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## LABOR-MANAGEMENT RELATIONS SINCE 1935

1 November 1954

MR. HILL: Colonel Baird and members of the class: This is the third of our series of industrial lectures, and we hope this morning to give you the management viewpoint. I explained to Mr. Hall that after all, as a customer of the shops which make materials for war, we are primarily interested in getting those materials. How we get them is secondary. At least that is our approach but it is not our complete approach.

When I explained to him that perhaps he should be hard boiled-- bang the table and call labor a few names, which he probably could not in the presence of ladies, he said, "That is old stuff now. It is not done any more, because management is trying to understand the problems of labor, just as labor, we hope, is trying to understand the problems of management."

It is with much pleasure that I present to your Mr. Si Hall.

MR. HALL: Colonel Baird, Sam, gentlemen: To me it is a privilege and an honor to come back again to talk with you. It is a little difficult to compress 20 years of labor history into some 40 minutes.

I understand that Sam has discussed with you some of the earlier legislation, but, because of the effect that it has had upon management, I would like to hastily sketch-in what has happened. There was a period known as the "Bloody Sixty Years." Public opinion in 1914 brought into being the Clayton Act, which established for the first time the fact that it was not a conspiracy to organize. That particular act said, however, that organization for lawful purposes was permitted, but there was no definition of lawful purposes. Management was very definitely fighting unionism during this "bloody sixty years." With the application of the interstate commerce principle under the Clayton Act, management changed its tactics. Management still fought unionism, utilizing the temporary injunction, because of the fact that there had been no definition of what constituted a lawful purpose for organization.

The Magna Carta of labor was enacted in 1933 with the Norris-LaGuardia Anti-Injunction Act, which virtually restricted the application of injunctions to labor matters. At the same time we were in the throes of a tremendous depression. There had been a stock market break. The inflationary aspect of the stock market had done damage by diluting our equities throughout our economic system, and management was struggling to try to come back.

At the same time public opinion again expressed itself in an overwhelming vote for a new President and a new Congress--a President and a Congress that were pretty good to labor. There came into being the National Industrial Recovery Act (NIRA), administered by General Johnson--Iron Pants Johnson--and section 7 of that particular act by its language almost compelled management to recognize unions. When the Supreme Court declared the NIRA unconstitutional in the "Sick Chicken" case, we had at that time a bewildered management--one that had completely capitulated; one that had come down to the White House asking for help in getting business back on its feet.

After the declaring of the NIRA to be unconstitutional, we had the National Labor Relations Act, better known as the Wagner Act, enacted in 1935. Section 7 of that act again was almost as strong a protection to unions as was the unconstitutional NIRA. Section 8 of that particular act set up unfair labor practices, of which only an employer can be guilty. Note that there were no union unfair labor practices. The purpose of this legislation was frankly admitted by its sponsors to encourage union organization.

I should like to call this era, up until Pearl Harbor, the Pro Labor Era, because of the fact that most of the legislation that was enacted in favor of labor impinged on the struggle management was making in trying to get back on its feet. I should like to say that it was ignorance on the part of management, generally speaking, which caused them to agree in their contracts to many clauses that affected production--the seniority clause, the workload clause, and the clauses which restricted managements rights to introduce new methods and machines. The interrelationship and the complexity of this particular situation worked definitely adversely to management.

We were discussing our present-day economy, before coming before you, and I said that our economy has grown so complex and so interdependent that a stoppage in a carburetor factory, for example, would idle many a motor plant. I know, because I was the director

of Industrial Relations for Fairchild and I had stoppages on aircraft in the early part of the war which interfered with meeting schedules for trainers.

We had the Social Security Act in 1935 with its old-age and survivors insurance; unemployment insurance; and public assistance for needy old, children, and blind. Following that in 1936 was the Public Contracts Act, known as the Walsh-Healey Act, which set up working conditions on Government contracts over 10,000 dollars. This particular act set up the criteria of the prevailing wages in a particular industry or in a particular area as the basis for awarding Government contracts. This program was implemented by fiat, with the Secretary of Labor establishing the minimum wages in any particular labor-market area. I must remind you that when you establish a minimum wage, you must erect a wage structure on top of it which will provide the proper rates for the semiskilled workers and skilled workers, and the entire wage pattern is moved up. We had somewhat of a situation like that at Marietta, Georgia, when the huge airplane plant opened there and drained all the labor for nearly 75 miles around.

The Walsh-Healey Act also established the 8-hour day and 40-hour week; with time and one-half, of course, paid as a penalty for work over that. It established criteria for child labor--boys 16, girls 18--health and safety. It abolished homework, as far as Government contracts were concerned. It established a base for learner apprentices and handicapped workers. It also established the increasing pressure of the Government as a contracting agency.

In 1933 followed the Fair Labor Standards Act (FLSA) known as the Wage and Hour Act. It established a minimum wage of 40 cents; it is now 75 cents. Labor is attempting to move up to \$1.25. Secretary Mitchell said he was in favor of 90 cents. Within his power he established \$1.20 for a very sick industry, the textile industry.

This act also established time and one-half for overtime for all goods moving in interstate commerce. It prohibited child labor, and it took foremen out of coverage of the time-and-one-half requirements of the act.

The Anti-Strike Breaking Act, known as the Byrnes Act, came in 1936. This act was a pattern of the definite bias of the Government in favor of labor in Federal legislation.

Labor became powerful. In 1933 labor unions had less than 3 million members. In 1943 they had 10 million; in 1948 the figure was 16 million. Now it is 16.5 million--10.5 million in the American Federation of Labor (AFL) and 4.2 or 4.3 million members in the CIO--we can never get figures on them. There are anywhere from 1.5 million to 1.8 million in the independents--they include John L. Lewis' union, the oil workers, and Smith's engineering outfit, with organization headquarters in Cleveland.

