

## CHAPTER 2

### COLLECTIVE BARGAINING: ESSENTIAL TO A DEMOCRATIC SOCIETY

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Many of you in this audience are lawyers—not just those of you who are active arbitrators, but also those of you who are representatives of management, labor unions, and government. I started out to be a lawyer, but I realized very early that I did not want to be a lawyer. I wanted to be a politician. I was saved by a wise professor and friend who asked me what I would say to the people in order to get elected. When I told him, he told me that I should look for another business. So I switched to economics.

In many ways it would have been easier to have stayed with the law; at least most people know what lawyers do. When I got into economics, there were very few of us, and we had to contend with a lot of wisecracks—if you laid all economists end to end, they would never reach a conclusion, or it would be a good idea to lay us end to end.

I have learned that labor lawyers and labor economists share quite a bit. We believe that collective bargaining is essential to a free, democratic society. We recognize that collective bargaining and free labor movements promote political, economic, and social stability by providing a mechanism for workers to participate in making the rules that govern their lives in the work place and in society. Without the help of unions, for example, it would be very difficult for the Department of Labor to administer laws protecting workers' safety and health, pensions, wages, and other benefits, and laws that flow from the collective bargaining process.

The topics you are discussing at this annual meeting are tech-

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\*Secretary of Labor, Washington D. C. Secretary Marshall was unable to attend the Friday session because of a Cabinet meeting; his speech was read by Beatrice Burgoon, Director, Office of Labor-Management Relations Services, Labor-Management Services Administration, U.S. Department of Labor.

nical, detailed, and complex. You are discussing how arbitration can properly address the interests of all parties concerned.

Arbitrators are bound by two sets of principles at all times. In the forefront, arbitrators have a duty to settle impartially disagreements on the terms of specific contracts. The underlying obligation of arbitrators is a commitment to collective bargaining—to maintaining a system that peacefully resolves disputes and involves the participation of all parties.

As you know, arbitration is still primarily an American phenomenon. Our collective bargaining policy—indeed, our government itself—is based on the efficacy of participation. Laws on collective bargaining make it possible for workers to organize and bargain collectively, or to refrain from organizing. The choice is left to workers, but the clear purpose of the National Labor Relations Act was to encourage workers to organize and bargain collectively. The NLRA's wording indicates clearly that the law's framers thought that the protection of collective bargaining was good policy because of equity and good economics.

Equity was a consideration because the government had used its power to prevent workers from organizing before the 1930s, while at the same time protecting employers in the formation of corporations and other business enterprises. Equity was a consideration also because individual workers had unequal bargaining power when confronting their employers; as Felix Frankfurter put it, nothing is more unjust than the equal treatment of unequals. The workers' lack of power led to economic depressions because workers could not protect their wages or get the government to take action to prevent unemployment and protect jobs. In order to protect their interests, workers were forced to rely on strikes and demonstrations. The framers of the NLRA also recognized that collective bargaining was good for business—better rules are made through the participatory process.

Indeed, the same rationale was given for economic and political democracy. I believe we can say the same thing about industrial democracy that Winston Churchill said about political democracy: it's the worst system you can think of except any other system you can think of.

I remind you of these basic principles which I believe are threatened today because too few people understand them. This became clear to me last year in our fight over labor law reform. We have learned that procedural tricks and weak penalties are being used to deny workers their rights under the law. When we

sought some modest corrections of these abuses, the business community mounted a massive anti-union campaign to defeat our efforts. They were not able to defeat us in the House, where our bill passed with almost a 100-vote majority; but they were able to mount a filibuster in the Senate which we could not break, even though we had the votes for passage.

The surprising thing to me, in this contest, was that no significant business organization spoke out in favor of reforming labor laws, despite their private acknowledgment that the reforms were necessary and that our democratic free enterprise system depended on the protection of the right of workers to bargain collectively through representatives of their own choosing.

