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"MATURE COLLECTIVE BARGAINING, PROSPECTS AND PROBLEMS"

The Honorable Hubert H. Humphrey
United States Senator from Minnesota

SENATOR HUMPHREY: Thank you very much, Dean Prosser. I appreciate the introduction of my good friend, Dr. Prosser, formerly of the University of Minnesota Law School, and now ^a"displaced person" in California. I did not realize that one could become so thoroughly and so quickly indoctrinated with the generosity and kindness of California atmosphere as my friend, the Dean of the School of Jurisprudence, has already exemplified tonight. He has made me feel most welcome, and also most uncomfortable as I realize that I had better perform well for you tonight.

I have been on a "political tour". This usually does not include meeting with faculty members in university faculty clubs. Nor does it include meeting on college campuses for purposes of instruction and education. One is rather expected to "point with pride and view with alarm". In fact, I have been "pointing with pride and viewing with alarm" for days. It is, therefore, quite a readjustment on my part to settle down tonight and to accommodate myself to that comfortable, secure environment of a college campus, where objectivity reigns supreme. (Laughter and applause.)

I have another confession to make to you. I expected to address a very small, select group of men and women vitally concerned with industrial relations. Yet tonight I find myself confronted with a large and wonderful audience of university students, community residents, faculty members, people in the labor movement, people in business.

Furthermore, you are not listening to an expert in the field of

collective bargaining. **COPY** You are not listening to one who claims to have the answers to complicated and controversial labor-management relationships.

You are listening to one who is seeking answers. There are, however, certain principles which must guide our search for mature collective bargaining.

To me, the most significant of those is voluntarism.

Our nation must develop techniques of industrial peace. The choice which has to be made is between voluntarism and government compulsion. I do not believe in compelling people to agree. I am much more interested in having people find areas of agreement themselves. My experience as a mayor of a large city and as a Senator has strengthened my conviction that this is wise public policy.

As a member of the United States Senate it is my privilege to serve on the Senate's standing Committee on Labor and Public Welfare. The Senate Committee on Labor and Public Welfare processes at a preliminary stage all legislation that pertains to government and its relationships with labor. Our responsibility is to study and decide on legislation dealing with the basic labor law of our land. This year, we had to judge the Taft-Hartley Act and compare it with the principles of the Wagner Act. Any discussion of "mature collective bargaining" must face up to the conflict in principles represented by the legislative debate.

Dr. Prosser told you that I was Mayor of a city of over five hundred thousand people. I soon learned that the roots of peaceful collective bargaining rested at the local level. I made it my business, therefore, to find out something about business and something about the trade union movement. I found that a mayor of a community can be of help in labor-management disputes. The principles I learned as Mayor, today guide my approach to national problems.

I want to bring to your attention that Minneapolis has had a background of blood on the streets in many of its labor-management disputes. Many of you remember the Flour City ornamental strike, the Teamsters strike, the days of the WPA strike. We had many labor-management disputes which ended up in violences, and frequently -- all too frequently -- the Mayor of the City was called upon to send out the police.

One of my first acts as mayor was to call upon the businessmen and the trade union leaders of the community to learn to live together peacefully. I informed all parties that the Police Department was not engaged in the business of settling labor disputes; we had something else for it to do. I frankly told them it took two to make a fight; and if I found a fight on the streets of Minneapolis, both parties would be held responsible. I issued a bulletin of what I considered to be the rules of fair play in labor disputes as they pertain to the use of enforcement agencies of the city. I am happy to report that at no time in the five years of my administration, in a city of over five hundred thousand population, where we have many large industries, where ^{well} have a very vigorous labor movement, was it ever necessary to use the Police Department to maintain order.

Now, anybody can send out the police. You do not have to be very smart to do that. And the police can always use clubs. But it appears to me that mature collective bargaining and mature labor-management relationships require a good deal of perseverance and patience and understanding and calmness on the part of all parties -- labor, management and government.

It is against this sort of background that I have acquired my strong conviction that unions and management can and must work out their problems, with an absolute minimum of government intervention. And throughout my talk tonight, I will be coming back again and again to this theme of voluntary, free collective

bargaining as the pillar of wise public policy in industrial relations.

There is a curious but understandable inconsistency in the fact that those today who are asking in the loudest tones for free enterprise and are demanding that government ought not to interfere with business are the very people who in the next breath ask that government interfere directly in the field of labor-management relationships.

Now, to achieve this use of voluntarism in industrial relations, the public has some responsibility too. It has a responsibility to understand that the public interest in mature collective bargaining goes beyond the lurid headlines. And that means education.

I am sure that you in this audience have had a better education than the members of my generation had. I am sure that you had a better education at the elementary and secondary levels of education. Dr. Prosser mentioned Doland City and I might mention Doland High School. It was a small town of God-fearing people. It had a fine public school, one that I dearly loved. Everybody joined in when the basketball team was playing. We used to close up every shop in town when the football team of the school played. We even closed up when the school debating team debated — and believe me, that is loyalty!

I also graduated from the high school. I was an average student. I took interest in my work at school as much as any average student. Yet never in my four years of high school did I hear one word of the labor movement. I graduated from high school without even knowing that there was such a thing as a labor movement. And I want to submit to this audience tonight that the vast majority of young Americans have gone on through colleges and universities, without even knowing that there was a labor movement in America, or if they heard about a free labor movement in America, they heard about its abuses and not about its accomplishments; they heard about its bad things rather than

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its noble and grand history. How equipped were we as citizens to form intelligent public opinion on mature collective bargaining?

We were brought up as average young Americans, in an average small town, in a business epoch. My father was a businessman. I consider myself to be one, because I have quite an interest in a business. I believe in the free enterprise system; I believe in the profits system. I believe in it so much I want profit and I want it consistently. I have never thought it was fun to starve or be hungry or be poor. I like the good things of life, not only for myself but for my friends and my neighbors, and of course for my family. Yet the vast majority of the American people, even today, know little or nothing about the development and the growth and the history of the labor movement in America, the best guarantee for the preservation of free enterprise in America.