I recite these facts in order to show that in World War II there was a complex problem confronting those who had the responsibility for mobilization. Here were some of the factors: There was a shortage of skilled labor; we had unemployment stemming from the depression of 5 to 7 million people; apprentice systems had been abandoned; there was new strength and power in organized labor; there was no Samuel Gompers to pull the labor movement together; union leadership could not influence the rank and file or local leadership. It was a question of dog eat dog as far as unionism was concerned. The unions were better entrenched and more extensively organized in those industries which were vital to war. There was the movement of the CIO in mass production industries.

There was youth and lack of discipline in new unions which were concentrated in industries engaged in war work. There was great division in labor's ranks; jurisdictional tieups were prevalent. The new unions, not being cohesive, had not learned to accept settlements that were reached by compromise. This resulted in wildcat strikes and interunion warfare; union leaders did not take their obligations to the war program seriously. The Army put down strikes at North American Aircraft plant. At the same time, John L. Lewis was engaged in a personal vendetta with President Roosevelt. This has a significant bearing on what happened.

What was the process in gaining labor-management stabilization in World War II? We started out at that time with agreements made in the shipbuilding industry known as zone agreements. The workers got seven days of work at straight time rates and turned out the ships needed in order to transport troops to various areas. There were some agreements made in the building industry. That is when time and one-half for overtime was finally decided upon in many areas. The workers had demanded double time for all work over 40 hours, and triple time for work done on Sunday. This agreement saved the country millions of dollars in cantonment construction. Also, it was agreed that no penalties would be set up for third-shift operation.

The first move made with respect to handling labor-management problems in World War II was the setting up of the Defense Mediation Board in 1941. This was a tripartite board. It had representatives from management, labor, and the alleged public. William H. Davis was chairman of the Board. It handled about 96 cases, not very effectively. It made several errors which I would like to point out.

1. It had no definite policy.
2. Its decisions did not follow its own precedents.
3. In the Kearney Shipbuilding Case, it made a decision with respect to the union security clause of a closed shop in the face of union demands for a union shop. This opened Pandora's box and posed an entirely new set of problems.

4. John L. Lewis asked for a closed shop in the "Captive Mines" case. There were 55,000 workers and only 2,500 were not members of the union. The captive mines were owned by the steel companies for the most part. They are called captive mines because their entire production is funneled into those particular companies, the companies that own them. The Defense Mediation Board rejected John L. Lewis' demand for a closed shop by a vote of 9 to 2, the two members being CIO. The CIO members resigned and refused to send cases to the Board. Finally the case went to the President and he appointed Dr. Steelman as arbitrator. There was agreement before the case was sent to Dr. Steelman with the CIO members, one of those sotto voce things, new talks with the CIO boys who knew they would be able to get what they wanted. The Board submitted the case to Dr. Steelman who promptly granted the closed shop.

Congress was aroused at this particular time, and enacted the Smith-Connally Anti-Strike Bill of 1943. I should like to note that this was the first law in 50 years passed to restrict labor. Time will not permit me to list the particular items in the Smith-Connally Anti-Strike Bill, which was the forerunner of the Taft-Hartley Act. There are some 15 of those items.

Now we come to Pearl Harbor. Congress was considering the Smith-Connally Bill at that time. Labor had a dramatic change of attitude. The AFL urged its membership not to strike for the duration of the war and asked that a War Labor Board (WLB) be set up to settle all disputes by compulsory arbitration. President Roosevelt called a War Labor-Management Conference which came to an agreement on the following issues:

That there would be no strikes or lockouts for the duration of the war; and that all disputes would be settled by peaceful means. President Roosevelt was asked to name a WLB. It is to be noted that after considerable debate no agreement was reached on the closed shop as a proper demand in an emergency.

The National War Labor Board was then set up, with William H. Davis as the chairman and Dr. George W. Taylor of the University of Pennsylvania as vice-chairman. It was tripartite in character, with 12 members; four from industry, four from the public, four from labor--two from AFL and two from CIO. This Board was given power to adjust all disputes. I would like to have you note that the composition of the Wage Stabilization Board (WSB) which was set up during the Korean War followed this pattern.

WLB had the power to adjust all disputes; first, by direct negotiation; second, by conciliation through the Labor Department; third, by certification from the Secretary of Labor to the WLB; fourth, by direct Board intervention.

What was the process by which the WLB reached its decisions? It started out on a case-by-case basis to develop policy. For example: There were two basic sets of policies that had to be developed. One was with respect to wages; the other was with respect to the union security issue. I will now take up the first.

Wage increases were appraised against a base of the cost of living figures since 1 January 1941. Prior to 1941 the cost of living was stable for several years. I make this point to show you the importance in developing wage stabilization controls of what we call the base period. If you have a board that does not understand or care very much about base periods, you can have a lot of difficulty, as we did on the WSB.

The cost of living rose 15 percent between 1 January 1941 and May 1942. The "Little Steel Formula," which was the result of the Board's action on some of the smaller steel company cases, began to establish the formula to be used by the Board. That is why the Board's wage policy has been known as the "Little Steel Formula." Fifteen percent was permitted as an increase from the wage base which was in existence as of 1 January 1941. Any inequities that had arisen as a result of pressure on the employment market were to be corrected upon application to the WLB. Substandard rates were given relief if the area wages were markedly above them.

