

Speech given by James F. Scarce, National Director, Federal Mediation  
and Conciliation Service, at The Work In America Institute Conference.

New York City, October 21, 1976

I suppose you could characterize my role here today as the clean-up batter for this conference. And I hope that I can hit a bases loaded homer for Jerry Rosow and The Work In America Institute. And, if so, I hope there is a scout from the Yankees club here seeing how it's done.

My topic is "Labor-Management Cooperation-Myth or Reality."

Let me tell you ahead of time what the bottom line is-- it's neither.

It is certainly no myth because a great many real people are involved in this important area.

It is not yet a reality, but the good work of this institute, this conference and those here today--all of us--who are working to indeed make it a reality.

I wish to share with you the work of the Federal Mediation and Conciliation Service toward that most important goal.

I would like to begin by congratulating Jerry Rosow and The Work in America Institute for this conference, and to commend the speakers here who have shown us, and I'm sure will continue to show us, exciting new ideas and innovations toward the world of work.

Our industrial society has many deep rooted values and traditions. Some of these are subtle barriers to change and to labor-management cooperation.

Thus we can expect, that efforts to improve the system, with a dual focus on productivity and the quality of working life, will meet with some resistance, as all change meets with some resistance.

To bring about the changes we envision--to make America's industrial might even greater--jobs more fulfilling--our nation's ability to compete with producers overseas more secure, while safeguarding the best of our traditions and the hard won rights of its workers, will be no easy task.

It will require bulldog determination, tenacity and perseverance.

It will require soul-searching questions and answers and it will require innovation and experimentation, and the courage to say we are wrong, when we are wrong.

But I, like you, am confident that the rewards will more than justify these efforts.

Let me back up just a minute and explain how the Federal Mediation and Conciliation Service fits in.

In the dry text of the Labor Management Relations Act of 1947, the FMCS is an independent agency, established to prevent or minimize labor disputes and work stoppages.

I stress independent because it means that we are not under the sway of any policies established by any department or agency, or what have you--except the policies we set for ourselves.

Those policies are formulated on one single premise--that our job is to help labor and management get along, to help settle differences that may arise between them and to assist the institution of free collective bargaining.

We do our job through the services of some 330 mediators located in 80 cities throughout the United States.

This past fiscal year, our mediators were actively involved in almost 9000 contract negotiations and participated in the settlement of over 2,609 strikes.

Perhaps because of our involvement in strikes, the public often thinks of the mediator as a firefighter--someone who helps the parties reach a settlement in the final hours of bargaining, or who works round-the-clock to bring an end to a long and difficult strike.

But there is another side to what we do, that few people--even those in the labor-management community--know much about.

I'm referring to our technical assistance program. More than 10 percent of our case assignments last year fell in this category.

This morning, you heard about the United Parcel Service-Teamsters technical assistance program here in New York. That was just one of 1,082 such programs conducted during the last fiscal year.

Time doesn't permit a review of the various types of technical assistance activities which we are involved in. But to illustrate how we view our mission, let me tell you about what we are doing in the coal industry.

Some of you may be aware of our current efforts to develop and implement an ambitious program of technical assistance for the coal industry, which has a long tradition of costly wildcat strikes.

A year ago, there were plenty of Washington nay-sayers who gave us all kinds of reasons why FMCS shouldn't try to tackle the problems of coal.

Reasons like:

- Miners are a closed society and won't accept outsiders;
- Labor relations in the coal industry is a disaster area on the American industrial relations scene; or
- It will take years to accomplish.

Yet to my way of thinking, these very difficulties underscored the need for a program, not reasons to duck and run!

So we plunged ahead and now we are engaged in the most ambitious and the biggest technical assistance program in our history.

To carry out this program, we selected eight skilled mediators with backgrounds in the coal industry. We gave them special training. Then we assigned a full-time program coordinator.

By the way, he works in the coal fields, not in Washington.

Even so, had we been limited to traditional training approaches, it would have taken not eight, nor eighty, nor even eight hundred, but several thousand mediators to carry out the amount of training required to reach an industry as large as the coal industry. And these kinds of resources, we simply do not have.

So we adopted a different approach.

We call it the "Bootstraps Program."

Essentially, it consists of teaching mine committeemen: union members to become trainers--a simple concept, perhaps, but not all that easy to execute, considering the usual politics within a union, the autonomy of the UMW districts, the inherent suspicion of outsiders, and the state of labor-management relations within the coal industry.