Mature collective bargaining in America is impossible until our educators and our educational system orients itself to the realities and truths of American life. We can start with the teaching of history in our schools instead of the teaching of folklore. It is time we taught the history of the American people, not just of the American Armies and Navies. It is time we began to teach the history of all of the American people, not just the history of those who are considered captains of industry. American history is incomplete unless it includes the history of the toil and the labor of the pioneers and of the men who worked in the shops and factories.

May I inject at this point a little of the kind of history I have been talking about. Understanding what mature collective bargaining means in the United States is impossible unless we understand also something of the setting.

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Trade unionism is part and parcel of the American tradition. Trade unionism was born with this country and it has been a part of it since the first days of the Republic.

The Shoemakers Union in Philadelphia and the Printers Union of New York City were organized in the 1790's. A host of city central trades' councils along the seaboard states in the early days of the Republic is a part of the pattern of American history. We had workers then and we have them now. We surely did not have an industrialized economy, but we had a growing number of craftsmen.

The record of trade unionism in America was one of constant struggle to gain recognition. Here was a nation dedicated to the welfare of its people, and yet organizations of working people, such as unions, met obstacle after obstacle in attempting to organize. Our laws and courts were frequently used to oppose their activities.

Let us look at the attitude, for example, of the judiciary of this nation toward the trade union movement. The judiciary of America said in so many words, in decision after decision, for many years that the formation of a trade union is a criminal conspiracy and that to join a trade union was a criminal act. For over 140 years, we had in America a constant hounding of people who joined into free trade unions, we constantly held over their heads the threat of court action, of legal action; and, of course, frequently followed the threat of legal action with outright imprisonment. But despite a hostile court system, despite the hostility of state legislatures, trade union membership and influence grew.

The hostility of state legislatures was another vital factor in understanding the development of the trade union movement in America. It is

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essential we remember that many of the state legislatures, during the early period of American life, were not representative of the popular will. It was not until the middle of the 19th Century that we really achieved universal manhood suffrage in America. The movement for enlarging the franchise, by abolishing property qualifications for voting, reached great heights during the administrations of Andrew Jackson. It brought with it further growth of the trade union movement in America. Trade unions grew slowly but surely until in 1886 we saw the formation of the National Labor Union, which was followed in 1869 by the Knights of Labor. It was the Knights of Labor, of course, which blazed the trail for the later organization known as the American Federation of Labor.

It is not my function at this time to go into a detailed analysis and careful tracing of labor history. It is possible for us, however, to declare in summary that organized labor was born in strife; that organized labor met continuous opposition from the agencies of government; that for many years organized labor was considered to be a criminal conspiracy and illegal, even as America became a great industrial nation.

It is interesting to examine the demands of these early trade unions. What were these early workers asking for? Their program included the ten-hour work day, the abolition of child labor, a modicum of sanitary conditions in factories and shops, and a few measures which they, as citizens, felt the community ought to adopt for the community to prosper.

In this latter connection, we can state as a matter of fact that, were it not for the early trade union movement, free public education systems in America, divorced from the stigma of the pauper's oath, would have been a much more difficult achievement. It was the trade union movement which fought many of the "respectable elements" of the community in favor of free public education.

Today, millions of Americans enjoy the benefits which resulted from the pioneer work of that small but active band of union members who saw a free public education as the birthright of every citizen in the American democracy.

Let us examine further the factors in history which today color the labor-management picture in America. The injunction is an outstanding example of government tyranny, yet the injunction has been used again and again against unions and against workers.

Today, of course, the injunction is less prevalent than it was, but my reading of labor history tells me that in the early days which molded the character of the present labor movement, the use of the injunction was as common to cure the ills of labor-management problems as the use of Ward's linament for the ills of the family. Such is the history of labor-management relations in America - a history of conflict, a history of brutality. Can we expect the labor movement today easily to forget the techniques not only of government, but the techniques of management in importing all kinds of cheap labor into America for the sole purpose of undermining trade union organizations?

It is today difficult for us to imagine, but it is nevertheless true, that the Railroad Brotherhoods at one time were thought to be revolutionary. Not only was the injunction used against railroad workers, but our government, to its shame, supplied federal troops against them. We might ask ourselves, why did the government go to such drastic lengths? The answer would be, to compel them to go back to work, so that the mails could run. We might ask in turn, work for whom? For the government? For the nation? No, the answer would be, for a private employer. As we look back upon that era in American history, we should do so with shame. There can be no excuse for compelling

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any man, against his will, to work for another man for that man's private gain and profit.

Let us explore into history a step further. When we do, we find the courts using the anti-trust laws to curb the legitimate activities of trade unions. The Sherman Anti-Trust Act was passed in 1890. It was passed because we wanted to curb the bigness of big business. It was an anti-trust act, but how was it actually applied? An act designed to control economic monopoly in America was first applied against workers. The Danbury Hatters' Case, which is known formally as Loewe v. Lawler, was an application of the Sherman Anti-Trust Act upon the Hatters Union. As a result of that case, the Hatters Union was fined \$252,000 and the payment of the fine was assessed against individual union members. It is an interesting sidelight that when a powerful corporation is today fined under our anti-monopoly laws, the fines amount to \$4,000, \$10,000, \$25,000, or some other minor amount when compared to the profits derived from monopoly.

We find the courts not only cooperating in applying the anti-trust laws against the labor unions, a practice never intended by the framers of the law, but we also find the courts upholding "yellow-dog" contracts. I refer to the cases of Coppage v. Kansas and Hitchman v. Mitchell, where the Supreme Court of the United States upheld the practice of requiring a pledge by a worker not to join a union as a condition of his employment.