Policy was established for the reasonable protection of real wage increases--real wage levels is the way it was stated. That means of course that you multiply the percentage change in the cost of living by the wages produced from the increase granted to determine the real wage. The basic policy which resulted was reasonable protection for real wage levels arrived at through collective bargaining; it provided for the elimination of inequities and substandard wages. Wages in the lower brackets of a wage hierarchy or grouping could move up faster than the cost of living, but not all upper-bracket wages could be permitted to keep up with the cost of living. That was the stated policy of the Board.

Executive Order 9250 of the President in October 1942 put the Board in business as a WSB. It became the agency for the handling of wages in addition to its dispute function. There were 12 regional tripartite boards and 100 field offices in the Wage and Hour Division setup of the Department of Labor, which were utilized for interpretation purposes. The Board handled about 6,750 cases. It is interesting to note that only 18 of those went to the President; 12 of them resulted in seizure--7 employers were among the 12 that refused to obey the Board orders, and five unions.

In April 1943 President Roosevelt established the "Hold the Line" order, by Executive Order 9328. This gave the Board discretion to only the 15 percent limitations; it eliminated the substandard adjustments; and it froze most of the cases on the calendar. Thereupon, on 1 May 1943, the WLB set up what we called the bracket system of going rates in occupational groups and occupational areas. Local labor market area rates were determined by field services. These bracket rates were the rates which were approved by the local Regional War Labor Board units. Stabilized rates were set for all the occupations. That was the beginning of the Federal Occupational Directory. Unusual cases were defined more carefully and they received the full treatment of the Board. Job classification differentials were maintained. Of course this was a great boon for industrial engineers who at that time were trying to sell a process of orderly wage systems.

Let me attack the other great problem--the one of union security, which has produced the controversial maintenance of membership situation. This started out as a very controversial issue, as I have indicated, stemming from John L. Lewis' closed shop in the captive coal mine cases. The policy which finally evolved arose from the

Marshall Field case. This policy was so stated that a majority union was protected from hostile employers and rival unions, where there was evidence that intervention leading to a strike was caused by either of these groups. Then, as time went on, the Board modified its position by granting the maintenance of membership only when the union needed security, and finally by denying it only when the requesting union failed to demonstrate its responsibility by violating the no-strike pledge.

Finally, the Norma Hoffman case provided the withdrawal period, under which individual members of the union could withdraw from that particular union without any penalty, if the contract specifically enumerated the withdrawal period.

These were the steps by which the Board arrived at this union security policy. Finally, in the "Humble Oil" case it was established as official policy that maintenance of membership would be automatically granted where the union was responsible and had abided by its own strike pledge, and where the union so conducted its election of officers that it was open to participation by the whole membership. The unions were also required to give audited financial reports to their membership. Those were the criteria for automatically granting the union maintenance shop.

The Board in its statement justified its position by saying that:

"Since labor had given up the right to strike for wages and union security for the duration of the war, the awarding of maintenance of membership was a national necessity for stabilization of union-management relations during the war, and was an equitable industrial necessity, in view of the wage stabilization program enacted by Congress."

How did the Board get its compliance? There were teeth in this particular law. The Board could refer a case to the President, whereupon a seizure would be invoked. It could refer a case to the War Department, whereupon the contract could be canceled and the firm would be blacklisted. The blacklisting of labor has long been a thing of which industry has been accused, and volumes have been written about the blacklisting of members of the union. I regret very much that the blacklisting approach was utilized in the Government's handling of the stabilization of wages and the industrial disputes. The Board could refer a case to the War Production Board, which would then deny

the manufacturer priorities as far as materials were concerned. All he had to do was get out of line one time and he was out of business. I think you all know wartime shortages were very prevalent. If a manufacturer was trying to turn out goods for Government or for civilian use and he stepped out of line and was put back 20 numbers, he might as well fold up. Last, but not least, the Board could refer a case to the Internal Revenue Bureau, which would disallow deductions of all wages paid in violation of the Board's regulations.

Let me move to the Labor-Management Act of 1947, after the war, often called the Taft-Hartley Act.

Let us remember that Congress is the voice of the people, and Congress moves via the demands of the general public with respect to its particular legislation. For example: Going away back to the Clayton Act, if the public had not required it, Congress would not have reacted to the situation. There is a time lag between what the judicial does and what Congress does. Congress is more sensitive-- particularly the House--than the President or the Supreme Court, with respect to the public reaction. The Supreme Court by its attitude as shown by its decisions did not follow the Clayton Act situation, but allowed the temporary injunction in Labor disputes on the theory that there was no definition of what constituted a "lawful purpose."

That is the process we have seen. As a matter of fact, the time lag of the Supreme Court decisions, as contrasted to public opinion, is what brought forth the angry label of the "Nine Old Men" and resulted in the court-packing efforts of President Roosevelt.

All right--the political atmosphere in 1947 was predominantly anti-New Deal. In 1946, after great debate in Congress under the open rule, the House passed the original Hartley Bill by a vote of 308 to 107. The Senate had in it a number of holdover Democrats-- "New Deal" Democrats. These were in the majority. In response to public opinion they would pass a labor-management bill, but not over the President's veto. President Truman threatened to veto the Taft-Hartley Bill. During this period labor turned on its propaganda guns in order to prevent passage over the veto. Labor coined the term "Slave Labor Bill," to describe the bill.

Finally, in a conference between the House and Senate Labor Committees, 14 provisions were dropped out of the original Hartley

Act in order to gain voting strength in the Senate to pass the bill over the President's veto. This compromise succeeded, for President Truman vetoed the bill, and Congress passed the act over his veto. Management firmly believes that the original 14 points which were dropped in conference are now shown to be the needed amendments to the law. Had I time to discuss the Smith-Connally Act, you would find that most of the 14 points were in the original Smith-Connally Anti-Strike Bill.

