Disputes Boards.

3. Mediation as performed by the Federal Mediation and Conciliation Service.

The alchemy which has occurred during the five-month history of the "guideposts" portion of the last report of the Council of Economic Advisers should be a good subject for a Ph.D. thesis. I've been too deep in the forest to be capable of tracing the sequence. In any event, it should be obvious to anyone who reads the text of the report that a remarkable transition has occurred between the original words and the widely held notions now existing both as to form and substance of that report. What started out as a "contribution...to discussion" has emerged somehow as an alleged new stabilization policy.

Let me hasten to say that, as an erstwhile pretender to study and teaching in the area of economics, I have no important fault to find with the report. It is a most excellent exposition of a point of view that is clearly defensible. I do not say this out of mere loyalty to fellow members of the Administration. The fundamental thesis that wage costs in the aggregate cannot increase faster than productivity without producing an inflationary effect is sound. At the present levels of fringe costs, it is equally apparent that these should be included in total wage costs, in contrast to the major emphasis until quite recently on wage rates alone. Nor do I have any reason to disagree here with the principle that general price stability is desirable in the existing world situation.

The problems that I do want to explore here briefly are related to the effects of certain misconceptions about the "guideposts" on current collective bargaining. A principal misconception is that the "guideposts" provide a wage-stabilization formula somewhat comparable to the War Labor Board's Little Steel formula. Those of us who are old enough to remember the Little Steel formula will recall that it differed in several major ways from the "guideposts." At that time we had wage- and price-stabilization by Act of Congress. No such legislation exists today and there are no indications that such legislation is contemplated. Secondly, the Little Steel formula developed out of extensive deliberations by a tri-partite board. Virtually all of us who were familiar with War Labor Board history know that the "no strike-no lockout" origin of the Board, its tri-partite composition, and the fact of a hot war were the principal supports for its decisions. There is no reason to believe that any formula developed administratively will have comparable labor and industry support. Thirdly, the Little Steel formula could not be applied automatically. The Board had a large staff to administer that and other formulae. No such organization exists today or is contemplated. Finally, no one formula (even Little Steel) was adequate to handle all the problems that developed in a comprehensive wage-stabilization program.

A second important misapplication of the "guideposts" is popular use of the three per cent per-year figure. No such single figure appears

in the text.

A third misapplication is that many persons ignore the so-called "modifications" noted on page 189 of the report. Such factors as comparable rates for similar labor and the industry's demands for labor are important considerations as well as is productivity.

These misapplications of the report itself and misunderstandings as to its intended usage are tending to have some unfortunate effects. In circumstances in which a likely settlement could be above three per cent, many employers are searching avidly for somebody in government who will lend support to restrain the union. In those in which a likely settlement could be substantially less than three per cent, unions are tending to expect at least three per cent as a matter of right. Whether the over-all productivity criterion be three per cent or some other figure, it was obviously intended only as an average. My modest knowledge of statistics has always included the naive assumption that an average is a composite derived from a rather wide range of figures on both sides of the average.

Examination of new contract settlements in the calendar year 1961 shows that the composite of fringe-cost increases, wage cuts, no wage increases, modest wage increases, a concentration of wage increases between 6¢ and 10¢, and some very substantial settlements well above 10¢ all produced an average country-wide wage-cost adjustment approximating the over-all productivity increment. Prices were relatively stable. This history tends to validate the principal thesis of the Council's report. However, it does not support a conclusion that productivity ever was or should be the sole criterion for appraisal of reasonableness in any one industry or at any one plant.

The most probable cause for emergence of three per cent as some sort of magic figure is the understandable desire of many people to seek a simple answer to complex problems. The fact is that there are no simple answers in collective bargaining.

To conclude this discussion about the "guideposts," my suggestion is that it is incumbent on all parties at the bargaining table to go back to the old-fashioned notion that there are a great many factors pertinent to the size of the economic package in any particular bargain. Productivity has been one, but only one, of the factors having a bearing on bargaining for a number of years. The relevant factors, and the weight given to any one of them will and should vary between industries and even between plants in the same industry. A principal virtue of collective bargaining is its diversity and its ability to adjust to different circumstances. To attempt to over-simplify the process would do a disservice to the institution.

Turning now to the Advisory Committee's report to the President on Free and Responsible Collective Bargaining and Industrial Peace, time permits comment on only one feature -- the suggested emergency-disputes procedures. The Committee worked long and hard on this important section and it is significant that it is substantially unanimous except for Henry Ford's footnote.

The Emergency-Dispute Board feature has been compared widely with the somewhat comparable provisions of the Railway Labor Act. It would be improper and useless to attempt to suggest that there are no similarities. To the extent that the procedures are alike, the recommendations are subject to the same criticisms directed in recent years against the operation of these procedures for railroads and airlines. Any form of outside intervention, readily predictable in advance, can stifle collective bargaining. If the recommendation device is over-used, public recommendations can become a springboard for further concessions. There is an inevitable tendency for the weaker party in a disputes situation to seek solace and support from government.

It should be noted, however, that the Committee gave careful attention to these aspects of the problem. The first protection is that Emergency-Disputes Boards should be used only in "...major disputes, involving whole or important segments of critical industries..." In short, it is not contemplated that the device should be used widely. Secondly, an Emergency-Disputes Board would be appointed only after collective bargaining and normal mediation "prove unequal to the task of removing a strike threat or ending an actual strike." Another important feature is that the time when a Board would be appointed is deliberately ambiguous. Creation of Board procedures could occur at any time, beginning long before a strike deadline and running up to a period during a long strike. It is equally significant that the decision can be not to appoint a Board at any time.

A second deliberate ambiguity exists with respect to the addition of public recommendation-powers to a Board's authority. This authority could be conferred on a Board at the outset. It could be given at an appropriate point during the Board's mediation efforts in collaboration with the Federal Mediation and Conciliation Service. Finally, the decision could be never to grant the authority to recommend.

The provision that an Emergency-Disputes Board should work closely with the Federal Mediation and Conciliation Service is designed to utilize fully the personnel and prior knowledge of the case that has been accumulated by FMCS mediators and to assure no break in mediation efforts. These features of the Committee's recommendations require an initial and a final gate tender to make the many and varied decisions that would have to be made and to hold back potential flood at the several gates. Since

the FMCS is the agency intrusted with the basic duty and responsibility for mediation, the Director of the Service is proposed as the first gate tender. The final responsiblity rests with the President.

As the present incumbent of the proposed, initial gate-tender post, I have no illusions about the grave responsibilities of such a position and of the pressures that could be and would be exerted. However, it is my considered opinion that the advantages of flexibility far outweigh the risks always associated with personal judgment and human frailties.

At this very moment in the West-Coast maritime industry we are faced with possible failure of Taft-Hartley emergency-disputes procedures. Similar situations have existed in the past, including the 1959 steel strike. Others will arise in the future.

It was only after most careful deliberation that twenty of the twenty-one men on the Committee agreed that a statutory basis should be established for the form and character of additional governmental intervention that is encompassed by the proposed emergency-disputes procedures. It is my own judgment that the proposals made are advisable and necessary and that they represent the best available current joint judgment on this important question.

In a limited number of prior speeches, I have discussed a few concepts about the need for intensified mediation and methods of improvement of the work of the Federal Mediation and Conciliation Service. Throughout this past year, all of us at the national office and the field mediators who are stationed across the country have devoted a great deal of time and attention to the subject. Time available here today does not permit an adequate review of our current objectives. However, a few comments should be made.

It should be made clear at the outset that we do not and never have conceived of mediation as a decision-making process. Our sole reliance is on persuasion. We seek no powers other than the right and obligation to attempt to persuade. This concept obviously includes the right of any company or any union to decide against any particular suggestion that may be made.

Secondly, it is our considered judgment to use mediation devices as sparingly as possible, and then to use only those mediation devices which are appropriate to the facts of a specific case. In the course of a year, a total of approximately 100,000 Taft-Hartley notices are received by the Service. After screening, some 20,000 cases are assigned to mediators. Only about 7,000 of them become what we call "active cases" in the sense that a mediator actually sits in at one or more bargaining conferences. Even among those 7,000, a substantial number are those in

which the mediator participates actively only at one meeting. These figures show clearly that the country-wide collective-bargaining picture is basically healthy. Where it is healthy, mediation has no purpose except to ascertain the fact that the institution is performing its intended functions.

Within that relatively small segment of the economy where mediation assistance is necessary, we do believe that the FMCS has a duty and a responsibility to exert all reasonable efforts -- within the persuasion concept -- to be of assistance. What we have labeled "more aggressive mediation" for want of better words is nothing more than utilization of tactics that the best mediators have always used.

As all of us who are involved, in one way or another in the collective-bargaining scene, work together in the months ahead, I am sure that we agree on the necessity to keep the broad picture clear. Voluntary collective bargaining can be and must be preserved. The role of government must be limited, first, to creating a general climate within which mature collective bargaining can flourish with a minimum of disturbance and, second, to exercising a minimum of control necessary over any excesses which may develop. The extent of this role, today as formerly, will depend principally on the conduct of the parties themselves.

A Panel Discussion

DO WE NEED A WAGE-PRICE POLICY? HAVE WE GOT ONE?

Discussants:

HARRY POLLAND

Labor Economist
San Francisco

WILLIAM H. SMITH

Executive Vice-President
Federated Employers of San Francisco

JOSEPH W. GARBARINO

Professor of Business Administration
University of California, Berkeley

Panel

DO WE NEED A WAGE-PRICE POLICY? HAVE WE GOT ONE?

Remarks by HARRY POLLAND, Labor Economist, San Francisco

It is generally believed that organized labor is opposed to the administration's wage-price policy. This is not so. If there were presently full employment, rather than five and a half billion unemployed; if the wage-price policy provided for a definite mechanism to control prices; and if economic growth were proceeding at a faster pace, labor's attitude might be more enthusiastic.

Now, the question that we are considering this afternoon I think has been answered in part by Mr. Simkin earlier, and I would also like to quote statements made by the President and by the Council of Economic Advisers. When the President spoke to the UAW convention, I feel he summarized very well the position of the administration. He said the following:

> This administration has not undertaken, and will not undertake, to fix prices and wages in this economy. We have no intention of intervening in every labor dispute. We are neither able nor willing to substitute our judgment for the judgment of those who sit at the local bargaining tables across the country. We can suggest guide lines for the economy, but we cannot fix a single pattern for every class and every industry. We can and must, under the responsibilities given to us by the Constitution and by statutes and by necessity, point out the national interest and, where applicable, we can and must and will enforce the law on restraints of trade in national emergency. But we possess and seek no powers of compulsion and must rely primarily on the voluntary efforts of labor and management to make sure...that the national interest be preserved.

And then the Council of Economic Advisers in its now famous guide

posts had this to say:

> These are not arbitrary guides. They describe briefly, and no doubt incompletely, how prices and wage rates would behave in a smooth-functioning, competitive economy operating near full employment. Nor do they constitute a mechanical formula for determining whether a particular price- or wage-decision is inflationary. They will serve their purpose if they suggest to the interested public a useful way of approaching the appraisal of such a decision.

