CHAPTER VIII

NEW TRENDS IN INDUSTRIAL RELATIONS*

THE HONORABLE JAMES P. MITCHELL
Secretary of Labor

I must say at the outset that I feel compelled to set at rest any rumors—this seems to be open season for taking the blame or credit for the settlement of the steel strike, and there have been many rumors as to why it was settled, how it was settled—so I want to give you tonight the real dope:

Joe Finnegan and I were well aware that as of today I had to be here, and since we knew that I could not appear here if the strike were not settled, the National Academy collectively can take credit for having settled the steel strike. If they don't, they are the only ones that haven't.

Your President mentioned the few remarks that I made at your 1954 meeting, about the growth of arbitration and the recognition of professional arbitrators. I think that in the five years that have intervened perhaps my prediction may have been correct, but I wonder if it was a wise prediction. I wonder if now, in taking stock of arbitration and its use, we are not substituting arbitration for collective bargaining too often, and relying to too great an extent on the third party when we need to rely on arbitrators. And I would like to think of this group as, perhaps, the only group in the country that is dedicated to its own self-effacement and its own policy of, perhaps, going out of business.

I think, in the last five years, with the acceptance of arbitration, which I still think is a good thing, we may perhaps be facing the acceptance of arbitration to too great an extent, as a crutch, in other words, for the parties to lean on, in their failure to settle their own differences. I leave this thought with you, because, it seems to me,

* Dinner address.

the more we insist in this country on free collective bargaining, the greater chance we have of preserving the system of free collective bargaining. So I would suggest that arbitrators could perform a service, as I am sure that many of you do, by pointing out to the parties the desirability of settling disputes outside of final and binding arbitration. This is highlighted, I am sure, by the complaints I hear from both management and labor, and particularly smaller unions, that the cost of arbitration oft-times is excessive.

These two thoughts I would like to leave with you, along with one other:

I was looking at a report of Joe Finnegan's Agency the other day. I noted some significant changes in the kind of grievances and matters that were arbitrated in 1959 as compared to 1958. The percentage increase in some of these matters is startling.

For example, arbitrations having to do with pay for time not worked, increased, I believe, by some 211 per cent.

Arbitrations have to do with incentive rates and standards increased by about 150 per cent.

Arbitrations having to do with seniority, both in promotion and demotion, increased by nearly 150 per cent.

This seems to me to indicate a new trend in industrial relations, of which I am sure all of you are aware, and that trend seems to me to be the indication that management is getting more concerned with costs; that management today, perhaps taking the leadership from steel and railroads, is determined to regain, as some of them say, their right to manage; that management is determined to make inroads in what they have construed to be wasteful practices, and that, as arbitrators and as industrial relations people, you can expect in the next five years a considerable emphasis on this phase of industrial relations, to a greater extent than you may have had in the past.

Certainly, the steel strike, and particularly the advertising that went with it, has highlighted in the minds of many management people, justified or not, the idea that the big fight in the future is going to be in this whole area of the elimination of "wasteful" practices that should not be tolerated in this day of growing costs.

And it is on that score, it seems to me, that industrial relations people and arbitrators can perform a service, in pointing out what I believe to have been the error on the part of the steel management in the recent dispute, that you cannot, it seems to me, change and eliminate, unilaterally, local work practices with the bang of a gavel or with words in a contract; that if work practices that have grown up

over the years—some of them very precious to the workers—are to be changed, they have to be changed with skill and an acceptance on the part of the workers.

I am sure many people will agree that in many industries, some of these local work practices indulged in, because of laxity during the war and for many other reasons, need to be changed, but I think all of us in the business would hasten to say that the way to do it is by negotiation, by persuasion and by the existing practices which they have enjoyed for some years.

And I would hope that, as arbitrators and industrial relations people, we would look to the future, with the feeling and the conviction that, if we are going to improve industrial relations in this country—which we must—then it behooves all of us in working with management, in working with labor, advising management and advising labor, I think, to recognize that more and more, as the years go on, this question of costs, this question of productivity, this question of foreign competition is going to loom on the industrial relations scene. Therefore, I would hope that management on the one hand, would approach this problem of change, change in work practices, change to automation, change in technological methods, with wisdom and some recognition of employees' rights; while labor, on the other hand, would, I hope, recognize that they have a stake in the health of an industry, that they have stake in seeing to it that the workers of this country are as highly productive as it is possible to be.

