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LABOR LAW

3 February 1949

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MAJOR McLAY: Admiral Sabin, General Holman, and gentlemen: This morning we have the second of our two lectures on the fundamental and basic forces in labor. We heard Mr. Levenstein give us "History of the Labor Movement." This morning we are going to hear "Labor Law."

We are especially fortunate in having Mr. Fanning deliver this lecture because he has the ability to make what is ordinarily a very dull subject very interesting. I have had the privilege of working with Mr. Fanning for some time and know from my personal knowledge that he really knows the subject.

Any lengthy introduction of Mr. Fanning would just be taking up his time. So, without further ado, I will introduce to you Mr. John Fanning.

MR. FANNING: Gentlemen, some weeks ago when I was informally invited by Major McLay to speak to you on the subject of "Labor Law," I accepted with a great deal of enthusiasm. I was very happy. I always like to come over to Fort McMair so I looked forward to this lecture.

When I received General Vanaman's formal invitation, however, I began to worry as to what this group might think it was getting. The subject matter suggested in General Vanaman's letter was, and I quote: "Labor law as a force which at the same time controls and protects labor. Why and how labor law works. Rights and restraints upon labor and management. What the future trend may be." And, of course, the letter also said, "Limit your lecture, if you can, to 30 to 40 minutes."

With all due respect to Major McLay, who, I assume, drafted that letter, that is probably a course of 15 lectures, each of which would last about an hour, and probably any one of which would require the eruditeness of a professor of legal jurisprudence, at least, or a seer. I am neither but merely an attorney in the Office of the Judge Advocate General, engaged in the day-to-day operational difficulties of the Military Establishment.

So, with your leave, I am going to depart from the suggested subject matter and discuss three or four basic matters in the field of labor relations as it involves the Military Establishment. First of all, why is the Military Establishment interested in the field of labor and labor relations?

I am sure that some of you, if not all of you, asked yourself, and maybe your associates, when this lecture was scheduled, "What interest does the Military Establishment have in the field of labor and labor relations?"

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Mr. Dewey in the last campaign announced, I think, that there were something like 28 civilian labor agencies of the Government. You would think, normally, that twenty-eight other governmental agencies would be enough to take care of the labor interest of the Military Establishment.

Actually the Military Establishment does have a very legitimate and a very great interest in the field of labor and labor relations. It results from the fact, largely, that the Services are tremendous buyers of goods and services. The press has generally reported that the military budget for next year approximates 15 billion dollars. A major portion of this sum will go for the purchase of goods and services for the support and maintenance of the Army, the Navy, and the Air Force.

Since the Services are large buyers and have a corresponding responsibility, the character and scope of our responsibility for labor has a very direct relationship to those factors. These factors would include (1) the character of the establishments from which we do our procuring, and (2) the existence or nonexistence, and the character, of the contractual relationship, if any, under which these goods and services are procured.

We procure our supplies and services from three principal establishments or kinds of suppliers. The first one we normally call the government-owned, government-operated facility. These are the arsenals, the depots, the camps, posts, stations, the Departments in Washington and all the other places where the Military Establishment has the direct relationship of employer to employee. In those cases we have the full responsibility that every employer has.

Normally, the field of labor relations to which I am addressing myself does not involve this kind of facility. This is the field normally controlled by Civil Service regulation and the Civilian Personnel Divisions of the Army, the Navy, and the Air Force. But I mention it as one category because from time to time the labor relations we do have even involve the government-owned, government-operated establishment. Let me illustrate by giving you an example.

We frequently have an arsenal which is government-owned and government operated operating in the same community with a cost-plus-a-fixed-fee contractor. Both of them must have their wage schedules, their wage rates approved by the department for which they are operating. We are so organized, as many of you know, that requests from both the government arsenal and the government-owned but privately operated establishment, or cost-plus-a-fixed-fee contractor, come to the same centralized wage board (now known as the Joint Army-Air Force Wage Board) for approval.

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The Navy has a slightly different system, which I won't go into because what I am trying to illustrate is the fact that in the field of government-owned, government-operated plants we sometimes have joint interest. Of course, the reason for this centralized control is to prevent one contractor, or one arm of the Government, bidding with another arm of the Government for the same employees.

Second, we have the privately owned, privately operated establishments. Traditionally, the management of a private plant has had full responsibility, even when under contract with the Department or Departments, for the procurement, supervision and handling of the labor necessary to the fulfillment of its contracts.

Traditionally, also, differences which arose between the management of such plant and its employees were matters for adjustment between the parties, unfettered by any governmental intervention. The regulations imposed were largely statutory in character and were confined, for the most part, to assuring minimum standards of pay, healthful conditions of employment and the safeguarding of certain basic rights of employees, such as the right to organize and bargain collectively.