It seems to me that the speakers for the administration have clearly answered their questions. We have no wage policy stated here, in the strict sense of the word. There is no implementation of these guide posts nor are any contemplated. There is no wage-price control or enforcement machinery, nor are there any specific industry-by-industry wage-price policy programs being suggested. It is more likely the administration will intervene overtly and covertly on an ad hoc basis in industries where the national interest is deemed to be affected. This has happened in steel -- coming negotiations in aircraft and missiles might fall into this same category -- railroad prices might be another one, but by and large it seems to me the administration will use education, persuasion, pressure through public opinion, etc., to a greater or lesser extent in any kind of intervention that may take place during the coming period. However, this is not to say that the administration is not serious and will not use its resources short of compulsion to gain its objectives. It appears, from the administration point of view -- so far as I can learn from the recent conference in Washington -- that inflation is not now the primary consideration. The administration seeks to promote plant modernization and to encourage venture capital by stabilizing prices. It also wants to meet the balance-of-payment problems by increasing our export. Finally, it wants to prepare for the time when we again attain full employment by planning in advance against potential inflationary pressures.

Now there are a number of problems which the administration faces in attempting to carry out this program. They are as follows:

1. Much decision-making in the wage-price arena is carried out on a decentralized and fragmented basis. According to the Bureau of Labor Statistics there are in excess of 150,000 collective-bargaining contracts in effect in this country distributed among 186 international unions and involving some 78,000 local unions. I should add that some of these local unions are in Canada, but nonetheless a substantial number are here. It seems hardly possible in a collective-bargaining pattern of this type to establish any kind of consistent policy.

The primary responsibility of bargain representatives is to the

employer and employees directly represented. Union officials on the one hand can hardly be expected to go back to their members (who have to meet payments on various consumer goods) and tell them that we must increase the rate of economic growth, and solve the balance-of-payment problem. In the absence of an emergency situation, that kind of argument will hardly be received enthusiastically by the members. By the same token, an employer representative has the same problem with his principles.

Programs of this type, as are suggested by the Council of Economic Advisers, require implementation by highly centralized unions and union officials who can speak and act with authority; and I think in this day and age you will all agree that this is not possible. Indeed, at the conference, Professor Dunlop made a very strong statement to the effect that union officials' positions have to be upgraded because there has been much done to downgrade their role, and to cut down on the confidence which their members have in them.

The next point I would want to make, with reference to the difficulty that the administration faces with reference to its policy, is that there is no mechanism provided for holding prices down. The Council of Economic Advisers was fairly definite in terms of how it proposed to control wages, but was most indefinite with reference to how prices were to be kept down. I think you will all recognize that unions are highly suspicious institutions, and if they did settle on a modest basis and a price increase resulted, there would be total disenchantment; then it would be very difficult to get them or other unions again to agree on the basis of patriotism to very limited objectives.

Another matter that worries me with reference to the policy of guide posts is: Can and will it work equitably? My experience as a negotiator for twenty years has impressed upon me the fact that if anybody can excercise restraint upon wages, it is the employer-representative with whom I would bargain, and I find that it is difficult enough to sit through twenty or thirty meetings and to argue the various points with reference to a contract, which in itself is a tremendous restraint on any union representative, and then find in addition that we have other problems facing us outside the bargaining room. If there is substantial restraint, I submit right at the collective-bargaining table. I have yet to see an employer who voluntarily gave the union a large increase.

2. I think Mr. Simkin's point made this noon is very good -- that the guide posts tend to be considered in an oversimplified manner, and I think in part this comes as a result of the terse treatment given the subject in the report of the Council of Economic Advisers. For those of you who have seen it, the discussion of the guide posts is limited to six pages. This is a 300-page volume; I guess they felt that management and labor people don't like to read and, thus, stated it so tersely. But

this tends to oversimplify what is a very complex collective-bargaining process and, though one can find in paragraphs general statements recognizing that there may be other criteria to be considered, certainly the emphasis is on productivity. This does a disservice to the many problems that beset negotiators when there are other factors that are justified and which should enter into the collective bargaining.

3. The policy ignores the wage problem of workers at the bottom of the economic ladder; in this category I would include the unorganized and those persons who are represented by unions that do not have very great economic strength. Though in Washington, management was talking about the guide posts acting as a floor of three per cent and unions were talking about guide posts acting as a ceiling, I think we are going to have a mixed situation. There will be a number of cases in which settlements will exceed three per cent; there will be a number in which they will be less than three per cent; and I feel that, for the members of the labor market -- workers who are not represented by unions or are represented by weak unions -- that the settlements will be substantially less. It will, for them, be a ceiling that is not attainable.

Another item deserving consideration is the role of fringe benefits in this kind of discussion. As Mr. Simkin pointed out this noon, they are included in such a package. But I wonder whether fringe benefits such as Health and Welfare, Health and Welfare programs for those who are retired, and pension programs which are being negotiated through collective bargaining should properly be charged to the wage package. These are areas in which other institutions in our society have failed, and labor is filling the vacuum. For example, the big fight now going on with reference to medical care for the aged has left unions no alternative but to take direct action themselves and attempt to provide medical care for those who are retired. Well, this is a cost item which should properly be assumed in another area of the economy; yet it is being charged to the labor sector.

Another area, of course, is the Health and Welfare plan area where costs continue to go up through no fault of the parties to the collective-bargaining agreement. This again becomes a factor under the guide-posts theory in making a wage determination. It seems that the parties themselves, through mature collective bargaining, can do considerably more than they are doing to adjust the economic responsiblities of our time. During my remaining minutes, I will concentrate my attention largely on the employers, for two reasons.

I know Mr. Smith will have a few uncomplimentary things to say about labor; secondly, and more important, is that the employers play more than an equal role in their bargaining relationship with unions. It seems to me -- to use the theater as an analogy -- that the employer plays

the role of the producer, the author; the union is mainly the actor, and though it can disrupt the performance, it really does not have any control over the direction which the business enterprise takes. Now I feel very strongly that, if management would act responsibly in collective-bargaining arrangements, they could do much to direct the negotiations and the final contract, so that the community itself would not suffer. I will illustrate this more specifically. I think that collective bargaining has to be more rational. It is unfortunate that collective bargaining has deteriorated so that there is not much sense made at the collective-bargaining table. We usually do not deal with facts; we deal mainly with self-serving argument, and each party tries in the most partisan manner to set forth its position. And so we cease listening to each other.

One mistake in collective bargaining is that usually we have very few facts when we discuss wage and cost items. Management has arbitrarily taken the position that unless it is pleading actual inability, the union is not entitled to such information. I submit that if the guide lines are to play a role in collective bargaining, it behooves employers to provide necessary cost information, financial information, cost-per-unit information, anything that has any relevance to discussion of wages and prices. Maybe if the guide lines serve no other purpose, they will create a more intelligent atmosphere in which collective bargaining will be discussed.

A second area, it seems to me, where management fails is that it does not disclose to its unions its plans for the future: expansion, contraction, merger, whatever it may be. A month after a recent negotiation in which I participated, and had settled the contract, two important companies merged. This merger had been in the planning for a considerably longer period than the post-negotiation period, yet nothing had been said to us. Management is reluctant to tell us what its plans are with reference to modernization and how it will affect the employment of people. I submit that this is all part of the collective-bargaining talks and may, if such problems can be solved in one way or another, determine the direction that unions take with reference to wages and costs.

It seems to me that the discussion between labor and management must continue over a period beyond the frenetic sixty days that precede the expiration of the collective-bargaining contract. There must be serious talk which goes on throughout the year, not with reference to grievances, but with references to the industry, its outlook, what is being done. Management in this new era will have to give labor a more trusted role in the business organization.

4. I would suggest that the parties must engage in more imaginative bargaining. If labor is expected to make concessions on cost items, management should be expected to bargain more cooperatively with reference to

non-cost provisions and contracts. For example, such matters as how sub-contractors should be treated under collective-bargaining contract is a major issue today in many negotiations, because prime contractors or employers refuse to take responsibility for the actions of their sub-contractors. Many grievance procedures work very unfairly for the worker in that they are very intricate, there is much delay involved, and there is much red tape before he finds a solution to his grievance. Much must be done in this area.

The question of seniority and job security must be considered more seriously. When we talk about a wage policy, we ought to forget that workers are on an hourly rate and may be dismissed in some industries at the end of eight hours of work or at the end of four hours of work, that they do not even have weekly guarantees. There are seasonal shutdowns, and their stake in the industry is such that they get very little out of it other than the hourly rate; thus they try to maximize that. There are areas within the cost arena in which management is reluctant to bargain which might result in cheaper settlement. I find that management largely likes to direct discussion to straight-time hourly wages. That seems to be the simplest approach, though this can be more costly and provide less in the last analysis than an extra week's vacation for employees with some years of service, etc. Parenthetically, I might just make mention of the present construction strike because this has been talked about here in the Bay Area and also in Washington. I think that here is a situation which clearly falls into the kind of plea that I have been trying to make. The construction industry has been derelict in trying to find solutions to a very serious problem for the construction worker. He has no job security, he has no job relationship with any single contractor or employer, and he moves from job to job; he has no seniority, no effort is made to regularize employment or to make sure that other factors over which the construction worker has no control will not interfere with his employment, such as the way supplies are delivered, etc. I submit that part of the bird-in-the-hand theory of construction unions stems from the fact that they have no other condition, no other job relationship with the employer that gives them the kind of security that they need except the immediate, and large, wage increase.

On the basis of my attendance at the White House Conference on Economic Issues, I am beginning to feel more and more that both management and labor have to drop a lot of their old cliches. We are still using the same kind of argument and beating our breasts in the same manner that we have for many years. We do not listen to each other; we just continue to think as we have in the past. I think that times are changing so rapidly that we have to begin to consider the problems of our new era, that we cannot rely on the kind of attitudes and values that have represented our thinking in the past. In this connection, I would like to quote the statement of the President at this Conference. He said:

> I would like to also say a word about the difference between myth and reality. Most of us are conditioned by many years to have a political viewpoint, Republican or Democratic, Liberal, Conservative, or Moderate. The fact of the matter is that most of the problems, or at least many of them, that we now face are technical problems, administrative problems. They are very sophisticated judgments which do not lend themselves to the sort of passive movement which has served this country so often in the past.

And I agree we need less passion and more hard thinking in solving the many problems we have, including the wage-price problem.

Remarks by WILLIAM H. SMITH, Executive Vice-President, Federated Employers of San Francisco

As a preliminary comment, I would like to subscribe to some of the comments that Mr. Polland has made with respect to the need for a number of changes in our attitudes at the bargaining table. In working with employers, I find many of the same charges leveled at the union that Mr. Polland finds leveled at the employers; specifically, with respect to disregarding the facts in the situation and lack of responsibility and maturity in collective bargaining. That total subject might well be the theme for another conference such as this. I do not want to begin that conference today, so I will drop it right there, but it would be a fascinating afternoon, I assure you.