There were basic differences between the Wagner Act and the Taft-Hartley Act. The preamble of the Labor-Management Act of 1947 definitely says this:

"The purpose is to balance the Wagner Act, and thus balance the relationship between labor and management; to equalize the powers of the parties; and to clarify or better define the issues that were involved between the parties."

Here are some of the rules established. I don't propose to go through the act as a whole, but here are the most significant rules:

1. There can be no closed shop in the Taft-Hartley Act, but there can be a union shop if the majority of the people in the union vote for it. The National Labor Relations Board (NLRB) rules provide that a union may be certified as the sole collective bargaining agent for all employees upon the majority vote of those voting. This is very different from a vote of the majority of the union. In voting for the union shop the majority of the entire union determines whether or not the union may demand a union shop in its bargaining.
2. There is protection against the secondary boycott.
3. Free speech rights are defined. So long as the employer does not use threats or coercion or offers of benefits in what he says to employees, he is free to say anything he wants to them. (That definition, however, did not stand up under the NLRB interpretation as administered by the holdover Board examiners.)
4. It sets up a set of unfair labor practices for unions in section 8 in order to balance the management unfair practice section. This is the important factor in my mind.
5. Jurisdictional strikes are forbidden.

6. Featherbedding is denied.
7. Members in good standing are defined. There is a whole section with respect to the rights of individual employees.
8. Union accountability is spelled out. Accountants have to be filed with the Department of Labor.
9. Certification by the NLRB is required, on a clear-cut majority.
10. Communist affidavits must be filed by members of the union. Of course you know many union leaders took umbrage at that. John L. Lewis never utilized the service of the NLRB because he refused to sign the Communist affidavit.
11. A cooling off period of 60 days was set up, at the end of the contract period. Provisions for the President to handle emergency strikes, especially with respect to factfinding boards, were established.
12. Injunction, in the public interest, for the first time since the Norris-LaGuardia Act, is spelled out in the Taft-Hartley Act.
13. The foreman's role is clearly defined. He can join his own union, but cannot join a union that bargains for employees over whom he is a supervisor.
14. It also regulates, or attempted to regulate, interunion and intraunion warfare.

What was the experience? Well, the Taft-Hartley Act was a basically sound piece of legislation which survived the President's veto and three campaigns to repeal it. In 1949 there was a definite campaign to repeal it. Two years afterward, in 1950, the labor unions went all out, spending 500,000 dollars to defeat Senator Taft. In 1952 they could raise only 250,000 dollars, in the most important campaign of all, with respect to the election of a Republican President.

All of the hearings before the Senate Committee and the House Committee in 1953, were filled with testimony from the labor groups seeking repeal of the Taft-Hartley Act. At the present time the unions recognize that they have lost their fight for repeal. Their move is to so amend and modify the act as to vitiate it.

This act has been subject to continuous and violent controversy. Every conceivable charge is brought against it. For example, allegations have been made that it impeded the growth of unions. As I said, the unions now have 16.5 million members. It has been alleged that it caused excessive delays in the settlement of cases, and that it weakened the rights of both employers and employees.

On the other hand in testimony last year before the 83d Congress, the union leaders found it had no such effect as was predicted and they have conceded, in those hearings before the House and Senate, that the unions have grown and that wages have advanced more rapidly than the cost of living. This is a matter of public record.

The amendments to this act fall into two groups. One group concerns the clauses that should have been part of the original Taft-Hartley Act; they were adopted by one or the other branches of the Congress, and then fell out in conference. The other is the improvement of the present clauses that experience and rulings of the NLRB and the courts have shown to be inadequate.

I express now a personal opinion. I was one who fought vigorously against the proposal to enlarge the Board to seven members in order, via the device of political "packing," to change the vote by the majority of that particular Board. Fortunately, a death and a resignation permitted the Board to remain at its original number of five, and we didn't have to face the undesirable condition that laws are made by men rather than that laws are made by the Congress.

On the other hand the decisions of the new NLRB very strikingly point out that past decisions were not being made in accordance with the debate before Congress when the bill was enacted. We find that the new Board is reversing many of the former rulings, thereby pointing up the biased zeal of holdover incumbents of the NLRB, which they used to interpret the Taft-Hartley Act in favor of labor.

Here are the areas now receiving the most critical treatment in congressional hearings:

1. How better to administer the act. The fight between the administrative officer of the Board and the policymaking group still goes on.
2. Abuses against neutrals, such as the secondary boycott.

3. Clarification of States rights. The basic policy of our country, via the drastic change in the interpretation of the interstate commerce law made by the Supreme Court in the Clayton Act, has placed the Federal Government as the supreme authority with respect to labor legislation. There is only a limited area in which the states can operate to meet the needs of the people. The police power of the states is severely limited to matters involving the danger to the public and the inconvenience produced by a strike in an emergency situation.

It is interesting for me to note that there were 14 states that had passed state legislation involving the handling of public utilities' strikes. Labor attacked that situation, resulting in two states repealing their laws. The administration changed in 1953. Today there are 27 states that have such legislation. You see here the flux and flow in public opinion.

4. The handling of national emergency strikes very definitely needs some work done on it, because the Taft-Hartley provisions have not worked out very well. As a matter of fact, the appointment of factfinding boards, which were composed of arbitrators of long standing, who are in the business as professional men in their own right, presents a major difficulty. In order to get business as an arbitrator, you must be able to walk a tightrope pretty well. This is not always in the public interest when you come to a national emergency situation. You sometimes find that professional interest prevails.

5. Clarification of free speech is still needed.

6. This matter of the Communist affidavit is being gone into at some length. As a matter of fact, the affidavit issue is a ridiculous situation. There are many proposals before the Congress, including the turning of the whole question over to the security officials. Employers should be free to terminate those people who are alleged to be Communists, and a Communist-dominated union should not be permitted to operate in a plant.

