XIX

THE PUBLIC INTEREST

PUBLIC dissatisfaction with many activities of labor unions was evident during several years before the entry of the United States into World War II. The objectionable activities were those which interfered with rights of individual workers, those which imposed arbitrary conditions on employers who were frequently not involved in any dispute, either with their employees or with a union, but most emphatically those which penalized the general public which could do nothing about the dispute itself.

As American industry moved gradually into the defense program in 1940, a new and definite meaning was given to the phrase "public interest." The people of the nation had been led slowly to the realization that Axis victories were not merely victories over the nations fighting the Axis, but victories over the ideals of individual personality by which America lives. Public opinion increasingly approved the various forms of aid to the nations opposing the Axis. "The Arsenal of Democracy" became a phrase expressing this approval. The subversive interference during the Soviet-Nazi alliance was generally resented; the fact that no cure was found gave the resentment a flavor of frustration and anger.

The invasion of Russia by the Nazis suddenly brought the interests of one group of "subversives" into harmony with the desires of most of the American public. The leaders of some unions which had retarded the aid program, changed front and urged their members to "hit the ball." Their appeals went largely unheeded. The result was to direct public resentment against such unions for the actions of their members, where it had formerly been directed against the union leaders for their apparent international political motives.

But the national public interest was also outraged by another interference which had no history or suggestion of foreign influence, an interference which arose directly out of union practices and policies. Irresponsible strikes delayed the construction of army camps, depots, warehouses, shipyards, aircraft and munitions plants. Thousands of men drawn to training camps were forced to wait weeks for their barracks because of an argument over who should erect the poles for telephone lines. Picket lines stopped construction on entire projects over minor jurisdictional disputes. Even when the work stoppages concerned wages instead of union politics, the public was generally impatient. A disagreement over five cents an hour was not considered good ground for weeks of delay in the production of fighter planes or cargo ships.

Pearl Harbor changed the scene again. Most international unions did heroic work in persuading their members to continue at work, even under conditions which they would not tolerate in peacetime. Stoppages due to jurisdictional disputes were almost eliminated. Opposition was frequently replaced by full co-operation where it had retarded programs of work simplification, job dilution, and emergency training. Union officials abandoned their usual duties to serve their government in recruiting workers, promoting worker co-operation, organizing labor management committees, adjusting disputes, and avoiding work stoppages. Thousands of national and local union officers served in uniform and won the thanks of a grateful nation.

In spite of the loyal co-operation of almost all union officials and union members, unions did not win a high degree of public favor and confidence during the war years. At a time when any strike was treason, there was always a strike on the front page. The fact that the time loss was an insignificant fraction of the total time worked was obscured by the publicity given, and properly given, to those strikes which did occur. A public which is engaged in a desperate war effort

may tolerate treasonable profiteering and treasonable inefficiency because they are not so obvious in the midst of the war activities. It is in no mood to condone treasonable strikes.

The best advertised attempts to sabotage the aid program while Russia was Hitler's ally were classed as subversive and political, and did not provoke public indignation against unions generally. The interferences during the six months before Pearl Harbor fed a growing resentment against unions, as unions. The relatively few and insignificant strikes after Pearl Harbor aroused almost passionate indignation against unions, so great that it obscured the overwhelming prevalence of loyalty throughout the union memberships and union official levels. The actual earnings of many war-production workers and the even greater earnings reported by irresponsible gossips supplied more material to rationalize the widespread criticism of unions.

The period after V-J Day found the leaders of many important unions anxious to retrieve lost ground, not in public esteem, but in the very objectives which had already disgusted the public. Subversive tactics appeared again. Political objectives were broadened to include invasions of management by union political leaders. Wage demands became so extravagant as to shock most newspaper readers. Major strikes seemed to be aimed directly at the reconversion needs of the nation. In spite of the advice of conservative leaders, the radical measures were adopted by unions of all labels. The public was disregarded by CIO electrical, steel, and auto workers; by AFL coal miners, and by independent railroad brotherhoods. Following the passage of the relatively mild Labor-Management Relations Act of 1947, union leadership further antagonized the public by extravagant denunciation of the alleged "Slave Labor Law."

The Taft-Hartley Act marked the legislative expression of public sentiment which had been growing steadily for eight or nine years. It was appearing in the opinion polls before

we launched upon our defense program. It fed upon additional provocations during the period of "the Arsenal of Democracy." It became somewhat hysterical when it had little real provocation, during the war years. It rolled into the tidal wave which produced the Taft-Hartley Act. It continues at full flood, and has even grown in the opinion polls, despite the clamor and complaint of some labor spokesmen.

