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UNION AGREEMENTS: A WAR WEAPON

DAVID ZISKIND*

UNION agreements designed as a pact for peaceful production have become a potentially powerful weapon for prosecuting the war. Ever since this country undertook to make itself an arsenal of democracy our national problem has been to obtain a smooth, constant, and increasing momentum of industry—more planes, more tanks, more ships, more munitions, faster and ever faster. The stupendous congressional appropriations for this program have merely displayed our earnestness; the administrative schedules and engineers' blueprints have defined our expectations; but in order to achieve our goal it has been necessary to transform nation-wide industries and to integrate the labor of millions of human beings along the production lines. To management and labor this has meant displacement and reorganization, the training of new workers, the speeding of old processes, the increase of productive hours, the working of shifts, and the elimination of wastes, accidents, and stoppages. None of these things could be performed automatically or immediately, regardless of the need. They required understanding, planning, and experimentation by people in agreement.

Most American employers and employees were completely unprepared for such large scale adjustments. They were unaccustomed to military demands, uncertain of their own interest, and unwilling to be stampeded by war fears. When they did act, they followed their usual patterns of behavior. In the setting of employment relationships, the usual pattern for a great many employers and employees was the process of collective bargaining. Through that process they enlisted in the gigantic scheme of war production upon which the Allied Nations depend for victory. Their experiences have suggested even greater potentialities in the use of the col-

* Principal Attorney, Office of the Solicitor, United States Department of Labor.

lective bargaining process and have prompted this analysis of union agreements as a war measure.

There are several theoretical aspects of union agreements that are significant to the war program. The most significant is that union agreements facilitate production. Yet other advantages are found in the determination of industrial relations by the persons most deeply concerned, in the reliance upon voluntary private action instead of state regulation, in the utilization of a democratic, representative procedure and in the reinforcement of such action through the powers of law. These basic principles of union agreements are principles which offer power and drive to our war production.

The importance of such factors is well highlighted by the legal dilemma of enforcement under war supply contracts. In normal times the government purchase contract permits the Government to withhold funds until performance is complete, and, in the event of a failure to perform, the Government may purchase the goods elsewhere and charge the contractor with any increase in price. Ordinarily, a performance bond is required and the surety may be required to pay the damages sustained. But in time of war the Government must have the goods and cannot be satisfied with damages. The war can be won only with guns, planes, and ships and not with money withheld or with money judgments. The materials of war cannot be purchased freely on the open market. Every source of supply is needed and every contract must be performed promptly or there is an irreparable loss. Performance is the only thing that counts, and it is in the assurance of willing and eager performance that the collective bargaining agreement is crucial.

Union agreements are primarily a means for determining working relationships in industry. They recognize the general tasks to be performed, they set the incentives for labor, they protect the health and vitality of the workers, they allocate responsibility, they maintain discipline, and they prescribe rules and orderly procedures for adjusting disputes or misunderstandings. A union agreement is a code for harmonious industrial activity. As such it is a propitious starting point for war production.

Moreover, a collective bargaining agreement is a voluntary arrangement for industrial government. The terms of the agreement represent the freely expressed wills of the employer and his employees, subject only to those restraints which flow from the unavoidable pressures of living together. From the divergent interests of employer and employees and from their uneven economic strength arise the friction and the flame in which are welded a common design. The union agreement, good or bad, is the

handiwork of the parties themselves. Their joint participation breeds a feeling of personal responsibility. Such an agreement offers a basis for a sense of creativeness and the maintenance of high morale so essential to the battle of production.

Collective bargaining is a social institution peculiarly suited to this war. Both are expressions of democracy. In the eyes of most American workers the war is a struggle of democratic nations against the aggression of totalitarian states abroad, and collective bargaining is the preservation of the democratic spirit in industry at home. The bargaining of employers and employees through representatives of their own choice is democracy at work. It is a practice that inspires faith in our avowed war aims and elicits every possible effort in war production.

The voluntary and democratic characteristics of union agreements still allow for compulsion against those who refuse to abide by the majority will. The courts may declare the agreements binding and enforce their provisions without sacrifice of the freedom exercised in their creation. Although historically much doubt was cast upon the enforceability of union agreements, the trend of legislation and court decisions has been unmistakably toward the recognition of the complete legality of such agreements.¹ If the parties so intend, there remain no insurmountable obstacles to the formulation of a union agreement that will be a fully enforceable contract. The difficulties of suit inherent in the union's status as a voluntary unincorporated association have been mitigated by statutory enactment and equitable doctrine, and they may be further overcome by the expedients of joining union officers as parties and expressly providing that all union members be third parties beneficiary. Careful draftsmanship in the light of the peculiar holdings of state courts can produce an agreement that will be enforceable with all the sanctions of the state.²

These theoretical advantages of collective bargaining agreements have been demonstrated in the practices of many employers and employees in our war industries. Although the apparent structure of their union agree-

¹ The relevant court decisions and a selected list of legal periodical articles on union agreements are presented in Ziskind, Shienbrood, and Malamed, *The Law behind Union Agreements* 27-87 (1941); see also Lenhoff, *The Present Status of Collective Contracts in the American Legal System*, 39 Mich. L. Rev. 1109 (1941).

² Specimen clauses of union agreements together with special notes dealing with the problem these clauses present in meeting the tests of various courts are collected in Lieberman, *The Collective Labor Agreement* (1939). The Bureau of Labor Statistics of the United States Department of Labor soon will make available a more elaborate compilation. In the following footnotes some of the clauses selected from contracts in effect in war plants and others drafted by the writer are set forth. These specimen clauses will be found helpful as supplements to suggestions made in the text.

ments has remained unchanged, the specific provisions of their agreements have been deliberately designed to obtain the maximum production of the implements of war. The captions of wages, hours, overtime, safety, grievances, strikes, and arbitration have been left undisturbed and much of the language of the old agreements has been repeated. Yet there have appeared many subtle changes and some new references to military service. War industry employers and unions have consciously sought to assist in the mobilization and placement of the labor force, in the optimum use of skills and capacities, in the fullest exploitation of equipment, in the prevention of strikes and lockouts, in the suppression of sabotage and subversive activities, and in the equitable distribution of material incentives. The devices they have employed and the possibilities for their more effective use may be observed within the familiar terms of employment.

WAGES—THE INCENTIVE FOR WAR PRODUCTION

The war has created new difficulties in the determination of wages. The danger of inflation, the "pirating" of workers, the need for maximum production, and the hazards of certain industrial activities have produced new wage considerations both within the realm of collective bargaining and within the field of national economic policy.

The dangers of inflation have led to measures for the curtailment of wage increases. In the President's seven point program against inflation, he called upon the National War Labor Board to stabilize wages. The board responded by limiting all wage increases in the cases brought before it in accordance with three criteria: 1) a cost-of-living adjustment limited to a 15 per cent increase from January 1, 1941 to May, 1942; 2) the removal of inequities among comparable employments; and 3) the elimination of substandard wages.³ In his Labor Day message to Congress the President made clear that further limitations will soon be placed upon all wage rates. Such a program will confine severely the scope of collective bargaining; yet it will not eliminate the need for collective bargaining on other terms of employment or on incidental wage problems such as compensation for overtime, vacations with pay, and the adjustment of piece rates or new occupation rates within the limits set. Also, if in the composition of the future regulatory agencies, organized employers and employees are given representation, some elements of collective bargaining may be preserved even within the limits imposed by the anti-inflation policy.