Now we come to the WSB. Mrs. America set up a buying scare, and inflation resulted from such a scare at the outbreak of the Korean War. The reason was obvious. She was the buyer and had had the experience of not being able to get commodities for a long time. We had hoarding; we had a buying wave that just moved the prices of everything right straight up.

In 1949 we had a fairly stable economy. That year you remember we had collective bargaining, not on wages so much as on pensions and welfare benefits. The cost of living, an index which is frequently used, decreased slightly.

In 1950 we had this buying scare and inflation got under way. It was an unstabilizing year. We had raises by companies anticipating controls. We had the cost of living moving up and the tightening of the employment market.

On raises--in 1950 the union agreements started off with five-cents general increases in wages, then six, and then seven cents. Along about the middle of the year the aluminum and steel contracts moved up to 16 cents. Finally there was a general raise of 20 cents in the coal cases. That was one of the leading reasons for wage controls. I happened to argue the coal case before the WSB which persuaded me that the coal industry's requirements of nine cents over all our ceilings should be denied.

In January 1951 we had a wage freeze. The WSB was set up and its job was to restore reasonable equity. In the first year of the WSB, most of the regulations look backward against this problem of restoring equities. For example, in 1950 40 percent of the employees did not receive any increase; 60 percent received from 5 to 20 cents; some received cost of living increases, some did not; some received generous increases, some did not; some companies were prosperous; some were not. It was a very spotty situation.

We started off handicapped by the objectives set up under title IV of the Defense Production Act. All regulations and policies must balance. There were four objectives.

1. To stabilize wages.
2. To preserve industrial relations stability (with no no-strike pledge).
3. To preserve collective bargaining. Of course union pressure would be applied. (All we heard was "free collective bargaining," "preserve collective bargaining." "This case was settled via 'collective bargaining.'")
4. To foster maximum production, which means to keep down strikes in a situation where there was a definite manpower shortage.

The act was loosely constructed. The Senate Committee, for example, reported:

"The authority to control wages is expressed throughout the Bill in terms of authority to stabilize wages. There is no intention to apply an absolute freeze any more than to apply an absolute price freeze. Where rigid stabilization would create gross inequities or defeat the purpose of the Act sufficient flexibility is provided to permit the necessary adjustments in wages, salaries, and other compensation. (Other compensation plays quite a part.) This is the essence of the difference between a wage freeze and wage stabilization."

This is a direct quote.

We had pressures in a tight employment market. Sixty-seven percent of all the cases that came before the Board resulted from pressure of the employment market--they were nonunion cases. We had nearly 50,000 nonunion cases.

We also had a situation where local area bargaining had abdicated in favor of national wage patterns. We now know there are 25 basic industry wage negotiation contracts that set the national wage pattern.

We had the influence of the General Motors Company contract--a long-term, five-year contract--with escalator clauses predicated upon the changes in the cost of living and with productivity clause of four cents each particular year. The WSB capitulated, under direct orders from Eric Johnston, the economic administrator, with respect to the escalator clause, but the industry section fought a successful battle to hold down the four-cent productivity clause.

Union pressures--we started out with a walkout on the part of the union people in January 1951; they stayed out until May 1951. Here I must say to you that the union people up on the reconstitution of the Board, really went to work. We worked together and nearly all of the regulations issued during this period were equitable, reasonable ones, in the public interest as a whole.

After union convention time, in November and December 1951, we found an entirely different attitude on the part of the labor members of the Board. It is worth noting, however, that some of us on the industry side began to feel that in the pension regulation and in the

insurance, health, and welfare regulation, inflation forces were beginning to recede. I remember that in talks I made around the country in January and February 1953, I began to say that the WSB was beginning to take on the characteristics of a WSB because of the fact that the inflationary forces seemed to run their course.

We began to have pressure with respect to breaking through our own regulations. This is a characteristic that should be remembered in our control plans of the future. First the steel cases, then the oil cases, and finally the maritime cases which were arbitrated. These particular situations were very definitely settled by pressure. We had pressure all the time. When the Board was reconstituted in May, we had several thousand holdover cases, and the pressure of a constant heavy case load was always on the Board.

One of the other pressures stemmed directly from the history of the Board. The National Production Act was put into effect on 9 September 1950. A Board meeting was not held until 28 November 1950, and from this date to 15 February 1951, there were only 19 meetings. Then we had the walkout of the union members in January 1951, and the Board was reconstituted on 8 May 1951. So there was very little that could be done.

I understand that Dave Kaplan, the economist for the Teamsters, has talked with you. I should like to say that I consider Dave one of the level-headed men in the Labor movement. He defined the Wage Stabilization Control effort as clearly as I have ever heard it defined. He said: "Wage stabilization came into being too late and stayed on too long." It is as simple as that.

What were the characteristics of the Board? It was a tripartite board, with 18 men--six from labor, six from industry, and six representing the public. Each side has two alternates. We had a voting-block rule in practice whereby only four from each side could vote. I think the Board would have been better off with 12 people.

There were 12 regional boards, also tripartite.

A committee to review decisions and to hear appeals from the Regional Board decisions was set up on a tripartite basis.

The Appeals and Review Committee would take cases after they were acted upon by the Regional Boards and frequently reverse the

decisions. This created a bad morale as far as the Regional Boards were concerned.

Board members served on a part-time basis. The case load was too great for part-time participation.

There were administrative problems with other Government agencies. I remember Anna Rosenberg coming to the Board and asking that step one in the classification of Army civilian occupational workers be dropped, and that the Army be permitted to hire workers in at the second step, thereby inflating the range.

The case load was processed by an uninformed untrained staff.

