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THE PAST TEN YEARS AND THE NEXT

It seems to me not inappropriate in the midst of the war, and particularly now when all of us must begin to face postwar problems, to pause for a moment to inquire where organized labor stands today in the national picture. No movement is static; and in making such an inquiry we must turn back to look at the place of organized labor in the years before the war in order to evaluate where it stands today, and the direction it may take in the future.

Ten years ago "collective bargaining" was but a vague phrase empty of the significance which was soon to attach to it. It was to become the issue of a bitterly fought social and industrial war. It would soon be the cornerstone of a new structure to hold a modern concept of labor's rights. It would be written into the new law, which has been called labor's Magna Carta; a law to be fought step by patient step through the courts; to be accepted in its entirety, generously without the judicial whittling which had so often accompanied court construction of labor legislation. And finally it would be adopted as a normal part of our thinking.

I was Chairman of the National Labor Relations Board, which in 1934 and 1935 was endeavoring to enforce Section 7a of the National Industrial Recovery Act. That famous section, which caused so much violent discussion at the time, is now almost forgotten. It was the declaration of a right without implementation. It recognized the theory of collective bargaining, but provided no machinery for its enforcement. My year in Washington, therefore, was spent largely in telling Congress that there was no way of enforcing Section 7a, and in urging the country to realize the necessity of legislation if they believed in collective bargaining. It was the doctrine of the rule of the

majority, but it sounded revolutionary - and so it was - not because it was radical in conception, but because it was being applied to help men who worked to organize their own strength - and use it.

You will remember that the National Labor Relations Act was finally signed by the President on July 5, 1935, almost exactly nine years ago.

The law had a stormy history but the storm did not last long. The Liberty League, an organization of eminent capitalists, interested in the rights of the individual workmen to refuse to be bound by the majority, issued an opinion sometime before the case was argued in the Supreme Court declaring that in their considered judgment the Act was unconstitutional. Hundreds of injunctions against its enforcement were granted by lower courts. Enforcement for a while was practically impossible. Company unions took root and bloomed overnight, thousands of them. But the Supreme Court did not agree with the Liberty League; it did not think that personal liberties had been violated; and in a series of famous decisions held the Act to be constitutional and recognized as a proper policy the declaration by Congress that workmen had a right to group together in order to meet the strength of their employer with the strength of the union. The Act, said the Supreme Court, afforded adequate opportunity to secure protection against arbitrary action.

The declaration of the policy of the Act was significant. "The denial by employers of the right of employees" - so ran the preamble - "to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest . . . The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of Commerce and tends to aggravate recurrent business

depression . . Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury . . . promotes the flow of commerce by removing certain recognized sources of industrial strife . . . by encouraging . . friendly adjustment of industrial disputes . . and by restoring equality of bargaining power between employers and employees."

Experience under the Act has shown that those declarations were justified. Before the passage of the Act and for several years thereafter employers looked with hostility and suspicion on the whole theory of collective bargaining. But in recent years there has been a marked change in industrial relations. I believe it no exaggeration to say that most employers today in large scale industry not only do not resist collective bargaining as a proper step in aid of industrial peace, but welcome it as a more effective method from the point of view of management of settling labor controversies.

The Act illustrates the belief of this Administration and of President Roosevelt that legislation is appropriate which gives the people a chance to protect themselves. The opponents of the Administration have constantly talked about the New Deal "coddling" of labor. I do not think it is "coddling" labor to afford to it the same democratic rights to choose its representatives as are afforded in the political field; or to implement the enforcement of those rights by appropriate legal machinery. For it was not so much that the opponents of collective bargaining were opposed to it as a theory. They didn't even mind it being expressed - as a theory - in the National Recovery Act. But they did object to it being enforced.

Basically conceived other social and economic legislation adopted during this decade had the same end in view - to remove barriers which prevented folks from living their own lives with some of the freedom of economic continuity,

with a share of the freedom of modest leisure, and the freedom from pressing want. Such laws did not create the good life; but they gave workers an opportunity to struggle for it with more opportunity of success. So protection against fraud, protection against foreclosures of houses, unemployment insurance, minimum wages - these things made a workman's life a little easier, that is true, but they were hardly "coddling."

In the last ten years the growth of labor and changes in labor organizations have been striking. In 1934 it is estimated that there were approximately 3,600,000 persons in organized labor in the United States. This year the last estimate of the Department of Labor which, of course, includes members of the A.F. of L., the C.I.O., and the Railroad Brotherhoods, is approximately 13,600,000. This seems to me proof that where labor is given an opportunity to organize without improper interference such organization takes place even over periods of industrial depression. Today in the steel mills of Pennsylvania and in the textile mills of the South men can meet and plan together as workmen without having their meetings broken up and their unions destroyed by their employers.