The willingness of organized labor to accept restrictions imposed by the

³ See *In the Matter of Bethlehem Steel Corp.* ("Little Steel" decision), WLB Release No. B-122 (July 16, 1942).

necessities of the war when the essence of collective bargaining is preserved has been demonstrated in the shipbuilding and other industries. Early union agreements negotiated in the shipbuilding industry with the approval of the Government provided for a wage increase with an increase in the cost-of-living index. When the time came for such an adjustment, the President appealed to the unions to forego their contract rights in the interest of avoiding inflation. After some negotiation the workers accepted less than they were entitled to by their contract.⁴ Likewise, to avoid inflation, the construction unions agreed with the chief contracting agencies of the Government to freeze their wage rates as of July 1, 1942.⁵ In a similar spirit, the AFL and the CIO, although originally opposed to the WLB cost-of-living formula, have accepted it. Anti-inflationary measures which restrict the scope of collective bargaining may be enforced with the least disruption of morale if they are put into effect through conferences or agencies in which both employers and employees participate.

Without minimizing the importance of avoiding inflation, it should be recognized that unless our production pace is accelerated and kept at high speed we may suffer consequences even more dire than those of inflation. It will help us little to freeze wages if at the same time we chill our productive ardor. Production is our primary problem and in stimulating production our most effective incentive is wage payment, and our most effective way of applying that incentive is through collective bargaining. Patriotism can be relied upon to inspire most American workers with a willingness to do all they can to win the war. But patriotism is an emotional force of fluctuating intensity. If profits seem unduly large, if the tax program seems inequitable, if food and clothing prices rise while wages are kept down, or if political or racial ambitions are not satisfied, the tide of patriotism may ebb low. The expectation of wages is so ingrained in our mental makeup that it is doubtful that a patriotic fervor can be sustained for long without it. If we are to get the most effort out of war workers, we must rely not only upon patriotic zeal but also upon the wage incentive.

It would seem desirable to adopt special wage devices, designed to pay workers in proportion to their output and thereby to stimulate more and more production. These "incentive plans," unfortunately, are still so clouded by the abuses of certain employers and so obscured by the fears of workers that it is perhaps too optimistic to expect the full utilization of such schemes at an early date. The obstacles of suspicion and fear, how-

⁴ The New Shipbuilding Agreement, 10 L.R.R. 423, 674 (1942).

⁵ Wage Rise Limits in the Building Industry, 10 L.R.R. 442 (1942).

ever, can be minimized through the voluntary and cooperative approach of collective bargaining. In a few instances, union agreements for war production have recognized the possibility of introducing special wage stimulants.⁶ In the industries that have had special inducement plans, such as piece rate and bonus systems, union agreements have continued those plans.⁷

The device of cash bonuses or emergency wages for work made dangerous by the war has been adopted in the maritime industry. Union agreements covering shipping have defined dangerous zones and offered the men on ships special bonuses⁸ and war risk insurance⁹ to keep up the flow of supplies through enemy infested waters. As the war has spread its areas of hostile operations, these agreements have been revised to cover the spreading risks. Should the raids of bombers spread great dangers to certain areas of our country, workers will respond with patriotic defiance, but

⁶ See Wage Provisions in Union Agreements, 53 Monthly Lab. Rev. 1126 (1941); Wage Incentive Plans and Collective Bargaining, Memorandum No. 2 of the Industrial Relations Div. of the Bureau of Labor Statistics, U.S. Dept. of Labor (April, 1942).

⁷ For sample piece rate provisions see Browne, Trends in Union Agreements, 3 Conference Bd. Management Rec. 43 (1941).

⁸ "War Bonus 1. The emergency compensation to cover war risk hazards to the unlicensed personnel of the Company's vessels shall be as follows:

(a) On the trans-Pacific Far East and Australian runs, \$80 per month from the 180th meridian, westbound, until return to the 180th meridian, eastbound. [Other provisions are made for other portions of the world.]

Emergency Wages 3. In the event a vessel is interned, destroyed or abandoned as a result of war operations and is unable to continue her voyage, basic wages and emergency wages specified in the collective bargaining agreement between the Company and the Union, dated October 31, 1941, shall be paid to the date the members of the crew arrive in a Continental United States port and the employees shall be repatriated to a Continental United States port.

4. The Company agrees that it will pay each unlicensed member of the crews of its vessels the value of all personal effects lost or damaged due to hostilities or war-like operations up to a total sum of one hundred and fifty dollars (\$150) per man." Supplementary Agreement between N.M.U.A. and various ship-owners, 6 Pilot 11 (1941).

⁹ "2. The Company will furnish as promptly as possible through the medium of private insurers war risk insurance in the amount of \$5,000 for each unlicensed member of the crews of its vessels on all voyages in the areas described above. Such policy shall provide for the payment of the said sum of \$5,000 to the estate or designated beneficiary of such unlicensed member of the crew in case of death due to war conditions or the payment of said sum in periodic installments to the unlicensed member of the crew himself in the event of his total and permanent disability due to such war conditions, and shall provide for payment to the unlicensed member of the crew of such sum less than \$5,000 in case of injury less than total or permanent disability resulting from such war conditions as are provided in the form of policy generally adopted by American underwriters to cover such war risks and known as Crews' War Risk Insurance Form—1941. . . . It is understood that in the event war risk insurance is made available by the United States Government, the Company and the Union will enter into discussions insofar as it relates to this section." Ibid.

it may also be desirable to use similar provisions for extra compensation in strategic industries.

A more immediate wage problem has been that of maintaining a degree of uniformity in wage rates in order to avoid the enticement or "pirating" of workers from one war plant by another. This has been the concern of several Government agencies. The War Manpower Commission has attempted to deal with it through its employment offices, but until the use of government employment offices is made mandatory other voluntary adjustments will also be needed. The United States Conciliation Service and WLB have attempted to induce employers and employees to counteract "pirating" through wage, seniority, and other provisions in union agreements. Industry-wide stabilization programs through collective bargaining have also been sponsored by the War Production Board. Under the auspices of the Shipbuilding Stabilization Committee of WPB, employers and unions in the shipbuilding industry formulated wage and other labor standards, which have served as the basis for collective bargaining agreements establishing wage uniformity within each of the Atlantic, Pacific, Gulf, and Great Lakes areas.¹⁰ When it became apparent that there might be a precipitous flow of labor from aircraft plants to shipyards on the West Coast, collective bargaining adjustments were suggested and made in the aircraft industry. Later WPB sought to stabilize wages throughout the aircraft industry, and, though the first conference was unsuccessful, others may follow. Under Government direction, collective bargaining may help eliminate excessive labor turnover by stabilizing wages.

The wage clause of union agreements has always been the nerve center of industrial relations. It has linked all productive elements in a well coordinated unit or it has thrown them into utter confusion. Upon it the war has placed certain unusual demands. National policies of inflation and production have supervened the private interests of certain employers and employees. But the recognition of those policies as well as the private interests has been obtained through the process of collective bargaining with Government aid and direction.

OPTIMUM HOURS FOR WAR PRODUCTION

The optimum number of hours of labor for war production is still a matter of conjecture.¹¹ We know that beyond a certain number of hours

¹⁰ See items concerning Shipbuilding Stabilization Committee Contracts in 8 L.R.R. 467, 585, 732 (1941).

¹¹ Brown and Baker, *Optimum Hours of Work in War Production* (1942); Kassoris, *Hours and Efficiency in British Industry*, 52 *Monthly Lab. Rev.* 1337 (1941); *Hours of Work in*

per day or per week human fatigue causes a declining productivity per man, and further work without rest causes so much illness and so many accidents that in the long run the total output decreases. But the exact number of hours best for production is at present unknown. It obviously varies with different industrial conditions and until scientific studies are made, we must adopt tentative standards like eight hours a day and forty-eight hours a week or proceed in a trial and error fashion to find the best work schedule for maximum production, plant by plant. In this situation, collective bargaining offers an opportunity for pooling experiences and for canceling out prejudices. When the findings of scientific studies on hours, fatigue, accidents, and production are known, they may find recognition and voluntary adoption through union agreements. Possibly some provision might be made in current agreements for such studies.¹²

The need for the fullest exploitation of plant and equipment has given rise to overtime and shift work. This has been facilitated by many war industry agreements not only by direct provisions for such work¹³ but also by provisions designed to prevent the abuse of such work. Employers are frequently required to give advance notice of changes in the regular work schedule¹⁴ and extra work is required to be compensated at premium rates.¹⁵ Employees are prohibited from laying off during regular hours and

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Relation to Health and Efficiency, Report of the Division of Women in Industry and Minimum Wage, N.Y. Dept. of Labor (1941).

