CHAPTER 5

THE USE OF NEUTRALS IN COLLECTIVE BARGAINING

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The disturbing steel strike of 1959 may have played the role of the Greek chorus in giving vague warning of difficulties yet to come. Certainly it has had a profound impact upon informed opinion.

I do not wish to appear as a harbinger of doom. While I recognize that the strike has posed some major problems for American industrial relations, I wish to voice my faith in our capacity as a free people to devise constructive solutions, compatible with the survival of our bargaining institutions. For this purpose, a crisis can be a very salutary thing. In any case this strike may well prove a turning point in the course of labor-management relations. Surely it puts in question whether collective bargaining can cope, unaided and alone, with the dual challenge of accelerating technological change and the need for greatly improved efficiency in our economic system. For the same reason, it poses some profound issues regarding the ability of collective bargaining adequately to serve the public interest.

To illustrate, in its careful appraisal of the ethical issues in the dispute, the National Council of the Churches of Christ describes the strike as involving "the responsible use of power." The Council concludes that "the degree of foresight, imagination, and basic desire to reach an agreement in harmony with the public interest, in a word, statesmanship, was not sufficiently demonstrated on either side." [1] The verdict may be too harsh, but the

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[1] The National Council of the Churches of Christ in the U. S. A., *In Search of Maturity in Industrial Relations: Some Long-Range Ethical Implications of the 1959-1960 Dispute in the Steel Industry* (November 26, 1960).

important point is that it was publicly made, by a responsible body.

Last spring, former Secretary Mitchell declared flatly that the bargaining table was "an antiquated institution" for meeting the impacts of technological change upon traditional work rules and practices.[2] Hailing, last fall, the joint agreement to create a tripartite study commission to investigate such questions on the railroads, Mr. Mitchell asserted that the steel strike showed that current labor-management problems turn not upon bread and butter issues, but upon decisions involving fundamental changes "that cannot be bargained but must be studied, thought over, and worked out with a great expense of effort, with great good will, and with great understanding over a period of time." [3]

Consider, also, the views first expressed last August by Arthur J. Goldberg, our new Secretary of Labor. Expressing deep concern regarding his conviction that labor and management have lost the sense of "common interest and mutual purpose" developed during World War II, Goldberg proposed the creation of an official tripartite National Council of Labor-Management Advisers, to advise the President regarding programs to promote economic growth and full employment, and to deal with national-emergency strikes by mediation and by fact-finding with recommendations. In his view, we badly need new ideas to deal with extraordinary times. Accelerated technological change we must and will have, but we must find ways to deal with its adverse impacts upon human values. We also confront the grave economic and military threats posed by the cold war. Labor and management must, accordingly, assume new responsibilities. "Traditional practices, which have served us so well, and which could continue to do so if we were really at peace, must be adapted to a period when our whole way of life is being challenged." [4] The response to this bold proposal has been something less than thundering approval, but again the important point is that a distinguished expert had the courage to voice it.

The common theme expressed by these responsible observers is a double one; the times are becoming increasingly arduous for

[2] BNA, *What's New in Collective Bargaining Negotiations and Contracts* (April 15, 1960).
[3] BNA, *Daily Labor Report* No. 209 (1960): p. A-6 (October 26).
[4] BNA, *Daily Labor Report* No. 160 (1960): p. E:1-4 (Aug. 17).

the conduct of labor-management relations under the free institutions of collective bargaining, and something is lacking that prevents those institutions from working with full effectiveness in the public interest. Accordingly, the reasoning goes, the need exists for devices to supplement, not to supplant, our present bargaining system. If such mechanisms can be created and can work efficiently, the threat of compulsion can be turned aside. The threat exists, as some responses to the steel strike revealed. If bargaining difficulties do increase, it will grow.

What Are Difficult Bargaining Situations?

What do we mean by "difficult bargaining situations," and what reasons do we have for expecting their number to increase?

At bottom, collective bargaining is a method of compromising two competing and often ill-defined equities, on the one side the interest of employers and of all consumers in increasing economic efficiency; and on the other, the interest of the employees in job security and a better standard of life. Bargaining is a method of accommodating these interests through legalized and peaceful conflict. Its great strength is that resolution of conflict is left to the parties themselves, who thereby make their own rules by which they live together.

Its weaknesses are two. Conflict sometimes can only be resolved, and then only superficially, by a hard strike, on occasion with tangible losses to the public. Also, bargained rules tend to become inviolable property rights, conferring an institutional character upon the *status quo,* at times denying the parties the flexibility they must have for their own economic survival. These two disabilities of bargaining often occur together, but they are separable. Settlements can be had without strikes, at the cost of flexibility and efficiency, as on the railroads last year; or at the price of insalutary neglect of important employee interests.

Difficult bargaining situations usually emerge when the employer has a real and acute need for increased efficiency, either to become or to stay competitive, yet cannot meet it without major disruption of traditional work, or pay practices. The clash may show up in a struggle over manning, over speeds of machinery, over output standards, or over job content and assignments. It

may turn on revision of a badly deteriorated system of incentive rates. Or it may arise over the impacts upon employment of technological change, in both its creeping and its drastic forms.

The weaker the plant or firm economically, the more hallowed by time the existing system of rules, and the more blind each side is to the other's interests, the more bitter will be the struggle. Any demand for major change in these troublesome areas will electrify the opposition of the rank and file. Add, now, a long-time trend toward job attrition, and the union will have little apparent room for compromise, and so will view the employer's proposals as a portent of real disaster. Then complete the recipe by having the parties dedicate themselves to a no-quarter fight over principle, each eager to enlist the sympathies of the public. One now has all of the necessary ingredients for a real witches' brew of bargaining problems. Even a diluted version would be more than enough.

Situations of this kind impose demands upon the bargainers that they often simply cannot fulfill. Even with resort to the pre-negotiation conference, contract deadlines may deny opportunity to formulate complex proposals, let alone to devise mutually acceptable solutions. If the bargaining is multi-plant or multi-firm, the negotiations take on the character of a summit conference, making it extremely difficult to define detailed issues, even when they are central. Worse still, even if the issues can be defined, questions of work rules, incentives, and job protection are often too subtle to be worked out adequately by overburdened bargainers, for lack of both time and expertise. Finally, compromises in this difficult field are not easily made in the tense atmosphere of the bargaining table, because the institutional ties of the bargainers will deny them the freedom to explore such issues, even if they are blessed with considerable insight into each other's needs. Major changes in institutional arrangements require time and careful preparation, especially on the union side.

Expected Increase in Difficult Bargaining Situations

It would be comforting to say complacently at this point that, after all, the country has managed to get through difficult cases

in the past, so let nature take its course and all will be well. Perhaps so, but there is good reason to expect a rise in such problems in the years immediately ahead, even if most of them will not find expression as national emergencies. Further, the rise is likely to occur in an environment of more critical public opinion, especially with steadily increasing competition with the Soviet Union in all fields.

