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AMERICAN TRADE UNIONS AND SOME EXPERIENCES WITH VARIOUS GOVERNMENT AGENCIES

Presented as part of a course of lectures conducted by the Welfare Ministry in Tokyo on 10 October 1946.

by
Richard L-G. Deverall
1st Lt., CMP, Chief
Education Branch

ECONOMIC AND SCIENTIFIC SECTION
LABOR DIVISION
GHQ

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AMERICAN TRADE UNIONS AND SOME EXPERIENCES WITH VARIOUS GOVERNMENT AGENCIES

General Principles

The American system of government is based on the idea that the people are sovereign, that government is the creature of the people. For this reason, the Government is said to be *of* the people, *for* the people, and *by* the people.

Government is *of the people* because the officers of government, the leaders, the clerks, and so forth, are drawn from the ranks of all the people. No one group of persons in America has a monopoly of all government jobs. No one class dominates the appointment of government officials.

Government is *for the people* in that the express purpose of all government measures is to promote the common welfare and secure the development of peace and security for all the people. At times, the government may be authorized to give special service to specific social and economic groups, but even then, the general purpose is the common good of the American people as a whole.

Government *by the people* simply means that any person has the right to run for any political office provided that he is an American citizen and fulfills certain basic requirements. Any person can run for political office, and any person can aspire to any administrative or judicial post. Because of this, the government of the people of the United States includes persons of all races, creeds, political affiliations, and all levels of social and economic society.

Administrative Agencies

Government in the United States functions on three general levels. At the top, there is the national government in Washington, with the Executive Branch, the Judicial Branch, and the Legislative Branch. In each state, there is a state government with sovereign powers in many fields which functions along the same lines. In each city or town, there is a local government also operating in the same manner, although on the local level there are many different forms which this may take.

The trade unions in America are directly concerned with the three Branches of government. For instance, in the enforcement of labor laws, the unions will file cases with local courts. If they are not settled on the local level, the cases may end in the Supreme Court of the United States. That means the appeal by the unions to the highest judicial authority in the United States for a final decision.

In the same way, the unions may desire certain protective legislation, or they may object to certain features of proposed or current legislation. The trade unions then deal directly with the Legislative Branch of the government, bringing their pressure to bear upon the Senators and Representatives in the Congress of the United States.

Regarding the Administrative Branch, or Executive Department of the Government of the United States, the trade unions establish relations with the advisers to the President of the United States, and also establish liaison with the various Executive Agencies, such as the Department of Labor, the Department of the Treasury, the Department of Commerce, the Post Office Department, the State Department, and others of the Executive Departments of the Government of the United States.

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It is interesting to notice that nearly every national union in the United States has a special representative stationed in Washington, called a legislative representative. This man is usually quartered with the top AFL or CIO organization, and his job is to present the views of his trade union to the Congress, as well as to the various administrative agencies of the Executive Branch. He also will keep a close watch on the agencies which deal with matters affecting workers in the particular trade union, and the legislative representative will send frequent reports to the membership of the union on the actions of both Congress and the Executive Agencies.

Within the Executive Agency of the Government there are also innumerable Boards and Commissions which deal with labor, such as the Social Security Board, the National Labor Relations Board, and others. Since many of these commissions and boards deal with legal problems, the national union, through its legislative representative, will keep in close touch with the national AFL, CIO, and Railroad Brotherhood attorneys, and together, they will maintain liaison with the special agencies.

This close liaison at the top level is very important, for it means that the rank-and-file are kept informed on developments in Washington of a judicial, administrative, or legislative nature. It also means that the rank-and-file are able to speak through their own Washington representative with the legislative, judicial, and administrative branches of the national government.

Let us consider a few examples of such cooperation, or the two-way flow of suggestions, complaints, demands, and other actions.

Legislation — A bill is coming before Congress which is of interest to the trade unions. Each legislative representative will inform his membership of the nature of the bill, and in time, the trade union will develop its policy on the bill. When public hearings on the bill are held, each of the legislative representatives will appear before Congressional Committees, and explain, with facts, which features of the bill are endorsed by labor, which features should be stricken from the measure and explain why this should or should not be done. This sort of constructive criticism of current legislation is coordinated by the top labor federations, but each national union presents its own views on the subject.

Likewise, when a certain piece of important legislation is needed, the legislative representatives and the national unions may undertake to propose a bill, and it will then be introduced into the Congress by a member of Congress who is friendly with the labor movement.

Within the administrative agencies, there is constant liaison between the unions and the administrative agencies. Perhaps a certain labor union is holding a Summer School for its workers in the State of Wisconsin. The Washington representative will contact the Department of Labor and arrange for a representative of the Department to attend the Summer School, and give a course of lectures on the functions and services offered by the Department. Another administrative agency of government will be asked to present a course on diet and nutrition, while still another will be asked to present a course on credit unions and cooperatives. Indeed, in American trade union experience, the various government agencies in Washington, because of constant trade union requests, have developed Information Services within their respective agencies which provide literature, pamphlets, exhibits, movies, and speakers for the trade union movement.

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Another example of the same type of activity is found in the national housing program of the United States, administered by an executive agency, the National Housing Administration. The unions make studies of vitally needed housing in certain important industrial areas, and by constant liaison with the housing officials, they are able to secure allocations of funds for the given area. In some areas, because of union interest in the problem, the government will meet with worker committees, determine the type of houses they want, and even form a joint committee with the trade unions to aid in the development of the right kind of houses. Likewise, when the time approaches for more appropriations for the housing agency, the trade unions will tell Congress the sort of a job that has been done and will make demands on Congress for additional appropriations of public funds for housing. Thus, the housing agency is of service to the trade unions, and the trade unions work with the housing agency to carry on continued and expanded activities.

Price Control and Rationing — Because of the importance of price control and rationing, the AFL, CIO and Railroad Brotherhoods have set up in Washington a Cost-of-Living Committee, which works closely with the Office of Price Administration. When certain interests in America wanted to abolish price control, this trade union committee played a vital role in defending price control, in arranging for publicity on the cost-of-living situation, and in fighting for continued price and rent control. As unions find regional areas where prices are not being controlled properly, this committee receives the complaints and presents the facts to the Office of Price Administration in Washington. When OPA is having trouble in enforcing its price ceilings, it will appeal to the trade union members to aid in enforcement.

You see, on all levels of government enforcement of the laws, the executive agencies both service the trade unions and ask the trade unions for support. As a result, the trade union members and the people appreciate that the government is their servant, and that laws must be made to work for the common people, and not just for a few. This is done by constructive criticism, suggestions, and aid to the government agency on the part of the labor union.

National Labor Relations Board — During the early years of the Roosevelt Administration, the Congress of the United States passed the Wagner Act, which established the right of the workers to organize unions of their own choosing for purposes of collective bargaining. In the beginning some employers refused to recognize the law, and developed test legal cases. Cases went before the lower courts, and after very expensive legal battles, some finally went before the Supreme Court of the United States. After lengthy deliberation and a furious debate in the public press of the United States, the Supreme Court finally declared the Wagner Act to be the law of the land, and from that time forward the employers had to obey the law. If they refused, they faced court action and punitive measures.

Now from the beginning of the National Labor Relations Board, the trade unions used it in the development of their organizational strength. They studied the Wagner Act, and they used every feature in order to file cases with the N. L. R. B. Gradually, as the months went by, the unions began to win victories. Slowly, precedents were established and the unions became firmly established in the legal framework of the country, their rights secured by legal decisions backed up by the Supreme Court. Many of the people employed by the N. L. R. B. came from the trade union movement, and likewise

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many men who worked for the N. L. R. B. later secured important administrative and legal positions with various trade unions. In fact, before many important N. L. R. B. posts are filled, the name of the person proposed for the job will be presented to the labor unions, to give them an opportunity to express their opinions regarding the nominees.

Many times an appeal to the NLRB and a strong decision by the NLRB are the factors that have saved many unions in the early stages of their organization.

Department of Labor — The United States Department of Labor is one of the largest of the agencies of the Executive Branch of the Government of the United States. In a previous lecture, Mr. Korb has outlined the nature of its work. Suffice it here to point out that many trade union members have gone to work for the Department, and many young men and women trained in the Department have secured trade union administrative and organizational positions. The activities of the Department are under constant trade union scrutiny. Likewise, the trade unions assist the Department on special jobs, nominate new employees, and make full use of the many services of the Department.

Perhaps the Bureau of Labor Statistics of the Department of Labor is one of the most widely used by the trade union movement, for the Bureau furnishes accurate information used by the trade unions in their collective bargaining conferences with management. Much of the information given to the trade unions by the Department of Labor would take the union months to collect. The Department gives it to the unions free of charge and is glad to be of service.

On the State Level — Most of the States have their own Departments of Labor, which are operated in the interests of the labor movement within the state. Where unions are strong, as in Michigan, the Director of the Department is usually nominated by the trade unions and will be a trade union man. Likewise, the important policy people within the State Department of Labor will be either professional men or people from the labor movement. Many a young man and woman has learned about the trade union movement on the local level, has attended labor schools, and later joined with the State Department of Labor. Thus, the trade unions, by developing secondary leadership, contribute sound workers to the government, and through this, they are sure of sympathetic treatment when they go the the Labor Department for help.

The States also have Unemployment Compensation Commissions which administer the Unemployment Compensation Payments to workers who are temporarily unemployed. The unions cooperate with this important part of the State government by having representatives of the government appear before local union meetings in order to inform the membership of their rights. In the same way, when a plant faces a shut-down, union officials will at once inform the Unemployment Compensation people so that provisions can be made to handle the heavy load when and if it develops.

The States have housing commissions, and price control boards, and, in many states, the trade unions have their representatives sitting in on the boards, taking part in the decisions, and representing the labor movement.

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As with the national government, the major unions in a given state will usually pool their resources and maintain one or more legislative agents in the State capitol. Their job is to maintain liaison with the legislative, judicial, and executive agencies of the state government. They push legislation of interest to the trade unions, and they represent their unions before the various agencies of the state government.

A good example of such cooperation with Government is found in the Ford Motor Company strike of 1941. For some ten years previous to the strike, Ford had maintained a firm "no union" policy in all of his plants. A private police force and the use of violence had supported Ford's dislike of labor unions. However, early in 1941, the CIO and AFL had carried organization forward in the Ford plants to such a point that a decision would soon be reached. The CIO determined to precipitate the issue, and in the Spring of 1941, after a number of union leaders were fired by Ford, the CIO called a strike. Before the strike began, the unions informed all government agencies, the police, and the Governor. They explained what they were fighting for. As a result of this close liaison, neither the Governor nor the police interfered in the short but bitter strike. Ford capitulated, agreed to permit his workers to join a union. However, the question of AFL or CIO was still in the air, so the CIO took the case before the National Labor Relations Board, which held a democratic election in the plant a month after the strike. The CIO won the election, the union was established, and since then, the Ford Company and the United Automobile Workers, CIO, have enjoyed excellent contractual relations. In fact, after the strike, Mr. Ford called in the head of the union and said: "For many years, I honestly did not think our workers wanted to join a union. The vote has proven that I was wrong. You are now the leader of my workers. Let us work together and have one of the finest trade unions in America..."

The point is that the union played a very important part in winning the victory, but it could not have done it without the support and sympathy of the Governor of the State, the police, and the immediate action of the National Labor Relations Board. Together, the law was enforced, the issue was settled, and the rights of the workers were upheld, their conditions improved considerably. Interestingly, a few years later, court decisions were made awarding millions of dollars to the workers who had been beaten by Ford private police, as well as to workers who had been fired by Ford for union activities.

Most of the states also operate local conciliation, mediation, and arbitration services, and in many union contracts it is specified that if an arbitrator is to be chosen, the list of names to be submitted for selection by union and management will be drawn up by the head of this state service.

The States also operate many public universities and colleges, and the trade unions in America have found that after a sympathetic approach to the problem, the State College will set up a training school for workers, operate a Summer School, and in other ways aid the workers in developing their intelligence and knowledge of the labor movement. In strongly unionized cities such as Detroit, the universities will operate classes for the union, teaching parliamentary procedure, public speaking, labor law, and other basic subjects.