¹² Such a clause might read as follows: The employer and the union agree to cooperate with [the U.S. Department of Labor, the War Production Board, or whatever Government agency may offer] to study the optimum hours of work for maximum production in the plants covered by this agreement, and upon the receipt of the findings and recommendation of said Government agency the schedule of hours provided for in section — hereof shall be adjusted accordingly. This section shall apply only to work upon war contracts and for the duration of the war.

¹³ See Levine, *Shift Operations in Selected Defense Industries*, 53 Monthly Lab. Rev. 355 (1941); Patterson, *Shift Operations under Union Agreements*, 51 Monthly Lab. Rev. 860 (1940).

¹⁴ "In the event conditions in the shop shall, in the opinion of the Company, necessitate longer hours than hereinabove specified, the management shall notify the Shop Committee and/or the employees one day in advance." Brewster Aero. Co.—United Automobile Workers Contract, 8 L.R.R. 154 (1941); "Art. X—§1. In the assignment of men or shifts of men who are required to work on Saturdays and Sundays, notices shall be posted three days previous to such assignments (except in emergency), designating the men and the type of work to be performed." American Cyanamid Co.—Chemical Workers Union Contract, 9 L.R.R. 490 (1942).

¹⁵ *Overtime Provisions in Union Agreements in Certain Defense Industries*, 52 Monthly Lab. Rev. 841 (1941); see also American Cyanamid Co.—Chemical Workers Union Contract, 9 L.R.R. 490 (1942).

To equalize overtime rates, the President issued Executive Order 9240, September 9, 1942, and Executive Order 9248, September 17, 1942, establishing overtime, Sunday, and holiday rates for all work relating to the prosecution of the war. Union agreements may make specific applications of these orders and may aid in obtaining compliance.

working overtime just to earn extra pay. Elaborate schedules for the rotation of shifts have been devised in order to make possible continuous production for twenty-four hours a day and seven days a week without any overtime work.¹⁶ Such schemes require a swing shift of men who work irregular hours, and extra compensation has often been found necessary to induce men to work the swing shift and the night shifts. Continuous production also calls for extra workers or the working of successive shifts to fill the gaps when replacements fail to appear at the scheduled times. To maintain continuous production throughout the year it may also be necessary to induce certain indispensable workers to accept extra pay and forego part or all of their vacations.¹⁷ Adjustments for all such contingencies have been made through union agreements so that war plants might be used to their utmost.

The provisions for extra compensation for overtime, night shifts, and week-end work have been assailed as restrictive penalties upon war work. In response to such criticism some unions, especially in the construction industry, early in the war program consented to reduce their overtime and Sunday rates from double time to time and a half.¹⁸ More recently, at the request of the President and the chairman of WPB, CIO and AFL resolved to urge their constituent unions to relinquish double compensation for Sundays and holidays worked in a regular six-day work-week.¹⁹ Time and a half compensation for extra work, however, has become traditional, and, except for the attacks of certain persistent opponents, it has been accepted as an incentive for added effort in war production.²⁰ The Government has made allowances for such extra cost in its contracts, and there is little evidence, if any, that the extra overtime pay has restricted

¹⁶ Wage and Hour Div., U.S. Dept. of Labor Releases Nos. R-1675 (December 14, 1941) and R-1719 (January 19, 1942).

¹⁷ "It was agreed that the Corporation, in lieu of vacation with pay for the year 1941, would pay on or before December 24, 1940, to each regular hourly rate employee who has at least one year's seniority on December 1, 1940, the sum of \$40." Chrysler Corp.-United Automobile Workers Agreement, 7 L.R.R. 491 (1940); see also Pay in Lieu of Vacations in Certain Federal Services, 53 Monthly Lab. Rev. 415 (1941).

¹⁸ Government-AFL Building Pact, 8 L.R.R. 764 (1941).

¹⁹ CIO Waives Double Time to Aid U.S. War Effort, 5 CIO News, p. 1, col. 4 (March 30, 1942); testimony of William Green reported in Hearings before the House Committee on Naval Affairs on H.R. 6790, 77th Cong. 2d Sess., at 2803 (1941); Saturday and Sunday Provisions of Union Agreements in 12 War Industries, Memorandum No. 1 of the Industrial Relations Div., of the Bureau of Labor Statistics, U.S. Dept. of Labor (February, 1942).

²⁰ Hearings before the House Committee on Naval Affairs on H.R. 6790, 77th Cong. 2d Sess., at 2429-2922 (1941).

the actual hours worked.²¹ The popular debate upon the cost of overtime has detracted attention from the more important fact that union agreements can be utilized to make adequate provision for shift work and continuous production.

TRAINING AND LABOR SUPPLY

The conversion of industry from the goods of peace to the instruments of war has given labor and management many new tasks, and the tremendous expansion of our total output has called for a vast increase of skilled and semiskilled workmen.²² Also, as our armed forces draw men from the mills and factories, women need to be trained to take their places.²³ These gigantic reorganizations require the cooperation of workers—cooperation which may be obtained more quickly and more willingly when the program is endorsed by a union agreement.

The In-Plant Training Program of WPB stresses the training of workers through gradual steps of advancement on the job.²⁴ Traditional occupational classifications and shop routines are rearranged so that the unskilled may be taught to take over semiskilled tasks and the semiskilled taught special skills. The skilled workers are relieved of their simpler tasks so that their talents may be utilized to the utmost. Such changes may be expedited by a union agreement clause that provides for such upgrading or for cooperation with the officials of WPB in the conduct of an in-plant training program.²⁵

²¹ Testimony of Donald M. Nelson, *ibid.*, at 2576-2624; Testimony of Frances Perkins, *ibid.*, at 2626-67.

²² The Labor Market in the Emergency, 8 Employment Security Rev. 1 (1941).

²³ Sidney Hillman, Labor Director of WPB, has said, "More than one million American women will be needed to work on the production of war materials." WPB Release No. 51 (January 27, 1942).

²⁴ The Labor Division of OPM has inaugurated a bulletin service entitled The Training within Industry Program, see particularly Training within Industry, Bull. No. 1 (August 15, 1941); Upgrading in a Rapidly Expanding Plant, Bull. No. 3 (August 15, 1941); Training Production Workers, Bull. No. 2a (August 15, 1941).

²⁵ "2. Management will study its future tool, die and metal pattern shop needs, and will post on the bulletin board a list of jobs for which a shortage of journeymen is anticipated. Employees now working on production machines, who have experience and qualifications for such jobs, will be permitted to file applications with the Personnel Department, listing their experience and qualifications for jobs as operators of one or more machines in the tool, die, and metal patterns shops in order that they may be considered when vacancies occur.