It is necessary that we keep this background in mind as we try to understand labor relations in America today, because ancestry has a direct bearing on current attitudes. Many books are being written today demonstrating the direct relationship between the Civil War and the deep feelings engendered by that conflict, and the present sorry plight of race relations in the South.

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Having lived in the South, including a year at Louisiana State University, I know the truth of those observations. I would suggest to this audience, however, that if four years of war can leave a bitterness in the South that still lasts here in the year 1949, how much more significant is the history of 140 years of unfairness, injunctions, troops, violence, in determining the emotional attitude and the intellectual attitude of men of labor.

The history of many significant strikes in America was a history of violence. Outstanding among these incidents were the steel strikes of 1892, which were characterized by goon squads, Pinkerton Detective Agencies, and hired private militia. It has been said that up until 1937 there were only two private armies; one was in China with the war lords; and the other was in a factory in the United States. The history of labor relations in America is a history all too frequently of private armies, machine guns and hand grenades, poisonous gas and other techniques of violence to interfere with the freedom of workers who organize into unions of their own choosing.

There are many men in the labor movement today who have jail sentences on their records. Jail sentences for what? Because they organized a union; jail sentences because they picketed a plant; jail sentences because they wanted better wages so that they could provide better for their wives and their children; jail sentences because they had the courage to resist the boss, so to speak.

No man likes to be in jail. Yet there are hundreds and hundreds of men in the labor movement today who went to jail, who were put in jail by the federal government, put in jail by the governor of the state, put in jail by the mayor of a city. For what purpose? Because they had the courage to stand up and say that they were not going to be exploited.

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up and say that they were not going to be exploited.

The labor movement in America opposes injunctions with every fibre of its existence. Students of labor history ~~must~~ understand this strong feeling of theirs and ~~even~~ agree with them. The injunction is an unfair legal tool. It has been abused and it has been abusive. The injunction has been a one-sided legal weapon. If the employers of America continue to insist upon the use of injunctions to settle labor-management disputes, there can never be labor-management peace. So long as employers in America insist on taking refuge in the legal weapon of injunction, the labor movement will not trust their expressions of peace and will instead remember the past. Labor management peace can never grow from a field sown with the seed of injunctions.

We have seen instances in the history of labor of the abuses to which the labor injunction has been put. To that we could add many others. We could add to the cases already mentioned the example of the railway shopmen's strike of 1922, when the Attorney General of the United States went to a Judge of the United States in Chicago, aroused him from bed and got him to issue a temporary injunction without even hearing the facts or the testimony. The Judge was Judge Wilkerson. Here is what former Mayor of the great city of New York, at that time Representative, Fiorello LaGuardia, stated on the floor of the House of Representatives in regard to Judge Wilkerson and the injunction he issued:

"Let me tell you how that was obtained - this is not hearsay, not from what somebody else tells me, but from the inside story as told by Harry Daugherty himself... Daugherty says in his book:

"After looking around for a judge, Judge Wilkerson was finally accepted. He was out of the city, but came back to Chicago. I ... was most fortunate in getting Wilkerson. He had long been in the service of the Government as district attorney... He agreed

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with me on every point and granted the temporary injunction without a minute's delay."

The result of instances such as the kind we have hurriedly and skimpily reviewed this evening has meant hostility and mistrust within the ranks of organized labor with regard to government and its activities within the labor-management relations field. The noble leaders of the American Federation of Labor - one of the great labor movements of the world, founded by a great American philosopher and man of action, Samuel Gompers - know from bitter experience the effectiveness of government siding with management. In 1922 the American Federation of Labor comprised five million members. By 1929 only two million were left. This in the face of what we called "prosperity".

Labor could not hold its own in the "prosperity" of the 1920's. The miners are as good a case history of this period as you can find. I urge those of you who have not already been exposed, to investigate the conditions in the mining towns of the 1920's and early 1930's. If you do that, you will witness the shocking sight of misery, poverty, sickness, accidents, and death due to silicosis. Today, those who are ignorant of the history of the United Mine Workers of America, of the crying need for their organization in the 1920's, and of the significant contributions they made to the morale and to the lives of the hundreds of thousands of miners in America who spend their days in the bowels of the earth so that we may have coal - many of them who are unaware of this past say: "We ought to be tougher on these coal miners." I say in return: "Life has been tough enough for them. Let us rather understand their past, understand their problems understand their perspective and try to meet them on common ground." If they do not mine the coal, will you? If they do not mine the coal, will our troops? How many in this audience

would volunteer tonight to exchange a year of their present life with a year in the life of a coal miner?

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The period of the 1920's is characterized by one other interesting development. The "good people", the respectable members of the community, looked upon management and capital as virtues in themselves. They looked upon those who had the big houses and the large bank deposits and they said, "These people must be God's chosen children. Look how they are blessed." They forgot the plain, ordinary people, - the working men and women of America. I could get quite religious about this, because if my memory on religion serves me well, there are not many of the high and mighty among those who joined up with the twelve disciples, but there are many fishermen who did.

American labor found itself practically destroyed by 1932. Curiously enough, not only was American labor in that condition, but business and farms and homes and families were also practically destroyed. In 1933, the Government of the United States decided that positive, affirmative action was necessary. Under the enlightened leadership of a great President, who spent his life trying to make the American democratic dream a reality, the American society haltingly, yet courageously, experimented. One of those experiments produced the NIRA, the National Industrial Recovery Act. Section 7(a) of that law gave unions the right to bargain collectively. It became the new Magna Charta of the labor movement. It became the basis for the later Wagner Act which created the National Labor Relations Board.

The National Labor Relations Act has been a controversial subject now ever since it was passed in 1935. Many have alleged it was one-sided; that it put the weight of government on the side of the workers; and that it failed. The record is clear, however, that it was both successful and a vivid demonstration of democracy in practice. It produced results in terms of fewer

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man-days lost through strikes, in terms of benefits to large numbers of American men and women. It was most successful in putting the plans of collective bargaining on a high level, which in turn did much to correct the abuses between labor and management. A university, a place of learning such as this, with its libraries, with its students of economics, should be the vehicle through which these facts of accomplishment can reach the American people. In my judgment, any objective study will reveal that the Wagner Act succeeded in removing many of the causes of strife and tension from industrial relations.

