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GOVERNMENT AND LABOR-MANAGEMENT RELATIONS IN A MOBILIZATION PERIOD

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22 October 1951

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GOVERNMENT AND LABOR-MANAGEMENT RELATIONS IN A MOBILIZATION PERIOD

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MR. HILL: Gentlemen, we have been getting a course in labor-management relations--at least that is what we have called it, and I think perhaps we should change the name from that to labor-management-government relations. In the old days the picture was that all collective bargaining was conducted over a table with the Government as the umpire. To quote no less an authority than George W. Taylor, the previous chairman of the Wage Stabilization Board, the Government has now taken its place as tripartite member of that group.

We take pleasure today in welcoming a member of the Wage Stabilization Board staff, who will tell us about the change which has come about and how the Government has come to take its place in the labor-management strife, if you want to call it that. The Wage Stabilization Board has become the focal point for many of the labor-management difficulties, and, in a number of cases, the White House has referred labor-management difficulties to the Wage Stabilization Board for settlement.

Our speaker this morning has had considerable experience in dealing with legal matters. He has been a law clerk to Supreme Court justices and, as you know, that is a very important and difficult job. We are very happy to welcome this morning to our audience Mr. J. Keith Mann, Assistant to the Chairman of the Wage Stabilization Board. Mr. Mann.

MR. MANN: After that kind introduction and the fact that it only became apparent quite late that Chairman Feinsinger could not have the pleasure of addressing you this morning, I can hardly wait to hear what I am going to say myself. But seriously speaking, government and labor-management relations in a mobilization period are a very special problem, because until recent years laissez-faire was the basic philosophy from which we approached governmental participation in labor-management or industrial relations in this country. This attitude, I suppose, was merely a particularization of our tradition of a minimum of governmental interference in economic relationships, whether between lender and borrower, landlord and tenant, or, if you will, employer and employee. We have been and, I believe, are convinced that less rather than more government is the distinguishing feature of an industrial democracy. But the impact of the Government on labor-management relations has been stronger of late, as Mr. Hill has indicated, and it has been strong particularly in a mobilization or war period.

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Before examining this development we should note that there are at least three separate points at which the Government can touch what we might call the management-union "society." I suppose there are many more. None of us would attempt to describe the complexities of the marital relationship from the statute books. The Government has asserted itself with regard to, first, the organization of unions; second, the procedures of collective bargaining, that is, the methods of arriving at an agreement; and, third, the subject matter of the agreement.

Now, with the passage of the Wagner Act in 1935--I won't dwell on this very long, because I understand you have had Mr. Slichter here to talk to you--labor got its first significant encouragement from the Government with respect to the first problem, the organization of unions. The Wagner Act protected the individual worker and facilitated collective bargaining. At least at that time, collective bargaining was presumed to be coextensive with the public interest. Under this affirmance of the right to organize and to bargain collectively, union organization stepped up quickly.

The Taft-Hartley Act of over a decade later introduced the Government into the collective bargaining arena and regulated the subject matter of agreements as well, our second and third points. The Taft-Hartley Act provided means by which the Government could prevent the use of economic force and pressure in some cases in which, in the opinion of the President, a work stoppage would vitally affect the national health and welfare. In addition, the Taft-Hartley Act defined the terms on which issues of union security, featherbedding, and welfare plans could be settled.

The dissatisfaction of industry with the Wagner Act and the resentment of unions toward the Taft-Hartley Act are themes now familiar to all of us. It would be irresponsible to say, "A plague on both your houses." For present purposes, it should be sufficient for us to note that it is not necessary to view these pieces of legislation--the Wagner Act or the Taft-Hartley Act--as pro or anti one side or the other. The dialectic of the American scene, the larger course of our events, indicates that child labor laws, women's suffrage, or, if you will, labor legislation, in whatever manner expressed by a particular legislator at a given time, are grounded on the premise that the statute is in the public and not the class interest.

In a time of emergency also the procedures of collective bargaining and the subject matter of agreements between unions and management receive governmental attention. Wars, though fought for freedom, will inevitably result in some curtailment of freedom. As Dr. George Taylor has said, "We have not yet found the means of fighting for freedom with freedom."

