The Case for a Fair Deal Labor Policy

Speeches of

HON. HUBERT H. HUMPHREY

of Minnesota

In the Senate of the United States

June 10 and 14, 1949

"I submit that the processes of democracy are as relentless and ever-flowing as the tide itself . . . the American people, the working people of this country, the people who have been oppressed by this law, are determined that they are going to remove this kind of punitive legislation from the statute books, and are determined that they are going to have something to say about the processes of government, because this country is their country, as well as it is yours and mine."

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The Senate resumed the consideration of the bill (S. 249) to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, and for other purposes.

Mr. HUMPHREY. Mr. President, I desire to speak at some length on the pending measure, Senate bill 249, to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, and for other purposes.

Before I begin my formal remarks I must say that I was deeply interested in the remarks just made by the Senator from New Hampshire [Mr. BRIDGES], in which he pointed out that the Republican Party has not lived up to its responsibilities in foreign-policy matters. There are some of us who believe that the Republican Party has not lived up to its responsibilities in terms of labor-management policy, and I intend to direct my remarks toward the consideration of what I and many of us consider to be a sound, constructive, modern labor-management policy for the industrial economy of the United States.

I wish to trace the development and the growth of the trade-union movement in this Nation and the growth of legislation which deals with the problems of labor-management relationships.

The first subject of my remarks is, therefore, I believe, a timely one at this stage of the debate on the pending measure.

Objectives of a National Labor Policy

A sound and workable labor policy adopted by the Government of the United States must begin with an understanding of the appropriate purposes of such policy. What can a Government labor policy achieve and what are its limits? What should a Government try to do in that field, and what should it refrain from trying to do?

Statements of objectives too often are mere generalizations on which everyone can agree. This is true of much of the "declaration of policy" in the preamble of the Taft-Hartley Act. Few will disagree with the following statement from the preamble of that act:

> Industrial strife which interferes with the normal flow of commerce and with the full production of articles and commodities for commerce, can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another's legitimate rights in their relations with each other, and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest.

The second paragraph of the preamble of the Taft-Hartley Act also states some laudable objectives. The purpose of the act, it is stated, is to promote the full flow of commerce, to prescribe the legitimate rights of both employers and employees in their relations affecting commerce, to provide orderly and peaceful procedures, to protect the rights of the public, and so forth. But even in the highly generalized statement of objectives the preamble of the act betrays the bias of the act when it states that its aim is "to protect the rights of individual employees in their relations with labor organizations." That aim in itself may sound praiseworthy, but what about the protection of the individual employee in his relations with his employer and in his relations with the Government?

When various provisions of the act are considered it is apparent that the objective of the act, in respect to the so-called rights of the individual employee, is to go back to a condition of industry and industrial relations that ceased to exist when large companies and gigantic cor-

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porations came upon the scene. The act ignores a fundamental fact which was recognized by numerous Supreme Court decisions, as when the Court in the Jones and Laughlin case relied in its decision on the helplessness of the single employee, his complete dependence on his daily wage and consequent inability separately to resist arbitrary and unfair treatment, and his dependence on his union for equality in dealing with his employer. In other words, Mr. President, labor relations in the year 1949 cannot be conceived of as being in some sort of fairyland, as might have been the case in the days of 1800, before the growth of the giant corporation or what is commonly known as big business. Labor relations cannot be considered in a theoretical vacuum. That question is no longer an academic one; it is the very substance of a sound, productive economy.

Equally important is the fact that the individual employee is helpless as compared with his employer in making use of the laws of the land designed for the maintenance of rights, and in appealing to the courts or to administrative agencies for the interpretation and enforcement of these rights.

The Taft-Hartley Act is profoundly reactionary. It ignores the facts of economic life by assuming that the individual worker can successfully pit himself against the power of a highly organized and complex economic system. The act, however, is worse than reactionary, in the sense of seeking to reinstate a one-sided individualism applicable to the worker but not to the employer. It departs from our past traditions and policies by setting up a governmental system for the direct and detailed intervention of government into areas of economic activity always heretofore reserved to the parties in the field of industrial relations.

Mr. President, let me say that some of the proponents of the Taft-Hartley Act and some of the groups in the United States that so staunchly defend it are the very first to criticize the use of government in any area of our economy, the very first to use the phrases "free enterprise" and "private property," the very first to call such developments to the attention of the Congress and the President, and to point to the fear of statism or socialism. These same people and concerns are the ones who today would say that in the great area of our productive process, where management and labor in a free economy are to meet together, the strong arm of government should project itself and be the final determiner of what is just and right.

Is this a biased view? If so, the bias is not restricted to those who are commonly charged with pro-labor bias. In evidence it is worth while to recall the editorial views expressed in Business Week of February 19, 1949. The following is a quotation from the editorial in the journal:

> What was wrong was that the Taft-Hartley Act went too far. It crossed the narrow line separating a law which aims only to regulate from one which could destroy.
>
> Given a few million unemployed in America, given an administration in Washington which was not pro-union—and the Taft-Hartley Act conceivably could wreck the labor movement.
>
> These are the provisions that could do it: (1) Picketing can be restrained by injunction; (2) employers can petition for a collective-bargaining election; (3) strikers can be held ineligible to vote—while the strike replacements cast the only ballots; and (4) if the outcome of this is a "no union" vote, the Government must certify and enforce it.

The editorial from Business Week continues:

> Any time there is a surplus labor pool from which an employer can hire at least token strike replacements, these four provisions, linked together, presumably can destroy a union.

Mr. President, the editorial writer of Business Week understands one of the basic reactionary tendencies of the Taft-Hartley Act. I submit that the real danger of the Taft-Hartley Act to sound labor-management relationships does not lie in its individual provisions alone, considering them one by one, but, as this wise editor has said, the real danger lies in their being linked together; and all too often they are linked together.

The facts of life in our highly complex and highly organized economy with its powerful corporations and associations of employers are recognized far more realistically in the statement of objectives of the Wagner Act. The preamble of that act recognizes, furthermore, the highly desirable limitations on the functions of Government in avoiding as far as possible a positive interference with the liberties and rights of both parties; it attempted merely to remove obstructions and prevent the bad effects of inequalities of power in the carrying on of industrial relations, not by the Government but by the parties—free action by free citizens in a free economy in a free country.

The Wagner Act in its statement of policy recognizes the actual facts of inequality in bargaining power between employees when they do not have full freedom of association and collective bargaining rights and employers who are organized in corporate or other forms of ownership association. The preamble of the Wagner Act recognizes the fact that this inequality interferes with the flow of commerce, tends to aggravate business depressions, and causes industrial strife or unrest. The whole purpose of the act was consistent with the traditional and basic principles of Government in the United States. It sought to avoid unnecessary positive intervention by Government. It sought merely to use the functions of Government for removing obstructions and inequalities and encouraging free and equal collective bargaining. It assumed the carrying on of industrial relations, not by Government but by the parties, under conditions of full and mutual freedom of association, self-organization, and negotiation of the terms and conditions of employment on a free and equal basis.

Many authorities, eminent for their long experience and impartial attitudes in dealing with labor-management relations, have spoken on the proper objectives of Government policy in labor-management relations. Probably none is more eminent or more widely respected than William M. Leiserson. Mr. Leiserson, a well-recognized authority and student in the field of labor-management relationships, expressed himself in the New York Times of February 6, 1949. Before I read the statement, let me say, I feel that as Members of the Senate, as members of the Committee on Labor and Public Welfare, the testimony which was the most vital, the testimony which seemed to ring most true, the testimony which I felt came in with the least evidence of bias, the testimony which was the most direct, did not come from either labor or business. I wanted to rest my judgment on the kind of testimony which was submitted by those who have made labor-management relations a life profession, and are known for their objectivity and their impartiality in dealing with labor-management problems. So I have literally for all practical purposes, taken to myself for consideration the testimony of William H. Davis, of William M. Leiserson, and of Dr. Nathan P. Feinsinger, professor of law, of the University of Wisconsin, three eminent men, who have been hired by business, who have been used by Government, and who have proved themselves over the years as knowing the sound economic facts of labor-management relationships. They think in terms of public policy, not in terms of special privilege or of private advantage.

What did Mr. Leiserson say in his article in the New York Times?

> A good way to begin thinking about a new labor law, now taking shape in congressional hearings, is to compare the policy pronouncements of the Taft-Hartley Act and the Wagner Act.
>
> The Taft-Hartley Act says: "It is the purpose and policy of this act to prescribe the legitimate rights of both employees and employers, to (prevent) interference by either with the legitimate rights of the other, to protect the rights of individual employees in their relations with labor organizations * * *, to define and prescribe practices (inimical to general welfare) on the part of labor and management, and to protect the rights of the public."
>
> Quite different was the purpose of the Wagner Act. It declared the policy of the United States to be "encouraging the practice and procedure of collective bargaining * * *, protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating terms and conditions of their employment or mutual aid or protection."

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. HUMPHREY. I yield to the distinguished Senator.

Mr. THOMAS of Utah. Mr. President, I think the contrast between the two bills should be emphasized, one being based upon rights of conflicting interests, the other upon the theory of having these interests work together and come to a decision. I know of no conflict which has ever been settled so that the people could carry on together where the arguments were left entirely in the sphere of rights. One right is posed against another right. Probably the best illustration I could give would be a case involving domestic relations, for example, in which the husband declares his rights and the wife declares her rights. There is never a reconciliation so long as they talk about rights. There

is such a thing in law as divorce. If we attempt, in view of this conflict of rights in labor relations, to make a decision in the field of rights, there is a divorce and not a reconciliation.

Mr. HUMPHREY. Mr. President, I must say that the observations of the distinguished chairman of the Senate Committee on Labor and Public Welfare are surely to the point and exemplify his deep and sound knowledge of the problems of economic and human relationships. I think his presentation in the beginning of the debate was clear and adequate testimony of his intimate acquaintanceship with the problems confronting our economy in the field of labor relationships.

I continue with what Mr. Leiserson has to say on the subject:

The two laws approached the problems of employer-employee relations differently, and they went off in different directions to find solutions. The Wagner Act put its faith in collective bargaining—

but while the Taft-Hartley Act paid lip service to the principle of collective bargaining, its insistence on "legal rights" encouraged individual bargaining and, to an even greater extent, Government determination of the labor barga'n.

Mr. Leiserson continues:

The act's attempt to pursue three incompatible labor policies at the same time could result only in confusion.

The confusion was soon reflected in the administration of the law—the NLRB and its coordinate general counsel being unable to agree as to its intentions.

Apparently the voters sensed the act was working at cross purposes, and returned to office the President over whose veto it was adopted with a Congress dominated by the party whose platform called for its repeal.

Mr. Leiserson says, further:

No one is in a position to say precisely what the mandate is as to the kind of a new labor law that should be adopted. But we shall not go far astray if we assume that the public wants a law based on a clear-cut labor policy that it can understand, with specific provisions reasonably calculated to carry out the policy. Making a definite choice among possible national labor policies is in any case an indispensable preliminary requirement for drafting a workable law to govern so emotion-filled and explosive a subject as labor and management relationships.

That statement indicates the political sagacity and the philosophical maturity of Mr. Leiserson in the field of labor.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Ohio.

Mr. TAFT. Does the Senator from Minnesota also agree with Mr. Leiserson when he says that the closed shop and the union shop should be prohibited?

Mr. HUMPHREY. The Senator from Minnesota will continue to read from Mr. Leiserson and from the opinions of the other men whom I have mentioned. I do not say that Mr. Leiserson is a saint. I said I considered that, in the main, he is a wise man.

Mr. TAFT. The Senator said he had a high opinion for Mr. Leiserson's views. I wondered if he agreed also with his view that the union shop and the closed shop should be prohibited.

Mr. HUMPHREY. I have a high respect for the Senator from Ohio, on some subjects. There are some things on which we disagree. I am agreeing with Mr. Leiserson's views on the broad, general principles of labor-management relationships. I shall arrive, in the course of my remarks, at the question of the closed shop, and I shall be more than anxious to receive questions from the distinguished Senator from Ohio, so that once and for all we can dismiss the subject of the closed shop and the union shop, so far as those two subjects concern the junior Senator from Minnesota and the senior Senator from Ohio, because there is plenty of sound argument, not only on the floor of the Senate, but in the long-range practice in American industry, for the closed shop, the Taft-Hartley Act notwithstanding.

I proceed, then, with Mr. Leiserson's comments and his general observations:

But what are the possible choices? Broadly speaking, there are only the three: (1) individual bargaining; (2) collective bargaining; (3) Government dictation. The first leaves labor relations to be governed by individual contracts of employment. This means, as the Supreme Court said as far back as 1898, "The proprietors lay down the rules and the laborers are practically constrained to obey them"; in other words, management dictation. The second policy requires the rules to be made jointly by representatives of managements and the workers, and embody them in collective agreements. The third is the policy by which the Government determines the rules or terms of employment, or both.

The Taft-Hartley Act favors this third policy. Although it did not venture to fix wages, it did decide by congressional fiat vital issues of rules and working conditions involved in labor contracting, under the guise of determining legitimate rights. In doing this it purported to further the policy of collective bargaining, but its concern that strikes and other forms of industrial unrest or concerted activities (shall not) impair the interest of the public led it to prescribe rights which had the effect of determining disputed issues and removing them from the field of bargaining. Incidentally, in encouraging individual bargaining, the act in effect stipulated for employees a right to refrain from collective bargaining.

That is the conclusion of the substance of the article which appeared in the New York Times on February 9, 1949.

Mr. President, among the many other eminent authorities with long experience and whose impartial views are beyond question, mention may be made of Mr. Nathan P. Feinsinger. As a professor of law, a public official in both State and Federal capacities, and a conciliator or arbitrator in numerous cases, Mr. Feinsinger's views have special value. These are already familiar to members of the Committee on Labor and Public Welfare who were so greatly impressed with his testimony, but they should also command the earnest attention of all. He summarized his views for consideration by the committee as follows:

Legislation in this vital field should follow a long-range national policy; it should be confined to basic problems; it should provide practical measures.

I would state my conception of a sound labor policy for America as follows: As a nation, we are dedicated to the ideal of a free society, through which individual liberties may be exercised to the highest degree consistent with like liberties for others. We endorse a system of free enterprise because we believe it most conducive to a free society. We seek to promote industrial self-government, through labor-management cooperation and self-discipline, because we believe it to be, in the long run, most consistent with a system of free enterprise. We adopt free, voluntary collective bargaining as the instrumentality best suited to the practice of industrial self-government; to the protection of the liberties of the individual worker; to the attainment of practical democracy within our modern industrial society; to the achievement of industrial peace; to the maintenance and increase of purchasing power; and, through all these, to the safeguarding and advancement of public interest.

If our national policy is to be effectuated through collective bargaining, we cannot simultaneously encourage a competing system of individual bargaining. If collective bargaining is to be free and voluntary, we cannot have governmental intervention, except to insure the conditions under which free bargaining can take place. (I use the term "governmental intervention" advisedly. I have observed that the term used is "government interference" when it helps the other fellow, and "Government protecting the public interest" when it helps our side.) If we are to have realistic bargaining, each side must be free in the final analysis to say "Yes" or "No," which means the right to strike and the right to lock-out if no agreement be reached. The exercise of the right to strike or to lock-out entails the risk of economic injury not only to the adversary but to neutrals. Such risks are inevitable in a democracy. Only a democracy can meet such risks, and take them in stride.

Mr. President, I think it is of paramount importance that the American people, who speak of freedom, who believe in freedom, who want freedom, political freedom, economic freedom, remember that there is a price for it, and a real price. In the economic area it is the price of a strike or a lock-out; it is the price sometimes of a stubborn union or a stubborn employer. There is no doubt that at times some neutrals, those who are not involved, possibly, are affected, at least for a period of time, short or long, as it may be. But every one of us has a stake in economic freedom, not merely those who are participating in an individual or particular dispute. Every one of us has a deep concern for and a vital interest in political freedom, free speech, free press, freedom of religion, freedom of enterprise. These are precious heritages for everyone. We need to remember that the right to strike is a vital part of the American system of freedom, and the right of the employer to lock-out is a vital part. I am not one of those who believe we can get freedom cheaply. We have to be willing to pay the cost for individual freedom.

Mr. Feinsinger then discusses recent history, the wartime interruption of normal collective bargaining, and the disturbing problems of the transitional period. He then states:

The Taft-Hartley Act was a product of anger, confusion, and compromise, but also of considerable idealism.

He then describes the act as "a throwback to doctrines once discarded as unrealistic and unfair. The antiboycott sections, for example, restore the dis-

credited notion that the only persons interested in a labor dispute are the employer and his employees, thus ignoring the facts of industrial life. Implicit in the act is the notion that individual bargaining is on a par, policy-wise, with collective bargaining, and the process of organization for collective bargaining is at bottom a contest between the employer and the union for the loyalties of the unorganized workers."

The "severest indictment of the Taft-Hartley Act," Mr. Feinsinger continues, is the "invasion by legislative fiat of the area of collective bargaining." He states that "We have now in embryo the legislative determination of the terms and conditions of private employment." He concludes:

> I do not say that legislative control of the employment relation in its entirety is good or bad. But I am certain that the proponents of the act did not intend or foresee such a result. Yet they have started the ball rolling in that direction, and who is to say where and when it will stop?
>
> We are really at the crossroads of two conflicting ideologies. The choice is clear. We must either return the incidents of the employment relation, beyond the establishment of minimum standards, to the parties or we must be prepared to have the Government play the role of the camel in the tent of collective bargaining.

Now, Mr. President, having discussed the objectives of a national labor policy, I turn to a closely related subject.

The Place of Labor Unions in Our Economy

Mr. President, I wish to discuss the place of the labor union in our economy—not the economy of Alice in Wonderland, not the economy of Henry VIII, or Thomas Jefferson, but in the economy of 1948 and 1949, when we produced more than $200,000,000,000, gross, of commodities, in an economy that has seen great concentration of business. No one can deny the fact that instead of there being less merger and less concentration of economic power in this Nation, there is more and more of it. Let us take a look at the place of the labor union in our economy.

Public policy toward unions and labor-management relations should be viewed in the light of the place of union organizations in our economy. The actual role of unions in the United States should, in turn, be viewed in the light of conditions existing in many other countries, and also in the light of conditions that would prevail here in the absence of a free and strong labor movement.

It is worth while to recall some of the main facts as to the nature and functions of unions in the United States. There are approximately 200 national and international unions, affiliated either with the American Federation of Labor or the Congress of Industrial Organizations. The A. F. of L. and the CIO are somewhat loosely organized groupings of these nationals and internationals. The unions which make up the A. F .of L. and the CIO are autonomous, and are composed of local organizations of workers in the various crafts, trades, professions, and industries. The locals themselves are more or less autonomous, the degree of autonomy varying from union to union.

The national and international unions range widely in size; 16 of them each had less than 10 locals in 1948; more than half of them had less than 200 locals; and only 6 had as many as 2,000 locals. Among the national and international unions, 16 had less than 1,000 members and all but 37 had less than 100,000 members.

In addition to the national and international unions, both the A. F. of L. and CIO maintain city and State organizations with which these are ordinarily joined by the affiliated unions in the area. Early in 1948 the A. F. of L. had 795 city centrals and 50 State federations of labor; the CIO reported 243 city, county, and district councils and 39 State industrial councils.

Several of the larger and more influential unions are not affiliated with either A. F. of L. or the CIO.

The total membership of the unions in the United States now exceeds 15,000,000 workers. These workers comprise roughly one out of four workers in the total labor force, including the self-employed and managerial and supervisory workers.

I submit, Mr. President, that corporate business in America does better than 25 percent of the total business, and has more than 25 percent of the control of the Nation's economy. Yet all the unions in America put together represent only one out of every four of the total available labor force.

So when we start comparing, with a pat on the back for the one and a pat on the back for the other, and a kick for the one and a kick for the other, let us not forget that we are not patting on the

back people of equal physique, of equal strength, of equal maturity, of equal power. It is something like patting on the back a 2-year-old son and a 40-year uncle, and then coming along and giving equally vigorous kicks to the 2-year-old son and the 40-year-old uncle. It can be said theoretically that both have equally received a pat and have equally received a kick, and then call it equality of treatment. It is like Anatole France's statement, that all men have certain basic rights; that the rich and the poor alike can sleep under the bridges and eat in the gutter. Both can do so equally, and that may be called equality of opportunity, if one should desire to call it such. I do not.

Union members probably comprise between 40 and 50 percent of that portion of the labor force in which unions have concentrated their organizing efforts.

Unions are thus extremely diversified in size, in types of membership, and in their relations with central or over-all organizations. They have certain basic common interests but they do not have any strong central authority or any means of concerted action except in restricted fields and for limited purposes. Union organizations in general are characterized by the typical spirit of autonomy, independence, and action on the basis of discussion and agreement. Tendencies toward organic unity and concerted action have been promoted chiefly by a defensive attitude—which in turn has arisen most significantly in recent years from policies which Business Week editorially described as potentially destructive of unionism.

Laboring men in this country are fearful of the Taft-Hartley Act, because of their keen insight. Although they do not possess Phi Beta Kappa keys, though they may not have Harvard degrees, without being profound students of economics, but simply by reason of their experience, their suffering, they have looked at this law and they have said they were against it, long before the editorial writer of Business Week ever got around to finding out about it. The plain ordinary worker of America looked at the law and came to his conclusion about it 1 week after the law was passed, whereas it took the editor of Business Week 2 years to find out about it. But I am glad the editor of Business Week has found out about it.

Mr. LONG. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. GRAHAM in the chair). Does the Senator from Minnesota yield to the Senator from Louisiana?

Mr. HUMPHREY. I yield.

Mr. LONG. I ask the Senator from Minnesota what the effect is when strikebreakers replace union workers? About 6 months ago some laborers came to me and asked if something could not be done to help them. They had gone out on strike and had been replaced by strikebreakers. At that time there was a shortage of labor and it was difficult to replace union workers, but nevertheless the strikers had been replaced. The Board was then in the process of declaring that the strikebreakers were entitled to bargain, and could avail themselves of the provisions of the Taft-Hartley law. The union workers were out on the street, and were obliged to find employment in other fields of industry.

My question is, What protection has the Taft-Hartley law conferred upon those strikebreakers?

Mr. HUMPHREY. The Taft-Hartley law made it possible for the strikebreakers to come in and take the jobs of the legitimate bargaining workers, and to be certified as the legitimate new bargaining agent.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. In the first place, the persons in question are not strikebreakers. They are persons who are permanently employed, who live in that section. In order to take the place of the strikers they must be permanent employees.

This question arose first under the Wagner Act, not under the Taft-Hartley Act. Under the Wagner Act the Supreme Court held that a striker who was replaced by a permanent employee, that is, not by a man brought in from the outside, but a man employed permanently, was not entitled to reinstatement. He was no longer an employee for the purposes of the act. The Board had great difficulty at that time in determining whether or not he could vote. The Board held, under the Wagner Act, that both the strikers and those who had replaced the strikers as permanent employees could vote. That created a very anomalous situation. When we considered the question originally we had the case of the Redwood strike in California. The strike had been in progress for 2 years. The men had struck, and they had been grad-

ually replaced by veterans who came back and settled in the community, until all but a few workers had been replaced. Various elections were held. The strikers always came back and carried the election by half a dozen votes, although both the strikers and those who replaced them voted. So, although the strikers had jobs elsewhere, one man with a picket sign remained in front of the place, and, so far as anyone could judge, that strike could continue for the next 10 years, although all the workers had been replaced, and most of them had moved out of the neighborhood.

That was the question we had before us. Who should vote under those circumstances? The Taft-Hartley Act provided that only the replacements could vote, and that those who were no longer entitled to reinstatement were not entitled to vote. Under the Supreme Court's own ruling they could not vote in an election as employees.

I think on the whole that argument was justified. As pointed out in the Business Week editorial, that was based upon one section of the act. Under the amendments which I have presented, we remove that provision and return to the provisions of the Wagner Act in that respect. Therefore, so far as any argument can be based upon that section, the argument is removed by the amendments which we are now offering. I think the argument of the editor of Business Week is also removed by the amendment which strikes out that provision. It was regarded as a very minor matter. It was passed over without very serious consideration by the committee. Certainly from the point of view of argument, the argument can be made that by adding that provision to four other provisions in the act, it can be made a weapon for the destruction of unions. While it is a rather tenuous argument, I can see the logical argument that could be made, and I thought we ought to remove the provision about voting, and we do remove it in our amendments.

Mr. HUMPHREY. I am very grateful to the Senator from Ohio for his explanation with reference to that particular question. I think the explanation points up the fact that we have seen the error of our way in the Taft-Hartley law. It points out, first of all, the fact that under the Wagner Act both the strikers and the replacements were allowed to vote.

The Wagner Act was based on good American capitalist doctrine. The man who owns stock in a company is never around. He does not even know who the manager is. The stockholder is operating a garage, or he owns a drug store, or a farm, or has a job at the local utility company. But he never loses his right to vote. He has a property interest in the corporation.

When the union is a certified bargaining agent, and when there is a legitimate economic dispute, the workers who have been on the job have a property interest in their job. That is their life. It is their bread and butter. As the distinguished Senator from Ohio says, realizing the error of the Taft-Hartley law, which has been pointed out only recently, certain amendments have been offered. Great damage has already taken place. Surely there was no need for it. It is a very basic illustration of the vice of legislation based upon isolated situations. If the proponents of the Taft-Hartley Act had not been in such a hurry and had listened to reason, and had listened to those who had been in the field of labor-management relationships all their lives, they would never have put such a provision in the Taft-Hartley Act in the first place. In the spirit of a good clergyman, I rejoice that someone has repented of his sins and returned to the fold, at least partially. He is at least in the vestibule.

Why do workers join unions? The basic answer to that question is to be found in the fact that the liberty of the individual worker can be maintained only by means of group action. Free and independent unionism, under the American economic system, is absolutely essential if the individual worker is to maintain anything approaching equality in his relations with his employer. Free and independent unionism is, furthermore, essential to the individual worker if he is to express his views and protect his interests in the vital field of public opinion and public policy. Unions, as representative institutions in the economic field, are closely analogous to representative institutions in the political field. The individual citizen votes for Members of Congress for the purpose of having them represent him in the formulation and enactment of laws. Members of unions necessarily delegate to their officials the representative function of formulating collective agreements.

I think the analogy is clear. Once a person is a member of a union, he has the right to vote. There is no class A,

class B, and non-voting stock. There are no preferred stockholders or bondholders. Let us not compare a union with a corporation. Corporation lawyers have been able to figure out more "gadgets" to deny people who own the company the right to say anything about the policy than a Philadelphia lawyer could figure out in a hundred years.

In the case of a union, when a person joins, he is in. If he does not show up to vote, the situation is no different than it was in the last national election. Some people did not show up to vote last November, as they were expected to do. They have no one to blame but themselves. They could have voted, but they did not vote. In those areas where they cannot vote, we are making frantic efforts to see that they do vote.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MORSE. Does the Senator mean to imply that if they had voted the result would have been different?

Mr. HUMPHREY. I do mean to imply that. I think the majority would have been even greater.

What I was trying to point out was that there has been a tendency to compare a union with a corporation.

No, Mr. President, a union is just what it purports to be. It is an independent organization of free individuals, all of whom have the same rights and privileges, coming together for purposes of their own benefit, and for the formulation of their own policies. In a corporation the situation is entirely different. People invest in a corporation for profit. Some have something to say about it. Some do not. Some get more profit than others. Some get the first "take," some get the last "take," and some simply get "taken". A union is not like a corporation.