I think that labor can no longer, as it has done in some cases, ignore the great weight of public opinion that was detected in the steel strike in this area of productivity, and I would hope that labor, in its councils, would remember that public opinion, more and more, in this country will look at labor and management bargaining and say to themselves, particularly in the big bargains, "'What consideration has labor on the one hand, and management on the other, given in their bargaining to the consumer?"

I think the public, because of the railroad negotiations and because of the recent steel dispute, is becoming increasingly aware that there is a real public interest in the outcome of labor-management collective bargaining. The public is becoming increasingly aware that both of these parties have a responsibility not only to their stockholders, not only to their employees and their members, but also to the general welfare.

And I would say that in the next five years, unless labor and management in their collective bargaining remember that there is

a public interest which they must satisfy, unless they remember that, we may find that the public will exercise its prerogative by legislation, which legislation, if of the character proposed during the steel strike, would certainly be very inimical to the best interests of both labor and of management.

There can be no question that the proposals I heard at that time, such as compulsory arbitration, such as seizure, and all of the other crisis proposals that were voiced, do not work to the best interests of either employees or of managment, and that they had better look to the public interest as well as their own. Only by this recognition will they be able in the future to avoid legislation which might be damaging to the interests of both management and labor.

Now, I would like to comment very briefly on this whole question of what to do about emergency disputes, a question which the steel strike has brought to the fore.

Here, I am sure we agree that arbitration, voluntary arbitration is a sound industrial relations device, and I am further sure that everyone here would agree that compulsory arbitration, compulsory in the sense of government directed as a matter of statute, is not in keeping with our system of free collective bargaining.

In my opinion, compulsory arbitration inevitably leads, not only to government setting of wages and working conditions, but also to government setting of prices. And certainly in our system this would be very bad.

One of the things that I learned, as a result of the steel strike, was that there is a necessary change that could be made in the national emergency provisions of the Labor-Management Act. That is to give the Mediation Service the statutory right to appoint a board during the process of mediation before a strike, or even after a strike, which board would have the power of subpoena, would have the power to hold public hearings, would have the power to bring the facts out in the open.

I think that the Board of Inquiry in the recent steel strike, in its ability to bring to the fore, by virtue of public hearings, by virtue of the glare of the press and television and radio, performed a great service in making clear to the country what the issues were in this strike.

Were such a board to be a statutory right of the Mediation Service, it could perform, I believe, a real service. The very fact that the President, at the recommendation of the Director of the Federal Mediation and Conciliation Service, would appoint such a board would, in my opinion, make it a very helpful mediation tool.

Now, whether or not the board should make recommendations is not particularly important. But the very fact that a board of this kind could bring to light, as proven by the Board of Inquiry in the recent steel dispute, the facts with relation to the dispute, could hasten an eventual settlement.

Quite frankly, of all of the recommendations that I have heard for the revision of the national emergency provisions of the Act, this is the one that appeals to me most. There have been recommendations, as you know, for changing or eliminating the timing of the various steps in the national emergency provisions, which I think also have some merit. But beyond that, I think it would be a mistake to fool with the Act in this area because, after all, it has not worked so badly.

I am sure that you would agree with me also that this is not the time to make changes in the Taft-Hartley Act. By "time", I mean during this session of Congress. Any attempt to change the Taft-Hartley Act in a presidential election year, where the Congress will be in a relatively short session, since they must adjourn early in July, would be a disservice to all concerned. It would not be possible to give the serious attention that must be given to changes in a labor-management relations act in the short time that remains, so it is my hope that we will be able to have for the next session of Congress those changes which seem desirable.

But I would like to reiterate that in my opinion you do not legislate sound industrial relations, and the more legislation you have, the more difficult you make good industrial relations. Although, of course, I say that with the recognition that there are so many lawyers in this room, and were it not for legislation, they might be out of work—which might not be a bad thing.

I would hope that the coming sessions of Congress would deal with this subject lightly, and I would hope that labor and management, and those of us who are interested in sound employer-employee relations would remember that laws, statutes, do not bring about agreement as between warring partners.