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On the City Level — Cooperation between the trade unions and city government is much more personal and lclose, but it follows the same pattern as with national and state government. Trade unions arrange with the City Department of Education for use of High School auditoriums for union meetings and rallies. The school system will open its doors to trade union classes at night or during the summer, in many states, if the trade unions just ask for the service.

City housing authorities are very agreeable to union suggestions as to how housing should be carried on in the city. In Detroit, the Director of the Housing Commission of Detroit has for years been a trade unionist. Many of the plans for new housing developments in Detroit are first submitted to a union housing committee for suggestions, criticism, and advice. Such a degree of cooperation can only be obtained when the trade union movement is convinced that all government is *of* the people, *by* the people, and *for* the people.

In large cities, during an economic crisis, the trade unions set up welfare and relief committees, which work with the city welfare departments to see that money and food is distributed to the right people at the right time. Frequently, the persons who administer the relief program are trade unionists.

These relations between the various agencies of the government on all levels and the trade union movement is a vital part of democracy. If the workers do not trust their government and refuse cooperation with the government agencies, they preclude any sympathetic help from the government agencies. Faith in the government and confidence in the government agencies is something upon which all must work. One cannot come before the other. When the unions offer aid and suggestions to the government, and when the government comes to understand that it must service the trade unions, then and only then can mutual agreement and faith and confidence be developed. If administrative officials and union officials never meet, it is impossible to reach a satisfactory working arrangement. The union, for its own protection should always take the initiative. Even if an administrator is appointed who is completely unfriendly to the trade unions, while protesting the appointment, the union should continue to visit him and try to find at least one point of agreement. After the administrator has come to know the trade union leaders and the legislative agents, he may find that he can use them ... and they can use him. Over a period of months, a satisfactory relationship can be built.

In the same way, as the unions develop intelligent leadership and can suggest various union officials for government posts, the union gradually becomes a real part of the government. Likewise, when the government trains men and women who later enter the trade union movement, a healthy relationship has been developed.

Democracy is founded on the principle of the two-way flow.

- Leaders go from Government into the Trade Unions.
  Trade Unionists go from the unions into the Government.

- Government agencies service the trade unions.
  Trade unions aid and help the government agencies.

- Government criticizes the unions, suggests changes.
  Trade unions criticize the government agencies, and push for changes in administration.

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In a word then, government of, by and for the people will never be given to the people. Government of, by and for the people is only established when the people themselves decide they will make it so, and then go about doing the job in a democratic manner. We feel that American trade union experience has shown that it <u>can</u> be done!

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WORKERS' EDUCATION PROGRAM

The following is the Showa 21 report of the Executive Board of the United Auto Workers, CIO, largest international union in the world. It outlines the educational work being carried on or proposed by the union, and is a sample of the extent and nature of the educational work being carried on by a large American union. This union was founded in Showa 10. This program can be reproduced in whole or in part by any Japanese organization so desiring.

"1. We recommend that there be held an annual 3-day non-legislative education conference pertaining to the education program of the International Union, dealing with the techniques and methods of education work within the framework of the UAW. Prior to such a national education conference, there shall be held regional or sectional education conferences to implement the work of delegates at the national education conference.

"It is further recommended that only members of the education committees, councils, and directors of education programs be delegates to the national education conference.

"It is further recommended that a complete summary of the national education conference be printed and forwarded to all subordinate bodies.

"2. We strongly urge that local union officers call contract conferences of their stewards and committeemen upon the ratification of contracts, inasmuch as in the majority of locals confusion exists among the steward bodies as to interpretation of the various provisions of contracts with their individual plants.

"It shall be the responsibility and duty of local union officers to call sessions of their committeemen, stewards, and local union officers for the purpose of discussing contract clauses and their interpretation. At the conclusion of such a conference, summarized interpretations of each clause shall be distributed to each steward or committeeman.

"3. That summer schools be established where possible on a sectional or regional basis. That every effort be made to lease existing summer camp facilities for use by local unions for education and recreation purposes. Wherever possible, the school session shall be two weeks.

"4. We recognize that visual techniques must be used to a greater extent than ever before in the history of our Union, and this is recognized as one of the best possible methods of education work.

"To further the education work of our union, this Convention instructs the Education Department to use to the fullest degree all of the latest visual techniques so that local union committees can carry their program out to a greater degree. Included in the visual techniques shall be the use of film strips, charts, posters and cartoons.

"5. That cultural activities be promoted through city and area education councils by means of speakers, open forums, community activities, plays, skits, exhibitions, and other means and that the Education Department work in cooperation with the Recreation Department to achieve this end.

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"6. The Education Committee recommends the continuance and expansion of the non-profit Union Book Store and that provisions be made to provide local union libraries with books at a discount. This store should stimulate cultural activities for our union through the preparation of exhibits, displays, etc. We urge all members of the International union to make use of the facilities of their Book Store for themselves, for their local unions and for their communities.

"We commend the Union Book Store for the excellent public relations job it has done through this medium for our International union and the entire labor movement.

"7. We recommend that the U. S. Department of Labor be called upon to set aside money to be used for the making of films needed by labor and also make funds available for workers' education through extension services.

"8. We recommend that the Education Department prepare a correspondence course for the use of education committees in local unions to help them carry out their duties in educating and instructing stewards, committeemen and local union leaders in collective bargaining, parliamentary procedure, labor history and other subjects which are important to the life and work of this union.

"9. The committee recommends that as much space as possible be given in the Auto Worker to educational news and information. This material to be prepared by the Education Department.

"10. We recommend that the Education Department continue its policy of cooperating with all departments of our International union in carrying out the program of the UAW-CIO. We further recommend that the International Executive Board call regular periodic meetings of department heads for the purpose of better cooperation and coordination.

"11. This committee recommends that the Education Department work with the Consumer's Division to establish a full scale program on setting up consumer cooperatives wherever possible throughout the International union. That more publicity be given to cooperatives through local union shop papers, radio programs and at local union meetings.

"12. This committee feels that the Education Department's present policy of developing its work through printed material and other activities should be continued along lines of basic trade unionism. We also urge the continuance of the policy of better illustrations and layout of pamphlets which are being provided for our membership. We urge that local unions make as broad a distribution as possible of all pamphlets issued.

"13. The International Education Department shall promote city-wide education councils for the purpose of assisting the education committees in carrying out their duties within their respective local unions, and helping stewards, officers, committeemen, and potential leadership of the local unions to better carry out their functions and responsibilities.

"14. The committee recommends that "Ammunition" be continued as an official publication of our union. The committee commends the splendid work achieved through this medium and its effectiveness as an educational instrument in meeting

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the education needs of our leadership. We feel the need for expanding the distribution of this publication as far as possible, and to do this we strongly urge that all locals send in complete lists of names and home addresses of all officers, stewards, and members of committees.

"15. The committee commends the work done on radio by the International Education Department in securing free time for local unions on radio stations and for the excellent assistance given to local unions in preparing radio programs and scripts. We urge that the local unions also avail themselves of the instruction facilities of public institutions, schools and colleges to make their radio presentations more effective. That city or area education councils as well as local unions individually, exert all their possible resources to secure regular free time programs on their local radio stations. We urge that there be greater promotion, publicity efforts and support for both local and national UAW and CIO network radio programs, and we urge that all locals and councils take advantage of the assistance offered to them by the International Education Department to provide scripts and help on radio work.

"16. That the International Union have a survey made of subject matters being taught in the public schools in various communities throughout the country to determine whether or not anti-labor influences motivate teachings either in the text books or otherwise and make recommendations of findings to the International Executive Board for action, if necessary, or to prepare a program to counteract anti-labor teachings.

"17. We further recommend that an International Representatives Institute be set up and that it be the responsibility of each Regional Director and International Officer to see that as many International Representatives as possible working under their jurisdiction attend this training institute for a period of not less than one week of each year. The Board Committee will meet with the Education Department and assist in working out necessary details concerning this institute.

"18. It was continually brought to the attention of the Education Committee during its sessions that one of the main faults of our present methods of organizing new members has been the lack of following through with an initiation ceremony and education which would start the new members on the road toward becoming active workers in the ranks of labor. As it is anticipated that thousands of workers will join our union in the near future, it is of importance that these new members be imbued with the principles and purposes for which the UAW-CIO stands. To this end it is recommended that local unions implement the intent of the Initiation Ceremony by establishing within their local unions the following program and procedure:

"(a) Meetings of all new members to be called periodically for the purpose of acquainting them with the history of the local union and their responsibilities as union members.

"(b) That programs for such meetings be arranged between the local union education committee and the local union officers. Each local union education committee prepare an Initiation Kit consisting of the International Constitution, local union contracts with management, local union By-Laws, etc. It is recommended that the International Education Department immediately prepare a pamphlet specifically designed for new members.

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"(c) That the meeting be attended by local union officers and include talks on a short history of the local union, program of the UAW-CIO, and the new member's responsibility to the union in his department, the local union, the political action program, and such other current programs of the UAW-CIO.

"The committee further recommends that the International Education Department be instructed to offer guidance and aid to local unions in establishing the program in this recommendation."

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PROCEEDINGS OF THE DIET

No. XVI (c)

TRADE UNION LAW

We hereby give our sanction to the Trade Union Law approved by the Imperial Diet and cause the same to be promulgated.

This twenty first day of the twelfth month of twentieth year of Showa.

Signed: Hirohito

Seal of the Emperor Countersigned:

Baron Kijuro Shidehara
Prime Minister

Ohuzo Iwata
Minister of Justice

Hitoshi Ashida
Minister of Welfare

Viscount Keizo Shibusawa
Minister of Finance

Takeo Tanaka
Minister of Transportation

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TRADE UNION LAW

CHAPTER I GENERAL PRINCIPLES.

Article 1. The aim of the present Act shall be to raise the status of workers and thereby contribute to economic development through the guarantee of the right of organization and the encouragement of collective bargaining.

The provisions of Article 35 of the Criminal Code shall apply to collective bargaining and other acts of the trade unions which are appropriate, being performed for the attainment of the objects of the preceding paragraph.

Article 2. Trade Unions under the present Act shall be those organizations, or federations thereof, formed autonomously by the workers, with the workers as the main constituents, for the main purpose of maintaining or improving the conditions of work and for raising the economic status of the workers, provided that this rule shall not apply to those:

1. Which admit to membership the employer or persons who may be considered to represent the interest of the employer.

2. Which depend on the employer's aid for the major expenses of the organization.

3. Whose objects are confined to mutual aid work or other welfare work among the members.

4. Which principally aim at carrying on political or social movements.

Article 3. Workers under the present Act shall include those who live by wages, salaries or other remuneration assimilable thereto

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regardless of the kind of occupation.

Article 4. Police, firemen and employees of penal institutions shall be denied the right to organize or to join trade unions.

As regards other government officials, subordinate officials and municipal officials, and those employed by the state or public bodies, separate regulations may be made by ordinance for the application of the present Act, provided that this rule shall not apply to the prohibition of their organizing a trade union or of their joining such as members.

CHAPTER II. TRADE UNIONS

Article 5. Representatives of trade unions shall submit to the administrative authorities within the week after formation of the trade union, its statute and the list of names and addresses of its officers.

When changes occur in the particulars as laid down in preceding paragraph a report thereon shall be submitted to the administrative authorities within a week thereafter.

Article 6. When a report has been submitted in accordance with paragraph one of the preceding article and the union concerned is not in conformity with Article 2, the administrative authorities shall take action in accordance with the stipulations of ordinance following the resolution of the Labor Relations Committee.

The provisions of the preceding paragraph shall apply mutatis mutandis to the case of an organization set up as a trade union which has ceased to conform to Article 2.

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Article 7. The statute of the trade union shall contain at least the following particulars:

1. Name of the union.

2. Address of the main office.

3. If the union is a legal person, statement to that effect.

4. Objects and business of the union.

5. Rules relating to membership or to affiliated unions.

6. Rules relating to meetings.

7. Rules relating to the representatives of the union and other officers.

8. Rules relating to expenditure and accounts of the union.

9. Rules relating to revision of the statute of the union

Article 8. When the statute of a union contravenes laws or regulations, the administrative authorities may order its alteration following the resolution of the Labor Relations Committee.