If some contractors failed in their contractual obligations, there were always substitute contractors, or firms, that were ready and able to do the job. Their failure was of little, if any, consequence to the procuring programs of the Military Establishment other than probably a slight or temporary delay or inconvenience. This was the situation, by and large, up to the beginning of World War II when the responsibilities for labor and labor relations, and the activities of the Departments in that respect, were born.

With the advent of World War II certain new factors came into the picture, not the least of which was the fact that the Military Establishment was spending infinitely greater sums than it had ever spent before, increasing the stewardship responsibilities which it had to the American people.

While labor and management retained their traditional responsibilities, it became very apparent that the aid of the Government must be enlisted to solve some of these new problems. The growing stringency of the labor market, for example, gave rise to conflicting demands for workers among competing employers and even between the Armed Forces and their suppliers.

These conflicts, in turn, gave rise to the need for governmental assistance and, particularly, direction. The country could no longer permit each employer to follow his own course. Nor could it countenance the disruptions in production which frequently accompany management-labor differences. The country could not view with indifference, as it had in

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peacetime, the failure of management to deal effectively with its labor problems because the Government, ultimately, bore the complete burden. Facilities, materials, and labor were far too scarce to operate on a hit-or-miss basis. So this changing situation, while it in no wise changed the fundamental responsibility of management and labor, did create new and difficult obligations for the Government.

The Military Establishment, with the mission of procuring goods and services to support its fighting forces, was faced, and still is faced, with the responsibility of seeing that these missions are not interfered with by unresolved labor problems. The scope of this responsibility and the manner of its discharge are dependent upon the existence or non-existence of contractual relationships, the specific functions of other governmental agencies, and the obligations imposed by laws and Executive orders.

I would like to direct your attention to those three things because they, as I will attempt to show in a few minutes, become the fundamental basis and criteria under which all our labor activities are evaluated and upon which decisions are made as to particular courses of action under any particular set of circumstances.

To return to the initial outline, the third type of establishment from which the Military Establishment procures its supplies and services is the government-owned, privately operated establishment, which is a unique kind of organization. Though relatively few in number, it differs radically from either of the two organizations I have mentioned previously, namely, the government-owned, government-operated and the privately owned and privately operated.

This latter category gives rise to certain additional Military Establishment responsibilities. I believe at the present time we are operating about 18 of these plants, concentrated primarily under the administrative supervision of the Chief of Ordnance. They were the ammunition plants of World War II and are now engaged in manufacturing certain chemical entities which constitute fertilizer for the rehabilitation of European soil and other parts of the world. That kind of plant is based on the assembly-line technique of operation. Most of you are probably more familiar with the actual mechanics of the plant than I am. But the point I want to drive home here is that the establishment of this kind of plant initiated a new kind of relationship between the Government management, and labor, where the Military Establishment, for the first time in history, became almost a partner in the productive process.

I would direct your attention specifically to the brief prepared by Mr. William L. Marbury in the case of Harris Kennedy et al. v. Silas Mason Co. argued in the U. S. Supreme Court in the last session, which is the best exposition of this theory that I know of. I will develop that point a little further later on.

In any event, the establishment of this kind of plant resulted in the joint issuance by the Government, management, and labor of, what I believe to be, the first statement of labor policy ever issued by the National Military Establishment. That was a statement governing the labor-relations activities, the collective-bargaining activities, the wage activities, etc., of the employees at this plant. This was concurred in by the secretaries of the respective Departments and Mr. Murray and Mr. Green of the CIO and the AFL.

These facilities, as I say I am sure you all know, are completely owned by the Government. The materials are owned by the Government. The product is owned by the Government. The only function served by the contractor is a management service resulting largely from the fact that certain establishments throughout the country, like Hercules, Dupont, and others of similar size, were more experienced in the handling of large numbers of untrained personnel.

As I have said, the existence or nonexistence and the character of any contractual relationship between the Military Establishment and the producing entity is one of the interacting factors which determine the character and scope of the Military Establishment's responsibility for labor.

Privately operated establishments upon which the Military Forces are dependent for services and supplies may be divided into two principal groups: those with which we have a contract, and those with which we do not have a contract. That, in large part, as I say, decides our future course of action.

I think I will stop on that point, for the time being, and save a further explanation of it until I get to the examples which I have and which I will utilize to illustrate these points.

Before proceeding, I want to emphasize again that what we do does not change the fundamental responsibility of management. Management has to take care of its own labor problems.