There is one other aspect of the labor-management situation which I would like to comment on briefly.

There has been a lot of talk in the papers about labor-management conferences. You may recall that the President, in his State of the Union message, said that it was his purpose to encourage discussions between labor and management, outside the bargaining table. There are two kinds of such conferences:

There is the so-called summit conference, where top leaders of

labor and top leaders of management get together to discuss their common problems. The history of such conferences has not been too bright, as you all recall. I recall that shortly after I came into office I came across the minutes of such a summit conference, that had been called by my predecessor. This conference had been called to discuss changes in the Taft-Hartley Act. I stayed up until 4 o'clock in the morning reading these minutes and they were very entertaining, because the conference, after two or three days of deliberation, never got beyond the point of determining what the procedures were going to be for discussion. And, so it goes with other labor-management conferences that have been called in that atmosphere.

I would be opposed to a labor-management conference that was called for the purpose of getting the tops of labor and the tops of management together, as has happened in the past, because it would, in my opinion, be unsuccessful.

There is need, however, for a conference between top labor people and top management people, where areas of common interest could be discussed, such as this question of productivity, such as this question of foreign competition, such as this question of how to improve collective bargaining in method and in practice. If such a conference were to be called, I would hope that it would be only the forerunner of similar conferences in various industries, because here, I think, is the most productive kind of conference.

Certainly the steel companies have a great deal in common with the steel unions when they discuss steel and steel production and employee relations in steel. So, too, the construction industry employers have a great deal in common with the construction unions when they discuss construction practices, and so on.

It seems to me these kinds of conferences would be much more meaningful and much more productive than a conference which discusses generalities, although, as I said, such a conference may be necessary in order to set the climate and set the tone of conferences on an industry basis.

It is very interesting to me that while such conferences as I suggest, on an industry basis, have met with some degree of acceptance by both labor and management, there does not seem to be the will or the desire on the part of either at this point to make them meaningful.

I recall, nearly three years ago now, initiating a series of conferences with the construction unions and the construction employers, to discuss matters of common interest in the industry. We had, I believe, a series of meetings which totalled nearly ten days—not consecutively.

Out of these conferences came some recommendations that we in the government could accept. These were legislative recommendations, but neither side at this point has enthusiastically adopted the idea of continuing the conferences.

The same is true in the airlines industry. There are some very salient problems in the airlines industry, very difficult problems, which both sides must face up to, yet to my knowledge there has been no continuation of those conferences.

So I say, while it is the purpose of this Administration to encourage such conferences, we are not going to encourage them to the point of making them compulsory, and unless management and labor see some values in getting together outside the bargaining table, see some values themselves, these conferences will not prove fruitful.

There is a very simple thing, so clear to any layman, that I fail to understand, why it is not clear to management and labor and that is this: When management and labor come together at the collective bargaining table, with a deadline facing them, a contract termination or a contract renewal, that is not the place to begin discussing for the first time common problems in the industry. It would seem to me that the collective bargaining table ought to be the culmination of a series of conferences and meetings in which industry problems have been thrashed out. To me, this would make a much more meaningful situation, so far as collective bargaining is concerned. I hope that labor and management will look upon this device with more enthusiasm than they apparently have up to this time.

I would like to close these few rather random remarks now with one last point, which has to do with government.

Naturally, all of us in government who are concerned with industrial relations are certain that in our system the government can only be and should only be advisors, helpers, and not dictators.

We also know that whatever government service is performed, that service should be performed with the highest degree of skill and speed. One of the cardinal principles of arbitration, I am sure you all agree, is speed in settlement, and one of the very good results that has emerged in the last several weeks is the speed with which the General Counsel of the National Labor Relations Board has brought about in that agency the handling of cases of unfair labor practices, as well as the cutting down of the time of investigation.

It is my hope that all of the government agencies that have to

do with this area of industrial relations will take note of this very cardinal principle of speed in the handling of cases.