The question assigned to us today is "Do We Need A Wage Policy, and Have We Got One?" I do not think there would be any doubt in your minds that we have one whether we need it or not. The question is, what is it? That is what we are trying to find out. Whether we need a national wage policy may be open to debate. The steel wage-price negotiations made it clear that there is a national wage policy. We do not know too much about the details of that policy except from two sources, and they are conflicting. I refer here to the public statements made by the President, the Secretary of Labor, Mr. Goldberg, his economic adviser, Walter Heller, and other representatives of the administration.

More important, what do you judge from the actions that are involved? Methinks we protest too much. The policy is ambiguous, as you heard this morning. It is not only ambiguous, it is extremely flexible, as flexible as possible. And like the iceberg, you see only a small part of it; the rest of it is hidden from view. This ambiguity, as you heard, is purposeful, and the ambiguity is reflected in the public's statements as well as in the action. If you want to know where that policy is, you have to look behind those statements and those actions. On the surface, our national wage-price policy appears to mean all things to all persons; this is helpful sometimes, because the collective-bargaining situations are highly complex, highly variable, and the attempt to fit a size nine shoe on every foot in collective bargaining would be a very painful process. Unfortunately, in interpreting that policy, there appears to be something for everyone in that policy. It is like a very large sack on the back of Santa Claus; no one is forgotten.

Businessmen are assured by the President that the government does not want the burden of fixing individual prices for individual products, that the government seeks

an economic climate in which an expanding concept of

> business and labor responsibility and increasing awareness of world commerce and the free forces of domestic competition will keep the price level stable and keep the government out of price-setting.

I will give you two guesses where that statement was made. I think most of you know it was made at the National Conference of the Chamber of Commerce. "The concern of the government," he says, "is only with the general price level and not with individual prices." But the representatives of the steel industry know that way down there in the corner in the fine print is a hidden reference to a concern with specific prices as well, when they involve the national interest. When you are sick, it is the exceptions in your policy that are important, and as with this policy, it is the exceptions that are important.

Businessmen are told by the President that their concern with maintaining profit margins is shared by the government. Speaking to the U. S. Chamber of Commerce, Mr. Kennedy stated that "to the extent that you want to protect your profit margins, our interests are identical, for after all we in the national government have a large stake in your profits." But that stake is in profit before taxes. And it is confirmed in a further statement: "If American business does not earn sufficient revenue to earn a fair profit, this government cannot earn sufficient revenue to cover its outlays." But, I point out, rising debt limits for national borrowing and persistent deficit financing would suggest that this fiscal problem has been with us for some time and will be with us for a long time to come.

The disconcerting thing to businessmen today is this: profits after taxes as a per cent of net worth for all manufacturing have dropped from 15 per cent in 1950 to 8.7 per cent in 1961; that is a drop of 42 per cent in the past eleven years. Profits after taxes for a per cent of sales for all manufacturing dropped from 7.1 per cent in 1950 to 4.3 per cent in 1961; that is a decline of 39 per cent in an eleven-year period. Now, we can argue about the statistics, and we can pick different years, but we cannot get around the fact that businessmen are being squeezed with respect to that margin. That is the thing that concerns businessmen today. Where do they go on this margin problem, when do they get relief?

The steel industry was the unfortunate whipping boy which served as example to other key industries. The advance clues regarding the administration's wage-price policy and its methods for enforcing that policy on industry were either misunderstood by the industry or disbelieved by the industry, I know not which. The jawbone technique of wage-price controls is what we do have; it is true we do not have formal methods of enforcement, but I assure you the jawbone technique is very effective, particularly when the mouth is open, the teeth can be seen, and a very

prominent industry can be bitten in full public view. As a practical matter, this means that we have a wage-price policy which at any given moment for any particular industry is whatever the administration chooses to call it. That is the maximum inflexibility. Thus, for the steel industry there may be one policy, whereas for construction and trucking there may be another policy, and for shipping and railroads there may be still another policy. I am not saying that is bad. I am trying to be honest; I am simply saying that is what we have.

The techniques of persuasion, sanction, and coercion to be applied will vary with the circumstances. In other words, what does it take to get the job done? Such flexibility and ambiguity does not mean that this policy does not have substance; I assure you that it does. The persuasion, the coercion, the use of threats and sanctions in the steel situation all gave ample proof of the substance of that policy and the techniques behind it. What is lacking from one point of view is certainty or definiteness, but don't let that lack mislead you. What do these so-called guide posts, for example, for non-inflationary wage and price behavior mean? You have explanations today, and those explanations are median because people do not know what they mean. Many persons have naively interpreted this as a wage ceiling. Others interpret the guide posts as a floor or a guaranteed minimum to be granted by all employers in the name of productivity along with additional increases appropriately tagged as cost-of-living increases, catch-up increases, and inequity increases.

References made to the War Labor Board: As a former War Labor Board chief, I expect any day to see such terms as: interplant inequities, intraplant inequities, and interindustry inequities. Any labor leader that cannot justify a substantial wage increase from that list simply is not on the ball. Wage increase by any other name is still wage increase. Mr. Simkin said so. I am glad to see that recognition because twenty years ago these fringe benefits were non-inflationary. Wages do include fringe benefits today. Presumably, all these wage increases will have more or less that magical quality of being non-inflationary. In that case there would be no basis for an inflationary price increase.

Now, let's look at the other side of that point. What does it call for? We cannot overlook the probability that several varieties of "non-inflationary" price increases may be divided by businessmen. Two can play that game. That will take care of some of their problems. We could, for example, distinguish between general price increases and selective price increases to bring specific items more in line with their costs or more in line with their competition. And don't overlook the area of discounts, rebates, tie-in sales, and all other such devices. There are fertile materials from which to fashion a fictional, non-inflationary price policy if that is the way the game is to be played. I want to remind you also I know of no form of control devised by man

which has ever been successful in preventing a black market when the underlying conditions which support it are created. So, let's take a second look at this thing.

The real significance of the guide-post policy statements, it seems to me, is the decision by the administration to move into collective bargaining and price determination in the name of the national interest. I was sorry that Mr. Simkin didn't use that term this afternoon because I think he should have. He alluded to it. This means something more than mediation and conciliation. The term "aggressive mediation" was used. Now we are in the area of semantics. It means defining the degree of national interest in a given situation, and it means using the sanction and coercive power of the government to force acceptance of its recommended settlement. In the past, third-party interest at the bargaining table has been primarily to help secure settlements. Now Mr. Goldberg says: "The issues in labor-management affairs have become far too complex, far too potent, and far too influential on the rest of society to be resolved in the old testing ground of the clash of selfish interest." There were a lot of reactions around the country from both labor and management when that statement was made. Mr. Meany's reaction to Mr. Goldberg's speech in Chicago was forthright and immediate; you never have any doubt about where he stands. He served notice that Mr. Goldberg's new look for labor relations did not meet with his approval, nor did he give his blessing to Mr. Heller's non-inflationary guide posts; also, his speech at the recent conference in Washington was devoid of any reference to the guide posts.

Mr. Reuther's tongue-in-cheek redefinition of the wage-price policy (made the day after the President spoke to his union) makes the guide-post standard a minimum upon which a variety of other increases are to be based. Another labor leader also has spoken out on this subject. This is Joe Kern. Joe Kern's reaction to the administration's policy toward collective bargaining was very blunt and very explicit. In a letter dated May 8th, addressed to the labor members of the President's Advisory Committee on Labor-Management Policy, he made several comments. Time will not permit me to read the whole letter, but I will take three paragraphs out of it. Says Mr. Kern: "This letter is going to all labor representatives on the Presidential Advisory Committee on Labor-Management Policy. It concerns the committee report recently made public." And then I leave out some of his letter.

> But I must register as forcefully as I can my deep conviction that the Committee's recommendations outline a disastrous setback for organized labor and for the free society to which we proclaim our devotion. There is no doubt in my mind that organized labor should not give its endorsement to these proposals. The recommendations would give the President unprecedented power to interfere in collective-bargaining processes, to deny the right to

> strike, and to dictate the terms of settlement in labor-management disputes. The recommendations specify that such power shall be used only in disputes threatening the national health or safety. This is a very elastic term as we know. And you need only refer to the fact that it was used in connection with a dispute involving the Metropolitan Opera House.

Now, as a general rule, I do not find myself in agreement with Joe Kern, but I certainly agree with a great deal that he put in that letter.

The third party at the bargaining table makes the final decision when the government is that party, and have no illusions about it. When the third party at the bargaining table holds the power to make the final decision, no matter how adroitly it is done, free collective bargaining becomes something else. And that was what Joe Kern was talking about. The bargaining is no longer free, and economic considerations are subordinated to political necessity. Bargaining becomes entangled with national policies and national interests, these being whatever the particular political power in control at that time says they are. The bargaining becomes less and less collective and is removed farther and farther away from the local union and the local employer. This makes bargaining neither free nor collective but a sort of bilateral negotiation between management and government on the one hand, and labor and the government on the other hand. So, let's have no illusions as to where we are going if the perceived outlines of our national wage-price policy are carried out in the future.

What is the outlook for this policy? My personal view is that it will be largely ineffective, although certain target employers and target unions with which they deal will be used to dramatize this policy. The bulk of day-to-day wage and price decisions will continue to be made without regard to our foreign problems and without regard to any national interests. That is the way they have been made for a long time and, as long as we have some semblance of collective bargaining, that is the way I expect them to be made. Tax incentives for business and liberalized depreciation allowances, if actually given, will not overcome business resistance to price control. Prices have been stabilized not by government control, but by a combination of five to seven per cent unemployment rate, excess production capacity, and foreign competition at home and abroad. These are the realities of the market. If the unemployment rate drops to four per cent and remains there or lower for any significant time; if industrial demand picks up significantly during the coming months as the administration spokesmen say it will; and if business investment is reassured, our price level will resume its upward creep. At a recent news conference, Mr. Kennedy said: "Every

indication that we have indicates that this is going to be a record year in profits, wages and productivity. So we believe that the United States economy should have confidence." Secretary Hodges says about the National Association of Homebuilders: "Business generally is good and should improve well into 1963." Chairman Heller says: "The stock-market slump is not a reflection of current disappointment." There is no question about the economic indicators for the first four months of 1962; the statistics are very good, but that is history. That is the first quarter of this year; let's look at the second and third quarters of the year.

The fact is many business decisions are being postponed currently until the administration's promises are backed up by favorable action. And without a high level of business confidence, the increased rate of economic progress that Mr. Kennedy wants is not going to take place. Moreover, pumping increased federal spending into the economy to make up for any decline in private spending will not restore the confidence of either domestic or foreign investors. Let me give you some concrete bases upon which this lack of confidence exists, in addition to the steel wage-price controversy. Actual and threatened investigations of business by Congressional committees, coupled with stepped-up actions of the Justice Department concerning alleged monopolistic practices -- these add to the burden of uncertainty. This week in Washington the Senate Finance Committee begins debate on the administration's proposal for a new and crippling tax of U. S. companies which have foreign operations. Already approved by the House, the administration's proposal would tax foreign profits of these companies, even though these profits are used to expand overseas operations. At the present time these profits are taxed by the foreign nations and by the United States to the extent that the foreign earnings are repatriated or brought back to this country. The new proposal would tax foreign profits when earned regardless of their repatriation. This would make it exceedingly difficult to expand American companies overseas to meet overseas competition, both in the overseas market and at home, from foreign goods. It would make it even more necessary to export more capital overseas in order to keep American business firms efficient overseas. You would place an additional burden on them. I do not see an economic justification for that at all.