It took a long time for the Wagner Act to get accepted, and to begin to gain a foothold within our industrial structure, and yet today it has already been supplanted by a statute whose resemblance to the industrial anarchy and violence of the pre-New Deal days is frightening indeed.

It took two years before the Wagner Act was first upheld by the U. S. Supreme Court. During that period employer associations took it upon themselves to act as judges of the United States and proclaimed its unconstitutionality. In reality what they were proclaiming - those who participated in the American Liberty League and those who hired the 59 attorneys who signed their legal manifestoes - they were proclaiming their devotion to the chaos and brutality of the labor injunction and defeated unionism. They advised employers in America that they did not need to abide by the Wagner Act because in their judgment it was unconstitutional. Here was indeed a brazen demonstration of lawlessness in the ultimate. Every American citizen can go to the courts to test the constitutionality of legislation, but no American citizen has a right to take the law into his own hands and refuse to obey any law on the grounds of his own judgment as to its constitutionality. I ask the young men in the

audience what they expect would have happened to them if, in connection with the Selective Service Law, any of them had said to the induction officer:

"I think the law is unconstitutional. I refuse to go." They were expected to obey the law until the court judged one way or the other. Yet in the labor-management relations field, as the result of employer action, there was complete turmoil and confusion for two years until the courts acted.

During this period, too, the LaFollette Civil Liberties Committee conducted its monumental investigations. The reports of the LaFollette Committee were published in 75 volumes by the Senate of the United States. The LaFollette Committee Report, as reported in a Brookings Institution study, says:

"The evidence shows conclusively that the great majority of the plans (company unions) were favored and fostered by the companies in order to forestall outside unionization."

Then the LaFollette Committee went on a little bit later to point out:

"The strike services which the committee has examined fall into three categories. The first is the provision of so-called strikebreakers, who are commonly understood to be persons who temporarily replace striking workers.

"In some industries such temporary replacements have been, in the past, competent and skilled workmen. In most cases, however, strikebreakers are not qualified employees. The agencies engaged in the business of providing such replacements have even advertised that their function was simply to provide industrial shock troops with which to break strikes and cause strikers to return to work.

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and cause strikers to return to work.

"The second category of strike services is the provision of guards or watchmen. The ostensible purpose of utilizing such guards, who are generally armed, is the protection of the strikebreakers, the loyal workers, or the plant property. Guards provided by the agencies must be distinguished from regular plant police and the local police force of the community. Usually they are strangers to the controversy and the locality in which they serve. In many cases these guards have been deputized as local police officers. An analysis of the commercial strikes services reveals that men who offer themselves as guards in strikes form a more or less distinct occupational group, and can be designated as strikeguards.

"The history of industrial disputes in this country indicates that the almost inevitable effect of employing outsiders of either of these classes, in an industrial dispute, is to produce resentment, bitterness, violence and bloodshed."

And we find further from the LaFollette Committee:

"The utilization of any or all antiunion services, such as espionage, strikeguards, or private policemen, involves the ultimate use of force. In the consideration of such services the committee soon became aware of certain means employed to implement such a policy. Chief among these was the use of firearms and chemical munitions...."

Pleasant little game they were having, you can plainly see!

"Thus, the committee found it necessary to turn its attention to the character and effect of industrial munitions...."

This in the years 1937 and 1938.

"The committee, in its inquiry into various strikes and their violent episodes, gathered much information concerning the industrial use of weapons and munitions. The committee's report on strikebreaking services made mention of the participation of certain detective agencies in the traffic in newer forms of industrial weapons, as well as their use, and the report on private police systems dwelt at length on the use of arms by certain of the police systems discussed. These reports did not, however, treat of the arms used in industrial relations as a subject in themselves.

"because such weapons are, however, designed and adapted for use by public authority, in the exercise of police power in conditions of civil disorder, their purchase and possession by private employers raises problems of far-reaching significance...."

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The LaFollette Report demonstrated conclusively that right here in the United States in the name of liberty, in the name of free enterprise, even in the name of a free labor movement, we found armed guards, private armies, vast arsenals, tear gas - all being used to disperse men who gathered together for the purpose of organizing themselves into a union so as to attain even a modicum of equality in bargaining power.

To briefly review, ladies and gentlemen, my message tonight is simply to urge you to understand that no discussion of mature collective bargaining can escape a recognition of the past in labor-management relations in America. With such a past, we cannot expect miracles. It takes a long time to bind up wounds and then to go through the healing process.

The Wagner Act did not put the nose of government at the conference table of collective bargaining. It established regulations and it established certain rules of the game. In a sense, we can say that it brought labor and management to the door of the conference room, gave them the key to the door and then said: "The room is available. Go in and negotiate."

But with the enactment of the Taft-Hartley Act we pushed the pendulum back again in the direction of primitive labor management relations. The Wagner Act, in establishing the rules of the game for collective bargaining, says to the respective labor and management parties: "We are not going to walk into the conference room with you; we give you freedom to negotiate and what you negotiate about; we encourage you to bargain collectively, since we know that collective bargaining is the essence of mature labor-management relations." Contrast that to the Taft-Hartley law which, under the guise of establishing "equal rights" and "equal restraints", also sets forth a series of "thou shalt nots" for the conference room agenda, most of them against labor unions.