In our system of private enterprise as it has developed in a more or less democratic way, the central fact of labor-management relations is collective bargaining. Industrial government, in the sense of participation by workers as well as employers, is primarily to be found in the procedures and processes of collective bargaining. In the economic field the scope, limits, and end results of democracy in the field of industrial government are to be found primarily in the terms and the administration of collective agreements.

Collective bargaining is, of course, not the only function of unions. But the integrity and equality of unions, as well as employers and their organizations, in the collective-bargaining process is the outstanding fact in the American experiment, under present-day large-scale and complex enterprises, in the maintenance of a free and democratic society.

Let me emphasize that point. A union is a very fundamental part of our system for preserving a free economy, in a day when business is big. We need big business for big production. Sometimes I think that merely shouting against big business is failing to see some of the economic facts. The question is, How shall the public have an opportunity to get some of the fruits of this production? How shall we prevent concentration of economic power which would grind into the dust the little people who are weak in their individual power?

One answer is for the Government to take over. That is what has happened in Russia. There are no strikes in Russia. There is collective bargaining under government edict, but not free collective bargaining.

Another answer is to have the kind of system which we have in the United States, which says that the best answer to the concentration of economic power is to permit those who work with that economic power to join together so as to achieve a balance in equity. I believe in that system.

We have only to look at conditions in iron-curtain countries to realize the grave disadvantages of subordinating unions to governmental control. And it must be recognized that the more extensive is the authority and responsibility of the Government over the processes and terms of collective bargaining the greater must be the authority and responsibility of Government not only over unions, but over the employers of the members of unions.

Another possibility, which unfortunately has been actually experienced to a limited extent in the United States, is the control of unions by their employers. It is not necessary, even if there were time, to go into the history of company unions and company towns in the United States. Fortunately, they were never firmly established in the United States except in very limited areas and fortunately they are now both on the wane.

What needs to be emphasized, Mr. President, and kept in mind alike by workers, employers, and those of us who are charged with the responsibility of

formulating public policy, is that free and democratic enterprise has no alternative to the maintenance of free and vigorous unionism. It is only in that way that the integrity and success of voluntary collective bargaining can be maintained. And employers above all should recognize—and let me say that many of them do recognize—that the alternative in our modern society to voluntary and effective collective bargaining is not so-called individual bargaining, nor is it control of enterprise by employers. The alternative is necessarily a far greater extension of public authority and responsibility over enterprise than has been necessary in the past. This is the view, as we have seen, of outstanding and impartial authorities in the field of labor-management relations.

In other words, there are three choices: First, free-collective bargaining between free management and free labor; or, second, individual bargaining, which merely means taking orders; it means that a man might go to the Standard Oil Co. and might say, "I want a job at so much an hour," and the company's representative would say, "I will not pay you that much," so then the individual has to say, "Then I will bargain with you." That does not make much sense, of course. The choice, then, is between free-collective bargaining between free management and free labor; or, second, individual bargaining—and, as a matter of fact, very few persons would be inclined to attempt that, so for all practical purposes we may disregard it; or, third, a much greater extension of public authority and public responsibility over both management and labor than have existed in the past.

So I think the choice can be narrowed down to this: Do you want free-collective bargaining or do you want Government-controlled, Government-regulated, and Government-dominated collective bargaining—in other words, not merely to have the head of the camel under the tent, but to have all the camel in the tent. Mr. President, do our people want to have the Government of the United States draw up a labor policy which brings the respective parties to the door of conciliation, or do they want the Government to draw up a policy which not only takes the respective parties to the door of conciliation, but kicks open the door and brings the parties to the table, and says to them, "Look, fellows; you are going to bargain in the way I tell you to bargain." To my mind, that will mark the end of free labor and free management in this country.

The question of the place of unions in our economy involves one of the oldest and most vital of American traditions. I refer to the right of free association. That right has been legally recognized and protected in the case of unions of workers more recently than in the case of associations generally. The continued maintenance of the right of free and equal association for employers and farmers and for citizens, irrespective of their economic connections, is, in fact, involved in the present controversy. The denial or the impairment of free and equal association of workers in unions will sooner or later imperil the rights of other groups to maintain freedom of association.

I take it that there are some persons who would like to destroy the United States Chamber of Commerce. Mr. President, we may disagree with the United States Chamber of Commerce on occasion; but I would never vote for a law to destroy it or limit its freedom of action. American business institutions have the right to join together for purposes of formulating policy and decision. Each one of us must make up his mind either to be in favor of freedom or to be opposed to freedom; we cannot be a little bit in favor of freedom.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Utah.

Mr. THOMAS of Utah. If we tried to outlaw such an organization as the United States Chamber of Commerce, would not it be like trying to outlaw the comic papers or some of the other things which are a part of our life and which the people rather enjoy, but never take seriously?

Mr. HUMPHREY. I shall accept the statement of the distinguished chairman of the committee. I must say to my good friend and colleague that at times I have taken the Chamber of Commerce quite seriously. The new president of it is a very good personal friend of mine, and I think a great deal of him. I frequently disagree with him, but I think the right to disagree is one of the luxuries we have in this country.

(At this point Mr. HUMPHREY yielded to Mr. KEFAUVER, who made a statement relative to Gordon R. Clapp, Chairman of the Tennessee Valley Authority, which appears at the conclusion of the speech of Mr. HUMPHREY.)

Mr. HUMPHREY. As I have related, Mr. President, unions were created out of the needs of people who were working for their livelihood, and who could not cope with their economic problems as individuals. Although many of us recognize unions as an important force in our economy, some do not approach them with a sympathetic attitude, as though they are true representatives of the aspirations of the working people in the United States. Some of us are sometimes inclined to become impatient with these working people because their interests seem to be pushed by their representatives to a degree which makes it uncomfortable to people whose aim is to maintain the economic status quo.

There are many explanations of the reason for the labor-management conflict. A former Member of Congress, Representative Hartley, has explained this conflict in his book, published, I believe, last year, by saying simply, "Management wants to make all the money it can; labor wants to make all the money it can. The result is," says Mr. Hartley, "labor-management conflict, strife, and strikes." This is too much of a simplification of the problem, but it is a view which is popular at the present time. Historically, unions have been interested in much more than the selfish fight, if one will call it that, for money for their members. The first demands of labor unions were as much for union security, recognition of group action, status in the community, and free education for their children, as they were for raises in wages.

I should like merely to point out, Mr. President, that some of the same type of folk who today have fought bitterly for the retention of the Taft-Hartley Act—I say some, not all—are the same kind of folk, if you please, who fought against public education. It is to the eternal credit of the great trade-unions and their members that in the early history of the Nation they went forth and did battle for the right of an educational opportunity for the children of America. That is a little more than certain other groups can claim. In regard to those things which have elevated the general living and cultural standards of our people, such as public health measures, workmen's compensation laws, child-maternal care, social security, and all sorts of legislation commonly called social-welfare legislation, the labor movement must be given credit for having worked for those things; and it did not always do so merely for wages.

I make bold to assert that sometime American business had better find out that the people of America do not live by bread alone. Some of us are interested in education for our children, decent living standards, and decent social standards. As I said to one of my very good and distinguished friends in a business deal, "Be for something, for a change. We know what you are against. Be for something, do not come around, being for it, 2 years after everybody else is for it, because you do not get credit for it then." The first demands of labor unions were as much for union security, recognition of group action, status in the community, and free education for the children, as they were for raises in wages. Of course, we must admit that, especially among the low paid, the financial interest is an important one.

Our economy is so complex that members of economic groups must form organizations to represent them. Farmers, employers, wage workers, small-business men, all feel the need for organizing to attain their objectives.

The American Medical Association organizes to obtain its objectives. I ask, why do we not pass laws about the AMA? Why do we not pass laws about the bar associations? Because, Mr. President, those distinguished professional people have the right to join together; and when we start segregating every little group, and passing a special law because we do not like some of the things that some of their officers do, we are then going to be so busy passing laws against every little organization that we shall not get anything else done.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Louisiana.

Mr. LONG. The Senator asks, why do we not pass laws relating to bar associations? I would point out to the Senator that we attorneys have one of the strongest closed shops in America. Anyone who will investigate will find that we have laws on the statute books of every State in America. We prescribe an examination which everyone must take who wants to practice before the courts, before he can stand in court to plead a case for anyone except himself.

Mr. HUMPHREY. I am very happy to have the observations of my friend, the able and distinguished Senator from Louisana. I am not an attorney, and I hesitate to make any remarks which could in any way be interpreted as not being friendly to that great and noble profession. What I was pointing out was that there is no effort on the part of the Congress of the United States to pass laws against what the distinguished Senator has said is a closed shop. I have never looked at it in that way. I am glad to have that opinion; it is very edifying.

Until the New Deal period began, the organization of workers into groups to meet their economic needs was either frowned upon or, at best, not protected. That is a mild statement. I weighed that statement many times. This Nation is filled with men who were once in jail because they said they would not work for someone for 25 cents an hour, because they organized a group of other persons to work with them for 40 cents an hour. In every State where there is a trade-union we can find men who have jail records of that kind. It is an honor; it is not anything to be looked down upon, because they had the courage to say, "We shall not be economic slaves." But the stigma of that experience is on them, and they resent it. We hear it said that they should forget it. I know they should. We should forget some of the conflicts between the North and the South, between the big city and the rural area. But we are people, not gods, and we remember some of those things. We are working with the hope that we can erase them from our memories.

Once the Wagner Act was passed, its enemies directed their efforts toward reestablishing the pre-New Deal freedom under which employers and employees had the right to form organizations while the employers had the right to destroy employees' organizations by the use of the means which I shall discuss a little later. They wanted to go back to the good old days, the pre-New Deal days of freedom. Freedom for what? I have often thought about it. Freedom to go into business, freedom to get a job, individual freedom. It is something like being free to have a fight with Joe Louis. That is not freedom; it is pure nonsense, foolishness, and suicide. That is the kind of freedom that some persons talk about. The individual worker was only a pawn, merely another parcel of the economic structure, dealt with as if he were not human.

If the trade-union existed simply as a means for workers to get more money, one would think that unions would not exist where workers were well off. Some of them are well off. Why is it that some of them are the most well off? Why is it that the railroad brotherhoods, which have fairly good standards, and which have operated over a long period of time, are well off? Ask a good conductor. Ask a member of the Brotherhood of Railroad Trainmen if they want their union. They are better off than some of the others who have not been long organized. Ask them if they want their union. Try to take it away, and see whether they want it. As we know, it is among some of the best-paid groups in our economy that the unions have maintained their strength. It is among these groups that unions can afford to be active as proponents of so many unselfish and humanitarian efforts.

Mr. President, the trade-union movement is necessary for the mental health of this Nation. Every American ought to have the right to "gripe" and be heard. Every American ought to have the right to have a grievance, if he wants to have it, and be heard. The distinguished head of the Conciliation Service—and I do not think I am breaking any rule by telling the Senate about this—told me that if there were no other excuse for trade-unions, they were necessary on the basis that they provide an outlet for members to have their story told. The people in this great, complex society must have their story told. They must have a chance to "tell the boss off" once in a while, or we will have a Nation of psychotics and neurotics. We all like to "tell off" people once in a while Why do our constituents come to visit us occasionally? They back us up into a corner and tell us things we need to be told. It is a very good thing. Freedom of expression is a meaningless thing unless the medium of expression is provided. An individual worker employed in an oil field or in a mine is not going to see the boss of the company, but under unionism, his representative can see the boss. His representative says, "There are at least a hundred workers who are complaining about such and such—they are complaining about the general condition of the air in the plant, or about the fact that the washrooms are not in proper

condition." The individual worker knows that his voice is being heard. Otherwise, his voice would never be heard.

The trade-union of today can be explained better by describing it as I have done, as the sole medium for meeting the aspirations of workers in all fields.

With advanced technology, a trade-union meets the psychological needs of workers for a voice in the decisions which have to be made concerning their day-to-day working conditions. The unions fit their pattern of organization to that of the economy in which they operate. We have big unions only because they have to deal with big managements. Mr. President, we do not go around putting Model T brakes on a 1949 Cadillac automobile or the wrong kind of pistons or mechanical equipment on certain parts of the motor of a 1949 truck. Frankly, when some persons say to me, "Why do we need big unions?" I have always had an answer. I say "If you do not want big unions, do not have big business. If you do not want big government, do not have big business. Bigness begets bigness. If you have a big family, you have to have a big house. With big families it is necessary to have big houses. If we do not want big unions in this country, let us not have 60,000,000 persons available for gainful employment; let us not have big industry. Instead of complaining about it, why not develop a pattern by which they can work together?"

The lone laborer in a steel mill theoretically could bargain as to wages, hours, and working conditions, with his employer. He might have to go to Florida to find him, but he could bargain with him. But we know, as a matter of fact, that under that type of bargaining the employer would merely determine, on his own, the job conditions and rates of pay for the worker. The individual therefore is forced by the organization of his employer, to form a trade-union to represent him. In this respect the trade-union is a reflection of the type of democracy we have in our political and economic life.

Even assuming that an employer is unselfish and kind to his employees—and there are hundreds of such employers—such an attitude does not constitute a substitute for this democracy. Many good employers have come to the committee and made statements to this effect: "I have always been good to my workers. I give them better conditions than the union can get for them. I pay them better than the union pays them. They have shorter hours than the union is requesting. They have a pension fund; they are given turkeys at Christmas, Easter bunnies at Easter, and firecrackers on the Fourth of July."

Let me remind you, Mr. President, that there have been times in the history of this world when nations were ruled by great and benevolent kings who were more noble in their generosity, more gracious, and more kindly, possibly, than any democracy has ever been; but he who giveth can take away, and the one who may be kindly on Wednesday may have dyspepsia on Thursday, and be not so kindly on Friday.

What the workers of America are asking for is not paternalism; they are not asking for the spirit of benevolent monarchy; they are asking the right to do something about their own condition, which is a very normal, traditional, American attitude. They are asking the right to make some of their own decisions. Even if their decisions are not so good as those handed down by somebody else, they want to make them, rather than have the perfection of the philosophy of Plato. Even the well-treated slave prefers freedom to security; and it is to the credit of the people of the United States that this is a fact which faces us. It was an employer, not a union, who made the statement:

> No; labor doesn't want paternalism. Grown men and women don't want to be bribed by philanthropists. * * * In their private lives they want the free right of self-expression.

Unfortunately, trade-union activities, by their very nature, attract attention chiefly when they take a negative turn. If from fifty to one hundred thousand collective agreements are signed each year, the large majority of these would not make the headlines. The strikes do make the headlines. Without fear of successful contradiction, I say that more money was lost because of unemployment during the depression than has ever been lost because of strikes. Let those who were so concerned about strikers think of what was happening to the country. The Republic was starting to rock and quake all over. Those same people were not concerned about the problem of unemployment, or what should be done about it. We could have paid off our whole national debt, or at least that of World War II, in what we

lost in gainful employment in the 1933 crisis if we could have had all the people back to work. That was a real problem, a problem of real dimensions.

In the first place, managements generally have more of an opportunity to come before the public in a favorable light. Everyone knows, for example, what the new cars look like; we see them every day, we recognize them as they pass before us in the streets. We recognize them by their names, which are associated, in our minds, with management. All of us have seen the advertisements of the new Chrysler, for instance, the new Ford, the new Dodge, the new Cadillac. The name Chrysler, when we see it in print or hear it over the radio, strikes a favorable response, or at the worst, a neutral response. Even if we cannot afford the car we do not hate it. Now, in the next 6 months negotiations will take place between the union which has organized the employees of the Chrysler Corp. and the management of the corporation. If these new negotiations are successfully concluded, as we hope they will be, there will be a notice to that effect in the newspapers, and after 1 day the incident will be forgotten. If, however, these negotiations are not successful, the union will be at a disadvantage. For it is the union which declares the strike. Even in cases where impartial observers might agree that management was wrong, the fact that the union declares the strike puts the onus of the strike upon the employees.

People who do not look too carefully into a situation, therefore, tend to be influenced against the unions. They do not realize, and the newspapers have failed to help them realize in many instances, not every time, that careful consideration is given before a strike is called. Thousands of Americans, good, hard-working, decent citizens, learn of a strike, never realizing the procedure which is followed. One of the most democratic unions in the United States, one of the oldest and most influential, is the International Typographical Union. By the way, the International Typographical Union was written up less than 2 years ago in the Reader's Digest as the model union of the world, the best in the world. It was praised by the labor editors of the Reader's Digest. The editorial writers of the Reader's Digest pointed out that the International Typographical Union was not only the model union of the world, but the most democratic union, one of the finest examples of trade-unionism in the world. Yet that union, because of the Taft-Hartley law, is supporting a strike of its members in Chicago to the tune of many millions of dollars spent out of its treasury. The wages lost will never be regained by the employees. It is fair to assume, therefore, that much more was involved in the decision to call this strike than mere monetary consideration. These employees must have been interested in ultimate security, and, further, in the right to exist as an organization; if not, at any moment they want to, through their organization, they can give up the strike and return humbly to their employment. But they are not going to give up. They are Americans. This is the union which just before the passage of the Taft-Hartley bill was held to be the best in the land, and it has literally been ruined, crushed, destroyed, because of the provisions of the Taft-Hartley law.

I wonder how many young Americans know about the International Typographical Union, its laws and constitution, the caliber of its membership. I wonder if as many know about that as know, let us say, about one of the great newspapers of this country, for instance, the Chicago Tribune, the New York Times, the Washington Post, the Washington Star, the Times-Herald, or any other newspaper.

It is this feeling on the part of employees—the feeling that makes them stick together even in the face of serious financial straits—which illustrates the difference between labor organizations and business organizations. The unions are not profit-making institutions; they do not sell a product; their objectives cannot be measured in dollars and cents. They are not managed like business concerns, where the people who have invested the most money are the responsible officials; they are managed by an elected leadership which is subject to being turned out of office if its policies are not popular. I point to these facts because of the dangerous tendency reflected in the Taft-Hartley law of treating unions, as I said a while ago, as if they are business concerns. It must be realized that the trade-union faces us with an economic problem, one which cannot be oversimplified by creating an artificial comparison between it as an institution, and the business enterprise as a parallel institution. It is the trade-union which needs the protection of laws

rather than private enterprise. Both of them should be able to operate freely, but the trade-union, by its very nature, cannot be considered as an equal partner devoid of any need for protective standards. It is the trade-union, therefore, which requires that the Government guarantee to it its right to represent its members in the collective bargaining process.

Mr. THOMAS of Utah. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

Mr. HUMPHREY. I yield for that purpose.

Mr. THOMAS of Utah. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MURRAY in the chair). The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hickenlooper	Morse
Anderson	Hoey	Mundt
Brewster	Holland	Murray
Bridges	Humphrey	Myers
Butler	Hunt	O'Mahoney
Capehart	Ives	Russell
Chapman	Johnson, Tex.	Saltonstall
Chavez	Kefauver	Schoeppel
Connally	Kem	Smith, Maine
Cordon	Kerr	Sparkman
Donnell	Kilgore	Taft
Ellender	Langer	Thomas, Okla.
Ferguson	Lodge	Thomas, Utah
George	McFarland	Thye
Gillette	McGrath	Tydings
Graham	McKellar	Vandenberg
Green	McMahon	Williams
Gurney	Magnuson	Young
Hayden	Maybank	
Hendrickson	Millikin	

The PRESIDING OFFICER (Mr. HOEY in the chair). A quorum is present.

Mr. HUMPHREY. Mr. President, I should now like to devote some time to a discussion of the historical background of this subject. I thought it would be a good idea to have a little labor history in this debate, because I am one of those who believe we cannot debate present situations without a full and complete knowledge of what has transpired in the years before. So for that purpose I wish to take the time of the Senate to trace the development of trade-union organization in this country. Goodness knows we need to know about it. I submit that in the vast number of public schools children who are sooner or later going to go into industry, who are sooner or later going to be factory workers, have literally never heard a word about a labor union. That was surely true, if it is not true today, 10 years ago or 15 years ago. If those children heard anything they heard it, if you please, not on the basis of fact, but on the basis of opinion and rumor.

We have taught history in America all right, and I am sure that my distinguished colleague, the chairman of the committee, the Senator from Utah [Mr. THOMAS], as one of the great teachers of the country, has recognized and recognizes this fact much more than does the Senator from Minnesota. But in teaching history in the elementary and secondary schools, in the public and private and parochial schools of America in the past, we have ignored the real history of the people of America.

We have spent a great deal of time reading the history of the country's battles. We have spent a great deal of time reading the history of the powerful men of industry. But I submit that those of us who have been in the field of education can say that with very few exceptions the great rank and file of the American children in school have not heard the history of farmers and workers. They have heard of the battle of Gettysburg. They have heard of the battle of Bunker Hill. They have read about the battles of the War of 1812 and of the Mexican War. But they have never really studied the great strivings and the great desires of the American people, the little people who were the buttress of the country, who were the workers, the people who literally slaved. Possibly if they did hear about them they would understand the plight of those who are today seeking better recognition.

I wonder how many of our people knew, for example, what has happened to coal miners, despite the activities of those who represent them at this day. Let us think of what has happened down in the pits of those mines. How many of our children can remember the shooting down of workers in this country? Shot down, why? Because they wanted shorter working hours. How many remember the hanging of innocent people in connection with the Haymarket riot—innocent people who were never even near the scene of the crime.

That, Mr. President, is why I feel we need to trace some of this labor history.

Historical Background of Government's Attitude Toward Labor Relations

Labor organizations have existed in one form or another throughout our history. They have their antecedents, in fact, in the guilds and friendly societies of England and the continent. But these early organizations were small, local, and merely incidental to an economy that was largely agricultural and characterized by a predominantly personal relationship between workers and their employers. For generations of our colonial history and the early history of the Republic there was comparatively little need for unions of the modern type. Unions of today are a natural accompaniment of the change from agriculture and the handicrafts and local trade to modern factories and corporations and employer associations, and to gigantic enterprises extending from mining and even agriculture to manufacturing and transportation, to trade and public utilities, and even to services and recreational facilities. Workers have naturally and inevitably attempted to adapt themselves to these conditions by resort to the traditional and characteristic American method of free association.

Mr. President, I believe that a brief survey of the history and development of unions will contribute to an understanding of their present vital role in our society That role, as I have indicated, is closely connected with our basic traditions and way of life, and the maintenance of free and vigorous unionism is a vital part of the maintenance of that way of life in a system of free association and free enterprise.

It appears that the first unions to maintain a continuous existence were the shoemakers in Philadelphia, organized in 1792, and the printers of New York City, organized in 1794.

During the period immediately before and after the turn of the nineteenth century, shipbuilders, printers, cordwainers, and tailors formed unions and went on strike for wage increases. The early organizations of labor unions were paralleled by the formation of employers' associations which attempted to obtain nonunion labor, and frequently resorted to the courts under the aegis of the criminal conspiracy doctrine.

The attitude of the courts was hostile to the organization and activities of the newly formed labor unions. Between 1806 and 1815, of six recorded cases charging criminal conspiracy against the shoemakers, four were decided in favor of the employers. Under the criminal-conspiracy concept, both the act of forming a union and the end sought—that is, raising of wages—were considered unlawful. In its charge to the jury during the trial of shoemakers in Philadelphia in 1806, the court stated:

> A combination of workmen to raise their wages may be considered in a twofold point of view: One is to benefit themselves * * * the other is to injure those who do not join their society. The rule of law condemns both.

This doctrine remained unchallenged until, in 1842, the highest court of the State of Massachusetts, in the case of Commonwealth against Hunt, declared that a strike of workers for better conditions was lawful, and not a criminal conspiracy.

Union activities suffered a decline with the panic of 1817, which ushered in periodic business depressions and times of prosperity similar to those of recent years. When business conditions improved trade-union activity increased. In 1825, Boston carpenters struck to secure the 10-hour day, and were met by the objections of the employers that a shorter workday would lead to idleness and vice, that the strike was run by outside agitators, and that the employers would suspend operations rather than give in to the union. In case there be any doubt as to the year in which that occurred, Mr. President, it was 1825, not 1948 or 1949.

During the 1820's and early 1830's labor unions were active in pressing for legislation in the various States which would abolish imprisonment for debt, establish free universal public education, mechanics' lien laws, and fair division of the public lands. Thus, at an early stage in the country's history, trade unions were seeking to better the lot of the common man by securing for him the promised blessings of the new world.

The years 1833–37 witnessed the development of labor unions among hitherto unorganized workers, such as weavers, plasterers, cigarmakers, seamstresses, and milliners, and in newly settled cities like Pittsburgh, Cincinnati, and St. Louis. The first Nation-wide body of trade unions was formed in 1834. It consisted of the city central trades' councils, and it had as its principal objective securing the 10-hour day. However, this movement, known as the National Trades Union, failed to survive the panic of 1837.

The growth of the railroads and the widening of the competitive market beyond the limits of a single city or State, together with the development of American industry in the 1850's and the Civil War, favored the organization and continued existence of the national union in the various crafts of the day. The printers formed the National Typographical Union in 1850; the stonecutters' local formed a national union in 1853; the hat finishers in 1854; and the molders, machinsts, and puddlers in 1859. Particular impetus to union organization was given by the rapid rise in retail prices during the Civil War in the face of lagging wages. In the years 1861–72, 26 new national unions were formed.

Impressed by the increased output of commodities made possible by the use of machinery, trade-unions began to give more attention to the problem of securing the 8-hour day in order that the workers might be able to enjoy the benefits of a higher standard of living. The National Labor Union, established in 1866, pressed for an 8-hour day for Federal employees in the hope that such a law would make it easier to obtain an 8-hour day elsewhere. The Congress enacted an 8-hour day for Federal employees in 1868; and in 1872, President Grant prohibited by proclamation any wage decreases in putting the law into effect. However, the 8-hour day for workers in industry remained to be achieved at a later period.

The Knights of Labor represented the first large-scale labor organization in America, whose membership at the peak exceeded 700,000 workers. The early history of the Knights of Labor reflects an interest in social reform, rather than in immediate gains in wages and hours. Mr. President, that is what I have tried to emphasize repeatedly in my remarks, namely, that not only has the desire for monetary gain been the incentive of the labor union movement, but frequently it has been the necessity for social reform, through political or labor movement action.

However, the organization was soon compelled to give attention to the striking railwaymen employed in the Gould-owned lines, and in 1885, the Knights were successful in their efforts to restore a wage cut and to secure the reinstatement of locked-out employees. In structure the Knights of Labor had as its foundation the local assembly, in which skilled and unskilled, male and female, white and colored, and even farmers could and did find membership. By seeking to include all American workers in a single organization, the Knights of Labor antagonized many trade-unions. This factor, together with the rivalry between the local assemblies and the general assemblies, the conflict between long-run objectives and immediate wage-and-hour demands, and the emergence of the American Federation of Labor, brought about the decline of the Knights of Labor to the point where, in 1893, the membership had dropped to 75,000.

In the depression years of the 1870's there was much unemployment and destitution among the anthracite-coal miners of Pennsylvania. The strike of 1874 and 1875 against a wage cut ended in defeat and the dissolution of the mine workers' union, the Workingmen's Benevolent Association. A number of miners refused to go back to work and resorted to violence against mine owners in answer to wage reductions and discharges for union activity. The employers hired a Pinkerton spy to obtain information as to the activities of the Molly Maguires, as the workers' group was known. Eventually 24 Molly Maguires were convicted and 10 were executed for murder. The episode indicates the extremes to which workers have been driven in the past in order to resist injustice.

The great railroad strikes of 1877 were brought on by continued wage reductions in the midst of depression conditions.

I might interject here, Mr. President, it seems as though we have a great deal of depression. Practically every time we have trouble pertaining to workers, there is a depression. The plain, humble folk of this land, the farmers and the workers, are the first to feel the impact of the panics and all the depressions.