The administration's tariff proposals are presently before the Congress. President Kennedy wants the power to remove many U. S. tariffs and to cut others in half as an inducement to other nations to remove their barriers to U. S. trade. Many businessmen are doubtful of the government's ability to get the necessary trade concessions from other countries. They are doubtful of the ability of U. S. industry to compete on a unit-cost basis with items made overseas, not with hand labor, not in a small home or a small village, but in modern factories financed and directed and conducted according to the highest standards at lower wage costs.

It should be very clear that major industry shifts are ahead of us if these tariff powers are given to the President. Some industries will benefit; others will lose out. Some labor unions will benefit, and others will be hurt. Major problems lie ahead both in employment and collective bargaining. The impact on collective bargaining will be very great. The issues will go beyond wages and fringe benefits into the areas of severance pay, relocation pay, transfer of seniority, retraining, etc. Bargaining will be more complex. I do not have much time, but I would like to call your attention in just a sentence to the fact that businessmen are concerned with the new look in the National Labor Relations Board, which was mentioned this noon. I cite these things which apparently have nothing to do with the wage-price controversy, but which do have a great deal to do with the question of whether or not American businessmen have confidence in the present administration so far as the wage-price problem is concerned. That is important because, if they do have that confidence, they will react in a way which demonstrates it; at the present time, however, they are not reacting that way.

Thank you very much.

Remarks by JOSEPH W. GARBARINO, Professor of Business Administration, University of California, Berkeley

Do we have a wage-price policy? I would say yes and no.

First, let me elaborate on that yes-and-no thing which I mean as a fairly serious point. In a sense, we do not have a wage-price policy. There is no question about that in any real sense, nor about the sense of a fully articulated plan for directing the wage-and-price settlements -- to say nothing of any machinery by which we might try to implement this kind of a plan. I am not quite sure, frankly, whether I would like to be able to relive with the people involved the decision to put those famous six pages in the Council of Economic Advisers' Report, since I think that the conversion of these six pages into something that might be called a wage-and-price policy has been largely the work of other groups rather than any plan on the part of the administration itself. This has happened almost by accident. Among the people who wrote this report are economists like myself, and we have had our sensibility dulled over the years. There is nothing in those six pages I haven't been telling students for twenty years; yet I can barely keep them awake when I tell it to them. I am sure that the idea that this is going to become a big, hot issue may not have occurred to the people who put the thing in there. I think that what has happened is that in collective bargaining one party is always looking for a new club to beat the other guy over the head with, and one side or the other has, at one point or another, for various reasons, found a possible use for these pages as a kind of mild sort of club. It might be used as part of the collective-bargaining process itself. So, in that sense, I do not think there is a wage-price policy; I do not think there was very serious thought given to making these six pages a basis for a policy. I suspect events; after all, the report came out in January before the steel incident. I do not think there was probably very serious consideration that there would be anything like the kind of pressure that was generated by this. I say that, even though I have some evidence almost to the contrary. Mr. Ross just mentioned a monograph that I have written, the title of which is "Wage Policy and Long-Term Contract." I finished this quite a while ago, and it goes through a long review process during which everything you have said gets out of date, and you wish you had not said that but had said something else. It went into production, and out came this Council of Economic Advisers thing. I got a phone call from the President of the Brookings Institution in Washington in which he said there will be all this interest stirred up by the Council of Economic Advisers' statement on guide posts. A good deal of my study should be on productivity and so on, and I did neither. When I went back and I read it over again, I said this guy is nuts. So, there were other people who saw this at the time as having more impact than I did -- so

perhaps I am not interpreting the situation in a right way.

Well, that is the sense in which I think it makes sense to say we do not have a wage policy, we do not have a price policy.

Now, let me turn to the yes part in my yes and no answer. There is another way of interpreting the situation in which you could say that there is, hopefully in the minds of the administration I think, an intention here to try to develop what I called in this study a rudimentary or informal kind of national wage policy. I think that the administration would like to have a wage policy, and if they could think of a way of making one work even moderately well, they would have a wage policy. I think they would like to have a gazette policy, they would like to have a lot of other policies they have not been able to figure out. In this particular case, I think they have a kind of wage policy, and actually I think the Eisenhower administration in its last years also had a kind of wage policy. After all, the pioneer -- in what you might call the open-mouth approach to influencing wage and price settlements -- was not Mr. Kennedy but Mr. Eisenhower. And Mr. Mitchell was Secretary of Labor at that time and did a lot of talking that sounds just like Mr. Goldberg, except he did not have the same circle of friends that Mr. Goldberg had; the same people were not listening to Mr. Mitchell as had been listening to Mr. Goldberg. But the situation is different now because of the personalities involved and the political party involved; by 1958 the attempt to talk down wages and prices was well underway and was not really entirely unsuccessful. I think if you look back, there were terrific pressures generated on the wage negotiations in steel in 1959. Most people feel that if the steel industry had not booted it a little bit, they would have gotten a considerably cheaper settlement in 1959, and they did in part because of the pressures on the parties from various public groups, including Mr. Mitchell and Mr. Eisenhower again. At that time, if you will go back and look at newspapers, the Wall Street Journal, Business Week, and so on, you had exactly the same kind of barrage of public statements about productivity and necessity of relating wages to productivity, and so on -- whatever that may be interpreted to mean. There is a kind of attempt to set up a wage policy in this sense. Both the Eisenhower administration in its last years and the Kennedy administration today would like to have wages go up a little more slowly than they did in 1950. They would like to reduce the rate of wage increase, including fringe benefits. They do not quite know how to go about it, but in effect I think they are following along a kind of key bargain approach.

There was a very interesting piece written by Charles Schultze, an economist then at Indiana but now at Maryland, An Interpretation of the 1956 Inflationary Period, in which he tried to rescue the idea that there was a demand-pull inflation effective this time; his point was simply

that in 1956-57, which was a period of fairly rapid price increase, there was an over-all excessive demand, but specifically an excessive demand in certain key sectors of the economy. And in these key sectors of the economy this excessive demand created a situation which resulted in very large wage increases relative to what seemed to be justified in other more depressed sectors. The key sectors of the demand involved the metal fabricating industries: steel, auto, and the satellite industries to these two major groups. Now, the Schultze argument which was presented in a report to the Joint Committee on Economic Reports, was that what had caused the trouble in 1956-57 was excess demand in the metal-fabricating industries, producing large-wage settlements in these highly visible negotiations, steel and autos, which then spilled over -- this is the phrase that is used -- into other areas in which demand was not excessive, and in these areas we got a cost push. So, you have a demand pull in certain sectors which created a cost push in other sectors. The Kennedy administration today is trying to reverse this theory. They are working on the theory that they should concentrate on highly visible, politically sensitive wage bargains. I am sure that Mr. Goldberg has an automobile wage-negotiation section hard at work on the 1963 negotiations when they come up. They are trying, in other words, to use these key bargains in reverse; they are trying to create a settlement in these areas which will then spill over a negative faction and would then dampen the settlements in these other areas of the economy.

If this works, if this is a proper interpretation of what is being tried, it is going to take time, and it may not work on the first round in industries such as construction, trucking, and so on. What I am really trying to say is that the administration is trying to change in a subtle, indirect way -- which is the only way it has at its disposal -- the environment, the climate of collective bargaining. And these men are trying to do it by putting pressure on in the only places they can put on pressure. If there were a way these administration leaders could get hold of some leverage in the contracting strike in California, they would be parading up and down Market Street today. There is no way for them to get hold of it and, in order to cut their losses and rather than to avoid being exposed to the incident (which they really are in this case), they take refuge in lofty generalizations and stay out. They justify this staying out by sending out from Washington a corps of outriders to explain that they do not really want in, anyway. They do not really want in, but they hope to sneak up on the situation and over a period of time just change the kind of wage increase that people have become used to.

Why is it that construction figures are excessive in round numbers? To some extent, these things are determined by factors that are not very precise. So, for ten years we became used to an average, annual wage increase of four to five per cent if you include fringes. Maybe we can become used to, particularly if economic conditions stay a little tough,

something between three and four or something a little bit lower. So, this is the sense in which there is a wage policy. There isn't a wage policy in the sense that unemployment is going to be soaked up by setting up special boards for the widgeon industry made up of three impartial numbers, and so on. There is not that kind of a wage policy in prospect. If you define a wage policy as simply meaning that the administration has some idea as to how it would like wages to behave; that the way it would like them to behave is a little bit different than they have been behaving; and that it is going to use every weapon available to try to get some broad averages of these things to behave that way, then you have a wage policy.

And, the second part of the question is: Do we need one? I say yes, and if it works, fine. I think we need one. I think one is, frankly, long overdue.

Questions from the Floor to Panel Members

Does any member of the panel feel that developments in the near future may dictate wage and price control -- using the economic pressures that are in existence, not what might happen?

William H. Smith: I would not expect any formal policy to be developed short of something very close to actual war, but I would expect an exploration of all of the various informal devices that might be used indirectly to bring about the desired results. And while those devices may not operate perfectly, I think nonetheless they would be aimed in a certain direction to create a certain result.

Harry Polland: As far as economic factors are concerned, the price picture is pretty stable, the unemployment picture is bad. In the light of these two factors, it seems to me that there would not be any immediate and dangerous inflationary pressure that would make necessary wage-price control.

Mr. Polland, you made the statement that fringe benefits should not be considered part of the wage cost. Would you care to comment on that?

Harry Polland: I was referring to two fringe benefits particularly -- that is, the area of health and welfare, and the area of pension. It seems to me that in the United States, more so than in other countries, the country itself has failed to take responsibility for developing a mechanism outside of collective bargaining that would provide for these kinds of benefits. Instead, it has been left to labor unions to bargain in this area. In other countries other measures have been taken. Thus, here is the kind of area that belongs under the heading of social insurance that has become part of collective bargaining. And now we are asked to include this in the price of the wage-fringe package, and I think that this is something separate.

If you are not going to absorb the fringe benefits on labor-union costs, where are you going to absorb them under our present economy?

Harry Polland: What I am really hinting is this: Right now there is a great controversy going on in the country as to whether the social-security mechanism should be used to provide health benefits for the aged. It seems to me that this is the proper area (that is, the social-security mechanism) for this kind of benefit. Yet, there is doubt whether this will occur. What is the consequence? Labor unions have members who are

retiring; labor unions feel a responsibility to provide health and welfare benefits for them. This becomes a cost under collective bargaining, and maybe this kind of cost could be eliminated. If the country took measures through proper means to provide a mechanism, persons that are retired would get health and welfare coverage, and the cost would be absorbed.