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As a member of the Senate Labor and Public Welfare Committee, which held hearings on the Thomas Bill to repeal the Taft-Hartley law, and heard full testimony on the operation of the Taft-Hartley law, I commend to you the writings of Dr. William Leiserson, Professor Nathan Feinsinger, and Mr. William Davis. Here are three prominent men in America who have had as much experience as representatives of the public interest in labor-management relations as any other men in America. Dr. Leiserson, former Chairman of the National Mediation Board, former member of the National Labor Relations Board, is one of the outstanding labor-management students in America. Professor Feinsinger of the University of Wisconsin Law School is a noted arbitrator. Mr. Davis, former Chairman of the National War Labor Board, is considered dean in the field.

Let me quote for you as an example a portion of Dr. Leiserson's testimony before the committee:

"But what are the possible choices? Broadly speaking, there are only the three; (1) individual bargaining; (2) collective bargaining; (3) Government dictation. The first leaves labor relations to be governed by individual contracts of employment. This means, as the Supreme Court said as far back as 1898, 'The proprietors lay down the rules and the laborers are practically constrained to obey them'; in other words, management dictation. The second policy requires the rules to be made jointly by representatives of managements and the workers, and embody them in collective agreements. The third is the policy by which the Government determines the rules or terms of employment, or both.

"The Taft-Hartley Act favors this third policy. Although it did not venture to fix wages, it did decide by Congressional fiat vital issues of rules and working conditions involved in labor contracting, under the guise of determining legitimate rights. In doing this it purported to further the policy of collective bargaining, but its concern that strikes and other forms of industrial unrest or concerted activities (shall not) impair the interest of the public led it to prescribe rights which had the effect of determining disputed issues and removing them from the field of bargaining."

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With regard to the Wagner and Taft-Hartley Acts he says:

"The two laws approached the problems of employer-employee relations differently, and they went off in different directions to find solutions. The Wagner Act puts its faith in collective bargaining, but while the Taft-Hartley Act paid lip-service to the principle of collective bargaining, its insistence on "legal" rights encouraged individual bargaining and, to an even greater extent, Government determination of the labor bargain."

I ask you to follow with me portions of the testimony of Professor Feinsinger on a philosophy of labor-management peace. He says:

"I would state my conception of a sound labor policy for America as follows: As a nation, we are dedicated to the ideal of a free society, through which individual liberties may be exercised to the highest degree consistent with like liberties for others. We endorse a system of free enterprise because we believe it most conducive to a free society. We seek to promote industrial self-government, through labor-management cooperation and self-discipline, because we believe it to be, in the long run, most consistent with a system of free enterprise. We adopt free, voluntary collective bargaining as the instrumentality best suited to the practice of industrial self-government; to the protection of the liberties of the individual worker; to the attainment of practical democracy within our modern industrial society; to the achievement of industrial peace; to the maintenance and increase of purchasing power; and, through all these, to the safeguarding and advancement of public interest.

"If our national policy is to be effectuated through collective bargaining, we cannot simultaneously encourage a competing system of individual bargaining. If collective bargaining is to be free and voluntary, we cannot have governmental intervention, except to insure the conditions under which free bargaining can take place. (I use the term 'governmental intervention' advisedly. I have observed that the term used is 'government interference' when it helps the other fellow, and 'government protecting the public interest' when it helps our side.) If we are to have realistic bargaining, each side must be free in the final analysis to say 'Yes' or 'No', which means the right to strike or to lock-out if no agreement be reached. The exercise of the right to strike or to lock-out entails the risk of economic injury not only to the adversary but to neutrals. Such risks are inevitable in a democracy. Only a democracy can meet such risks, and take them in stride."

And finally Mr. Feinsinger says this:

"The Taft-Hartley Act was a product of anger, confusion, and compromise, but also of considerable idealism."

I offer these statements by competent students of the point I emphasized a moment ago; that strikes are a price of freedom, lock-outs are a price of freedom. And people in America who think that we have to abolish strikes by government fiat, by government edict, are people who are willing to sell out freedom. I think freedom is more precious than a hundred percent on-the-job, labor-management policy. I think freedom is more precious than the complete elimination of absenteeism and of all the hours and minutes lost in strikes. I want very much to minimize the loss of time and difficulty, but I want that done through free processes, not through edict.

I oppose government seizure of labor, which is implied in the requests of a great many people who say about a strike: "The government had better do something about this"; and which is implied in the use of injunctions, just as I oppose government seizure of industry in America. The price of freedom is a high price, but we should be willing to pay it, and to go through difficulties and inconveniences if that's what it takes to maintain it.

I believe that the government has some responsibility in seeing that labor-management disputes do not cripple our economy. But we cannot, as the Taft-Hartley law now does, place the weight of government authority completely on the side of management. We cannot permit government to function as a strike-breaker.

The restrictions on unions which the Taft-Hartley law imposes are based on the assumption that there is now bargaining equality between unions and management. They are not, as a matter of fact, equals in America today. Let us look at the facts.

There are 300 corporations in America that control over 60% of all the employment in America. Reports of the Federal Trade Commission which are available in your libraries and with which students should be thoroughly familiar,

tell a story that economic concentration in this country is going on at an unbelievably high pace. A recent report of the Federal Trade Commission indicates growing monopoly in the 13 top industries in America.

Looking at the American labor movement, we find a total of 37 unions in the whole country with a membership of 100,000 or more. There are 16 unions with less than 1,000 members each. Fifty percent of all of the trade unions in America have less than 200 locals. Only six of the big internationals in America have 2,000 locals or more. The trade union movement in America is only 15,000,000, spread over a nation of 150,000,000 people and a working force of some 60 millions.

We are now in the midst of a serious labor-management dispute within the steel industry, and many of you in this audience may be saying: "Yes, all of that is true, but how about unions in the steel industry?"

Let us look at the steel industry and its record. There was a steel strike in 1919 in America over the right to have an 8-hour day. A wage increase was not the dominant issue. It was primarily one of an 8-hour day. Yet in that strike, the government of the United States lined up with the companies and the union was broken.

