FEDERAL MEDIATION AND CONCILIATION SERVICE

"Trends in Labor Relations Under the Kennedy Administration"

Address by

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The maintenace of sound labor relations in the Unied States should not be a partisan political issue. In the conduct of affairs between employer and employee we are dealing with human values--human aspirations and human fears--the sympathetic understanding of which is not the exclusive province of any particular administration or of any particular political party.

In formulating a sound national labor policy we are also dealing with critical areas in our country's economic future: our ability to fight a cold war, our ability to maintain competitive survival in a rapidly advancing industrial technology and among rapidly developing world markets, our ability to achieve a satisfactory rate of economic growth so that our future needs may be more easily met. These objectives are generally agreed-upon goals for all Americans.

This does not mean that there are no differences in approach--as indeed there should be. Differences between individuals, between and within political parties and between other organizations are healthy and desirable.

Without differences, we would wither and stagnate. We should not, however, lose sight of our basic aims, nor should we subvert them to purely partisan ends.

In any discussion of current trends in labor relations we cannot ignore the tremendous changes which have taken place in little more than 25 years. The worker who had been forced to promise not to join a union as a condition of continued employment may now openly engage in union activity. Use of injunctions in labor disputes has been restricted. Increasing involvement of government in labor-management affairs has developed, both by legislation and in the form of administrative and executive action.

Major legislation was passed in the years 1935, 1947, and 1959--at intervals of 12 years. Numerologists might attempt to explain these laws in terms of some labor-cycle theory. A more reasonable view is that such changes did reflect differences in political philosophy concerning labor-management relations, but that such differences were subordinate to inevitable trends--swings of the pendulum that could be momentarily slowed or hastened, but not diverted from a predictable course.

Part of the philosophy underlying the Wagner Act was that the right to organize and bargain collectively was the key to labor peace. Not only did the Act give expression to the dominant political philosophy of the day--championing the cause of the underdog--but it was also directed to the major labor problems then existing. Most industrial disputes at that time were expressions of non-union employees clamoring for the right to organize and be recognized. The certification procedures of the National Labor Relations Board and the requirement on the part of employers to bargain in good faith without engaging in coercive activity substantially eliminated a large measure of that type of industrial warfare.

The fact that little attention was paid to the substantive features of collective bargaining is understandable. Business was operating at reduced capacity. Unions were small and relatively weak. Unemployment was greater than it is today. Therefore, few companies, few unions, or few combinations of a company and a union were in so strong a position that substantial disservice to the public interest could occur during the course of collective bargaining. The market effectively policed

the collective bargaining process within the limits of reasonable restraint.

The Taft-Hartley Act did not change the nation's basic labor philosophy, namely, that of support to collective bargaining. Rather it gave expression to the dominant concern that the pendulum of governmental protection to labor unions had swung too far and the balance had to be re-established. Any attempt to explain away the passage of Taft-Hartley primarily on the basis of a rambunctious and conservative Eightieth Congress ignores the fact that times have changed since 1935 and the labor problems were different.

In the 12-year interim between the Wagner and Taft-Hartley Acts, union membership had increased from 4 million to 15 million. Pent-up demand for goods unavailable during World War II and labor scarcity gave organized labor unprecedented bargaining power. Nation-wide strikes and pattern bargaining became a part of the industrial relations scene.

Congress therefore concluded that although unions should receive the protection of the government, this protection should be no greater than that afforded the

employer with respect to coercive activity. Accordingly, the unfair labor practices directed at employers became expanded and applied to unions as well. Emergency disputes procedures were passed with the belief that these procedures could prevent such strikes as the nation-wide coal strike that had precipitated the passage of the Act.

A less recognized aspect of the Taft-Hartley Act is that mediation became the cornerstone of government policy for the resolution of labor disputes. The Federal Mediation and Conciliation Service was created as an independent agency responsible to the President. The Act gave the Service primary mediation responsibility in all industries except the railroads and airlines. Even under the special procedures enacted for "national emergency disputes," no important governmental action beyond mediation was provided during the 80-day injunction period.

The final legislative enactment, the Landrum-Griffin Act, passed in 1959, was not so much directed at national labor policy as at specific abuses within certain segments of the labor movement itself. While the passage of this legislation may be attributed in part to a dominance of political conservatism at the time, such an

assessment ignores a seeming paradox. For the Eisenhower administration, whose philosophy toward labor-management relations might be characterized as laissez-faire, promulgated a law which carried government intervention into private union affairs to an unprecedented extent.

The explanation for Landrum-Griffin must be sought primarily in the public temper of the times. Labor unions had become strong in number and important in the economic life of most industrial workers. The exclusive bargaining agent concept which was established under the Wagner Act gave unions a power over employees, and many persons believed that there were many workers who were unsympathetic with the views of their own bargaining representatives. This exclusive bargaining agent concept, deemed so important to stability and responsibility on the part of union leadership in the early days of collective bargaining, now became a focus for criticism of union abuse. Pressures, which began to build up both within the union movement and without, finally culminated in the McClellan Committee investigations. Thus, the Landrum-Griffin Act was passed to protect the individual

union member from improper activities on the part of his own union. The fact that such improper activities were evidenced in but a small proportion of situations was not deemed to eliminate the necessity for rather broad legislation on the subject.