William H. Smith: I would like to make comment upon Mr. Polland's thesis by reminding you that we have had social security for a long time, and that the bargaining of pension plans is a relatively new development. The logical answer to that from the labor side of the table is: Will we need private pension plans because the public pension plan is inadequate? And, so we have presented what I believe to be a false thesis that all we need to do is get behind Medicare and support it and put it in the social-security package. Then unions will not come to the bargaining table anymore and ask you to bargain on health and welfare plans. Mr. Polland has been in this business for at least twenty years and so have I, and I don't think either one of us believes that.

Harry Polland: I would just like to say, Bill, that nothing is black or white, that in collective bargaining this is a legitimate area I suppose, but I want to point out if there were this kind of social security, it would certainly cut down our bargaining in that field. One point that I tried to make in my opening remark was that collective bargaining is a complex phenomenon involving a number of different items. Now a union has to determine ultimately where it is going to concentrate its major points, and I submit that if there were some kind of coverage for the retired, this would remove (as a major issue) bargaining on this point. I do not say it would eliminate it; nothing is eliminated. I am simply saying that there are so many areas in which unions and management can bargain, involving both costs and non-costs. I hope that you do not consider my remarks about mature collective bargaining irrelevant to wage-price policy. I am pointing out that in the collective-bargaining arrangement there are many things that are involved, such as matters of working conditions in which cost is not involved, that can be discussed intelligently, used as a basis for settlement and thus remove the pressures on costs. Thus, with reference to this particular point, I say that much of the pressure will be removed if we have a national policy providing medical benefits for the aged.

William H. Smith: I am a little bothered by Mr. Polland's theory. It raises the question: If you could set up your grocery bills under social security, which is a possibility, would this mean now you can get three per cent wages plus getting your grocery bills paid under social security, and so on? I have to tell you that that does not work. This three per cent, as in the Council of Economic Advisers' report, is put in terms of wages. What they really mean is that if the economy-wide increase in productivity is three per cent, you can increase the standard of living

by three per cent. Presumably this increase is handled by wage policy, that is three per cent for wages, but if you increase the standard of living by other devices, such as shorter hours, tax finance benefits, and so on, they are involved as well. Now I have oversimplified the situation, but I think basically that is true, and I think it is a point that is often overlooked.

IS COLLECTIVE BARGAINING A SUCCESS?

Arthur M. Ross
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In recent months the institution of collective bargaining is being challenged more frequently on various grounds. In the early part of a report, issued a month or so ago, an independent committee appointed by the Committee for Economic Development to examine our collective-bargaining system, stated:

> In the quarter century that has elapsed since the mid-thirties, this form of industrial relations has been widely accepted in principle, but is now being criticized more and more in practice. In recent years particularly, collective bargaining has been a target in a cross-fire of mounting complaints about its past and present consequences and of increasing reservation about its future serviceability. Indeed, the fashion today in many quarters is to point to a crisis in collective bargaining and to dispense policy prescriptions for drastic change.

What is the basis for that statement? To begin with, there are indications of worker disinterest. It is well known that unions are experiencing organizational problems, especially among the newer elements in the labor force; the women, the younger workers, technical and professional workers. It has also been noted that there is an increasing number of cases in which union members refused to ratify negotiated settlements. In fact, in another speech, Bill Simkin referred to such situations as being closer to anarchy than to representative democracy.

Secondly, there are cases of employer disenchantment with collective bargaining. The employers have been told in the past generation that they must accept unionism; they must accommodate themselves to collective bargaining. Many of them, of course, have endeavored to do that, but now they are beginning to feel that acceptance and accommodation are not enough. This is reflected in Sumner Slichter's last book (published shortly after

his death) in which, reflecting the dominant strain of employer thinking in the late 1950's and the early 1960's, there was a call for more firmness, more tautness, and the conviction that accommodation or acceptance were not enough. Hence, the so-called "tough line" or the management bargaining offenses about which we have heard so much in the past few years. There are matched indications that unions are dissatisfied with the results of collective bargaining. We find unions placing more emphasis on political action and more stress on seeking political solutions. And we find that the unions are less enthusiastic about arbitration than they once were. After all, arbitration at one time was supported by unions more than by employers. In some very recent disputes, such as in the transportation industries, it was the employer who was willing to arbitrate and the union declined. One of the largest unions in the country is moving away from grievance arbitration. This is a very interesting development -- so far as I know limited to this one large union; conceivably it might spread further.

Next, in recent writings some scholars of collective bargaining have been stressing the theme of inadequacy or sterility. A very interesting article in the Harvard Business Review last year, "Collective Bargaining or Mutual Reality," dealt with the theme that:

> Collective bargaining is fine when there isn't any real dispute between the parties. When the union leader must make a show of the militancy for his membership, when the employer must make a show of resistance on behalf of his higher ups and on behalf of the stockholders where they both know very well where the settlement will fall, and where the ideas of the settlement are consistent with each other....But collective bargaining is by no means so smooth where you have real issues, or where you run into shoal and rough water.

I attended a conference of about forty people in Santa Barbara two years ago; many of them have prominent responsibility in government, or in management and labor, or as neutrals. The minutes of this conference read in part as follows:

> At one point there was unanimity. National collective-bargaining procedures are no longer able to cope with the problems before American society. The public must now become a party to this process, and, consequently, as a minimum there must be a change in customary attitudes and quite possibly the creation of new institutions. Technological change, it was felt, was a main fact in shaping this new context of labor-management relations. We find that government officials of both parties are

> stressing the needs for really finding the purposes of collective bargaining, and reorienting the attitude of labor and management.

So as not to dwell on spokesmen from one party only, let me begin with a quotation from Senator Goldwater on January 19th of this year:

> In the face of unending deflation which has persisted since the end of World War II, many are asking whether our public policy and legislation dealing with labor-management relations is really adequate to safeguard the public interests. Some are wondering whether, in its deal to encourage collective bargaining, Congress has not created a condition in which the public interest is forgotten, and only the interest of the party to the negotiation receives any legislative attention and protection.

Some top spokesmen or top officials in the administration have commented on the collective-bargaining system in recent months. One of them is Archibald Cox, Solicitor General of the United States, who for many years was a professor of labor law at Harvard University and was very prominent in the drafting of the Landrum-Griffin Act and other legislation. Mr. Cox said last year: "Although the need for collective bargaining will continue, the future will be concerned with rounding out and maintaining what has already been accomplished rather than creating new ideals and institutions. The past cannot be recaptured by greater militancy upon the part of either management or labor." Here he seemed to be saying that the great days of collective bargaining are behind, that collective bargaining will settle into routine, and that the dynamics will take place outside the collective-bargaining system.

Now, the Undersecretary of Labor, W. Willard Wirtz, in an observation back in August of 1961 -- I think he was talking to the Labor Law Section of the American Bar Association, although I don't have that citation -- said: "The future of collective bargaining depends on whether its procedures can be adjusted and revised to permit a larger recognition and reflection of the common national interest, particularly those in the achievement of stability and growth." And let me mention also Secretary of Labor Arthur J. Goldberg's famous speech before the Executive Club in Chicago in 1962. Bill Smith has already cited the speech, but I'd like to read one pair of sentences which caused such a reaction on the part of Mr. Meany, Mr. Joe Curran, and management people as well. Goldberg said: "I think government has the obligation to define the national interest and assert it when it reaches important proportions in any area of our economy. And I would like to state that this is what your government is going to do. It is going to unhesitatingly assert

and define the national interest because, after all, we regard this to be an obligation to all of the people." So he was saying, as I pointed out, that "the interest of the government is not limited to the fact of a settlement or the need for a peaceful settlement, but also extends to the terms and the character of that settlement."

It is obvious that we must reappraise this institution which lies at the very heart of our industrial-relations system. There are three alternative positions which might be taken in a reappraisal of collective bargaining. First, it might be held that collective bargaining is a pernicious evil, a contradiction of free enterprise, a blank check for the untrammeled labor operation of monopoly. I don't believe that, but it is possible to take that position. Second, one might say that there is nothing wrong with free, unhampered collective bargaining if people would only leave us alone; many responsible people take this position, though I don't happen to agree with it.

Then there is a third position, representing my thinking, which I would like to develop this afternoon. That position could be summarized as follows: Collective bargaining did have certain original purposes when it was adopted as national policy in the 1920's and 1930's. These purposes have been achieved for the most part. However, there are new pressures and new problems which are imposing stress and strain on the collective-bargaining system. These new pressures and problems make it imperative that new attitudes be developed, that new procedures and techniques be worked out, and that new kinds of substantive understandings be developed. Now, I think it is true that the original purposes have largely been achieved. If you look back at the 1920's and 1930's and read the speeches of Senator Wagner and President Roosevelt, the expectations of William Green or other labor leaders who pressed for legislative recognition of collective bargaining, what do you find?

You find first that they were seeking to redistribute the balance of bargaining power between labor and management, and undeniably a better balance has been worked out. We know of situations in which unions are stronger than employers; we know of those in which employers are stronger than unions; but surely it won't be denied that there is a better over-all balance of bargaining power than there was prior to adopting collective bargaining as national policy.

A second objective was to build a rule of law in the shop; what is called "Industrial Jurisprudence," that is, fair and systematic personnel policies administered in accordance with agreed-upon standards, orderly administrative procedures when disputes and grievances arise; of course we know that has largely been achieved. In fact, about ninety-five per cent of the contracts call for arbitration as the terminal step of grievance procedures.

A third purpose in adopting collective bargaining was to raise wages. If you are old enough, you remember that in those days it was felt that wages were too low. As a matter of fact, it was the purpose of the government to raise prices. That was the whole objective of the industrial-relations effort under the IRA and under the New Deal -- to raise prices in order to stimulate business, to raise wages in order to improve purchasing power. Now, we don't need to redebate whether those policies were wise, but certainly they were the policies and certainly collective bargaining did contribute to higher wages.

Another purpose of collective bargaining was to serve as a basis for industrial peace. Franklin D. Roosevelt said in 1935 when the Wagner Act was passed: "A better relationship between labor and management is the high purpose of this act. By assuring the employees the right of collective bargaining, it fosters the development of the employment contract on a sound and equitable basis; by providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of wasteful industrial strikes." That, too, has been achieved to a great extent. Strikes are much less frequent in relation to the number of union members than they once were. In the early days of the 20th century (until about 1940) about one-third of all union members would go on strike every year. At the present time, figures show that only about ten per cent go on strike annually. Therefore, even though the headlines are full of strikes, if you look at the statistics, the fact is that a system of industrial peace has been worked out to a very considerable degree. Many industries which were once centers of conflict -- such as the garment industry, the coal industry, the automobile industry -- now seldom encounter strikes. Seven or eight national emergencies arose in the steel industry during the post-war period, and yet there may be reason to think the steel industry is over the hump and may develop a habit of industrial peace. It might be said that our difficulties have narrowed down to the transportation field: rail, water, and air. A little later I want to dwell for a few moments on the transportation problem.