I mentioned earlier that some of you may have asked yourself the question, "What about the civilian labor agencies of the Government? What is their responsibility in this field? Do we by-pass them completely or do we work with them?"

The responsibility of the Military Establishment definitely should not be confused with the general responsibility of Government for the treatment of labor problems. We have a very limited though, we feel, great interest. But there are those responsibilities that are very distinct and we try never to let them conflict. I won't make the bold statement they never do conflict, but that at least is the objective.

To keep this distinction in clear operational focus, the Military Forces have issued the following statement of basic labor policy. I would like to read it to you because it is a very carefully drawn statement. It was drafted quite recently by the Munitions Board Industrial Labor Relations Committee. It is not a new policy. It has been in existence since 1942. This is really the latest statement on it. It has been recommended to Mr. Forrestal, Mr. Royall, Mr. Sullivan, and Mr. Symington for specific publication by their Departments. We hope to see a lot of it. This is by way of a galley sheet.

"It is the policy of the Department, in the procurement of supplies and services, to remain impartial and to refrain from participation in any labor difference or dispute; the conciliation, mediation, or arbitration of a labor difference or dispute will not be undertaken by any of the Departments."

You might think that that would put us out of the field entirely, but actually it doesn't.

"Subject to this policy, and in accordance with its procurement procedures,"--

which are actually nothing more than the administrative regulations of the individual Departments--

"each Department may (1) give notice of the existence of a labor difference or dispute which affects, or threatens to affect, procurement of supplies or services, to the Government agency which has responsibility for conciliation, mediation, arbitration, or other action with respect thereto,"--

that includes the National Labor Relations Board, Mr. Ching's Federal Mediation and Conciliation Service, the Railway Mediation Board, and several others.

"(2) seek to obtain such voluntary agreement between management and labor as will permit continued procurement of supplies and services: provided such activity does not involve the Department in the merit of a labor difference or dispute;"--

Basically, that means if there is a subsidiary contractor plant, there is nothing to preclude our going to the interested union and also the management and asking them, in effect, to exclude military procurement from their private dispute. This would include the removal by private trucking companies, or even military vehicles, of completed items which are on their shipping deck so that we can then send them on to ultimate users or to other prime contractors.

"(3) advise the Government agency or the parties to a labor dispute of factual information pertaining to the procurement of the supplies or services involved, to the extent consistent with security requirements."

Sometimes, if you tell a labor union that a particular item involved is necessary to, we'll say, the airlift in Berlin, and that the situation is very critical, you get some surprising things done. Particularly, that is the situation that could come up, and does come up, with respect to the stevedoring unions on both the east and west coasts. In a few minutes I am going to tell you about the stevedoring industry which causes us the most concern.

The responsibilities which I have been discussing generally relate, as I have said several times before and I want to emphasize again, to the fact that we have a contract, or we are buying goods and services. I suppose you might identify them as the financial interest we have in the situation.

But we also have a very serious and a very great responsibility forced upon us by law and Executive order. There is, for example, the Walsh-Healey Public Contracts Act, which directs that every government contract entered into by a government agency for \$10,000, or more, for the procurement of supplies shall contain certain labor stipulations, such as the fact that you won't employ women or minors, except under certain conditions; that you will pay the prevailing rate, as determined by the Secretary of Labor, and various other conditions. We have a contract article that we are required to put into all contracts. We have to exercise certain supervision, certain policing. That is strictly a matter of legislative mandate.

In the construction field, the comparable act is the Davis-Bacon Act. Most of you are familiar, I am sure, with both of those. The latter act says that in construction contracts of \$2,000, or more, we have to do certain things.

We also have Executive orders. One, during the war, with which I am certain you are all familiar, was the Fair Employment Practices Act, the nondiscrimination Executive order, and things of that kind which we are required, much as any government agency is, to administer.

We do not have any particular duties because we are a military establishment. Our responsibility is strictly the result of law and the fact that we are awarding government contracts. I am not going into that in very detailed fashion because it is all available in a very thorough manner in the forthcoming Armed Services Procurement Regulation No. 12, which is in the hands of the printer at the present time and should be available to all of you, I would say, within a matter of a very few weeks.

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With that reference, I think I shall pass on from our legal responsibilities.

Now the policies, procedures, and responsibilities that I have been discussing must be administered by an organization. They do not operate in a vacuum. During World War II, the organization that administered the activities I have been talking about was the Industrial Personnel Division Headquarters, ASF. It had a staff of about 100 civilian employees and officers here in Washington and corresponding "Labor Branches" in the technical services and the service commands.