In the first place, it is imperative that the American economy function more effectively than it has in recent years. Since the spring of 1957, we have suffered increasingly serious unemployment and idle capacity, and too slow a rate of growth in total output. The new Administration has a mandate, which it fully accepts, to restore full employment and to accelerate the growth-rate to at least four percent a year. Yet its freedom of maneuver is seriously restricted by difficulties with the foreign balance. It cannot lightly manipulate spending or the interest rate without worsening those difficulties. To move from a low to a high-pressure economy is imperative, but it carries the latent threat of renewed inflation. We may not be allowed even a one to three percent annual creep in the price level.

One conclusion seems inescapable: since our wage-fixing institutions do contribute to cost inflation, especially when unemployment is low, we shall require a lower level of overall wage settlements than we could enjoy in the roomy 'forties and 'fifties. If wage rates and fringes alone are to continue to rise on trend, then economies in the other aspects of labor costs will become mandatory. This means work rules. Fuller employment and faster growth by themselves will provide some increase of wage space, because they will improve the rate of gain in man-hour productivity, through economies of higher volume and increased productivity-generating investments. But these alone will not be enough.

In the second place, the change of economic climate will intensify the pace of technological innovations, particularly of a labor-saving kind. This is certain to produce more clashes over job-protection rules and practices. To meet the problem in humane fashion, we will require a broad array of carefully formulated and workable devices to cushion the shocks of major labor displacements. Change must be had, because flexibility is the price

of efficiency. Attempts to freeze the *status quo* are counsels of despair. At the same time, neglect of the human costs of change may be a good example of the business-as-usual philosophy, but it is an equally futile approach.

Finally, certain firms and even whole industries will have to face increasingly acute problems of cost, because the only way that they can hold or expand their markets is by improving their ability to meet competition, foreign and domestic. The new environment promises to make competition even keener. This is the plight of the railroads and steel today, along with many lesser-known companies. The only sure road to better wages and more jobs is through increased efficiency.

In extreme situations, however, greater efficiency cannot be had without major revision of traditional employment arrangements. Yet, when jobs are declining, the difficulties of accommodating change become all the greater. Indirectly, a high-employment economy will make it easier to absorb displaced workers elsewhere. But this offers no escape from the task and the duty of the bargainers to work out their own solutions, if they are to save themselves and their organizations.

For these reasons, the load on the bargaining system will probably increase, posing more problems that straight bargaining is not well suited to resolve. At the same time, there will be more pressure from the public to prevent great strikes. Accordingly, we ought to explore means of aiding the bargaining system to work more effectively. Here recent experience offers some lessons, also lending support to the thesis that difficulties are increasing. Let me now consider some strong cases.

Illustrative Cases Involving Use of Informed Neutrals

Apart, perhaps, from certain handicaps imposed by bargaining approaches and methods, the difficulties in steel last year were precipitated by the companies' initial effort to break away sharply from their previous pattern of rapid wage increases, and by their untimely injection of the vaguely-formulated issue over work rules. Their whole effort here was imposed, I think, not so much by ideology as by adverse prospective changes in the long-run demand for steel. These make it more difficult to raise prices

than in the past. The real error—and it was an egregious one—lay in attempting to accomplish too much at once, and without adequate advance preparation. Thus the failure of the Taylor Board's mediatory attempts, despite the outstanding competence of its members, was made inevitable by the parties' inability even to define, let alone to explore, the issues before the dispute had reached this critical stage. Let us term this procedure *ex post mediation,* to signify mediation after the battle has been joined, and include it as one way in which informed neutrals may be used.

Whatever the merits of the major companies' complaints about work rules—and these never really were disclosed in detail—they could not be resolved in this kind of bargaining atmosphere or bargaining process.

Voluntary Private Fact-Finding

As the futility of the impasse became manifest, Kaiser broke the deadlock, showing, I think, real wisdom by adopting a radically different approach. The issues of automation and local working conditions were turned over to a special joint committee, empowered to explore problems and to negotiate settlements. In addition, the parties created a special tripartite Committee to Develop a Long Range Plan for the Equitable Sharing of the Fruits of Economic Progress. This body was asked to devise nothing less than a formula for dividing future profits among employees, stockholders, the public, and internal growth, with special protection for the employees against rising living costs and the inroads of technological change.[5]

Subsequently, this committee has embarked on several pertinent studies, which eventually will lead to non-binding recommendations to the parties. Already, it has induced the parties to provide participation by their chosen neutrals as mediators if negotiations become deadlocked, allowing them to make compromise proposals, and, if necessary, to make their recommendations public. The method is one of anticipating problems and of gaining time and expertise, by mediating, and if necessary, by removing the hard questions from a setting of acute conflict. With the committee's distinguished panel of outside experts, this ap-

[5] BNA, *Collective Bargaining Negotiations and Contracts,* p. 65:662.

proach is another way of using informed neutrals to supplement the bargaining process. We may term it *voluntary private fact-finding with recommendations.*

Somewhat belatedly, the major steel companies negotiated rather similar arrangements. The parties created a Committee on Local Working Conditions, with a neutral chairman, to examine problems and to recommend solutions. However, it is of interest that Messrs. Cooper and McDonald recently announced the inability of the committee to render its report in time for its November 30, 1960, deadline, or to "determine the area of study in which a third party might be helpful . . .;" They said that the paramount need was for the parties first to achieve a "mutual understanding" between themselves.[6]

The second body, the Human Relations Research Committee, arose originally during negotiations, as an employers' proposal, in an effort to end the stalemate. This committee was to be tripartite, with neutral co-chairmen chosen by each side. It was to study and to recommend solutions to mutual problems in the fields of wages, fringes, incentives, seniority, and such other areas as prove mutually acceptable.[7] Little has subsequently appeared about this committee, and it does not seem to be functioning at all. In principle, at least, it is another instance of voluntary private fact-finding with recommendations.

Perhaps the acid test for fact-finding outside of contract negotiations is about to be undertaken in the railroad industry, by means of a Presidential Study Commission that is to begin work on questions of work rules and the pay system in January, 1961. This committee consists of five members named by the carriers, five from the operating crafts, and five eminent neutrals chosen by the President. It is empowered to mediate a settlement of disputed issues, or, if this is impossible, to recommend non-binding terms. The issues include elimination of firemen from diesel-freight and yard work; increase of the standard day on freight runs from 100 to 160 miles; elimination of required crew changes at existing division points; abolition of the distinction between road and yard switching; elimination of standby crews from self-

[6] BNA, *Daily Labor Report* No. 231 (1960): pp. A:3-4 (Nov. 29).