Finally, the fifth purpose of the collective-bargaining system was to handle industrial unrest within the framework of a free-enterprise system. And, again, this has been achieved. American workers have shown no taste for radical solutions, for replacing the free-enterprise system; we are one of the few countries without a powerful Socialist or Communist movement among working groups; so, collective bargaining has achieved that purpose. These are by no means a small achievement. When we become critical of collective bargaining today, let us not underestimate the magnitude of that achievement. Those of us who have participated can take pride in it. Let us suppose that it had not happened. If the collective-bargaining system had not been accepted in the United States, we can recognize how difficult it would be for labor and management to deal with industrial unrest. After all, discontent is the normal

condition of mankind, and collective bargaining is the procedure by which problems of discontent have been solved.

However, that is all in the past; and the present is impatient and forgetful of the past. The present does not say: "What have you done?" It says: "What have you done recently?" And the present imposes new problems and pressures which we have to recognize; we cannot go back to the past.

The first of these new pressures is the impact of technological change. I think Professor Dunlop will discuss it this evening, so I do not want to dwell upon it. It is evident that technological change has made collective bargaining much more difficult. It has undermined the membership base of many unions; the membership base lies in the blue-collar workers who are being eliminated rapidly by technological change in some industries. Technological change has led to new kinds of jobs, as the panel pointed out this morning. It has deranged existing incentive pay systems, existing job classification systems, existing seniority plans, and it has changed the geographical location of industry. It has raised the whole question of whether displaced workers are transferable and can be feasibly reprepared for new kinds of employment; technological change is the most dynamic factor disturbing our existing institutions in the labor market, hence the industrial-relations system.

The second disturbing factor is persistent underemployment with a lower threshhold of discontent. Five or six per cent was not formerly regarded as an intolerable level of unemployment. In fact, the general society was often not even aware of it. But now the threshhold has been lowered, and such a rate of underemployment is regarded as insupportable. At the same time, there has been a pronounced compression of profit margin during the past decade, to which Mr. Smith referred. This results from higher competition between industries, greater competition within industries, greater competition between countries. Thus the whole economic content is less conducive to collective-bargaining achievements. It does raise the question of whether collective bargaining is a fair-weather institution, something which will work well when economic problems are not too serious and the situation amenable, but something which runs into trouble when the context becomes more difficult.

Then there is the special case of transportation. I think it might be well, since many of our difficult disputes today are located in the transportation industry, to point out that there is an economic context there. It certainly cannot be blamed on the individuals involved; labor and management leaders in the transportation industry are as honorable, intelligent, and devoted as those in any other industry. I do not think it can be blamed entirely on the faults of the Railway Labor Act, although I share some of the recent misgivings about the way that Act is working.

We have to understand the economic and employment situation in that industry. Nearly a quarter of the major railroads lost money in 1961; practically all the thirty-nine eastern roads are operating at a deficit, or did last year. The eleven big domestic trunk airlines had their worst year in 1961, losing about thirty million dollars. The merchant marine is in deep trouble, and it can probably be said that it remains afloat solely or largely as a result of government subsidy. Many large trucking firms lost money last year.

The basic reason for this illness in the U. S. transportation industry, according to the Doyle Reports (made to the United States Senate in 1961), is great and unbalanced overcapacity. In addition, common carriage is giving way to private transport, notably the trucking fleets of individual corporations. So, on one side there is the economic crisis; on the other, the employment problem.

Employment in the railroads is down about fifty per cent since the end of World War II. This reduction is not concentrated in any single trade or among the members of any single union but is widely distributed. Employment on American Flag merchant vessels has dropped from approximately 100,000 in 1947 to less than 50,000 at the present time. I do not have employment figures with me for the airline industry, but we would also see problems there. All of this leads to an all too familiar situation in which the workers are deeply disturbed about their future; unions wish to hold on as best they can to the remaining jobs and to restore them if possible. Employers are under the pressure of cost and revenue problems; and so it is not, I think, the fault entirely of the Railway Labor Act; and it certainly is not the fault of the individuals involved that so many of our present-day labor crises are found in the transportation industry.

There is one more fact which I think we have to recognize -- that the standards of performance for our economy have suddenly become more demanding; suddenly Western Europe is setting a standard -- a standard that we cannot ignore at the peril of international leadership. We once thought ours was the most progressive economy in the world in terms of national economic growth rate. All of a sudden we find that three or four per cent annually is not very much compared to the rate of economic growth in Western Europe, and the authenticated rate of economic growth in the Soviet Union. Who would have thought ten years ago that by now Western Europe and the Soviet Union would be increasing their national product, two or three times as fast as the United States? Also, we are taking another look at the problem of creeping inflation. As the previous panel pointed out, we have had a running debate over creeping inflation for a good many years. Can we have full employment, price stability, and collective bargaining at the same time? I think there was a kind of consensus developing among the expert observers that it was very difficult

to achieve price stability and full employment under conditions of pre-collective bargaining. Many meetings in the late 1950's, including the American Assembly in 1958, concluded that creeping inflation of two or three per cent a year was perhaps the least of the evils.

Now the issue has shifted because we are no longer talking about the domestic economy. We must talk about the international economy because of the common market, the Soviet trade offensive, and of course the need to generate a greater export surplus to meet our international commitment. Let's recognize the fact that some people say we have, or are, pricing ourselves out of the world market. That is not true. We have an export surplus; we are able to export about five billion dollars more per year than we import, so it just is not true that we cannot make our way in the world market. Last year we did have a surplus of five billion in commodity trade, including some receipts which were given to us in soft currencies; we had a surplus of three billion in fully convertible hard currency. The problem, however, is not that we do not have a surplus, but that it is not big enough. We need a still bigger trade surplus to meet foreign- and military-aid commitments, and for our own military operations and responsibilities, unless we wish to reduce or eliminate these responsibilities. I take it for granted that the decision has been made to maintain and discharge these responsibilities. And if that is correct, we can hardly ignore the need for an even bigger export surplus.

These pressures have come to a head in less than five years. Until about 1957, for example, you heard very little discussion of so-called "cost-push inflation" except among some specialists. Until 1959, few people had ever heard about work rules in the steel industry. Until 1960, so far as I know, nobody had ever invented an automation fund. Until 1961, the Labor-Management Council was only a gleam in Arthur Goldberg's eye. So, it is not surprising that the problems of the past three or four years should still be unsolved; after all, unionism dates back to the 18th century, and a mass collective-bargaining policy to the 1930's. I think, however, we have to consider seriously these questions: What changes have to be made in our collective-bargaining system to meet the strain? What are the minimum requirements to adapt our collective-bargaining system and to avoid some total alternative? Let me say right now that I don't think any honest person can give a confident prescription. Who can say for sure what will suffice? We don't know yet; we haven't tried; only now are we beginning to talk about and debate it. I think it is helpful to note or recognize how many questions are still unanswered. There has been a good discussion already today of how far we still have to go to work out a national consensus on this wage-price matter, and the previous speakers covered it very well.

But let me mention a few other minimum facts which we must ponder. First, in a general way we have to recognize the interpenetration of public and private spheres in our economy, the interrelationship between the public and the private interest. They are not and can no longer be segregated. We hear widespread talk about government intruding into the private sphere. But, you sometimes have to ask who is intruding upon whom. Certainly it is true that private decisions of labor and management intrude into the legitimate public sphere of concern. For example, it has been shown that in the increasing inflation of the late 1950's, there would have been no increase in the wholesale commodity price index if it had not been for the price increase among steel, and steel-using, products, although there would have been some increase in the cost of living because of services. Now, regardless of what you think about the techniques that have been used, who can deny that an interpenetration of the public and private interests exists in all these circumstances? Secretary McNamara estimated a couple of months ago that, had the proposed steel-price increase taken place, defense-program costs would have risen one billion dollars per year. Some people felt that this estimate was exaggerated; maybe it was. It was put together very quickly and under the circumstances some exaggeration would not have been strange. But, in any event, it would have been an impressive figure. Who can say that an arms program of fifty billion dollars per year is strictly a private matter? And, if steel is now a semi-public utility -- midway between a publicly regulated utility such as railways or electrical power, and a purely private industry -- then what are the other semi-public utilities? What will be the criteria? Who will regulate their price policy -- the Congress or the President or the Federal Trade Commission?

Another reality with which we are confronted is the need to restore high employment and economic growth. Our problems become intensified in the light of underemployment or insufficient growth. Retraining is more difficult when you don't know what jobs you have to retrain for. Resistance to displacement is greater when employees don't know where they will move if they are displaced. Also, such problems become more acute when the employer feels squeezed by the profit margin. The need to restore high employment and economic growth is primary; and, price and wage policies must be seen as an adjunct to a high-employment policy. I think one of the reasons for confusion about price and wage policies is that they have been viewed as an end to themselves. When they were first discussed, the idea was to restore full employment and a satisfactory rate of growth; price and wage restraint would then be necessary to prevent increasing inflation at a high-employment point. But, we haven't yet had a satisfactory recovery of employment and economic growth. I think one of the sources of confusion, therefore, is that we seem to be talking about price and wage policy in a vacuum somewhat dissociated from the employment and growth problem.

I think also that a clear requirement for the rest of this century is that our collective-bargaining institutions be modernized. It is desirable that labor and management develop machinery for continuing conferences away from the artificial strike-deadlines of the bargaining table. Of course, we have had considerable development along those lines, though the Human Relations Committees in the steel industry were laughed at when they were established in 1960; now people in the steel industry have expressed to me that the work of the Human Relations Committees was instrumental in paving the way to the mutually satisfactory settlement this year.

In many industries it is necessary to have some organization, or apparatus, to consider problems at the industry level, as well as at the plant or company level. This runs against the opinion that all bargaining should be reduced to the lowest possible common denominator, down to the individual bargaining unit or to the individual plant; I don't happen to agree with that opinion. There are some industries which badly need some apparatus by which management and labor can consider problems at a broad, industry level. We have to analyze more carefully just where problems should be handled -- what problems are best adapted to the local or plant level, what problems should be handled at the company level, what problems should be handled by some industry conference board or industry council. For example, we found in 1959, when the steel industry wished to consider work rules, that the industry-wide level was too high. There is nothing quite so local as local working conditions in the steel industry. In some other industries there may be national work rules, but in steel it was probably rather futile to expect to solve work-rules problems at the industry-wide level. On the other hand, there are some industries in which there is excessive fractionalization of bargaining units by company or by union; coordinated policies or consideration of problems at the general level must be developed.

We need new programs for handling the problems created by change, planning ahead, displacement, readaptation, relocation, and so on. In the past couple of years we have had considerable development. We have had the Longshore Plan on the West Coast which is justifiably known all over the country; we have the Armor Automation Agreement; there is a new system under the Arbitration Award between Pan American Airways and the Pilots Union which was handed down only the other day by a three-man arbitration board. And, of course, there are the recommendations by the Presidential Railroad Commission which are now being negotiated. There is certainly every need for imaginative consideration of how to handle displacement and relocation. Here again the big question is where the problem should be handled; what can the parties do, and what must the government do because the parties cannot do it.