The Industrial Personnel Division exercised staff supervision over these Labor Branches and coordinated their activities. It became apparent however, in about 1944 that the staff labor responsibility was misplaced that it should have been placed in the Production Division. Initially, it was thought that labor and labor relations were more akin to personnel management. That was a very serious error in administration. It was realized that actually the only legitimate interest which the Army, or Navy, or the Air Force has in labor is to facilitate the acquisition of supplies. We are not interested in maintaining labor standards for the betterment of personnel. We are interested in getting the goods to maintain our field forces.

We could not afford the luxury of a reorganization during the war, we had to substitute for that organizational deficiency by just maintaining extra-burdensome liaison with the procurement people. Subsequent to the war, or, as a matter of fact, on VJ-day, the need for a continuing organization of the size of the Industrial Personnel Division expired and the division was disestablished.

I was a member of the Industrial Personnel Division, but about six months prior to VJ-day the office of the Legal Branch of the Director of Materiel requested my transfer to that office. With the disestablishment of the Industrial Personnel Division, those activities (which always continue, inevitably, when an organization is completely disestablished) were transferred to my office, largely because of my presence there. Quite by accident the desired organization came about. Since that time those activities, by historical accident, have followed me personally and are now centralized in the Office of the Judge Advocate General, in the Procurement Division, where I am located. Armed with a lot of pieces of paper, whenever The Assistant Secretary, or the Director of Logistics, anybody else, wants a labor adviser, I am available.

I don't believe the Navy has gone through those throes of organization. I may be incorrect in this. I am not entirely familiar with the Navy organization. I do know that at the present time my counterpart in the Navy is located in the Office of the Director of Naval Materiel. His name is Carl R. Schedler. For those Navy officers who are interested in

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investigating more thoroughly into the Navy organization, I would suggest that they get in touch with Mr. Schedler. I am sure he will inform you in detail. But I believe the responsibility always has been located in the office of the Director of Naval Material.

Up until January 1948, the Army also handled labor relations and labor activities for what is now the Department of the Air Force. At the present time, of course, the Air Force has its own organization and it has a split responsibility between the Office of the Under Secretary of the Air Force, Mr. Barrows, and the logistic groups of the Air Force.

Well, I think that is enough of dry material. Now I would like to tell you about some of the things we actually do. This all sounds nice--very abstract, and so forth--but what kind of labor problems do we have? Well, we had quite a labor problem in the Pentagon a year or so ago involving the Pentagon restaurants. Maybe you heard about it because at the same time Government Services, Inc., the agency that operates most of the cafeterias and restaurants for the Government, had the same situation.

The Pentagon cafeterias and restaurants are operated by the National Food Corporation on a contractual basis. They have a collective-bargaining contract with the Restaurant Workers Union. In December 1947, when the contract expired, the union already was negotiating with GSI. I don't know what the reason behind it was. I am not attempting to justify or to criticize, but GSI took the position that the Taft-Hartley Act required it not to enter into a collective-bargaining contract, not to negotiate with any union that had not met what it thought to be the requirements of the Taft-Hartley Act--one, the filing of non-Communist affidavits, which you doubtless are familiar with from reading newspaper comment; and, two, the filing of certain financial statements with the Secretary of Labor.

It is my personal opinion that they were just camouflaging. That is a rather frank statement to make; but I believe, fundamentally, that the basic issue in all labor disputes is an economic one. It is a question of dollars and cents: Labor wants more money; management doesn't want to give any more money.

In any event, the strike was precipitated formally on the basis that the union would not qualify under the provisions of the Taft-Hartley Act. The strike continued for 90 days. When it came the Army's turn for National Food Corporation--Army's contractor--to negotiate a contract for the rest of the year, considerable pressure was brought to bear on National Food Corporation to adopt the same strategy, the same policy, as GSI.

I was asked for an opinion as to what the contractor should do. Here is what I recommended, in line with this policy. I said, "So far as the Army is concerned, you are a contractor, hired to run the Pentagon restaurants. If, in your best judgment--apart from any considerations you might have because you are doing work for the Army, in other words, if

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you were running a private business and the same situation came up--you would decide, as a matter of judgment, to enter into a contract with this union, go ahead and do it."

The contractor said, "What about this signing up with a bunch of Communists?" I said, "Well, first of all, I don't know that they are Communists. If they are, well, it is probably the leadership that is affected. That is all the Taft-Hartley Act applies to. It doesn't preclude you from signing up with a union of this kind. The law says if you, or the union, want to utilize the services of the National Labor Relations Board in the future, to qualify for admission before that Board you have to do two things: One, have the union officials file affidavits as to non-Communist activities, and, two, file a statement as to financial condition."