When the war broke out, now almost two and a half years ago, the President promptly called together representatives of industry and of labor and after the meeting issued his famous letter of December 17, 1941, accepting the points of agreement that there should be no strikes or lockouts, that all disputes should be settled by peaceful means, and that the President

should appoint an appropriate War Labor Board to handle these disputes. The War Labor Board was immediately set up by Executive Order, which Congress subsequently ratified by passing the War Labor Disputes Act, in June of 1943.

This agreement between industry and labor provided for voluntary arbitration during the war. This was a very unusual step, which certainly would never have been agreed to in time of peace. It was and still is a purely voluntary agreement, without sanctions, without means of enforcement in the Courts. It depended largely on public opinion and the moral strength of the representatives of industry and of labor who pledged their support in this great crisis. To make the agreement effective it was necessary that the decisions of the War Labor Board should be final. It was also necessary that they should not be dragged through litigation. No settlement of a labor dispute could be immediately effective in the emergency of war time which was subject to the delays of litigation. And basically, therefore, the success of this war machinery relied on the support of industry and labor. If this support was not given, the Board was powerless. In cases where this voluntary machinery didn't work, and the war effort was threatened by interruption of essential economic activities, the Government had to act promptly to prevent these interruptions by taking over the plant or mine.

On the whole both industry and labor have supported their agreement loyally, and have sustained the War Labor Board. The Board was established on January 12, 1942. It has settled more than 6,700 disputed cases since its establishment. It has had to refer to the President for enforcement only 18 cases out of these 6,700 - eight because of the company's refusal to abide by its order and ten because of union refusal, of which three involved the coal mines. (In five of

these cases however - one in industry and four in labor - there was compliance before seizure; so that the President has had to seize seven plants because of company refusal and four plants and the coal mines because of union refusal.) It is not unfair to say, therefore, that labor and industry share the honors in sustaining the Board's great success in preventing strikes during the war.

A good deal of publicity has lately been given to the President's seizure of the plant of Montgomery Ward in Chicago for the failure of Montgomery Ward to comply with an order of the War Labor Board after a series of public hearings. I have elsewhere stated my views that the President had the legal power to seize the plant either under the provisions of the War Labor Disputes Act, or in the exercise of his constitutional authority as Commander in Chief during a war.

These I shall not take time here to review. But I must emphasize the gravity of the situation. This cannot be exaggerated, for Ward's defiance of the Government cut under the whole national determination to settle labor disputes peacefully and finally during the war. If Ward's could defy the Government successfully an excuse was given to either side, when it didn't happen to like the Board's settlement, to ignore it. The Ward incident was the only instance in which the Government had been resisted in taking of possession of a plant to enforce an order of the Labor Board.

And Ward's attitude was not new. It was based on the assertion that Ward was not bound by the no strike no lock-out agreement. It would not submit differences with its employees to the machinery for peaceful settlement to which the rest of industry was submitting, and on which depended an uninterrupted flow of production and the successful prosecution of the war. As far back as December 8, 1942, Ward's expressed this view, to which it apparently still adheres, in a statement in the newspapers, referring to the no-strike agreement. I quote: "Ward's was

not a party to this agreement. Ward's had no voice in the selection of those who, as representatives of industry, attended the conference in December, 1941, which formulated this agreement. Ward's has never ratified the results of that conference".

Commenting on the most recent Montgomery Ward case, Malcolm Bingay, of the Detroit Free Press, said: "To me it seems supremely assinine to contend that a government in war time can take a man away from his family, his property and his job to fight for his country and to give up his life - which no court or no act of Congress can restore to him - but it must not interfere with an angry old gentleman who wants to settle a private feud with a man named Roosevelt who happened to be President."