[7] BNA, *Collective Bargaining Negotiations and Contracts,* No. 380 (Jan. 5, 1960).

propelled maintenance equipment; and increased managerial flexibility regarding size and make-up of operating crews. The counter-demands of the Brotherhoods cover increased protection against displacement by mergers and other economic changes; stabilization of employment; shift differentials, minimum pay guarantees, and improved overtime; and a voice regarding crews.[8]

This whole collection of issues had been coming to a boil during the 1956-59 moratorium under the previous contracts. In the 1959 negotiations, the carriers brought the question into the open with their unfortunately-titled "anti-featherbedding" campaign, in which they proposed binding arbitration as a solution. The Brotherhoods countered initially with demands for a virtual job freeze, rejecting arbitration.

Recognizing the strike dangers involved, together with the futility of attempting to revolutionize in a single negotiation a system of rules now entrenched by decades of usage, former Secretary Mitchell last spring began quietly urging the parties to refer these difficult questions to a study committee, so that they could be divorced entirely from pending negotiations. By unusual skill and patience, he succeeded in obtaining an agreement to do so, but only after persuading the carriers to agree to make the commission's recommendations non-binding.

Throughout these discussions, Mr. Mitchell continually emphasized that maintenance of the *status quo* was incompatible with competitive survival of the industry; that management could not expect to obtain total change in a single stroke; that change would have to be equitable rather than one-sided; and that compulsion was the wrong way to bring revisions about.[9] In his judgment, the problem had to be taken out of a bargaining atmosphere, so that study and recommendations could be developed and perhaps negotiated over a lengthy period.

The work-rules problem on the railroads is enormously difficult, not merely because of the age and complexity of the system

[8] BNA, *What's New in Collective Bargaining Negotiations and Contracts* (October 28, 1960). For an informed analysis of the work-rules problem in all transportation, see William Gomberg, *Some Observations on the Problems of the Relationship Between Union and Management in the Transportation Industries,* a report to the Department of Commerce, fully reprinted in *Daily Labor Report* No. 54 (1960): pp. F:1-12 (March 18).

[9] BNA, *Daily Labor Report* No. 186 (1960): p. A:3-4 (Sept. 23).

but because continuing job attrition leaves so little room for maneuver. The employees see the system as their sole means of job protection and as the only equitable measure of a fair day's work. To the carriers, the system was workable in an age when they had a monopoly of land transport, but is now incompatible with reduced work loads and changed labor requirements, while it also makes for excessively high labor costs in keenly competitive operations.

Clearly, the task of the commission is a formidable one, involving nothing less than developing a detailed formula to compromise an imperative need for higher efficiency on the one side with proper protection of the employees against massive displacement and unreasonable changes in job requirements on the other. To get anywhere, the commission must persuade both sides that change with equity is essential to the health, and even, perhaps, to the survival of the industry. More than this, the commission must pay attention to revision of disabling public policies under which the industry now suffers and from which its rivals have long derived decisive benefits.

Some precedent favoring eventual success in the railroad field is supplied by the Armour agreement of 1959. There the problem centered on personnel displacements caused by automation of the packing houses, coupled with closure of obsolete plants. Recognizing that a "new approach" was needed, the parties agreed to separate these issues from negotiations, and to assign them to a tripartite study committee headed by Clark Kerr as neutral chairman. Financed by $500,000 from the company, the committee is to study displacement, inter-plant transfers, and retraining, and to make non-binding recommendations within six months of expiration of the new agreement. Meanwhile, the agreement itself accords the company freedom to proceed with mechanization and plant relocation, recognizing explicitly that job security depends upon a healthy competitive position.[10]

Neutrals as Expert Consultants

A somewhat different approach to similar problems was taken by the International Longshoremen's and Warehousemen's Union

[10] BNA, *What's New in Collective Bargaining Negotiations and Contracts* (September 4 and October 16, 1959).

and the Pacific Maritime Association, starting in 1959. It may be described as using neutrals as *expert consultants.* As matters have actually turned out, however, the neutrals' work served primarily and unintentionally to open the road to a bargained solution of problems of mechanization and of restrictive rules, rather than as a substantive resolution of such issues, thus illustrating the virtue of using neutrals to open up constructive examination of tough problems.[11]

With the hard-won victory of the longshoremen in the San Francisco general strike in 1934, there came into being an elaborate system of cargo-handling rules which regulated the building of loads, the weight-limits on slings, the size and make-up of gangs and various other handling and stowage practices. Over the ensuing years, the steep rise in cargo-handling costs and the inability of the employers to offset them, either through relation of rules or mechanization, have enabled competitors to cut deeply into water traffic, inevitably reducing job opportunities. Rule revision and mechanization together now promise enormous savings to a long-deteriorating industry. However, they also imply a sharp short-run drop in work opportunities, although these could increase in the long run with an improved competitive position for water transportation. To make things even worse, the existing system of rules symbolized for the longshoremen their only protection against speed-ups and loss of jobs; hence they were something to fight for, not to relinquish.

In a rare stroke, that eventually was to prove decisive for cutting the Gordian knot, the union proposed in 1957 to relax rules and to permit mechanization, provided that speed-ups and loss of safety were not involved, and that part of the savings would be shared with the men. This led to the agreement of 1959, in which the union allowed the employers to mechanize freely. In exchange, the employers provided a $1.5 million fund to stabilize earnings for the existing force and to accelerate retirements. During the contract year the regular longshore force was to be preserved, and the employers were to initiate studies of detailed

[11] For a well-told account of the entire problem, see Max D. Kossoris, "Working Rules in West Coast Longshoring," *Monthly Labor Review,* 84:1 (January, 1961), 1-10. I have revised my original remarks to include new data supplied by this article.

man-hour savings obtainable from *any* productivity-increasing changes. The employers then called in Max D. Kossoris, an expert neutral from the BLS, to undertake the necessary studies.

By the time of the 1960 negotiations, the employers revealed a drastic and highly interesting change in thinking. They now discarded their earlier acceptance of the "sharing of the gains" concept, at the same time shifting their whole approach to the more limited objectives of simply "buying" revision of work rules and freedom to mechanize for an agreed "price." Initially, this approach clashed with that of the union because it excluded any direct link between the saving on a given change and corresponding benefits to the employees. However, in the end agreement became possible, subject to pending ratification by the locals, because the employers put their "price" high enough to meet the union's demand for an earnings-stabilization guarantee—at $27.5 million over a five and one-half year contract period. Although legitimate restrictions for safety and against speed-ups remain, the existing work rules were greatly loosened up, while the employers also gained freedom to mechanize and to change work methods in other ways. Presumably, too, the employers will have the incentive of immediate net savings above the costs of the plan. Most important, this highly significant accommodation of interests was achieved through collective bargaining, helped initially by research undertaken by outside experts.

Thus what began in 1959 as an agreement to permit mechanization under the old rules, coupled with a research program to effectuate sharing of the gains, ended in 1960 as a substantial liquidation of the rules, without direct sharing of the gains, but with a guarantee of minimum earnings and accelerated retirements for the existing regular work force.[12] Thus the flexibility required for higher efficiency was gained in exchange for a shock-absorber to protect the longshoremen, in a plan that has the double virtue of being self-liquidating and an inducement to make innovations at once.