The fact that the Labor-Management Relations Act of 1947 was designed primarily to curb the excessive powers of labor union leaders should not cause us to lose sight of its deeper significance. It was the mark of public decision that the practices of collective bargaining had resulted in too many attacks on the public interest. There was obviously no general intention on the part of the Congress to curb labor unions as such, or even to curb union leaders, primarily in the interest of employers. The Taft-Hartley Act contains a number of provisions which will be handicaps and annoyances for well-intentioned employers. The obvious purpose was to limit those activities of union leaders and of unions themselves, and those practices of collective bargaining, which had injured the public. These acts and practices included not only strikes which deprived the average man of coal, electric power, railroad transportation, telephone service, and new automobiles. They included the activities which were related to price increases through excessive wage demands, slowdowns and feather-bedding. The public reaction was stimulated by a large group of activities related to abstract rights such as freedom of speech and free access to markets.

The Taft-Hartley Act should be viewed primarily as a rebuke to those who, in the processes of collective bargaining, had ridden roughshod over public interest. A little more history increases the significance of that lesson for the average employer. Basically, the Taft-Hartley Act was demanded by the public because the Wagner Act and its administration and interpretation had placed too much power in the hands of

unions and union leaders. But it is important to look back objectively to the equally emphatic public demand which enabled the Wagner Act to become law.

Just as the Taft-Hartley Act was stimulated by injuries to the public interest through collective bargaining, the Wagner Act was stimulated by injuries to the public interest through the lack of collective bargaining. The popular vote which elected the Congress that passed the Taft-Hartley Act was no greater, no more emphatic, than the popular majority which elected the Congress that passed the Wagner Act, and the Wage and Hour Law, and the Walsh-Healy Act. Those laws were essentially expressions of public protest against the fact that employers had seriously disregarded the public interest. They were the first successful attempt to establish the fact that the public interest is dominant in questions of wages, hours, and working conditions, not only on interstate railroads but in every employment which affects interstate commerce.

If a few labor unions and union leaders had not injured the public, there would have been little public support for a Taft-Hartley Act to protect the interest of employers, even when that interest was unfairly damaged. If a few employers had not injured the public interest, there would have been relatively little support for the Wagner Act and its associated measures. The public moved to protect its own interest against those injuries which resulted largely from the lack of collective bargaining. It moved again to protect its own interest against those injuries which arose out of the misuse of collective bargaining. Slowly but surely it will always rise to protect its own interest, as long as it has a government that is responsive to the public will.

The immediate lesson from the Taft-Hartley Act should be that irresponsible union activities, under the guise of collective bargaining, must not injure the public interest. The second and obvious lesson is that the activities of employers

in collective bargaining, under the new rules established by the Taft-Hartley Act, must not injure the public interest. The third and more difficult lesson is that the relations between employers and employees, beyond the scope of collective bargaining, must be conducted in a manner which not only does not injure the public interest but gives positive attention to the promotion of the public interest.

If employers and employees and union officers do not conduct themselves in accordance with this third lesson, the cure will be more law. More law is likely to mean less collective bargaining and more government dictation in employer-employee relations. This is a cure which most employee spokesmen and almost all employers do not want. Two real courses are open if it is to be avoided.

First, in the light of lessons one and two described in the preceding paragraphs, employers, employees, and unions must conduct every step in their collective bargaining relationships as if the public were represented at the bargaining table. The stubborn attitude of either side which will deprive the public of goods or services that it needs must be compromised before the public is hurt. The temptation to concede a wage demand merely because the increased cost can be passed on to the consuming public must be resisted by management. The pressure for a wage increase which will force a higher price upon the public must be withdrawn by the union which has a decent respect for public opinion. The daily grievances and complaints, and the daily irritations which arouse the complaints, must be promptly adjusted in recognition of the fact that the primary purpose of the enterprise is to supply goods and services to the public.

That course of action lies within the scope of the collective bargaining relationship. The second course of action lies beyond collective bargaining. It is a more difficult course. The obligation to follow it rests much more heavily upon the employer than upon his employees or their union officers.

It is the course of conducting the relations of every day, which are outside the scope of collective bargaining, with such respect for the public interest that there will be no necessity for another expression of public indignation.