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In an emergency or war period, the Government limits the terms upon which unions and management can settle economic issues. For example, at the present time direct wage payments must be related to the cost of living; moreover, disputes lead to stoppages of essential defense production. The Government will insist that such disputes be settled by agreement short of strike or lockout. Now when the Government says, "You can't use economic pressure," these disputes have to go somewhere--you can't leave them dangling in midair--so the Government will provide an alternative means for the reaching of an agreement on the basis of recommendations or decisions of a forum sponsored by the Government. It should be recognized that such machinery deprives or limits the use by unions of their one great weapon, the right to strike. Only once in recent years have unions been asked to give up that right, and on that occasion they agreed.

You will recall that in December 1941, shortly after Pearl Harbor, President Roosevelt called a labor-management conference. From that conference of representatives of labor and management and the Government or public came a no-strike, no-lockout pledge for the duration of the war. The substitute which labor and management accepted for free collective bargaining during the war period was voluntary participation on a National War Labor Board. That tripartite Board was composed equally of representatives of labor, management, and the public and exercised governmental power when it was necessary to restrict individual action. Today the Wage Stabilization Board has 18 members--6 labor, 6 public, 6 industry.

The tripartite idea proved its worth, although it has often been attacked. Realistic and public-minded solutions were found for the great economic and industrial-relations problems which confront the country in a war period. The representatives of industry and labor performed a great service not only in the formulation of general policy but, from the public members' point of view, in the selling of the general policies and decisions in individual cases to their respective groups, thus gaining public acceptance.

At the end of World War II, labor and management were once again given the opportunity to solve their problems by free, or at least largely unrestricted, collective bargaining. The reconversion period, however, proved to be a difficult one. Unhampered collective bargaining was often not possible from the Government's point of view. From the fall of 1945 until the fall of 1946, 13 fact-finding boards were appointed by the President or by the Secretary of Labor. With the outbreak of hostilities in Korea, the never-never land of normality, a modicum of governmental interference in labor-management relations, seems further away than ever before.

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In labor-management relations, as elsewhere, the problems of a mobilization period, a less than all-out war period, are different from those which confronted us in World War II. In the first place, you begin with a full employment economy. You are, moreover, presumably pacing the economy for a much longer period. In spite of strife during the reconversion period, which we just discussed, collective bargaining has matured. For these and the obvious economic reasons of high excess-profits taxes, high profits, and a tight manpower market, very tight, the usual problem confronting the Board today is very different from the problems which confronted the War Labor Board. The War Labor Board started out its mission mainly with disputes. The Wage Stabilization Board in the first six months of its existence had to deal primarily with petitions for wage increases agreed upon by unions and management and voluntarily submitted for approval.

Congress, acting two months after Korea, could not have anticipated this development. So Congress appropriately relied upon experience and provided authority for the President to utilize the same sort of procedure as that resorted to by President Roosevelt in 1941, to call a labor-management conference and to take such action as might be agreed upon at such conference to handle disputes affecting the national defense.

Up to the present time, it has not been demonstrated that we need the extensive kind of governmental machinery in a mobilization period that we had in a war period. Nor, as a practical matter, do we have the necessary climate for obtaining an agreement from industry and labor on a no-strike, no-lockout pledge. Thus, the authority provided by the Congress has never been used but has remained as a device to be used by the President only if circumstances warrant.

Nevertheless, by establishing controls over wages we have necessarily limited the area in which unions and management can engage in collective bargaining. The mobilization program placed additional strains on industrial relations, such as the transfer of workers and the resultant problems--whenever you transfer workers from an automobile plant to an airplane plant you have problems of seniority--you have the problem of whether a pension goes with the employees, etc. So, in preparation for partial war, some means have to be provided for the settlement of labor disputes affecting the defense effort. The same Congress which had provided in the Defense Production Act the authority to impose controls over wages and other forms of compensation and to implement the mobilization effort, listed among its purposes the prevention of economic disturbances and labor disputes, the promotion of sound working relations, including collective bargaining, and the maintenance and furtherance of the American way of life. The obligation then rested upon the President to reconcile the needs of our mobilization

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program with this expression of our traditional approach to government and labor-management relations. On 21 April 1951 he issued Executive Order 10233, establishing a form of disputes-settlement procedure, not only uniquely geared to the needs of the mobilization effort, but founded on the valued idea of a minimum of governmental interference in labor-management relations, except when the parties voluntarily agree that the Government should do so.