Article 9. The trade union shall keep a membership list or a list of affiliated unions.

Article 10. Representatives of a trade union or those to whom the powers therefore are delegated by the union shall have the power to negotiate with the employer on behalf of the members of the union for conclusion of a trade agreement or on other matters.

Article 11. No employer shall discharge a worker or inflict disadvantages on him on account of his membership in a trade union.

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No employer shall make it a condition of employment that the worker must not join or must withdraw from a trade union.

Article 12. No employer shall claim indemnity from a trade union or members or officers of the same for damages received through a strike or other acts of dispute which are proper acts.

Article 13. When a trade union intends to use for other purposes the funds specially set up for mutual aid and other welfare work, it shall obtain the resolution of the General Meeting of the union.

Article 14. The trade union shall be dissolved in the following cases:

1. Occurrence of the circumstances requiring the dissolution as provided in the statute of the union.

2. Bankruptcy of the union.

3. Resolution for the dissolution adopted by the General Meeting of the union with at least three-fourths majority of the total membership or of the affiliated unions.

4. The decision taken under the provisions of Article 6.

5. Court action of dissolution order issued in accordance with the provisions of Article 15.

Article 15. When a trade union frequently violates laws and ordinances and disturbs peace and order, the Court may order dissolution of the union at the request of the Labor Relations Committee.

Necessary matters relating to procedure under the preceding paragraph shall be fixed by ordinance.

Article 16. A trade union shall acquire the status of legal person by registering at the place where its main office is located.

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The matters necessary for registration other than were provided in this Act shall be fixed by ordinance.

As regards the matters which require registration for a trade union, they shall have no effect against any third person unless a registration has been effected.

Article 17. The provisions of Article 43, 44, 50, 52-55, 57 and 72-83 of the Civil Code and of Articles 35, 36, 37 clause 2, 126 paragraph 1, 137 and 138 of the Law on Procedure of Non-contentious cases shall apply mutatis mutandis to trade unions which are legal persons.

Article 18. Trade unions which are legal persons shall be exempted from income tax and taxes charged on legal persons in accordance with the provisions of an Ordinance.

CHAPTER III. TRADE AGREEMENTS.

Article 19. The agreement between a trade union and the employer or organization of the latter concerning conditions of work will take effect when the agreement is signed by the parties concerned.

Parties concerned shall submit the trade agreement to the administrative authorities within the week after signing of the trade agreement.

Article 20. No trade agreement shall fix a term exceeding three years.

Article 21. When a trade agreement is signed, the parties concerned shall mutually assume the obligation to cooperate in all sincerity for giving effects to the agreement for the enhancement of efficiency and maintenance of industrial peace.

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Article 22. When a standard is fixed by a trade agreement concerning conditions of labor and treatment of workers (when a special organ exists for fixing such standards in accordance with a trade agreement, the standards fixed by that organ shall come under this provision and this rule shall apply to all the cases where the same terms occur hereafter) any provision of a labor contract contravening the standard mentioned shall be void and the invalidated part of the labor contract shall be replaced by the provisions of the above mentioned standard. The same rule shall apply to the part which is not laid down in the labor contract.

Article 23. When three-fourths or more of the workers normally employed in a factory, mine or other places of employment come under application of a trade agreement, the remaining workers shall ipso facto be bound by the same agreement.

Article 24. When a major part of the workers of similar kind in a given locality come under application of a certain trade agreement, the administrative authority may at the request of either one or two of the contracting parties take the decision to extend the compulsory application of the contract (including the part revised under provisions of the second paragraph) to all the remaining workers of the same kind in the same locality and to the employer.

In case the Labor Relations Committee deems, in making the resolution of the preceding paragraph that the trade agreement in question contains inappropriate provisions, the Committee may amend these provisions.

The decision shall become effective by public notification.

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Article 25. When there is a provision in the trade agreement to the effect that disputes concerning matters in the same agreement be put to conciliation or arbitration, it shall be disallowed to engage in strike, lockout or perform acts of dispute except in case of failure of either conciliation or arbitration.

CHAPTER IV. LABOR RELATIONS COMMITTEE.

Article 26. Labor relations committees shall be set up consisting of equal numbers of representatives of employers and workers and of central members.

The administrative authorities shall appoint the representatives of the employers in accordance with the recommendations of the employers organizations, those of workers with the recommendation of the workers trade unions and the central members with the agreement of the representatives of employers and of workers.

The Labor Relations Committee shall consist of National Labor Relations Committee and Prefectural Labor Relations Committees and in case of a special need, special Labor Relations Committees may be set up for a given locality or to deal with special matters.

The members of a Labor Relations Committee and the staff attached thereto as provided by ordinance shall be regarded as staff members engaged in official business under laws and ordinances.

Matters relating to Labor Relations Committees other than these laid down in the present Act shall be fixed by Imperial Ordinance.

Article 27. In addition to the provisions under Articles 6, 8, 15

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24 and 33 the Labor Relations Committees shall have authority to perform the following functions:

1. Compilation of statistics on labor disputes and investigation of conditions of labor.

2. Mediation in collective bargaining and prevention of labor disputes.

3. Arbitration and conciliation in disputes.

The Labor Relations Committee may submit to the competent administrative authorities for improving conditions of labor.

Article 28. When the Labor Relations Committee deems it necessary for public welfare or when the parties concerned request it, the proceedings of a Labor Relations Committee may be made public.

Article 29. When it is necessary for carrying out its work the Labor Relations Committee may require the attendance or presentation of reports of the employer or of his organization and the worker of others concerned or it may require the presentation of books and documents necessary for investigating conditions of labor or it may also have its members or staff of the committee (hereafter called simply staff) as provided by order under Article 26 clause 4 inspect factories, mines and other places of employment involved or inspect the conditions of business, books and papers and other objects.

Article 30. The members and those who were members as well as the staff or those who were on the staff of a Labor Relations Committee shall be disallowed to disclose any secret information obtained in performing their functions.

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Article 31. The provisions of Chapter III shall apply mutatis mutandis to the agreements handled by the Labor Relations Committee but to which a trade union is not a party concerning the standard of conditions of work and other terms relating to the treatment of workers.

Article 32. When the conditions of labor or of treatment of workers are especially inappropriate, the Labor Relations Committee may, after investigation of actual conditions, formulate concrete proposals and submit a representation to the administrative authorities.

When the representation of the foregoing paragraph is received and the administrative authorities deem it necessary, they may issue the direction for a fixed standard of working conditions or of treatment of workers to the employer.

When the employer receives the direction of the foregoing paragraph, he must take necessary measures to let all the workers know of the direction without delay.

The standard as directed in accordance with the provisions of paragraph two above shall have the same effects as the trade agreement on the employer and workers concerned.

CHAPTER V. PENALTIES.

Article 33. In case of violation of the provisions of Article II, the person who committed the act shall be liable to imprisonment not exceeding six (6) months or to a fine not exceeding Five Hundred Yen (500.00 Yen).

The offense of the foregoing paragraph shall be acted upon at the request of the Labor Relations Committee.

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Article 34. Those who contravene the provisions of Article 30 shall be liable to fine not exceeding one Thousand Yen (1,000.00 Yen).

Article 35. Those who contravene the provisions of Article 29 and fail to present reports or make false reports or fail to submit the books and papers or contravene the provisions of the same Article and fail to present themselves or refuse, obstruct or evade the inspection under the provisions of the same Article shall be liable to a fine not exceeding Five Hundred Yen (500.00 Yen).

Article 36. When a legal person or the deputy of a person, the head of a family, members of a family, a co-habitant of a family, employees of others engaged for work contravened the provisions of the first portion of the preceding Article, in connection with the business of a legal person or of a person, the said legal person or person shall not be immune from penalty on the ground of not having given order for such contravention.

The provisions of the first portion of the preceding Article shall apply to the directors, managers or other officers who execute the business of the legal person in case the employer is a legal person and to the legally fixed deputy in case the employee is a minor or a person adjudged incompetent provided that this rule shall not apply to a minor who has the same capacity as an adult in the performance of business.

Article 37. The representative or liquidator shall be liable to fine not exceeding Five Hundred Yen (500.00 Yen) in any of the following cases:

1. When he fails to submit the report prescribed in

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Article 5, paragraph 2 (inclusive of the case where it applies mutatis mutandis under provisions of Article 31) or makes a false report.

2. When he failed to keep the list as prescribed in Article 9.

3. When he failed to register under this Act or under the Ordinance issued under this Act.

4. When he contravened Article 79 or Article 81 of the Civil Code which are applied mutatis mutandis pursuant to Article 17 and failed to make public notification or when he made a false notification.

In case of contravention of the provisions of Article 19 paragraph 2 (including the case where the provisions are applied mutatis mutandis under Article 31), failing to make the report or making a false report, the party to the trade agreement other than the trade union (representative in case the party concerned is an organization) shall be liable to a fine not exceeding fifty yen (50.00 Yen)

When the employer contravened the provisions of Article 32, paragraph 3, he shall be liable to a fine not exceeding Fifty Yen (50.00 Yen).

SUPPLEMENTARY REGULATIONS

The date of enforcement of this Act shall be fixed by Imperial Ordinance.

Trade unions existing actually at the date of enforcement of this Act shall submit reports applying mutatis mutandis the provisions of Article 5 within a week after the date of enforcement of this Act.

The following amendment shall be made in the Act in Registration Tax:

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In Article 19 clause 7, "Federation of Cooperative Societies" shall be amended to read "Federation of Cooperative Societies, Trade Unions" and "Cooperative Societies Act" to read "Cooperative Societies Act, Trade Union Act."

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REGULATIONS CONCERNING PUBLIC WORKS (APPROVED BY CABINET)

Article 1. The Economic Stabilization Board (E.S.B.) shall be responsible for planning and general supervision of all public works undertaken by the Government or with Government subsidies (including those projects carried out with funds from special railways and communications accounts).

Article 2. Ministries desirous of carrying out public works projects shall require the approval of the E.S.B.

Article 3. In the above-mentioned instances, the E.S.B. shall specify the priority order of such projects on the basis of the appended priority scheme, and fix the amount of funds deemed necessary for their execution within the limits of the sanctioned budget. The E.S.B. shall reserve the right of approval in the event such projects are deemed unsuitable.

Article 4. Funds approved for such projects as mentioned in Article 2 shall be allotted as capital to be used within a period of three months. Applications for additional appropriations for continuing work shall be made by each Ministry within 70 days after the approval of such projects, accompanied by a report on the status of the projects concerned. As to projects sanctioned under Article 2, each ministry shall be required to report on the status of its projects within two months after their completion or after the end of the fiscal year.

Article 5. The E.S.B. shall approve additional appropriations only after giving consideration to the fund expended during the previous period and the progress made in such projects.

Article 6. The Finance Ministry shall transfer the amount approved by the E.S.B. from fixed expenditure items to the ministry concerned. In the event special accounts are concerned, competent ministers, with the approval of the E.S.B., shall be permitted to issue appropriations from fixed expenditure items.

Article 7. The E.S.B. shall have the right to order the return of all unused or non-committed funds when it deems that projects are not being carried out in an appropriate manner.

Article 8. The employment of labor in the above-mentioned approved projects shall be governed by the following regulations. In the event projects are carried out by local authorities, public bodies, public utility organizations or other bodies receiving subsidies, the ministry concerned shall see that the following regulations are observed by those involved in the projects as well as assume full responsibility.

1. Workers shall be employed through public employment agencies.

2. Workers shall be paid the same wage and in the manner as the fixed standards prevailing in the area in which the project is being carried out.

3. Supervisors shall be paid a fixed salary and bonus as deemed proper by the work involved but no additional renumerations.

4. Persons who are affected by the Imperial Ordinance No. 542, dated 1945, relative to qualifications for employment as stipulated in the Potsdam Declaration,

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shall be prohibited from assuming the posts of supervisors.

5. In the event supervisors find workers wanting in efficiency through idleness or indifference to work, they shall have the right of preventing employment or dismissing such persons.

6. Workers shall receive full payment for their work without any deductions at least twice a month after work has been finished and within the space of five days, exceptions being made in the cases of such deductions, as income tax and social insurance premiums, as are required by law.