"3. When vacancies occur in the tool, die and metal pattern shops, and journeymen are not available for employment, such vacancies are to be filled by the upgrading of the workers in the plant who have necessary qualifications to perform the work and who have previously

One of the obstacles to the acceptance of a thorough program of re-training workers is the fear of certain organized workers that through the dilution of their skills the bargaining position of their unions may be undermined. A union that has organized a majority of the skilled workers in a plant and has established its right to bargain for them as a separate unit often looks with suspicion upon any effort to split the tasks of its members and to add many more semiskilled workers who may overwhelm it by sheer number and transfer its bargaining rights to another group. In order to allay such anxieties, it is possible to write into a union agreement a clause which preserves the established rights of the union.²⁶

The shortage of certain skilled workers has revived an interest in apprentice training.²⁷ During the depression of the thirties there was no need for new craftsmen and a fear of surplus labor led to a widespread abandonment of apprenticeship systems. The prospect of a long war, however, has disclosed the value of thoroughly skilled workers who may be adapted to all sorts of work and for this an apprenticeship program is indispensable. To overcome our inertia as well as the old fears of an indiscriminate multiplication of craftsmen, the Federal Committee on Apprentice Training (now part of the War Manpower Commission) has engaged in a promotional campaign for the voluntary adoption of an ap-

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made application for such work." United Automobile Workers-General Motors Corp. Agreement, § United Automobile Worker 3 (October 1, 1941).

"It is mutually agreed that the parties hereto will cooperate with Governmental agencies offering training courses in the type of work performed in the shops of the Company." Boeing-Internat'l Ass'n of Machinists Agreement, 7 L.R.R. 107 (1940).

²⁶ "Nothing contained herein shall be construed to alter or diminish in any manner whatsoever the identity of the craft of — as a unit for the purposes of collective bargaining or the exclusive representation of that craft by the —. The parties hereto agree that the dilution of the craft provided for herein is solely to facilitate emergency defense work, that all workers employed to perform the tasks relinquished by the craft — shall be regarded as temporary employees regardless of how long the war program may last, and that for all purposes of collective bargaining such employees shall be represented solely by the —.

"The management agrees that in employing workers to undertake the tasks relinquished by the —, it shall advise all such employees of the terms of this agreement, that all such employment shall be conditioned upon the acceptance of this agreement and that upon the termination of the war program it shall do everything within its power to restore to the — the jurisdiction and collective bargaining recognition and rights enjoyed by the organization prior to the date hereof." These clauses were drafted by the writer for the use of a group of drop forge employers and the Internat'l Die Sinkers Conference during negotiations conducted by the U.S. Conciliation Service. In a later arbitration their adoption was required by the arbitrator, Lloyd K. Garrison, 10 L.R.R. 66 (1942).

²⁷ Defense Program Acts as Spur to Apprenticeship, 3 Labor Standards 138 (1940); Out of Crisis, Opportunity!, Div. of Labor Standards, U.S. Dept. of Labor, Bull. No. 43 (1940).

prenticeship program with adequate standards of training and adequate safeguards of established labor standards.²⁸ It has induced employer and employee organizations to unite in joint councils for the administration of this program, and individual employers and union locals have adopted its standards in union agreement clauses.²⁹

Union agreements in placing the responsibility for the training of workers and apprentices upon both the employer and the union assure the training program of the support and cooperation that is essential to its success.

The training of new workers, however, should be secondary to the utilization of all of the existing skilled and semiskilled workers. Unfortunately, various personal and social factors have produced an immobility of labor and an unwillingness on behalf of employers to hire certain groups of workers, seriously impeding the effective use of many of our workers. Much can be done to overcome these obstacles by providing for cooperation with the Government agencies at work in the field of labor supply and training. An agreement requiring registration and assignment through the United States Employment Service would tend to stabilize the war labor market,³⁰ and such provisions need not sacrifice the closed shop or any union participation in the hiring process.³¹ Also, an agreement re-

²⁸ This committee, while a part of the Division of Labor Standards, U.S. Dept. of Labor, made available the plans of several apprenticeship programs. The standards of the programs are concrete examples of methods for training apprentices in a private plant. They are issued in the expectation that committees or individuals concerned will find them useful as a basis for discussion. Some of the programs available are Lockheed Aircraft Apprenticeship Program (1939), Toledo Plan for Sheet Metal Working Apprenticeship (1939), Trimmer Die Making and Die Sinking Apprenticeship Standards (1939), Houston, Tex., Machinist's Apprenticeship Standards (1940), and Apprenticeship Standards for Vultee Aircraft Inc. (1941).

²⁹ "There shall be established a regular apprenticeship system in accordance with the standards of the Federal Committee on Apprenticeship, within thirty days from _____. Such apprentice system shall include the use of the written indenture; a total learning time of _____ years; a starting rate of _____ per hour, increasing every six months at a proper percentage to reach the minimum _____ rate in _____ years, increases to take place on April _____ and October _____ of each year, providing the apprentice has been employed 500 hours or more in the six months' period; a ratio of one apprentice to every journeyman (exclusive of, and not counting for this purpose, any temporary employees, as defined in paragraph _____), who may be assigned to work as _____." Recommended by the Apprenticeship Section, Div. of Labor Standards, U.S. Dept. of Labor.

³⁰ The dangers of private employment services to the war program, as well as the ordinary abuses of private employment agencies in peacetime, are well discussed in the Hearings before the House sub-committee of the Committee on Labor on H.R. 5510, 77th Cong. 1st Sess., at 19, 21 (1941).

³¹ The U.S. Employment Service has effected arrangements with employers and unions to obtain and supply union labor in accordance with union shop agreements in the metal trades, the building trades, and the ladies' garment industry in New York City and elsewhere.

quiring the employment of personnel without discrimination on the basis of age, sex, race, creed, color or national origin,³² patterned after the policies announced by the President and the several agencies combating discrimination,³³ would tend to enlarge the available labor force. Much also can be done to remove some of the barriers to the introduction of women to war jobs by union agreement clauses providing for equal pay for equal work³⁴ and for the retirement of temporary war employees after the termination of hostilities. Perhaps the most serious retarding influence to the transfer of skilled machine shop workers from nondefense to war plants is the fear of losing the economic security acquired through seniority schemes, and this too might be mitigated by providing for the retention and accumulation of seniority rights regardless of a shift to war work—even when employment is taken with another employer.³⁵ The mobiliza-

³² There shall be no discrimination in regard to hire or tenure of employment or any term or condition of employment on the basis of race, creed, color or national origin.

³³ A joint bulletin of the Committee on Fair Employment Practice, the Negro Employment and Training Branch of the Labor Division of OPM, and the Minority Groups Branch of the Labor Division of OPM summarizes the official steps taken to eliminate discrimination in defense employment up to October, 1941. See *Minority Groups in Defense* (October 15, 1941).

³⁴ In *General Motors Corp. v. Read*, 294 Mich. 558, 293 N.W. 751 (1940) the Supreme Court of Michigan upheld the constitutionality of a statute which provided that "Any employer . . . employing both males and females in the manufacture or production of any article, who shall discriminate in any way in the payment of wages as between sexes or who shall pay any female engaged in the manufacture or production of any article of like value, workmanship and production a less wage, by time or piece work, than is paid to males similarly employed . . . shall be guilty of a misdemeanor." Mich. Stat. Ann. (Henderson, 1938) §28.824.

³⁵ On Sept. 17, 1941, the Labor Division of OPM enunciated a set of labor curtailment policies for the automobile industry. In October, 1941, an industry-wide interpretation of these policies was adopted by General Motors, Ford, Chrysler, Packard, Hudson, the Automotive Parts Ass'n, and the Tool and Die Manufacturers Ass'n, as well as by the United Automobile Workers. This agreement provided for industry-wide seniority, in part, as follows: "Where a man working on non-defense production is laid off and obtains defense employment with another company, and that fact is certified to his former employer, he will not have to report back for non-defense production work in order to protect his seniority so long as he retains the defense employment to which he was certified. . . .

"Skilled tradesmen, partially employed, or employed at occupations other than their trade or its equivalent in defense usefulness, will be released upon their request, with protection of their seniority rights, for full time defense work (40 hours per week) at their trade. . . . The prospective employer must certify to the present employer that he has offered the employee full-time defense work (40 hours per week) at his trade, before the request is granted.