Here, I think, lies the key to a successful attack upon a similar problem on the railroads. However, the episode demonstrates conclusively that success in such situations requires, first, that the

[12] *Ibid.*, 3-7.

union be intellectually and emotionally prepared to accept constructive change, and, second, that the employers be similarly prepared to make humane concessions to the union and its employees.

Ad Hoc Arbitration

My last example of how difficult bargaining problems may be attacked under a voluntary approach is radically different from the others. Here the parties, acting in a mood of desperation, called in a panel of three informed neutrals to serve as an Arbitration Commission, empowered to dispose of formidable issues by a binding award providing for new contract terms. This method involves the use of neutrals for *binding contract arbitration on an ad hoc basis.*

The case involves Pittsburgh Plate Glass Company and the United Glass and Ceramic Workers.[13] For some years the company had been suffering from increasingly high-cost operations that threatened the loss of its competitive position. Partly the rise in costs arose from loose negotiations during more prosperous years. Partly, too, it emerged from unsound side understandings and agreements, lightly and hastily undertaken to keep production flowing. The malign ingredients of the problem included a deteriorating incentive system, created by piece-meal adjustments with changes in production runs, a collection of obsolete and costly manning and job-selection practices, some onerous restrictions on speeds and outputs (necessitated because union agreement was required), excessive growth in the number of full-time union grievance and time-study men, who were paid by the employer, and an acute seniority problem at one of the plants.

Early in 1957, the company initiated a program to increase the employees' understanding of its competitive problems, to prepare them for its demands for relief from these cost burdens. These efforts met with marked success except in one plant, where the local leadership firmly resisted resort to arbitration. A 134-day strike followed, starting in October, 1958, during which arbitra-

[13] For details, see *Pittsburgh Plate Glass Co.*, 32 LA 945, 957 and 978; 33 LA 615; and 34 LA 908. The Commission included Paul N. Lehoczky, chairman; Patrick J. Fisher; and Charles A. Myers—all neutrals. See also "Arbitration Draws the Labor Contract," *Chemical Week* (July 23, 1960).

tion was blocked by a union rule requiring unanimous approval by its bargaining committee of over seventy members. Finally this obstacle was overcome when the international president polled the membership directly, obtaining an overwhelming majority for arbitration. Undoubtedly the way was eased by the company's strategy of offering to trade a wage increase for concessions on local working practices.

The Commission was accorded considerable latitude in making its decisions, and had the full cooperation of both sides in obtaining evidence and argument. On the incentive issue, it allowed the company to devise a new formula, to be discussed with the union. The plan was to be applicable to both existing and new incentive jobs. Management could put the new rates into effect, subject to certain guides previously established by the parties. The union was permitted to make independent studies, to propose jobs for inclusion, and to challenge through the grievance procedure both the new rates and the coverage of the plan. Regarding equipment speeds and outputs, the Commission found that the company was limited to introducing changes for a three-weeks' trial period, on a week's notice to the union. If agreement could not be reached, the company then had to revert to the old practice, but could take the question to arbitration.

The Commission had to treat the manning issue somewhat differently, because its problem was not to establish a procedure but to find on the merits of each of a large number of company proposals. Here it decided that job staffing could be cut if the level of duties had declined without a compensating rise in tension or responsibilities. No job could be assigned a level of activity higher than the plant average. If a change led to a fall in the output rate, the pay rate had to be adjusted to maintain earnings. Finally the company had the burden of proof in all cases. Where proof was preponderant, the Commission approved the reduction in staffing. In the outcome, the company prevailed in 48 instances, losing 17, with four split.

The Commission disposed of the issue of full-time union grievance and time-study men by awarding the union nine out of a requested 20 jobs, while putting their pay on a uniform basis. Here it recognized that the company itself had acceded to the principle of paying these men, and that the union required time-

study experts to protect its interests under the incentive award.

The seniority problem at the Creighton plant required the Commission to set up an elaborate system of new rules. In part these modify a company-formulated plan which was introduced in 1957 when the union cancelled all existing rules and practices and the parties could not agree upon a new system. The thorniest problem involved the right of senior workers to change jobs at their option, even for temporary openings. This practice made for haphazard control of assignments, while damaging the interests of junior employees. The Commission wisely adopted the principle that job security was the main purpose of any seniority system, and discarded the right of seniors to bid for temporary vacancies.

The issues at stake in this case involved the most vital ingredients of the employment relationship. Obviously they were highly explosive material, to be handled by outsiders with extreme delicacy and a measure of courage, guided by expert knowledge and experienced insight. The Commission's approach indicates that it had the necessary qualifications. Its work reveals a careful respect for rights and duties established by contract and past arbitrations, together with full awareness of sound principles, and a desire, wherever possible, to confine itself to formulating workable procedures under which the parties could resolve their own problems. Thus it distinguished the treatment of incentives from that for production speeds, recognizing the controlling importance of past awards. Yet in both instances, it gave the company the initiative, while respecting the right of the union to equitable relief. Where the Commission had to make substantive decisions, as in manning, it relied heavily upon the parties' evidence. Where new rules had to be written, it grounded them upon generally accepted principles, emphasizing as well that the parties should feel free to modify them in their next negotiations. Throughout, its approach reveals an intent not to disrupt the employment relationship nor to remake it in utopian fashion, but to aid it to work more effectively in the hands of the parties themselves.

Probably the main generalizations yielded by the case are these. When a company gradually concedes away its control over efficiency, sooner or later it will reach a crisis. At that point, it faces a choice: either to try to persuade the union to refer the issues to

a study committee, or to endure a costly strike in hopes that the ground may then be prepared either for a subsequent study with recommendations or for arbitration. In this instance, it required a strike to attain arbitration, and arbitration was preferable because the recommendations could be binding. However, even with a strike, an employer risks defeat unless he can persuade the union leadership and the rank and file that relief is imperative. Persuasion demands careful preparation and willingness of the employer to do some trading on wages. Above all, the company must convey the underlying worth of its objectives, avoiding sterile controversies over management rights, or any semblance of an attack on the union itself. Conflict can then be constructive, perhaps opening the road to arbitration. Expert neutrals can then be brought in to study difficult technical issues, to balance the equities, to formulate a workable way out in unhurried fashion, and, not least, to divert ensuing resentments away from the bargaining representatives themselves. Here, then, the neutrals serve as a rescue party after the fact, rather than as an exploratory team to lay out the route to successful negotiations.

Evaluation

The underlying argument of this paper is that the method of collective bargaining now stands in increasing need of aid, if it is to deal adequately with hard situations. I use the word "aid" deliberately, for my preference is for intervention that rests upon consent, rather than compulsion. But what kind of aid?

The six cases considered reveal four ways in which neutrals have been introduced: (1) *ex post* mediation, (2) the study committee, (3) consultants, and (4) contract arbitration.