7. Offices conducting projects shall maintain a wage-payment list and keep an accurate account of wages paid out to every worker.

8. Workers, according to the nature of their work, shall be issued special working rations as stipulated in the special ration regulation.

9. Suitable measures shall be taken so that workers will directly receive their stipulated rations.

10. Offices conducting projects shall maintain a rationing list and keep an accurate account of the type as well as amount of ration issued to every worker.

11. The above-mentioned wage-payment and rationing lists shall be open to the inspection of authorities concerned with the E.S.B., labor unions and workers, in the event such a demand for inspection is presented.

Article 9. The E.S.B. shall be permitted to determine any other additional conditions relative to such matters as employment, recruiting, payment of wages, working conditions, etc.

Article 10. Government offices in charge of public works shall maintain detailed records of the business of each project specified by the E.S.B. The person or persons who are carrying out public works under Government subsidies shall be required to follow the above rules.

Article 11. The E.S.B. shall supervise public works.

Article 12. This regulation shall be applied to public works.

Note: In case it is found difficult for public employment agencies to provide appropriate workers as stated in item 1, article 8, procedures relating to the employment of workers directly by the person or persons in charge of public projects as well as the notification of employing such workers to public employment agencies will be simplified.

Priority Scheme for Public Works

A Class--Those concerned with increasing or facilitating substantially the production and distribution of essential goods immediately.

1. Those whose labor and materials are both satisfactory.

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2. Those whose materials are satisfactory but need to be provided with labor.

3. Those whose labor is satisfactory but need to be provided with materials.

4. Those which need to be provided with both materials and labor.

Note: All following classes (except E class) shall be sub-classified into four groups as (1), (2), (3), and (4) in accordance with the above.

B Class--Those which will increase or facilitate substantially the production and distribution of essential goods within a year's period.

C Class--Those which will not increase directly but which are highly important in fulfilling the minimum requirements for transportation, communications, public peace, public health, education, social welfare and others which are indispensable to the livelihood of the people in general.

D Class--Those which will increase or facilitate substantially the production and distribution of essential goods within two years' period.

E Class--Those which will increase production or distribution to a certain extent or which may accomplish the results as stated in Class C but which use a comparatively large amount of materials and a comparatively small amount of labor.

1. Those which may obtain production results within a year's period.

2. Those which may obtain production results within two years' period.

3. Those which may obtain the results as stated in Class C.

F Class--Those which will increase or facilitate substantially the production and distribution of essential goods after two years.

G Class--Those which may not increase production but which are indispensable to public peace, public health, education and social welfare.

Note: 1. The term "satisfactory for materials" means the comparatively small amount required for materials which are generally lacking or for fuel and transportation as well as those to which the required materials could be definitely supplied with when necessitated by the projects concerned.

2. The term "needing supplies of materials" means that the amount of materials required is not too much but which could be provided with in the required time.

3. The term "satisfactory to labor" means that the type of labor necessary for the project concerned is fully available in the area where the project or projects are undertaken.

4. The term "needing labor supply" means that the amount of labor required for the projects concerned could be supplied but that part of it must be supplied from other areas.

(Approved by the Cabinet of the Japanese Government on 3 September 1946).

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Remarks by Mr. Theodore Cohen, Chief, Labor Division, Economic and Scientific Section, GHQ, SCAP, at the Inaugural Meeting of the Japan General Federation of Labor
2 August 1946

This inauguration of the postwar Nippon Rodo Kumiai Sodomei is indeed an historic occasion. Democracy in action is always inspiring. Here in Japan at this time it is even more so. For you men and women, representing several hundreds of thousands of trade unionists and an important segment of the Japanese working class, to meet here freely and deliberate on matters that affect you intimately is a measure of how far democracy has gone in Japan in the short time since the end of the war.

One year ago today there were no free and genuine democratic workers' organizations in Japan. As the result of a system of oppressive legislation and police and military repression perfected under the authority of the "Dangerous Thoughts" and National Mobilization Acts, there were no means for Japanese laborers to express their needs, wishes, or aspirations on matters that so closely concerned them. You were effectively denied the rights of assembly, speech, unionization, protest, collective bargaining and strike. All prewar labor leaders had been killed, imprisoned, exiled or otherwise silenced. Instead of the free association of workers on matters of their common interest the laborers were controlled by vicious so-called "patriotic" associations, like Sampo and Romu Hokoku-kai.

Today 3,000,000 workers are members of unions they have chosen of their own free will and are beginning to put into effect the practices of democracy in industry. It is and always has been the policy of SCAP to remove all obstacles to and encourage democratic and sound labor organizations. I do not need to tell you of the measures which have

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been taken to carry out that policy. But the actual constructive job of building democratic labor unions can only be accomplished by the Japanese workers themselves. I can say that the response of the Japanese workers to the opportunities opened to them by SCAP, once the shackles of militarism and fascism were struck off, has in the field of organization, exceeded my most optimistic expectations of one year ago. It has demonstrated beyond all doubt that the Japanese workers recognize the trade unions as a basic vehicle for attaining their aspirations and gives great promise for the future.

At the same time, it is clear that the three million workers who have joined the trade unions since the war, more than two and a half million in trade unions for the first time, are dealing with new forms and methods of organization. Many of these new members will have only vague ideas of how these new organizations can be of use to them in helping to fulfill their aspirations. There will undoubtedly be a strong tendency to rely upon leaders to do their work and thinking for them.

This places a special obligation upon you, the leaders and representatives of such a major segment of the workers. If the trade unions are to be truly democratic organizations, the principal task of its leaders will be to insure that the members actively participate in its affairs. The democratic leader has the fundamental duty to be the representative of the people he leads, and he cannot adequately represent them unless they have an active interest and an expressed will. To achieve this it will be your constant duty to keep in close touch at all times with your union members, to keep them informed of all circumstances that affect them, to educate them in the organization and practices of their union, to stimulate them to devise ways for the

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unions to act and to encourage them to take part in union activities so far as possible. A union where every member is personally and vitally concerned in some phase of union activity is not only a strong union but a basically sound and democratic organization.

The economic circumstances in which Japanese laborers and the Japanese labor movement find themselves at present are undeniably difficult. The ravages of a senseless war brought on by irresponsible militarists and zaibatsu and the economic disruption attendant upon the readjustment to a peace economy have manifested themselves in every phase of Japanese life and have multiplied the problems which would be faced by a labor movement in normal times. These circumstances constitute a serious challenge to Japanese labor.

The opportunity granted to Japanese labor unions to express their wishes on short range objectives carries with it also a long-range opportunity to participate in the reconstruction of the new Japan. For, make no mistake about it, labor cannot be divorced from the rest of the economy. The well-being of the workers in any country is closely tied in with the essential soundness of the national economy. No democratic labor movement can long survive if a sound economy, carrying with it the promise of expanding production and higher standards of living, is not ultimately brought into being. It is to the vital interests of the workers that such an economy be made to work and it is the duty of you leaders and representatives of Japanese workers to bring that lesson home to them.

I am confident that Japanese labor will respond to this challenge. No thinking man can expect that the future will not see mistakes on

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the part of labor leaders and labor unions; the growth of democracy is in large part a process of trial and error and Japan is seeking to travel a long road in a short time. Nevertheless, with courage, ingenuity, sincerity and a deep sense of personal responsibility, I am convinced that the Japanese labor unionists can play a vital role in the creation of the new Japan.

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- Copy -

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC
PUBLIC RELATIONS OFFICE

1800
11 October 1945

PRESS RELEASE:

GENERAL MACARTHUR EXPRESSES VIEWS TO NEW PRIME MINISTER

When the new Prime Minister, Baron Shidehara, called on General MacArthur at General Headquarters today, the Supreme Commander expressed to him, among other things, the following views:

"In the achievement of the Potsdam Declaration, the traditional social order under which the Japanese people for centuries have been subjugated will be corrected. This will unquestionably involve a liberalization of the Constitution.

"The people must be freed from all forms of governmental secret inquistion into their daily lives which holds their minds in virtual slavery and from all forms of control which seek to suppress freedom of thought, freedom of speech, or freedom of religion. Regimentation of the masses under the guise of claim of efficiencey, under whatever name of government it may be made, must cease.

"In the implementation of these requirements and to accomplish the purposes thereby intended, I expect you to institute the following reform in the social order of Japan as readily as they can be assimilated:

"1. The emancipation of the women of Japan through their enfranchisement--that, being members of the body politic, they may bring to Japan a new concept of government directly subservient to the well being of the home.

"2. The encouragement of the unionization of labor--that it may be clothed with such dignity as will permit it an influential voice in safeguarding the working men from exploritation and abuse and raising his

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living standard to a higher level; with the institution of such measures as may be necessary to correct the evils which now exist in child labor practices.

"3. The opening of the schools to more liberal education-- that the people may shape their future progress from factual knowledge and benefit from a understanding of a system under which government becomes the servant rather than the master of the people.

"4. The abolition of systems which through secret inquisition and abuse have held the people in constant fear--substitution therefor a system of justice designed to afford the people protection against despotic, arbitrary and unjust methods.

"5. The democratization of Japanese economic institutions to the end that monopolistic industrial controls be revised through the development of methods which tend to insure a wide distribution of income and ownership of the means of production and trade."

In the immediate administrative field the General stressed the necessity for vigorous and prompt action on the part of the Government with reference to housing, feeding and clothing of the population.

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AMERICAN
LABOR RELATIONS LEGISLATION & AGENCIES

Presented as part of a course of
lectures conducted by the
Welfare Ministry in Tokyo
on 9 October 1946.

Prepared by
John R. Harold
Labor Relations Officer

ECONOMIC AND SCIENTIFIC SECTION
LABOR DIVISION
G. H. Q.

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LABOR RELATIONS LEGISLATION AND AGENCIES

Introduction

Mr. Korb yesterday spoke of the work of the Department of Labor in America. From his discussions you can see how much time, money and effort is given by society--by government to the welfare of the worker. We have not sacrificed the advantages of a competitive capitalistic system nor do we intend to, yet much energy by labor and by government is solely devoted to see that the working man gets a good day's pay for a good day's work.

The theme of the present discussion is intended to show you the purpose and size of the American government's efforts in the dynamic, controversial field of labor relations--the relation of employer to Union in terms of wages, hours and working conditions.

It must be understood that we in America look upon our legislation and our government agencies in this field as an aid to our society. Laws are passed to help us, not to hurt us.

National Labor Relations Act

Of first importance in this respect is the National Labor Relations Act. We may profit by a brief study of that law, for Japan today, in its relation to Labor Relations Legislation and Agencies, stands, to a degree, in much the same position as our people in America did in 1935, immediately prior to the passage of the National Labor Relations Act. That Act did much to bring about industrial peace during a growing labor period in which our own American labor unions grew by leaps and bounds. A wave of organizational activity on the part of unions brought about a counter-wave of union busting activity by employers and resulting strikes. A society which had within itself the ability to meet changing conditions had its legislature pass the National Labor Relations Act and created the National Labor Relations Board to administer the Act.

Now, therefore, as conditions in Japan today are somewhat like they were in America during that period, it would appear to be helpful to all if we would examine the manner in which our society set up machinery to assist in the peaceful solution of labor disputes.

A Japanese Solution

It is important, however, to keep in mind that the experience of America need not be the ultimate end sought--it should not be viewed as the mountain peak of perfection at the end of the road toward industrial peace. Rather should our American experiences be a lamp post along the road Japan might follow, lighting the road and assisting the traveler to his <u>own</u> solution--a Japanese solution to a Japanese problem.

The Purpose of the Act

I think we will all agree that the right of the working man to organize and to bargain collectively is good and necessary not only for the good of the working man but for the good of society as a whole. We would also conclude that it is the duty of society to provide for the peaceful solution of labor disputes without sacrificing the rights of the worker.

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Our best point of inquiry then should be a consideration of the purpose of labor relations legislation. As a starting point it would seem appropriate to examine certain American laws.