We had internal relations problems and operational problems.

The Board was interpreted by the first economic administrators as being purely advisory. Three days after Mr. Valentine resigned Mr. Eric Johnston became economic administrator, and General Order 3 was issued, which gave the Board authority to handle cases and make decisions on its own motion.

We had a 10-percent catchup formula with 1 January 1950 as the base under Regulation 6, which was permissive and self-regulatory. We had many cases showing that for all practical purposes 1 January 1950 was not a sound base period against which to use the 10 percent formulae. Upon application these cases were granted approval under the base period abnormality theory. Such industries--one, for example, the shipbuilding industry--had had a long period of depression following the war and needed to be treated with consideration.

Regulation 5 had to do with rate ranges for job classification groups, promotions, and progressions through the rate ranges. There was great pressure from the unions to progress through the ranges by automatic steps, regardless of merit or ability.

Regulation 8, having to do with the cost of living increase, conflicted with Regulation 6 on base dates, because the base date in Regulation 8 did not use the 15 January 1951 date exclusively. A permitted base date could be established six months prior to application, including those clauses in union contracts that called for wage escalators that were executed prior to 25 January 1951. Other base dates required

Board action. The formula provided for a 1-percent increase in wages when there was a 1-percent increase in the cost of living during the escalator period. This formula was used both up and down.

Let us talk about mobilization needs, looking to the future. John Dunlop and I collaborated on a series of letters to President Truman asking that the Wage Control Program be dropped prior to the amendment of the War Production Act in July 1952. Nothing was done about that. We then collaborated with respect to another set of recommendations to President-elect Eisenhower. You will recall that the first item set before the Congress in the President's first message on the State of the Union called for the repeal of controls. At the same time we collaborated on a set of recommendations with respect to standby controls, only to find that we had run into a very tough squall with respect to the attitude of business and industrial leaders who demanded that there should be no standby-controls program. No, we are never going into another war!

What is needed? A tripartite board, in my opinion, is needed. There's a lot of talk about an all-public board. We are not going to get the cooperation of labor unless it has a part in this control program.

A no-strike pledge is very much needed. The movement of the two bodies of labor to get together is indicative of maturing relations and the belief that in unity there is strength. I believe, however, it will take 10 years to effect that, because there are literally hundreds of labor leaders for whom jobs must be found. Then you may make that kind of consolidation; it will eventually occur.

You need full-time board members; we suffered because we didn't have full attendance. I can talk about that. There were times we could not get a quorum. In the labor setup one man from the AFL was faithful. He was there every day; also one man from the CIO was there every day. Milt Olander and I did our stint for industry. The chairman and vice-chairman for the public members were there day in and day out. You can't take half a board and attempt to do a job. One of our weaknesses was the fact that we did not have a full-time board.

You need to have a WSB with real authority divorced from the problems of price control. One of the arguments constantly heard from the labor members was the fact that the price setup in a particular program was not in accordance with the wage setup.

The powers of the executive director need to be defined. Had the powers been properly defined, the Board could have confined itself to formulating policy and not bog itself down in the handling of a thousand and one cases.

The powers of the executive director, then, would have permitted delegation of authority to the staff to approve, modify, or deny. Authority was given to approve only--not to modify under the Board's policy, nor to deny. Labor fought that tooth and toenail.

A better trained staff is necessary. The first six months of the Board conducted practice sessions under what was known as a "blitz" committee. We met on Wednesday evenings, when we processed some 200 backlog cases each night, using these cases as a training section for the uninformed staff. You need to have people who know a little about wage stabilization problems. These people should be brought together fairly often in order to permit them to keep abreast of the changes in the economy and to refresh them and have them available when the time comes that they are needed.

Twelve regional boards were set up. They need to be full-time boards. They were not full time. They need to have authority delegated to them and they should be administered by the executive director under his duties. No one ever checked up on the Regional Boards. As a matter of fact, the very foolish criteria of the Board for effective Regional Board operations was that when there were no complaints, all was doing well. I remember a situation in Los Angeles when the first vacation cases came before the Regional Board involving three weeks' vacation after fifteen years' service. Within two weeks after the approval of the first case, there were 50 more applications filed.

We need better factfinding. We need better communications. Probably one reason for the breakdown in the Board's effectiveness was that nobody knew what anybody else was doing.

We need a review and appeals committee that will be truly a review and appeals committee. The review and Appeals Committee, for example, handled cases on a de nova basis when, as a matter of fact, they should be processed on the appellate theory. When new information is introduced, the case should be remanded to the Regional Board. About 40 percent of the cases that came in for appeals were reversed by the Review and Appeals Committee. You can realize what happened to the morale of the Regional Boards when cases in that number were reversed.

The Enforcement Division setup was sort of a stepchild. Everybody knew there were no teeth in the enforcement program. Lawyers gave smart advice to their clients to ignore the law; and of course the union leaders did the same thing.

We need standby controls with continuous factfinding. Over in the Department of Labor and the Bureau of Labor Statistics, all the facilities for setting up and standby control division are available. We need liaison with the War Department's efforts to keep everyone abreast of the economic changes, as they affect the defense preparation effort.

There are some basic approaches--then I will finish. First of all it has to be remembered that there are no two economic situations that are alike. One of the very great mistakes made in the WSB was aping the WLB in its approach. It had its own peculiar problems. An attempt to run the wage-stabilization program in 1950 on the same basis as was used by the WLB was a ridiculous thing at the start. I remember my industrial associates started off on the grand-strategy idea of opposing every move the union people would make until they awakened to the fact that two-thirds of the cases coming to us were from nonunion employers. You cannot approach the situation in parallels because there is no parallel situation.