They said, "Would it embarrass the Army if we signed up with them? We think we can get a year's agreement with a six-cent increase." (Actually, the union was asking for 13 cents from GSI.) We told the contractor that it would not embarrass the Army, on one condition, and that was that the Commandant of the Pentagon put a new rule into effect. Now you, as Army, Navy, and Air Force officers get into the Pentagon largely because you are in uniform, or at least you have identification pass; or, as a civilian employee, you have an identification pass such as I have here.(showing pass)

We said, "Why don't you require all of the cafeteria employees to fill out security blanks. We will run them through the FBI, get their fingerprints, and so forth, and to those that are bad security risks we won't give a building pass; those who are clear, we will admit."

That was done. The contractor signed up with the union for a very excellent collective-bargaining contract. We initiated the security program, fingerprinted them, and investigated the 600-odd employees. I think all but two or three were cleared. We got no bad publicity, other than a couple of crank letters. We had no strike, which would have been a serious inconvenience, isolated as the Pentagon is.

This is something that few people know, but I think I am at liberty to say it. The memorandum I wrote, which was the basis for the National Food Corporation's negotiations and activities, subsequently became the basis for the settlement of the GSI strike 90 days later, after untold expense, inconvenience and trouble to Government Services, Inc., to the Government agencies serviced by them, and to the individual employees.

That is the way we handled one labor problem. As a practical matter, we had much more security than the Taft-Hartley Act ever provided, by reason of the fact that we had everybody cleared. The Taft-Hartley Act, theoretically, would require clearance only of certain officials, who never waited on tables, who never worked in restaurants, and who never heard the conversation or got the information about waitresses, cooks, or stewards.

Most of you have read a lot about Mr. Bridges and the activities of the International Longshoremen's and Warehousemen's Union on the west coast. We have had strikes periodically, once a year, for the past few years. This year we had the usual strike. In the past we have gone to the union, as we go to all labor unions, and said, "Will you exclude Army, Navy, and Air Force procurement from your private dispute?" This year we did the same thing except that in this case management refused to go along with us. Mr. Bridges initially refused but I think, realizing he was not in a good bargaining position, subsequently did offer to handle Army cargo on the pre-strike conditions of employment.

We let the thing go for a little while, trying to let the parties resolve it by themselves. Finally, when our cargo was piling up and the overseas forces were getting in a critical state, after Mr. Bridges had offered the services of the union, we demanded that management comply with the terms of the contract.

Now some of you may have been contracting officers and the question coming to mind probably is, "Well, aren't all strikes a basis for delay, under the Delays-Damages clause?" I don't know whether they are, or not. I suppose, normally, the answer is yes. But in this case we had a letter from Mr. Bridges to the Waterfront Employers' Association, which is an association of the interested contractors, offering to handle Army cargo on a normal basis, on pre-strike conditions of employment. So we thought that at least we had a basis for saying, "There isn't any reason why you, management, can't perform as a matter of fact." But they refused.

Well, after an appropriate period of time we canceled the contracts. We advertised and awarded new contracts to what we called "substitute contractors." We had one in Seattle, Washington, and one in San Francisco. We did it on a cost-plus-a-fixed-fee basis. The contract was to run only for the period of the strike, with no commitments or assurances that these two companies, which incidentally, were not members of the Waterfront Employers' Association, would get any subsequent contracts. They did have assurance, however, from the ILWU that labor would be provided them on pre-strike conditions of employment.

I went to Seattle and San Francisco to negotiate the contracts. In Seattle, we wrote the contract at four o'clock on a Friday afternoon and our cargo was moving at nine o'clock that same Friday night. In San Francisco, we wrote the contract on the next day, Saturday, and the cargo was moving the following Tuesday.

All of this took place without incident, except for one thing--you never get completely scot-free from a labor dispute: In the interim of these negotiations, the Chief of Transportation, with the approval of the Secretary of the Army, had hired about 300 civil-service longshore personnel in San Francisco to handle the loading and unloading of Army transports.

We had a moral commitment to them, which we have kept, and that was they would be offered employment in that capacity just as long as they wanted to accept employment. Probably, ultimately, the normal rate of attrition will wipe it out.

We have received repeated complaints from union officials, congressional sources, the Governor of California, and the Mayor of San Francisco. Just about everybody has raised the question of why we now have these 300 civil-service people where, before the strike, we had none. The answer, simply, is this: When we have assurance that the ILWU is a sufficiently responsible union, that we can rely on it to move Army cargo in time of private dispute, and we have the same assurance from management we probably will eliminate the civil-service personnel. But until such time, we need them as a safeguard or a bulwark to insure the movement of our cargo.