The National Labor Relations Act was passed by the American Congress in 1935. Primarily, it was created to assist labor to organize and to provide a method whereby workers could indicate their choice of bargaining representatives. The general beliefs of those who sponsored and supported the Act on its way thru Congress were that labor peace based on a one-sided autocracy of employers has no solid foundation; that lasting labor peace in a political democracy can be obtained only when it is two-sided--i.e., based on a real labor democracy under which employers freely recognize unions of their workers' own selection and deal with them, in good faith and with a will to agree, on the basic terms of employment so vital to the workers' well-being; and that since the workers were too economically weak to organize and secure recognition from union-hating employers, they must be helped to help themselves by government restrictions on the anti-union tactics used by such employers.

This attitude is reflected in the Act itself. Let us read of the "Findings and Policy" of the National Labor Relations Act in Section One.

> "Section 1. The denial by employers of the right of employees t organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce . . . causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.
>
> "The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.
>
> "Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.
>
> "It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

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Thus it was the declared policy of our people acting thru their Diet that employees should be assisted to be the equal of employers in economic bargaining and this for the good of society as a whole. In order to implement this policy, the Act further contained a clear definition of the rights of the employees. Sections 7 and 8 of the Act read as follows:

"Section 7. Employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection."

"Section 8. It shall be an unfair labor practice for an employer--

"(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7.

"(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: . . .

"(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: . . .

"(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

"(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9 (a)."

Section 10 of the Act gave the National Labor Relations Board, created by the Act, the power to effectuate the policy of the Act:

"Section 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in Section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."

State Laws

In New York State, as in other states in America, we also have a Labor Relations Act. These laws were created by the States themselves for the same purpose as the Federal Act--that is to help the working man to organize for his benefit and for the benefit of society. These State laws specifically state this to be their policy, specifically define what an employer is forbidden to do and the State further provides the means to assure that the law is enforced.

The National Labor Relations Board

The National Labor Relations Act created the National Labor Relations Board to enforce that Act. It is a Board composed of three men appointed by

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the President with the consent of the Senate. Two of the three members constitute a quorum and the Board can function in the absence of one member. This Board has been given the responsibility of seeing that workers are not discriminated against in their efforts to organize and bargain collectively, that unions are free and autonomous and not puppet employer dominated. The Board has the further duty and power to provide means whereby workers can indicate, by secret ballot, their choice between two unions where necessary. This Board has nothing to do directly with the adjustment of labor disputes which concern wages, hours or working conditions. Other agencies of government consider those problems and we will discuss them in detail later.

Independent

The National Labor Relations Board is independent and non-partisan. It is not part of any other government agency and its personnel are taken from all walks of life, not alone from government employees. It administers its own business independently and has no obligation to report to the legislative or executive branch of the government, except that once a year it files an annual report. The three members of the Board cannot be removed by anyone except after an extensive hearing and then only for neglect of duty. It is truly independent.

The three members of the Board sit like judges trying each case on its merits. There are many, many other people to help the Board in its work. To relieve the Board members of all administrative problems there is an Executive Secretary. He is responsible for all the details of the functioning of the Board. In turn, the work of the Board is divided among an Administrative Department, Legal Department, Trial Examiners, Field Division and Information Department. The Board has 24 Regional Offices throughout the country.

The Legal Division is charged with the review and analysis of records in Board cases, the preparation of decisions at the Board's direction, the conduction of litigation in the Courts and the general direction of the field attorneys throughout the country.

The Trial Examining Division is composed of Trial Examiners who sit, to assist the Board, as judges in individual cases and prepare intermediate reports and recommendations for the final decision of the Board.

The Field Division, which directs the activities of Regional offices throughout the country, reviews and analyzes cases in the local region to assist the National Board and carries on liaison activities with other government agencies.

The Information Division makes available to the public necessary data concerning the work of the Board and publicizes its work, so that all the people may know of its activities.

Procedure

The Board has drafted, at length, careful detailed rules of procedure governing the manner in which individual cases are handled by it. These rules can be best illustrated by a supposed case in respect to a discrimination by an employer.

An Unfair Labor Practice

Suppose an employer learns that his workers are trying to organize a Union

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in his factory. He does not want the Union to succeed and he knows that the workers are afraid of losing their jobs. He, therefore, finds out who is the leader in the Union drive and he discharges that person as a lesson to others not to join the Union. Now the Union believes that the worker was discharged because he was organizing a Union and that, therefore, the employer has violated the law.

Attorney for the Board

In America the Union would go to a regional office of the Labor Board. The Union and the discharged worker would tell their story to a Board attorney. This attorney is a trained, experienced man who knows the difference between a fact and propaganda. He, therefore, goes over the facts with the discharged worker and assists him in preparing to prove that the employer discharge the worker because he was organizing a Union. The employer will claim that he discharged the worker because he was incompetent.

The next step is for the Board Attorney to prepare a complaint in which he sets down in detail the allegations which will prove that the employer violated the law. Then the employer is given a copy of this complaint and he must answer it in writing. In all probability he will deny the allegations. So up to this point we have the worker charging that he was discharged for union activity and the employer saying that he was discharged for incompetence.

The Trial

Someone is mistaken. Who? Up to this point the parties to the dispute are only giving their own side of the case. Now, therefore, the Board in Washington, in order to assist itself in finding out who is telling the truth, appoints a trained person as a trial examiner. This person is just like a judge. He sits before all the parties and asks each to prove his side of the story. In all probability the employer has hired a very good lawyer to help him. However, the government recognizes that the worker oftentimes does not have the money necessary to hire a good lawyer so the government supplies one to him free. This person is the attorney for the Board who had helped the worker prepare his complaint. This man does nothing except handle cases like this and has had much experience in proving violations of the law by employers. He thus comes to the aid of the discharged worker and his Union and step by st , detail by detail, fact by fact, he proves before the Trial Examiner that the law was violated, that the employer fired the worker for Union activity. If the employer says he fired the man because he was incompetent, the Board attorney will bring out the fact that the man was an excellent worker for years, that he had been praised by the employer and promoted, and that it was not until the worker joined the union that the employer then for the first time thought him incompetent. All of these facts will tend to prove that the worker is telling the truth and that the employer is not.

Clear Decision

After everyone has had an opportunity to present, under oath, their side of the case to the Trial Examiner, he then makes up his mind and renders a report in writing with definite conclusions as to disputed facts and definite clear recommendations. These recommendations are forwarded to the Board in Washington and the Board, after reading the written record in the case and the recommendations of the Trial Examiner, renders a decision. This decision, too, is direct

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and conclusive.

In this case it might be decided that as the worker was discharged because he tried to start a Union, it would order the employer to rehire him, and to pay him any wages he had lost by reason of the discharge.

If the employer refused to obey the decision, he would be held in contempt of court, heavily fined and perhaps sent to jail.

Puppet Unions

If the Union had complained that the employer had sponsored a puppet Union, an employer-dominated Union, this same experienced Board attorney would assist the Union in preparing facts to prove this allegation and, if in fact, the Union was a puppet of the employer, then the Board after a hearing and recommendation by the Trial Examiner would order the puppet Union dissolved. The Board would forbid the employer to bargain with it and would declare void any contract between the employer and the puppet Union.

Definite Decisions--Labor Peace

So it is to be seen that these labor Boards in America have real authority, real power, and they have time and time again exercised that power in a forceful way. No one defies successfully the decisions of these Boards. They may decide that a worker was unfairly discharged or they may decide that he was discharged for incompetence; they may decide that a union was a puppet Union or not a puppet Union, but one way or the other they make up their minds, point by point, fact by fact, conclusion by conclusion, and then they render decisions that are clear and decisive, that everyone can understand.

As much as 90% of the cases coming before these Boards are settled by agreement between the parties without the need of a Board decision, but this is so because the parties know, from the past record of the Board, that if they don't agree, the Board will decide their case quickly and definitely. In this way the public, society, knows where lies moral right; the parties observe the decision, or are compelled to, and many, many strikes are avoided.

Unfair Labor Practices

The phrase, "Unfair Labor Practices in America," has become common in use and it means any discrimination by an employer in respect to a worker's efforts to organize or bargain collectively. The statute defines these practices in Section 8 of the Law. The Board has made many decisions that help us understand, in specific cases, what is an unfair labor practice--what is discrimination by an employer.

We can consider a few here, but we must keep in mind that things are different in Japan than in America. What might be discrimination in America would not be discrimination in Japan, and also what would not be discrimination in America might be discrimination in Japan. Essentially, however, in both countries the law recognizes that employers and employer organizations have been more powerful than unions in their organizational stages. Many things that an employer does, although appearing harmless in themselves, when done in relation to an employee might be discrimination. This is so because the individual worker needs his job, and by reason of this need, is inclined to have to pay

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attention to the employer's wishes or lose his job. The law and the Board tries to balance this position, so that a worker can feel free to join a Union without worry of losing his job. Labor history teaches us that when an employer wants to discourage a worker from joining a Union, he can think up many, many ways of doing it. The cases that have come before the Boards illustrate this point very clearly.

Specific Cases

The National Labor Relations Board has held that an employer violated the law by sponsoring a meeting of his employees and permitting leaders of one Union to talk at this meeting while another Union was seeking to bargain collectively with the employer. It held in another case that it was an unfair labor practice for an employer to call a meeting of the employees to discuss the management's and the Union's side of a dispute and to fail to invite the leaders of the Union to discuss their side of the case.

An employer may not show favoritism for an inside labor organization or for an independent Union as against a rival Union. He cannot permit supervisory employees to solicit membership in a union favored by him.

Many, many times the Boards have declared that any statement by an employer indicating his preference of one Union over another is an unfair labor practice.

An employer has been held guilty of discrimination if he helps organize an independent citizens committee to interfere with the formation of a Union; or if he contributes to a puppet Union or if he spies on his workers to see who is leading the Union movement; or if he speaks disparagingly of a union or its leaders.

The employer has been held guilty of discrimination if he fails to bargain collectively with a Union. Even giving a raise in wages to employees has been held to be discrimination if done at the time a Union is seeking to organize. Promoting non-union employees, demoting Union employees, changing the position of a union employee in favor of a non-union employee has also been held to be discrimination.

In respect to the refusal of the employer to bargain and a resultant strike, the Board said:

> "To put it concisely, those activities were employed to defeat the strike, to end the strike by breaking it, rather than by settling it through collective bargaining. As the strike was in the first instance directly caused by the respondent's refusal to bargain collectively in violation of Section 8, subdivision (5), and was thereafter perpetuated through further refusals, also in violation of that section, all of those activities must be regarded as contrary to Section 8, subdivision (1). While many, if not all, of those activities would likewise constitute unfair labor practices even though the strike and its continuation were not themselves the results of unfair labor practices, such a determination need not be made in this proceeding. Here, by its illegal refusal to bargain collectively, the respondent caused and perpetuated a strike, and consequently any activities on its part designed to end that strike by defeating it, in contrast to settling it by the method of collective bargaining, are in violation of Section 8, subdivision (1). Each step

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taken so to defeat the strike constituted an assertion that the respondent would illegally continue to refuse to settle the strike through collective bargaining as provided by the Act--they were but the opposite faces of the same coin."

The employer has been forbidden to discharge a worker for joining a union. Sometimes an employer recognizes a Union that does not represent the workers. He may sign a contract with that union providing that all people that work for him must be a member of that Union and then he discharges those who are not members. This would also be held to be an unfair labor practice, although said to be done as a result of a contract. The New York State Labor Relations Board said in respect to this type of case the following:

"The evidence shows that respondents (employers) did not wish to bargain with Local 306 because they did not like the terms presented in them. Having come to an understanding with a union that did not represent a majority of the employees, the employer proceeded to discharge that majority. The employer entered into a contract with the union that did not represent the majority of their employees and thereby attempted to preclude such employees from receiving employment at respondent's theatres unless they were to become members of the Empire Union and were to cease their affiliation with Local 306. The entrance into the contract itself clearly constitutes and interferes with the rights of their employees to organize and bargain collectively through representatives of their own choosing. A clearer violation of the express provisions of the Act could scarcely be presented."

The employer, afraid to deal with a bona-fide union, quickly made a contract with a puppet union granting that union a closed shop--that is, requiring that all his employees must be members of that puppet union. How could workers freely exercise their choice of union when the employer told them they must join the puppet union or be discharged? In this case the Labor Board ordered the puppet union dissolved--forbid the employer to recognize or negotiate with it and declared void the contract the employer had made with the puppet union.