State and Federal troops were called out to suppress the strikes, which extended from Pennsylvania to San Francisco. A permanent consequence of those strikes was the enactment of conspiracy laws, the hostility of the courts to labor, the demand for additional armories, and the reorganization of the militia; the latter arising out of the fact that, in many instances, the militia could not be relied upon to fire upon the strikers—their own neighbors.

With the revival of business in 1879, the national unions, such as the molders, the locomotive engineers, the bricklayers and masons, and the railway conductors, looked toward the formation of a federation of trade-unions which would concern itself with pure trade-unionism based on wage-and-hour consciousness. Its primary objective would be the furtherance of trade-union agreements designed to obtain immediate economic benefits for the membership. Its methods would be those of collective bargaining, and where they failed the methods would be the strike, boycott, and picket line. The far-flung political and social activities of the Knights of Labor were regarded as detrimental to the interests of the craft-conscious worker. In order to achieve these objectives, the American Federation of Labor was organized in 1886 and the national unions were made the basic units in the new organization.

In the 1880's the drive for the 8-hour day was resumed by the predecessor of the American Federation of Labor—that is, the Federation of Trades and Labor Unions—by the Knights of Labor, and later by the American Federation of Labor itself. By the 1890's the 8-hour day became prevalent in the building trades, but it was not until the decade of World War I that 8 hours became the standard for a large proportion of the American workers.

In 1892 a number of strikes took place in the steel industry, including the strike at Homestead, Pa., which developed into a pitched battle between strikers and Pinkerton detectives hired by the Carnegie Steel Co. Most of those strikes were unsuccessful and they virtually eliminated unionization in the plants of the larger steel companies.

Mr. President, and Members of the Senate, it is this background of viciousness, antagonism and bitterness that still colors the labor-management picture in America. When one looks at it with a sense of objectivity and, let me say, with a sense of humanity, I think it is understandable that there are still people in the ranks of labor who smarted under the whiplash and under the vindictiveness of the law, in the days not too far in the past.

The railroads were once more the scene of a major strike when, in 1894, the American Railway Union led the workers of the Pullman Co. in protest against wage cuts and the discharge of union members. The company refused to submit the issues to arbitration as requested by the workers. The strike was soon supported by railroad employees throughout the country.

The Federal Government, in cooperation with the General Managers' Association of the railroads, instituted proceedings under the law prohibiting obstructions to the mail and invoking the new Sherman Antitrust Act which had been enacted for the purpose of outlawing combinations in restraint of trade. The Attorney General obtained a sweeping injunction prohibiting all persons from interfering with the business of the railroads entering Chicago. The Attorney General then proceeded to obtain indictments against the officers of the union, charging them with interfering with the mail and hindering interstate commerce. The leaders of the strike were eventually sent to jail for contempt of court, and the strike was brought to an unsuccessful conclusion. The Sherman Antitrust Act had been perverted to serve the cause of the big business which it had been intended to restrain. That is why the workers detest a government injunction. They have suffered by the cruel rule of the tyranny of government, and there is plenty of background to substantiate their case.

The persistent refusal of most employers to recognize the legitimate existence of trade-unions continued to bring about major strikes with resulting loss of lives and property. In 1902 the anthracite coal strike followed refusal of the operators even to discuss the wage-and-hour issues with the United Mine Workers Union. Possibly we will now understand why Mr. Lewis does some of the things he does. Men are victims, and sometimes let me say products, of their environment and of their experiences. The coal operators refused even to discuss wage-and-hour issues with the United Mine Workers Union. The strike was terminated by the appointment of an arbitration commission satisfactory to both sides. It marked the first time in our history when a President of the United States played an active part in securing the settlement of a strike. Though the union was not recognized by the operators, the award of the Presidential commission provided for a wage increase and a grievance procedure.

By the way, I may say the injunction was not used. A Presidential commission, such as is authorized under the Thomas bill, was used.

In 1905 a rival union was organized in opposition to the American Federation of Labor. The Industrial Workers of the World advocated opposition to capitalism by means of aggressive strikes. Its leadership consisted, in part, of officials of the Western Federation of Miners who had been exposed to the violence employed by mine operators in opposing unionism. Consequently the new union did not have to go far to copy the ready example of employer violence. I think we all remember the IWW, which also capitalized on the failure of the A. F. of L. effectively to interest itself in the plight of agricultural labor, textile workers, lumber workers, and other badly exploited sections of the working population. Although the IWW gained public attention by the use of spectacular methods, as in the Lawrence textile strike of 1912 and in the free-speech fight of 1909 to 1912, at no time did its membership exceed 100,000 workers.

I know of no greater testimonial to the honor, the integrity, and the democracy of American workers than to point out that every time an aggressive, violent type of unionism has been offered to them, they have rejected it. I know of no better testimonial to the American workers than to say that today the greatest bulwark against any type of subversive element, Fascist or Communist, is the free trade-union movement of America. They have done more to rid the country of the "commies" than all the agencies of Government combined.

Lacking the stable base afforded by a policy of collective bargaining, and insistent upon a revolutionary goal, the IWW became unimportant in the American labor scene after 1918.

The years 1909 and 1910 saw strikes in the garment industry arising out of unsanitary sweatshops, extremely low wages, and job insecurity. The settlement of those strikes laid the foundation for a system of grievance and arbitration machinery which has since become a model for orderly, peaceful adjustment of disputes arising out of collective-bargaining agreements.

It will be seen, Mr. President, that the workers identified their lives and their security with their union. It is not good enough now for people to come by and say, "Well, employers will be good. They are good." The workers have spoken. They look back into the pages of their history, and they find that everything they ever got that was good, they had to fight and die for. In industry after industry, industries which are looked upon as respectable, fine industries, those having to do with forests and mines, shipping and railroad transportation, textiles, steel, whatever the line may be, there is hardly to be found one but what workers died for the right of a decent living. If anybody thinks he is going to cripple the unions, Mr. President, believe me, he will have trouble on his hands, because it was out of the unions that the workers gained dignity as American citizens.

The Sherman Antitrust Act received further application at the hands of the courts in the case of *Loewe* v. *Lawlor* (208 U. S. 274, 1908), the famous Danbury Hatters case. The Supreme Court declared that the acts of labor unions, if they involved restraint of commerce among the States, were covered by the Sherman Act. It held further that Congress clearly intended that the Sherman Act should be applicable to combinations of labor as well as those of capital. The final judgment against the officers and members of the union amounted to $252,000, and only the fact the trade-unions raised funds to pay the judgment saved the members of the union the loss of their homes and other property. I should like to have the sum of $252,000, under the Sherman Antitrust Act, compared with some of the "peanut" fines of a few thousand dollars paid by big business.

Labor, Mr. President, is a bit fearful when the Government begins to legislate in labor-management relations, because the history, on the part of the Government, is one of punitive aspects. It is one which has borne unfairly upon the brow and the back of labor.

This decision stirred labor to secure exemption from the operation of the Sherman Act, and Samuel Gompers hailed the Clayton Antitrust Act as the answer to the problem. He called it labor's Magna Carta. In other words, labor was no longer to be considered as a commodity, no longer to be considered as a part of a corporation. We decided that, as a matter of public policy, labor was not a commodity, but was flesh, blood, soul, created in the image of its Maker. However, the courts were to continue to place interpretations upon the lawful and peaceful activities of unions which left them with the same legal dis-

abilities and restraints that had existed prior to the passage of the Act.

In the latter part of the nineteenth century employers began to use the yellow-dog contract as a condition of employment by which a worker promised not to join a trade union so long as he remained an employee of the concern. In *Coppage* v. *Kansas* (236 U. S. 1 (1915)) and *Hitchman* v. *Mitchell* (245 U. S. 229 (1917)) the Supreme Court ruled that yellow-dog contracts were consistent with the fourteenth amendment and that any law or attempt by unions to abolish them would be depriving persons of their property without due process of law. The use of yellow-dog contracts became common in an increasing number of American industries and in such districts as West Virginia and Kentucky the courts became the principal aids of antiunion coal operators in their fight against organization.

Mr. President, it is patently clear why unions do not trust the process of injunction and, at times, even the processes of courts. They have suffered. It is not theory with them. Laws passed specifically to restrain monopoly, big business, were pushed down upon the brow and the back of labor. Courts which were supposed to be impartial, judicial, fair, and equitable, interpreted law after law to bear down upon the working people, underwriting, legalizing, yellow-dog contracts. Is it any wonder, then, that miners in West Virginia and in Kentucky take a strong position with reference to labor legislation?

The injunctive process was used to prevent attempts, however peaceful, to organize workers who had been compelled by economic circumstances to agree not to belong to a union.

The period of the First World War was of considerable significance for American labor unions. Membership almost doubled in the period 1915–20, to reach a high of more than 5,000,000 workers; important labor legislation was enacted; organized labor was represented on Government war agencies; and there was a vigorous effort made to organize mass-production industries.

In 1916 the railroad unions threatened to strike for the 8-hour day. Upon the intervention of the beloved and distinguished President Wilson the strike was averted and the Congress passed the Adamson Act which provided for the establishment of the 8-hour day for workers engaged in operating trains in interstate commerce. However, it took the threat of a major war and the continued intervention of the President, to bring the railroad managers to accept the provisions of the law in the form of a signed agreement with the railroad brotherhoods. When in 1917 the Federal Government took over the operation of the railroads, a railroad wage commission was appointed to investigate wage disputes. This body functioned effectively in preventing strikes during the war years.

In March 1918, the National War Labor Board was created with tripartite representation. No strikes or lock-outs were to take place during the war. The right of workers to organize into trade-unions and to bargain collectively was affirmed and was not to be interfered with by employers in any manner. The right of employers to organize in order to bargain collectively was also affirmed. The union shop and union standards were to be continued where they existed. These principles were in one respect regarded as unsatisfactory to union workers, for unions were not to attempt to bring about a union shop where the open shop was in existence.

In applying its policies, the War Labor Board sought to prevent both employers and unions from engaging in activities which would disturb production in essential war industries. In the Western Union and Postal Telegraph case, the Government took over the telegraph and telephone systems in order to show its determination to carry out its policies, even in the face of the opposition of the great corporations. The Smith and Wesson case indicated that the Government would not permit aggressive antiunion activities to be carried on in war industries. In the case of the Bridgeport machinists it displayed no hesitation about bringing pressure to bear upon employees who struck against an award by which they had agreed to abide.

Unions held considerable representation on Government boards during the war. In addition to the National War Labor Board, union representatives were to be found on the Emergency Construction Board, the Fuel Administration Board, the Food Administration Board, and the War Industries Board. This favorable attitude of Government toward labor, together with the labor shortage induced by the war and the rapid rise in prices, stimulated the tremendous

growth in organization during the war years.

In 1918 the AFL began an organization drive in the steel industry in an effort to aid the workers to raise their low wages and to wipe out the 12-hour day. The companies affected embarked upon aggressive antiunion activities, discharging union men, and prohibiting union meetings in the company-controlled towns. The United States Steel Corp., through Judge Gary, announced its intention to refuse to deal with unions. The strike which ensued involved 300,000 or more workers and affected steel production in every region of the country. Direct clashes between strikers and private guards were frequent, especially when attempts were made to suppress meetings. In other words, they employed private militiamen. Imagine, Mr. President, having private armies in the United States of America. That is what we had in this country, a situation comparable to that under the war lords of China.

Throughout the strike the press gave much space to the employer's position and pursued a studied policy of alienating public sympathy away from the strikers. The strike ended in failure in the early part of 1920, and the steel industry remained an open shop until the advent of the Congress of Industrial Organizations in 1937. Why were they striking? They did not want to work 12 hours a day in the heat of the steel furnaces.

Think of it, Mr. President. In one of the great industries of this country there was no really effective union organization until 1937. Why? Because of guns, because of blacklisting, because of every antiunion activity that could be employed—beating workers up, hiring private armies, spies, guards. Is it any wonder that the steel workers are a little bit concerned with regard to labor-management law? They suffered under the impact of injunctions. They know that Government can be cruel as well as can be an employer. They learned the hard way. They did not go to school. They did not read it in textbooks. They lived and died with it.

The miners had suffered a continuous decrease in real wages during the war years. When they attempted, in 1919, to use their only effective weapon—the strike—to raise their wage standards, they were met by the combined forces of the employers, the Federal Government, and the courts. This was the year after the war, and I do not recall that the mine owners were losing any money during the war.

The Attorney General of the United States obtained an injunction in the Federal district court of Indiana. Here we again hear of an injunction. Whenever there is a dispute, let the Attorney General get an injunction. He obtained this injunction on the plea that the armistice did not end the wartime emergency, and that until the treaty of peace was concluded, the Lever Act, providing for Federal control of fuel, was in force, and that, in effect, the strike was one against the Government.

Mr. President, I wish to note that in this instance the Government did not own the mines, the Government had not taken over the mines, and these men were not Government employees. They were employees working for a private company, the profits going into a private company's treasury. Yet the Government stepped in with an injunction and said to the workers, "You must continue to lose real wages. You will not be given a real opportunity to adjudicate your case, either in the courts, by arbitration, through negotiation, or mediation."

Henry David, in his chapters on the American labor movement—Labor Problems in America, published by Farrar & Rinehart, New York, 1940—well describes the American plan of the twenties. Now we are getting close to home, and this is what this distinguished citizen had to say:

> At the close of the war the antiunion campaign which began in 1920 was disguised as a drive for the American plan.

After every war there is a little antiunion campaign. That is a traditional step which no one can dispute. I read further:

> Its objective was the open shop, but it made its plea in terms of American principles and the inalienable right of every worker to enter any trade and to accept employment under conditions satisfactory to himself without the intercession of a union.

That sounds very familiar.

> Conservative farmers' organizations and the American Bankers' Association came to the aid of the employers promoting the American plan for the abolition of the un-American closed shop. In New York State alone there were at least 50 active open-shop associations, and Massachusetts had 18 such organizations in eight cities. The State man-

ufacturers' associations were extremely active in the campaign, which included employers' associations in various industries and local chambers of commerce, to put the open shop into effect. In Illinois, where there were 46 open-shop associations, the Manufacturers' Association in October 1920, offered aid to any employer fighting for the open shop.

Unionism came practically with the Declaration of Independence. It was there much sooner than the Massachusetts industry group or association of manufacturers.

In January 1921, 22 State manufacturers' associations meeting in conference in Chicago officially adopted the name "American plan." For a number of years thereafter the employers carried on an aggressive struggle against unionism, which resulted in the defeat of many strikes and destroyed many trade-unions. The campaign was aided by the turn in business conditions which occurred in 1920, and which, by 1921, had resulted in widespread unemployment in industrial centers.

Mr. President, do we remember the recession of 1921 and what happened? Little businessmen were liquidated. Workers were unemployed. Wages kept tumbling. Farm prices were destroyed. Mortgages were foreclosed. Farmers were liquidated. But while all this was going on, 22 State manufacturers' associations joined in conference for the "American plan."

What was the American plan? I think perhaps we might take a look at it. It appears to me as if it was a plan to rob the American people. There were more bankruptcies than we ever dreamed of. In 1921 and 1922 farm income was down 60 percent, wages were off 50 percent, unions were destroyed, but big business was getting bigger and fatter every day. That is why some of us feel a little keenly about this matter. We are thinking about people who owned corner drug stores who were liquidated; we are thinking about people who lost their farms in the land swindle, about people who lost their life savings in the bank failures. I did not see the 22 rich manufacturers' associations joining together to save the people from those disasters, or the National Association of Manufacturers, or any other such organization coming to their aid. Oh, no, they were not concerned about that. They had joined together to beat down the unions. I read further:

The growth of militant employers' associations, the principal purpose of which was to fight the closed shop, helped to make the campaign for the American plan a success. The most strenuous opposition to the employers' efforts were encountered in the building trades. Here the well-organized unions succeeded in numerous instances in resisting the employers' attack. In many cities of the country, however, strikes to maintain union conditions were defeated, and building operations were resumed under open-shop conditions.

Under constant pressure from the open-shop drive following the end of the First World War, organized labor in the United States did not make much headway during the so-called prosperous era of the twenties, and it suffered the ravages of the prolonged depression and the mass unemployment that followed the stock-market debacle in 1929.

Every young American has had painted to him that great period in American history, from 1920 to 1929, the period of normalcy, the period of prosperity. What was happening? We need not go over that again. This country was being ditched, dammed, and drained; a little money was being made in the stock market by a few, the unions were destroyed, farmers were liquidated, small-business men were destroyed by the thousands, banks failed all over the country. It was a great period. It is strange about these great periods. They seem to be great to a handful of people who are not so great.

Mr. President, I speak with some feeling about that period because the kind of people the junior Senator from Minnesota knew, the kind of people who worked and produced, were liquidated in the great American plan of the 22 manufacturers' associations. Some of them were not in unions. They were ground up, and they were ground up by some of the same forces which today have just repainted the old job, just repainted the surface, and are now going around through the country, as they become richer and more monopolistic and more noncompetitive and more exploiting by the hour, saying, "Of course we believe in unions; we believe in free enterprise; we believe in a free economy."

By 1932 the total membership of the American Federation of Labor stood at approximately 2,500,000, as contrasted with the high mark of slightly over 4,000,000 in 1920. It declined further to about 2,100,000 in 1933.

It was not until after the enactment of the National Industrial Recovery Act in the spring of 1933, including section

7 (a), which guaranteed the right of employees to organize into unions of their own choosing and to bargain collectively with employers, that trade-unionism in the United States began to revive. With it came a tremendous influx of new members into the ranks of unions.

Mr. President, there is a strange parallel. As the real wealth of this country went down, unions went down. As the burglars, the speculators, the finaglers, had their way, unions and working people were destroyed. Finally the country came tumbling down almost into economic collapse, and unions with it. Since 1933, the unions, under section 7 (a) have been given a chance to reorganize again, and have a legal status. The Norris-LaGuardia Act was passed, so that the injunction process could not be flung in their faces. From that day the country began to move forward and upward. The unions began to grow in membership and in strength and security.

Employers and Employers' Organizations

Having discussed the nature of unions, and the historical background of our attitude toward labor relations, let us now turn to a discussion of employers and their organizations. Historically, as I have developed before, employers opposed unions in various ways, overtly and covertly, directly and indirectly. Always, however, the purpose was the same, to see to it that control of the business enterprise rested solely in the hands of the employer. The activities of the unions, of course, have been directed to an increasing participation in the determination of the conditions of their employment. Even after the passage of the Norris-LaGuardia Act, the NRA, and the Wagner Act, these antilabor activities continued. Their character changed, but their purposes have ever been the same.

By the way, the Norris-LaGuardia Act was passed in 1932, passed by a Republican Congress, signed by a Republican President, and the records of the congressional debates indicate just what we are talking about on the floor of the Senate in 1949; that is, the evil of injunction, the tyranny of government, the tyranny of giving people special privilege with government backing to be enjoyed promiscuously in connection with labor-management disputes.

I propose to examine in some detail the nature of these antilabor activities of employers because I believe that the objective of those who wish to retain the Taft-Hartley law is to reestablish the relative strengths of labor and management to the degree where we may have again such antilabor activities.

I think it is a matter of common history which is not too well known, because it is not spoken about too much, but the chairman of our committee, the distinguished Senator from Utah [Mr. THOMAS], pointed it out, that after the Wagner Act had been passed, and the President had signed it, and it was placed on the books, 69 corporation attorneys advised the employers that the act was unconstitutional and not to obey it. They said, from 1935 to 1937, it was unconstitutional, and that employers should not obey it. Mr. President, I may be able to find an attorney who will advise me that some other laws are also unconstitutional; but I wonder what would happen to me if I would take his advice and not pay my income taxes. I wonder what would happen to me if I failed to abide by the rules and laws of cities, counties, and States. Those who followed that advice got by with it for a while. Believe me, that is something which still smarts and still hurts in the flesh and the mind of labor.

More than 10 years ago the Senate Labor Committee did some pioneer work in the field of investigating employers' antilabor activities—that was just 10 years ago, so we are now getting right up to date—by establishing a subcommittee under the chairmanship of Senator LaFollette with whom was associated the present chairman of our committee, the distinguished Senator from Utah [Mr. THOMAS]. This subcommittee investigated the union-busting methodology of the time. It is, of course, impossible to go through the 75 thick volumes published by the Senate Labor Committee, reviewing the evidence put before it. I shall take just a few of the high lights and review them briefly with the hope that they will impress you as deeply as they have this new Member of your body, and perhaps recall to those of you who were here when these revelations were made the type of atmosphere which I do not wish to see encouraged again in the United States.

Strikebreaking services were performed on almost an open basis prior to the Wagner Act, and even after the Wag-

ner Act. Here is the type of offer made by a strikebreaking service to an employer. Now we are getting down to the LaFollette committee reports to the Congress of the United States, made just 10 years ago. I quote from a committee report the type of offer made by a strikebreaking service to an employer:

> Your letter of July 28 is received. With reference to your inquiry about my experience and what I am prepared to do in case of disturbance, etc.
>
> First, I will say that if we are employed before any union or organization is formed by the employees, there will be no strike and no disturbance. This does not say there will be no unions formed, but it does say that we will control the activities of the union and direct its policies, provided we are allowed a free hand by our clients.
>
> Second, if a union is already formed and no strike is on or expected to be declared within 30 or 60 days, although we are not in the same position as we would be in the above case, we could—and I believe with success—carry on an intrigue which would result in factions, disagreements, resignations of officers, and general decrease in the membership.

From what we know now, we might be able to advise this employer that it would be better to recognize his union—better for his business, and perhaps better for his conscience. But prior to the Wagner Act, and, unfortunately, even for some time subsequent to its enactment, this was the fashion of the time.

There were other means used to break the hold unions might have upon employees. The company union was such a device. A Brookings Institution report states that—

> The evidence shows conclusively that the great majority of the plans (company unions) were favored and fostered by the companies in order to forestall outside unionization.

Parallel to the tactics of smashing unions directly, was the use of industrial spies to report on the self-organization activities of employees. Detective agencies which supplied guards, and strikebreakers, generally also operated espionage services. More than 200 of such agencies operated during the 1930's—200 private, hoodlum outfits, 200 private strikebreaking firms, 200 private groups that could organize a private army for anybody who wanted it almost at any time.

In addition to the private agencies conducting such espionage, employers' associations also furnished spying services to their fellow members.

Generally, spying activities were conducted through the device of secretly sending agents into unions to report on the activities of union officers and to identify union members. Through such devices, also, the policies of unions and the internal discussions would be reported upon. In this way, the employer figuratively sat on both sides of the bargaining table, having information as to the views and plans of his employees' representatives.

Sometimes even this type of control over employee activities was not sufficient. In those cases, the strikebreaking agencies arranged to have their spies elected as officers of the unions. Here, literally, the employer sat on both sides of the bargaining table. The employer could thus order ill-advised strikes and other actions designed to weaken the unions.

The record is clear, Mr. President. These are not words that have not been considered. These are words that come from the records of the United States Senate.

The low moral quality of spying activities is indicated by the extent to which strikebreaking agencies would go in order to recruit spies. There is an intriguing discussion in the Senate committee reports of the process by which an innocent worker is caught and converted into a labor spy.

This process is called "hooking" or "roping." The innocent man is hooked by having a representative of a strikebreaking agency call at his home. The hooker represents himself as a Government agent or a delegate from a group of stockholders interested in the company. He offers compensation for the receipt of some unimportant piece of information. Gradually the demands made upon the innocent employee come closer and closer to the requirement to spy on his fellow workers. The job was remunerative; if the worker needed money, he might succumb. If he refused to act as a spy, he would be threatened with exposure.

Those are familiar tactics of people who are immoral. After its investigation, the Senate subcommittee made a report on strikebreaking services and espionage against representatives of employees. Here is a short quotation from the report of the Senate subcommittee. The quotation is not so short. We cannot be brief in connection with something that has such a long, nasty history.

> The strike services which the committee has examined fall into three categories. The first is the provision of so-called strikebreakers, who are commonly understood to be persons who temporarily replace striking workers.
>
> In some industries such temporary replacements have been, in the past, competent and skilled workmen. In most cases, however, strikebreakers are not qualified employees. The agencies engaged in the business of providing such replacements have even advertised that their function was simply to provide industrial shock troops with which to break strikes and cause strikers to return to work.

That was 10 years ago, in America. I continue with the quotation from the report of the Senate subcommittee:

> The second category of strike services is the provision of guards or watchmen. The ostensible purpose of utilizing such guards, who are generally armed, is the protection of the strikebreakers, the loyal workers, or the plant property. Guards provided by the agencies must be distinguished from regular plant police and the local police force of the community. Usually they are strangers to the controversy and the locality in which they serve. In many cases these guards have been deputized as local police officers. An analysis of the commercial strike services reveals that men who offer themselves as guards in strikes form a more or less distinct occupational group, and can be designated as strikeguards.
>
> The history of industrial disputes in this country indicates that the almost inevitable effect of employing outsiders of either of these classes, in an industrial dispute, is to produce resentment, bitterness, violence, and bloodshed. Nor is this surprising. The purpose for which such persons are offered by those who make a business of selling their services and the objective for which they are hired is to weaken or destroy the organizations which workmen have built up for their own protection.
>
> The third category of strike services is the furnishing of persons to mingle with striking employees, or townspeople, disguised as strikers, strike sympathizers, or salesmen, as the case may be. In the trade these persons are designated as strike missionaries or street operators. Unlike the strikebreaker or the strikeguard, the connection between the missionary and the employer is always concealed.

I can assure the Senate that this missionary is not doing the Lord's work.

> While the missionary's ostensible function is to act as word-of-mouth propagandist against the strike, he is often found in the ranks of the strikers, urging or committing acts of violence.

For such acts the union might well be sued.

Mr. MURRAY. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MURRAY. Is it not true that at that time there were in the country organizations which advertised themselves to industry as being in a position to supply men of that character who would be qualified to enter the unions? In many instances they became officials of the unions, and became the strongest advocates of strikes and of rough action on the part of the workers. In one instance I know of in Montana, such a man was employed by the mining corporations, and he became one of the high officials of the union. He prepared a new constitution and bylaws for the union, which were so radical and so extreme that, of course, they aroused the resentment of the people of the community. They could see how extreme the workers were becoming. Such activity was a fraud perpetrated by industry, as the Senator has explained.

Mr. HUMPHREY. Exactly. I am very glad to have the interruption of the distinguished Senator from Montana, and his practical observation with respect to what I have been trying to describe. Let me say to my colleague from Montana, our companion and colleague on the Senate committee, that the tactics which were used in strikebreaking and spying are almost identical with the tactics used by the Communists.

Labor remembers those things, Mr. President. Some members of the labor movement still carry scars. Even some Members of Congress know what it is to have suffered from this sort of nefarious activity.

I continue to read from the report of the subcommittee:

> At the outset it may appear difficult to understand how these three strike services, so diverse in function, can be offered by the same agency. If things were what they seem in the field of industrial warfare, the function of the strikebreaker would be to work efficiently and to operate the plant; the function of the strike guard would be to exercise a restricted degree of police power with the authority and moderation required in tense strike situations; while the function of the word-of-mouth propagandist would be to present the employers' side of the strike. As they exist, however, these three types of strike personnel have one purpose: to break strikes. Like industrial espionage, these strike services are weapons for the employer

in his battle against the recognition of organizations of his employees. Thus, united in purpose, these services can be most profitably organized and offered by agencies or associations specializing in the practices of antiunionism.