Now, I think the Armor Automation Fund led to some interesting

conclusions which bear scrutiny. It appears to be within the power and ability of labor and management to assist workers in readjusting from one job to another within their industry. Labor and management certainly can assist workers in moving from one geographical location to another within their company or industry. Labor and management certainly can send workers into the market with unemployment compensation or separation pay, where that may be desirable. However, the Armor experience indicates that it is probably beyond the capacity of private employers and their unions to undertake the retraining of displaced workers for the general labor market. I think there was an inclination to bite off more than could subsequently be chewed; that is one of the lessons. It does illustrate the necessity of understanding on a hard-headed basis about what the parties can and cannot do, what the government can do and, of course, that the individual must do for himself. We need also new types of consultation and collaboration between labor, management, and the government. As Dr. George W. Taylor said in Philadelphia two weeks ago at the Industrial Relations Research Association: "The potentialities of imaginative persuasion are only beginning to be explored."

I attended the White House Conference on Economic Issues, about which so much has been said today; it was a good start, but it was rough in many ways because, after all, it was the first of its kind. I have been following the progress of the Labor-Management Committee which advises the President. Members of this Committee have issued a report on automation; they have issued a report on collective bargaining; they have not yet issued reports on the wage-price problem, on foreign trade, on the anti-trust problem. I understand some of those are more controversial than the subjects which they have already covered. Certainly this Committee, like the White House Conference, is an experimental thing. And it is to be expected that the results have not been entirely smooth. The important thing is that we are beginning to experiment with new types of consultation, new types of collaboration. These difficulties proved that we must think the thing through more clearly than we have been able to do thus far; I think conferences such as we have been able to hold today, if I may say so, are a step in that direction.

There are two major problems which preoccupied me as I sat through the White House Conference and as I thought about our meeting today. One is: How can we develop new types of consultation and collaboration on general economic problems without moving every specific dispute into Washington? Now, I think this has been accomplished in other democratic countries. I am hopeful that it can be done here, but it certainly has not been done yet. And we do see a dangerous tendency for labor and management to develop bargaining strategy in terms of what happens when the case is moved into Washington, in terms of what they think the administration might go for. We are certainly going to have a very hot summer in 1962 because of the large number of disputes which are rather

evidently moving in that direction.

The other question is: How can the top representatives of labor, management, and government be relieved from frozen positions, or rather tired cliches, and how may they be permitted to think creatively and independently? There was an editorial in the New York Times, May 22 -- after the first day of this White House Conference -- and the editorial said this:

> President Kennedy opened the White House Conference on National Economic Issues yesterday with an appeal to management and labor to forget part of some slogans and to come forward with creative ideas for cooperation.... The initial responses offer little encouragement that much of real use will emerge from the two-day sessions. The management attitude seemed to be that a road to more fruitful economy lay in curbing union strength. The feeling was that everything would be fine if employers stopped agitating against the union shop and generally gave unions a greater sense of security. This failure to rise above mutual recrimination must be charged to the administration's own willingness to deal frankly with the implication of the guide line it has laid down for wage and price restraint.

And, so the New York Times laid down its blows heavily and impartially upon labor and management and the government.

On the next day, May 23, James Reston, a highly regarded and respected reporter, had this to say in the New York Times:

> The most serious problem in Washington today, because it affects all other problems, is the gap between the present political realities and past political assumptions. In a revolutionary time, the facts change, often with bewildering rapidity, but the attitudes of the antagonist remain the same or lag behind. This is the mood of President Kennedy's difficulties not only with the Russians and Chinese Communists, not only with President de Gaulle, Chancellor Adenauer, and Prime Minister MacMillan, but with Roger Blough of U. S. Steel, George Meany of the AFL-CIO, and with the Congress and the doctors and the press and the other contestants in the major contemporary controversy.

And then the Times laid it on some more upon Mr. Blough and upon the AFL-CIO.

William H. Davis was a participant there. He was the Chairman of the National War Labor Board, and is certainly a revered figure in the collective-bargaining world. When he got up to make his remarks, he had just listened to speeches by some of the top labor and management people in the country, and he said he thought he was back on the War Labor Board some twenty years or so ago. That is something for all of us to consider; can't we get away from frozen or stereotyped positions and think in terms of these insistent demands on the economy? I think, myself, that we should not be pessimistic or cynical because these problems remain unsolved after only two or three years of recognition. Collective bargaining has been a remarkably adaptable institution; it can be molded to these necessities. But at the same time I think we must all keep in mind that time is of the essence.

Thank you.

INDUSTRIAL EFFICIENCY AND JOB SECURITY

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Thank you very much, Art, for that very generous and warm introduction. I had not planned to use my story of the double-boiler but just to keep in the spirit of things, or as we said in the construction industry, "in accordance with area practice," I will tell it, particularly after that introduction which would lead the innocent to believe that I was an expert. Well this is another definition of an expert: namely, that the bottom half of a double-boiler is all steamed up and doesn't know what's cooking.

Now -- the story that I had intended to tell to you in starting this evening was designed to try to paint myself as a neutral in all things: born in California, working at Harvard occasionally, went to school in California, taught at Stanford; a person who decides on occasion disputes not only between management and unions, but also between unions and other unions. How much in the middle can you get? Different practices between the East Coast and the West Coast have always interested me. On one occasion (this happens to be a true story) we had a series of management trustees from a major pension fund in Cambridge, and we got these employers (all professional management representatives) together. We rather asked these fellows who did the actual bargaining: "Before you bargain, what kind of instructions do your principals give you?" The representatives from the West said: "Our top management fellows call us in, and they give us these instructions: 'Now when you go into a bargaining session with a union, be sure that you don't give the union one cent more than it asks for.' The Eastern representative said: 'Well when our principals call us in to give us our marching orders for negotiations, it's just a little bit different. Much tougher. They say: Don't give the unions one cent -- and make none of it retroactive'." These differences between the East and the West, I think, are rather interesting.

The topic we have to talk about this evening is common throughout the country. The very title that your Chairman selected is an advance

over the ordinary discussions of this problem because its two words, "efficiency" on the one hand, and "job security" on the other, recognize that there must be some compromise between several absolutes. Sometimes it may be that these words are opposed. That is, the more efficiency, the less job security; but it is also true that in some fundamental and long-run sense, the more job security we do have. And so in the very title for this evening it seems to me we have some fundamental questions. When are these terms and states opposed, and when do they reinforce one another?

It's like a lot of other problems which we've talked about today. It involves compromises with many objectives: full employment, growth, free collective bargaining, democratic unions, government prescription, etc. Again, the question of job security involves its balance with progress, a dynamic economy, a competitive economic system. And it is the art of balancing these goals either when they reinforce each other or compete with one another that I regard as the central task of our discussion this evening. To recognize, however, that these objectives are sometimes reinforcing and sometimes in opposition is the beginning of wisdom.

Let me next focus this topic in a longer perspective. I want you to recognize with me, first, that the problem is not confined to industrial workers, to industrial life, to unions at all. Let's start a little closer to home as Dr. George Taylor would.

Most of our universities in the country have a tenure system. We say that a man, after he is appointed a professor, an associate professor, at Harvard may not be fired. He has tenure, presumably. Now I suppose there are some people in some universities who do not work at maximum efficiency. It may be true that there are some who have chosen to rest upon their laurels, to regard a teaching assignment -- what is it at Berkeley, two hours a week? -- as a full day's work.

Now we do not, I think, propose immediately to do away with the tenure system. What we're really saying is that the tenure system brings virtues and values which we rate higher than the inefficiencies which may result because of one or two fellows, and maybe more than one or two fellows, who are not working at maximum efficiency.

Suppose we turn to management organizations. I have heard it said that there are some management organizations in which some people have been promoted from Vice-President to Assistant to the President, or promoted from one job to a little cubby-hole some place, continued on full pay; in fact, often promoted upstairs with an increase in pay. Not in order to, shall we say, get them out of where they were. No one would think of firing them. But the efficiency of the organization is somehow

improved, it is felt by the management, by removing them from what they were doing -- but not by putting them out on the street. The cold crass pursuit of efficiency in this sense, the preservation of a kind of a sense of morale, is as vital to that organization as it is to the tenure system of the university. So it might well be, as Dr. Taylor on occasion has suggested, that one could write quite a dissent of some forms of featherbedding -- whatever those words may mean.

The second kind of introductory remark I want to make in helping to put our problem in perspective is to note that the problems of restrictions output, or the problems of opposition to change, or of dragging one's feet to change, are not unique to unionized plants. I would have supposed that this was a point that was well known. But one finds a great deal of ignorance on the point, and so I make it only to complete the list of preliminary observations. We've had a number of studies which demonstrate fairly systematically that in unorganized plants there is that same sort of opposition at times, the same sort of dragging of feet at times to changing the piece-rate, the same kind of opposition at times to the introduction of a new machine that exists in some union plants. I happened to be talking some weeks ago to an employer-friend of mine who has a number of plants that are organized and a number of plants that are unorganized. I said to him: "Now can you tell me what the difference is in the way you introduce technological change to your union plants as compared to your unorganized plants?" He said: "Well, I'll tell you, the difference is this: In our organized plants we take it up and fight it through with a committee and we have to bargain about crew sizes and changes in piece-rates and all this thing and it's quite a problem, quite a process, but we usually work it out; then make a deal, and we've gotten along pretty well."

"Well how do you do it in your unorganized plants?" He said: "I'll tell you about an episode recently. What we did was to take the proposed machine we were going to install in this plant into the non-union plant and laid the machine out in the plant, just set it there so everybody could see it, and left it there for a month or so. We passed out some leaflets describing what this new machine would do, and so forth. And then we got in touch with the power centers in that plant, the leaders of the informal groups (it was an unorganized plant) and told them what this machine would do, and what our plans were going to be about, and so forth; we prepared the way carefully in this plant for some two months or so after we put the machine in. Finally one day we came in and put it in." It seems to me that the problems we are talking about are greatly mistaken and misunderstood by the public when they are treated as problems arising solely under organized situations.

The third preliminary point I want to make is that I think we make a great mistake if we don't recognize at the outset that this is largely

an area in which, in my judgment anyway, the law as an affirmative device is not a very useful instrument to secure rapid technological change. The present, so-called unfair-labor practice dealing with this area I think is uniformly agreed to have been a complete failure. I feel so, and I know of very few people who would advocate that much headway could be made by treating the area by further revisions of that language in the statute.

Now, fourthly, I want to make the point that opposed to a good deal of common judgment (newspaper judgment, I'd say), it would be the view of a number of us who purport to look at the matter from an academic point of view, that our unions have been one of the major instrumentalities of technological change in our society, and that in general the rate of technological change is probably faster by virtue of the labor organizations than it would be without them; this is for two fundamental reasons. The first is that the labor organizations have put pressure on management for higher wages and benefits and so forth, and this has forced management to pay attention to labor costs and, therefore, to be continually on the look-out for methods of reducing labor costs in a way that management would not have done in the absence of the unions. Secondly, and perhaps more directly involved, the collective-bargaining agreement typically provides an explicit mechanism by which these problems can be handled. Although there are some problems that proved difficult in some circumstances, it seems to me that the balance of consideration clearly lies on the side of saying that this makes on balance for a more rapid rate of change. This is not only my judgment; it has been the judgment of most who have looked into it. My late colleague, Professor Slichter, expressed his view very carefully in a very comprehensive study of this particular subject.