Under this Executive order the Board can hear cases in only two situations. The first is, if the President is of the opinion--which is his job to decide--that a dispute substantially threatens the progress of national defense, he can refer it to the Board. It then becomes the duty of the Board to investigate the issues in dispute and to report to the President with its recommendations to the parties as to fair and equitable terms of settlement. That is only a recommendation; the parties need not accept it; but of course you know it tends to mobilize the power of public opinion behind it.

The only other way a dispute can come to the Board is if the parties in a given case jointly agree between themselves to submit their dispute for recommendation or decision. The parties, by collective bargaining, may decide whether they will submit their dispute and what issues they will submit. The Board weighs the extent to which the plant involved is important to the defense effort before deciding to take or to reject the dispute. The Board has no power to intervene in a dispute on its own motion.

There was last summer an important attack in the Congress to strip the Wage Stabilization Board of these disputes functions, these limited ones I have just described. I am glad to report to you that this attack did not prevail, because I think it is critical that we have this limited kind of machinery to carry us through the present period. The argument was made that this machinery is incompatible with the peacetime procedures established by the Congress, particularly the provisions of the Taft-Hartley Act.

Under the terms of the order the Board can only take a case voluntarily submitted by the parties or referred by the President, as I said, and then only after collective bargaining and the normal processes of mediation and conciliation have been exhausted. So I submit to you that these procedures do not interfere with those peacetime procedures established by the Congress.

Perhaps of more central concern, there is no conflict in our view with the procedures established under the Taft-Hartley Act for dealing with "national emergency" disputes. The two mechanisms are in fact quite different. Before the President can invoke the

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Taft-Hartley Act, there must be a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof. Such strike or lockout must be one which would imperil the national health or safety if permitted to occur or to continue.

On the other hand, the President may refer to the Wage Stabilization Board a labor dispute which in his opinion substantially threatens the progress of the national defense effort. The President could not invoke the injunction procedures of the Taft-Hartley Act to deal with a dispute at one plant making "sky sweeps," for example. I am sure you gentlemen know better than I do what "sky sweeps" are. However, that dispute might come to our Board either by a voluntary submission for recommendation or decision or by a referral by the President.

There are further basic differences in the procedures of the Wage Stabilization Board under the Executive order and those of the national emergency disputes boards of inquiry. The Wage Stabilization Board has no powers of compulsory process. It cannot subpoena parties to appear before it. It can only invite them to cooperate with it in its investigation of disputes. Nor is the injunction an incident of the Board's powers. Its job is to investigate and to report to the President with its recommendations, bringing to the problem the balance and informed judgment of members representing labor, industry, and the public.

But there are considerations which extend beyond the coverage of the two Acts. There are considerations of method. There is no such thing as a single concept of labor disputes, and there is no one technique adaptable to their settlement. Labor disputes are more properly conceived as a spectrum of varying scope, issues, tactics, attitudes--each with its own peculiar implications to the public interest. It is only at the infrared end of the spectrum, where the heat is greatest, that the Congress has considered it appropriate to provide the extraordinary national emergency procedure.

Whereas labor disputes are various in character, so are the tools for their resolution. During the mobilization period, although the strike and the lockout are two of those tools, we try to keep their use at a minimum. During this period, which is like war, we are trying to confine the tools of settlement of labor disputes to collective bargaining, conciliation and mediation, voluntary arbitration (now sponsored by the Government), fact-finding boards and, of course, the national emergency provisions of the Taft-Hartley Act. Two of these tools not previously generally available, fact finding and voluntary arbitration, have been conferred upon the Wage Stabilization Board by the President for the duration of the emergency.