I think my 30 or 40 minutes are probably about up. But I want to tell you a short story of how I am credited with solving a labor dispute that I never did solve. It might show you that sometimes the element of luck has a great deal to do with how these things are settled. This will be of particular interest to the Quartermaster Corps of the Army.

A couple of years ago, when we were engaged in the repatriation program, bringing home the dead of World War II, we got seriously in arrears due to a strike, on the procurement of caskets. The strike continued for a long time. Seemingly, management and labor could reach no basis of agreement. We seemed to have reached an impasse. Somehow or other, Mr. Drew Pearson, who is familiar to all of you, heard of the situation. He called me up to ask what the situation was. I, honestly, didn't talk with him. However, Memorial Day was just two or three days off. He, apparently, did some investigating because on Memorial Day he wrote a beautiful story about the utter lack of cooperation on the part of management and on the part of labor. That was on either Friday night or Saturday. Lo and behold, on Monday morning everybody was back to work.

So, you see, there is no set formula for solving labor problems. Sometimes it is public pressure; sometimes it is knowing the ins and outs of labor law; sometimes it is knowing personalities. But it is a very interesting field. I handle renegotiation, pricing, and a lot of other things, but actually I would give them all up for labor relations.

Well, I think my 40 minutes certainly have expired now. There are many other examples I could give you.

Thank you.

MAJOR McLAY: Gentlemen, I think we are about ready to begin the question period.

QUESTION: Mr. Fanning, I would like to ask you two questions, if I may: First, what is being done now at the level of the Munitions Board toward making preparation for a labor-management law for a future emergency? And, secondly, in your opinion what should be done?

MR. FANNING: Well, first, let me explain that by telling you a little about the labor organization of the Munitions Board.

The Munitions Board has a division, or group--I don't know what its titular definition is--that handles labor and manpower. Captain William J. Marshall, USN, is the principal administrator, I believe, in that division.

Last September, at the suggestion of Mr. Forrestal's office, a committee was established at the Munitions Board level, known as the Munitions Board Industrial Labor Relations Committee. It has equal representation of the Army, Navy, and Air Force. I am the Army representative. Mr. Carl R. Schedler, to whom I referred a moment or two ago, is the Navy representative. George B. Woods is the Air Force representative. He is a Special Assistant to Mr. Barrows. Each officer has an alternate. I am the chairman of the committee.

We are starting to look into problems of that kind but we have been going only about three months, and during one of those months I was out on the west coast in connection with the stevedoring situation. So frankly, we have not made much progress. That is one of the things we are directed to look into. We will try to come up with some recommendations.

In addition, the National Security Resources Board has drafted, well, I suppose you might call it an omnibus bill which has sections on contract placement, mandatory orders, pricing, renegotiation, just about all the fields of wartime procurement, including some sections on manpower, labor relations, and things of that kind, which, so far as I know, are still in the drafting stage.

I don't have any specific wartime recommendations. If you are thinking in terms of national service legislation, we had that with us in World War II. We gave a lot of thought to it. As a matter of fact, I think I drafted one of the earlier national service bills, but they were discarded for several reasons, two of which were, first, politically, it was not thought that enactment would ever be secured; and, secondly, it was thought that the productivity of a competitive labor force is probably higher than a compulsory labor force.

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What the thinking will be in World War III, if there is to be a World War III, depends very much on what happens from now on in the way of indoctrinating Government, in the way of indoctrinating people; whether we have a period of prosperity or a period of depression which will provoke such legislation as the Fair Labor Standards Act, for example which was provoked by the depression of the thirties.

Your guess is as good as mine. My simple answer to your question is that you should just wait, I think, until you get into, let's say, phase two of the three stages of planning.

Would you consider that to be an answer to your question?

QUESTIONER: Well, no. What I was getting at was, in any mobilization plan, or stockpiling of resources plan, we should do all we can to prepare for the emergency. Evidently the planning is in the preparation stage both the NSRB and the Munitions Board.

Of course, you can't give an answer when there isn't one to be given. That far, I'm satisfied. Thank you.

QUESTION: Mr. Fanning, you have explained to us the private-contracting policy that is going to be passed down to the Services regarding their relation with labor. How does it differ from a government-owned, privately managed situation, case three which you mentioned?

MR. FANNING: Well, first, I don't think the respective Secretaries have actually promulgated this as yet. This is something that this Munitions Board Committee, of which I am chairman, has referred to Mr. Forrestal and to the Secretaries. It is actually only a restatement of what has been promised.