And yet it is working. It has cut across union political lines, enjoying support at both the international and district level, and has the blessing of the coal operators as well. How does it work?

We ask each UMW district executive board to select 18 or 20 key mine committee men--people that they judge to be bright, articulate leaders. Our mediators then teach a two-week intensive labor relations course that covers labor law, history, arbitration, labor-management relations----the works.

The committeemen are then asked to apply what they have learned in teaching assignments. They are evaluated by our mediators and by staff representatives from the executive boards. The best are then chosen to go out and teach their fellow mine committeemen.

Last month, UMW district 17, with headquarters in Charleston, completed the training of 1,300 mine committeemen. The training was given by six men who were selected from among the original 18 trained by our mediators. Their pay for lost time and travel, cost the union district coffers \$200,000.

That fact alone--that the district is willing to pay this kind of money--shows the kind of support the program is receiving from the miners themselves.

That's district 17. District 6 in Ohio completed its training in August.

And right now we are working with District 2 in Pennsylvania.

By the way, those of you who have stereotype notions of coal miners as uneducated hillbillies--forget it!

Our mediators have come away impressed that these are some of the sharpest, most sincere and dedicated folks in the labor movement.

There is great talent in the coal fields. When that talent is fully tapped and working constructively to make their contractual grievance procedures work then there is real reason to hope for peace in the coal fields.

The bottom line?

Uninterrupted coal production, continuous pension payments and higher productivity, not to mention a quick and fair resolution of problems between the parties as they arise.

Let me stop telling you about the things that we have done and are doing, and share with you a few specks of the gold that we have separated from the tons of rocks in the years that we have panned the stream.

When it comes to getting labor and management to cooperate, for their own benefit, for productivity, for whatever reasons, the most important thing is not the form it takes--in plant committees, technical assistance programs, joint ventures with consultants, RBO programs, area labor-management committees, you name it.

Nor is it the amount of money that you have to spend or the technical expertise that can be brought to bear.

What it really boils down to is four guidelines.

First--it has to be for real! No fancy frills. No window dressing. The goal is not public relations, but labor-management relations. The program must have real goals that both sides can understand, agree with, and voluntarily agree to work toward.

Second--third party support and assistance should be welcome but intellectual arrogance and heavy handed meddling, private or government, is interference that should not be tolerated.

Third--if cooperation is seen by labor as a manipulative management tool then forget it! The American worker will smell a phoney in a minute. Only if management is really willing to accept the views and ideas of employees as equals, only then is there any real chance of seeing the effort through.

And fourth--cooperation, no matter what form it takes, must not be a threat to the collective bargaining mechanism. In fact, if at all possible, it should be part of the process. If cooperative efforts are perceived as a threat to the union's structure or responsibilities, or as a threat to the established leadership, they won't get off the ground. Quite simply, the real world of collective bargaining must be taken into consideration first before any efforts can be made to shape the ideal workplace in the way it "oughta be."

The thing to me that seems important to bear in mind, as I said in the beginning, is that American industrial society has its own values and traditions. Only by recognizing this, by working through existing institutions, with patience, will people begin to listen, to open their minds, to see ways of doing things better, and go after them.

The real test is not how beautiful new ideas sound in theory--it's how well they work in practice.

The American worker today is more educated, more sophisticated, more savvy than ever before.

Freeze the worker out, and your efforts will be met with resistance at every turn.

Bring the worker in and you'll have the best ally you can have--but only if you can show and prove that there's something in it for labor.

And remember, strategy is conceived at high levels, but the war is won in the trenches.

I close by saying that we are much closer to reality than mythology in labor-management cooperation.

And with the efforts and leadership of this conference, and the cooperation of tens of thousands of far-sighted Americans all across the nation, we can make it an even greater reality than it has been. And help American industry to do more, be more and offer more to us all.

