

# IRR newsletter

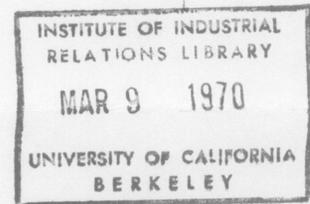
Volume 12 - No. 13

March 1, 1970

Date: Tuesday, March 10, 1970

Time: 6:00 p.m. - No Host Cocktails  
 7:00 p.m. - Dinner \$3.75  
 8:00 p.m. - Speakers

Place: The Boardroom Restaurant  
 3361 West 8th Street, Los Angeles



Speakers: Gordon Byrholdt, Assistant Regional Administrator  
 for Federal Labor-Management Relations,  
 U.S. Department of Labor

William J. Smith, Director of Organization,  
 American Federation of Government Employees AFL-CIO

Subject: President Nixon's Executive Order 11491 Covering  
 Labor-Management Relations in the Federal Service

Please call Rita Sann at 825-3180 for reservations as soon as possible.

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 NEWS BRIEF ON SPEAKERS FOR MARCH  
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Mr. Byrholdt and Mr. Smith will discuss the implications of Executive Order 11491 which became effective January 1, 1970. It supercedes President Kennedy's Executive Order 10988 regulating labor relations within federal government agencies. Mr. Byrholdt, who will be responsible for the administration of Executive Order 11491 in eight western states, was an attorney for the National Labor Relations Board for ten years before joining the U.S. Department of Labor's Labor-Management Services Administration in San Francisco in January of 1970. He received his law degree from the University of Washington and has practiced corporation law for municipal clients in Seattle. He and his family will make their home in San Francisco.

Mr. Smith is the National Director of Organization for the largest federal government employee union, the American Federation of Government Employees. He was appointed to his present position in March of 1969, after having served for more than two years as Area Director of Organization. He was one of John L. Lewis' field assistants in the Committee for Industrial Organization and later became its Regional Director in North Carolina and in Florida. Mr. Smith lives presently in Maryland.

At the January meeting of the Alumni Association, Benjamin Aaron, Professor of Law and Director of the Institute of Industrial Relations at UCLA, took another look at the problem of solving national emergency disputes. Reminding his audience that ten years have elapsed since Congress passed the last major piece of legislation in the labor relations field, he feels that a change in the statutory procedure for handling emergency disputes cannot be excluded from the list of possible amendments. After briefly reviewing the principal features of the Railway Labor and the Taft-Hartley Acts, including experience with emergency dispute procedures under the Acts from 1934 through 1967, he discussed proposals to change the methods of dealing with such disputes within the framework of four key questions posed by Secretary of Labor George P. Shultz. These, according to the Secretary, would have to be resolved before any intelligent suggestions for change could be developed.

The first question, What is an emergency?, is academic under existing law; an emergency is anything so denominated by the President. It is unthinkable, for example, that the National Mediation Board would certify to the White House a dispute which in its opinion constituted an emergency within the meaning of the Railway Labor Act unless it had first made sure that its opinion was shared by the President. In the case of the Taft-Hartley Act, one need not even speculate; by merely appointing a board of inquiry the President signifies his conclusion that a statutory emergency does exist. Mr. Aaron emphasized that if emergency procedures are intended to be used, the definition of an emergency must be flexible enough to permit a President to apply it whenever he thinks it necessary to do so. It is futile to devise an objective set of criteria to guide the President, because the decision to declare or not to declare an emergency is essentially political. One is forced to conclude, said Mr. Aaron, that the responsibility for determining when an emergency dispute exists is, and must remain, one of the unavoidable burdens of the presidential office.

The second question posed by Secretary Shultz, What procedures should be available to the President for dealing with national emergency strikes?, assumes that it is the President who should choose among whatever options are made available. After commenting on two bills currently under consideration that would effectively restrict the President's discretion in this matter, Mr. Aaron reviewed the merits of compulsory arbitration. Quoting from his vast experience in this area--he has been one of three neutral members appointed by President Kennedy to serve on a seven-man, tripartite compulsory arbitration board created by an act of Congress in 1963 to resolve the work-rules dispute on the railroads--he has no illusions about that device. Despite the statutory mandate, the board's authority was ambiguous, its procedures tortuous, its awards less than conclusive, and its decisions did not settle the underlying dispute in any final sense. However, Mr. Aaron does not oppose compulsory arbitration in all circumstances; indeed, it may be the only way in which to deal with some types of emergency disputes. But he is strongly opposed to the idea that the President should be empowered to order compulsory arbitration in his sole discretion.

The third of Secretary Shultz's questions, What should be done about local, state, and regional crises caused by strikes?, seems, in Mr. Aaron's opinion, to be aimed primarily at strikes by state, county, and municipal employees and at local strikes in the private sector involving, for example, transit systems or hospitals. He was emphatic in his belief that the federal government should do nothing. Extension of federal control would generate intense opposition within the states and would seriously inhibit the very healthy experimentation now going on in many states and local areas in developing new laws and mechanisms to improve labor-management relations in the public sector.

Finally, Secretary Shultz has asked, Should railroad and airline strikes be subject to a separate law, or should all national emergency strikes be subject to the same law and procedures? In Mr. Aaron's view, there is no justification for applying the emergency procedures of the Railway Labor Act to airlines; there is no justification for two separate statutory emergency disputes procedures. Rather, a new procedure extending the present time limit within which an emergency board would hold hearings and submit recommendations, for example, would be appropriate for all emergency disputes and could possibly be substituted for both procedures under the Railway Labor and the Taft-Hartley Act.

Mr. Aaron concluded his analysis by stating that there is no single "correct" answer, no "final" solution to the problem of settling emergency disputes. Indeed, perceptions of the problem are as varied as the proposed methods of dealing with it. Quoting from Marcel Proust, he left a most responsive audience to ponder whether immediate and drastic changes of our present laws relating to this and many other issues will finally resolve our difficulties:

We believe that according to our desire we are able to change the things round about us, we believe this because otherwise we can see no favourable solution. We forget the solution that generally comes to pass and is also favourable: we do not succeed in changing things according to our desire, but gradually our desire changes. The situation that we hoped to change because it was intolerable becomes unimportant. We have not managed to surmount the obstacle, as we were absolutely determined to do, but life has taken us round it, led us past it, and then if we turn round to gaze at the remote past, we can barely catch sight of it, so imperceptible has it become.

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INSTITUTE OF INDUSTRIAL RELATIONS TO CELEBRATE ITS 25th ANNIVERSARY

Governor Earl Warren signed legislation in 1945 creating the Institute of Industrial Relations. In celebrating our 25th Anniversary, the Institutes at Berkeley and Los Angeles will jointly sponsor a symposium, at which we will present speakers of national prominence in the field of industrial relations.

Many of our alumni may have pictures and programs of some of the early activities of the Institute. We would like to borrow these to help us in preparing for this event. We will reproduce anything loaned to us and return it to its owners.

Please mail your material to: Ted Ellsworth  
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