Thus the Board is zealous to see that no act of an employer can be construed as influencing the employee unreasonably in his efforts to organize and bargain collectively.

Representation Proceedings

In America our legislature through the National Labor Relations Act has also provided for elections among workers to determine whether they want a Union and if so, which among two or more Unions they prefer. Sometimes the CIO and the AF of L are contesting for the same group of workers; sometimes there is an independent Union in the picture; sometimes there is only one Union involved. In any event, the law provides that the workers involved shall have the right to vote in a secret election as to what Union they wish to join. The National Labor Relations Board conducts this election, and when it is concluded, it is generally the rule that the winning Union bargains for all the workers and the losing Union withdraws. A considerable degree of stability in labor relations results through this machinery, and the workers are assured a free choice of their bar ining representative.

Whether this is necessary or advisable for Japan today is for the Japanese

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to say. It is enough to say here that if it is necessary or advisable, then the people of Japan have the facilities whereby they may amend the law to make it meet changing needs.

Remedies and Enforcement Procedures

In order to fulfill the purpose of the act, the Board issues appropriate orders which are enforced. When an employer has violated the law by making statements against a union or its leaders or otherwise improperly hindering the work of the Union in organizing, the Board will issue an order ordering the employer to cease and desist from such practices. Wherever affirmative action is necessary, such as reinstating a discharged worker, the Board will also order him reinstated and given back pay lost by reason of the discharge. Oftentimes the Board feels that the conduct of the employer has been such that its effect will continue even after the employer has ceased his illegal activities and for this reason the Board sometimes orders the employer to post on his company bulletin board notice to the effect that he will no longer continue such conduct, so that all his employees may see it and know that they are again free to organize without fear of discrimination. Sometimes the Board requires the employer to send such notices to each employee individually.

The employer may be compelled to withdraw recognition from a puppet Union, the puppet Union may be ordered disestablished and a contract between the employer and Union declared void.

Subsequent to an election and the choice by the workers of one Union, an employer has been ordered to bargain with that Union and has been forbidden to bargain with a Union not representing the majority of its employees. It has been held that the duty to bargain continues during a strike. The Board has further directed that when the parties have reached an agreement in negotiations, then the employer must put that agreement to writing.

When an employer refuses to comply with a Board order, he will be compelled to observe it by Court order. In one case dealing with a puppet Union, Justice Collins of the highest Court of New York State said:

> "The Act signalizes the progress of industrial democracy. It accords legal recognition to the principle that unionism is not only compatible with our free institutions, but that it stems from the ideal that in a democracy workers must be at liberty to organize for their mutual protection and welfare, that their organizations must be uncoerced and unintimidated by their employers, and that they must be permitted to speak through representatives of their own choosing, so that their voice is not an echo of their employer's voice. A ventriloquist or puppet union is deemed unhealthy not alone for the workers, but for a democratic society.
>
> "In sum, the Act is an implemented warning to employers to keep hands off the union aspirations and activities of their employees. No matter how remote the control, how indirect the domination, how devious the dictation, how subtle the influence, how circuitous the coercion, or how disguised the intimidation, if the absolute freedom of the worker respecting union activities is discouraged or abridged or interfered with, the Act bludgeons it."

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In sustaining the Board's order in this case, the court emphasized the fact that the organization in question had been created by a supervisory employee working in collaboration with the company's president, who was his intimate friend. Rejecting the company's contention that the supervisory employee's sole purpose in bringing the organization into existence was for the benefit and in the interest of the employees themselves, the court said:

> "The evidence sustains the Board's finding that in conceiving and inspiring (this employee organization), Hanlon (the supervisory employee) was motivated by the interest of Company rather than by the welfare of the employees. The indications are that the real promoter was Company. Hanlon's intentions may have been of the best, and Smith's (the company's president) consent and interest may have issued from the goodness of his heart for the contentment of his employees. But it is employer influence, benevolent or malevolent, which the Act shuns and strives to avert."

Moreover, the Byrnes Anti-strikebreaking Act makes it a crime to use strikebreakers to interfere with picketing or to obstruct or interfere by force or threats with the right of workers to organize. A person who violates this law is subject to $5000 fine and two years in jail.

The Civil Liberties Act forbids any conspiracy intended to injure, oppress, threaten or intimidate any citizen in the free exercise of any right or privilege secured to him by the Constitution or laws of the United States. Since this right to organize is protected by the National Labor Relations Act, anyone who interferes with it may be subject to a $5000 fine and 10 years in jail under the terms of the Civil Liberties Act.

The Size of the Task

It would be well to appreciate the size of the National Labor Relations Board and the size and scope of its business.

In the year ending June 1945 the Board had 889 employees. A total of 9,543 new cases was filed with the Board. Representation cases numbered 6,140 and discrimination cases, 3,403. Company-dominated unions were disestablished in 205 cases, and 7,111 workers were reinstated to remedy discriminatory discharges. Back pay amounting to $2,284,593 was paid to workers who had been discharged by employers in violation of the law. The Board conducted 4,153 elections with 1,126,501 workers voting in these elections. The Board spent $2,590,577 in salaries for its personnel, $418,240 for traveling expenses for its personnel. Its printing bill came to $213,971, and its total expenses to $3,598,992. Yet this is not the complete picture for many states, in addition, have the same kind of law and the same kind of Board. In New York State, in one year, 1760 cases were filed, 900 of which concerned charges of discrimination. Over 25,000 people voted in worker elections conducted by the Board in that State. Much of the same work is going on in other States. All of this work must be done by your committees as well as the work prescribed by your Labor Relations Adjustment Law which will be discussed later.

The Japanese Law

An examination of your own Trade Union Law as it now stands is pertinent. Article 11 of that Act reads:

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"The employer shall be disallowed to discharge or give a discriminatory treatment to a worker for his being a member of a trade union, for having tried to form or join a trade union, or for having performed proper acts of a trade union.

"No employer shall make it a condition of employment that the worker must not join or must withdraw from a trade union."

Article 2 of your same law requires that a trade union be autonomous--i.e., not employer dominated, not a company union.

Article 6 gives your committee the power and the duty to determine whether a union is in fact autonomous, and your Imperial Ordinance No. 108, promulgated 27 February 1946, in Articles 2-8 inclusive, prescribes the procedures looking to the disestablishment of a union if it is employer dominated.

Articles 11, 27, and 33 of the Trade Union Law give your committee the power and the duty to protect workers in the exercise of their right to organize. Essentially you have the same law as we do to protect workers against discrimination in their right to organize and bargain collectively. Your Labor Relations Committees have been set up to administer your law. Already two local committees in Japan, in Nara and in Ishikawa, have found that an employer violated the law, and the cases have been handed to the procurator.

It will be interesting to see how your other committees meet their responsibilities under your law. Remember that the Trade Union Law is the law of Japan; this idea of helping workers to organize is not something the Communists, the Socialists, the Liberals or any party thought up. It is the law of the Japanese people, all of the Japanese people. I know you government employees, servants of the people as you are, will be most anxious to do your part to see that the will of the people, the desires of the people of Japan, are fulfilled.

And yet, it should be remembered that your committees not only have to serve the purpose outlined in your Trade Union Law, as discussed up to this point, but they also have the additional duties presented by your Labor Relations Adjustment Law--that is the work of conciliation, mediation and arbitration.

Conciliation, Mediation, Arbitration

In America we have special agencies other than the National Labor Relations Board dealing with the questions of conciliation, mediation and arbitration. We have the United States Conciliation Service, the National Mediation Board, special industry mediation boards appointed by the President from time to time, various state mediation boards and also private mediation and arbitration associations.

The purpose that government plays in this picture can be best illustrated by quoting from the Mediation Law of the State of New York.

"It is hereby declared as the public policy of this state that the best interests of the people of the state are served by the prevention or prompt settlement of labor disputes; that strikes and lockouts and other forms of industrial strife, regardless where the merits of the controversy lie, are forces productive ultimately of economic waste;

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that the interests and rights of the consumers and the people of the state, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the state. . . "

It is to the best interest of workers, capital, government and everyone, that strikes be reduced to a minimum without any sacrifice of the rights of the working man. For this reason government makes great efforts to bring about the peaceful solution of labor disputes.

United States Conciliation Service

Foremost among these efforts in America is the work of the United States Conciliation Service. This service is run by a Director in Washington who has under him over 250 trained conciliators. These men have no other duties except to assist in labor disputes and to assist the parties to come to an agreement. Their time is taken up only with this assignment and they stand ready to go anywhere in America to help solve a dispute. These men are carefully chosen, are completely impartial and have developed the ability of giving both sides to a controversy confidence in them. Many times capital and labor have been at an impasse that seemed impossible of solution to the contestants, and these conciliators have stepped into the picture and brought about a solution. Sometimes a new face, a fresh viewpoint will bring new thoughts or a new approach to a solution and the problem will be settled. Sometimes parties have been committed to a position, and they cannot retreat from it without losing face, and a conciliator can provide a medium through which both sides can retreat a little without having their own people lose faith in them. In many ways this conciliation service has helped bring about comparative labor peace.

In the year ending June 30, 1945, the Service handled over 25,000 cases and in general, 95% of the matters they handled are settled without a strike or any stoppage in production.

It should be pointed out that the conciliator has no power to order anyone to do anything. He must depend on his ability to bring the parties to agreement because both parties want an agreement if the meeting ground can be found. The duty of a conciliator is to assist collective bargaining. He has neither power nor desire to take the place of collective bargaining. The weapons of a conciliator are clarification, suggestion, and good will by which he endeavors to have management and labor reach an agreement. The essence of this technique is to have both parties feel that they have solved the problem themselves.

Conciliation can be sought in the early stages of negotiation, and it is best by all means to bring a conciliator into the picture before a strike takes place. Oftentimes when a conciliator cannot completely settle a dispute, he can narrow the differences down to one or two items and the parties may be willing to mediate or arbitrate on those two points.

Mediation

The National Mediation Board was created by the President in 1934 to deal with the railroads exclusively. This Board, when a dispute arises, tries to

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bring the parties to agree to arbitrate. If they cannot do this, the President then appoints an emergency board to mediate--that is, to investigate the facts and report thereon. This gives the government an opportunity to bring the facts out into the open for all the peoples of a country to see. Then the mediators make a recommendation. Neither party to this dispute is bound to accept this recommendation, but by this time it has the power of public opinion behind it. The President has on many occasions, in different industries, appointed such Boards. The various State governments also have their own mediation boards to assist in the handling of local disputes.

Arbitration

Arbitration in America is always and only by prior agreement of the parties. It is always voluntary. In many cases the parties themselves provide for the arbitration of any disputes arising between them for a given period of time. Most Union contracts provide that during the life of the contract all disputes shall be settled by arbitration. Sometimes one man is agreed to as the arbitrator for a given industry for the life of the contract between the Union and employers. Rarely, however, do Unions agree to arbitrate the terms of a new contract. The services of the United States Conciliation Service are available in the field of arbitration as well as the State mediation bodies, for both organizations have panels of arbitrators from which the disputant may select one or more arbitrators.

Often private organizations with the public interest in mind provide procedures for arbitration. The American Arbitration Association has extensive facilities that are made available to employers and Unions. Again, however, the parties voluntarily <u>choose</u> to arbitrate.

Many municipalities also endeavor to establish conciliation, mediation, and arbitration procedures and in nearly every community there are one or more persons held in high repute whose aid is often solicited to resolve a pending dispute. Certain individuals in America have achieved a reputation as arbitrators in labor disputes, and their services are much sought after.

The Japanese Law

Your Labor Relations Adjustment Law will soon be promulgated. Under it you have specifically provided for conciliation, mediation and arbitration. It will be necessary for each of the committees in the prefectures to establish adequate office personnel to see that the details of administration concerning these duties are competently handled. It will also be necessary for these committees to seek out in each community persons of high character and repute whose impartiality is unquestioned. These people may well become the backbone of labor relations peace in your community. Both labor and capital may learn to seek their advice and accept their judgrents. A good conciliator in a community can accomplish much of the work that has been set before the Labor Relatior Committees by the Labor Relations Adjustment Act.