The unions now have security. The unions now have fringes up to here (indicating his head). The coming one they are preparing to get next year from the large automobile companies, is known as the annual wage. I call it the unemployment supplementation wage pool.

I have said this from many platforms: I think the unions are going to have to change their concept with respect to seniority and do away with a lot of restriction on employment. The employer is not going to agree to guaranteed employment unless he can have flexibility in the operation of his shop and transfer workers around as he needs them to operate his business.

Now, there are limits in this economy to the controlling of wages. There is a lower limit that I think we might call the cost of living limit. There is an upper limit which we might call a normal, not too full an employment market.

Sumner Schlichter says that this built-in inflation is at the rate of 2 percent a year. Most economists agree on at least 1.5 percent inflationary increase a year.

There are three periods in dealing with mobilization.

There is the precrisis period, when unions are not willing to give the no-strike pledge. That is when our upper-limit policy of 1.5 to 2 percent should apply. This period, in my book, should be self-administered, although there should be a control agency established.

Then there is a crisis period. The overall criteria for prices, for materials, for wages, for all phases of our economy, must at that time be determined by the President and the Congress--fiscal prices, fiscal controls, monetary controls--all the phases of it. It is necessary then that we have a no-strike pledge, and it is then necessary that we move to the lower limit, which is that wages shall increase only with the cost of living.

This is the most difficult period of all, because bureaucratic control is substituted for voluntary control in this crisis period.

Then we have what I call the continuing crisis. There is a gradual move upward. Then we move slowly from the lower limit, with respect to the cost of living, to the upper limit of 1.5 to 2 percent increases allowable during the year. Price controls must follow some pattern. You have to be cautious about this. You cannot, in our economy, institute absolute control without chaos.

What is the present state of the relationship? Sumner Schlichter, I think, points it out very well. He said there are some basic issues that have been set. First, collective bargaining is the usual way of fixing employment terms; second, the division of authority between the Federal Government and the states, as finally determined. The interstate commerce interpretation by the Supreme Court gives the Federal Government a broad authority. It is in effect, a constitutional revolution.

The rights and obligations of unions and employers are now settled via the Taft-Hartley Act. I do not think you are going to have the Taft-Hartley Act repealed. I think you will have attempts to amend it, as I have stated.

Here are some of the unresolved questions:

What will be the effect of the labor-management conflict on small and medium-sized companies? Will labor encroach on management's

discretion to run its plants? We now have alleged professional management as against ownership management. We are in an age of big institutions, big business, big unions, big Government, big charitable organizations--big and complex. They have to be run by professional management.

What will be the effect of the annual wage on the economy? Will the upward pressure produce long-run increases in labor costs and prices? Finally, what is public policy and law with respect to these issues: State and Federal authority; organizational picketing and secondary boycotts; closed shop--that issue is still alive--problems of union rivalry; protection of neutrals; supervision of union welfare funds, which are growing by leaps and bounds; and arrangements for dealing with emergency problems?

One of the growing difficulties to mobilization of our entire economy in the event of war is the fact that we are losing labor motility. The Defense Department will be faced with this problem of motility, especially in moving workers to areas where they are needed. The reason for this need for motility stems from the rapid increase in automation and the rapid increase in the application of electronic controls. Skilled people are needed to operate this machinery, and the plants turning out war goods which are placed on a decentralized basis for defense purposes must have such workers assigned to them.

A knowledge of what has gone before is necessary if we are to gain the voluntary cooperation of labor and management in rapidly mobilizing our efforts for our own security in the event of war. The problems change, but people do not change fundamentally; their actions in large part result from how they are approached--how they are led! This talk is dedicated to the task of seeking understanding, so that we will be prepared for any future crisis!

MR. HILL: Gentlemen, Mr. Hall is ready for your questions.

QUESTION: Mr. Hall, I didn't delineate from your talk what your recommendations are for changes in the Taft-Hartley Act or the recommendations of labor. However, considering the lack of anything else to replace the Taft-Hartley Act, and in time of full mobilization, what do you think of the adequacy of the present Taft-Hartley Act?

MR. HALL: Basically the Taft-Hartley Act is weak in the provisions dealing with emergencies. It is in that respect, coming right

directly to the problem, the place where the act needs amending. The system used in Massachusetts of alternate penalties in the Massachusetts Utility Law is the one that seems to have the most promise, because of the fact that pressure can be put upon both the employer and the union, and the employer and the union do not know precisely what pressure is going to be applied via this alternative device. Pressure is put on the parties to settle; unless the parties themselves settle you are not going to have a true settlement.

I was chairman of the Commerce and Industry Industrial Relations Committee for five years. We sent a message to the President with respect to the points he had set up for amending the law and we examined the points that Secretary Durkin had set up. I could talk probably for a half hour with respect to the whole program. I indicated the areas that need clarification. There is the area of States rights which needs to be clarified. Certainly there is the area, from your point of view and mine, that has to do with emergencies of all kinds, including the mobilization emergency. There is the situation with respect to the secondary boycott. The act is very poorly administered and the administrative setup is bad. Free speech is no longer an issue because of the fact that the newly constituted Board has pretty well cleared that up. The unions themselves are doing something about the jurisdictional aspect. They have set up a series of permanent arbitrators in both the AFL and the CIO in order to handle the situation with respect to jurisdiction.

There are many weaknesses with respect to the language of the act which resulted from the compromise bill that was reached, known as the Taft-Hartley Bill. The union amendments on the other hand sought deliberately to return to the Wagner Act by striking out such things as unfair labor practices affecting the unions. I could go through a long list of those things. On most of the amendments submitted by Secretary Durkin it was alleged that he had received approval from the White House. I might say I consider Martin Durkin to be an able and honorable man.