Although mediation, in skilled hands and with adroit use of pressure from on high, can be a useful means of ending emergency strikes, it really does not belong in our tool kit because it is far more a means of producing settlements at almost any cost than it is of solving intractable problems involving work rules or pay systems. The time available is too short, and the environment too tense, to allow the necessary study.

Contract arbitration also belongs in a special category. Although it is an extension of bargaining and so rests upon consent,

it ordinarily emerges not as a means of heading off issues, but as a way of resolving them after they have already been joined. Resort to it is unlikely save in rare situations, when a stoppage is almost inevitable. Still, it does provide time and a way out of an impasse, and thus represents a means by which expert neutrals can be of real help.

This leaves two methods: the study committee and consultants. The difference is mainly formal, for both are ways of obtaining technical analysis and informed recommendations, and both serve as means for anticipating and resolving difficult problems. Hence I shall consider them together.

The strength of this approach is three-fold. It is a way of gaining time, a way of introducing experts competent to deal with hard problems, and a way of shaping constructively the course of future negotiations. Like contract arbitration, it can be a way of getting around obstacles to agreement, but unlike it, it need not arise as a by-product of a settlement. On the contrary, it can be used anticipatorily, when both sides realize that they are confronted with questions unlikely to permit a bargained settlement —surely a great advantage to informed union leaders driven by a militant and obdurate membership.

Finally, the non-binding character of recommendations from a study committee, while it seems a weakness, may well be its greatest asset, for two reasons. First, it may be the only way to open up difficult questions at all—as on the railroads. Second, shrewdly formulated recommendations, always with due consideration of the equities, can be a way of preparing opinion, particularly by removing fears and uncertainties in the minds of the rank and file. After all, as the Selekmans pointed out a decade ago, a trade union is not a natural institution for the promotion of business efficiency, for that is usually not its purpose.[14] Its members require careful preparation and tangible inducements before they will accept major change, as the longshore case plainly shows.

We ought not to consider the study committee a panacea. As a device it has real merit, but the proof of the pudding still lies in the eating. It holds real promise at Kaiser Steel. Yet it seems

[14] Benjamin M. and Sylvia K. Selekman, "Productivity and Collective Bargaining," *Harvard Business Review*, 28:2 (March, 1950), pp. 127-144.

to have gotten nowhere at the other major companies, probably because the will to make it work is still lacking. It can yield valuable results, or it can serve as a temporary pigeon-hole for intractable issues that cannot permanently be evaded.

As a supplementary bargaining device the study committee can have great potential value. The most difficult questions turn on ways and means. One of these is how to bring such committees into being in situations that require them. In some cases, the parties themselves can take the initiative, as happened at Armour and in Pacific Coast longshoring. But it will not be enough to rely upon voluntary acts, valuable as they may be. More likely, the suggestion will have to come from outside, either at the right stage in negotiations, or even well ahead of negotiations when difficult issues are known to be in the offing. If the problem is not of national interest, astute use of the normal processes of mediation and conciliation may be sufficient, provided, of course, that the parties jointly are prepared to consider their underlying problems at all.

In major national situations, let the Secretary of Labor make the proposal in a quiet and unobtrusive way, as strategy intended to help the parties avoid committing themselves to frozen public positions. Regardless of the method of introduction, if the parties accept the principle of study instead of combat, hard questions can be put over for careful examination, and the chances for a no-strike settlement increased. Then, when studies are completed, there is a chance for resolution of difficult issues by the time of the next negotiations, again with reduction of the chances for a strike.

To make the device practical, the federal government should create an adequate institutional mechanism for organizing a supply of neutrals with the requisite talents, as it already does for arbitration. If Secretary Goldberg's earlier proposal for a National Council of Labor-Management Advisers becomes a reality, this task would be a most appropriate one for that body.

If we confine ourselves to existing agencies, I suggest that the Secretary of Labor should assume responsibility. Let him set up a large panel of qualified experts, cross-referenced by skills and experience. The Secretary should then announce publicly his assumption of this responsibility and the availability of the new service for problems appropriate to its purpose. On application

from the parties, he could then list the competent persons available for service on study committees, selecting names according to the kinds of experts required. Beyond this, the Secretary should take the initiative in difficult major situations, so that he himself can propose the introduction of neutrals.

To be fully effective, the Secretary will require liaison with the Federal Mediation and Conciliation Service, and, where appropriate, access to other federal agencies able to provide certain types of specialized data. In major cases, the neutrals selected ought to have the prestige of official appointment by the federal government.

What kind of skills are required of neutrals in these situations? General desiderata must certainly include a thorough understanding of collective bargaining and more than a nodding acquaintance with industrial economics. In addition, the chairman, at least, should be skilled in mediation, a talent of enormous value in tripartite study committee, and in any case of high utility if the committee's recommendations are to have much chance of acceptance. Beyond these requirements, other expertise will be necessary, according to the case: specialized knowledge of the industry and its industrial relations system, skill in time and motion study and in job and productivity analysis, a knowledge of incentive wage methods and pension systems, and statistical and actuarial skills. No single neutral will combine all of these specialties, nor will all of them be needed in a given situation. But three or five neutrals together can provide those actually required. Further, they can derive much help from the parties' representatives if the committee is tripartite, and they should be able to call upon appropriate government agencies for technical help.

As for the kind of neutrals needed, they can be found among professional arbitrators, expert civil servants, academic specialists in industrial relations and economics, and retired business and union leaders. The first step is for the Secretary of Labor to prepare a national inventory of these skills, as has already been done in a much larger way for defense mobilization.

Let me now say a few words about the actual work of a study committee, granting at once that experience thus far is quite

limited in the industrial relations field, although a wealth of it exists in the legislative and administrative branches of government.

The work of a study committee is twofold, fact-finding with recommendations and mediation. Obviously, the first step is formulation of its task of inquiry, which will depend importantly upon the way in which the parties frame the assignment. They may merely submit a group of bargaining demands and proposals from each side, as occurred on the railroads. Or they may simply pose some hard general questions, for example, the prospects for displacement and retraining where automation is in process, as was done at Armour. What is more important, the committee must have some latitude in embarking upon its work, and must know what changes in industrial methods and practices are sought and which are resisted, so that it can initiate detailed studies of impacts, benefits, and costs.

At this stage, highly technical questions will assert themselves, giving focus to the problems at issue. For examples, how much displacement will occur if a manning rule is revised? What savings will result for the employer? What effects would change invoke for job content and work loads? What prospects and what costs would a retraining or accelerated retirement program imply? How acute is the employer's need for increased competitive efficiency? Are there avenues of relief sufficient to finance various shock-absorbers to meet the displacement problem? What are the causes and correctives of an excessive grievance rate? What could the parties do to make their firm or industry less strike-prone?

In my judgment, the committee will be more effective if it is tripartite, particularly if the parties' representatives are drawn from the top level. In this way the outsiders can obtain a grasp of the problems that is otherwise attainable only through a protracted series of formal hearings. Insights can be had regarding present rules and practices or symptoms of malaise in the employment relationship, the difficulties they involve, and the feasibility of various solutions.