Conclusion

Although we still have strikes in America and will continue to have them, they are rarely caused by the employer's discrimination against workers. Labor generally has learned to depend on and get protection from government in this regard. Labor has seen to it that our Labor Boards serve their purpose.

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Many other strikes on wages, hours and working conditions are avoided by the competent efforts of government in providing conciliation, mediation and arbitration. Although our big strikes get newspaper headlines, we have thousands upon thousands of Union agreements being negotiated between employers and Unions without any work stoppage.

Labor in Japan has quickly organized. For the most part, however, workers are not covered by Union contracts. Unions will want to get these contracts, and many, many strikes will result if government--if you--do not, to the best of your ability, see that the Trade Union Law and the Labor Relations Adjustment Act are effectively administered.

In order to accomplish this, it will be necessary that you have:

1. Adequate administrative personnel for your Committees who understand the purpose of your Labor Relations Laws and are in sympathy with it, recruited from all walks of life, not only government employees.

2. Independent prefectural labor relations committees staffed by personnel who have the confidence of labor, capital and the public. The neutral members must be truly neutral.

3. Adequate finances for the committees, so that people on these committees and working for them may devote their full time to the work of the committees and be in a position to afford to do nothing else.

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Prepared Statement

For Release at Japanese Press Conference, 10 AM Monday, 30 Sept 46, Radio Tokyo Bl

By Anthony Costantino, Chief of Labor Relations Branch of Labor Division, ESS SCA

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I wish to make a few comments on labor relations for consideration by your readers.

On 4 October 1945, SCAP directed the Japanese Government to end police and wartime restrictions on the freedoms of speech, thought, and assemblage.

On 11 October 1945, General MacArthur instructed the Japanese, thru ex-Premi Shidehara, to institute certain reforms in the social order of Japan as rapidly as they could be assimilated. One reform was, and I quote, "the encouragement of the unionization of labor . . . that it may be clothed with such dignity as will permi it an influential voice in safeguarding the working men from exploitation and abus and raise his living standard to a higher standard."

On 21 December 1945, the Japanese Diet passed the Labor Union Law guaranteeir the worker freedom of self-organization and activity for the purpose of improving his conditions of work and for raising his economic status.

Suddenly released from the suppressions of militarism and totalitarianism, the Japanese worker exercised the freedoms given to him with a speed and vigor never before witnessed in the history of the world. Today, four million workers are active in 12,000 labor unions.

As quickly as workers organized unions, they made demands on their employers and their government for the correction of long-standing and often deep-rooted inequities and abuses. It is to be expected that in some instances the demands of organized workers met resistance, and labor relations became strained for a while until an adjustment of differences was secured. In some instances, workers resorted to various forms of strike action to press for a favorable result to their

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demands. In large part, every legitimate freedom has been accorded Japanese labor in its efforts to advance its aspirations.

Up to 31 July, the Welfare Ministry had recorded 1,411 labor disputes involving 1,152,032 workers. Of these, 491 disputes resulted in some form of strike action in some manner hampering the normal course of the operations of an enterprise

Up to the end of August, the Welfare Ministry also had noted that 821 collective bargaining agreements covering 452,968 workers had been concluded.

It is evident, therefore, that many labor disputes have not resulted in formal trade union agreements. And it is further evident, that the majority of labor and industry does not enjoy the added benefits of labor relations regularized thru the conclusion of collective bargaining agreements.

On 1 March 1946, pursuant to the Labor Union Law, Labor Relations Committees were instituted: one in each prefecture plus a Central Labor Relations Committee and a Special Labor Relations Committee for Seamen. These Labor Relations Committees are authorized under the Labor Union Law to perform the following functions:

1. Compilation of statistics on labor disputes and investigations of conditions of labor.

2. Mediation in collective bargaining and prevention of labor disputes.

3. Arbitration and conciliation in disputes.

4. Recommendation for improving conditions of labor.

(According to the Welfare Ministry) since their institution on 1 March, these Labor Relations Committees have assisted in the settlement of 69 labor disputes. It is evident that in the vast majority of labor disputes, the parties have not sought the assistance of the Labor Relations Committees.

In a modern industrial nation, it is a responsibility of democratic governments to provide suitable agencies and services designed to promote stable labor relations. These services are known as conciliation, mediation and arbitration.

On 20 September 1946, the Japanese Diet passed the Labor Relations Adjustment

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Law. The Law provides for government agencies and services of conciliation, mediation and arbitration. From every point of view, the Law offers the Japanese Government an opportunity to discharge its responsibility to promote regular labor relations in a creditable manner. However, the Law is of such a nature that in large part the government cannot force its agencies and services upon labor and industry. In large part, labor and industry are free to reject or avail themselves of the services provided for by the Law. If labor and industry are sincerely concerned in developing stable and regular labor relations, if labor and industry sincerely want to adjust their differences by genuine collective bargaining in good faith, then they will welcome the opportunity to avail themselves of the assistance accorded to them by the Labor Relations Adjustment Law. If labor and industry and Government have a mind to do so, the new Law can become a bulwark for responsible and mature labor relations in Japan.

Up to now, it has been evident that labor and industry have often avoided recourse to the Labor Relations Committees. In part, there has been some basis for this avoidance.

The membership of the Labor Relations Committees is composed of equal representatives of labor, industry and the public. In March, when the Labor Relations Committees were first instituted, labor and industry were not prepared to make a democratic selection of representatives. The situation, however, is further developed now.

Recently, the Welfare Ministry issued instructions for the democratic selection of members to the Labor Relations Committees. By 1 December 1946, if all parties concerned are vigilant in exercising their right to make recommendations, the membership of all Labor Relations Committees should become fairly representative and satisfactory to both labor, industry and public. At that time, assuming that both government, industry and labor fulfill their responsibilities to establish acceptable Labor Relations Committees, further avoidance of the services of

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conciliation, mediation and arbitration offered by these Committees in aid of collective bargaining would not be warranted.

Mature, responsible and dignified labor relations are predicated upon the mutual acceptance of collective bargaining in good faith assisted by sympathetic conciliation, mediation, and arbitration in the event that collective bargaining breaks down or reaches a dead-lock on any particular difference between labor and management.

In addition, collective bargaining in good faith looks forward to setting down the results of the negotiations in the form of a written agreement signed by both labor and management with the sincere intention on the part of both sides to regulate their relations under the agreement for the specified term of the agreement.

Considering that most of organized labor and industry in Japan today have not yet concluded collective bargaining agreements by which to regulate their day-to-day labor relations, there is much yet to be desired before it can be said that labor relations in Japan have reached a stage of relative stability. It is hoped the new Labor Relations Adjustment Law may serve a constructive function to that e

On occasion, it has come to my personal attention that persons expressing general opposition to the Law had never read the Law and did not know its provisions. In fact, the opposition of some persons was supported by misinformation. In this regard, may I ask the question? Has the press ever published the Law in its final form, verbatim in full?

Four million labor union members and their employers should be given the opportunity to read and study the Law in detail. Continued ignorance and misinformation concerning the functions of conciliation, mediation and arbitration in aid of collective bargaining negotiations will account for many unnecessarily strained and protracted labor relations situations which could otherwise be readily resolved in an atmosphere of sympathy, understanding and reason.

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昭和廿一年九月三十日

聯合軍總司令部

經濟科學部勞働課勞働課係班長

アレソニー。コスタンチノ氏聲明

勞働組合の問題につき筆者の參考のため、これを批判して見たいと思ふ、まづ昨年十月四日、總司令部は日本政府に對し言論、思想、集會の自由を束縛した戰時中の諸制限と、警察力による弾壓を終止せしめるやう命令した、ついでマックアーサー元帥は同年十月十一日、當時の幣原首相を通じ、速かに日本の社會秩序に關する改革を斷行すべきことを命じた、この改革の中には

勞働組合結成を促進し、もつて勞働者の生活を向上せしめ、かつ勞働者を權政より防禦するについて充分の發言をなさしめるやうにすることが含まれてゐる、つづいて同年十二月二十一日、議會は勞働組合法を通過し、勞働者の勞働條件を改善し、その經濟的地位を向上するため、勞働組合結成の自由を確立した、かくて軍國主義と

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全体主義から突如として解放された日本の勞働者は、與へられたその自由を世界史にもかつて見ないほどの力と速度をもつて實行に移したのである

今日では實に四百萬の勞働者が一萬二千に達する各組合で活動してゐる、そこで勞働者は、組合を結成するとともに、雇傭者と政府に對しこれまでの永年にわたる根拠い不公平と待を是正すべき諸種の要求を提出したのである、ある場合には、かかる組織勞働者の要求は抵抗をうけ、その結果勞働關係が一時緊張し、結局は双方の見解が等結したこともある、またある場合には勞働者は要求貫徹のため各種ストライキに訴へたこともあるが、概してその希望を達成せんとする勞働者の努力に對しては、あらゆる合法的自由が與へられたのである

厚生省の統計によると、この七月三十一日までに千四百十一件の勞働爭議があり、これには百十五萬二千三十二名の勞働者が關係し、このうち四百九十一件は、企業の正常な運營を多少とも阻害するやうなストライキの形をとつた、さらに同省の

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記録によると、八月末までに團体協約數は八百二十一件四十五萬二千九百六十八名の勞働者が參加してゐる、したがつて多くの勞働爭議は、なほ正規の勞働組合協約に[illegible]で達してゐないことが右によつて判るわけであるがこれは勞資双方ともまだまだ團体協約締結による勞働關係の調整といふ事實を充分利用してゐないことである

勞働組合法につゞいて本年三月一日、勞働委員會ができたが、これは一應に一委員會、このほか中央勞働委員會と海員のための特別勞働委員會がある、これら勞働委員會は、勞働組合法の下に左の職務を遂行する權利を認められてゐる

一、勞働爭議に關する統計の蒐集と勞働條件の調査

二、團体協約における調停と勞働爭議の防止

三、爭議中の仲裁と斡旋

四、勞働條件改善のための報告

厚生省報告によれば、三月一日創設以來、これら勞働委員會は六十九件の勞働爭議解決に援助を與へた、しかし大抵の勞働爭議の場合當事者が勞働

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[illegible]の助力を求めなかつたことは明かである

およそ近代的産業[illegible]家では、安定した勞働[illegible]を促進するための[illegible]を機關をつくり奉仕を提供することは民主的政府の責任である、この奉仕は斡旋、調停、仲裁として知られてゐる

本年九月二十日、議會は勞働關係調整法を通過した、本法は斡旋、調停、仲裁に關する政府の[illegible]機關とその奉仕につき規定してゐる、あらゆる見地よりして本法は日本政府に對し、その責任を盡し信ぜすべき方法で正規の勞働關係を促進すべき機會を與へてゐる、しかし本法の性質上、政府は大抵の場合、政府機關とその奉仕を勞働者と資本家に對し、[illegible]調できない、大抵の場合勞働者も資本家も本法の規定する奉仕を拒絶することも利用することも自由である

もし勞働者と資本家が安定せる、かつ正規の勞働關係を發達させることに深い關心をもち、また双方の意見の相違も誠意ある純正の團体協約によつて調整法が齎した援助を利用し得る機會を歡迎するに違ひない、もし勞働者、資本家と政府がその

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意圖さへあれば、この新しい法律は日本における責任あるかつ成熟した勞働關係のための擁護となり得るものである

現在までのところ、勞働者と資本家は勞働委員會へ出よることを明かにしば〳〵遂げてきたが、これはある場合には理由があつた、それは勞働委員會の委員は勞働者、資本家、第三者同數の代表から構成されるのであるが、勞働委員會が創設された三月には、勞働者も資本家もその代表を民主的に選出する用意がなかつたからである、しかし今や事態ははるかに前進してゐる

すなはち厚生省は勞働委員會委員を民主的に選出すべしとの命令を發した、もし全關係者が勞働者をなし得る權利を油斷なく行使するならば、本年十二月一日までに[illegible]すべての勞働委員會の委員は勞働者、資本家、第三者をそれぞれ十分に代表し、かつその滿足を得るやうになるはずである、それで政府、資本家、勞働者がその責任をつくして納得できる勞働委員會を設立した場合は、團体協約のためこれら委員會が行ふ斡旋、調停、仲介を同