One of the earliest problems of industrial employment in which the public took a direct interest was the promotion of safety. Most of the existing laws regulating safe working conditions and providing for compensation of injured workers are necessarily state laws. They are being amended from year to year. It is incumbent upon employers to go far beyond the compulsion of law in providing safe working conditions and in enlisting the willing co-operation of employees in working safely. The public has declared its interest in this field. An intelligent observance of that interest is an additional reason for plans, expenditures, education, and unceasing alertness.

Another field in which the public interest has been emphatically expressed in law, is that of working conditions and working hours for women and minors. Here again, the obligation rests upon employers to work beyond the law for the achievement of the conditions that the public will has demanded, rather than merely to comply with the laws that the public will has enacted thus far.

The public has not yet expressed its interest through laws dealing with the extent to which employers share information with their employees. It is relatively easy to recognize that this field has a bearing upon the interest of the public. To the extent that a frank sharing of information builds better employee relations and produces more stable employment and production of goods and services, the public is interested. To the extent that intelligent sharing of information makes it possible for employees to be better informed citizens, the public interest is involved. The employer who makes an intelligent advance in the direction of sharing information with his employees is removing a possible cause for legislation which would have

been unthinkable twenty years ago but which is now entirely possible. The demands of union leaders to "see the books" in 1945 and 1946 received more than passive support from high officials of government. The failure to share information wisely invites legislation to create bureaucratic procedures for extracting hidden facts from the employer, for the information of his employees and of the general public.

The public has mildly expressed its interest in the selection of new employees. The expression is found partly in federal and state laws dealing with the free employment service. The relationship between that service and the payment of unemployment compensation claims increases the public interest in employment procedures. Expression of a different and secondary public interest is connected with the enforcement of the Wagner and Taft-Hartley Acts, in the administrative efforts to identify and prohibit discrimination in the selection of employees, because of union activities or affiliations. A relatively short swing of the pendulum from full employment to measurable unemployment will bring to the front the public interest in the way in which employers select and hire their new employees. The existing conditions offer employers both opportunity and time to revise their procedures of recruiting and selection in such a way that they will obviously fit the requirements of the public at large.

A corollary to this responsibility seems to be important. It is that employers generally, and particularly large employers, cannot confine their selection of new employees to those who are obviously better than the average; better in skills, intelligence, physical fitness. The public interest demands that a way be found to use the services of the average and less-than-average member of the work force, in fact, of every member of the work force who is not to be classed as unemployable. A large industry or a large employer has a public duty to organize his operations in a way that will contribute to the objective of jobs for all kinds of workers.

America thus far is depending upon management to create job opportunities for the whole work force of the nation.

The specialization and simplification that have resulted from mass production are frequently regarded as developments that have lowered the average demand for skills and abilities. Viewed in the light of this problem, they should be hailed as steps by which industry has been able partially to meet the social objective of creating jobs which anyone can fill. They represent important contributions to full employment.

It is highly important that private employers recognize this obligation to the public interest, and plan their operations in such a way that there will be opportunity for every reasonably employable member of the work force. If this is not done, the public will not trust to private employers the function of using and selling the services of the total work force. The public interest may well express itself in the creation of public enterprises for the employment of those who are considered below average by private employers, those whose services call for extra planning and even extra cost if private industry is to use them.

The public has expressed its interest in the function of training workers and supervisors. Thus far the expression has been in the form of constructive help through the federal apprenticeship program, state apprenticeship councils, vocational training, adult education, and special courses for foremen and supervisors. Enough has been done to emphasize the fact that the public is concerned in the question of whether employers do a training job. Up to date, the response of employers to these constructive measures has not been such as to encourage the public to stop with the steps already taken. Beyond the scope of collective bargaining, but in harmony with the collective bargaining relationship, employers have still the opportunity to perform the function of training their employees. Employers generally will be wise to seize this op-

portunity and do a constructive job, before the public interest insists upon substituting public control of training for the private control which has not met the need.

The discussion of the actual or potential public interest could be carried through the entire scope of the employer-employee relations which are today beyond collective bargaining. It is unsafe to assume that there is any such phase which does not affect the public interest sufficiently to justify legislative action. Those relationships which have been brought within the field of collective bargaining have already been made subjects of legislation, because employers and employees did not find the will and the way to conduct those relationships in the public interest, without legislation. Both labor and management are under orders today to conduct their collective bargaining relationships with greater respect for the public interest. They are under an obligation, which has not yet become a mandate, to conduct their relations outside the field of collective bargaining in ways that will serve the public interest.