I should like to say one word more:

On Monday I testified before the House Appropriations Committee. I haven't told you this, Joe [Finnegan] yet, but the Committee asked me: "Do you think that the Federal Mediation Service ought to be a part of the Department of Labor?" I said, "No, it should continue as an independent agency. Operating as it does so effectively, it would be a mistake to attach it to any department of government." Then I went on to say that Joe Finnegan was a very good friend of mine and in the performance of his job as head of the Mediation Service, he has done an outstanding job.

Now, this was an executive session and those remarks will not be made public by the House Committee until, I suppose, April or May, but, Joe, I wanted you to know about that part of the hearings, anyway, in this problem of dealing with the intricate matters that we both have to deal with, I am very, very thankful, and I hope Joe is, too, that our offices are side by side.

MR. DASH: The Secretary has agreed to answer questions. Of course, I know arbitrators will observe the proper decorum in the questions they ask, but questions, obviously, are not limited to arbitrators.

Are there any questions?

MR. GAMBETTI: In light of your remarks, what can you say about Mr. Meany's request for a labor-management conference?

SECRETARY MITCHELL: I think Mr. Meany's request was a sound one. His request did not restrict such a conference to a legislative discussion.

It is my hope that as a result of Mr. Meany's letter, a conference will ensue this spring.

MR. PETER SEITZ: Mr. Secretary, I was impressed with your remarks concerning the desirability of a board with recommendations or without recommendations, in respect to emergency disputes, not only because of its basic good sense, but because your remarks were underlined by the strains of the National Anthem from the adjoining room at the time.

However, I am somewhat at a loss to know why legislation should be necessary for it.

As I recall the policy in the Taft-Hartley Act, in the beginning of Title II, and all the provisions of Title II, it seems to me there

is nothing in there that makes the provisions of that title exclusive, and that there is a great deal of latitude that may be needed now. In the period from 1947 to 1951 anyone who was asked to subscribe to a Board and come down to Washington and appear before a Board, always appeared—there seemed to be no difficulty in getting them to attend.

SECRETARY MITCHELL. I happen to think that the very fact that this Board would have a statutory base would give it a great advantage over so-called *ad hoc* fact-finding boards. A board with a statutory base, such as the Board of Inquiry under the present national emergency provisions, which can only be appointed after the Taft-Hartley Act is invoked, has, it seems to me, a prestige and a power that an *ad hoc* board does not have. It has the power of subpoena; it has the power of holding hearings, and so on.

It seems to me that this kind of board would be a much more effective one than an *ad hoc* board. For example, you may recall that in the steel disputes in the past, with the exception, I believe of one instance where the board's recommendation eventually was the basis of a settlement, invariably the board's recommendations were not accepted by one of the parties.

I happen to feel that, given this power by statute, the Director of the Mediation and Conciliation Service would have a tool which he does not now have.

QUESTION: Mr. Secretary, did your remarks concerning the non-amending of the Taft-Hartley Act also include the common-situs bills in the construction industry?

SECRETARY MITCHELL: No, as a matter of fact, I just signed today a letter to the Chairman of the House Labor Committee, indicating our support of the common situs provision. As a matter of fact, we are the originators of it. In 1954 this was part of the President's program on labor legislation and has been repeated every year since then, up to and including 1959, and as late as the recent conference which produced the Landrum-Griffin Bill, I was asked as to the Administration's position on the common situs provision, and I stated publicly, by means of a telegram to Mr. Richard Gray, that we favor the common situs provision, and the bills that are in Congress today are worded exactly as we presented them.

MR. MARK L. KAHN: I wonder if you would elaborate on what appeared to be your indifference as to whether or not your statutory fact-finding board should also be authorized to recommend.

SECRETARY MITCHELL: As I said, I don't think it is important.

Initially, I would like to see legislation drafted which would give the board authority to make recommendations if the parties so requested. I am not at all sure that I would like to have a statutory board designed to assist in the mediation process, which might be used before a strike or during a strike, with the authority given to it by statute to make recommendations. It would seem to me that that should be left to the determination or consent of the parties.

QUESTION: You said you would entertain a question as to who killed Cock Robin. I have one:

There have been reports that there was some understanding in the recent steel strike settlement, and that you were part of it, that there would be no price increase in steel, at least until after the election. What about that?