As we assess the labor scene over the past years, and more importantly, as we look into the future, the critical issue now is whether the collective bargaining process can continue to provide us with adequate solutions to our national labor problems. Solutions to the problems of substantial unemployment, technological change, international competition, and economic growth all call for bold new approaches in resolving the issues of wage levels and labor productivity. The danger is that collective bargaining, unless in some manner coordinated to these national goals, may impede our efforts toward their attainment. Under these circumstances the Government would be remiss in its responsibilities to all citizens were it not to place national and community interests above the partisan interests of labor and management.

Under free collective bargaining, the responsibility for reaching a settlement and the responsibility for the terms of that settlement rest squarely on the shoulders of labor and management. We have acted generally on the assumption that the parties to an agreement are the only necessary guardians of the consequences of their own agreement.

There are those who say today that we can no longer afford the luxury of self-determination in collective bargaining issues. The urgency of our defense economy, the dangers of increasing international competition, and the need for economic growth endow the private decisions of free collective bargaining with a public interest.

The development of a public interest in collective bargaining, however, must not be at the expense of destroying the process itself. A major problem is how to make the "public view" heard above the noise of partisan demands in the normal collective bargaining process.

In certain situations the publicizing of negotiations and of basic factual information may create an aura of responsibility. In others it may forestall agreement. In certain cases, limited in number, public

recommendations for settlement may be necessary to develop the pressures required for an equitable settlement. Too great a reliance on this device, however, will prevent the parties from attempting to reach agreement on their own. Compulsory arbitration of substantive terms of labor agreements would be certain to rob the collective bargaining process of its vitality. Despite frequent editorial support for compulsory arbitration in the middle of a crisis, virtually no persons who are knowledgeable about labor relations sanction this device. It has been tried in various places and has failed. Even the device of public recommendations is a special-purpose tool for exceptional situations.

There is good reason for believing that increased mediation assistance at the local level may be the most effective means of integrating the public interest into private collective bargaining. By being on top of the situation, so to speak, the mediator is in a good position to have a thorough understanding of the facts and issues. He understands, perhaps better than anyone else, the personalities and pressures which may affect the delicate

balance of bargaining. When the situation may require the use of special-purpose tools or techniques, he is in an excellent position to advise which tools are most likely to bring about a desired settlement. In this way public interest may be represented in labor-management negotiations without destroying the vitality of the collective bargaining process. Experimentation may be encouraged. The virtues of private decision-making can be maintained within the framework of socially responsible conduct.

In order to accomplish this the mediation process itself is undergoing some changes. Mediators whose primary concern has been in a settlement regardless of its terms may have to cultivate greater interest in the quality or equity of specific terms of settlement. In some situations, mediation may have to become a continuing responsibility rather than a matter of firefighting at the time of contract negotiation or renegotiation. Only by continued liaison with the parties can the mediator gain the acceptance and understanding necessary to carry out any possible function of "public trustee."

Where the situation warrants such treatment, the Federal Mediation and Conciliation Service is prepared to

be more affirmative in its suggestions to the parties. In a number of cases, we have made non-public recommendations for settlement. Continuing liaison has been established in the maritime industry and for missile site operations. We stand ready to expand this concept to other industries should the situation require it.

The importance of these efforts at improving our abilities to obtain reasonable settlements becomes evident when we look at the expanding scope of collective bargaining. Collective bargaining is becoming much more difficult. The number of issues is expanding and the issues themselves are becoming more complex. No longer is settlement a simple matter of adjustment between the minimum wage increase labor will take without a strike and the maximum wage increase management will give without a lockout.

Some managements, caught in the meshes of keener competition, are attempting to recover contract rights which they bargained away in a more prosperous era. In such situations, labor is fighting to preserve what has been won over a relatively long collective

bargaining history. The result in many cases is adamancy in the parties' respective positions, and particularly bitter strikes.

Some local union leaders seem to be reluctant to "sell" negotiated proposals to the membership even in instances where they have personally agreed to the terms. It is ironic to note that despite the popular reaction against "union bossism," in an increasing number of instances the problem seems to be in the opposite direction--a fear to exert strong local leadership.

In the light of these developments, it is little short of surprising that our strike record is as good as it is. During the year 1961, the percentage of lost working time due to strikes was at the lowest level since World War II--matched only by 1957 and 1960 when recession influences kept strike losses down. The year 1961 was one of economic recovery.

The continuing hard core of substantial unemployment is a partial answer to the good record in 1961. Not to be overlooked, however, is the factor of more adequate

mediation activity. The important implication of the difficult bargaining climate today is that the Federal Mediation and Conciliation Service and all other mediation agencies have the obligation and responsibility to make continued and additional efforts to improve the work we are performing.

The problems ahead are not easy to solve. We are engaged in a struggle for survival. We are faced with difficult economic issues at home. Meeting these tasks will put considerable strains on the collective bargaining process. If in attempting to meet these critical issues we sacrifice the very democratic processes we are struggling to preserve, we shall have gained very little. In short, the dilemma is one of integrating our national goals and objectives into an essentially private decision-making process.

It may seem that this talk has little relevance to its title. The Kennedy Administration is relatively new. No clear-cut labor relations trends have yet been

established. However, evidences of trends can be discerned. Mediation is being intensified. This Administration is less tolerant of long strikes or needless strikes even though we know that some level of strike activity is an inevitable cost of freedom. These costs in 1961 were a small price to pay for the maximum amount of retention of free collective bargaining. As trends do emerge more clearly, I am sure that they will be guided by the necessity to integrate collective bargaining more closely with the public interest without destroying the collective bargaining institution that is so vital to our democratic society.