CONCLUSION

COLLECTIVE bargaining is primarily a negative influence in the relations between employer and employee. Its positive results are found in the agreements by the employer to pay certain wage rates and certain premiums for undesirable or irregular assignments of work. There are usually commitments by the union to co-operate in certain areas of recognized mutual interest. Beyond that, the ordinary collective bargaining agreement is a long series of negative provisions. There are usually pledges by the union to avoid or delay any interruption of work. But most numerous are restrictions upon the actions and privileges of the employer. There are limitations upon his right to assign work, to hire employees, to discharge employees, to discipline employees. There are restrictions upon his authority to arrange working schedules, to promote employees in accordance with his own judgment. There are restrictions upon his authority to adopt shop or office rules, and further restrictions upon his authority to enforce even those rules which have been adopted by mutual agreement.

Many collective bargaining agreements include honest recognition of the mutual interest of employees and employers in the efficient and economical operation of the business. None of them has ever directly created the will to work efficiently and co-operatively. They may clear away obstacles to co-operation. They may cure conditions which have generated resistance to co-operation and efficiency. But they do not in themselves generate efficient work by individual employees.

Under normal business conditions, efficient co-operation by employees is essential to the success of the enterprise, and to the preservation of the jobs of those employees. A capitalistic economy permits a private enterprise to exist solely

for the purpose of rendering services and supplying commodities which the public wants and is willing to buy. If an enterprise cannot operate at a sufficient level of economy and efficiency, the owners and managers cannot sell the goods or services which it produces. The sale of those goods and services is actually the sale of the work of the employees in the establishment. Both the business and the jobs which it involves will disappear, where management is unable to enlist the willing co-operation of those who work for wages, in the efficient production of the goods and services.

For nearly a generation, management has retreated slowly from the position that its ability to achieve this efficiency depended upon freedom from the restrictions of collective bargaining. Management once insisted that the scope of its job included the determination of proper wage rates, with primary consideration to the sale of the goods or services which the establishment produced, and secondary consideration to the personal needs of the workers. This did not imply a disregard of the needs of the workers, but assumed that those needs were best met by those decisions of management which kept the cost of the product down to a level which permitted its ready sale. The consideration for the individual was expressed in the maxim that more jobs at lower wages were better than fewer jobs, or no jobs, at higher wages.

Management has been partly driven, and has partly led itself, to these conclusions: Collective bargaining is a permanent feature of employee relations, as long as we can maintain our present free economy. The necessary efficiency must be attained in a setting which includes collective bargaining. Collective bargaining can be either an obstacle or a help in the achievement of efficiency.

But management is today facing the recognition that its relations with its employees cover a vast territory which is still outside the scope of collective bargaining. Some managements have devoted their efforts to building sound relations

with their employees in this vast territory. Others have devoted themselves to defending that territory against any further extension of the scope of collective bargaining. The most progressive managements have found it possible and desirable to share the responsibility for these relationships with the same agencies which represent their employees in collective bargaining. They have found it possible to do this without confusing the relationship covered by the union agreement with the relationships which are maintained through co-operation rather than contract.

The concept of areas beyond collective bargaining includes several distinct attitudes. Every employer must prepare himself to go further than he is obliged to go by his contract with any union. He may have reached the contract relationship through his defeat in a bitter struggle against unionization. He may have reached it through his willing recognition of the right of his employees to organize and to bargain with him as a group. No matter how he reached it, he must go on to the mental and emotional decision that his employees have not insulted him by forming or joining a union. He must go on to the recognition that the leadership which has emerged, to become the officers and committee members in the union, is actually or potentially the real leadership among his employees. He must go on to the demonstration of this belief by a showing of confidence in that leadership, a showing which will make those leaders act so as to be worthy of his confidence.

The employer who is to create positive and dynamic co-operation throughout his employee group must share his ideas, his hopes, his plans and his problems with those employees. He must learn the difficult lesson of doing this sharing in such a way that his attitude conveys no suggestion of belittling or by-passing the officers or the organization which his employees have chosen to represent them, within the field of collective bargaining. He must invite the same union of-

ficers who have argued with him across the bargaining table to discuss his other problems and plans, to convey his thinking to the members of their unions, and to convey the thinking of their members to him. He must not only accept but solicit their help in the improvement of working conditions which he definitely believes are not proper subjects for inclusion in a collective bargaining contract. He must seek their understanding and help in the promotion of safe working conditions, and in the release of employee ideas for improvements of the plant, its methods, and its processes.