Strikebreaking tactics alone were not sufficient, Mr. President. They frequently had to be backed up by the use of force. And for this use of force new techniques were in order. We did not wait until World War II to perfect new techniques of attack. The LaFollette committee studies found evidence of the use of virtually all types of firearms except Army field guns. They kept out the heavy artillery. Tear gas and electrically charged wires were used in industrial disputes. At one time large industrial employers spent more than half a million dollars in purchasing equipment to be used in emergencies when their employees made an attempt to organize. Employers were purchasing more than $500,000 worth of guns, tear gas, bullets, and machine guns—for what purpose? Because workers were preparing, through their union, to ask for a little more money. This was only 10 or 11 years ago. Chemical companies made large profits from the sale of industrial munitions.

I wish to quote in a little detail from the report of the LaFollette committee on this subject. I almost apologize for taking so much of the time of the Senate. But before we can really consider the question of labor-management law we must know the background and the history of the labor-management pattern in America. We cannot dream up a law in some nebulous environment, or in a vacuum. We have to know what the forces and the pressures were over a long period of time. Perhaps some of our distinguished colleagues and friends or associates have not read the history of labor-management relationships in this country.

I am quoting from the records of the Congress of the United States. I quote from the record of the committee of which the distinguished former Senator LaFollette, of Wisconsin, was chairman:

> The utilization of any or all antiunion services, such as espionage, strike guards, or private policemen, involves the ultimate use of force. In the consideration of such services the committee soon became aware of certain means employed to implement such a policy. Chief among these was the use of firearms and chemical munitions. Thus, the committee found it necessary to turn its attention to the character and effect of industrial munitions.
>
> The committee, in its inquiry into various strikes and their violent episodes, gathered much information concerning the industrial use of weapons and munitions. The committee's report on strikebreaking services made mention of the participation of certain detective agencies in the traffic in newer forms of industrial weapons, as well as their use, and the report on private police systems dwelt at length on the use of arms by certain of the police systems discussed. These reports did not, however, treat of the arms used in industrial relations as a subject in themselves.
>
> In the earlier stages of its inquiry, the committee learned that there existed an established business of supplying weapons especially adapted for use in industrial disputes. The weapons furnished for such use were principally the various forms of tear and sickening gases, with equipment such as grenades, shells, and guns for discharging them. Submachine guns are also supplied for such use, though to a lesser extent. When held by public authorities for use in the exigencies of riotous situations, the possession of such weapons is, of course, legitimate and proper—

By proper police authorities—police authorities of the public, not by some private constabulary.

I read further:

> Because such weapons are, however, designed and adapted for use by public authority in the exercise of police power in conditions of civil disorder, their purchase and possession by private employers raises problems of far-reaching significance. The committee found that gas weapons are widely purchased by employers and frequently used by them in industrial disputes, and that submachine guns have, to a lesser extent, been so purchased and so used.
>
> A study of the purchase of such weapons by employers revealed that both machine and submachine guns and gas weapons are bought most frequently either in anticipation of or during labor disputes. Extending its inquiry to cover all kinds of weapons purchased by certain employers, the committee found the same correlation existing, in many cases, between the purchase of other types of firearms, and the ammunition therefor, and developments in the labor-relations situation of the purchaser.

In other words, when it looked as if there was going to be a strike or when it looked as if a union was forming, there always seemed to be a strange correlation between the growth of the union, the possibility of some collective-bargaining discussion over wages and hours, and the sales of tear-gas bombs, machine guns, submachine guns, pistols, rifles, and ammunition. Mr. President, that is a sad

chapter—an almost unbelievable chapter—in American economic life.

I continue to read:

> The committee's data on the purchase of the more common firearms are necessarily less complete than its information concerning the sale of machine guns, which is now subject to Federal regulation, and the trade in gas weapons, which are purveyed by a limited number of concerns, practically all of which the committee was able to investigate in detail. Nevertheless a study of the records of selected employers, concerning the purchase of revolvers, rifles, and shotguns, indicates that purchases of such weapons in quantities above the necessary minimum required to equip plant watchmen and to guard valuables, was inspired by the fear of strikes or labor disputes.
>
> The committee's investigation disclosed not only that industrial munitions were purchased by employers at critical periods in the course of their relations with their employees but also that such purchases bore marked correlation to the labor policies of such employers. Almost invariably those employers who have assumed an attitude of hostility to bargaining with so-called outside unions have been discovered to be the largest purchasers of industrial munitions. Conversely, the establishment of cordial relations based on the principles of collective bargaining seems to appease the appetite for arms, and terminate the purchases of such weapons.

Mr. President, in addition to the use of strikebreaking agencies and various forms of violence against employees guilty of attempting to organize—tremendous guilt is said to be involved; they are free Americans, but are to be considered guilty of attempting to organize a union—employers had a novel method for utilizing the community as a strikebreaking device. "Citizens' committees" were formed in many localities to make it appear that the public, in a disinterested sort of way, desired to end a strike. After an investigation that usually lasted only until leaflets could be printed and distributed, the citizens' committee would declare publicly that the employer was right and that the employees should return to work at the conditions prescribed by employers. Although ostensibly dedicated to the preservation of law and order, citizens' committees were used as a strikebreaking device. Many such committees employed publicity firms to write advertisements attacking the strike, and they urged vigorous action against strikers, against their picket lines, and against their organizations.

The public was also used as a device to appeal to strikers to go back to work. This appeal was usually made in the form of petitions, frequently circulated by an anonymous group, in an effort to break the back of the strike. After some trial and error in this field of strikebreaking activity, a famous device was hit upon. I wish to refresh the memory of some of my colleagues. The device was called the Mohawk Valley formula. It is described very effectively in a decision of the National Labor Relations Board finding the Remington Rand Co. guilty of unfair labor practices against its employees. I should like to read to you the details of this Mohawk Valley formula so that you will have before you a picture of what happens when employers can feel free to engage in antilabor activities against unions; it is a picture which should be before the Senate at all times in the debate now under way:

> First. When a strike is threatened, label the union leaders as "agitators" to discredit them with the public and their own followers. In the plant, conduct a forced balloting under the direction of foremen in an attempt to ascertain the strength of the union and to make possible misrepresentation of the strikers as a small minority imposing their will upon the majority. At the same time, disseminate propaganda, by means of press releases, advertisements, and the activities of "missionaries," such propaganda falsely stating the issues involved in the strike so that the strikers appear to be making arbitrary demands, and the real issues, such as the employer's refusal to bargain collectively, are obscured. Concurrently with these moves, by exerting economic pressure through threats to move the plant, align the influential members of the community into a cohesive group opposed to the strike. Included in this group, usually designated a "citizens' committee," are representatives of the bankers, real-estate owners, and businessmen, i. e., those most sensitive to any threat of removal of the plant because of its effect upon property values and purchasing power flowing from pay rolls.
>
> Second. When the strike is called raise high the banner of "law and order," thereby causing the community to mass legal and police weapons against a wholly imagined violence and to forget that those of its members who are employees have equal rights with the other members of the community.
>
> Third. Call a "mass meeting" of the citizens to coordinate public sentiment against the strike and to strengthen the power of the citizens' committee, which organization, thus supported, will both aid the employer in exerting pressure upon the local authorities and itself sponsor vigilante activities.
>
> Fourth. Bring about the formation of a large armed police force to intimidate the strikers and to exert a psychological effect

upon the citizens. This force is built up by utilizing local police, State police, if the Governor cooperates, vigilantes, and special deputies, the deputies being chosen if possible from other neighborhoods, so that there will be no personal relationships to induce sympathy for the strikers. Coach the deputies and vigilantes on the law of unlawful assembly, inciting to riot, disorderly conduct, etc., so that, unhampered by any thought that the strikers may also possess some rights, they will be ready and anxious to use their newly acquired authority to the limit.

Fifth. And perhaps most important, heighten the demoralizing effect of the above measures—all designed to convince the strikers that their cause is hopeless—by a back-to-work movement, operated by a puppet association of so-called loyal employees secretly organized by the employer. Have this association wage a publicity campaign in its own name and coordinate such campaign with the work of the "missionaries" circulating among the strikers and visiting their homes. This back-to-work movement has these results: It causes the public to believe that the strikers are in the minority and that most of the employees desire to return to work, thereby winning sympathy for the employer and an endorsement of his activities to such an extent that the public is willing to pay the huge costs, direct and indirect, resulting from the heavy forces of police. This back-to-work movement also enables the employer, when the plant is later opened, to operate it with strikebreakers if necessary and to continue to refuse to bargain collectively with the strikers. In addition, the back-to-work movement permits the employer to keep a constant check on the strength of the union through the number of applications received from employees ready to break ranks and return to work, such number being kept a secret from the public and the other employees, so that the doubts and fears created by such secrecy will in turn induce still others to make applications.

Sixth. When a sufficient number of applications are on hand, fix a date for an opening of the plant through the device of having such opening requested by the back-to-work association. Together with the citizens' committee, prepare for such opening by making provision for a peak army of police by roping off the areas surrounding the plant, by securing arms and ammunition, etc. The purpose of the opening of the plant is threefold: To see if enough employees are ready to return to work; to induce still others to return as a result of the demoralizing effect produced by the opening of the plant and the return of some of their number; and lastly, even if the maneuver fails to induce a sufficient number of persons to return, to persuade the public through pictures and news releases that the opening was nevertheless successful.

Seventh. Stage the opening theatrically, throwing open the gates at the propitious moment and having the employees march into the plant grounds in a massed group protected by squads of armed police, so as to give to the opening a dramatic and exaggerated quality and thus heighten its demoralizing effect. Along with the opening provide a spectacle—speeches, flag raising, and praises for the employees, citizens, and local authorities, so that, their vanity touched, they will feel responsible for the continued success of the scheme and will increase their efforts to induce additional employees to return to work.

Eighth. Capitalize on the demoralization of the strikers by continuing the show of police force and the pressure of the citizen's committee, both to insure that those employees who have returned will continue at work and to force the remaining strikers to capitulate. If necessary, turn the locality into a warlike camp through the declaration of a state of emergency tantamount to martial law and barricade it from the outside world so that nothing may interfere with the successful conclusion of the formula, thereby driving home to the union leaders the futility of further efforts to hold their ranks intact.

Ninth. Close the publicity barrage, which day by day during the entire period has increased the demoralization worked by all of these measures, on the theme that the plant is in full operation and that the strikers were merely a minority attempting to interfere with the right to work, thus inducing the public to place a moral stamp of approval upon the above measures. With this, the campaign is over—the employer has broken the strike.

The Wagner Act

Mr. President, I come now to the portion of my remarks in which I deal directly with the Wagner Act.

A review of these anti-labor activities of employees leads us logically to a discussion of the act which succeeded in changing this picture so drastically in the 12 years it was in operation. Some people may wonder how it was that we got the Wagner Act. It was because of what I have been reciting today on the floor of the Senate, namely, because of injustice, inequity, unfairness, because we in America should not tolerate such things, because basically the American people are fair-minded, and they are unwilling to have the sins of the few become the basis for a national policy.

The things I have mentioned this afternoon undoubtedly may be taken as examples of the iniquitous practices of a handful of people out of the total population, but a handful of people, Mr. President, who have great power. In 1933, under section 7 (a), things became a little different, and then the Wagner

Act was passed. Let us go back to the early period of the New Deal and imagine ourselves in 1933 with a depression staring us in the face, and with business and labor both sadly in need of economic measures to alleviate the depression. The National Industrial Recovery Act was passed and its imaginative character resulted in the economic spurt needed by all elements in our economy. As part of the NRA program, workers for the first time—other than for a brief period in World War I—were given some measure of protection in their right to organize. Employees were given the right to organize and to bargain collectively under section 7 (a) of the NIRA, and employees could not be required to join company unions. But this was found to be insufficient because there was not enough of the power of the Government behind the guaranty of the right to organize freely. Before this act was in effect for very long the Weirton Steel Co. defied the Board created to enforce section 7 (a). Before long, too, the Budd Manufacturing Co. refused to abide by a decision of the Board. By the beginning of 1934 section 7 (a) was not too meaningful. The reason for this was clear; there was a lack of statutory power in the phraseology of section 7 (a). Any employer violating the law could be punished only by withdrawing the right of that company to use the "Blue Eagle" insignia of compliance with the NRA.

It was clear that something more had to be done. An attempt was made to correct some of the deficiencies, but in May 1935 the NRA was declared unconstitutional and we were temporarily back in the pre-New Deal conditions of industrial relations. Within 40 days after the Supreme Court's decision declaring the NRA unconstitutional, which Congress had passed and President Roosevelt had signed the act that was to become the cornerstone of labor relations policy for the Government for the years to come.

That was just 40 days after NRA was declared unconstitutional. The act I refer to was known as the National Labor Relations Act, more commonly known as the Wagner Act. I may say that for the purposes of my discussion this afternoon I have started out by using the desk of the distinguished Senator from New York [Mr. WAGNER]. I felt it appropriate that in the defense of sound labor-management relations I should speak from the place in the Senate which is designated as the desk of the distinguished statesman and Senator who unfortunately is ill and unable to be with us, the senior Senator from the State of New York.

Let us examine this act, Mr. President, which, in an important sense, marked a turning point in the relationship of the Government to labor and management. In the early days, as I have indicated, the Government had been openly opposed to defense of workers' rights to organize. Later on there developed a sort of neutral attitude under which employees had the right to join unions but employers had the parallel right to fire employees who joined unions. This equality of rights naturally resulted in discouragement of union organization. It was clear to the Congress that equality of rights was not enough; that the workers not only should have the freedom to join organizations, but that the freedom must be protected from interference by employers. In a sense, therefore, the Wagner Act was truly one-sided in the same way that the hunting laws are one-sided which protect wild game from hunters' guns, but do not provide similar protection of the hunters from the wild game. The Senator from New York [Mr. WAGNER], in an address at Yale University in 1937, described in interesting fashion this aspect of the law which bears his name. I quote from the Senator's address at Yale University:

> If an uninitiated person were to examine the act in a vacuum or on the planet Mars, he would be overwhelmed by the ostensible justice of this criticism.
>
> But when the act is placed in the factual context of a complete and functioning social system, the criticism becomes absolutely meaningless. No one would assail a traffic law because it regulates the speed at which automobiles run and not the speed at which people walk. No one would attack the law of domestic relations because the obligations imposed upon parent toward child are not the same as those imposed upon child toward parent. No one feels that the Securities and Exchange Act is iniquitous because it places duties upon brokers but not upon buyers. The only sane test of a particular law is whether the restrictions which it imposes are in themselves fair, and whether, when added to the sum total of social controls, the particular law promotes or retards a just relationship among the respective forces in modern economic society.
>
> No reference to the facts would indicate that the National Labor Relations Act creates an unbalanced equation in the relationship between employer and worker. Certainly the employer had the right to bargain collectively

through the corporate form and through Nation-wide trade associations. Certainly, in dealing with labor, and in all other business affairs, he had the privilege of selecting his own spokesman by majority rule.

No working group has ever challenged the employer's right to use the collective-bargaining procedure in dealing with his employees, his competitors, and the general public. The simple truth is that the correlative rights which labor is accorded under the act have all been enjoyed by industry for a century or more.

Of course, Mr. President, just as the Wagner Act was considered to be equitable for the situation that existed at that time, in view of the background which has been discussed here, so we of the majority of the committee, feel that the Wagner Act now must be reevaluated in terms of modern problems and experience, and a series of amendments have been offered to the act.

It should be crystal clear, Mr. President, that those of us who support the Thomas bill, even with the four amendments which have been offered by some members of the committee and by other Senators who have joined with them, believe that the issue still is whether we want free collective bargaining or Government-controlled, regulated, and managed bargaining. The amendments are offered, as the distinguished chairman of the committee said, within the spirit of the Thomas bill, because they are within the realm of free play between employer and employee.

The Wagner Act, important though it was, was simple in objective, clear in intent. It announced to the country that the Government was no longer neutral in the field of collective bargaining. It would no longer look disinterestedly upon employees' attempts to join unions and upon employers' ability to discharge employees who did join unions. The Government declared that this neutrality policy was to be discarded; instead, we were to enter upon an era in which the Government openly declared its view that collective bargaining was preferable to individual bargaining. This has been the policy of the Government ever since 1935, and even the Taft-Hartley law gives lip service to that policy. Now under the Wagner Act, the Government went further than a pious declaration of intent, and stated that collective bargaining was so desirable that the Government would protect those people who decided to govern their labor-management relationship in such a fashion. So, two things were done. First, we added to the right to self-organize specific descriptions of employer practices which interfered with those rights. We said, generally, that it was an unfair labor practice for employers to interfere with the rights enunciated in the act, and specifically, that it was an unfair labor practice to interfere with those rights by forming or assisting company unions, by discharging employees or discriminating against them in any other way for joining labor organizations or for testifying in connection with a proceeding under this act, or by refusing to bargain with a duly selected representative of a group of employees. Second, the act provided a means by which employees could select representatives. It provided for the collective bargaining election as a device for the selection of representatives of employees for purposes of collective bargaining.

Then, to give meaning to these provisions of the act, the law established an agency, the National Labor Relations Board, to administer this act and to arrange for enforcement of its decisions through the courts of the United States of America. This was a simple law; it was a law that did not give power to, as much as it removed pressures from, employees and their organizations.

I repeat that, Mr. President. It was a law that did not give power to, as much as it removed pressures from, employees and their organizations. Traditionally, liberty is supposed to be the absence of restraint. The National Labor Relations Act of 1935 was in the traditional concept of American liberty—absence of restraint—a fundamental part of our political philosophy, I think, if we still believe in liberty.

It was natural to assume that removal of these pressures would result in an increase in free organization of workers. When employers no longer have the right to spy on their employees and may no longer participate in any other of these activities which I have described and which discourage union organization, it is natural to expect an increase of union activity and a resultant increase in union membership. This was not a bad sign; it was a good sign. So we find trade-union membership increasing fourfold under the Wagner Act. More than 7,000,000 employees voted in elections conducted by the National Labor Relations Board, with 80 percent of them voting in favor of representation by some union.

The forces opposed to the enactment of the Wagner Act did not stop when the act was passed. A group of self-appointed and self-annointed labor experts, calling themselves the National Lawyers' Committee, and associated with the American Liberty League, examined this law and came to the conclusion that it was unconstitutional.

No one asked them to do that. According to the Constitution, courts are appointed by the President and the Justices are confirmed by the Senate for the purpose of deciding as to the constitutionality of laws passed by the Congress. But the National Lawyers' Committee wanted to be helpful. So they set themselves up as a court. They were not content with nine members. There was a large group of them. They declared that the law was unconstitutional. They even went to the extent of writing a legal brief of 127 printed pages to prove this contention. They made a magnanimous gesture. They offered, to anyone who was charged with an unfair labor practice under the Wagner Act, free use of this legal brief. The result was that more employers were encouraged to violate the law. Not only did they have their early animus to back them up, but they had million-dollar legal talent to help them in continuing their activities.

The Board was prevented by court injunctions from carrying on its activities for the better part of a full 2-year period. For it was not until the Supreme Court, on April 12, 1937, declared the Wagner Act constitutional, that the act could really begin to be enforced. For 2 years after the act was passed the Board was harassed day and night with court injunctions.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the distinguished Senator from Utah.

Mr. THOMAS of Utah. Ordinarily in our country when there is widespread discussion concerning the constitutionality of a law, it is generally decided to try a test case. Everyone is satisfied with it, and it goes up as one case. But that was not what was done in 1937 and 1938. Different cases were presented to practically every court in the country, which harassed the administration of justice. The Senator has pointed out how the organization of lawyers offered their services. It was even stronger than an offer. They suggested that employers did not need to obey the law. There are all sorts of grades of legal morals, but, to me, probably the worst thing a lawyer can do is to say, "Do not obey the law, because we will take care of you." If that were generally done, what kind of Government would we have? We would have no Government at all. We would have something very close to anarchy. By having one case of John Jones, another case of Peter Smith, another case of a different name, in another place, and so forth, the boards which were established were so harassed in attempting to handle the various cases that they almost became exhausted. In all the history of the United States, in all the various efforts made to overcome an activity which the Government had attempted to establish, never was there such a fight for liberty as that which was made in those days. The question was supposed to be argued and decided in the courts, but the courts were as much harassed as was the Board itself.

I thank the Senator from Minnesota for yielding to me.

Mr. HUMPHREY. Mr. President, I am deeply appreciative of the assistance of the distinguished Senator from Utah in explaining what happened in the early days of the Wagner Act. The Senator from Utah is very familiar with the legal contests in connection with the early application of the act. I again state that through the studied experience of men such as the distinguished Senator from Utah we gain a proper perspective of the pattern of labor-management relationships. The observations of the distinguished Senator are very pertinent in this debate and discussion.

Mr. President, once the Supreme Court threw out the legal arguments prepared by the Liberty League talent, the real history of the Wagner Act began. That was not the only case, by the way, the Liberty League lost. I think they lost the election of 1936, too. From that time on, the decisions of the Board were supported by the courts to a degree unprecedented in the history of our country.

Many were the evidences of how successful the act was operating. One of the purposes of the act was to make it easier for employees to organize without interference by their employers. In 1937, the year in which the act was declared constitutional, 60 percent of the workers involved in strikes were involved in dis-

putes which included the issue of union recognition.

By 1946 collective bargaining was the rule rather than the exception. Although strikes were numerous in that year—a natural occurrence in view of the post war situation—only 12 percent of the workers involved in strikes were involved in disputes relating to union recognition.

While discussing the subject of strikes, let me make it clear that, serious as they are as a reflection of industrial stresses and strains, or industrial tension, strikes in 1946 were relatively no more serious than after the First World War. We were passing through a period of reconversion. Prices were rising rapidly, the whole cost of living was rising rapidly, and we could have expected nothing else. In fact, a smaller proportion of the work force was involved in strikes in 1945 and 1946 than in 1919, the year after the First World War.

Mr. President, I brought along with me charts which have been prepared by competent labor economists. The first one shows the "Trends in work stoppages following World War I and World War II. Number of strikes and workers involved."

The second chart shows the "Number of workers involved in strikes in proportion to total employed."

It was pointed out in the majority report of the Senate Committee on Labor and Public Welfare that actually after World War II the number of strikes dropped rapidly as compared with what happened after World War I. The black line on the chart is the line of World War II. From the high peak in the first postwar year, starting in 1945–46, it goes down sharply by 1946 into the beginning of the second postwar year, and down even more in the third postwar year.

It is perfectly obvious from a look at this chart, that the curve indicating the period from 1918 to 1921 does not show such a precipitous decline. The strikes went on up in the first postwar year, and did not decline rapidly between 1918 and 1921.

What is important is the number of workers involved in strikes in proportion to the total number employed. We find that in 1918 to 1921 approximately from 21 to 22 percent of the working forces were involved in strikes. In 1945 to 1948 we find about 14 percent, at the peak, involved in labor disputes.

Senators will notice the heavy, dark lines, indicating the period from 1945 to 1948, the top line being from 1918 to 1921. They will notice that, first of all, there was a smaller percentage of the total working force out on strike in 1945 to 1948 as compared to 1918 to 1921, and they will notice that, as compared with the third postwar year after World War I, the workers today, in the third postwar year, have fewer strikes in proportion to the number of workers. That is, the number of workers involved in strikes is smaller than it was in 1918 to 1921. These are proportionate figures. It is perfectly understandable that there were not as many workers employed in 1918 to 1921.

The record is resplendent with the testimony given by the Secretary of Labor, which was included in the report of the majority of the committee. From page 5 of the report I read:

> Significantly, the incidence of strikes in 1946 was by comparison well below that of the comparable postwar year 1919. In 1919, 20.8 percent of all employed workers were involved in work stoppages. In 1946 14.5 percent of all employed workers were involved in work stoppages. The existence of a stronger union movement and the stabilizing influence of the Wagner Act on labor-management relations, which in 1946 had not been amended by the Labor Management Relations Act, served to encourage the peaceful settlement of differences, even under difficult conditions.
>
> Problems of transition from war to peace caused a relatively high incidence of strikes in 1946, just as they did in 1919. Opportunities for earnings from overtime work had largely evaporated; peacetime jobs in many instances were at pay scales below those of wartime, and living costs rose rapidly with the lifting of price controls. During the period between June 1946 and June 1947 the Bureau of Labor Statistics consumers' price index rose from 133.3 to 157.1, or 17.8 percent, while average hourly earnings, exclusive of overtime, increased from $1.05 to $1.17, or 11.4 percent.

We could go on and on discussing the economies, but I think it would be well to place in the RECORD something which I said in an address placed in the RECORD some time ago. I said:

> The question of labor-management relations does not exist in a vacuum. To understand the bills we are discussing—the Taft-Hartley Act and the bill that will replace it, the Thomas Act—we must deal with it in relation to the whole economy and the entire community. To understand these laws we must keep in mind the whole history of American trade-unionism and the whole picture of American business.

That is what I have tried to do in the discussion this afternoon.

> Further, we must look deeply into the matter of community and social relationships, beyond the matters of dollars and cents. Nowhere, as I recall, has the committee or any of its witnesses brought to mind the important function that American trade-unionism has already achieved. Through their unions the workers of America have attained their rightful status in the community—they have become an equal part of the community—equal with management, equal with the farmer. They are, through their unions, represented on Government boards and commissions, on radio programs and religious and patriotic occasions, on local committees and community councils. They have achieved social equality—real democracy.
>
> But it is with the economic aspect of the labor-relations picture that I want to deal right now, for I think we have lost sight of it here. Let us look back to that immediate postwar of labor friction and disputes and see what exactly the economy looked like at that time.

In other words, Mr. President, we cannot talk about the number of strikes and simply leave the discussion there. We must talk about the number of labor disputes in relationship to the rest of the economy. What was happening in America? What was happening in the first year after World War II? Many things were happening. Families had been broken up, workers had gone from one side of the country to the other. Thousands and millions of people went from one end of the country to the other, whole communities were upset, there were people going into communities and people going out of them. All of that has to be put into the picture, and the economic facts have to be put into the picture. I read further:

> Let me quote from the report of the economic report of the President transmitted to the Congress in January 1949.

Let us take a look and see what happened in the economic picture. This is the record of corporate profits after taxes:

Corporate profits, after taxes, in 1940, were $6,400,000,000.

In 1941 the profits were $9,400,000,000, after taxes, and after reserves had been set aside.

In 1942 corporate profits, after taxes, were $9,400,000,000 again.

In 1943 they were $10,000,000,000.

In 1944 they were $10,800,000,000.

In 1945, the last year of the war, conditions were becoming bad. The corporations' profits were only $8,700,000,000.

Then we come to 1946. By the way, up to 1945, the corporations made a total of $60,000,000,000 net profit, after taxes, after reserves, after plant replacement, after business thrifts. After all these things there were about $60,000,000,000 of profits, and all during that time the American workers were on the job producing. Union after union was decorated for heroic service to the country, and I know very few of the industrial workers who ended up having a seat on the Stock Exchange. I know very few of them who ended up by buying for themselves $50,000 or $60,000 homes. As a matter of fact, the record reveals that the workers have spent almost all their war bonds already.

Then comes 1946. Corporation profits after taxes in that year were $12,800,000,000. Then we cut off price control.

In 1947 corporation profits were $18,100,000,000.

In 1948 corporation profits after taxes were $20,800,000,000.

Add them all up and we have a total of $106,700,000,000 net profits for corporations in 8 years.

We had a labor-management emergency in the coal industry soon after the war. I think every Member of the Senate remembers that situation in the coal industry. Let us investigate the coal industry as carefully as we have looked into the union.

In hard coal, an industry that had gone 8 years without profits, after-taxes profits leaped from $6,000,000 in 1940 to $16,000,000 in 1944, $9,000,000 in 1945, and $14,000,000 in 1946. The profits for each of the years from 1941 through 1947 far exceeded the profits in the boom year of 1929, when the mine owners did not have any unions around.