The issue runs deep, and the times are charged with peril to our arms. Again a wave of strikes threatens the authority of the War Labor Board, and challenges the leadership of strong men through the land. Those strikes cannot be controlled if the philosophy expressed in Ward's advertisement has its way. A part of industry and a part of labor cannot be permitted to indulge in private economic feuds while the great majority conform to the needs of the nation at war. I do not believe that Ward's attitude is representative of the great majority of employers. But I wish that some of them had seized the opportunity to disavow such a point of view. I hope too that whenever there are unauthorized strikes the leaders of labor will speak out, as eloquently and as passionately as R. J. Thomas, President of the United Automobile Workers, who on May 28 of this year, following a wildcat strike of workers in Detroit, made this appeal to his men to go back to work: "Our union cannot survive if the nation and our soldiers believe that we are obstructing the war effort. Our loyal membership must face that fact. . . Today our armed forces are poised for an attack on the Nazi war machine. Already more than 35,000 of our American brothers have been killed in action. . . these figures will increase many fold in the months to come. Does

any reasonable and responsible person believe that, in the face of these terrible facts, our union can tolerate wildcat strikes in war plants and still survive? . . Let us all resolve today to obey our Constitution and the no-strike pledges made by our conventions . . . This war must be won. If management will not sincerely work toward that end, then labor must do so."

It has been said that we should not during the war abandon the social advances that have been made in the years before the war. One of the purposes of the "no strike, no lockout" agreement was that the war should not be utilized by industry as an opportunity to destroy the solidarity of labor unions; nor should unions enhance their position because of the war effort.

On January 7, 1943, in his annual message to the Congress, the President said: "I have been told that this is no time to speak of a better America after the war. I dissent . . in this war of survival we must keep before our minds not only the evil things we fight against, but the good things we are fighting for. We fight to retain a great past - and we fight to gain a greater future."

Labor must give thought to that future in the post war world. For some of the years preceding the war to which I have referred, labor was fighting for its very right to survive and for its opportunity to increase. Collective bargaining had been established as a legal right; it has now been accepted as a principle of community life; and during that period organized labor has gained immense strength within its ranks. With those increases have come added responsibilities. Newer unions, of course, are not as well disciplined as the older unions which have had long experience not only with problems of internal organization but with the practical problems of year in and year out dealings with the representatives of the employers. I venture to predict, however, that the emphasis on organization and on the enforcement of the rights of labor will, in the years to follow

the war, be replaced by a shift both within the unions and in their relation to industry.

Within the unions it seems to me that greater attention will be given to social and educational problems. As the labor union becomes a part of the community and is accepted as the church, the school, or the lodge is accepted, more is expected of it. Its influence shifts from exclusive attention to increased wages and shorter hours to matters of less immediate but no less important concern.

The union has historically taken the place of the guild. But the difference between the union and the guild is the difference between mass production and craft production. The guild was the symbol of something very real to its members -- the sense of belonging to a chosen group of men, whose skill was distinct from the skill of any other men. But today few workmen apply their skill to the creation of an object as a whole, from the beginning to the end. Specialization and mass production have changed that. And the endless monotony of the machine has made it essential for human workers to have something which will express the pride of integrity which must come with all good work. This need, I believe, the union is beginning to fill, and must continually fill more and more as time passes. The machine separates and isolates. The union must draw together and humanize. So unions more and more will be concerned with education, and in the emphasis on social life which comes from community action. You to whom I am speaking, who are members of a union which has devoted so much time in these fields, can well understand what I mean.

Some very interesting experiments have come out of the war effort, in attempting to increase production. I have in mind particularly the establishment of labor management committees in individual plants. The War Production

Board created a special division called the "War Production Drive Division" which has furthered this effort of closer cooperation between labor and management. It was not unknown to industry, but its development in the impact of the war is striking. By October 1943 labor-management committees had been set up in more than 2,600 plants employing nearly six million workers, and by June of the next year, the number had been increased to 4,500 committees employing more than seven million workers. These committees function in plants where workers are represented by A. F. of L., C. I. O., independent unions, and where there are no unions. They are found chiefly in iron and steel plants, and plants making aircraft and ships. This accomplishment has been far beyond expectation. Absenteeism, for instance, has been greatly reduced. Due to the efforts of the committee of the New York Shipbuilding Company in Camden, a reduction of 40% in the absentee rate was accomplished by arranging better transportation and housing for workers and organizing safety and health measures. In the Bridgeport Brass Company of Connecticut, a committee working on increased plant efficiency was able to arrange staggered lunch hours for machine operators, to eliminate crowded conditions around production machines, to improve shop housekeeping, and to set up a system of better control of gasoline and electric trucks. These are only two out of a great number of striking examples of the effective results of the work of the committees.

The purpose of the committees has been, however, largely misunderstood where they have not been tested. They are not projected either to supplant the accepted shop committees dealing with complaints and working conditions

or, on the other hand, to interfere with management. Management is as free as before. Where collective bargaining machinery exists the union designates its representatives on the committee equal in number to the representatives of management. The organization is always voluntary; and the results are brought about by suggestions made by the workers themselves to the committees. To be successful, therefore, the committees must truly represent both management and labor. They deal with local problems. Their effort is to achieve greater cooperation. These experiments are based on the theory that greater production can be brought about by joint effort to eliminate specific slow-ups and inefficiencies in the common effort. Misunderstandings are broken down by common talk around a table. But above all I am tempted to think that the success achieved comes from the fact that when workmen are enlisted to help a common effort and feel themselves a part of that effort, production is remarkably stimulated and results quickly evident.