Those who today talk about a strong steel union are operating under a misconception. If they understand its relative strength compared to the steel industry, they are. Here is a basic industry in America, the heart of our industrial establishment. And yet the steel workers' union was nothing but a form, a skeleton without membership until it was organized under the leadership of Mr. Philip Murray in the 1930's. So-called Big Steel, so-called Little Steel have both been subject to anti-trust action by our government. Let those who are today agitated by a steel strike or a threat of a steel strike remember the days of Mr. Girdler and Mr. Weir, the bitter strikes of Republic Steel

and Bethlehem Steel and Jones-Laughlin Steel and Inland Steel. Let us remember the reports of the LaFollette Civil Liberties Committee, of the strength which the steel industry mobilized to persecute workers interested in forming unions in the 1930's. The United States Steel Corporation is one of the biggest industries in America. Whether we disapprove of its bigness or approve of its efficiency and productivity is immaterial. Whether we have questions about their ability to produce, their profits or their investments is immaterial. What is relevant to our discussion is the comparative picture of a steel worker's union, relatively recent in organization, matching up to such a major and vast industry which at every turn, up until recent years, has resisted union activity with every power at its command.

To say that labor is as big as corporate wealth is to perpetuate a myth. To say that the Communication Workers of America is a match for the seven billion dollar American Telephone & Telegraph is to perpetuate a myth. It is indeed a wonder, with the background and history of labor-management relations in the steel industry, that that union has produced as statesmanlike and as public-spirited a leader as Mr. Philip Murray.

It is well for us also to look at the facts of economic strength in America. Sometime ago I had the occasion to place in the Congressional Record some observations with regard to this problem which no-one has seen fit to dispute, and I want to read this statement to you just as I did on the floor of the Senate:

"In other words, Mr. President, we cannot talk about the number of strikes and simply leave the discussion there. We must talk about the number of labor disputes in relationship to the rest of the economy. What was happening in America? What was happening in the first year after World War II? Many things were happening. Families had been broken up, workers had gone from one side of the country to the other. Thousands and millions of people went from one end of the country to the other, whole communities were upset, there were people going into communities and people going out of them. All of that has to be put into the picture.

"Let me quote from the report of the economic report of the President transmitted to the Congress in January 1949.

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"Let us take a look and see what happened in the economic picture. This is the record of corporate profits after taxes:

"Corporate profits, after taxes, in 1940, were \$6,400,000,000..."

This is one of the reasons that we have had some labor troubles in 1946. Some people's muscles were strong. I think some people were itching for a fight. I think some people wanted a showdown. During the days of the depression in the late days of the 1930's, it was perfectly obvious that strikes were too expensive in 1939 and 1940 if continued for long, particularly after the law of the land had been settled by the Supreme Court.

What are the facts?

"In 1941 the profits were \$9,400,000,000, after taxes, and after reserves had been set aside.

"In 1942 corporate profits, after taxes, were \$9,400,000,000 again.

"In 1943 they were \$10,000,000,000.

"In 1944 they were \$10,800,000,000.

"In 1945, the last year of the war, conditions were becoming bad. The corporations' profits were only \$8,700,000,000.

"Then we come to 1946. By the way, up to 1945, the corporations made a total of \$60,000,000,000 profit, after taxes, after reserves, after plant replacement, after business thrifts. After all these things there were about \$60,000,000,000 of profits, and all during that time the American workers were on the job producing...."

The labor-management record of American labor during the war was phenomenal, and I think we ought to remember that.

"Union after union was decorated for heroic service to the country, and I know very few of the industrial workers who ended up having a seat on the Stock Exchange. I know very few of them who ended up by buying for themselves \$50,000 or \$60,000 homes. As a matter of fact, the record reveals that the workers have spent almost all their war bonds already.

"Then comes 1946. Corporation profits after taxes in that

year were \$12,800,000,000. Then we cut off price control.

"In 1947 corporation profits were \$18,100,000,000.

"In 1948 corporation profits after taxes were \$20,800,000,000.

"Add them all up and we have a total of \$106,700,000,000 net profits for corporations in eight years."

I submit to you that the hue and cry that has gone up in this nation about what is happening to business and the power of the trade union movement is a hue and cry which cannot be properly substantiated. I want the members of this audience, if you find the time in your library at the University, to get a copy of Friday's issue of the New York Times. On the front page, take a look at the figures and see what is happening.

How many of you know, for example, that General Motors is doubling its dividends payment this year over last year? Take a look at the record. Take a look and see what U. S. Steel is paying even though they have a strike on their hands. Unprecedented dividend payments! Profits in 1949 are as great as in 1948 and in 1948 they were the greatest in human history. And yet they are "losing their liberty", "things are tough". The government is "grinding them down", and labor is "too strong".

In the meantime, what has happened to the industrial worker? Well, the other day I read that the cost of living had gone up another half of one percent. And when the cost of living goes down, the decline is fractional. The facts are quite clear. I do not want to burden you with any more facts, but I think you ought to read them for yourselves. I think you ought to get the annual economic report to the Congress of the Joint Committee on the Economic Report. I think you ought to get the facts from the Bureau of Labor Statistics. I think you ought to get the facts from the Federal Reserve Board. I think you ought to get the facts from the Brookings Institution. From those facts, I ask you to

make your own decision. I am not attempting to make the decision for you. Just be honest with yourself. Look at the facts in silent meditation for a moment and ask yourself whether or not there is equality in labor-management economics in the United States. My conclusion is that there is not equality.

We are going to have to treat the problems of labor-management relations just as honestly as we treat the problem of disease. There used to be a period in American life when people did not talk about certain diseases. Now the Public Health Service has convinced us that we are mature people, we should go to see a doctor and cure our diseases, unmentionable as they may seem. It is good for us to have that mature, modern approach to labor-management relations.

The working men and women expect a share of the proceeds of industry which they help produce. The American laboring man's only property is his job. He wants protection of his property just as a man who owns an acre of land wants to be able to keep up his property and wants to put up a "No Trespassing" sign on his land and wants to have the protection of the sheriff or the United States Marshall for his property.