In soft coal, the picture was even more spectacular. In an industry that earned $9,000,000 in 1929, profits averaged over $88,000,000 in each of the 7 years from 1941 to 1947, after taxes, Mr. President.

In coal and petroleum industries, corporations were earning the fantastic profits of 14 percent on investment in 1947, which leaped to 23.2 percent in the first quarter of 1948, 20 percent in the second quarter, and which started to go down badly to 18 percent in the third quarter. Those are the corporation earnings after taxes—15 to 20 cents a year for every dollar invested in these million-dollar industries. Certainly, we

had a coal strike. Yes, and there was some background for it, too.

Other industries were making similar profits. Lumber and wood products earned 19.2 percent on investment the third quarter of 1948, and nearly 25 percent on investment in the first quarter of last year. Iron and steel earned 15 percent, and automobiles earned over 21 percent on investment. That is not bad, Mr. President—21 percent on an investment.

What was happening to wages during this time? From 1945 to 1946, when profits shot up 47 percent, average weekly wages in manufacturing actually dropped more than 1 percent. Of course, we are supposed to be happy about that. The next year profits rose again, this time 41 percent, and weekly wages limped a sickly 12 percent. In other words, from 1946 to 1947, when industrial profits went up from $12,800,000,000 to $18,100,000,000, which was a 41 percent net increase, the workers were doing simply fine, they were having a big time, they were getting rich—they received a 12-percent increase. That was not net. No, that was merely a 12-percent increase. If there was anything net in what they received they were lucky, fortunate.

The next year, that is from 1947 to 1948, profits rose 13 percent. They could not go much higher. Corporate profits after taxes went from $18,100,000,000 in 1947 to $20,800,000,000 in 1948. The profits went up only 13 percent, Senators must understand, from 1947 to 1948. Profits went up 41 percent from 1946 to 1947, and they went up 47 percent from 1945 to 1946. But things were beginning to slow down a little bit after 1947, when profits were $18,100,000,000, and they went up only 13 percent in 1948, to $20,800,000,000.

What happened to wages in that year? Wages went up only 10 percent. So all the time profits have gone up by a total of over 100 percent, wages have gone up by a total of between 25 and 30 percent.

Mr. President, that is a part of the economic background. Those were very prosperous surroundings for management, and probably reminded them of the open-shop days of the twenties, and it is my contention that they felt their oats and began the campaign against labor that resulted in the Taft-Hartley Act.

I should like to remind Senators of the lengthy strikes in the auto industries following the war, and remind them further that at that time profits in the auto industry broke all records in terms of percentage profit on investment.

What I have said about the auto industry was also true of steel.

In the period of labor disputes in 1945 and 1946, we find a strange correlation, just as we find it between disease and slums, just as we find a relationship between strikes and profits right down the line; just as we find a relationship between depression and unemployment and the break-down of union organizations. The Eightieth Congress, which looked for a solution to labor-management troubles of 1945 and 1946, did nothing to get at the real causes.

While the incomes of our citizens began to spread apart more and more and wealth began to concentrate once more, while real profits rose and real wages dropped, the Republicans decided that the workers were becoming too strong. It was not only the Republicans who came to that decision, but also some Members on this side of the aisle. This contrary analysis brought on the Taft-Hartley Act, brought on the Knutson tax-cut bill. Parenthetically I might remind Senators that neither Mr. Hartley nor Mr. Knutson are with us today in the Congress.

While the Taft-Hartley bill made union organizing harder, the same group was cracking down on the unorganized worker by refusing to raise minimum wages to anywhere near a sensible level.

In other words, Mr. President, there has been a pattern in this country, a pattern which I think does not augur well for the future. There has been a lack of concern over the basic element of our prosperity—the welfare of the individual citizen and his purchasing power. The man who is today doing his job—the truck driver, the man working in the plant, the man who brings home $35, $40, or $50 a week—is the man who keeps the corner drug store and the corner grocery store going. He is the man on whom the economy is based. There has been a great lack of consideration for his economic well being.

We are always talking about what we are going to do about investment capital. There is plenty of it lying around. If some of those who are talking so much about it would invest some of their capital, they could do something about it. Investment capital can be obtained at cheap rates of interest. A man who

wants to buy a house pays 5 percent; but a corporation can obtain money for 2 percent. The working man of the country is willing to take a chance at a job. He does not say to the plant manager, "Are you going to give me a job for 3 years?" He does not say, "Are you going to guarantee me employment for 5 years? If not, I will not buy a new pair of overalls. How can I invest in overalls unless I am sure that I am going to be on the job for 5 years?" He cannot go to the Reconstruction Finance Corporation and obtain a loan to buy a new car, or an old car, so that he may drive to work.

There is a great deal of talk about lack of confidence. The people who lack confidence are those who have always lacked confidence when they could not have their way. They are not happy over the fact that in the year 1948 they made only 13 percent more than they made in 1947. They thought that the increase of between 41 and 45 percent ought to continue every year. There happens to be a saturation point. That is why I say that when we study labor law we must study it in relation to the economic facts of our time.

What are the economic facts today? Farm prices are going down. More than three and a half million American workers are unemployed. But the quarterly report for the second quarter of 1949 indicates that American corporate business will make $18,000,000,000 net profit this year. It was $17,930,000,000 on the basis of the last quarterly report. Hard times? I am worried about those folks.

It was natural for the Wagner Act to be criticized, because it did interfere with the freedom which some employers had felt in their efforts to destroy unions in the past. Those who criticized the act before our congressional committees generally represented groups which had lost power through the growth of collective bargaining.

I can understand why certain people would be critical of the Wagner Act. Of course, they were critical of the Wagner Act, because the Wagner Act started to spread the power around. That is the question over which the political battle in this country has been fought. The political battle in America is over the issue as to who is to have power and control in America—privilege or the people. That is what the fight was about. That was the fight over the New Deal. The rich became richer than ever before. They could not even lose money under the New Deal. Everything was insured. A man could put his money in the bank and be sure to get it out. He could invest in the stock market and be reasonably sure of not being swindled.

Why did not certain people like the Wagner Act? It was because they did not write the rules. They only benefited from the rules written by the people. Why do not certain people like the Fair Deal? It is because they cannot give us a raw deal under the rules of the Fair Deal. The political question in America is, Who is going to run the United States—the 300 top corporations or the people? The people have been doing pretty well. They seem to have sensed in some way or other, despite a certain lack of printed information, that they are perfectly capable of self-government.

Those who criticized the Wagner Act were generally represented by the groups which lost power. Before 1935 workers in the United States were generally not bargaining on equal plane with their employers. The Wagner Act gave them such a position of equality. Justice Holmes once said that it is necessary "to establish that equality of position between * * * parties in which liberty of contract begins." It is such an equality of position that the Wagner Act gave employees, and it is precisely that equality of position which was criticized by those who wished to destroy the Wagner Act.

Was there a need to amend the Wagner Act? As soon as the act was declared constitutional a new tack was taken by the unsuccessful Liberty League entourage. They could no longer claim that the Act was unconstitutional, so they attempted to amend the act so that it could not perform its historic task of removing the chains which bound the American worker in solitary confinement. As late as 1946 one member of the National Labor Relations Board eloquently described the reasons why the act had to be retained. He said, reminding us of the pre-Wagner Act evils:

> Under ordinary circumstances, a law which has been as completely interpreted by thousands of decisions and approved by the Federal courts in hundreds of additional decisions, would have nothing more serious to face ahead than refinements of procedure and exploration of borderline situations. However, this cannot be the fate of the National Labor Relations Act. A governmental agency responsible for the prevention of deep-rooted and cherished practices inevitably will arouse opposition. The Wagner Act had at-

tempted to control a strong group of American citizens who wanted to go on in their own uncontrolled way.

The NAM was against the Wagner Act. It has been against everything except the Panama Canal; and that was a split decision. The NAM was against the Securities and Exchange Commission. The NAM was against the social-security program. The NAM was against the abolition of child labor. The NAM was against farm-price supports. The NAM was against the Fair Labor Standards Act. It was against the Holding Company Act. It was against the TVA. The NAM has been just against, period. Its record has been printed in the Harvard Business Review. Rather than burden the Senate with any further exploration of the record, I remind Senators to check the May issue, 1947, of the Harvard Business Review:

The Wagner Act had attempted to control a strong group of American citizens who wanted to go on in their own uncontrolled way.

The law had as its target what that group thought its inalienable and sovereign rights. Fifty years of violence had fastened the habit of industrial absolutism and violence on American industry. Understandably enough, when the Wagner Act came along it was bitterly fought.

Today, the battle in somewhat different fashion is still being fought in certain industrial areas. This battle normally takes the form of opposition against labor organizations as such, or against any form of Government protection of such organization. True enough, the instruments of public opinion show that we have come a long way. The outcries of "kangaroo court" and demands for outright repeal and outspoken opposition to the principles of collective bargaining have been supplanted for the most part by criticism of particular decisions. Furthermore, thousands of collective-bargaining contracts have been entered into in industrial areas where such practices were theretofore unknown or bitterly fought.

Nevertheless, you know as well as I do, that the process of converting the theory of collective bargaining into industrial practice is far from complete, that the law of the land has yet to become the law of thousands of our industrial plants. As I see it, in the very near future the acceptance and practice of collective bargaining in certain areas may well be put to as severe a test as any one of our other institutions have had to face. Let us not forget what happened after World War I, when the open-shop plan swept certain areas and left a wake of disrupted unionism.

Mr. President, the strength of that argument is not limited one whit by the fact that the Board member who made that statement is now one of the active opponents of the Wagner Act philosophy, is one of the authors of the Taft-Hartley law, and is today a well-paid propagandist of big business. His name is Gerard D. Reilly.

What has been necessary at all times since the Wagner Act went into effect was not to weaken it but to strengthen it. A great authority in the field of labor relations, one who has made important contributions, both to the administration of the law and the mediation of disputes, former NLRB member William M. Leiserson, reviewed some of the criticisms of the National Labor Relations Act, and in his concise fashion described the problem as follows:

Much of the criticism of the Labor Relations Act stems from disappointment that it has not achieved harmonious labor relations despite its success in spreading collective bargaining and safeguarding workers' organizing rights. Some of the criticism even suggests that the act may be too successful in accomplishing these purposes. Nevertheless, hardly anyone will now publicly acknowledge that he is opposed to unionism and collective bargaining. Everybody seems to agree—in public at least—that these are desirable. There is a tendency, however, to blame the act for failing to allay industrial unrest and bring the hoped-for amicable relations between employers and employees.

I read further:

This is due to a misunderstanding. Despite the statement of policy and aims in section 1, it is a misconception to assume that the act was designed to do more than lay the foundations for a labor policy. Its provisions do not cover the whole field of labor relations, but are strictly limited to one phase. They assume other laws and agencies for dealing with other problems of labor relations, which also affect the attitudes of management and workers. The NLRB is not given any duties or responsibilities in connection with the settlement of disputes between employers and workers regarding terms of employment. It is restricted to removing unfair labor practices by employers and to determining disputes as to who is authorized to represent employees for collective bargaining purposes. Once the employer recognizes the chosen representative of the employees and bargains in good faith, the Board is without authority to intervene in the collective bargaining process. Conciliation, mediation, arbitration or investigation of the merits of disputes about wages, hours or working conditions are entrusted to the Department of Labor and other Government agencies. The right of employees to organize and bargain collectively through representatives of their own choosing is all that the act deals with.

Section 1 of the act mentions other general purposes besides removing unrest and encouraging friendly adjustment of disputes. It states that absence of collective bargaining "tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries." The act evidently is aimed at these evils also. But no one expects the NLRB to stabilize wage rates or to prevent depression of wages and purchasing power of working people.

In other words, the law was written to provide a means of promoting conciliation, understanding, mediation, and collective bargaining between workers and their employees, not to set up a lot of artificial standards, but to promote and provide machinery for a free exchange of opinions, attitudes, and information, and to provide an opportunity for arriving at a contract or decision as to the terms of employment.

I read further from the statement:

Congress provided other legislation and agencies for accomplishing these purposes, just as it provided that the Department of Labor (supplemented later by the War Labor Board) shall concern itself with the peaceful settlement of labor disputes by intervening in the processes of collective bargaining and dealing with the merits of labor disputes. Nevertheless, when the expected peaceful and friendly labor relations do not materialize, it is commonly assumed that the Labor Relations Act is at fault rather than any weaknesses in the methods or machinery for settling disputes.

The Labor Relations Act is designed to protect and to encourage the institution of collective bargaining, as marriage laws are designed to protect and encourage the institution of the family. But happy labor relations are no more guaranteed by the one than happy domestic relations are by the others. These desirable ends depend on other factors and devices, the laws being merely a conditioning circumstance. In the field of labor relations attitudes, mutual forbearance and consideration are no less important than in family relations. Conciliation, mediation, and voluntary arbitration can be effective, when properly used, to promote good will and understanding, and to help maintain peaceful relations. These ends are not to be achieved by changing the provisions of the Labor Relations Act. They require strengthening of the machinery for voluntary adjustments of labor disputes and the development of effective conciliation and mediation policies.

Mr. TAFT. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. LONG in the chair). Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. HUMPHREY. I yield.

Mr. TAFT. Does the Senator from Minnesota agree with one distinguished labor-union official that we would be better off by simply repealing the Wagner Act and all the other labor laws, including the Taft-Hartley Act and all the others; or does the Senator from Minnesota feel that we should have an act dealing with this question?

Mr. HUMPHREY. Mr. President, I shall be happy to inform the distinguished Senator from Ohio that inasmuch as we have been on the committee together for some time, it would appear to me that my position in this matter is quite obvious. I believe that the Wagner Act, with the several amendments which were offered in the committee and with several of the amendments which have been offered thus far on the floor of the Senate, is desirable labor law.

The Senator from Ohio knows very well, as I am sure he knows many other things very well, that the junior Senator from Minnesota at no time thought we should have an absence of law on this subject. I think the Wagner Act was far superior to the Taft-Hartley Act without any amendments, and I think the Wagner Act is far superior to the Thomas bill; and I believe that with the amendments suggested, we might receive concurrence by a majority of the Senate, so as to have a sound pattern of labor law.

Mr. TAFT. If the Senator will further yield, let me ask whether he believes that once the Government enters into the field of labor-management relations, it should at least cover the field, so as to prevent abuses on both sides.

Mr. HUMPHREY. No; I believe, as I have said this afternoon, that the job of government in the field of labor-management relations is to provide a means for labor and management to settle their own disputes. I say there should be a basic minimum of any restraints on that kind of action between labor and management.

Mr. TAFT. The Senator from Minnesota has denounced the idea of having the Government govern labor relations, but apparently he himself is in favor of the idea of having the Government prevent unfair labor practices on the part of management, and now, also is in favor, through his amendments, of having the

Government prevent some unfair practices on the part of labor. So apparently it comes down to the question of what is an abuse and what is not.

Mr. HUMPHREY. It comes down to the question of how far to go in the exercise of good sense and common sense. In other words, I am in favor of traffic lights, but I would not have them located every 2 feet. Perhaps they should be located every block or every two blocks, so as to promote the flow of traffic, but not so as to stop it. Similarly, I am in favor of the use of aspirin tablets, when they are needed; but I am not in favor of having anyone take a whole box of aspirin tablets, when the directions say to take only two. In the same way, I am in favor of aiding the flow of traffic in transportation, but that does not mean that automobiles should be driven on city streets at 90 miles an hour. No, Mr. President; we should not reduce our positions to the point of absurdity.

When we provide certain precautions which experience has proved desirable—I say desirable even though perhaps they have not been proved to be absolutely essential—I think we are in a sound position, and I think it exemplifies a reasonably prudent and intelligent attitude in regard to the matter of labor-management relations and policy.

The Taft-Hartley Act

Mr. President, I come now to the issue of the Taft-Hartley Act.. Thus far in my remarks I have discussed several stages of iniquity through which we went during the early days of our history. In the time which has been mine in the Senate debate, I have tried to trace the history of the labor movement from 1790 through the 1800's, through the period of strikes and imprisonment, through the period of industrial spies, through the period of the use of strikebreakers in industrial plants.

After that, we came through the perilous period of World War I. We have seen what has happened every time there has been a depression, and we have seen who has suffered. We have seen what happened in the period of the 1920's, when the program was the open-shop plan, what was called the American plan, which destroyed the trade-union movement.

We saw what happened under section 7 (a) of the National Industrial Recovery Act. We saw how that act was flaunted. I pointed out case after case in which the act was wanting and there was a lack of enforcement powers. The junior Senator from Minnesota then went into the consideration of the Wagner Act and of the purpose of the Wagner Act, quoting responsible authority—quoting none other than the distinguished Senator from the State of New York [Mr. WAGNER]. Now we are down to the Taft-Hartley Act.

It is too bad that we have to report on so many unpleasant things. Better if we could report on the joyous moments and happy ones. But we are considering legislation, and are trying to consider it, I hope, in a spirit of obtaining good legislation. There is no great national emergency now. We have an opportunity as Members of the Senate to consider labor legislation under a condition, I may say, of calm, at least of reasonable calm. I, for one, am not going to be disturbed because there may be a little difficulty upon the economic scene. This is the time to prepare for what may be more serious difficulties.

Mr. President, in spite of these words buttressed as they were by the authority of the most experienced persons in the field of labor relations, despite all that, despite the heroic record of labor in the war, despite the factual record that there were fewer workers percentagewise on strike after World War II than after World War I, despite the economic factors which were present, of tremendous profits, inflation, loss of purchasing power, the inabiilty of workers, although they got many wage increases, the Taft-Hartley law was enacted.

Speaking of wage increases, of course the workers got wage increases, but they never caught up with the rising prices, and they never have in the history of economics. All one needs to do is to take one-quarter of Economics I at the University of Minnesota or at the University of Pennsylvania, to find that wages never keep up with prices in an inflationary time.

What I have stated was the environmental pattern under which the Taft-Hartley Act was conceived and created.

The campaign which preceded the passage of the act was described on this floor by the Senator from Vermont [Mr. AIKEN]. I thought the distinguished Senator was present, but I shall read officially from the RECORD. Nor are these remarks to be interpreted that the Senator from Vermont agrees in all

points with the position of the Senator from Minnesota. But the Senator did make some observations in reference to the passage of the Taft-Hartley Act. I quote from that distinguished statesman of this honorable body, a man for whom I have great personal respect, as follows:

> It is a wonder that Members of the Senate can hold their tempers and vote on the bill according to their best judgment because we have been subjected to the most intensive, expensive, and vicious propaganda campaign that any Congress has ever been subjected to.

That is the end of the first quotation. The second quotation is:

> I do not refer to the propaganda campaign of labor unions, although I hold no brief for that. I refer to a propaganda campaign which has cost well into the millions of dollars. I should not be surprised if the total amount spent in this campaign would amount to $100,000,000. I told the Senate last spring that the single March advertising campaign in the newspapers against labor by the National Association of Manufacturers cost $2,000,000, and that statement has not been contradicted as yet, although it was made a year ago.

The third quotation from the same address in the CONGRESSIONAL RECORD is one which distinguished colleagues have read. It was brought to the attention of the committee and is as follows:

> This propaganda campaign has been conducted through letters to the press; it has been conducted through radio commentators whose services have been for hire by various organizations. It has been conducted through speakers sent everywhere in the United States where they would get an opportunity to expound the anti-labor doctrine.

I do not want to make an estimate, Mr. President, of how much money has been spent, or was spent. I know, however, that a man who praised the Wagner Act only a year before the Taft-Hartley Act was passed, a member of the National Labor Relations Board staff, later on became a propagandist for Taft-Hartley. It could have been, of course, a new insight into life. I would not want to impugn anyone's motives.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. LONG. Although I do not know Mr. Reilly and I know very little about the matter, it is my impression, and I wonder if the Senator will agree that it is true, that one of the worst things in our American form of government is the growing tendency of men who have worked for the Federal Government in very important and responsible positions to resign from those positions and sell their services to employers against whom they were formerly employed to protect the Government's interests. What special interests want to accomplish can be done with better advice and with persons who are more wise in the workings of the agencies of which those men have been members.

Mr. HUMPHREY. I would say to my friend the Senator from Louisiana that it is a fact which is taking place in American economic life, and at times it has very serious ramifications.

But in reference to Mr. Reilly, whose name has been brought into the discussion, the only observation the junior Senator from Minnesota was making was the observation of the record, which is that late in 1946 this gentleman who worked for the National Labor Relations Board, praised the Wagner Act and cited its clarity. As I say, he may have changed his mind. I was not criticizing the gentleman for his term of service with the Federal Government. I said, and I say again, that since his termination of service with the Congress of the United States he is a propagandist for the Taft-Hartley law.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. LONG. Can the Senator from Minnesota inform me for whom Mr. Reilly is working today?

Mr. HUMPHREY. I understand he is working for the General Motors Corp. Possibly the distinguished Senator from Ohio can inform us as to whether that observation is correct.

Mr. TAFT. He has a number of clients, I think, and I believe General Motors is one of them.

Mr. HUMPHREY. Now I wish to continue for just a short time longer.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. With reference to the question of the Senator from Louisiana, I suppose most of those who have resigned in recent years must have been Democrats rather than Republicans. [Laughter.]

Mr. HUMPHREY. Of course, there has been very little opportunity for Republicans to resign, because they never got in. [Laughter.]

Mr. LONG. May I also suggest that those Democrats who may have resigned

probably went to work for Republican interests after they got out.

Mr. HUMPHREY. Mr. President, I now resume the discussion at the point where I was interrupted.

Before examining in detail many of the specific provisions of the Taft-Hartley law, I should like to contrast the spirit of that law with that of the Wagner Act. You will remember that I pointed out that the Wagner Act enunciated certain rights of employees and, except for the fact that it prohibited employers from interfering with those rights, it did not in any way interfere with the collective-bargaining process. How different is the spirit of the Taft-Hartley law. In hundreds of different ways it dips its procedural fingers into the collective-bargaining process. It goes further than merely removing what it conceives of as being interferences with the rights of employers. It puts the Government into one of the chairs around the collective-bargaining table. In effect, it forces the Government to say to labor and management seated at this table: "You may not agree to this or that provision in your contract, even though you have been happy with such a contract for many years." That was the situation in the case of the International Typographical Union, for example.

Instead of the Government bringing both parties together, wishing them well, and departing while they settle their mutual problems, the Government presumes to interfere in their discussions.

It would be somewhat analogous to a mother-in-law who seems to have a maternal instinct and says to the young bride and the young groom, "Now not only are you going to be permitted to settle your difficulties, my dear children, but I am going to sit around and listen to the discussion and help you settle them, and tell you what you can talk about and what you cannot." That has often been a happy arrangement in the case of newly married couples which has recruited many a client for the divorce courts.

The Government tells the workers that a hiring hall, which has been found so successful in some industries, can no longer be agreed to. It tells them that the closed shop, developed historically by some of the oldest and most responsible unions as a protective device and as insurance to employers of an adequate and competent labor force, can no longer be enforced by the parties to such a contract. It tells them that they may agree to a so-called union shop contract; but even if they do agree to such a provision in their contract, they may not put it into effect until the Labor Board consults these employees—who have already designated the union to represent them in all collective bargaining matters—on whether or not a majority of those to be covered by the contract agree that they want such a provision. Even in the overwhelming proportion of cases, more than 98 percent, in which the employees do inform the Board that their representatives have truly represented them in demanding a union-shop provision, this union-shop election serves only as a ticket which the union may present to the employer, humbly asking that the employer agree to include it in the contract.

This is the spirit of the Taft-Hartley law: The spirit of interference with free collective bargaining; the spirit of the strait-jacket placed upon the parties who must live together in a relationship where the Government, acting as an unwanted mother-in-law haunting the honeymooning couple, makes more serious each minor disagreement. The American Federation of Labor has summed up the Taft-Hartley law by concluding that it has put unions under a cloud of suspicion; that it has disrupted peaceful collective bargaining relationships; that it has turned the National Labor Relations Board into a weapon against organized labor; that it has helped employers to evade unionizations; that it has made it impossible for unions to act together as a labor movement, and that it has increased hostility between employees and employers. This is a damning indictment of a law which was designed to create industrial peace. My specific discussions of the provisions of the Taft-Hartley law which would be retained by the Taft amendments will make it clear that this indictment is not too harsh.

June 14, 1949

The Taft-Hartley Act and the Taft Amendments

Mr. President, the able Senator from Ohio has stated that the substitutes for the Thomas bill, which he has advanced on behalf of himself and two of our Republican minority colleagues on the Labor and Public Welfare Committee, will remove 28 provisions from the Taft-Hartley Act. Here is further evidence—though none, of course, is needed—of his forthright approach to the responsibilities of his high office.

And yet, Mr. President, there are those who would distort this brave acknowledgment of inadequacy into something quite the opposite. They would make it appear that the author of 28 profound mistakes has, somehow, demonstrated a wisdom that qualifies him to formulate the basic national policy on the very subject in which he has so unhappily, so extensively, and so admittedly failed. This, Mr. President, is truly strange reasoning, more akin to magic than to logic; strange reasoning that would be highly dangerous were it ever to find acceptance among our people and our lawmakers.

I have heard it said, too—by those who pay but hypocritical lip service to party platforms, to campaign pledges, and to the unequivocal expression of the American people—that platform, pledge, and people's will can be fulfilled by 28 changes in the Taft-Hartley Act. Such cynicism, Mr. President, insults the intelligence of our citizenry and vulgarizes the values of our democracy. Repeal is not an elastic, abstruse word amenable to the crude techniques of political double talk; it is a simple word, with meaning clear and inflexible. It means annul, abolish, cancel—and the people know its meaning. They want this law annihilated, not rehashed, polished over or covered up by a changed, attractive new look.

And so, Mr. President, there is plainly no relevance in the "numbers" approach to the basic issue before us—the issue of repeal. Still, there are many who are intrigued by imposing statistics. For these, I have taken the trouble to count the changes in the Wagner Act effected by the Taft-Hartley Act, and I find that there are 100 such changes. Thus even by this standard the Taft amendments retain the bulk of the Taft-Hartley Act—72 of the original 100 changes, about three-fourths of all its provisions.

I repeat, however, that issues like the one we are debating—issues that turn on our fundamental concepts of justice and morality—are not illumined by that kind of mathematical formula. We do not measure justice—we dispense or withhold it in toto. We do not compromise morality—we practice or scoff it. The question we face is one of principle—not figures and statistics.

The distinguished Senator from Ohio, in the course of his remarks on June 8 stated:

> We retain in our substitute the essential principles of the Taft-Hartley Act.

That, Mr. President, fairly and precisely poses the issue. Shall we perpetuate the principles of the Taft-Hartley Act or shall we return to the principles of the Wagner Act?

I have already, in the course of my remarks last Friday, shown that these principles are mutually exclusive, that the philosophy of Taft-Hartley is irreconcilably antagonistic to that of Wagner and equally antagonistic both to the continued health of our economy and to our most cherished concepts of freedom and democracy.

It is now my purpose to address myself to some of the salient provisions of the Taft-Hartley Act which would survive the Taft amendments and which epitomize its essential principles.

Preliminarily, however, I should like to emphasize a crucial fact which has been overlooked by many and deliberately obscured by some. I refer, Mr. President, to the completely false basis on which the Taft-Hartley law was presented to our people. The American public, through one of the most subtle, expensive, and effective propoganda campaigns in our history, was led to believe that new legislation was necessary merely to remove the excesses of the Wagner Act. The people were told that the Wagner Act was a good thing, that its basic objectives must be continued, but that, like most new social legislation, it had created its own excesses and its own problems. Hence, the argument ran, the Congress, after 12 years of experience under that statute, should resolve those problems and remove those excesses.