How do we explain this contradiction? I think there are many causes, although I am unable to assign weights. For one thing, public opinion polls show declining public support for unions and other institutions. This is undoubtedly a reflection of the general loss of confidence in many of our basic institutions.

Since the polls also show strong public support for collective bargaining as a concept, these poll results apparently reflect a lack of confidence in the existing unions and their leaders. The sixty-four dollar question is: why the low public esteem of the present labor movement and its leaders? I don't know the answer to this, but there are a number of possibilities. One is the widespread publicity given to the real and serious but, in my opinion, exaggerated abuses by a few labor leaders. Another is that in a world where media images cause perception of reality to become more important than substance, most union leaders—and most bureaucrats—are not portrayed as glamorous people. I think part of this is the anti-union bias of most of the media, but it is also due to the lack of adequate attention to public perceptions by the labor movement.

I think our education system, especially higher education, also does relatively little to help the present generation understand the value of collective bargaining and the need for a strong, free labor movement. As education becomes more specialized, technical, and narrow, less attention is given to explicit values and institutions. I say "explicit" values because the implicit value in technical education is a narrow (and, I think, unrealistic) concept of efficiency which is implicitly anti-union. I know this is the case in economics, where less and less attention is given to institutions and mechanisms, and more and more to narrow, mechanical techniques which have great difficulty being tran-

slated into reality because they ignore existing institutional arrangements. It is not a coincidence that so many professional economists accept unions in the abstract, but oppose them in practice.

Inflation is another factor conditioning public attitudes about unions and collective bargaining. In addition to all of its other evils, inflation tends to erode public support for unions and other democratic institutions. Indeed, I think the political and social consequences of inflation are as important as the economic. Although the public perception is otherwise, unions have actually had little to do with the basic causes of the recent inflationary pressures in our economy, even though the high visibility of collective bargaining settlements causes people to blame unions for inflation. Because union leaders are elected by their memberships, they usually are more outspokenly defiant of policies to control inflation, but they realize more than most people the dangers of inflation to their members and to unions as institutions. We get more pledges of support from business, but more actual compliance from workers; businesses are happy to help us control wages, but they do not display the same enthusiasm for holding their prices down. We cannot expect continued compliance from workers unless we also find ways to restrain prices. Indeed, I am convinced that we will not have a stable policy to deal with inflation and other economic policies unless that policy is the product of participation by the major economic factors.

The public also has the perception that unions are too strong. While there are some strong unions, I think the contrary is the case. Today American unions are not strong enough, either economically or politically, to protect adequately the interests of workers, even though unions have done more than any other private institution to promote the interests of all workers—the overwhelming majority of whom are not union members. I also believe the weakness of workers' organizations to be a serious threat to political, social, and economic stability in a society where business forces are becoming better organized, more strident, and more active politically.

The Carter Administration's policy has been to strengthen and improve collective bargaining. We know that collective bargaining is one of our best means of assuring industrial peace and increasing productivity. We have attempted to avoid becoming directly involved in collective bargaining negotiations, except in

the rare situations where important national interests are at stake.

To that end, we are doing everything we can to ensure a healthy collective bargaining climate. In the steel, airline, and construction industries, we have arranged meetings among labor, management, and government to review issues that have an impact on collective bargaining, but cannot be resolved at the table. If we anticipate problem areas through these meetings, we can try to alleviate them before collective bargaining begins.

Those of you who are active arbitrators see first-hand tensions between labor and management. You know that arbitration is taking more time, costing more money, becoming more difficult. When I was an active arbitrator, I often told the parties that arbitration was a bad system because the parties should settle their own differences, but that arbitration is better than any other alternative. My experience as Secretary of Labor strengthens this conviction.

These discussions are a necessary step toward a healthier collective bargaining climate. The techniques and ideas you bring out of this meeting will enable you to perform your jobs better. But beyond the technical expertise you may acquire, I am sure you realize that those techniques are the means to the worthwhile end of preserving the collective bargaining system.