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That is the machinery we have and you might be interested to know how this machinery works out in practice. Well, as I understand it and as we understand it over at the Board, there is a Director of Industrial Relations for the Department of Defense, Mr. John Fanning. Mr. Fanning gets daily reports from the procurement officers of the Army, Navy, and Air Force as to disputes which are stopping production considered essential by those services. I think it is important to go into this, because some people have the idea that all of a sudden the President decides that a dispute is critical to the national defense and just rather arbitrarily does something about it. Well, in truth, as I am going to explain, a lot of careful work and analysis and thought goes back of it.

Daily reports, then, come into the Director of Industrial Relations in the Department of Defense and, when a dispute is said to affect one of the services that service is then asked, "What is the component part? What is the end product? Can you shift the contracts? What stage is the plant in, insofar as your production schedule is concerned?" That is where most of the disputes stop; I mean they never become a matter of White House concern.

But then, when something is hurting the Defense Department, Mrs. Rosenberg, Assistant Secretary of Defense, telephones Mr. Ching, Director of the Federal Mediation and Conciliation Service, and Mr. Wilson, of the Office of Defense Mobilization, and the White House gets into the picture, and we get into it. A conference is called at this point by Dr. Steelman, Assistant to the President, and Mr. Feinsinger, the Board's Disputes Director, and sometimes I attend. This group goes over what disputes are affecting defense production and what steps, among all the tools that the Government has, should be used to step into this situation. Ultimately, of course, after all the information is given, it is the decision of the President as to what he will do about a particular dispute.

In the first utilization of this machinery which was established for the mobilization period, the President referred to the Board a dispute involving the United Steelworkers of America-CIO at the Garfield, Utah, copper smelting plant of the American Smelting and Refining Company. That plant smelts 80 percent of the entire output of the Kennecott Copper Corporation at Bingham, Utah. That is the largest open-pit mine in the world. Copper, as you know, is one of our most critical defense materials. We are so hard up for copper we are trying to pick it up in the new battlefields of Korea and the old ones of the Pacific.

When the President referred the dispute the Board asked the parties to resume production. Mr. Phil Murray, President of the Steelworkers and the CIO, asked the Local to terminate the strike

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and the workers to go back to their benches. They did so, and there was almost an immediate resumption of production while we considered the merits of the case.

One of the demands in the Garfield case was that the Cooperative Wage Study Manual used in the steel industry for the evaluation of jobs and for determining the proper relationship between jobs, be adopted out there. Now, as you can tell if you are a student of labor relations, that was a very delicate matter, because the company contended that the nonferrous industry is vastly different from the steel industry. The company urged that you could not automatically adapt the manual for another industry. A recommendation favorable to the Union would lay the Government open to the charge by the industry that the Government had decided on the side of the Union and enabled the Union to win a demand which it could not have gained in the process of free collective bargaining; and likewise if there were a negative recommendation on the demand.

There was an additional fact which has to be recognized if you are to examine the role of the Government in that kind of a situation. The steelworkers are engaged in a drive to organize the nonferrous metals industry, which is now largely organized by the International Union of Mine, Mill, and Smelting Workers of America. So in hearing that dispute, the Board--the Government--was playing a role and inevitably was forced into the conflict, not only so far as that company had a relationship with the rest of the industry, but into the conflict and rivalry between the two unions.

Well, what did the Government do in the situation? The Board recommended a wage increase which was consistent with our cost-of-living policy. Then the Board said, "We don't think the Government should determine what kind of a job-evaluation plan you have in this industry. We think that is something you parties can work out in collective bargaining." So the matter was referred back to the parties for further collective bargaining. The parties did agree on a manual which was based on the general principles of the manual used in the steel industry, but which had some special adaptations for the nonferrous metals industries.

The parties then could not agree on the increments between job classes--how much more a common laborer should be paid than a janitor, or a machinist, a mechanic, a carpenter than a laborer. So they came back to us and said, "Look, Government, you have to help us out a little more." So the Board went into it and did make a recommendation on that matter.