The success of that propaganda is not difficult to understand. It made its appeal to the traditional fair-mindedness of Americans. Unhappily, however, that great American attribute was crudely exploited by those whose own sense of fairness leaves so very much to be desired.

The real thrust of Taft-Hartley, its true objective, was not to redress a real or fancied unbalance created in 1935, but, rather, to rob the American worker and his union of every major legal victory laboriously achieved in the preceding 50 years. The National Asso-

ciation of Manufacturers was not anxious to return to 1935. It nostalgically desired and effectively attained a return to the dark ages of industrial history when there was a master who imperiously commanded and a servant who meekly obeyed, when the very thought of a labor organization was unspeakably evil and when the fact of a trade-union was condemned and punished as a criminal conspiracy.

Let me briefly document that assertion. The Wagner Act of 1935 did not abolish the labor injunction. That was abolished in 1932, after 50 years of continuous agitation and political support by both major parties.

The Wagner Act did not grant to labor the right to boycott. That basic right was achieved only after years of distressing litigation, culminating in the widespread acceptance by the judiciary that working men and women, like other groups in our society, have a natural right to come to the aid of their fellows and to refuse to contribute to their own ultimate destruction or injury.

The closed shop was not the liberal gift of a generous Congress in 1935; it was an institution of many years standing and proved constructive value, an institution whose legality was almost universally accepted long before 1935.

And so, too, with other provisions of Taft-Hartley. It is clear that the essential effort was not to equalize rights rendered unequal by the Congress in 1935, but to destroy the legal props of American trade-unionism and to restore the old condition of complete and unconscionable inequality.

Union Security

The Taft-Hartley Act entirely prohibits an agreement between an employer and a union for a closed shop. Before a union can obtain even what the act calls a union shop it must be authorized to do so by a majority of all the employees eligible to vote. This was very capably and well pointed out by the distinguished junior Senator from Illinois [Mr. DOUGLAS] last week. The union shop affords more illusory than real security. Under the Taft-Hartley Act the union can require the discharge of a worker only for failure to pay dues. It has no defense against the infiltration of subversives, disrupters, stooges, spies, provocateurs, gangsters—names and titles which have all too often been used against the labor movement.

Even more important, it gives the employer unfettered freedom to hire in the open market, which is to say, it gives to antilabor employers the full opportunity to man their shops with antiunion workers able and anxious to undermine union conditions and the union itself.

The Taft amendments make only the slightest concessions to union security. Under the amendments an employer can notify the union of job openings and the union can refer qualified applicants for employment. That does not mean that the employer needs to employ them.

Under the Taft amendments, the discredited union-shop authorization election would be eliminated and unions would be permitted to require the discharge of employees for engaging in wildcat strikes or for being affiliated with the Communist Party. Still retained, however, is the absolute prohibition of the closed shop and the provisions for de-authorization elections and those making State antiunion security laws paramount to the Federal law.

One of the predictions made by opponents of the Taft-Hartley Act at the time of its passage was that the outlawing of the closed shop would disrupt long established and voluntarily maintained union security agreements which have been mutually beneficial to management and labor for many years. This prediction has been borne out in several important industries, particularly the printing industry. The closed shop has been the practice in this industry for almost 100 years. The International Typographical Union, which had attained full growth long before 1935, even long before the Wagner Act, is universally recognized as a model, responsible union. In fact, Mr. President, in an issue of the Reader's Digest of about 2 years ago, this union was painted not only as the model union of the Nation, but as a model for all unions all over the world. Its democracy was upheld and was proclaimed; and its efficiency and effectiveness, both to the employer and to the employee, are well documented. The majority report of the Joint Committee on Labor Management Relations stated:

> The International Typographical Union has long enjoyed public confidence by its record of winning gains for its members while maintaining peaceful relations with employers.

While it is not my custom to quote the Chicago Tribune, I feel compelled to refer to its editorial of November 22, 1947, which describes the peaceful relations which had existed between the newspaper and the typographical union prior to the Taft-Hartley Act:

> In 1852, the Chicago Tribune entered into contractual relationships with the Chicago Typographical Union, No. 16, which has continued until this day, without interruption of so much as an hour. * * * We regret that this record, as a matter of great pride to us as well as to the union, has now been interrupted. * * *
>
> When the law was under discussion in Congress, as our readers will recall, we advised against outlawing the closed shop. We did so, among other reasons, because we know that the closed shop worked well in our plant and had worked well for a half century or more.
>
> Congress did not take our advice.
>
> The Tribune hopes that the present difficulties will be resolved speedily.

Mr. President, I should like also to quote from the hearings before the subcommittee of the Committee on Education and Labor of the House of Representatives, where Mr. John O'Keefe, secretary to the Chicago Newspaper Publishers Association, testified on December 22, 1947. Representative Kersten was asking the questions. I quote the following from the testimony:

> Mr. KERSTEN. Up until now and for a great many years past you had a closed-shop agreement, didn't you?
>
> Mr. O'KEEFE. Yes; we did.
>
> Mr. KERSTEN. How did that feature work out in your previous contracts, so far as your closed-shop provision of the contract was concerned?
>
> Mr. O'KEEFE. We never even discussed it. It had been there for years and it has remained there.
>
> Mr. KERSTEN. Did you have any real difficulty with it, so far as your union (the ITU) is concerned?
>
> Mr. O'KEEFE. We did not * * * as a matter of fact most of the Chicago publishers, or all of the Chicago publishers, I would say, would prefer to continue a closed shop if it were legal.
>
> Mr. KERSTEN. The reason for that is that this particular union has been a long-term institution that has a certain amount of tradition behind it, a considerable amount, and it is a responsible union, and under those conditions a closed shop has worked out so far as the Chicago publishers are concerned, is that right?
>
> Mr. O'KEEFE. Yes; it has.

The experience of the International Typographical Union under the Taft-Hartley Act is the outstanding example of the disruptive effects of the Taft-Hartley closed-shop prohibition. The typographical union has been subjected to 18 charges, 9 complaints, 1 injunction suit, 1 contempt action, and 2 damage suits. Yet this is the same union that 2 years ago was hailed as the finest union in the world; this is the same union that had a record of labor-management peace second to none, the same union which was looked upon as one of the most responsible and one of the most honorable and effective unions in the world. Yet under the Taft-Hartley Act, which has as its theoretical purpose the promotion of union-management peace and the improvement of relations between employer and employee and the development of an amicable, friendly atmosphere for labor-management relationships, we find that the typographical union has been subjected, as I have said, to 18 charges, 9 complaints, 1 injunction suit, 1 contempt action, and 2 damage suits, and has been forced to participate in 8 strikes, and has been compelled to spend more than $11,000,000 to resist the attacks upon its security.

Too many have failed to recognize the importance of union security to the maintenance of stable labor relations.

The impact of the Taft-Hartley Act and the Taft amendments on union security is further aggravated by those provisions which permit more restrictive State laws to prevail over the Federal statute. The result is that employers and unions in interstate industries are governed by conflicting rules in the different States where they operate. A multiplicity of standards applicable to these employers and unions is hardly conducive to stability in labor relations. Particularly when American industry has its plants and its processing firms located all over the Nation, and when great industry is negotiating with large unions in the same type of production process, it is of the utmost importance that there be a uniformity of standards. If we are to have a labor policy which is national in scope, rather than 48 different labor policies, it behooves us to supplant any State laws which seek to regulate or prohibit union security agreements in interstate industries in a manner inconsistent with whatever policy we may establish. Either Congress should establish a uniform Federal policy in this admittedly Federal field or we should leave the entire matter of labor legislation to the States—either one or the other.

Mr. President, a word about the tactics employed by those who seek to legislate the closed shop out of existence. Many

of them—not all—parade as the high-minded defenders of the individual, unorganized worker, and cloak themselves with the noble, attractive slogan of "the right to work." I say, Mr. President, that I know of nothing more revoltingly sanctimonious on the American scene today. One look behind the cloak will show that these pretenders to such touching solicitude for the unprotected worker are the same forces who have bitterly resisted and sometimes blocked every social or legislative movement designed to improve the lot of the American worker, farmer, and small-business man.

Let us carefully analyze the full significance of that slogan, "the right to work." What does the "right to work" really mean? Are those who so noisily proclaim its desirability prepared to go the whole way? Are they prepared to lay down a great national policy not only of the right to work but of jobs on which to work? Are they prepared to call on the Congress or on the various State legislatures to guarantee that every able-bodied citizen shall have a job—a job of his own choosing?

Everyone of course will admit that full employment is a worthy national objective, but I wonder whether those who talk about "the right to work" are willing to have the right to work without discrimination because of race, color, or creed? Are they willing to adopt a full employment bill on the part of the Congress as a national policy which will see to it that every individual in the Nation does have the right to work at a job of his own choosing, at wages which provide him with a decent standard of living? Unless that is accomplished, the phrase "the right to work" is meaningless and empty. The obvious fact is that "the right to work" is meaningless and is empty, without a job on which to work.

The major drive of almost every labor organization in this country is to obtain jobs for its present and future members, to resist the blind rush of employers to cash in on quick profits by wholesale discharges, artificial cut-backs in production, and other devices that keep profits up and wages down. We are going through some of that now. There are 3,700,000 Americans who want the right to work. I mean they want a job on which to work, which makes the right to work meaningful. These Americans have been laid off, their names taken off the industrial pay rolls, by some of those who today are talking the loudest about the right of every American to work. The truth is that those who sermonize on the sacred "right to work" really are thinking of the sacred right to starve. The truth is that the very unions who exhaust their energy and ingenuity in maintaining work are accused of feather-bedding practices and sometimes even worse.

Mr. President, when the unions asked for a 40-hour week, in order to spread the work, these great proponents of the right to work were not in favor of it. When the unions say, "Because of mechanization, we ought to have a 30-hour week, so jobs may be available to the American people," the proponents of the right to work say, "Well, that goes too far, that is too extensive; we cannot go that far." So, the right to work does not seem to mean very much. Likewise when unions have fought for the right of time-and-a-half for overtime as a penalty, which is a type of penalty payment so as to spread out the work for full-time employees, there has been bitter resistance.

Mr. LONG. Mr. President, will the Senator at that point yield for a question?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Louisiana?

Mr. HUMPHREY. I yield.

Mr. LONG. I wonder if the Senator has seen some of the methods used to promote the "right to work"? I know in my own State legislature people who were actually financing the "right to work" bill and seeking its enactment did not testify before the committee. They brought in pool-hall loafers who said in effect they were trying to find jobs, and could not get jobs. At the same time, all over the State there were hanging out "help wanted" signs offering jobs which these men would not take. When we really get to the facts, the reason they do not take the jobs that are available is because the jobs do not pay enough. The jobs they want are in places where the workers have organized a union and obtained better conditions. They want a union man's job, which has been made possible by men who have paid dues in order to obtain good working conditions.

Mr. HUMPHREY. I do recognize that the observation of the Senator from Louisiana is one of real merit, and refers to a situation which has prevailed in many States. I think we need to know

that the principle of the right to work is based upon a productive, solvent, prosperous economy. Men had the right to work in 1932. There was plenty of "the right to work," but there were no jobs on which to work. Men have the right to work in 1949, and yet 3,700,000 people find no jobs on which to work. So really what we are getting down to is this: Here is a slogan which has been used against the unions by the very same people who fought the 40-hour week, who fought time-and-a-half payment for overtime, who fought the elimination of child labor, who fought fair labor standards, and, Mr. President, who in fact even fought the social-security program.

My predecessor in this body was one of the leading champions of the "right to work" principle. On May 12, 1947, in the course of debate on behalf of provisions of the Taft-Hartley Act designed to eliminate union security, he stated:

> Mr. President, I think that that is the real magna carta—
>
> Referring to the right to work—
>
> for the American working men and women. I object to the whole basis of compulsory membership, but I think the bill—
>
> Namely, the Taft-Hartley bill—
>
> is largely going to eliminate compulsory membership unless the union leadership is so good that a majority of all the employees want it and will get out and vote for it in a secret election. Obviously the union leaders—and I heard one of them the other night make his major argument against this provision—are quite sure that a majority of the employees are not going to want it—and I agree with them. So this provision, in my opinion, is far more the magna carta of American working men and women than is the present so-called Wagner Act.

The statistics of the National Labor Relations Board, Mr. President, demonstrate that my predecessor had never been more wrong than when he made the above statement. These statistics show that in the secret elections referred to, unions won 98.2 percent of the elections, and 84 percent of the eligible voters voted in favor of the union shop permitted by the act.

Mr. TAFT. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. HUMPHREY. I yield.

Mr. TAFT. Of course, our contention has always been that the union security furnished by the act, the union shop which the men voted for, is adequate union security. It is an absolute guard of union security, and, of course, the fact that the men voted for it is rather in its support than in its opposition, I should suppose.

Mr. HUMPHREY. I should like to make the observation to one of the authors of the Taft-Hartley Act that the evidence was replete, and the authors should have known about it before it was ever written into the act, that 98.2 percent of the elections were crystal clear proof of what the workers wanted, and had the authors of the act listened to labor instead of listening to some of the people they listened to, we would not have had unnecessary governmental expenditures connected with these long elections, where 84 percent of the voters who were eligible to vote voted for union security.

Mr. TAFT. Mr. President, will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. TAFT. I quite agree. I have never disagreed with that. But the act was a compromise, and most of the Senators, or a majority of the Senators felt that the men ought to vote on that question themselves, and I yielded to that persuasion. However, the Senator I suppose is familiar with the fact that under the regulations of the State laws, and under the Wagner Act itself, the Supreme Court of the United States by a vote, as I recall, of 8 to 1 held that State laws prohibiting union shops were perfectly legal under the Wagner Act. Is not that a fact?

Mr. HUMPHREY. The junior Senator from Minnesota is very familiar with that. Under the Wagner Act there was no legislation pertaining to State laws. Where there is an absence of legislation, of course the Supreme Court rules that the States' action prevail. But the Supreme Court has also ruled, and it is clear and conclusive constitutional law, that in the field of interstate commerce the Federal Government can legislate. What we are doing in the Thomas bill is to legislate, within a field which is constitutional, which belongs to the Congress. The Supreme Court will uphold the right of the Congress to legislate in that particular field.

Mr. TAFT. Is the Senator also familiar with the general attitude taken, for example, by Mr. Justice Brandeis and Mr. Justice Frankfurter, particularly as reflected in the decision by Mr. Justice

Frankfurter, in upholding the State laws prohibiting the closed shop?

Mr. HUMPHREY. The junior Senator from Minnesota is familiar with the comments of the late Justice Brandeis and of Justice Frankfurter. He is also fully familiar with the fact that the Congress of the United States has the right, under the Constitution of the United States, to legislate in the field of interstate commerce, and he is not going to permit either himself or the public to be deluded into believing that because the Supreme Court, under the Wagner Act, upheld State laws, under this bill the same thing will be done, or that that should be the principle. Without any express affirmation on the part of the Federal Congress, the Supreme Court upheld the constitutionality of State laws. Distinguished lawyers in this body know that, and they should not delude the American people.

Mr. TAFT. I do not quite understand the Senator's statement on that point.

Mr. HUMPHREY. To delude the American people into believing that under the Wagner Act the same thing was done as has been done under the Taft-Hartley Act.

Mr. TAFT. What I wanted to point out was that while the Wagner Act authorized the closed shop, it took no position whatever——

Mr. HUMPHREY. As we have matured through experience, we say we should take a position, for the same reason that we have a national policy on social security, a national policy on fair labor standards, a national policy in reference to the control of narcotics, a national policy with reference to taxes. I may say to the distinguished Senator from Ohio that, in the absence of Federal law for the control of narcotics, State laws would be upheld. The reason why the Wagner Act did not legislate in this field was because at that particular time it was felt it was not necessary; but the record of today proves it is necessary.

Mr. TAFT. Does the Senator from Minnesota agree with the following conclusion of Mr. Brandeis, quoted by Mr. Justice Frankfurter in January of this year:

> The objections, legal, economic, and social, against the closed shop are so strong, and the ideas of the closed shop so antagonistic to the American spirit, that the insistence upon it has been a serious obstacle to union progress.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. Is the Senator from Minnesota aware that some time after Justice Brandeis wrote this statement he acted as the impartial arbitrator for the Women's Clothing Industry in New York City, and in that capacity he obtained the consent of both the union and the employers to a preferential union shop, namely, that the union would first refer candidates for employment to the employer, and he would take them, and that only after the submission of union members to the employer had been exhausted and the firm still needed employees, were employers permitted to take nonunion employees? Is he further familiar with the fact that this union preferential shop, over a period of time, has become virtually a closed shop, and that Brandeis was its father?

Mr. HUMPHREY. I am very appreciative for that historical observation. Only recently the National Planning Commission, which represents industry and labor, in a New York Times article issued in the month of February, which was introduced in evidence in the hearings, pointed out that the pattern of the closed shop in the garment industry was a model pattern in the United States, and that it should be restored as a means of good, sound labor-management relationship.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. LONG. I certainly hope that neither the Senator nor anyone else is confused regarding the right of Congress to legislate in the field of the closed shop, insofar as it affects interstate commerce. Certainly if the Taft-Hartley law can say a State cannot have a closed shop, even if the State wants it, then the Thomas bill can go in the opposite direction and provide that if a State does not want it, it must have it anyway. What is good for the goose is good for the gander; if it works in one way, it works in the other way. I do not see that there is any reason why it cannot be done.

Mr. HUMPHREY. I am very grateful to the Senator from Louisiana.

Not only was there prohibition against the closed shop, but it was provided that any State law which was more restrictive, more arbitrary, would be the law insofar as labor-management relationships were concerned. This great friend

of labor said, "If you can find us a law that is worse, we will make it the law of the land." That is what the Taft-Hartley Act said. We say we are going to legislate in a field in which we should legislate, and not permit workers to be placed under the impact of a law which is given respectability, if we can call it that, by the Taft-Hartley Act, by saying to the State legislatures, "Pass the most iniquitous piece of legislation you can find, if you can do worse than we did, which is a job in itself, and we will make it the law of the land." That is not a principle which promotes friendly relationships. I think it clearly sets forth the attitude which was prevalent when the Taft-Hartley Act was placed upon the books.

Injunctions

Mr. President, I desire now to refer to that very great and controversial issue known as the injunction.

In 1932 the use of injunctions in labor disputes was, at least so it was thought, effectively laid to rest by the Norris-LaGuardia Act. As stated by the Supreme Court in the case of Milk Wagon Drivers Union against Lake Valley Farm Products, that act was the culmination of a bitter political, social, and economic controversy extending over half a century. In 1947 that controversy was—quite unnecessarily and quite recklessly—fully revived by the Taft-Hartley Act. In other words, that great mandate on the part of the Congress to the working people of America, the Norris-LaGuardia Act, passed under the administration of a Republican President, has been thrown aside. One of the authors of that act was George W. Norris, the great, venerable saint of the Midwest, who worked so hard in this Chamber, and the other was that great humanitarian, that great mayor of New York City, Fiorella H. LaGuardia. They had the kind of a philosophy which this country needs—not the philosophy of the Taft-Hartley law, but the philosophy of understanding, of friendship, and of peace.

I know, Mr. President, that the Taft-Hartley apologists will take exception to that statement. They have repeatedly asserted a vast distinction between the pre-Norris-LaGuardia and the post-Taft-Hartley injunction. They say that Norris-LaGuardia put an end to private employer injunctions but did not touch Government injunctions, and that Taft-Hartley continues the same scheme. But they are wrong, woefully wrong.

I think it is apropos, Mr. President, to say that the wolf changes its fur, but it never changes its mind. I submit that we can change some of the titles, but the same old principle and the same old philosophy are there. The Taft-Hartley Act philosophy is that of the pre-Norris-LaGuardia era, the philosophy of bitterness, of injunction, of inequity, the philosophy which was repudiated by former President Hoover and repudiated by the Congress in 1932; a philosophy repudiated by both the Republican and Democratic Parties, until one of them got hocked in with the Taft-Hartley Act by some strange quirk. Both political parties were opposed to government by injunction, until 1947, and then the keeper of the keys, the NAM, walked back in, opened the doors, and took over.

Nothing is more demonstrably certain than that the Congress in 1932 deliberatively terminated the power of the Government to obtain labor injunctions.

Why this purposeful action by Congress? For the all sufficient—the excellent—reason that some of the most outrageous abuses of the labor injunction were perpetrated in cases instituted by the Government.

This should be good doctrine for many folks. There are always people worrying for fear the Government is going to regiment us, there are always people worrying for fear the Government is going to socialize us. I know of no better way of being socialized than having an injunction applied to us. We are really under the control of the Government then.

Those who are worrying about the Government going to socialize somebody because it is going to help the farmer with a little price support, are the same people who would deliberately put the American worker behind the eight ball of a court injunction, which is not only a step toward socialization, but which is a contemptible type of legal totalitarianism, forcing a man to work against his will.

I present my colleagues a strange paradox: The great defenders of the free way of life are the very first ones to deny freedom to individuals who want to live. The great defenders of free economy, who want competition, who want people to have a chance to express themselves, are the very first to argue for the right of the Government to get an injunction to hold a man in his place against his will. What kind of consistency is that? It is

the consistency of the selfish to have their selfish way.

The first important labor injunction in this country was the notorious Debs injunction—the one obtained by the Government in the Pullman strike of 1894. That injunction, as Mr. Justice Brandeis describes it in Truax against Corrigan, precipitated "storms of protest" over the perversion of an equitable remedy in a manner that "endangered the personal liberty of wage earners."

The clamor for relief almost immediately found political support. By 1896 the Democratic Party denounced labor injunctions as a highly dangerous form of oppression. Just 12 years later, beginning in 1908, the Republican Party, too, advocated the elimination of the abuses inherent in labor injunctions. That is a normal timetable of Republican backwardness.

A flood of legislative proposals was introduced and discussed in Congress. As Justice Brandeis observed, "These legislative proposals occupied the attention of Congress during every session but one in the 20 years between 1894 and 1914."

At long last, in 1914, Congress enacted the Clayton Act, which was described by President Wilson as "a veritable emancipation of the workingmen of America," and was hailed by Samuel Gompers as "the industrial magna carta upon which the working people will rear their construction of industrial freedom." But the hopes thus engendered proved wholly illusory. They were completely frustrated by the interpretation placed by the courts on the Clayton Act.

Inevitably, the failure of the Clayton Act to accomplish its plain purposes renewed, with even greater force, the agitation against injunctions in labor disputes. Beginning with the Sixty-sixth Congress, numerous bills seeking to offset the crippling effects of the decisions of the Supreme Court were introduced. These eventuated in the Norris-LaGuardia Act of 1932. And throughout that period, up to and including the Congressional debates and committee reports on Norris-LaGuardia, the injunction against Debs obtained by the Government continued, in the words of one representative active in the debate as "the cause célèbre from which sprang the agitation to destroy the power of the Federal courts to issue such—labor—injunctions."

Let us not delude ourselves; the Congress through the many years, from 1894 on, argued year in and year out for the right of the Congress to deny the courts the power to issue injunctions on the part of the Government against employees.

Perhaps no injunction was more bitterly assailed during the same debates than that issued by Judge Wilkerson, on the request of Attorney General Daugherty, during the railway shopmen's strike of 1922. Representative LaGuardia, for example, stated:

> Let me tell you how that was obtained—this is not hearsay, not from what somebody else tells me, but from the inside story as told by Harry Daugherty himself. * * * Daugherty says in his book: "After looking around for a judge, Judge Wilkerson was finally accepted. He was out of the city, but came back to Chicago. I * * * was most fortunate in getting Wilkerson. He had long been in the service of the Government as district attorney. * * * He agreed with me on every point and granted the temporary injunction without a minute's delay."

That is justice, Mr. President, that is wonderful justice, the Attorney General of the United States finding a friendly judge, and, without a minute's delay, they agreed to do what? To deny the workers the right even to strike. That is not a matter of hearsay, as the distinguished LaGuardia said, it is a matter of record, the printed word of the former Attorney General himself.

Mr. DOUGLAS. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield to the Senator from Illinois.

Mr. DOUGLAS. Is it not a fact that in the Wilkerson injunction the union officials were prohibited from communicating with their members?

Mr. HUMPHREY. The injunction was so sweeping that for all practical purposes it put the unions into complete, total silence and inactivity. I dare say hardly any injunction has been so sweeping. That is why labor fears injunctions. This is not a theoretical discussion, to be conducted in the classroom. This is a part of the life of laboring men. They know what it means to have suffered from the injunction, whether it is obtained from an employer going to the district court, or by Government.

Even stronger, Mr. President, was the published criticism of Professor, now Mr. Justice, Frankfurter, who is recognized as one of the leading authorities on the labor injunction, and who was heavily relied upon by Congress in enacting the Norris-LaGuardia Act.

He wrote—see his work entitled "Law and Politics," at page 218:

> Never in American history has an appeal by the Goverment to the courts * * * been received with such widespread condemnation as the injunction granted to Attorney General Daugherty at Chicago. Criticism does not abate with time nor with reflection.
>
> The simple truth is that Harry M. Daugherty * * * with the complicity of Judge Wilkerson, has set himself above the Constitution. * * * What's the Constitution between friends—even though one of them happens to be the Attorney General of the United States and the other a Federal judge.

Small wonder, Mr. President, in the face of that background, in the face of the congressional debates, and in the face of the plain language of the statute, that the Supreme Court, in a per curiam decision, in the case of *United States* v. *American Federation of Musicians* (318 U. S. 741), unanimously ruled that the Norris-LaGuardia Act barred the Government from obtaining labor injunctions in disputes between private employers and employees.

What gives me serious pause is the callous manner in which the foregoing history has been forgotten or perverted. What gives me equally serious reflection and concern, Mr. President, is that this story, which is written in the pages of American history, has not been told, as it should have been told, again and again to the American people.

They have been led to believe that the injunction is a fair and equitable tool of government. They have been led to believe that injunctions which oftentimes have been termed "temporary" are really temporary, being in effect for 2 or 3 days, or a day. But the record is replete with facts indicating that injunctions were neither fair nor were they the equitable tools of government, nor were they brief in their duration.

Mr. TAFT. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HUNT in the chair). Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. HUMPHREY. I yield.

Mr. TAFT. What is the Senator's view on the question, which has been debated here already, as to the President's inherent right to secure an injunction without a statute in connection with what he deems to be a national emergency? Does the Senator think the Government has the right to secure an injunction under those circumstances?

Mr. HUMPHREY. I shall be very glad to give the Senator from Ohio my observations on that subject. Not being an attorney, but just one of those who has been interested in the field of administrative law, and being also one who is interested in the Constitution, I would make this observation.

Mr. TAFT. Mr. President, will the Senator again yield?

Mr. HUMPHREY. Yes, I yield.

Mr. TAFT. The Senator from Minnesota has shown such wide knowledge of the cases he has cited, and of the various legal principles he has discussed, that I thought he was a lawyer.

Mr. HUMPHREY. I may say to the distinguished Senator from Ohio that I am gratified by his compliment. I did take basic courses in constitutional law, and I wish some of my professors were here today to see how well their pupil is doing. [Laughter.]