With those introductory points I now turn to a few more substantive observations which I'd like to describe this way: I want to suggest to you that the intensity of the problem of balancing efficiency and job security basically depends upon four characteristics of the particular situation with which we are dealing, and that it is really impossible to talk about this problem in a large term. This is why collective bargaining is so important in it, because it must deal with the particular plant, or even department, of a company.

The four characteristics which are decisive, I think, are these. First of all, balance of these considerations depends upon whether the plant or company is expanding or contracting. It is obviously clear, from all we've been through, that if one is confronted with essentially an expanding employment situation, processes of adjustment on the whole tend to be much easier than when one is already dealing with a contracting industry. One of the great problems I think we face in the country today is that several of our large durable-goods sectors are areas now in which we are facing secular declines of employment. I refer particularly, of

course, to steel, even to autos, and of course to railroads.

The second characteristic that I think is decisive is the kind of pattern of turnover that exists in the particular sector. If turnover is high -- naturally, for example, if these are women's jobs and women are young and tender, get married and raise families -- the problems of adjustment are vastly simpler than they are if you have stable employment with very low rates of turnover.

The third characteristic which I think is extraordinarily important is whether the new jobs that are being created in that sector are jobs which are akin to the old ones (or, better yet, if the new jobs require, in some sense, the skills of the old jobs), or whether because you know the old job, you tend to be disqualified as being handicapped in learning the new ones. We are familiar with the very famous and classic cases in this area, as you know, in the 1890's when the linotype was introduced; it was found that the previous knowledge of setting type by hand turned out to be an asset in learning to set type by machine. However, if we take some other current innovations in training and allied areas, it may be seen that the new jobs require, or tend to go to, women rather than men, and that they tend to go to white-collar rather than blue-collar workers. Where the old background is a handicap to the new, our problems are intensified.

And finally may I suggest to you the scope of the labor organization involved. A labor organization that deals in a number of different industries, or is industry-wide, may have quite a different problem of adjustment, often a much easier one, than one which is narrow in its craft or in which employment is highly concentrated in the particular area which is undergoing the change. Let me, for example, draw one illustration by contrast in the railroad industry, without expressing opinions here on these very fundamental problems. When the diesel engine came into the railroad industry, it not only created some problems among the operating crafts, but it also had very important effects upon certain non-operating groups. The introduction of diesel engines seems to me interesting to reflect upon -- or the fact that this caused almost no ripple around the United States, balancing efficiency and job security. And to put it this way, our technological change is having, and is likely to continue to have -- in some sectors against global views here -- very important effects in some sectors upon the methods of wage payment.

Our methods of wage payments are more dependent upon our technology, I think, than many of us recognize. And when you change your technology, or when you change the rate at which technological change is being introduced, it seems to me many parties may have to reconsider their methods of wage payment. The traditional incentives-methods in the steel industry may well not be suited to the kind of technology and the rates of changes

we are now having in that industry, and that which we are likely to have in years to come, despite the fact that these older tonnage- and incentives-systems are very deeply ingrained in the industry and in the thinking of both its management and its workers. It may well be, for example, that the day-basis of pay, the hourly basis of pay, is obsolete under different kinds of technology. So I think that one of the things which the parties in many industries are going to have to examine is the impact of this technology and, in getting efficiency, balancing it against job security; one of the things that may have to be changed in a number of industries is the method of wage payment itself.

A second, and I think even more important, area is what I would call the breadth of seniority district questions. This is one of the most sensitive nerves; it involves both union officers and management officers in some of the most difficult and complicated problems that exist in this whole field. With our new technology and other economic developments, in this same day we are having important regional and other shifts in the locations of plants; the very difficult problem of moving workers from one plant to another plant involves much of this same sort of seniority district question -- what rights do other workers have in the new plant, and so forth.

The third major problem, I think, that we need to give a little consideration to in this area arises from the fact that we have tended to identify the effects of technological change as the immediate impact effect. We are increasingly sensitive in our society to the fellow who is laid off because of a new machine, or other technological change. And yet we have, side by side with this, enormous numbers of instances in our society in which the role of technological change is only once removed, but to which we apparently seem to be completely insensitive. For example, Case 1 exhibits a man displaced because of a machine. Case 2 is one in which other technological developments in the aluminum industry increase the demand for aluminum; it is able to compete better itself with steel and, as a result of this, a steel person is unemployed; similarly, a plastic development may reduce the employment of a steel worker.

In our society, I think, we have come to call this second sort of thing not a technological change, but only the first one in which the direct impact is seen, and apparent. The dichotomy, this kind of blindness at times to the real nature of the second sort concerns me a great deal. And I am concerned about it because we seem to be developing, on the one hand, very generous (and appropriately so, in my mind) arrangements in many industries for taking care of the man who is immediately displaced. But we seem to be relatively insensitive to the second kind of situation in which the underlying cause is just as much technological change as in the first. This difference in our sensitivity to the effects of technological change is a problem that concerns me and one which I lay upon

your conscience. I think there is inevitably in the picture some appropriate disparity in the treatment of those two cases. I say "appropriate" because the fellow who is immediately displaced, you might say, is more able to hold up the introduction to technological change, its impact is more immediate and more direct and more identifiable, and, therefore, perhaps it is appropriate to give him better treatment than it is for the man in the second case. But I don't think that the disparity should be as large as it is becoming in many situations, and I think the broader arrangements for unemployment compensation, or the broader arrangements for SUB, or what have you, to facilitate the second sort of adjustment to technological change very much deserves review.

The fourth and final major question in this area that I will raise briefly with you is a sensitive one, but that should not preclude our talking about it. It is the fact that it is the issue of whether any given management organization or any given labor organization has the right, or ought, to impose a view that it should be protected as an institution from the effects of technological change. I don't refer here to the problems of taking care of the members. It is the question of whether the organization, as such, has a right to hold up technological change because of what might happen to it as an organization, independent of the effects of such change upon its own members. I have grave doubts about whether this is appropriate either to a company or to management. We live in a society in which, surveying today the companies that were the largest in 1900, today we see enormous shifts in the composition of that group. If you take the ten largest unions in the United States in 1900, you will find that there are only two of them which are among the ten largest unions today in the United States. At one time the Horse Shoers Union was a very significant union; I don't think it had any right to persist as an organization independent of the position of horse shoers except I am advised it is a flourishing and vigorous organization, as some of you know who feed the horses on occasion. Those craftsmen follow the horses around the country. But we have a number of problems in the country in which the independent position of the organization or the company qua company qua union is itself a part of the problem of adjustment to technological change.

Now, finally, in reviewing those problems this evening, I would like to talk about what we can do in our society to facilitate the reconciliation of efficiency and job security when they conflict, and reinforce them where they are additive. In a sense this problem is, I think, one of the underlying long-run problems of this decade -- more sensitive in some areas than in others, as I have noted, but still very central. What can be done about it? Well, let me make a few suggestions.

The first is, and here I am only mentioning a point which I understand your Chairman, Professor Ross, elaborated on this afternoon in

another connection, that it seems very clear to me that the Joint Committee to study the problem of the introduction of change (to communicate from the management to the unions and back again as to the timing and character of this change) is an extremely important step and an instrument which we need to develop more fully. I am, by temperament, opposed to any uniform machinery, and so I do not want to give you the impression that this always requires the creation of new Joint Committees that get publicized; I think that the existing grievance machinery in many situations can be used adequately for these purposes. The preparation for technological change is an increasingly more severe problem which needs the best minds of both sides.

Now the second suggestion that I have in this area relates to one, I hope, regardless of the controversial nature of the recommendation made, which will remain a monumental contribution, recognized by both sides. The railroad industry did do something that is impossible to do, I believe, in any other industry. By virtue of the fact that there is a railroad retirement board, a separate railroad retirement system, it was possible to secure a complete manpower profile, if you like, a complete manpower study of that particular industry, at least for its operating personnel. It is possible to know the age distribution, the age of the present work force by occupation, also to know the length of service for each person in that industry and, putting together age and length of service, get a total manpower profile of the existing manpower in that industry. Now if you turn to one of these sectors that may be confronted with the problem of contraction, it seems to me imperative that this sort of manpower profile be made in order to facilitate the long-run adjustment to manpower that may be required in a number of companies or in a number of industries. And this would be a second suggestion that I would make.

The third suggestion that I would make in this general area is a very broad one, but it represents a point of view which I think is fundamental. In a society which is undergoing the kind of technological change which we are, it is important to develop a labor force with a vastly increased versatility. We live now in a society in which it is wrong to bring a child up with the expectation that he is going to get a job and that he is going to fill that job the rest of his life. It might have been a good idea in the nineteenth century or the early part of this century, but it is inappropriate to a world in which there are rapid technological changes. We want to bring and train the youth of the country, it seems to me, to be versatile, to be able to change their occupation. This fundamental point of view has extraordinary important implications, then, for our whole educational system -- more generally, for the operating of training programs within companies, and for the operation of formal job-apprenticeship plans where they are in existence. Important as it may be to train a man well to do a particular job in the

interest of immediate efficiency, in the interest of the security of his personality, in the interest, indeed, of the costs of that company, it seems apparent to me that another result has been that our labor force has become vastly more versatile than it has been in the past.

The final suggestion that I make in this general area -- and with this I will quit -- is that the American community, it seems to me, has been rather unappreciative of the key, and very difficult roles which labor leaders play in our society. By that I mean that the hundreds of thousands of middle-class people and professional people, the great bulk of the American citizens, who do not have familiarity with industrial relations, do not understand the key role which labor leaders play and must play in our kind of society. And there should be increased respect for that job, and those men, recognition that they are very much, as much, in the middle (if I may use that phrase) as any arbitrator is, indeed, that in an important sense they fill a much more difficult job by being in the middle. For they stand between their membership and the employer; they stand between their membership and an international union; they stand between their membership and the community in which they live; and the problem of mediating, if I may use the phrase, the conflicting interests on the one hand of the individual member, or at least the vocal aspects of it, and the needs of the community and the employer, is one of the most difficult tasks that any group of men was ever called upon to fulfill in our time. Added to that set of responsibilities today is the responsibility of facilitating a rapid rate of technological change, at its worst in industries that are contracting with little turnover, where previous experience may not be very useful or where the unions' life and stake may itself be involved. The task of mediating those conflicting requirements under such extreme conditions constitutes one of the most difficult assignments, I repeat, that any group of men was ever called upon to give. Some of my final suggestions were that we as a group can immediately come to recognize a little more deeply the difficulties involved and the key and decisive role which these men are playing with relation to the community.

I speak with conviction and sincerity, I hope, about this problem because I regard it as one of the most serious that our community faces, and it is not one that can be handled and solved tomorrow morning. I have a strong view that the important problems are those which take at least a decade to handle. Any problem you can solve overnight shouldn't have been brought up in the first place. Because this is fundamental and long-run, it is worth talking about. Now Arthur, here, in the Institute has done and is doing a real service in helping to have public discussion of this very significant range of topics.

Thank you.