While all this was going on, the International Union of Mine, Mill, and Smelting Workers did strike at Kennecott. The President

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referred that dispute to the Board also. We held a hearing and asked the parties, particularly the Union, to go back to work, because that was essential. The Union said, "Well, the Federal Mediation and Conciliation Service made a suggestion to the parties as to what would be an appropriate settlement here. We think the Government has an obligation to back up that suggestion." Now it was the Board's view that the merits of the case were open as to what would be fair and equitable between the parties, so it reported back to the President and said, "These voluntary procedures and alternative means for settlement of labor disputes which you have established for the defense mobilization period won't work in this particular case because the parties don't want to avail themselves of our procedures." So the President himself resorted to the extraordinary means at his command--the Government got an injunction under the Taft-Hartley Act to require the Union to order workers back to work.

We have other cases, as Mr. Hill referred to, before us. We have a dispute involving members of a fabricating industry in the northeastern part of the United States. We have the Douglas and Wright Aeronautical aircraft plants, one making jet planes and the other transport planes, and in both of these cases the workers have resumed production, the companies have made their facilities available, and production will presumably go on until our special panels come up with a recommendation, and the Board makes its report to the President.

But to explain the complications that you can get into: The President referred to us a dispute involving the United Automobile Workers of America and the Borg-Warner Company. The Borg-Warner Company makes gears. As you know, gears are used for everything that moves on wheels. In that particular case Mr. Walter Reuther, President of the United Automobile Workers, said, "Mr. President, I respectfully submit that you have made a mistake. This is not a dispute which substantially threatens the progress of national defense, because only 15 percent of the production of the Borg-Warner Company goes into defense production; 85 percent of it goes into civilian production."

I was informed this morning by the Department of Defense that this dispute is cutting down 21 planes a month.

Insofar as the Board is concerned, our problems and our procedures are difficult. We cannot proceed to hear the case while the Union is out on strike and when the President of the United States has said, "In my opinion this dispute substantially threatens the progress of national defense." It is not the Board's function to go back of the President's decision.

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To point up the other kind of case the Board can handle, the case in which the parties voluntarily submit a dispute, I want to tell you about the atomic energy plant out at Hanford, Washington, which includes a series of nuclear reactors used in the production of fission materials. You know how those plants are situated. There is a big gate. You go inside the gate and then travel from 10 to 40 miles before you get to your job. So there developed what is called "isolation pay," which has some aspect of travel pay, but there is also the factor of inconvenience to the workers enclosed behind that barrier.

The dissatisfied civilians belong to the Building Trades. The employer and the workers involved out there just filed with us this written joint submission saying "We cannot solve this dispute; we will submit it to your Wage Stabilization Board, the representative of the Government, and we will accept your decision." You see, the parties voluntarily agreed to accept the decision of the Board in that situation.

I have tried, then, to give you a rather journalistic account, if not from the front line, at least from GHQ, of the role of the Government in labor-management relations during this mobilization period. The Government has accepted that role because we have assumed that we must mobilize all our resources if we are to be secure against aggression. Of all our national assets--I am sure you know this better than I--America's industrial strength is surely one of the most important. It was the margin of our victory in World War II. I assume we must rely on it to carry us through if we have to fight another war.

Here at the Industrial College, doubtless you have analyzed and thought about what makes up that industrial system. In brief it is this: People make things; people hire other people to make things for them; still others invest their savings in the process. At the heart of the industrial system is the relationship between those who manage the enterprise and those who do the work for it. Call it industrial relations, labor relations, labor-management relations, or what you will--it is the way Americans work with other Americans in making our country great and in keeping it free.

Today our industrial democracy is threatened: From without by forces which would ruin what even today some call our experiment in Government and from within by the perplexing problems involved in full employment and the necessity of mounting our national defense. I am confident that in this mobilization period you will agree with me that on the industrial-relations front the Government has properly brought into play all the tools consistent with our

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national experience to assist in the essential accommodation of legitimate labor-management objectives to the public interest.

Thank you very much.

MR. HILL: Mr. Mann, you have given us exactly what we wanted in the way of ideas on government and labor. Thank you very much.

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