Referring to the question asked by the Senator from Ohio: Does the President have inherent powers to obtain injunctions? I am not a member of the Supreme Court. I have not been asked to rule on this subject as a member of the judiciary. So rather than try to distort the meaning of the Constitution, I may say that I think the right to use the injunction, or the inability to use the injunction, should be a matter of congressional legislation. In other words, I do not want to have invested in anyone a sort of power which may be in the air somewhere, but with respect to which Congress has not legislated. I am opposed to the injunction, and I am so opposed to it I want Congress to reenact the Norris-LaGuardia Act, and then we will know there is no power of injunction. We can not always be sure that as a result of what occurs on a certain day in November a great humanitarian President will always be in the White House. It may happen sometime that we will be brought back to the point where we were some years ago—and I take Senators back to 1932, lest there be any doubt as to the meaning of my observation—and therefore the junior Senator from Minnesota says frankly that the job of this Congress should not be that of thinking about whether or not the President has the right to use the injunctive process, whether he ought to have it, or whether it is implied or inherent. Let us not worry about that. Let us simply out-

law, not only for the employer, not only for the Attorney General, but for the President and all his agents, the power of injunction, and that will save us a great deal of trouble. That is not a radical suggestion. That is not something new. I want to return to good Republican doctrine, to the Norris-LaGuardia Act.

Mr. TAFT. Mr. President, will the Senator again yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. The Senator then, would have us amend the Norrris-LaGuardia Act to make it perfectly clear that it applies to the Government as well as to private employers.

Mr. HUMPHREY. I may say to the distinguished Senator from Ohio that I can hardly concur in what he has said. Apparently he has not listened to the dissertation I have given.

Mr. TAFT. The Senator read from the coal case, but in that case the Supreme Court avoided that question, and based the right of government injunction on the fact that the employees involved were technically at that time employees of the government, which was operating the coal mines. But it seemed to me there was a very considerable legal doubt under that opinion as to whether the Government was barred by the Norris-LaGuardia Act.

Mr. HUMPHREY. I should like to state my point of view to the Senator from Ohio. The Norris-LaGuardia Act denies to the Government the right of injunction. It denies the right of injunction for an employer. It outlaws the use of injunctions. Six of the Supreme Court justices expressly stated in the Mine Workers case, the one referred to by the Senator from Ohio, that the Norris-LaGuardia Act did apply where the Government sought an injunction in a private dispute. This happened to be, as the Senator pointed out, a situation where the Government could seize, own, and operate, in which event the employees become the employees of the Government of the United States. But I may say that even there, the junior Senator from Minnesota says, if there is to be seizure, I want it written into the law what the rights of the workers will be under seizure. I want no Houdini principles in legislation. I want to know what the legislation means.

Let us not confuse the issue. Under the Taft-Hartley law the injunction was not used only when the Government was theoretically, or, let me say, in fact operating the business. Let us not permit the issue to be beclouded. Under section 10 (l) and section 10 (j) of the Taft-Hartley Act the Government of the United States obtained injunctions for the employer against the worker.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. Of course, the Senator is not distinguishing between the two situations. In a national emergency the Taft-Hartley Act simply gave the Government the right to secure an injunction in the public interest, with no relation to the private employer. Is not that a correct statement?

Mr. HUMPHREY. I would say it was a statement, but I would not say it was correct. I will say it was not correct because, first of all, what is basically the public interest? The Government was not operating the ships in the case of the Pacific longshoremen's strike or in the case of the Atlantic longshoremen's strike. The Government said in effect that a national emergency existed in both cases, and the national emergency provisions were made use of in behalf of the employers, supposedly in behalf of the public interest. Since none of the strikes were settled under the Taft-Hartley Act I do not see how the public interest was protected.

I refer the Members of the Senate to page 37 of Report No. 99 of the Eighty-first Congress, first session, on the National Labor Relations Act of 1949, where the following appears:

> William H. Davis, former Chairman of the National War Labor Board and an acknowledged impartial authority in this field, testified before the committee on February 7, 1949, that:
>
> "The record on this subject is absolutely clear. As I have pointed out, there has not been a case under the Taft-Hartley law in which a settlement has been reached during the cooling-off period under an injunction, because in the coal case there was no cooling-off period, there was a strike. In the other three cases it did not settle them. Well, why? Because men are not encouraged to be reasonable and to reach an agreed settlement when they are under order of the court to work for a private employer, whether they want to or not. The evidence shows that that is not a good way to get a cooling-off period."

I say to the distinguished Senator from Ohio that when they are under the order of a court to work for a private employer, whether it be called in the public interest or whatever it may be called, I call it public skulduggery. That is what it amounts to.

I read further from page 37 of the report:

> This record of experience under the emergency provisions of the Labor Management Relations Act, confirms the appraisal made by Dr. William M. Leiserson, long recognized as one of the leading authorities in this field, that "the emergency procedures just went haywire, * * * having no relation to the realties of what happens at this point in the labor-relations picture."

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. Am I to understand, then, that the Senator from Minnesota not only wants to repeal the Taft-Hartley Act on the subject of injunctions in labor emergency disputes, but he also wishes to make it perfectly clear by statute, by reenactment of the Norris-LaGuardia Act, that the President has no inherent power to seek an injunction in the absence of seizure of operations by the Government? Is that the Senator's position?

Mr. HUMPHREY. That is the Senator's position, and, of course, the Senator will be delighted to have others concur with him. He will be delighted to have reenactment of the Norris-LaGuardia Act, which can well be done without too much confusion, by repealing the Taft-Hartley law and getting back to basic principles of labor-management law.

With reference to what we have been speaking of, I should like to quote from the hearings of the Committee on Labor and Public Welfare, part II, February 4, 5, and 7, 1949, where the distinguished Senator from Ohio had this to say to Mr. Davis:

> Senator TAFT. Mr. Davis, that question had not been raised, I just interrupt you to remind you. I was anxious to try to limit this thing just as much as possible. In other words, I feel that the inconvenience of the strike was no reason for declining it, and I tried to make it just as narrow as it could be, and I must say that I agree with you that it has been used in cases beyond what I thought it should be used in.
>
> I thought it was just a fundamental kind of thing, like a railroad strike which would close everything down.

That refers to the use of the national emergency provisions of the Taft-Hartley Act in ways which may be called public interest ways. Even the distinguished Senator from Ohio felt that the provisions had been used in an unexpected manner.

Mr. President, I desire to make some general observations on the historic significance of the injunction and the lesson learned from injunctions after the breaking away from the Norris-LaGuardia Act, and going back to pre-Norris-LaGuardia conditions.

There is little hope for constructive progress if we are thus to ignore the important lessons learned with such difficulty only yesterday. Particularly when, as in this instance, the lesson concretized and reaffirmed the fundamental tenet of our revolutionary fathers that tyrany flourishes where courts of justice do the bidding or give preference to the petitions of the executive.

It is true that the Taft amendments would eliminate the peculiarly offensive and one-sided mandatory injunction under section 10 (l). That is an admitted improvement. It is one of those things for which we are very grateful. But it merely removes an irritating detail while perpetuating an odious practice. There was no mandate on the Attorney General to apply for the Debs and Wilkerson injunctions. The Attorney General had discretion, as is provided for in the Taft amendments. Experience to date under the Taft-Hartley Act's permissive injunctions does not inspire confidence that the abuse will not be repeated.

I mention this because the Senator from Ohio has an amendment which would do away with section 10 (l). Section 10 (l) was so patently unfair, that anyone would want to do away with it. It provided for a mandatory injunction in the case of unfair labor practices on the part of the employee. There was no mandatory injunction in the case of unfair labor practices on the part of the employer. If the employee did something, the courts went to work immediately. If the employer did something, the case went to the bottom of the list, and 2 years later we might hear about it. That is a 50–50 proposition—one horse and one rabbit.

It has been stated that the amendment which has been offered is a conciliatory amendment—a compromise. I say that it is nothing but a fraud. Why? Because that which is mandatory under the Taft-Hartley Act will become discretionary. Surely the evidence has convinced all of us that what may be discretionary

can be just as mandatory as even the prescribed mandatory provisions.

At the outset under the Taft-Hartley Act, General Counsel Denham solemnly announced that he considered the vast authority vested in him by section 10 (j), which is the discretionary injunction, to be "a very sacred trust." He said that he would use it sparingly, and only "where either a large segment of the public welfare is in danger or where life and property are seriously and in reality threatened or where there is a principle involved that will result in substantial and widespread irreparable damage or injury of more than a merely private nature."

These are very high-sounding words; but let us consider some of the pressing issues which led the general counsel to use this "sacred trust." One case involved the retail meat departments of only 11 A. & P. stores out of the 5,000 stores which comprise the national chain. Look at the situation. With 11 meat markets on strike out of 5,000 great super markets, the general counsel feels that it is a case calling for the exercise of his "sacred trust," and that it is a pressing issue calling for resort to the powers of the injunction.

The "sacred trust" was resorted to in the International Typographical Union case, on the ground that there would be paralysis in the newspaper industry, although newspapers printed by substitute methods had continued to reach readers in the Chicago area throughout the period of the strike.

Another of the great public welfare cases involved the operations of a small motor carrier doing a negligible volume of interstate work. In a companion case there had been a temporary cessation of deliveries to the shipping dock of a single store in the multiple Montgomery Ward chain. The Government of the United States was called in because there was a stoppage at the shipping dock of a single store in the great Montgomery Ward chain.

Not one of these cases involved danger to "a large segment of the public welfare" or "substantial and widespread irreparable damage or injury of more than a merely private nature."

Nor is it any answer to say that under the Taft amendments injunctions will be equally available against employers. Experience to date indicates that they will be sought far more frequently against unions than against employers. Two wrongs do not make a right. The argument is, in effect, that since we have wronged labor, the way to make it good is to wrong the employer. Then twice as many people would be unhappy. So far only two injunctions have been sought against employers, as compared with 41 against unions.

More important, however, is the fact that in the very nature of things injunctions operate more oppressively against unions than against employers. The reason is quite obvious. Injunctions deprive unions of the only weapons they have in labor disputes—the strike, the picket, and the lawful boycott. It is axiomatic that in most instances a strike temporarily delayed will be completely defeated because of the delay.

The public has been told repeatedly that, after all, these injunctions are only temporary, and that the men can go back and fight for their rights. Mr. President, a strike is a weapon for economic purposes, to gain an end or an objective. An injunction against a strike would be like an injunction against a field commander who is trying to get the advantage of a quick strategic forward movement. He would be told, "Wait a minute; we are going to take about 3 months off, until we get our troops lined up, and then we will have a good war."

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. Does not the Senator distinguish between strikes which are not covered by any of the cases which the Senator has cited, and secondary boycotts against third parties, who are not involved in the dispute? Every case which the Senator has been citing has been a case of a secondary boycott, in which the injunction is not against a strike, but against interference with a third party, with whom the strikers have no direct relationship.

Mr. HUMPHREY. I wish my mental processes worked in such a way that I could dissociate what is actually happening in a strike with what is happening in the rest of the community. If there is a little strike which involves the public welfare, it is made to appear that it involves the whole Nation. The Senator from Ohio must admit that the boycott is a fundamental part of the economic dispute pattern.

Rather than deal with this subject by way of extemporaneous, spontaneous, and sporadic statements, the junior Senator from Minnesota has prepared an exhaustive study on the subject of secondary boycotts. I am within two paragraphs of reaching that point.

I shall continue by referring to what the Senate committee had to say in reference to the Norris-LaGuardia Act. I quote from the Senate committee report:

> The suspension of strike activities, even temporarily, may defeat the strike for all practical purposes and foredoom its resumption, even if the injunction is later lifted (S. Rept. 1060, 71st Cong., 2d sess., p. 201).

Let us not maintain the hated and hateful injunction as a weapon in American industrial conflicts. In the exceedingly apt language of Mr. Justice Frankfurter in 31 Columbia Law Review, page 385, we find this statement referring to the injunction:

> It does not work. It neither mines coal, nor moves trains, nor makes clothing. As an adjustor of industrial conflict the injunction has been an utter failure. It has been used as a short cut—but it has not cut anything, except to cut off labor from confidence in the rule of law and of the courts as its impartial organs. No disinterested student of American industry, or of American law, can have the slightest doubt that, beginning with the Debs case, the use of labor injunctions has, predominantly, been a cumulative influence for discord in our national life.

That sentence—that the injunction has "cut off labor from confidence in the rule of law and of the courts as its impartial organs"—is most important, for I submit that in these days of doubt and uncertainty, the courts of the United States must stand lily white in their justice and their equity. Profound students who have studied the record find that, instead of that, the ordinary people of the United States, if such practices continue, will be led to believe that the rule of law is not fair and that the courts are not impartial.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. LONG. Does not that fairly well illustrate the old adage that you can lead a horse to water, but you cannot make him drink? In other words, you can put a man in a coal mine, but you cannot make him mine coal. So if a man is made to go into a coal mine, and if he then acts in a rather lackadaisical way, he can be fined, perhaps, and can be put in jail, but that does not result in the mining of coal.

Mr. HUMPHREY. That is correct, and the ultimate result is to implant bitterness in the hearts of many of the American people. Today there are large numbers of them who have in their hearts a bitterness against the judicial process and the rule of law, as a result of that situation.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. THOMAS of Utah. I think the Senator from Minnesota is about to take up the subject of secondary boycotts; is he not?

Mr. HUMPHREY. That is correct.

Mr. THOMAS of Utah. I wonder whether the Senator from Minesota will yield, to permit me to suggest the absence of a quorum, so that other Senators may hear this important part of his speech.

Mr. HUMPHREY. Mr. President, I am very grateful to the Senator from Utah for that suggestion. I think he is a little more optimistic than I am as to the number of Senators who will remain in the Chamber to hear my remarks. However, I yield, with the understanding that I do not lose the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and called Mr. AIKEN'S name.

Mr. TAFT. Mr. President, I object.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. The call of the roll has already been begun.

Mr. HUMPHREY. Mr. President, let me say that I feel very well today; and if the Senator who made the suggestion of the absence of a quorum will withdraw the suggestion, I shall be very happy to proceed, because those who need the information are here, and we should continue the proceedings.

Mr. TAFT. Mr. President, my position is that this bill has now been before the Senate for some 8 days. Apparently those who are in favor of the bill have occupied the floor practically all of that

time, with the exception of 40 minutes, I believe. I do not know that they are filibustering against a vote on the bill; but I feel that the rule as to the number of times a Senator may speak in 1 day on the same subject should be enforced, and that therefore if a quorum call is had now, and if thereafter the Senator from Minesota is recognized again—as I have no doubt he will be, and I have no objection to his being recognized when the quorum call is over—that will be the second time he will have spoken on this subject today. Certainly we should not, by a series of quorum calls, permit a Senator to speak a number of times on the same subject on the same day.

The PRESIDING OFFICER. In view of the objection, does the Senator from Utah withdraw his suggestion of the absence of a quorum?

Mr. THOMAS of Utah. Mr. President, I should like to say just a word, and I think I am entitled to that. It has been my understanding all the time that a Senator who speaks at some length may have one quorum call, and that does not in any way interfere with the rules.

I agree with all that has been said. The debate has proceeded for quite a long time, and many Senators have not been in the Chamber during all this time. But there has been no filibustering, as everyone knows; and not an ungermane sentence has been uttered, as everyone knows.

My purpose in suggesting the absence of a quorum was, not to cause delay, but to be fair to those who are attempting to explain the bill and are attempting to give the reasons why the Taft-Hartley law should be repealed.

However, if the Senator from Minnesota does not wish to be interrupted, I shall be very glad to withdraw my suggestion of the absence of a quorum.

Mr. TAFT. Mr. President, my only objection is based on the theory that the result of agreeing to the unanimous-consent request—whatever it was—which was made would be to set aside the rule which would make the next speech of the Senator from Minnesota his second speech today. Certainly I have no objection to having one quorum call; but if we are going to go on to three quorum calls, I think the same speaker should not be permitted to continue indefinitely.

Mr. LONG. Mr. President, I should like to state at this point that if the Senator from Ohio thinks he is going to keep the Senator from Minnesota from talking as much as he pleases, he had better think again, because there are six or eight amendments pending to this measure, and the Senator from Minnesota can speak on each one of them if he wishes to do so, and thus could consume about 12 days of speaking time, if he would like to do so.

Mr. HUMPHREY. Mr. President, I am glad to continue speaking. I think we are now in a frame of mind to discuss secondary boycotts. I say that in a discussion of the length of the one in which I have been engaging, it is not easy to analyze and discuss 100 mistakes of the Taft-Hartley law without spending some time on them. If we were to discuss something which was commonly agreed to by all, of course, that would not take much time.

But, Mr. President, after all, the matter of time could well be referred to. I was trying to refer to the Taft-Hartley law in connection with the International Typographical Union case, where there was a temporary injunction which went into effect on March 27, 1948, and still is in effect. So, evidently, time has not been given too much consideration in connection with the Taft-Hartley Act.

I am now endeavoring to present a complete discussion of some of the important points of that piece of legislation.

Secondary Boycotts

I shall refer now to secondary boycotts. I realize that subject is a highly controversial one. I also realize that this matter must be brought out into the open. I do not pose as having the answers to all these problems. In this portion of my remarks I am endeavoring to place this problem before the Senate and to ask Senators for their fair and honest consideration of it, because all too often the matter of secondary boycotts has been brushed aside as if it were a complete evil. The Thomas bill deals with that subject, as we all realize. Mr. President, this discussion of secondary boycotts is presented for the purpose of having the subject brought up and considered on the floor of the Senate, so that we may see whether the approach which has been made to it in the Taft-Hartley Act is the proper approach in the public interest and for the welfare of the participating parties.

The Taft-Hartley Act sweepingly prohibits all forms of secondary boycotts,

without attempting to distinguish between those which are justifiable and those which are not. When I say "justifiable," I mean what I regard as justifiable. In addition to this indiscriminate prohibition, the act further provides for triple penalties against those unions which engage in such forms of union activity: First, the union is guilty of an unfair labor practice; second, the Board must petition the court for injunctive relief pending the Board's final adjudication of such cases; and third, the union is subject to damage suit by any person injured by a secondary boycott.

The Taft amendments retain all of the Taft-Hartley Act's prohibitions on secondary boycotts with the narrow exception that a secondary boycott is, in limited circumstances, permitted against work transferred from a struck plant. As already indicated, the Taft amendments eliminate the mandatory injunction in boycott cases, but provide for injunction at the discretion of the Board.

The effect of this broad prohibition of secondary boycotts has been drastically to curb resort by unions to legitimate economic sanctions. As of February 1, 1949, injunctions had been sought in 33 cases involving the secondary-boycott provisions of the Taft-Hartley Act. This is but a small percentage, however, of the number of cases in which secondary boycott charges have been made and in which the possibility of the issuance of an injunction caused unions to discontinue legitimate secondary activities.

In other words, the threat of the injunction was as effective as the injunction. The threat of the injunction was used in many instances where there was a legal right to undertake a boycott, but rather than run again into the arm of the law, and be placed in public view as breaking the law, the union abstained from the practice, and the injunction was not issued.

One of the few boycott cases which has finally been decided by the Board illustrates all the evils of the secondary boycott provisions of the Taft-Hartley Act. That has been one of the real problems under the act, in getting around to a decision. The injunction is used. The whole thing is in line with the hope that the Board will decide as in the ITU case; but no decision. Finally we have one, and I refer to the Wadsworth Building Co. case.

In this case a building contractor used the products of a manufacturer of prefabricated houses who refused to deal with the carpenters' union. The carpenters picketed the contractor and placed his name on the unfair list. In addition, a single union carpenter left the employment of the contractor.

The decision of the Board, and the injunction which was issued in anticipation of it, held that an employer who aids another to undermine a union's conditions is immune from peaceful pressures of the union.

All that was here involved was a simple, peaceful refusal by workers to handle a product which they rightfully believed threatened their welfare and their union. Yet this, under Taft-Hartley, was held to be unlawful subject to the severe penalties I have described.

In reaching its conclusion, the Board was forced to the startling holding that the free-speech provision of the Taft-Hartley bill, about which so many eloquent statements have been made, does not protect the freedom of the organized worker to speak by way of picket or otherwise. The incredible philosophy of the Taft-Hartley Act appears to be that the Constitution protects the free speech only of our propertied citizens.

Another interesting phase of this decision is the holding that the quitting of work by a single carpenter is a concerted activity prohibited by the act.

I recognize, Mr. President, that there are certain secondary boycotts which are unjustifiable. Employers and the public should be protected against these types of activities. The Thomas bill, accordingly, makes it an unfair labor practice for a union to cause or attempt to cause employees to engage in a secondary boycott or a strike for the following purposes:

First. To compel an employer to bargain with one union:

(a) If another has been certified by the Board, or

(b) If the employer is required by an order of the Board to bargain with another union, or

(c) If the employer has a contract with another union and a question of representation cannot appropriately be raised under the act.

Second. To compel an employer to assign particular work tasks contrary to an award issued by the Board under that section of the bill relating to the determination of jurisdictional disputes.

But, Mr. President, the Thomas bill scrupulously avoids the blanket prohibi-

tion of all secondary boycotts. It does so, because the learned and distinguished Senator from Utah is familiar with our industrial history and with the realities of our free-enterprise economy.

The fact is, Mr. President, that the boycott is a vital necessity in any competitive society that pretends to offer opportunity for advancement to its working citizens. In the earliest beginnings of trade-unionism in this country, it was realized that a gain in wages and working conditions meant only bankruptcy for the employer and loss of jobs for his employees if their joint product had to compete on the same market with the products of cheap labor and substandard working conditions. The operation of a substandard plant means that the fair and humane employer desirous of maintaining decent working standards must, out of pressure of competition, either be forced out of business or abandon his fair and humane practices. Unrestricted competition among employers on wage costs leads inevitably to the establishment of the lowest wage as the prevailing wage in any given industry, and leads, also, to the continuous lowering of wages to the point of bare survival.

These stark, immutable, economic facts are in flagrant conflict with the great concepts of human rights which democracy and America symbolize.

In this crucial conflict between property and human rights, those who are on the side of humanity suffered many setbacks, largely because the courts then alined themselves with property interests. For many years the courts regarded human skill and energy as being simply an additional item of production costs and therefore gave full protection to all manufacturers who insisted upon maintaining their costs at the lowest possible level. But these judicial rulings were grossly offensive to the moral sense of America, which found its first political expression in 1914 when the Congress declared that "the labor of a human being is not an article or commodity of commerce."

The congressional declaration meant that it would no longer be the policy of the Government to encourage a system which rested on the exploitation of human beings; that working men and women could and should resist the destructive competition of cheap labor.

But the mere declaration by Congress in the Clayton Act of 1914 did not immediately terminate the conflict and bring victory for human rights. The temper of the times was not such as to allow so easy a victory; the views of the Supreme Court were still too deeply entrenched on the side of business and profits.

The two outstanding cases of that period were the Bedford Stone Co. case and the Duplex Printing Co. case.

I suggest, Mr. President, these are the cases that are literally the foundation cases in this field of boycott.

(At this point Mr. HUMPHREY yielded to Mr. KNOWLAND, and debate ensued, which, on request of Mr. HUMPHREY, was ordered to be printed at the conclusion of his speech.)

Mr. HUMPHREY. In the Bedford case members of a small union refused to work on stone which had been produced at quarries where their fellow members were on strike. A majority of the Court, in plain defiance of the express and specific language of the Clayton Act, held that that refusal constituted an unlawful secondary boycott. But Justices Holmes and Brandeis wrote a stirring and provocative dissent. They said:

> Members of the Journeymen Stone Cutters' Association could not work anywhere on stone which had been cut at the quarries by "men working in opposition" to it without aiding and abetting the enemy. Observance by each member of the provision of their constitution, which forbids such action, was essential to his own self-protection. It was demanded of each by loyalty to the organization and to his fellows. If, on the indisputed facts of this case, refusal to work can be enjoined, Congress created by the Sherman law and the Clayton Act an instrument for imposing restraints upon labor which reminds one of involuntary servitude.

I want to repeat the measured language of these two great Justices:

> Congress created * * * an instrument * * * which reminds one of involuntary servitude.

I repeat it because organized labor has been criticized for describing Taft-Hartley as a "slave-labor law," because, among many other things, it imposes the same restraints that were imposed by the Bedford decision.

The Duplex case involved this typical situation: Of the four printing-press manufacturers in the country, three were organized and one was nonunion. When the contracts with the three organized employers expired the union was informed that their employers would prefer to maintain union standards but could

not do so in the face of the competition of the fourth, the unfair employer. Thus, in order to preserve the gains they had made, the union called upon its fellow members in New York and elsewhere not to install or work on the unfair printing presses.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. HUMPHREY. I shall continue with my remarks, and yield at the conclusion of the discussion of the case to which I am referring.

In the Duplex case there were three union firms, there was one nonunion firm. Working conditions were not involved in the case, nor were wages. Whether the conditions were substandard or above standard was not the issue. What did Justices Brandeis and Holmes say in their great dissenting opinion?

Once again the majority of the Court found this to be an unlawful boycott, and once again Justices Brandeis and Holmes spoke out in sharp and compellingly persuasive dissent. They said:

> May not all with a common interest join in refusing to expend their labor upon articles whose very production constitutes an attack upon their standard of living and the institution which they are convinced supports it? * * * Courts, with better appreciation of the facts of industry, recognized the unity of interest throughout the union, and that, in refusing to work on materials which threatened it, the union was only refusing to aid in destroying itself.

The persistence on the part of the majority of the Court to perpetuate a repudiated doctrine aroused the just resentment of the country. In 1932 Congress responded with the Norris-LaGuardia Act, which completely adopted the reasoning and philosophy of the Holmes-Brandeis dissents. This time the victory was complete—at least until June 23, 1947. No longer did the Supreme Court have difficulty in recognizing and enforcing the elementary right of workers to protect their status and conditions by refusing to work on nonunion goods. The Court's repudiation of the old doctrine was complete and unqualified.

In the Apex case the Court declared:

> An elimination of competition based on differences in labor standards is the objective of any national labor organization.

In the Thornhill case the Court stated:

> The health of the present generation and of those as yet unborn may depend on these matters and the practices in a single factory may have economic repercussions upon a whole region.

And in the Swing case the entire Court agreed that—

> Interdependence of economic interests of all engaged in the same industry has become a commonplace.

In the language of some of our outstanding Supreme Court justices, then, the Taft-Hartley Act, by outlawing all boycotts and subjecting those who engage in them to injunctions, to cease and desist orders by the Board, and to extensive damage suits in the Federal courts, has ignored a commonplace, has shown a careless disregard for the health of the present generation, has destroyed the necessary objective of any national labor organization, and has created an instrument for imposing restraints upon labor which reminds one of involuntary servitude.

Mr. KNOWLAND. Mr. President, will the Senator yield for an inquiry at that point?

Mr. HUMPHREY. I do not have much more to read, and then I shall gladly yield to the Senator from California, the Senator from New York, and to any other Senator who wishes to continue to debate on this issue.

I say, Mr. President, that the legitimate boycott must be restored if we are not to invite economic chaos. Let us not, as the Taft-Hartley Act does, encourage large-scale migrations to low-wage areas. Let us not revive the ugly misery of the sweatshop. Let us not intensify the evil of the runaway shop. All this, and worse, will surely occur with the advent of the first sizable recession unless we do what history, logic, and simple justice mandate; unless we return to the American worker the basic right of the legitimate boycott.

Damage Suits

The Taft-Hartley Act, in addition to its indiscriminate prohibition of secondary boycotts, provides for suits in Federal courts for damages resulting from boy-

cotts and breach of contract. These suits may be brought without regard to the amount in controversy or to diversity of the citizenship of the parties.

Doubts have been expressed by some of the lawyers who appeared before the committee as to the constitutionality of making a breach of a labor agreement subject to suit in Federal courts, regardless of the amount involved or the diversity of citizenship of the parties involved. Not being a lawyer, I shall not attempt to discuss this phase. But there are more than sufficient other reasons to object to these provisions. As Mr. William H. Davis said in his testimony before the committee:

> I do not know whether it is unconstitutional or not. I think it is wholly unnecessary and I am against it. I think it is unconstitutional. I am sure it is un-American, and it is unnecessary, and altogether, in my opinion, in a vengeful spirit.