This is a new concept of property coming into reality. Unfortunately, all of the law of this land is based upon the forms of tangible property, the kind of property that you can feel: stocks and bonds; land; houses; factories; shops. But there is another kind of property right. It is the property right in a job.

That may sound a bit idealistic to some people, but all the property that millions of Americans have is their skill and their ability to work. That is why they are conscious about security.

Many a man who has physical property, a building, or a shop or factory or a farm, wants to be sure that that property is going to be protected; he wants

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to be sure that the law of the land protects him; he wants to be sure, for example, that if he has a mortgage on that property, he can't be dispossessed, immediately. He wants to be sure that he is given full protection of "due process of law."

What about the worker? What does he have? The only property that he has in this modern America is his ability to work, and yet he can lose his job tomorrow morning. That is why he is interested in seniority, that is why he is interested in pensions, health insurance, and job insurance. That is why he wants an annual wage. That is why mature collective bargaining has to face up to facts.

The modern industrial worker is no longer willing to bargain as a day laborer. He wants to know about tomorrow, he wants to know what he can plan for his children two years from now. If he buys a home, he has to make commitments. He wants to know whether or not he can fulfill those commitments. American industrial management has to be able to give commitments to American industrial workers, just as industrial workers have to give commitments to American management. That is what we mean by the collective bargaining agreement - the two-year agreement, the one-year agreement, or the three-year agreement, with a wage reopening clause.

We are maturing, we are developing. Things are much better than they used to be. 99 percent of all industrial disputes are settled amicably. The only disputes you hear about are the ones that end up in a strike. 99-44/100ths percent of all the airplanes in the air fly safely. The only ones you ever hear about are the ones that crash. The vast majority of Americans live together in peace and harmony, but every once in a while when someone down in Southern California gets a divorce, you see it in the papers. We emphasize the unusual.

It is news. Yet all over America people are at work.

I want to point out that the people who are alarmists about strikes and lockouts ought to consider the facts again. You cannot have a \$240 billion a year gross national income and have every worker indolent, apathetic, lazy, non-productive, and on strike! By the same token I want to say to the workers, you cannot have plant expansion, you cannot have capital improvements, you cannot have more tools provided for you, unless American industry is permitted to make a profit and to be able to re-invest that profit in plant expansion.

The time has arrived in this country when we have to make up our mind as to what kind of a system we do want. I know the kind I want. I want the kind of system where management has the right to invest; I want the kind of system where that investment is assured of a reasonable amount of protection. Today it has all kinds of protection. If it gets into real trouble, it can go down to the Reconstruction Finance Corporation. I want to be sure that American management can depend upon labor to fulfill its contract. Then by the same token I want to be sure that American management will permit labor to have the kind of contract that will provide some of the benefits of modern industrial production to labor.

We need the acceptance of unionism in America. We need to have preachers, teachers, doctors, lawyers and politicians proclaim from the housetops that the trade union movement is part and parcel of the American way of life for once and for all. We should be proud of what it is. We should be proud that the labor movement even at this hour is cleaning its own house. We should be proud that the labor movement is developing even at this hour its own type of leadership and is producing the kind of leaders who have a great economic and political understanding of the world we live in. It is dangerous to talk about

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a few, but I wish to commend such men as David Dubinsky of the International Ladies' Garment Workers, Walter Reuther of the United Auto Workers, Emil Rieve of the Textile Workers' Union, and Philip Murray of the Steelworkers' Union. These men are labor statesmen. Labor statesmen of this caliber have no love for the Communists and neither do I. They realize that the Communists are a menace to the American labor movement. I respect that judgment and in fact reiterate that we cannot have mature collective bargaining in America with people of a dictatorial mind. We can have no mature collective bargaining in a free country with people who have no love for the democratic way of life, but who rather follow a doctrine of expediency toward a totalitarian end.

The American public needs to understand the economic facts of corporate power, and we need to understand that one of the best ways that we can have for checking the ever-growth of monopoly is by a free trade union movement that has equal bargaining rights and can compete with corporate concentrated economic power.

What should the role of government be in this picture? The role of government should be that of protecting the rules of the game - in this case collective bargaining. Not to dictate the plays or the score. One of the most important ways of promoting the ground rules of collective bargaining by government is through conciliation and mediation. I want here to pay my respects and congratulations to the United States Conciliation and Mediation Service over the years, and I want to say to the Congress of the United States that we have pauperized, we have bled white the United States Conciliation and Mediation Service by reducing their appropriations. We have never given the Conciliation and Mediation Service the manpower it needs, the appropriation it needs, or the facilities it needs. We would even today rather give that to the General Counsel of the National Labor Relations Board so that he can enforce injunctions.

The only thing that the 80th Congress was extravagant with was the enforcement of the Taft-Hartley Law. They really increased the budget of the NLRB for that.

There will be bargaining problems in any system of mature collective bargaining. Labor must of course obtain for itself an intelligent understanding of the economic interrelationships of profits, prices and wages. Labor must, of course, in negotiating contracts, concern itself with the relationship of wages to prices in spite of the fact that the wages are only one factor in determining prices.

But government also has a responsibility in this economic picture. If we are to expect labor unions to perfect their economic understanding and economic responsibility, the government of the United States has an obligation to ensure the conditions of competition within industry. Too often labor has found in recent years that price increases have no relationship to the wage increases they have received. This is due to the fact that too many prices in America are monopoly-administered prices.

Mature collective bargaining, therefore, must include a vigorous enforcement of our antitrust laws and a strengthening of our Department of Justice. It means we must not legalize basing point operations in America which permit discriminatory price fixing and encourage monopolistic growth. The basing point legislation which the Congress of the United States in the next year will decide upon, has a very direct relationship to mature collective bargaining.