"(a) Recall of Employees. Any employees loaned or laid off, whether unemployed or currently employed on defense or non-defense work, must report back for defense employment to the company with which he holds his original seniority for work in the same community, if and when called, on notice of at least one calendar week. Recall of employees to defense work presupposes the management will endeavor to provide full-time employment, contingent upon the availability of the essential tools, materials and facilities. Skilled tradesmen will be

tion of industrial workers for war work can be expedited appreciably by union-management policies that recognize the need for a larger, more skilled, and more adaptable working force and that offer the necessary adjustments for such a force.

SAFETY AND HEALTH

The prevention of industrial accidents is a subject on which there is unanimous approval, but unfortunately very inadequate action. The men and man-days lost because of industrial accidents since the commencement of our defense program have been increasing at an alarming rate.³⁶ Unless the trend is reversed we may suffer the most serious defeats of the war at home. Trade union agreements frequently call for safe and wholesome conditions of work and the observance of all laws on the subject.³⁷ Occasionally there are more specific clauses on such matters as first-aid stations, clean lunchrooms, lockers and shower baths, safety meetings and adequate accident reports. One of the most neglected aspects of the safety program, however, has been the active participation of the workers themselves in safety work. Probably because most of the conditions required for safety and health have called for activity on the part of management, the possibilities of employee cooperation have been overlooked. It is all the more important, therefore, that union agreements be utilized to enlist the positive efforts of employees in a safety and health program. The agreement may establish a safety committee representative of both employer and employees; it may require periodic investigations of plant conditions; it may authorize the formulation of safety rules or the adoption of a safety code; it may provide for safety education; it may outline procedures for handling safety grievances; it may penalize those who fail to obey the safety rules; and it may encourage cooperation between the shop safety committee and Government agencies engaged in safety work.³⁸

subject to recall only for full-time defense employment at their trades or the equivalent." 5 United Automobile Worker 2 (October 15, 1941).

³⁶ The reports of injuries under the State Workmen's Compensation Laws, as summarized by the Division of Labor Standards, U.S. Dept. of Labor, show an increase of injuries in 1941 over 1940 of 29 per cent. At the same time, the number of non-agricultural employees increased 11.1 percent. Preliminary estimates of the Industrial Accident Division of the Bureau of Labor Statistics for the early months of 1942 indicate that the trend has continued.

³⁷ Vultee Aircraft, Inc.-United Automobile Workers Agreement, 7 L.R.R. 321 (1940); Boeing Aircraft Co.-Internat'l Ass'n of Machinists Agreement, 7 L.R.R. 107 (1940).

³⁸ The writer has attempted to incorporate these features in the following clause:

There shall be appointed a Safety and Health Committee composed of an equal number of employer and union representatives and a safety official to be designated by the employer who

LABOR DISPUTES AND THEIR SETTLEMENT

The need for industrial peace to win the war is axiomatic. The immi-nence of significant work stoppages and the urgency of the numerous pro-posed controls are much more debatable. Nevertheless union agreements have reflected the widespread willingness of employers and unions to ban strikes and lockouts and to establish more orderly procedures for the set-tlement of their disputes.

The determination of industry and labor representatives at the Presi-dent's Conference on Labor Relations that there shall be no strikes and no lockouts for the duration of the war and that all disputes shall be sub-mitted to arbitration, has set a pattern for collective bargaining agree-ments. In themselves the commitments of the national leaders of indus-try and labor stand as a solemn pledge, probably without legal effect be-cause there was no intent to enforce their agreement as a contract. The parties to that understanding had no power to order strikes or lockouts except for their individual unions or business firms; still they proposed to speak, not for their own organizations, but for all industry and labor. They undertook to use the prestige and power of their positions to effectuate the terms of their agreement. In all but a few instances, that has suf-ficed to maintain peace. It may be desirable, nevertheless, to incorporate the terms of that understanding into the collective bargaining agreements between particular employers and the unions of their employees so that those terms might constitute an enforceable contract.³⁹

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shall act as chairman of the committee. This committee shall meet at regular intervals, no less than once a month, shall make periodic inspections of the plant, shall review accident reports and analyze the causes of accidents, shall formulate rules for the prevention of acci-dents and shall promote in every way possible the safety and health of all employees.

After investigation and study, the Safety and Health Committee shall adopt rules with respect to 1) Physical Conditions; 2) Sanitation and Hygiene; and 3) Safety Practices.

The Safety and Health Committee shall establish penalties for the violation of its safety and health rules and shall impose such penalties upon the employer or the union or the super-visor official or the employee found responsible for any violation.

Any dispute concerning proposed rules for safety and health or concerning any action taken by the Safety and Health Committee by virtue of its rules may be regarded as a grievance and adjusted in accordance with the provisions of section _____ of this agreement.

The Safety and Health Committee shall enlist the aid of State and Federal safety and health officials such as the factory inspection and industrial hygiene officials of the State of _____ and the National Committee for the Conservation of Manpower in Defense Industries, and shall cooperate in every possible manner with such officials.

³⁹ Such an agreement might read as follows: There shall be no strikes, lockouts or other cessations of work for the duration of the war. Should all other means provided herein fail to effect a settlement of any dispute between the employer and the union, the dispute shall be referred to the Secretary of Labor for certification to the WLB and the parties hereto shall abide by the recommendations of that board.

The union agreements that have been adopted in war industries, most of which still antedate the President's Conference, have contained a wide variety of limitations upon the right to strike.⁴⁰ Most of these have required the postponement of work stoppages pending a resort to grievance procedure or arbitration schemes.⁴¹ A few have qualified the strike prohibition so that the workers might still refuse to cross picket lines or refuse to handle nonunion goods, or otherwise resist anti-union activities.⁴² In other agreements various types of work interruptions—strikes, sitdowns, slowdowns, stayins, lockouts, and shutdowns—have been completely forbidden.⁴³ Forms of picketing, boycotts, and sympathetic action also have been banned.⁴⁴ Ever since the commencement of the defense program,

⁴⁰ The provisions in 25 agreements are classified in *Strike Prohibitions and Clauses Providing Arbitration in Contracts*, 8 L.R.R. 316 (1941). For recommendations of the National Defense Mediation Board in regard to stoppages see 8 L.R.R. 701 (1941).

⁴¹ *Strike Restrictions in Union Agreements*, 52 Monthly Lab. Rev. 546 (1941); see also *Packard Motor Car Co.—United Automobile Workers and Federation of Architects, Engineers, Chemists and Technicians Agreement*, 8 L.R.R. 90 (1941); *Sperry Gyroscope Co.—Brotherhood of Scientific Instrument Makers of America Agreement*, 8 L.R.R. 591 (1941); *General Motors Corp.—United Automobile Workers Agreement*, 6 L.R.R. 591 (1940).

⁴² "During the life of this agreement no strikes shall be caused or sanctioned by the Union and no lockouts shall be made by the Company. Any action of the employees in refusing to go through a picket line in case of an officially declared strike by some union directly working on the job, if said strike is sanctioned and approved by the Seattle Central Labor Council and Local No. 751 of the Internat'l Ass'n of Machinists, shall not constitute a violation of this clause of the Agreement." *Boeing Aircraft Co.—Internat'l Ass'n of Machinists Agreement*, 7 L.R.R. 106 (1940).

"There shall be no strike or other curtailment of production, nor shall there be a lockout, because of any dispute or grievance which is subject to arbitration or because of any labor dispute in which the Company is not involved, provided that the Company shall not require any employee to work on any ship moved from a shipyard which is on strike." *Maryland Drydock Co.—Industrial Union of Marine and Shipbuilding Workers of America Agreement*, 6 L.R.R. 851 (1940).