In this way, the undertaking can avoid turning out as an academic exercise of little practical merit. Through their chairman, the neutrals can then exert continuous mediatory efforts, at the

stage of inquiry and at the stage where recommendations are formulated, and gradually prepare the way for successful negotiation of needed changes. After all, what is needed in all of these cases is some means of turning the parties' minds away from sterile conflict toward constructive joint attack upon problems of enormous mutual importance. If neutrals are to make a contribution to this high purpose, it lies not in mediation nor in study and recommendations alone, but in an ingenious combination of both.

The accommodation of major changes in particular systems of industrial relations constitutes the major challenge to collective bargaining in the arduous economic and technological environment already evident for the 'sixties. Change can be imposed arbitrarily by external authority. It can be won at the cost of bitter conflict, in which bargaining institutions themselves may well become the ultimate forfeit. Or change can be achieved through the mutual consent of those directly involved.

The very essence of a free society in all fields rests upon a preference for the principle of consent over the principle of compulsion. We require development, not abandonment, of voluntary methods. For industrial relations in particular, the institutions of free collective bargaining need promotion and help, not replacement.

As John Dunlop has recently pointed out with great cogency in a general review of American industrial relations, the need is for more consensus, not more compulsion, if our bargaining system is to work with greater effectiveness. The informed neutrals have a new contribution to make to this great objective. In the end it may not prove decisive, nor should its promise be exaggerated. But in view of the stakes, surely the attempt is well worth while.

Discussion——

FREDERICK R. LIVINGSTON *

Professor Hildebrand has presented an excellent exposition of the variety of contributions that "neutrals" can make to labor relations, and I heartily concur with his basic point that "neutrals" must be acceptable to the parties. I would go a step further

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and say that the parties must not only be prepared to accept the participation of "neutrals" but must be receptive to their suggestions and recommendations. Such an attitude presupposes faith in the "neutrals"; therefore, the whole process must be voluntary. Faith cannot be imposed by force. This thought brings to mind a line in a current Broadway play that "only God can play God all the time and get away with it." That remark is an appropriate caution for those few arbitrators who sometimes play God by making unsolicited and unwelcome recommendations to the parties.

In suggesting that the government provide a roster of trained "neutrals" and skilled technicians, Professor Hildebrand seems to depart from his basic emphasis on voluntarism. If he would reserve the use of such a select panel to the less initiated or unsophisticated parties who may not otherwise know where to secure such assistance, I could soften my objection. However, I doubt the capacity for effective action of "neutrals" unknown to the parties, and I seriously question the desirability of having such people paid by the government. Furthermore, I strongly dissent from the suggestion that government "encourage" the use of such "neutrals," because government encouragement generally tends to go beyond voluntarism.

There are a few aspects of this general problem, not covered by the Hildebrand paper, that warrant serious consideration.

1. Some thought should be given to the contribution that "neutrals" have made and could make to the AFL-CIO jurisdictional disputes procedure.

2. An assessment should be made of the role of "neutrals" in the more difficult task of structuring the long-range interrelationship of unions in a more highly automated economy. The role of craft unions in the automated factory and the introduction of technological changes that modify the need for skills, such as those of non-pilot engineers on jet planes, are subjects that cannot be overlooked.

3. Whenever "neutrals" are introduced into labor-management relations, the question arises whether the "neutrals" should limit themselves to assisting the parties to negotiate a mutually acceptable agreement or whether they should consider themselves as

representing a public interest above and beyond the objectives of the parties.

Source of Neutrals

The National Academy of Arbitrators itself offers a source of "neutrals" that has not been properly utilized. The Academy contains a reservoir of experienced personnel who spend too much of their time deciding petty grievances; their experience and expertise could be redirected to more important problems. However, let us not forget that all arbitrators, even experienced ones, are not necessarily qualified by temperament to be good mediators. Similarly, some good mediators are not qualified to be good arbitrators.

Study Committees

In its broadest sense the function of the "neutral" is to assist private parties in facilitating agreement. Professor Hildebrand has described some of the forms in which that function can be performed, and I would like to spend a few moments discussing the role of the "Study Committee," both generally and with particular reference to our experience at Armour and Company.

I agree with Professor Hildebrand that it is useful to permit experts, competent to deal with hard problems, to influence constructively the course of future negotiations between the parties. I also agree with his statement that, "the non-binding character of recommendations from a study committee, while it seems a weakness, may well be its greatest asset, for two reasons. First, it may be the only way to open up difficult questions at all . . . Second, shrewdly formulated recommendations, always with due consideration of the equities, can be a way of preparing opinion.

Armour Experience

The Armour Automation Committee is a joint labor-management committee to study and seek solutions for problems arising from modernization and technological development. The committee consists of four representatives of management and two representatives of each of the unions, the United Packinghouse, Food & Allied Workers and the Amalgamated Meat Cutters and

Butcher Workmen of North America, AFL-CIO. It is chaired by Dr. Clark Kerr, President of the University of California, and serving as Executive Director is Robben W. Fleming, Professor of Law at the University of Illinois. The committee is given very broad latitude.

In pursuing its studies, "neutrals" have been used in a wide variety of ways. Chairman Kerr and Executive Director Fleming act not only as mediators but as an invaluable source of leadership, imagination and stimulation in the discussion of a multitude of complex problems. If some of the highly volatile problems had been discussed by the parties directly without the assistance of Kerr and Fleming, the situation probably would have become explosive. In fact, I doubt if some of the subjects would have been seriously broached at all if these men had not been available to provide the necessary leadership.

In addition to Kerr and Fleming, a number of professors from various universities have been employed to head up study projects pertinent to the Committee's consideration. The following studies have been completed or are in process:

1. A study of the economic prospects of the meat packing industry with particular reference to employment projections during the period 1960-1975.
2. A study of the employment and economic problems encountered by former Armour and Company employees who were terminated when certain plants were closed during 1959 and 1960.
3. A study, with emphasis on engineering aspects, to determine the kind of training necessary to develop maintenance personnel for highly automated new equipment. A task force visited plants of the manufacturers building the new equipment in order to determine the kind of maintenance that would be necessary.
4. A study of training programs undertaken by other companies and unions in order to better prepare employees for jobs in an automated industry.
5. A study of inter-plant transfer problems.
6. A reexamination and reevaluation of seniority concepts including:
   (a) The impact of seniority upon the mobility of employees in transferring from plant to plant, primarily a union problem, and
   (b) Who gets preference for training and on what basis.

It may properly be asked, "Can't Company and Union do these things themselves?" Obviously, the answer is, "Yes." However, greater progress can be made through the use of impartial, objective personnel to perform the fact-finding process.

Oklahoma City Experience

When the Armour plant at Oklahoma City was closed, the services of Professor Edward Young, Chairman of the Department of Economics at the University of Wisconsin, were enlisted to determine the job aptitudes of former employees and to make an on-the-spot survey of possible job opportunities. As a result of his study, a number of training courses were organized to assist employees in finding other jobs, as welders, small appliance repairmen, beauticians, etc. One of the more fruitful programs was a course to prepare employees as retail butchers.