Formally, there is no difference. Formally, if you are a contractor it doesn't make a great deal of difference, whether you are a fixed-price contractor, a fixed-price contractor with a price-revision provision, or a straight out-and-out cost-plus contractor, in the degree of activity or the depth with which you get entangled. We do get more entangled, of course, with the cost contractors because we have to approve all wages.

Now take straight out-and-out cost-plus contractors. They can bargain collectively with their union. Maybe they negotiate wage increases. I think in the Navy the contracts go to the Cost Inspection Service for approval (Mr. Caldwell's office). In our case and in the Air Force case they come up to the Joint Army-Air Force Wage Board. Sometimes the Board refuses to approve. That does not happen too often because the people whom we award those contracts, by and large, are very responsible companies like Dupont, Hercules, General Electric, or Westinghouse, and they do a good job of bargaining collectively and of handling labor relations a fixed-price contractor would do, first, because they, strangely enough,

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want to protect the public at least as much as we do; secondly, this CPFF work that they do is normally just a minor portion of their entire business. To the extent that Dupont, for example, makes a wage adjustment at one of the ammonium nitrate plants, inevitably it is precipitated on the idea of putting it into effect in Dupont's private establishments. So the private interests act to protect us also.

However, from time to time that theory falls down. We always try to maintain the fiction--if you want to call it that--in the CPFF case of dealing only through the contractor, in dealing directly with the union, and trying to deal with him in the same fashion we would deal with a fixed-price contractor. Obviously, when we are paying all the bills we stretch it a little bit if it is necessary. It is difficult to define with exactitude something that probably only comes with experience.

We have negotiated wage contracts in our CPFF plants that we wouldn't even think of touching in our fixed-price plants. But we always try, as I say, to use the same policy. The only time we deviate is when there doesn't seem to be any other solution.

Of course, all of this policy is subject to the exception. Sometimes you have to do things that you normally would not do on the theory that it is justified if it gets out procurement.

I can't give you a specific difference.

QUESTION: You do contemplate getting out another statement of policy, do you not?

MR. FANNING: No. I told you, I think, earlier that we did have a specific policy statement out on the so-called GOPO's which is the first labor policy statement, I think, the Military Establishment ever issued. That is still in effect. It has a lot of wartime language in it which should be modified.

But, normally and in peacetime particularly, we do not do business on a CPFF basis except to the extent of probably some research and development work. This work, normally, is small in dollar content and frequently is with universities, or groups of research institutes, that do not have labor problems of the kind that would worry us.

In wartime we might issue an addendum or another policy statement, but I don't think we will in peacetime.

QUESTION: Mr. Fanning, what is the legal position of the Military in the case of service contracts with an industrial firm for the production of secret equipment, where the plant guard force is unionized and involved in the dispute? Would the Military get into difficulty even in protecting the security of the information and the equipment itself?

MR. FANNING: It's a good question.

Have you ever read ASF Circular 15, 1942? Well, I think you can probably guess the answer I am going to give you.

QUESTIONER: The question of the time in getting the Provost Marshal involved--and, also, you might become involved--with the union.

MR. FANNING: Let me answer your first question--Is the plant guard force unionized?

We had the policy during the war of insisting that if a guard force was being organized that it be, for collective-bargaining purposes, set up in a separate bargaining unit, even though it could be the same international union.

Of course, if guard forces are auxiliary military police, the answer is a simple one. We just exercised all the prerogatives we had by their being in the military force. We have to do it for security reasons. The Taft-Hartley Act, I think, specifically prohibited guard forces composed of members of the same union as the production employees. So that would help the situation also.

The times when that conflict would arise would be rather infrequent. But security considerations in the particular case would control. If necessary, as we have done in the past, we could take it to the National Labor Relations Board and get them to issue a rule that would take care of the situation, even to the extent of denying collective-bargaining rights to the people involved. For example, initially, in this GOPO's situation that I referred to, I think for a period of about a year the National Labor Relations Board agreed that they would not recognize collective bargaining by this kind of management.

I think in the case of the Atomic Energy Commission today certain unions have been disqualified, particularly the United Electrical Workers.

We could use somewhat the same kind of formula, depending on the circumstances of the particular case. I am sure, as in the past, that the National Labor Relations Board would let security be the paramount consideration and do whatever we thought was necessary for security.

QUESTION: Mr. Fanning, I would like to get away from that subject for just a moment. I think maybe you, from your experience in dealing with labor, might be able to give an inkling to this situation.