"There shall be no strikes, lockouts or stoppages of work during the term of this agreement, it being the intent of the Employer and the Union that all controversies or disputes shall be settled amicably and harmoniously. Refusal to pass through picket lines established by reason of disputes between the Employer and other unions whose members are employed on the vessels covered by this agreement shall not be construed as a violation of this agreement." *Puget Sound Navigation Co.—Inland Boatmen's Union of the Pacific Agreement*, 6 L.R.R. 713 (1940).

⁴³ "The Union will not cause or engage in or permit its members to cause or engage in, nor will any member of the Union take part in, any sit-down, stay-in, slow-down, or sympathy strike in the plant of the Company, or any curtailment of the work or restriction of production or interference with production of the Company. . . .

"The management will not cause or sanction a lockout." *Brewster Aero. Co.—United Automobile Workers Agreement*, 8 L.R.R. 155 (1941).

⁴⁴ "The Union and the employees agree that they will not call, engage in, participate in or sanction any . . . picketing, stoppage or retarding of work, refusal to handle merchandise,

there has been a trend in union agreements toward the inclusion of such provisions, insuring uninterrupted production.

The provisions for the handling of grievances and the arbitration of unsettled disputes have similarly varied with the custom and individual preferences of particular employers and unions.⁴⁵ Most of the differences have not been vital. Practically all agreements have detailed a procedure for the adjustment of complaints, showing to whom the complaints shall be submitted, who shall first attempt a settlement, and to whom an appeal shall be taken. The important element has been the joint participation of employer and employee representatives in an informal, speedy, and inexpensive process.

For disputes that remain unsettled, there has been an increasing resort to arbitration. Some employers and unions have hesitated to refer all matters to arbitration, some limiting arbitration to violations of the agreement, others to interpretations of the agreement, others to the subjects covered in the agreement.⁴⁶ Still other employers and unions have agreed to maintain uninterrupted production by submitting to arbitration all disputes of any nature, whether arising out of their existing agreement or out of an effort to renew or revise an agreement. The machinery employed for arbitration has varied from bi-partisan boards with an impartial chairman to an individual arbiter. When the neutral person has not been designated, the agreement has usually indicated the manner of his selection by a federal, state or other outside agency.⁴⁷ The arbitration tribunals have been created for individual cases or established as permanent systems of arbitration. Occasionally the agreements have specified rules of procedure for the arbitration but most of the agreements have left this to the discretion of the arbitrators.⁴⁸

Union agreements banning strikes and referring disputes to the chan-

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machinery and equipment or any other interference with the operation and conduct of the Employer's business for any reason whatsoever. . . .

"The Union and the employees further agree that they will not call upon the Employer to participate or assist in the enforcement of any public or silent boycott against any product used by the Employer." *Sperry Gyroscope Co.-Brotherhood of Scientific Instrument Makers of America Agreement*, 8 L.R.R. 591 (1941).

⁴⁵ See *Arbitration Clauses in Contracts*, 8 L.R.R. 365 (1941) where a number of defense agreements are analyzed; see also *Contract Clauses on Arbitration, Seven Provisions Are Formulated by American Arbitration Ass'n for Incorporation in Agreements where the Ass'n Is to Be Asked to Provide Services*, 10 L.R.R. 81 (1942).

⁴⁶ Bureau of National Affairs, *Collective Bargaining Contracts* 132-36 (1941).

⁴⁷ *Ibid.*, at 116-32.

⁴⁸ *Ibid.*, at 137-40.

nels of grievance procedures, conciliation and arbitration have been encouraged by the National Defense Mediation Board⁴⁹ and more recently by WLB. Although the President has indicated his readiness to exert his war powers in overcoming an open defiance of such procedures,⁵⁰ it is the policy of the Administration to seek voluntary resort to such procedures expressed in union agreements.⁵¹

Most of the foregoing discussion has dealt with terms of employment traditionally part of union agreements. The war, however, has brought forth novel situations that call for provisions and techniques heretofore given scant attention. The exigencies of military service, production planning and government supervision are such situations. In all these matters, union agreements may be utilized to formulate satisfactory policies and to enlist cooperative effort.

MILITARY SERVICE PROVISIONS

Union agreements have recognized the inevitability of a great exodus of men from industry to the armed forces and the eventuality of their return. To mitigate some of the hardships involved in the workers' separation from employment and to facilitate their return to work, several agreement clauses have been devised.⁵²

Some agreements have given cash payments or other benefits to employees who leave for military service. This supplemental pay usually has been limited to a certain amount and to a certain time.⁵³ For employees

⁴⁹ The Pattern of NDMB Settlements, 8 L.R.R. 700 (1941).

⁵⁰ Military occupation of a plant was ordered by the President in three cases under NDMB and three more under WLB. Report on the Work of NDMB from March 19, 1941 to December 7, 1941, at 7.

⁵¹ In its final report NDMB said, "The principal purpose of the creation of the Board is contained in the last words of the Executive Order of March 19: 'to avoid strikes, stoppages and lockouts.' This objective was pursued directly and temporarily by relieving the strike rash or more lastingly by the preventive medicine of furthering sound collective bargaining. The Board followed both these techniques, mindful always that an agreement willingly reached is more enduring than one arrived at under undue influence of any sort." Ibid.

⁵² Military Service Provisions of Union Agreements, Study No. 7 of the Div. of Industrial Relations of the Graduate School of Business, Stanford University (2d Memo 1940); Seniority Policies and Procedures as Developed through Collective Bargaining, Industrial Relations Section, Dept. Economics and Social Institutions, Princeton University (1941); Browne, op. cit. supra note 7, at 41-44; War Clauses in Collective Bargaining Contracts, 7 L.R.R. 461 (1941).

⁵³ A unique variation of such a provision exists in the Vultee Aircraft, Inc.-United Automobile Workers Agreement, 7 L.R.R. 321 (1940) which provides for supplemental pay in case the Army or Navy takes over the plant. "If one or more employees are conscripted by the Army or Navy and assigned to work at their present positions with the Company, and if the entire plant of the Company is not conscripted and taken over by the Army or Navy, the com-

disabled so they cannot return to work, severance pay has been provided. Group insurance has also been continued within the limitations of coverage permitted by the policies.⁵⁴ Many of these provisions were drafted prior to this country's declaration of war and were designed to care for selectees in training for short periods of time, but it may be advisable to adapt such agreements to war conditions.⁵⁵

Many union agreements have sought to give the employee who goes to war an assurance of job security when he returns. This has been done primarily through clauses, preserving his seniority rights and promising him re-employment.⁵⁶ The Selective Training and Service Act of 1940⁵⁷ establishes similar rights to re-employment, but it is possible to provide

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pany will pay to such employee the difference between their present salary and the base rate of pay plus living expenses that will be paid to them by the Army or Navy."

A proposed clause in a model contract of the American Newspaper Guild follows: "The publisher agrees that all employees who leave their posts to serve in the armed forces of the United States or their adjuncts, shall receive full salary during the period of that service less any salary which may be paid to them for the service. The publisher further agrees that such employees shall be granted the same posts immediately upon their return with severance pay rating and other rights under this agreement unimpaired."

⁵⁴ "Any employee on the seniority list, who is now covered by group life insurance shall continue to be protected by this insurance while in the military service and while this country is now at war, and the Company will pay the premium for those men during this period." Advance Pressure Casting, Inc.-National Ass'n of Die Casting Workers Agreement, 7 L.R.R. 231 (1940).

⁵⁵ "It is agreed, however, that the corporation shall discontinue paying the premiums on the group life insurance of any such employee if and when the United States Government commences to carry life insurance on the lives of persons engaged in military service and training, or in the event an increase in premium charges is put into effect by the insurance company, or in the event the group life insurance policy protection on the lives of persons engaged in military service and training is discontinued by the group life insurance company with which the corporation has contracted for group life insurance." Chrysler Corp.-United Automobile Workers Agreement, 7 L.R.R. 491 (1941).