While the affected employees were members of the UPWA, the Amalgamated Union provided the instructor, the Company the meat, and the local hospital its kitchen. After being cut by the butcher trainees, the meat was turned over to the hospital for its use. The trainees have been assured jobs in the Safeway Market (which is under contract to the Amalgamated) upon completion of the training course.

Preliminary Assessment of Study Committee Approach

The Armour experience with a committee assisted by "neutrals" has been a fruitful one, but this approach is not a panacea. There is no pat formula for the solution of complex problems. They cannot be solved easily in a day or a short period. We recognize that we are feeling our way in uncharted waters.

The Armour Plan is not an answer but a *way* of finding answers.

The Plan provides a framework for the consideration of solutions away from the pressures of the bargaining table, where the participants do not have to tally the cost of the package. Thus the Plan opens the possibility of working out non-economic issues prior to contract negotiations. Moreover, the Study Committee has revealed some of the limitations of collective bargaining. Many issues are national in scope and transcend the power of one

company or even an entire industry. Recognition of this fact puts collective bargaining on a more realistic basis.

Because the Committee submits recommendations rather than a binding arbitration award, it facilitates persuasive mediation by two neutral participants, the Chairman and the Executive Director. Consequently, the Plan has produced a number of important by-products. Relations between the company and the unions have improved. Wildcat strikes are no longer a problem. Nor has there been any interference with the introduction of new machinery. Furthermore, the Plan has provided a basis for cooperative action by the two unions. If they merge, Armour may be entitled to a marriage broker's commission.

In conclusion, I would say that the Armour experience supports Professor Hildebrand's thesis that the effectiveness of "neutrals" depends upon voluntarism. It also demonstrates that "neutrals" can be used in a wide variety of ways. The vistas are unlimited and can be as great as the imagination of the parties and the "neutrals."

Discussion——

BEN FISCHER*

To deal adequately with Professor Hildebrand's paper would require far more time than we have. It is tempting to take out after Professor Hildebrand. His notion of what is an informed neutral, of the parties' ignorance and inability to spend time on their main duties, his restricted view of the problems of the economy, his identification of the consumer interest with that of the efficiency engineer and time study expert and his assumption that while work rules embody lots of evil in steel, the industry merely faltered in its strategy when seeking their eradication—these and a few other points each deserve extensive attention.

Instead of centering attention entirely on Professor Hildebrand's remarks, I will discuss neutrals in difficult bargaining situations as I see the picture.

Neutrals have been used in collective bargaining during most of this century—usually brought in by some government action,

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but also as a result of private agreement. The basic role of the neutral has usually been to seek accommodation between the conflicting interests of the parties and to facilitate practical, workable solutions. Sometimes neutrals are needed to aid the process of innovations in a bargaining relationship. The War Labor Board injected a mighty dose of arbitration into union agreements; the Mediation Board extended union security to major basic industry; the 1949 Presidential Steel Board gave a boost to bargained pension and insurance systems; a presidential study put America on the annual wage road.

Professor Hildebrand speaks as if further collective bargaining progress is no longer in order; now, he seems to say, it is management's turn. Having agreed that industry has provided a better standard of living for workers and some measure of on-and-off-the-job security, he seems to infer that the time has come to establish management's right to manage and put down labor's strong defense of "vested property" rights in work rules and inefficient practices.

I disagree with the economic assumptions on which this thesis is based. I disagree with this portrayal of unions as defending inefficiency and antiquated work rules. I disagree that American industry is prevented from making progress by the great unions. But more disturbing than the economic theory and the description of the current role of unionism is the apparent assumption that America's central goal is the achievement of greater and greater efficiency rather than fuller human happiness.

It does not disturb me that the loudest complaints against featherbedding and loafing often can be heard on the first tee of the country club along about noon on a normal working day. The freedom from toil achieved by these complaining business executives is a goal to be attained by more people, not a symbol of decay and immorality.

The layers of engineers, time study men, expeditors and observers who question everyone's value to the business, except their own, exemplify not merely how much waste business tolerates; they also demonstrate that these men cannot be trusted with the fate of industrial manpower policy.

The leisurely pace of the university, while not consistent with

industrial engineering criteria, does not prove that the campus is an antiquated luxury we can ill afford; rather it suggests the basic unsoundness of the engineering approach to human affairs.

I suggest that the coffee break, the rest period, enough time for a leisurely lunch, the afternoon off for golf, the extended weekend, the extended vacation every few years, enough leisure to compensate for the utterly drab working life of the industrial worker—these are all values which are good unto themselves. We can afford these values. There is no evidence to the contrary. But if the Spartan life were to become necessary, then it would be appropriate for all of us—college professors, arbitrators, students, executives, experts and all. If we are to cut out the frills which typify American life, then all the frills should go for all of us.

The difficulty I find with Professor Hildebrand's paper is the apparent assumption that the central economic objective of America is to increase efficiency of plant operations as the means of restoring and achieving economic health. Actually, America's industrial system is a good one, if evaluated in terms of its capacity to produce and its capacity to gain the cooperation of labor in developing better methods and better technology.

It is not efficiency in our plants that we lack. Rather, what American industry lacks is customers. Perhaps more of our economists should devote more of their talents to solving the problem of the millions still subjected to a sub-standard living. Perhaps they should help deal with the imbalance between public investment and private productive capacity. Our communities lack housing, schools, hospitals, parks, recreational facilities, roads, mass transportation systems—all amidst widespread unemployment and idle factories. All of us need to concern ourselves with the lack of adequate means for protecting workers against the ill effects of automation instead of wasting time over the make-believe fantasy that significant sectors of our economy are blocked from improving their technology or production methods by the policies of the great trade unions.

I agree with Professor Hildebrand's view that neutrals are often needed in difficult bargaining situations and that the difficulties are growing. Their help is needed for many reasons. The Nation and its workers should not be subjected to the costs of great

strikes; we ought to be capable of finding better and less painful ways to compose differences and to make collective bargaining progress. And in this neutrals can help.

Neutrals are often needed because the parties are so complex these days as to interfere with bold decision-making. The corporation or union of today is not usually a simple, single-minded, neat organization which marches down a carefully marked class road. There are many conflicting pressures within companies and within unions. There are differences in philosophy, in opinion, in analysis, and in motivation between and within institutions. In fact, sometimes great decisions defy understanding because so many ingredients go into making them.

An able neutral can sometimes help put together constructive solutions and organize decisive support from within the parties for such solutions. In fact, this is often the most important function of a neutral who, presumably, is not confined to the regular channels of bargaining or to the personnel directly involved in the bargaining.