October 21, 1976

## POINTS FOR SCEARCE'S SPEECH

- A. Public Sector Dispute Resolution is Predominantly in the Education Sector
  - 1. Over 50% of personnel in the State and local level are involved in the education area.
  - 2. The experience of the PERB such as that of New York State's that from 75% to 85% of all cases handled are education cases.
  - 3. FMCS experience is that more than 50% of its cases in the public sector is in education. In a random one month survey just completed for September, 56 of 79 cases or 71% of all cases were in education.
  - 4. As a further indication of the anticity in the area is that as well as the action is so is the money. The single largest expenditure for funds on the State and local level is education. Education is to the State as the Defense Department is to the Federal government.
- B. Were the Strikes Are so it the Action
  - 1. More time loss due to strikes in education than any other area in the public sector. On a recent survey the following was uncovered:

- (a) On a state level-of 32 strikes 12 of them were in education.
- (b) On a local level-of 439 strikes 244 were in education.
- (c) With the exception of economic issues the single most frequent cause of strikes in the education area is those for recognition.

C. In light of the relatively high level and increasing rate of strike activity \*--the question that keeps reappearing is "Ought there be a legal right to strike in the Public Sector and especially the Education Area?" The following is an outline of pros and cons and discussion.

#### Right to Strike in Public Sector

- Con
  - 1. Soverign
  - 2. Higher obligation of public employees
  - 3. Don't service a monopoly - no substitutes
  - 4. Distort allocation of public resources
  - 5. No economic hurt to government - with power to tax.
- Pro
  - 1. Strikes are increasing \*
  - 2. Assist in developing meaningful collective bargaining
  - 3. Certain services same are private sector
  - 4. Right granted in some parts without detrimental effect.

\* See Hopeful Sign

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"Essential services" - or - option of strike or arbitration cooling off several (7) states have strike in some form ( - Ira article) penalties don't prohibit strikes (only stop in police strike) final offer selection.

Med-arb.

Factfinding - RSDP experience.

Trends Public cool to legislation (approx. 12 states 24 have partial). State laws tending to one law for everyone (comprehensive). Some states providing for unusual severity (Wisc., Minn., Ore.).

Relaxing of strike sanctions - states authorizing, courts backing off. Trend to compulsory, binding arbitration --especially with police and fire. Increasing number of states enacting legislation.

Problems with Law: Exclusive representation, union security, supervisors in unit, appropriate unit, stage of bargaining, compare procedures.

States should experiment with: right to organize and bargain, resolution of representative disputes, ULP, defined for both sides, improve impasse resolution framework, neutral and independent administrative agency.

## Hopeful Signs

Last year as of October 15, there were 140 strikes -- this year as that same time period there were only 65.

D. Not only is CB growing most rapidly in the Public Sector and is spear-headed by Education it is the incubator of new and possibly revolutionary trends in bargaining -- to wit: "The invisible party at interest at the table -- parents and community groups." The following gives rise to and support this trend.

1. Matters covered in negotiations account for 75% to 90% of the schools capacity budget, hence the level of taxes in a community. But parent (taxpayers) and other workers of community do not know what is happening much less participate effectively in light of this they are demanding a change.
2. They want to be at the table.
3. They want "Sunshine Laws".
4. There is a nationwide net work of concerned citizens who are demanding the above. The largest of which is the National Committee for Citizens in Education. In the front page of their publication "New Work" it states in part "... We American parents can't shake our dream. We expect great things of our schools. Now we know we are the ones who have to make them happen."

E. 1. Management spokesperson needs a realistic understanding of the rights of management, the rights of the union and the difference between mandatory and permissive subjects of bargaining prior to entering into the actual negotiations. The absence of such knowledge might well result in the "giving away" of rights or "of conceding to" requests in permissive areas that will live to haunt the management from that day forward.

2. How to use mediation--What mediation is and how can it be used advantageously is becoming more and more of a must item if management is to effectively represent its views and positions in the bargaining process. How does mediation fit in with other procedures under the law and what group or individual will do the mediation? Only as these answers are known, will the negotiator be in a position to properly evaluate what impasse resolving procedure will best serve the interests of management and enhance the bargaining relationship between the parties.

In light of facts of CB in education it is almost supercilious, to say that changes need to take place on all levels, to meet the challenges posed. FMCS responds to those needs in one of increasing commitment. Not only in our dispute case handling but also in our TA both training and information dissemination Our local mediators and our national office can provide

assistance in training in negotiations, collective bargaining, grievance handling, relationship improvement, information gathering and use. We look upon these challenges as just another problem which we at FMCS have the will and capability of meeting and assisting the parties in overcoming.

Dear Hal:

Ran across this joke suitable for working into educator speeches:

A traffic sign read: "School Zone--Slow--Don't Hit a Child!"

Below it had been added in a childish scrawl:

"Wait for a teacher!"

DJYount