SECRETARY MITCHELL: That is absolutely untrue. There is no foundation for it whatsoever. There were never any price discussions during the course of the negotiations at all, and there is absolutely no foundation for such a report.

QUESTION: Have you given any consideration to the use of tripartite mediation panels in national emergency disputes?

SECRETARY MITCHELL: I think you use them now, don't you, Joe?

MR. FINNEGAN: Sure.

SECRETARY MITCHELL: The Mediation Service often uses this device to help a settlement.

QUESTION: There has been considerable sensitivity expressed here about this, so I don't want to make my question too specific, but, would you care to comment on what possible effect on the steel dispute might have been engendered by the President's early comments, to the effect that he hoped the settlement would not be inflationary? Do you think it had any effect on the subsequent difficulty in reaching a settlement?

SECRETARY MITCHELL: I don't think so. I gather from your question that you mean, because the President said that he hoped the settlement would not be inflationary, this gave the employers heart, and made them hold out longer; is that what you mean?

SAME QUESTIONER: Yes, that is exactly what I mean.

SECRETARY MITCHELL: I don't think so. If I judge the

temper of the steel companies, they were convinced before the strike and all during the strike, that they were on the right track, so far as they were concerned, and I don't think that the President's remarks in any way influenced them, any more than his constant calling to their attention of the need for settlement influenced them during the strike.

QUESTION: Mr. Secretary, could you tell us what the likelihood is of getting amendments to the Wage and Hour Act this year, particularly in the area of a more realistic minimum wage and extended coverage?

SECRETARY MITCHELL: From all I hear from The Hill, the amendment of the Fair Labor Standards Act will be high on the priority list of the majority party this year.

As you know, the Sub-Committee of the Senate Labor Committee reported out a bill to the full committee in the last session of Congress, calling for an increase in the minimum and an extension of coverage. The full committee has not acted on that recommendation as yet. There were no hearings at all last year in the House, and it is my belief that hearings will be held this year in the House and that in all probability a minimum wage bill will come forth. As to what the details or particulars of that will be, I would not like to forecast.

QUESTION: Mr. Secretary, I gather from your remarks that the Administration would favor the collective bargaining process carried on by the parties, and this without interference.

This being so, why didn't the Government leave the steel corporations and the labor unions to fight it out between them in the pit?

SECRETARY MITCHELL: They were in the pit so long that they knocked each other out.

It seems to me that the Government has a function and a responsibility, in an emergency of this kind, to mediate the dispute at the highest level possible.

And I want to make it clear that, in spite of comments to the contrary, this settlement was not an imposed settlement.

This settlement was not a recommended settlement, in the sense that an *ad hoc* board sits down, in the privacy of its own room, develops a settlement and gives it to both parties. This was not that kind of settlement.

In my opinion, this settlement was the result of a proper mediation step, where both parties were constantly worked with,

constantly consulted with, and finally agreed to accept the result of this mediation process.

Now, the alternatives that were open in this dispute were these:

A settlement brought about in such a way; or possible congressional action that might result in hasty legislation which would be detrimental to both sides.

You must remember that, as of the time this settlement was voluntarily agreed to, the companies were faced with a possible court decision that there were four cents due under the cost-of-living clause of the prior contract, they were faced with the certainty that the employers' last offer would be defeated in a vote. This was proven, of course, by the overwhelming vote that took place in four or five plants in the last week or so. They were faced with the real possibility that an attempt to settle after the vote would probably be more costly than a settlement before the vote, and they were faced with possible congressional action.

As Mr. Blough said, what brought about the steel settlement were the time and the circumstances, and my belief is, too, that that is what brought it about.

QUESTION: There are two magazine writers who have indicated the opinion that there will never again be a strike of as long duration as the steel strike. What do you think?

SECRETARY MITCHELL: I think that would be a difficult thing to predict. I think if we are going to preserve the system we have of free collective bargaining, while I would hope we never again have a strike of such duration in steel or any other basic industry, I would hope that the remedy would not be in any form of compulsion.

Certainly I think, in the steel industry, the mechanism is there now for both parties to develop a better relationship. The mechanism is there also in the Human Relations Committee and in the Committee established for the Study of Work Practices, the mechanism is there to prevent any strikes in steel for a long, long time to come, I would hope.