Sometimes neutrals are needed because one party defies the very basis of collective bargaining. Admittedly, there are instances in which unions seek to dictate, as Dr. Taylor has ably pointed out in his recent speeches on this subject. But in the major bargaining situations this is most unlikely. In an increasing number of instances, it is management which insists on dictating, claiming to represent the best knowledge and best interests of all concerned. If this kind of assumption of complete knowledge of ultimate good persists, the very foundation of the bargaining process will be endangered.

Moreover, the trends in our technology increase the dangers of managerial dictation replacing collective bargaining. As the worker's part in controlling the production process is diluted and the machine takes over, the equality of power essential to the balance of bargaining is jeopardized. Such trends already appear in certain industries where automation has advanced rapidly.

Herein lies the peril of the future. America can ill afford a situation in which self-perpetuating management, unchecked by sufficient union power or serious stockholder controls, can run roughshod over its workers. Some system of neutral, or public,

involvement in labor relations decisions might well become essential to the public interest, distasteful as this may be to many of us.

But I'm ahead of our story. The immediate challenge is not in this context. It is rather a challenge to the parties to carry on wholesome collective bargaining relationships. The Livernash report on steel issued last week states that "by far the most constructive alternative is the achievement by the parties of a reduction in conflict." This we fully subscribe to. This objective we have endorsed by our deeds. Our wholehearted participation in joint studies and strivings for means of reducing conflict with the basic steel companies is one example. The pending agreement with Kaiser Steel would provide year-round participation in our relationships and negotiating arrangements by a committee of outstanding neutrals. This is one of the most dramatic moves made toward using neutrals to reduce the possibility of strikes or collective bargaining collapse. We are most hopeful that this move will prove outstandingly effective, successful and contagious.

Needless to say, labor prefers the voluntary bargain and the voluntary resort to neutrals who are made fully informed by reason of the confidence of the parties themselves. Forced government intervention is better than chaos and the destruction of genuine bargaining. But voluntary strengthening of the bargaining process and voluntary use of neutrals will avoid many of the pitfalls of forced intervention and will assure that neutrals will be developers of mutual understanding and common approaches, rather than mere umpires in adversary proceedings.

And essential to successful collective bargaining or the success of neutrals is a prosperous economy. President Kennedy in addressing the Steelworkers Convention last September stressed the point that a partially idle economy is a hindrance to constructive collective bargaining. The experiences in autos in 1958 and steel in 1959 illustrate this fact dramatically. Not even neutrals can operate in isolation from economic facts.

Now to turn briefly to some of the specific points made by Professor Hildebrand. He states that "contract deadlines usually deny opportunity to formulate complex proposals, let alone to

devise mutually acceptable solutions." He depicts current issues as "often too subtle to be worked out adequately by over-burdened bargainers, for lack of both time and expertise." Thus, we are being told that the very jobs which the parties are required to do, they have neither the time nor ability to do. Therefore, we should turn to informed neutrals!

Assume for a moment that Professor Hildebrand's indictment is accurate. This would not dictate resort to neutrals but would lead to the conclusion that companies and unions had better hire some men who will have the time and ability to do their jobs. But as far as I know, the great unions and companies (which he is clearly referring to) have able personnel. They do know their problems. And it is from the parties' own experts that neutrals get their information anyway, unless they enter the dispute all wise and knowing, in which case they are not neutrals but salesmen for their own pet theories or preconceived solutions. Such neutrals we do not need.

And then Professor Hildebrand gets down to cases and assigns his informed neutrals the task of relieving the paralysis which presently entangles the parties due to the "dual challenge of accelerated technological change and the need for greatly improved efficiency in our economic system."

This dual challenge he then associates with the alleged resistance of unions to "technological change and the need for greatly improved efficiency in our economic system." I have already dealt with my dissent from the view that this sense of values is appropriate and my view that the efficiency of the economic system is not the same or similar to the efficiency of the production line.

But the whole notion of labor's role in relation to technology and progress requires comment. In steel (and in autos, electrical manufacturing, coal, rubber, oil and countless other basic industries), unions in no way block technological progress or the changes in the work force that ensue. Yet, this line of talk keeps cropping up over and over again. The U. S. Steel contract specifically provides that past practices and local agreements may not interfere with new technology and the changes flowing therefrom. We've said this. The industry admits it. The arbitrators say it. The Taylor Board said it. The steel panel of the Wage

Stabilization Board in 1952 said it. Why doesn't Professor Hildebrand say it?

Then why the continuing furor in steel over work rules? Basically, this furor reflects management's desire to reduce crews and combine jobs in the absence of changes in equipment or manufacturing methods—that is, to enforce the decisions of engineers and time-study men.

Now, one has the right to believe that engineering methods are the appropriate way to determine work-force questions, but one also can believe that these methods by themselves are unsound and contrary to the interests of the workers and to the long-range welfare of the nation. This area of conflict is as legitimate as many other basic differences in opinion in which interests, opinions, and powers clash. However, the assumption that the union's judgment is narrow, anti-social and unsound, or jeopardizes the national interest, is hardly a neutral judgment. This kind of neutralism we will not welcome.

A look at the past is essential in evaluating the role of neutrals in the future. In steel, for instance, neutrals facilitated advances in collective bargaining in 1942, 1944, 1945, 1946, 1949, 1952, and 1959. Recommendations from neutrals played an important part in achieving the program to eliminate wage inequities, the initial studies of the annual wage, company-paid pensions, social insurance, premium pay for Sunday work, shift premiums, paid holidays, severance pay, union security, and perhaps a few others.

Neutrals played a key role in settling the long Westinghouse strike, earlier coal disputes and a number of disputes in which the parties called on their own permanent arbitrator for a helping hand. Interestingly, but unmentioned, it has almost invariably been labor which had offered to submit disputes to neutrals in the form of arbitration, mediation or fact-finding. It has been management which has usually said, "NO." In fact, in 1959 the President of the United States made an offer to set up a steel fact-finding board. The union accepted. The companies said, "NO." Neutrals in difficult bargaining situations should be invited by the parties to do a constructive, helpful, objective job, to help the economy of the nation toward the attainment of true prosperity and the advance of workers toward a better life.

Unfortunately, the part played by neutrals under the Taft-Hartley provisions has had little effect. This is due not to those involved, but to the nature of the law itself.

Steel in 1959 proved the futility of the Taft-Hartley route. When Professor Hildebrand ascribes the "failure of the Taylor Board's mediatory attempts" to the "parties' inability even to define, let alone to explore, the issues before the dispute had reached this critical stage," he is barking up the wrong tree. The parties knew the issues in June and July even before the strike. But no skill at mediation, even Dr. Taylor's, can succeed when one party does not want an agreement and when that same party knows that failure to achieve agreement will mean an injunction and resumption of work under the very terms proposed by the companies at the outset of negotiations.

I cannot close without pointing out that in the long run the success of collective bargaining depends on management and labor wanting collective bargaining to work effectively and upon their accepting the need for a strong nation, in which the people are prosperous and in which good jobs under good conditions are available to the entire work force.