A short time ago, the CIO was very much enthused, or at least gave the impression it was enthused, with this world labor union, this world federation, or whatever they call it. In the last few days they have said the whole thing is dead. Do you, in your work, have any ideas as to what caused that change of attitude?

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MR. FANNING: I don't know, Colonel. That is my simple answer.

Those world federations periodically come to the fore. Sometime ago you may have read where Mr. Bridges and Mr. Curran tried to establish something like that for the stevedores.

Actually, it is a pet theory of Bridges that he ultimately wants to organize the United Sugar Workers of the world as well as the stevedore industry which, I think, clearly would be very, very dangerous in view of the importance of sugar in the making of ammunition, which you are more familiar with than I am. Any man who controls the sugar industry of the world and the stevedoring industry of the world becomes a pretty powerful figure in national defense. I, for one, would be willing to take some very drastic action if that ever came about.

However, he made one mistake. He started out to organize the sugar workers of Hawaii. He thought he had them organized. He left Joe Hall in charge of Hawaii and returned to the States, intending to go to Cuba. The big five sugar growers waited for their opportunity. They took care of Mr. Hall. They not only seriously depleted the union's treasury, but I think if he still has those ideas they are set back at least five or maybe 10 years.

You get that periodically, but I don't know the specific reason.

QUESTION: One of our previous speakers on labor made quite a point of expressing his opinion that during wartime labor strikes and labor disputes were of such small magnitude and had such little influence on wartime production as to have been quite negligible.

I would like to know the view of your office as to whether that was true. Was military procurement seriously affected by strikes during the past war? Probably you can give us an example of what was done about it or tell us what could have prevented it.

MR. FANNING: I am going to take the latter part of your question first.

Military procurement, I think I can safely say, was not seriously affected by strikes. I have but to point to the history of our success in winning the war as one illustration of that.

The answer to the rest of your question is one of comparison. You can use figures to establish almost anything. The fact of the matter was that we did have quite a bit of labor dispute. How much more we would have had if we didn't give it the time that we gave it is guesswork. I question whether in the next war we are going to be able to afford the luxury of putting as many people into administrative jobs, watching over

procurement, handling strikes, and things of that kind, as we did in the last war. That is just a guess. It is hard to give a categorical answer.

I think the best way I can illustrate that is this: You may have seen in the paper last night, or the night before, where someone--it may have been Secretary Tobin--appearing before the House Labor Committee on this new Wagner Act, or National Labor Relations Act, testified that strikes had increased during the period the Taft-Hartley Act was in existence in comparison with the period when the Wagner Act was in existence.

Some newspaper commentator, which was the one I saw, called his attention to the fact that he hadn't compared the period immediately before and immediately after, to show they ought to take into consideration the same economic circumstances, the same supply circumstances, and so forth.

So I would say, in answer to your question, that strikes did not cause us to lose out very much during the war. As a matter of fact, I think labor had a very excellent record during the war. The no-strike pledge which Mr. Murray, Mr. Green, and the labor leaders took with the Government on 7 January 1942, conditioned upon the issuance of Executive Order 9250, the initial Wage Stabilization Act and the establishment of the War Labor Board, by and large, was very well kept. You had wildcats from time to time, of course. I'm sure you all have heard of the, oh perhaps, 30 cases where the Army had to seize the plants because of interference with production.

But, as I said, strikes did not cause us much loss during the war; however, they did use up quite a bit of manpower that might otherwise have been utilized in more productive tasks.

I think that is the best answer I can give you.

Now I would like to close with one thought; it's very short. I can't emphasize enough the responsibility that all of you should display when you finish your course here and return to the active field of procuring or related activity. I just would like to illustrate what could happen if you are not conscious of that responsibility.

Some months ago I saw an account in the newspaper involving a strike at the Welin Davit and Boat Company, in New Jersey. There was a strike on at the plant and we, apparently, wanted some lifeboats. I don't know whether they were critical or not. I doubt whether lifeboats several months ago were so critical that we had to take the action which this individual took. In any event, he showed up at the picket line with a squad of soldiers, all armed, and said he had come to get the boats out and anyone who interfered or attempted to stop him from performing his duty would be shot on the spot. That is a ridiculous statement, of course, but it got a lot of newspaper publicity. We got a lot of Congressional inquiry and none of that helps.

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So, as a parting word, don't threaten to shoot people if you want to get through a picket line. Ask them to let you through. If they won't let you through, think of something else to do.

Thanks a lot.

MAJOR McLAY: Mr. Fanning, on behalf of Admiral Sabin, General Holman, and the student body, I thank you for a very wonderful and informative lecture. We hope you will come to see us again some time.

MR. FANNING: Thank you.

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