⁵⁶ "Any employee who is called into active service, or who in time of war volunteers in the armed forces of the United States shall be given a leave of absence for, and will accumulate seniority during such period of service, and upon the termination of such service will be re-employed, provided he has not been dishonorably discharged and is physically able to do available work in line with his seniority, at the current rate for such work, and provided that he reports for work within 60 days of the date of such discharge." General Motors Corp.-United Automobile Workers Agreement, 6 L.R.R. 591 (1940). For other clauses of similar character, see Packard Motor Car Co.-United Automobile Workers Agreement, 8 L.R.R. 88 (1941); Brewster Aero. Co.-United Automobile Workers Agreement, 8 L.R.R. 155 (1941); King Powder Co.-United Mine Workers of America Agreement, 7 L.R.R. 206 (1940); Maryland Drydock Co.-Industrial Union of Marine and Shipbuilding Workers of America Agreement 6 L.R.R. 831 (1940); Postal Tel.-American Communications Ass'n Agreement, 7 L.R.R. 84 (1940); Vultee Aircraft, Inc.-United Automobile Workers Agreement, 7 L.R.R. 323 (1940).

⁵⁷ 54 Stat. 890 (1940), 50 U.S.C.A. § 308 (Supp. 1941).

through union agreements for more extended periods in which to apply for re-employment and for more liberal protection than exists under the qualified language of that statute.

Union agreements may also protect servicemen and their unions from a loss of organizational rights and powers because of a depletion of their ranks by the war. The agreement may provide that persons engaged to take the places of men called to military service shall be temporary employees hired only for the duration of the war. This might discourage rival unions from attempting to use the new employees for jurisdictional strife and might make it impossible for the new employees to dislodge the remaining members of the union from their bargaining position. Likewise, in order that deferments from military service may be obtained for essential union officials and may not be used to discriminate against union members, it has been provided that certification for deferment shall be made with the mutual consent of management and union representatives.⁵⁸ Although such provisions appear motivated by the self-interest of small groups or a few individuals, they may serve to eliminate industrial disputes and to elicit more willing service in the armed forces.

WAR PRODUCTION PLANNING

For many years, workers' participation in management has been a term to conjure with. Radical unionists and conservative businessmen saw in it the beginning of a new economic order, a promise which filled the one with hope and the other with horror. Leaders of most unions, however, dealt with rules of production in an opportunistic fashion, to gain whatever advantage they could in standards of work and living for their members. Employers generally resisted such union demands as encroachments upon the prerogatives of ownership, yet they made many concessions. Some of these old attitudes linger on, but the war is casting a new light upon management-labor cooperation in the planning of production.

At the outset of the defense program, certain leaders of organized labor called attention to the large quantities of unused plant capacity and unemployed man power available for war production. CIO suggested the creation of industry councils, representative of management, labor, and the Government,⁵⁹ and AFL sought labor advisory committees integrated

⁵⁸ Brewster Aero. Co.-United Automobile Workers Agreement, 8 L.R.R. 155 (1941).

⁵⁹ See Murray, *Survey of the Steel Industry* (1941); Reuther, *500 Planes a Day* (1941); *Report on Increased Production of Vital Non-Ferrous Metals* (1942) (a research report by the Internat'l Union of Mine, Mill, and Smelter Workers).

into Government agencies⁶⁰ as the media for planning maximum production. These committees were not established, but the Labor Division of OPM, in which organized labor was influential, proposed a plan for farming out contracts to the idle small shops of the country.⁶¹ The practice of spreading Government work through subcontracts was so helpful that the program was expanded until it assumed proportions requiring a separate administrative agency within OPM.⁶² Labor's early insistence upon this production technique and its acknowledged soundness led to persistent proposals of management-labor cooperation in the planning of war production.

WPB has sought to capitalize the advantages of joint labor-management planning through the establishment of War Production Drive Committees in all plants engaged upon war work.⁶³ These committees have been designated by employers and employees, and where the workers have been organized the work of the committees has become a regular union activity. The official plan book released by WPB has suggested that the joint labor-management committees direct their attention to 1) taking care of tools, 2) preventing breakdowns, 3) cutting down accidents, 4) good lighting, 5) maintenance and repair, 6) adapting old machines to new uses, 7) cutting wastage, 8) breaking production bottlenecks, and 9) using every machine to the fullest extent.⁶⁴ Wherever necessary subcommittees are to be established for these several functions. This program has not been promoted as a mere publicity campaign. It has been urged as a permanent production drive for the duration of the war. By August 15, 1942, 1,255 plants had reported active joint labor-management committees.⁶⁵

From these committees have come numerous ways and means for improving and accelerating production. Through posters, slogans, charts, and plant publications, they have spurred workers on to meet and exceed the goals of the war production program. They have reduced absentee-

⁶⁰ A.F. of L., Report of the Proceedings of the 61st Annual Convention, 141, 204-5, 539-41 (1941); Declaration of A.F. of L. Policy on War, 49 American Federationist 10 (1942).

⁶¹ Farming-out Bulletins Nos. 1-5, Labor Div., OPM (1940).

⁶² See Defense Contract Service, Production Div., OPM (1941).

⁶³ This program is described in a letter from Donald M. Nelson to the President, WPB Release No. 387 (February 27, 1942); see also radio address of Mr. Nelson, WPB Release No. 403 (March 2, 1942); letter from Mr. Nelson to all prime contractors, WPB Release No. 455 (March 6, 1942); call for regional conferences, WPB Release No. 537 (March 15, 1942).

⁶⁴ WPB, Production Drive Official Plan Book (1942).

⁶⁵ WPB, Weekly Report of Progress of the War Production Drive (August 15, 1942).

ism; they have saved materials; they have brought forth from the men in the plant suggestions for new processes and new tools that have drastically reduced the man-hours required for certain tasks. In recognition of such services, the Government has devised a system of awards for the outstanding "production soldiers." How effective this joint labor-management scheme will be in the total planning of war production remains to be seen, but its possibilities appear to be legion.

In the longshore industry on the Pacific Coast, the president of the International Longshoremen's and Warehousemen's Union sought to plan production with the employers and offered to withdraw all of the objections of his union to labor-saving devices, to permit special crew work and to waive all working rules inconsistent with maximum production.⁶⁶ Though at first greeted favorably by the employers' representatives, this proposal was later rejected. The union persisted, however, in its efforts and finally induced the Administrator of the War Shipping Administration to establish a Pacific Coast Maritime Industry Board, consisting of an impartial chairman, two representatives of the operators, and two representatives of the longshore unions on the Pacific Coast. This board was given power "to coordinate the efforts of the employer and employee groups on the Pacific Coast for the purpose of increasing efficiency in loading and discharging vessels in that area."⁶⁷

These approaches to production planning through management-labor cooperation may be spread more widely and more effectively through union agreements. Such agreements may provide specifically for adjustments in working relationships indispensable to the success of the program. Their possible contributions to the planning of production may be demonstrated by indicating a few of the problems in need of solution.

In some industries, there have evolved union working rules which have the effect of limiting or spreading production. These were designed to protect employment and income in periods of depression and many are limited to periods of slack business activity. Others not so confined are at present an obstacle to maximum war production. The union agreements which contain them should be revised, and many steps in that direction have been taken.⁶⁸

⁶⁶ The minutes of the Longshoremen Section of the Conference To Determine Policy, U.S. Maritime Com'n, contains copies of the proposals and counter-proposals made. See 5 Labor Herald 1 (December 19, 1941).

⁶⁷ General Order No. 5, U.S. War Shipping Admin. (March 11, 1942).