Surely in the post-war years a major -- if not the major -- task will be to increase production and maintain employment at levels which will insure a healthy, depression-free economy. Enlarging and increasing the labor-management committee program after the war may well provide one buttress; another may be found in an effective program to eliminate the obstacles to increased production.

We know pretty well what some of those obstacles were before the war. As Attorney General I am particularly interested that proper understanding and consideration should be given to obstructions caused by monopolies and combinations in restraint of trade. During the last ten years the Department of Justice has been far more active in the prosecution of antitrust cases than at any time since the Sherman Antitrust Act was passed in 1890. Prior to 1932

about thirty-four cases a year were brought to prevent combinations and monopolies in restraint of trade in violation of the Act. Concentration of economic power was increasing with little to check it. The law was not being enforced on any broad or effective scale. In 1933, the Department asked for and got a larger appropriation. More cases were brought. For the last ten years, 314 new cases a year on the average have been instituted; and in the last four years the Department has brought almost half as many cases as were brought since 1890, the year the Sherman Act was passed.

Patent pooling arrangements, private international cartel agreements, dividing the world into non-competing territories, and price fixing plans under whatever guise, were broken up. Basically these agreements are adopted formally or informally to increase prices and to divide territories in order to limit competition and restrict production. The natural rubber cartel, for example, which has recently been voluntarily dissolved, but which was successfully operated before the war under the control of three or four nations, followed a policy which resulted in greatly increasing the price and cutting the production of rubber.

The attack by the Department on artificial restrictions resulting in high prices was leveled at essential commodities. It sprang basically from economic considerations. It was concerned with the unnecessarily high spread between the producer and consumer and the cost of food distribution. Artificially high costs in transportation were part of the picture. The great fertilizer producers, the big oil companies, fire insurance interests, the Aluminum Company of America and many others were tackled. The attack included artificial restrictions resulting in high prices in the building industry.

The building industry is one with which, after the war, labor will be particularly concerned. There will be an enormous demand for low price

houses, but the difficulties in the way of large scale production of such houses are very great. The craft nature of the industry makes difficult the application of the type of mass production which would greatly reduce prices. New techniques and new types of materials find difficulty in obtaining recognition. In a recent study, "American Housing", published by The Twentieth Century Fund, it is stated: "Labor unions, which developed along craft lines in conformity with historical production techniques, resist innovations in order to perpetuate their status. All in all, combinations among the various groups which comprise the building industry tend to strengthen the position of each and to thwart the progress of the industry as a whole." It is doubtful whether very much improved production can be brought about in the building industry without the full cooperation of labor, asserted to eliminate some of the restrictive devices now so frequently used to eliminate competition.

The Antitrust Act, as is not generally enough recognized, applies to agreements which restrict the foreign trade and commerce of this country as well as our domestic trade and commerce. I do not believe that the Act should be modified in any way, but consideration should be given as to whether it might not be strengthened, particularly as to foreign trade. For instance, as suggested by Senator O'Mahoney of Wyoming, in a bill recently introduced by him, American corporations might well be made to file their agreements with foreign corporations with the Department of Justice. This would reveal to the Department and to the American public generally the purpose, scope and effect of these agreements. Disclosure in a democracy is a healthy policy. If the people know the facts they are apt to take the necessary steps to correct abuses.

I have indicated some of the things to which unions will wish to give attention in the post war world. There are, of course, many others, but of one thing I am certain that, as unions increase in power and size and, therefore, in responsibility not only to their own members but to the public, they will be judged largely by the way they approach these responsibilities. Democracy cannot be static; its essence is to be dynamic. If unions are today an established part of our democratic community, as I believe them to be, they must be democratic in their own organization. They cannot afford to disregard the inhibitions against discrimination which, on the political side, Americans have expressed in their Constitution and in their statutes. And on the external side they will realize more and more that their responsibility to the public which involves persuading the public that their course is for the common interest, will also involve making available to the public any information with respect to union activities or union finances that is required under similar circumstances from other public institutions. Finally they will insist, whether through their local, international, or federated bodies, that racketeers shall not be permitted to use unions for illegal purposes; or criminal and corrupt organizations to masquerade under the name of labor.