There is one other point that I wish to mention with regard to mature collective bargaining. I do so without any intention of being unkind to my friend, the Dean of the Law School, or to the legal profession. A statement I once made in connection with this point was criticized by the Minnesota Bar

Association, but I will say it again clearly. Attorneys have a very important role to play in interpreting rights and privileges. The essence in a labor law, however, must not be an insistence on the letter of rights and privileges. It must rather be a conference table procedure.

I have had enough experience in some twenty major labor disputes in the City of Minneapolis to know how disputes are settled. I think it is fine for labor to have its legal counsel. Labor must have it. To be sure, management must have its legal counsel. But I am of the mind that most lawyers are not equipped, either by training, background, mentality or emotion, to settle economic disputes. In the long run, the collective bargaining agreement must be arrived at by the parties directly involved.

I think the job of legal counsel is, as the name implies, to counsel, to give legal counsel to those who are in the policy-making, decision place. But I have watched all too often absentee negotiation. I have watched all too often management give its powers of negotiation to its attorneys and the union give its power of negotiation to an attorney. I have seen many major disputes settled, in major industries, where the actual managers of the plant, the people who were entrusted with the responsibilities of operating the plant, and the actual officers of the union got together and they resolved their conflicts on the basis of understanding. I emphasize the importance of direct labor-management conciliation and collective bargaining.

Mature collective bargaining is not something that can be considered in a vacuum. Mature collective bargaining is but a means of arriving at a decision for a worthy end - in other words, to settle a dispute.

We then need to look at the causes of industrial disputes. Frequently in a negotiation we treat only the symptoms and the causes keep coming back to plague us.

The only way we can

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treat the causes is to go way back into society.

Let me in a very cursory manner just outline the things that I think are the causes of industrial disputes;

The fact that the average worker today does not feel that he is a part of the industrial organization;

The fact that he is lost in the bigness of the plant;

The fact that the grievance machinery procedure in too many plants is not sufficiently intimate and personal to make the worker feel that his "gripe" will be heard.

May I, as an aside, say tonight, "Every American should have the right to 'gripe'. That's a sacred right. Every American should have the right to 'tell the boss off'. Every American should have the right to 'tell the politician off'. Those are basic rights for the American people. And not only to tell them off in the darkness of the night, but to tell them off so that somebody hears them, or at least so that he thinks somebody hears them, and so that somebody is going to do something about them."

What else causes industrial discontent? Poor housing. I want to ask any average American, How do you expect industrial workers to be happy, to be content, to think that they are getting a fair break out of industry, to think that they are getting a fair break from their labor, when they live in slums, when they live in tenements, when they live in the blighted areas of the major industrial cities? It is a national disgrace. I do not think we can have industrial peace in America when vast numbers of our workers live in conditions that are totally unfit for human habitation. I think the government of the United States, working with the people and with private industry, must do something about this. Here is a problem for management as well as government.

The social services of this country are important also for mature

collective bargaining. When there is a lack of playgrounds and parks, when there is a lack of public health facilities, when there is a lack of medical services, when there is a lack of educational services, the modern American industrial worker becomes discontent, he feels he is not getting a fair break. Let us remember that we all get the Sears, Roebuck catalogue; we all know that there are many nice gadgets in the world; we all see Collier's, the Saturday Evening Post, Time, Life and Fortune (at least some people can afford to see Fortune); we see the ads, we know what the potentialities and the possibilities of American life are.

The American people have some rather uniform desires. The average industrial worker has a desire to have a new suit of clothes. He has a desire to have his two weeks' vacation. He has a desire to have his children be a part of things in the local school. He wants that school to be as good a school as the school that the boys of the supervisors or the foremen go to, and in America he has a right to expect them. Poor educational facilities, poor housing facilities, poor health facilities, poor recreational facilities are a part and parcel of the cause of our industrial discontent.

Those of us who are not industrial workers as such likewise have a responsibility. We need to develop a type of social-economic environment in which free collective bargaining can operate. We need to develop in America the type of a social insurance system so that men will not worry about their old age, so that they will not worry about unemployment, so that they can go forth to their job with a desire to perform and with the ability and the capacity to produce.

I think all of this will contribute to mature collective bargaining. Let me tie up what I have been trying to get across. Mature collective bargaining means bargaining between equals with the role of government reduced to a bare

minimum. We have gone a long way toward mature collective bargaining considering the violent history of labor-management relations, but we would have gone much further if the Taft-Hartley Act had not set the clock back to the era of industrial barbarism.

I have been asked, What are the prospects for mature collective bargaining? I think the prospects are good. I am one of those who has confidence in today and faith in tomorrow. I think we are just beginning to learn how to live in America. We have been literally skyrocketed into industrial greatness. We have not learned as yet how to master this great machine age that is a part of us. Many of us are just from the farm; many of us are just from Doland, you see - a small hometown. We did not grow up in the paved streets and the hurly-burly of the modern industrial city, and there are all of these personal adjustments to make. There is this quality of lonesomeness that many people have; the feeling that they are not important, the fact that they are not wanted.

All of those things have their effect. To be sure, they are minor, but in a real sense they add up to be important.

We know that the American people are learning; they are learning about the processes of democracy; they are learning every day how to take care of themselves; they are learning every day how to use the tools of government and how to use the art of cooperation. The trade union movement and modern industrial management in America have made great strides considering that the code of the jungles prevailed less than ten years ago.

We have moved a long, long way. I am of the opinion that we are going to prove to the world that we are capable of self-discipline, that we are capable of assuming responsibility in our industrial relations. I hope so,

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I pray so, because if we should fail, there is only one other way - just one other way - and I am not for it. It is the way of government dictation, it is the way of labor-management peace through compulsion. I do not believe that the American people want that kind of formula. I do not believe they want to use that type of methodology. At least I don't. I prefer to suffer from the abuses of irresponsibility on the part of private individuals rather than to suffer from the abuses of dictation on the part of government.

Thank you.



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