Those 14 amendments were definitely submitted to a Cabinet officer with the idea in mind to vitiate the act. The President who had only two amendments in mind--the important one dealing with the economic striker and the other one, the Communist affidavit--was led to believe those were amendments necessary to smooth out the relationship. I have every reason to believe there was a misunderstanding. But it was caught by Vice President Nixon and the bill drafters in the White House. That is why the situation was never clarified. Both labor and the House Committee permitted the legislation to die in the committee and the Congress adjourned.

I hope I have answered your question or given some light on it.

QUESTION: I must have missed something. I heard you say something about a sick industry, such as the textile industry, which was given a wage of \$1.20 an hour; quite opposite to another industry, which was cut.

MR. HALL: My good friend, Jim Mitchell, incidentally, served on the Commerce and Industry Committee for five years. In his capacity as Secretary of Labor he made that determination. At that time the textile industry was, and still is, a sick industry. I was Vice President of Bigelow-Sanford Carpet Company; I know.

We have 75 cents as a minimum wage under the present Wage and Hour Law. Labor has been pressing for \$1.25. As a matter of fact, it came before the WSB with the proposition of establishing \$1.25 on a permissive basis. Emil Rieve, President of the Textile Workers Union, is the Chairman of the CIO's Minimum Wage Committee.

Secretary Mitchell said he was in favor of 90 cents as a minimum wage for all industry; yet, using his basing-point powers under the Walsh-Healey Act, he established a minimum of \$1.20 for Government contracts. That case is under appeal before the courts at the present time.

STUDENT: I don't understand how you can cure one industry by raising the price and cure another industry by cutting the price.

MR. HALL: In my attack on it when I could not understand the decision made by Mr. Mitchell I used the argument you have given. Mr. Mitchell is a businessman who is now the Secretary of Labor.

QUESTION: You briefly touched on controls. Would you care to comment on controls in the form of legislation on the books to provide for the mobilization of industry in time of emergency versus the voluntary concept of getting an all-out effort?

MR. HALL: This is a democracy and it has behind it years and years of tradition of persuading our people to do things en masse. We are unaccustomed to the rigidity of controls. As a matter of fact, England had difficulty in the early part of the war with respect to rigid controls. Our legislation must be of the kind which will encourage the participation of all the elements of our society. We can persuade our

people to do what is needed. Of course the crisis situation causes us to act very rapidly. I think Winston Churchill was perhaps nearer to the truth than anybody else when he said that we in the democracies dare not expose the impotencies of the democratic way of life. When you have a dictator, a king, or any head that can order things to be done, you have an entirely different situation.

I know there are plans going on all the time. I know there are perhaps bits of legislation. However, they have not been collated-- they have not been put together into one plan. That is what I am saying is needed long before we get into the crisis situation. For example, with respect to the movement of labor from one place to another-- organized labor will fight that and you can't get people to take jobs.

There again I think is an interesting situation. The Manpower Utilization Committee is not tripartite--it is bipartite--labor and management, and they have done, and do, a good job. I believe they can work together to do a good job if the crisis is sufficient and if the leadership in the White House is sufficiently strong and people know the situation.

**QUESTION:** Mr. Hall, you brought out that the only way employees' private pension plans and seniority rights can be offset and transferred is through Government control; and that is the only way we are going to regain mobility in the employee forces. How do you propose the Government can do it? By establishing a new agency, or by the Department of Labor doing it? Who would you propose to do it?

**MR. HALL:** Number one--I didn't talk about seniority in that respect, only about length of service. There is a difference. If you have 20 years and you leave a job and work 3 years somewhere else in any Government contract, which can be part of legislation, you lose your 20 years' pension rights. It has nothing to do with anything that is the cause for seniority to be broken in plants with definite occupation groups. The Government has no regard for that particular situation. I think it can come and it will come, in my book, within the next 15 years under the Social Security Administration (GSA) agency as such. You will probably find that employers will get credit for it in back payments that have been made for participating accounts that they have developed as a result of any pension plans in such a system. It's the same kind of situation that you have with respect to unemployment insurance, where 3 percent is deducted from labor and management--actually 2.75 percent,

because of the state situation, where each state develops a model law in conformity with the basic act established for Federal legislation.

I think you will find it will move in with your SSA. That is my guess on it. On the other hand I am trying to prognosticate--it is a beautiful morning and my crystal ball should be clear, but it has a tendency to fog up.

QUESTION: Mr. Hall, how do you look on the political problems that the Administration would be faced with in setting up standby legislation. What do you believe the methods of overcoming those political complications might be?

MR. HALL: If standby legislation is set up while there is no shooting war, but is just in the talking stage, you won't have too much difficulty with it. Unfortunately, when you wait for the crisis to occur, time runs out. I don't know. It happens that I am of pioneer stock. I am one-eighth Sioux Indian. I have a great love for our country and I believe in the common denominator that the native intelligence of the country is high and should be allowed to work. I know the House is receptive to the pressure of public opinion. I think we can do this particular thing if we take it sufficiently well in advance. It is the delay that worries me and our failure to use the experience of the past. There are all kinds of devices. You learn lots of things when you serve time in Washington. Holding back because of the political-arena tension or waiting for a favorable Congress is a delay which, in my opinion, is needless, since these are a normal Washington situation and will not handicap the establishment of standby legislation. I don't know whether you agree or not--that is my look at it.

MR. HILL: Si, I am sure if I had explained to this group that you began your labor relations 30 years ago when you took over after six deputy sheriffs had been shot down, they would not be any more impressed than they are after having heard you talk now on the last 20 years of labor-management relations.

On behalf of the Commandant, the faculty, and the students, thank you very much for a fine speech.

(14 Jan 1955--750)S/sgH