I can think of no provision which has less place in a labor-relations statute than one which facilitates and encourages labor and management to look to the courts to settle their grievances. Sound labor relations require that employers live in good faith with their employees. Lawsuits obviously are not a means of achieving such industrial relations. This has been well stated by an authority in this field, and I should like to quote him:

> It would be unfortunate if there should develop any strong tendency to look to the Federal courts to settle questions concerning the interpretation and application of collective-bargaining agreements. A collective agreement is most workable when it is treated as a constitutional instrument or basic statute charging an administrative authority with the day-to-day application of general aims. The determination of disputes arising during this process is more a matter of creating new law than of construing the provisions of a tightly drawn document. Few judges are equipped for this task by experience or insight; in addition, they would be hampered by the restrictions and delays of legal doctrine and court procedure. Wider voluntary use of arbitration offers a more promising method of settling such disputes. (Cox, Some Aspects of the Labor-Management Relations Act, 1947; 51 Harv. L. Rev. 1274305.)

The Thomas bill proceeds on the basis suggested by Mr. Cox, namely the encouragement of the parties to resort to peaceful negotiations and arbitration to settle disputes. The Taft amendments, on the other hand, retain these punitive legalistic provisions but would place them in title I as the National Labor Relations Act, a particularly incongruous place for them in view of the policy expressed in its first section of "encouraging the practice and procedure of collective bargaining."

After all, Mr. President, the labor-management relationship is essentially a human relationship, an exceedingly difficult and complicated one. Successful adjustments in human relations can seldom be imposed from the outside. Usually, the very opposite is true. External interference in the form of compulsive laws or orders is the surest way of preventing mature, thoroughgoing adjustments. The only realistic and workable rules are those that labor and management have, themselves, voluntarily devised and accepted. That is what we mean by collective bargaining; we mean labor and managament sitting down together to evaluate their joint experience and, with the application of reason and good will, working out together their joint problems. The Taft-Hartley law completely violates those elementary principles. It imposes lawyers, the Labor Board, and the Federal courts as what I believe to be unwelcome guests at every collective-bargaining table. It takes from the persons most intimately affected, the actual parties to the relationship, every opportunity to exercise their own ingenuity in meeting their own difficulties. In a word, it completely demolishes the natural, organic development which is collective bargaining, and substitutes in its place what is, at best, a dangerous form of paternalistic statism.

Mr. President, the next portion of my remarks pertain to the Conciliation Service. I realize that the Senator from Oregon has offered an amendment to disassociate the Conciliation Service from the Department of Labor. But I believe, in order to conserve time, I shall ask that this portion of my remarks be incorporated in the RECORD as a printed statement in the context of my address.

The PRESIDING OFFICER. The Senator understands, of course, that it will be printed in small type.

Mr. HUMPHREY. I understand.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Do I correctly understand that the Senator is in agreement with the amendment offered by the Senator from Oregon?

Mr. HUMPHREY. I was just getting ready to inform Senators what the junior Senator from Minnesota's position was on the matter of conciliation service; and, since we have had a question about it, I will read it instead of having it merely printed in the RECORD.

Conciliation Service

The conciliation or mediation services of the Government, Mr. President, raise another point of issue under the Taft-Hartley Act. Until 1947 these services were in the Department of Labor. They had been there for 30 to 40 years. So far as I have been able to ascertain from sifting the recent testimony before the Senate Committee on Labor and Public Welfare, this Service has functioned effectively in the Department of Labor during this entire period.

As all of us know, however, the Conciliation Service was nevertheless wiped out by the Taft-Hartley Act and recreated as an independent agency of the Government.

I may say, Mr. President, that this was done despite the labor-management conferences which had been held, which approved in principle the Conciliation Service being a part of the Department of Labor. That was one of the few things on which labor and management agreed upon. They agreed that it would be best to leave the Conciliation Service in the Department of Labor. But the Taft-Hartley Act made it an independent agency. This was done, then, presumably, because some employers and some of my distinguished colleagues considered the Conciliation Service a partial agency of Government—partial toward labor because the Service was in the Department of Labor and responsible to a Cabinet officer, the Secretary of Labor. Yet to my knowledge there was no reliable evidence—no concrete facts—no history of abuse or mismanagement to support this legislative action.

Now, after 2 years of independent operation of the mediation service, the Commission on Organization of the Executive Branch of the Government, the so-called Hoover Commission, has, after prolonged and detailed study, established with the greatest good sense a fundamental principle that independent agencies of the Government should be sheltered within major executive departments reporting to the President through the appropriate Cabinet officer.

In spite of this sound recommendation, some distinguished Members of the Senate continue to advocate the independence of conciliation services. Among these distinguished Senators is my friend, the very capable and able Senator from Oregon [Mr. MORSE]. During debate last week he said independence was required because some employers still felt that these services would be partial if performed through the Department of Labor. He emphasized, however, his conviction that none of the officials of the Department of Labor are partial and, if I interpret his remarks correctly, that they are impartial public servants of highest competence. At the same time, he has called for proof that the present service has been anything but impartial in any of its operations.

As I understand him, it appears to me that the able Senator from Oregon feels that the record of the 2 years is sufficiently good to justify the continuation of the Conciliation Service as an independent agency. I know that the Senator from Oregon wants an impartial agency, and if I could have revealed to me any facts which would cause me to believe that the Conciliation Service as a part of the Department of Labor would become a partial or a biased agency, I too, would join with him in declaring for its independence; but in view of what the labor-management conference proclaimed—and in view of what the Hoover Commission has already stated, it is my considered judgment that we would be wise to strengthen the Department of Labor by returning to it the Conciliation Service.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TAFT. Did the Senator say that the Hoover Commission recommended that the Conciliation Service be returned to the Department of Labor?

Mr. HUMPHREY. I said that after 2 years of independent operation of the Mediation Service, the Commission on Organization of the Executive Branch of the Government, the Hoover Commission, has, after prolonged and detailed study, established with the greatest good sense a fundamental principle that independent agencies of the Government should be sheltered within major executive departments reporting to the President through the appropriate Cabinet officer.

Mr. TAFT. The Senator has not answered my question. I asked the Senator whether he said the Hoover Commission recommended that the Conciliation

Service be returned to the Department of Labor.

Mr. HUMPHREY. I repeat, that after long and detailed study, the Hoover Commission has established with the greatest good sense the fundamental principle that independent agencies of the Government should be sheltered within major executive departments reporting to the President through the appropriate Cabinet officer. I am happy to present that part of the Hoover Commission Report for the RECORD:

The question has been raised as to the restoration of the Federal Mediation and Conciliation Service to the Department, and placing in the Department, for housekeeping purposes, the National Mediation Board, which deals with labor disputes involving rail and air carriers, and the National Labor Relations Board.

The Congress is engaged in revising labor policies which will affect some of these agencies. The Commission can make no recommendations as to their organization until these questions are settled.

GENERAL COMMENT

In general, it can be said that the Department of Labor has lost much of its significance and should have restored to it the many agencies we have here recommended. This would make for greater efficiency in the Government.

Mr. TAFT. Is it the Senator's opinion that they departed from this fundamental principle in cases where they felt there should be independent action?

Mr. HUMPHREY. I think the Senator from Ohio is familiar with the fact that they did not depart from it.

Mr. TAFT. My recollection is that they did. For that reason I asked the Senator from Minnesota.

Mr. HUMPHREY. The Senator from Minnesota was very careful to point out that the fundamental principle has been established.

The United States Conciliation Service was abolished as an arm of the Department of Labor without any proof whatever of partiality. It was given an independent status in complete disregard for established principles of governmental administration. It appears to me that the more agencies we can put back under department heads, the better government we shall have in terms of proper governmental functioning.

The Thomas bill would reestablish the Conciliation Service in the Department of Labor squarely upon the grounds of governmental efficiency. We make no more contention of partiality on the part of the present independent agency, than does the Senator from Oregon with respect to the Department of Labor. We are, however, directly and seriously concerned on the merits with the question of how to run our Government in the best possible manner in the public interest. It is an obvious principle of organization, Mr. President, that functions must be grouped under responsible leaders who in turn are directly responsible to the Chief Executive. If we scatter and divide these functions and create many leaders, we will, and in many cases already have, placed impossible burdens of direction, coordination and guidance upon the President.

Last fall we had a maritime strike in which one of the chief obstacles to peaceful settlement was a question of so-called clock overtime under the Fair Labor Standards Act, administered in the Department of Labor. The Director of Mediation and Conciliation asked the Secretary of Labor to arrange for such assurances to the parties as would effectively settle this issue. These assurances were given and as a result the strike was settled. The Secretary of Labor is not responsible to the Director of Mediation and Conciliation and the Director is not responsible to the Secretary. Here was an important wage issue in the labor field in which two independent agencies of the Government were involved, and yet neither could legally command the cooperation of the other.

Our objective, Mr. President, is to prevent such situations from arising in our Government to the embarrassment of officials and to the detriment of the public interest. It is our sincere desire to improve the services of Government through proper organization. The Conciliation Service needed and utilized while it was in the Department of Labor the various services and facilities which the Department of Labor possesses in the field of Government labor functions.

These include, to cite some examples, information and assistance on labor laws, statistical research, employment and apprenticeship problems, and on the employment of women. These services become immediately available for the prevention or settlement of disputes where the Conciliation Service is in the Department of Labor. Where the dispute is to be settled by an independent agency, however, all of these services are available at sufferance.

There has been a lot of talk, Mr. President, about what employers think concerning the impartiality of the Department of Labor. This is presented as the crux of the argument by the able Senator from Oregon. He has expressed the opinion that there is something special about conciliation which requires primary consideration to be given not to the true facts of the situation but to the misconception of some groups. I submit, Mr. President, with all respect for the Senator from Oregon, for whom I have the highest respect, that misconceptions provide an unsound basis for legislation. I am sure, and I believe that the facts will bear me out, that some employers think that the Wage and Hour Division and the Bureau of Labor Statistics should not be in the Department of Labor because these employers regard the Department of Labor as a partial agency. It may be that some of the Senators equally believe that because these agencies serve or affect employers every step should be taken to allay the fears of these employers by creating additional independent agencies. I do not, and I am confident that a majority of the Senators do not share this view. It was, however, this very philosophy, this untoward deference to the thoughts of employers, which caused the Eightieth Congress to strip the Department of Labor of its functions and funds.

I know the Senator from Oregon is sincere when he says on this floor that he is a friend of the Department of Labor and wishes to see its functions rebuilt. He says, however, that this should not be done through reestablishing the Conciliation Service in the Department of Labor. There are other Senators, perhaps, who, when the issue arises, may take a similar stand with respect to other functions sought to be more effectively discharged through the Department of Labor. If we take counsel of such reservations, Mr. President, solely upon the basis of what employers may think, I very much fear that the public interest alone will suffer.

For these sound reasons, Mr. President, I am convinced in the merits of the need to carry out the specific provisions of the Democratic platform by restoring the Conciliation Service to the Department of Labor.

Conclusion

Mr. President, I now come to my conclusions.

First. The Taft-Hartley law was designed to meet a danger that did not exist. The Wagner Act was successful; it was operating satisfactorily; no basic need for change was needed.

Second. The Taft-Hartley law did not produce the results its authors claimed for it. It did not create industrial peace. It did not put labor and management on an equal footing. It did not prevent national emergencies, nor did it settle any. It did not even prevent pro-Communists from receiving collective bargaining recognition, as witness the fact that an open Communist can disavow his party affiliations one day and file affidavits permitting him to come before the National Labor Relations Board the next day.

Third. The Taft-Hartley law did succeed in creating industrial relations chaos. Relationships satisfactory for many years were destroyed. Some satisfactory relationships were able to continue by under-the-table deals for tacit avoidance of the law.

Fourth. For the first time in our peacetime history the Government has been embroiled in the substance of collective bargaining. As I have indicated, the place of the Government in the collective bargaining process is to create a favorable atmosphere and to protect the rights of the parties rather than to tell those parties what they may agree to and what they may not agree to.

The failure is obvious. Our duty is plain. We must go back to the fundamentals of the Wagner Act with the hope that the atmosphere of free collective bargaining can be reestablished without having suffered any permanent damage from the irresponsible experiment of the past 2 years.

Yes, Mr. President, let us go back to the fundamentals of the Wagner Act which included the tenets of the Norris-LaGuardia Act. Then we can eliminate from the picture the unfair and inequitable tool of the injunction which all too often has been used in an ex-parte manner.

Labor relations under the Wagner Act were better handled by far than they

are at present, or than they would be under the Taft amendments.

To those who unduly fear that unions will hurt our economy—as they have never done before—I reply by quoting from a book which is the basic economic text of the prophet of free enterprise, Adam Smith. In book I, chapter 8, of The Wealth of Nations, Smith, writing in the year our independence was established, stated:

We rarely hear * * * of the combinations of masters, though frequently of those of workmen. But whoever imagines, upon this account, that masters rarely combine, is as ignorant of the world as of the subject. Masters are always and everywhere in a sort of tacit, but constant and uniform combination, not to raise the wages of labor * * * To violate this combination is everywhere a most unpopular action, and a sort of reproach to a master among his neighbors and equals. * * * Masters too sometimes enter into particular combinations to sink the wages of labor. * * *

Such combinations, however, are frequently resisted by a contrary defensive combination of the workmen, who sometimes, too, without any provocation of this kind, combine of their own accord to raise the price of their labor. Their usual pretenses are sometimes the high price of provisions; sometimes the great profit which their masters make by their works. But whether their combinations be offensive or defensive, they are always abundantly heard of. In order to bring the point to a speedy decision, they have always recourse to the loudest clamor, and sometimes to the most shocking violence, and outrage. They are desperate, and act * * * (to) * * * frighten their masters into an immediate compliance with their demands.

The masters upon these occasions are just as clamorous upon the other side and never cease to call aloud for the assistance of the civil magistrate, and the rigorous execution of those laws which have been enacted with so much severity against combinations of * * * laborers and journeymen.

One of the great authorities I have cited before, Dr. William M. Leiserson, after citing the paragraphs I have read, warned us against changing the Wagner Act. He said:

Like Adam Smith, however, we must not be misled by the clamor of those who have been masters. The picture is not as dark as they paint it. No employer has gone to jail for violating the Labor Relations Act, but workers are still going to jail for their unfair labor practices, for disorderly conduct in connection with strikes, for mass picketing, as well as for the violence they resort to in desperate efforts to bring their disputes to a speedy decision.

I have often thought about how dark is the picture. Here we are in this country boasting about our great production—and we have great production—boasting about the tremendous amount of steel, and the automobiles, refrigerators, telephones, clothing, and everything else we produce, and while we are boasting about our production, while our national economy goes well over the $200,000,000,000 mark, while profits skyrocket, while the country is busy at work, one would think when he reads the newspapers, at times, or hears some of the orators who are proponents of the Taft-Hartley Act, that every worker in America was on strike.

I think the record is pretty clear, in a nation which has had the production we have enjoyed since 1940, in a nation which has had the record of production we have had since 1945, the end of the war, that American workers have been hard at work. The fact is that in the days when the workers were supposed to be abusing their power, in 1946, corporate wealth in this country had net profits which were unprecedented up to that time, far beyond anything ever known.

As I pointed out through the charts I used on Friday, the number of strikes, percentagewise, after World War II, was less than after World War I. I have before me now a chart of real net weekly earnings of workers, and they are down from 1944 and down from 1945.

The point is that during the war the American worker did not make riches. When the war was over many of them were dismissed temporarily, many of them had to spend their life's savings, which had been invested in war bonds. Wages never did catch up with prices, and the workers got restless. But big business said, "We have done quite well during the war. Perhaps we can have a show-down." That was because never in the history of this country had so much money been made by so few as was made from 1940 to 1946. Never in the history of the world was so much money made by so few. Never in the history of the world had so few companies controlled the economic destiny of so many.

Mr. LONG. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. LONG. Was not that an ideal time to come along with the Ruml plan, and forget about three-fourths of a year's taxes?

Mr. HUMPHREY. It seemed to work very much that way. I am just pointing out that there was no such great national catastrophe as necessitated this abrupt departure from the pattern of labor-managementships, literally scuttling the basic law of this land, and moving pell-mell into something else.

I appeal to the American people, and ask them if the same people who were beating the tom-toms for the Taft-Hartley Act were not the very same people who were making their millions and billions, the same people who forced the discontinuance of any type of price control, at the very time when inflation was threatening. I ask if they were not the very same people who have had very much their own way in the economic picture from 1946 to 1948.

Mr. President, the time has come for a consideration of these things, and I think it is a little bit overdue.

What is necessary in order to build a sound labor relations policy, in addition to reinstating the spirit of the Wagner Act, is fairly simple: We must give the working people in the United States a standard of living which they deserve in view of our productive capacity. The Taft-Hartley law was passed because there were many strikes in 1946 after price control was repealed. I want to add, that the profits then were the greatest in the history of the country.

For the life of me I cannot see why so many plain ordinary people were denied the information, or, let me say, were not concerned with the information as to what was happening in the economic life of America. Concentration of business? We have never known anything like it, Mr. President. We have had mergers, interlocking directorates, bigger and bigger business, and all the time that the bigger and bigger business has been coming somebody has been saying, "Hay, look at the big union. Don't look at the big business, look at that big union." That is a clever game, and it is called the diversionary attack.

Mr. President, it is the opinion of the junior Senator from Minnesota that the welfare of this country is pretty much dependent upon the purchasing power of the American people. I like to try to put first things first. People come before capital. I think that a people which is at work, a people that will buy, a people that is productive, a people that produces efficiently, is a people which produces wealth. I am convinced most people think as I do in that respect.

Mr. President, I am one who believes that this Nation is as strong—not as the Chase National Bank, not as the stock market, not even as the great powerful corporations, but the Nation is only as strong as the productivity, the intelligence, the health, and the education of its people—and, I repeat, of its people. I believe that if we put more emphasis upon the human element we will take care of the financial element.

Mr. President, it is people who today are rebuilding Europe. Many of its buildings were blown all to pieces. Many of its banks were destroyed. Many of its railroads were destroyed. But if there are people left who are free, and if they can become happy people, they will rebuild the destroyed railroads, they will rebuild the destroyed buildings and factories. The free people will do that.

Mr. President, too many times in this country we have been fooled by the golden glow of the painted domes of high privilege. Too many times we have been fooled into believing that because so many people were wealthy the people of the country were strong. I remember in 1929 we were told that everything was in good condition. Why were we told that? Because conditions were good in Wall Street. Because conditions were good with the coupon clippers. Because conditions were good on the stock market. But conditions were not good back in the Dakotas or Montana. Conditions were not good in Ohio or in Tennessee or in Louisiana.

What happened to the people? Well, one thing that happened, Mr. President, was that the union movement had literally been destroyed. The number of members of the unions had been reduced from 5,000,000 in 1919 to less than 2,000,000 in 1930. With the destruction of the union movement wages went down. It was not prices that went down, but wages went down. These are facts. Farm income went down. Mortgages increased. Interest rates remained high. A handful of people took a lot of people to the cleaners. That is the record.

It was not necessary for that to have happened. I submit that a strong farm movement and a strong labor movement at that time could have combated the powerful vested interests in this country. And now we are on the move. But, Mr. President, the same folks who attacked

the labor movement in 1946 were attacking the cooperative movement by 1947. The farmers' cooperatives were next on the list. Already the tom-toms are starting to beat out that familiar old rhythm: "The farmers also have gotten too strong now." The farmers have producers' cooperatives. They join together to market their products. They do not let the people on the grain exchange clean them up any more. So some day it is necessary to watch out for these cooperatives, too. But they did not quite get that done 2 years ago, Mr. President, because the farmer is a pretty rugged individual. He was at one time left almost ragged. Now he is rugged. He fought back. Those engaged in the farm and the labor movement are standing shoulder to shoulder fighting for its rights right now.

Mr. President, who are these high and mighty people who think there is anything in this country besides those who really produce; the men who work in the shops, in the factories, on the farms? They are the producers. Business cannot continue unless people have purchasing power. Their rights are basic rights, are fundamental rights, and come even before the privileges of those on top, those in the higher brackets.

I repeat, this Nation is only as strong as its working people, its farmers, its craftsmen, its skilled workers, whose boys and girls need homes, need pork chops, need clothes. They are the people who make America strong. If we ever forget that and attempt to enact punitive legislation against them, then we shall have lost our American heritage.

I appeal to Senators today to remember that when we consider labor-management relationships we are not considering them merely within the borders of the United States. The eyes of the world are fixed upon us. The people of other countries want to know whether this great America is concerned about people or about the golden calf. I am one of those who believe that we literally improve our situation throughout the world and win the battle for men's minds when we recognize that plain, ordinary people everywhere are interested in our humanitarian accomplishments.

Sometimes I think that what we need in America is a little greater sense of humility, a sense of ordinary, common, humane decency. We are watched for the little things we do. As the distinguished Senator from Illinois [Mr. DOUGLAS] said the other day, it is when the people are off guard that we can best judge them, not when they are on guard.

America needs to speak for her people. She needs the spoken word which comes not merely from the lips, but from the living example of her experiences.

I conclude by asking, Would not a labor-relations policy be better directed toward raising real wages back to their earlier level rather than artificially clamping down on the rights of the people who struck in retaliation against the economic blows they suffered in 1946? Certainly they struck in 1946. Some employers tried to tell the American people that if they had to pay 5 cents an hour more they would be bankrupt. They were guilty of a deliberate falsehood. In 1946 net profits after taxes were $12,800,000,000; in 1947, $17,300,000,000, after taxes; in 1948, almost $21,000,000,000 net after taxes.

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. KILGORE. Has the Senator seen the news item recently placed in the Appendix of the RECORD, to the effect that General Motors had applied to the Securities and Exchange Commission for the privilege of distributing a $20,000,000 cash bonus plus a $20,000,000 stock bonus among its directors and top executives?

Mr. HUMPHREY. I am very happy to receive that information. I know that there are those who have all sorts of information along that line. I recall that when I was a student, 1 year before the City National Bank of New York closed its doors, I read that it had distributed millions of dollars in bonuses among its directors. A little later it cleaned the American people out of millions of dollars of deposits; but, after all, the directors had their fun.

What I am trying to point out is that the way to preserve a free economy and a free-enterprise system is to preserve the opportunity for men and women to earn a living. We have found that that opportunity can best be preserved through organizations of their own—cooperatives, unions, and trade associations at local, district, and State levels. We are talking about trying to preserve the kind of economy which makes it possible for the American people to be self-sustaining and self-respecting.

Would it not be better, then, to raise the minimum wage, for example, to 75 cents an hour so as to give some measure of security to the underprivileged, without whose economic freedom none of us is secure? The same Congress which found the time to enact the Taft-Hartley law did not find time to learn what was happening to the cost of living. It did not find time to learn what was happening to those who were working under a minimum wage of forty or fifty cents an hour. The same Congress which saw fit to reduce taxes on the high, the mighty, and the rich did not find time to raise the level of the unorganized workers.

I have seen many tears shed over the unorganized workers. I will believe some of the talk I hear about love for the unorganized workers when the Congress sees fit to enact a minimum wage which is fit for a human being. If any Member of Congress can tell me how he can live on 50 cents an hour, I want to see him, but soon.

All these questions are a part of a single pattern. We should not consider legislation piece by piece, and say, "Is not this a fine bill?" Let us find out how it stands up alongside other things.

What about the effect of the Taft-Hartley Act upon labor? What about those who do not have homes in which to live? What about the slums? What about the lack of educational opportunity? We could go all the way down the line with such questions.

I believe that the philosophy behind the Taft-Hartley Act was quite clear. Apparently there was one group in America which had to be really "taken care of." That was labor. Why? Because her leaders had been honored during the war for beautiful and wonderful cooperation. Because her leaders and her rank and file had produced fabulous quantities of war material. Because her sons and daughters had been faithful and loyal. Because labor had helped to build America. I refer to the working people who emerged from that period with a few little series E war bonds, working people who, after the war, still had eight or nine children of their in-laws living with them in the same little house, because there was a housing shortage.

What was going on during that time was that while the whiplash of war was being placed on the backs of labor in 1946 and 1947, more exploitation of America's economic resources was going on by those in vested, privileged positions than at any time before in American history. I make that statement without fear of successful contradiction.

Two wrongs do not make a right. Business deserves a fair profit. It deserves an opportunity to enjoy economic conditions which make possible a fair profit. But when I speak of business I speak of the kind of people whom I have known in business—those who made this country, those in the grocery stores, the drugstores, and the clothing stores. They are the ones who made America.

Little business in America is suffering more and more every day. The big boys have tried to pit little business against labor. They have tried to tell the little businessman, like the little contractor in California, that his enemy is the union. Someday he will find out who his enemy is. He will wake up to discover that when he wants to borrow money he must pay 4-percent interest. When big business wants to borrow money, it gets it for 2 percent. That is a 2-percent handicap at the start. The little-business man will wake up and find out that the only important customers he ever had were those who worked in overalls. There are not enough corporation directors to keep every store in America busy.

That is our philosophy. That is the philosophy to which the Wagner Act was dedicated—the philosophy that the American people have the right to organize to protect themselves, to lift their own standards, and to equalize the situation in the light of economic realities.

The question of obtaining a satisfactory labor-relations policy, therefore, is broader than the question of the Labor-Relations Act itself. I have gone to the large cities of America and have looked over the slum areas. I have said to myself, "I wonder who lives there." I find that many of those who live there work in factories. They may work in one of the electrical factories, or in an automobile factory. When I look at the kind of hovels in which the workers and their families must live, I say to myself, "Is it any wonder that they want to strike once in awhile? It may be a relief. It may be a pleasure."

I ask my colleagues in the Senate, How would you like to live in some of the filthy, degraded, slum areas of America?

Mr. President, who live in the slums? Do the authors of the Taft-Hartley Act live in the slums? Not on your life, Mr. President. The people who live in the slums are the ones upon whom the Taft-Hartley Act bears most heavily.

Now we are getting around to doing a little something about the slums, late as it is, but we are grateful for the opportunity just the same. We are getting around to doing something about better educational opportunities, and perhaps a little later we shall be able to do something about improving health opportunities and health care. All those things will work for a better and more healthy America.

Labor legislation does not determine the pattern of labor-management relationships, Mr. President. In that connection labor legislation is but one factor. Good will between employers and employees is another factor. A good community that is interested in the lives of its children and fathers and mothers is another important factor, a vital part of good labor-management relations. We can have all the law we want to have to tell the American people, "You cannot do this, that, or the other," but if we keep them living in slums, if we deny to a man the right to send his children to a good school, and if we deny a man health protection, we shall not be able to enact any kind of law which will make for industrial peace in this Nation.

Mr. President, we want law observance. Law observance comes from a citizenry that is contented and happy and realizes that the community is interested in the individual. But certainly when the individual worker sees, for example, that under the law he is faced with jail because of his opposition to an unfair labor practice, or that his union is going to be sued because someone in the union may have done something he should not have done, when he finds out that the union which helped him get his job and is making a little provision for him in the way of a welfare fund, is going to be penalized, I submit that he will not be happy until that law is removed from the statute books.

I do not know whether we shall get around to doing that at this time, but I submit that the processes of democracy are as relentless and ever-flowing as the tide itself; and just as surely as we are here in the Senate Chamber today, if we fail to do our duty in 1949, there will be some of us who will be back here to do our duty in 1951, and I would not be surprised if there were new faces here then, because the American people, the working people of this country, the people who have been oppressed by this law, are determined that they are going to remove this kind of punitive legislation from the statute books, and are determined that they are going to have something to say about the processes of government, because this country is their country, as well as it is yours and mine.

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