He must be willing to do those things which are within his power and which are for the benefit or comfort of his employees, but which he is in no sense obligated to do by his contract with the union. He must learn to do these things in such a way that they do not suggest the impotency or inadequacy of the collective bargaining process. He will be wise rather than smart, to the extent of trusting the leadership of the union with his plans to inaugurate these improvements. If he is prepared to initiate a company-wide retirement plan, or sick-benefit plan, or hospital insurance plan, he will be wise enough to win the understanding and co-operation of the union leadership, rather than to present the plan to his employees with a motion which suggests that the employer can do more for them than their collective bargaining machinery can do.

The employer must go beyond the obligations which have been forced upon him by collective bargaining. He must enlist the leadership of the collective bargaining unit to go with him into this territory beyond collective bargaining. He must share with them the responsibility for developing a great variety of activities, customs, and attitudes which contribute to the "good of the order."

In the days of employee representation plans, many sincere employers led the way in building this type of relationship. Obviously, they did it more willingly because their

employees had not acquired the power to force them to bargain collectively. Many of those same companies have sincerely and wisely continued the relationship, even after they have bargained collectively with their employees on wages, hours, and working conditions, through unions which are powerful in their own right.

Some of these companies described this relationship, beyond collective bargaining, as "collective dealing." That term probably does not fully describe the full relationship which must be accomplished, in the interest of the employees, the employers, and the general public.

Beyond collective bargaining at any given time there is a long list of subjects, a vast area of activities. By their nature, they cannot be effectively handled through the process of collective bargaining. At the same time, they need the understanding and co-operation of employees. Much of that understanding and co-operation must be organized and collective, as well as individual.

Beyond collective bargaining in time, beyond the present era of the painful development of the collective bargaining process, there is to be a period during which the whole area of employer-employee relations must be first stabilized, then made creative and dynamic. It is to be a period during which employers and organized employees will find ways to co-operate, based on a recognition of mutual interests and upon the creation of mutual desires. It will create its own procedures for achieving this organized co-operation, and the organized understanding which will go with it. It will mark the broadening of the thinking of working men toward a fuller understanding of their stake in the freedom and material welfare represented by the American system of profit and wages, investment and secure employment.

This era, beyond collective bargaining in time, cannot come until there has been wholehearted acceptance of collective bargaining by employers, and wholehearted recogni-

tion of the subjects which must remain outside collective bargaining, by employees. Surely we should be ready to close the era which spans the development of collective bargaining. Surely we should be ready to enter the next stage of the evolution of employer-employee relationships. It should be possible and desirable for employers to demonstrate the first readiness to advance into this new stage. It is almost necessary for them to do so, because they have been responsible for much of the delay in reaching the firm establishment of collective bargaining practices. The first advance into the new stage by employers should be an influence toward co-operation in the evolution. The next stage cannot be characterized by the conflict which has marked the present period of the rise of collective bargaining.

When employers, singly and in groups, are ready to propose this next step, what will they propose? They cannot successfully ask co-operation of employee representatives toward objectives which have been predetermined by employers. They cannot hope to convince employee representatives that the objectives chosen by the employer alone are necessarily good objectives for the employees. Difficult as it may seem, they must begin by seeking co-operation in the selection of the objectives, before they can successfully ask for co-operation in the achievement of the objectives.

The evolution which they will ask for is one in which the ideas and influences of employees, expressed through their own organizations and their own representatives, will be made effective in areas which are the traditional prerogatives of management, areas which could never safely be subjected to the pressures and politics of collective bargaining. These will be areas in which the employee interest is real, but in which it must be measured by the results of years to come rather than by the wages of today. They will be subject fields in which employee attitudes have been frequently unsound and shortsighted, largely because they have had no oppor-

tunity to see the potential future developments, and the long-range results of present moves.

In short, management will share its long-range plans and hopes with employees. It will seek not only their understanding, but their advice. It will demonstrate respect and consideration for the advice from employees and their representatives. Management will admit its joint responsibility, with the employees, for the interest of the employees, the investors, and the general public. Because it has the direct responsibility to the investors who have furnished the physical plant, management will retain the responsibility to make decisions. If it succeeds in releasing the full potential of the new relationship, it will have the understanding support of employees in its decisions, rather than the reluctant compliance which has been so characteristic of the past years.

What is this new relationship, beyond collective bargaining in time? Collective dealing is not an adequate description of it. Industrial democracy suggests machinery rather than attitudes. Could it be called collective planning?