⁶⁸ The proposals of the International Longshoremen's and Warehousemen's Union for labor-management planning of production suggested that a joint council be empowered to "recommend and aid in putting into effect through the collective bargaining machinery of existing

Many employers, seeking to preserve some of their normal operations and to retain some of their old customers as an assurance of post-war business, have refused to convert their plants to war production as rapidly as our military needs require. In this position, they have often been supported by workers fearful of unemployment during the period of retooling and plant reorganization. The apprehensions of both these groups have been allayed somewhat by government contracts and labor training programs, but the participation of both employers and employees in the development of plans that provide for the needs of both has reduced much of the cost and hardship involved in industrial conversion and has hastened the necessary adjustments. Such plans have been developed, with Government aid, for geographic localities like Buffalo, New York,⁶⁹ and the State of New Jersey⁷⁰ and for industries like rubber⁷¹ and silk.⁷² This technique of war industry planning has been overlooked in the recent reorganizations of WPB, but its potentialities for good are still far from exhausted.

Some of the government contracts for war work have encouraged expensive and uneconomical practices. The abuses of the World War I cost-plus-a-percentage-of-the-cost contracts have been largely overcome, but some of the current cost-plus-a-fixed-fee contracts offer little or no inducement to economical production. A few of these contracts, for the loading of ships, have given the contractor a supervisory fee based on the amount of labor employed so that by prolonging the task and increasing the number of man-hours of work the contractor was able to increase his profit.

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union agreements changes in or suspensions of working rules that interfere with maximum production in loading or unloading war materials and supplies aboard ships." Letter from H. B. Bridges to Capt. E. Macauley, U.S. Maritime Com'n, December 11, 1941.

The following agreement confers general powers upon the employer: "The Union agrees to accept the standards of production as established by the Company. The Union also agrees that members of the Union shall perform their duties in accordance with the established standards of time and quality.

"The policy regarding speed of operation shall be discussed with the Chief Steward. The employee shall not be held responsible for time lost while he is in the plant for breakdown or any slowing up of production that is not the employee's fault.

"This does not prohibit the Company from effecting economies by the installation of improved methods or design." Packard Motor Car Co.-United Automobile Workers and Federation of Architects, Engineers, Chemists, and Technicians Agreement, 8 L.R.R. 89 (1941).

⁶⁹ OPM Release No. AD-2 (September 23, 1941).

⁷⁰ OPM Release No. PM-1148 (September 13, 1941).

⁷¹ OPM Release No. PM-1103 (September 7, 1941); OPM Release No. PM-1861 (December 18, 1941).

⁷² OPM Release No. PM-1101 (September 6, 1941); OPM Release No. PM-1175 (September 17, 1941); OPM Release No. PM-1182 (September 18, 1941).

The utilization of employer-union committees to plan production has served as a check upon such practices.⁷³

In all of these situations it is possible to eliminate the restrictions upon war production through joint management-labor planning. Although government assistance may be highly desirable, the cooperation of management and labor as expressed in collective bargaining agreements assures faster action and continued support for the adjustments required by the war program.

GOVERNMENT SUPERVISION

The tremendous powers of a war government and its responsibility for the successful prosecution of the war are a great temptation to the exercise of absolute and arbitrary controls. The heads of our war agencies, however, have recognized the importance of maintaining our democratic traditions, so that time and again they have chosen to seek voluntary cooperation rather than resort to compulsion. In the field of labor relations they have encouraged collective bargaining and sponsored union agreements.

The work of the Shipbuilding Stabilization Committee is an outstanding example of how a Government agency has served the war program through the device of collective bargaining agreements.⁷⁴ That committee convened the representatives of industry and labor in regional conferences and assisted them in the formulation of basic terms of employment which were later incorporated into individual employer-union agreements. Wage scales, hours of work, grievance procedures, and arbitration machinery were established uniformly within competitive areas. The industry was thus spared the turmoil of competitive turnover. At a later date the President proposed a twenty-four-hour, seven-day production schedule, and that plan of operation was likewise adopted by union agreement. Still later it became apparent that the adoption of plans for continuous production would be facilitated by foregoing double pay for Sundays and holidays, when such days were merely part of a regular six-day week; and that change was also made by agreement in many of the shipyards. More recently, the wage scales were scheduled for an increase in accordance with a cost-of-living clause in the agreements.⁷⁵ In order to counteract inflation, the President requested the shipyard workers to relinquish their

⁷³ General Order No. 5, U.S. War Shipping Admin. (March 11, 1932); The Minutes of the Longshoremen Section of the Conference To Determine Policy, U.S. Maritime Com'n 3-11 (December 19, 1941).

⁷⁴ See the pamphlet of the Labor Division, OPM, entitled *Ships for Freedom* (1941).

⁷⁵ WPB Release No. 46 (January 27, 1942).

rights to that increase, and again, in a collective bargaining conference, the agreements were revised in the interest of the war program. The record of the Shipbuilding Stabilization Committee is an imposing illustration of how collective bargaining has been utilized to stabilize production and to adjust it to changing needs in one of the most vital of war industries.

In the field of public construction also the Government has recognized the force of collective bargaining. For many years the Government had been determining wages and hours on public works and might have continued to do so without further consultation with organized labor. Instead, the contracting agencies, acting through OPM, negotiated an agreement directly with AFL building trades unions.⁷⁶ The Government gave the unions the assurance of union wages on construction jobs in rural centers where the local supply of labor was inadequate, and the unions agreed not to strike and to accept time and a half pay for overtime where they had formerly obtained double pay. Later when the Government sought to check wage increases, another agreement freezing wages as of July 1, 1942, was made with the construction unions.⁷⁷ A Wage Adjustment Board, representative of all parties, was established to settle disputed claims and it has disposed of all grievances amicably. Thus in one of the least coordinated and most competitive war industries, union agreements have served as a stabilizing force.

The technique of the Government in stimulating collective bargaining as a war measure is still in an empirical stage. As indicated above, WPB (formerly OPM) has been convening employers and employees to plan for the conversion of plants and the training and re-employment of workers. The agreements reached have been informal, but the obligations undertaken have generally been fulfilled, with the active cooperation of the Government. The plan of WPB for establishing management-labor production committees also calls for informal agreements. The implementing of these working arrangements by specific provisions in union agreements is a possibility to be explored by the parties involved as their experience with such Government inspired arrangements increases.

What has been said above presents merely the potentialities of union agreements as a weapon of war. There is no certainty that these possibilities will be realized. Inherent in the nature of collective bargaining is the fact that union agreements will contain the imperfections as well as the excellent qualities of the people who negotiate them. But the writer knows

⁷⁶ Government-AFL Building Pact, 8 L.R.R. 764 (1941).

⁷⁷ Wage Rise Limits in the Building Industry, 10 L.R.R. 442 (1942).

of no alternative, whether it be Government decree, military rule, employers' will, or the free interplay of competitive forces, that is not subject to the same frailties in the same or greater degree. Collective bargaining is one of our accepted social institutions, part of our democratic way of life. Its potential values for our present crisis are well worth exploiting.

One further look ahead may be ventured. It may be premature to draw blueprints of the peace that will follow this war, but it cannot be too early to realize that we are certain to face grave problems at the end of the hostilities. The conversion back to the industries of peace may be a greater task than the conversion from peace to war. In the post-war period we may not have the pressure of time and an aggressive enemy, but at the same time we shall not have the powerful emotional forces and the simple purpose that unify our nation at war. We are likely to be torn into bitter factions over whether we should cease Government spending at once or continue Government planning and regulation. We will be in need then more than ever of groups of citizens trained to participate in their civic and economic affairs. Such groups may be prepared today among the managers and workers in industry through the practices of collective bargaining. The very measures suggested above as measures for war would prepare groups to meet the problems of industry in peace. The practices of collective bargaining habituate employers and employees in patterns of behavior—patterns of cooperative action, patterns of resolving conflicting interests, patterns of personal responsibility, patterns of voluntary action—patterns that will not only help win the war but that also will help preserve our democratic future.