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遂することは正當でなくなるであらう

勞働者側と經營者側との團体協約交渉が決裂、あるひは頓挫した場合双方が同情的な斡旋、調停、仲裁の助けによつて團体協約を誠心誠意實行すれば、成熟した責任あり、かつ立派な勞働關係が確立されることになるのである、さらに誠意ある團体協約においては、交渉の結果を勞資双方が署名した文書の形にすることが期待される、そしてこの協約は、合意に到達した諸條項にしたがつて勞資双方が誠意をもつて兩者の關係を調整しようとする意圖のもとに行はれるものなのである、日本に於る大部分の組織勞働と事業が兩者の日常の關係を調整するための團体協約をまだ締結してゐない現状から見れば、現在のところ日本における勞働關係はまだ安定の段階に到達したといふことはいへない、これに關しては、新勞働調整法がこの目的のために建設的な役割を果すものと期待してゐる

個人的にいへば、この法律に對して一般的な反對意見を表明してゐる人達が、實際全然この法

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律さへも含んでゐないといふ場合がある、一部の人のこの新法に對する反對が誤つた情報にもとづいたものであることは事實である、これに關し[illegible]ねたいことは、新聞が果してこの法律の最後的な案文を全文[illegible]載したことがあるかどうかといふことである

四百萬の日本の組織勞働者と[illegible]勞者は、この法律をよく[illegible]み、研究する機會を與へられなければならない、團体協約交渉を助けるための斡旋、調停仲裁に[illegible]する相變ずの無理と誤解が多くの不必要に緊張しかつ長期にわたる勞働紛爭の原因となつてゐる、そしてこれらの紛爭は以上のことを理解すれば[illegible]力と諒解と理性の雰圍氣のうちに容易に解決さるべきものであらう

以上

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Orientation Lectures
on
Labor Relations Legislation and Agencies

I. THE PURPOSE OF LABOR RELATIONS LEGISLATION

Prepared by
John H. Harold
Labor Relations Officer

ECONOMIC AND SCIENTIFIC SECTION
LABOR DIVISION
G. H. Q.

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GOVERNMENT LABOR RELATIONS LEGISLATION AND AGENCIES

Purpose of These Lectures

It is in order at the outset to inquire why these series of lectures should be held at this time. A considerable amount of the time of you busy men is being consumed and your time cannot be wasted. Japan today, in its relation to Labor Relations Legislation and Agencies, stands, to a degree, in much the same position as our people in America did in 1935, immediately prior to the passage of the National Labor Relations Act. That Act did much to bring about industrial peace during a growing labor period in which our own American labor unions grew by leaps and bounds. A wave of organizational activity on the part of unions brought about a counter-wave of union busting activity by employers and resulting strikes. A society which had within itself the ability to meet changing conditions had its legislature pass the National Labor Relations Act and created the National Labor Relations Board to administer the Act.

Now, therefore, as conditions in Japan today are somewhat like they were in America during that period, it would appear to be helpful to all if we would examine the manner in which our society set up machinery to assist in the peaceful solution of labor disputes.

A Japanese Solution

It is important, however, to keep in mind that the experience of America need not be the ultimate end sought - it should not be viewed as the mountain peak of perfection at the end of the road toward industrial peace. Rather should our American experiences be a lamp post along the road Japan might follow, lighting the road and assisting the traveler to his <u>own</u> solution - a Japanese solution to a Japanese problem.

The Outline of the Lectures

With these few introductory remarks we can get along to the subject in hand. We shall attempt to cover in these lectures a study of the purpose of labor relations legislation - why governments bring such legislation into being; the specific organization and structure of the NLRB and New York State Labor Relations Board, and the procedural regulations of each; the organization and structure of the National War Labor Board and its procedural regulations; a study of what an unfair labor practice is in the States, what employer discrimination is; what we mean by company-dominated or employer-dominated unions, that is, non-autonomous unions; and what we mean by representation proceedings. We will further study how the rulings and judgments of the National Labor Relations Board are enforced and what punishment follows for a failure to comply with such rulings.

Up to this point we will have been considering legislation and agencies that come to the aid of the worker in his efforts to organize and bargain collectively. The equivalent protection in Japan, in this respect, is found in your Trade Union Law and the responsibility therefore rests in in your Labor Relations Committees.

Later we can begin to consider those agencies that deal with the peaceful adjustment of labor disputes in general. In this respect, such procedures are outlined in your Labor Relations Adjustment Law. In America we have the U. S. Conciliation

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Service, the National Mediation Board, the various State conciliation and mediation boards and private conciliation and mediation agencies which seek to perform these duties.

You will see, gentlemen, that your committees have assumed the duties of more than five different agencies in the United States, and I hazard the guess that you will be very, very busy.

It is intended that each part of the discussion be related to the appropriate Japanese law and appropriate Japanese agencies so that we both may examine the existing procedures in Japan to appreciate what is needed. Perhaps our studies shall indicate certain organization steps necessary, certain budgetary or personnel requirements. You may resolve, too, that even this new legislation can or should be amended or new laws drafted.

I think we will all agree that the right of the working man to organize and to bargain collectively is good and necessary not only for the good of the working man but for the good of society as a whole. We would also conclude that it is the duty of society to provide for the peaceful solution of labor disputes without sacrificing the rights of the worker. Japan has chosen you gentlemen to do this important work. You can do it. Will you?

The Purpose of Labor Relations Legislation

Now, then, for the discussion for today. Let us study the purpose of labor relations legislation. As a starting point it would seem appropriate to examine certain American laws.

The National Labor Relations Act was passed by the American Congress in 1935. Primarily, it was created to assist labor to organize and to provide a method whereby workers could indicate their choice of bargaining representatives. The general beliefs of those who sponsored and supported the Act on its way thru Congress were that labor peace based on a one-sided autocracy of employers has no solid foundation; that lasting labor peace in a political democracy can be obtained only when it is two-sided - i.e., based on a real labor democracy under which employers freely recognize unions of their workers' own selection and deal with them, in good faith and with a will to agree, on the basic terms of employment so vital to the workers' well-being; and that since the workers were too economically weak to organize and secure recognition from union-hating employers, they must be helped to help themselves by government restrictions on the anti-union tactics used by such employers.

This attitude is reflected in the Act itself. Let us read of the "Findings and Policy" of the National Labor Relations Act in Section One.

> "Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructi commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactures or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

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"The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

"Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

In order to implement this policy the Act further contained a clear definition of the rights of the employees. Sections 7 and 8 of the Act read as follows:

"Sec 7. Employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

"Sec. 8. It shall be an unfair labor practice for an employer--

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules and regulations made and published by the Board pursuant to section 6(a), an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided: That nothing in this Act, or in the National Industrial Recovery Act (U.S.C., Supp. VII, title 15, secs. 701-712), as amended from time to time, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require, as a condition of employment, membership therein, if such labor organization is the representative

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of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made.

(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a)."

Section Ten of the Act gave the National Labor Relations Board, created by the Act, the power to effectuate the policy of the Act:

"Sec. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

"(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

"(c) The testimony taken by such member, agent, or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint."

New York Labor Relations Act

In New York State, as in other states in America, we also have a Labor Relations Act and a Labor Relations Board. These are created by the States themselves.

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The New York State Labor Relations Act clearly illustrates that such legislation is created for the specific purpose of assisting workers to organize and that resultant equality of bargaining power is of distinct value to society. The "Findings and Policy" of this Act follows:

> "The economic necessity for employees to possess full freedom of association, actual liberty of contract and bargaining power equal to that of their employers, who are frequently organized in corporate or other forms of association, has long been sanctioned by public opinion, and recognized and affirmed by legislatures and the highest courts. As the modern industrial system has progressed, there has developed between and among employees and employers an ever greater economic interdependence and community of interest which have become matters of vital public concern. Employers and employees have recognized that the peaceable practice and wholesome development of that relationship and interest are materially aided by the general adoption and advancement of the procedure and practice of bargaining collectively as between equals. It is in the public interest that equality of bargaining power be established and maintained. It is likewise recognized that the denial by some employers of the right of employees freely to organize and the resultant refusal to accept the procedure of collective bargaining, substantially and adversely affect the interest of employees, other employers, and the public in general. Such denial creates variations and instability in competitive wage rates and working conditions within and between industries and between employees and employers engaged in such industries, and by depressing the purchasing power of wage earners and the profits of business, and tends (a) to produce and aggravate recurrent business depressions, (b) to increase the disparity between production and consumption, (c) to create unemployment with its attendant dangers to the health, peace and morale of the people, and (d) to increase public and private expenditures for relief of the needy and the unemployed.
>
> "When some employers deny the right of employees to full freedom of association and organization, and refuse to recognize the practice and procedure of collective bargaining, their actions lead to strikes, lockouts and other forms of industrial strife and unrest which are inimical to the public safety and welfare, and frequently endanger the public health.
>
> "Experience has proved that protection by law of the right of employees to organize and bargain collectively, removes certain recognized sources of industrial strife and unrest, encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions, and tends to restore equality of bargaining power between and among employers and employees, thereby advancing the interests of employers as well as employees.
>
> "In the interpretation and application of this article, and otherwise, it is hereby declared to be the public policy of the state to encourage the practice and procedure of collective bargaining, and to protect employees in the exercise of full freedom of association, self-organization and designation of representatives of their own choosing for the purposes of collective bargaining, or other mutual aid and protection, free from the interference, restraint or coercion of their employers.
>
> "All the provisions of this article shall be liberally construed for the accomplishment of this purpose.

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"This article shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health and peace of the people of the state. (As amended by Chapter 689 of the Laws of 1940.)"

Again, appropriate sections of that law define the rights of employees.

"704. Unfair labor practices. It shall be an unfair labor practice for an employer:

1. To spy upon or keep under surveillance, whether directly or through agents or any other person, any activities of employees or their representatives in the exercise of the rights guaranteed by section seven hundred three.

2. To prepare, maintain, distribute or circulate any blacklist of individuals for the purpose of preventing any of such individuals from obtaining employment because of the exercise by such individuals of any of the rights guaranteed by section seven hundred three.

3. To dominate or interfere with the formation, existence, or administration of any employee organization or association, agency or plan which exists in whole or in part for the purpose of dealing with employers concerning terms or conditions of employment, labor disputes or grievances, or to contribute financial or other support to any such organization, by any means, including but not limited to the following: (a) by participating or assisting in, supervising, controlling or dominating (1) the initiation or creation of any such employee organization or association, agency, or plan, or (2) the meetings management, operation, elections, formulation or amendment of constitution, rules or policies, of any such employee organization or association, agency or plan; (b) by urging the employees to join any such employee organization or association, agency or plan for the purpose of encouraging membership in the same; (c) by compensating any employee or individual for services performed in behalf of any such employees organization or association, agency or plan, or by donating free services, equipment, materials, office or meeting space or anything else of value for the use of any such employee organization or association, agency or plan; provided that, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

4. To require an employee or one seeking employment, as a condition of employment, to join any company union or to refrain from forming, or joining or assisting a labor organization of his own choosing.

5. To encourage membership in any company union or discourage membership in any labor organization, by discrimination in regard to hire or tenure or in any term or condition of employment: Provided that nothing in this article shall preclude an employer from making an agreement with a labor organization requiring as a condition of employment membership therein, if such labor organization is the representative of employees as provided in section seven hundred five.

6. To refuse to bargain collectively with the representatives of employees, subject to the provisions of section seven hundred five.

7. To refuse to discuss grievances with representatives of employees, subject to the provisions of section seven hundred five.

8. To discharge or otherwise discriminate against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this article.

9. To distribute or circulate any blacklist of individuals exercising any right created or confirmed by this article or of members of a labor organization for the purpose of preventing individuals so blacklisted or so named from obtaining or retaining employment.

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10. To do any acts, other than those already enumerated in this section, which interfere with, restrain or coerce employees in the exercise of the rights guaranteed by section seven hundred three."

In the same way as the National Labor Relations Board, the State Board is empowered to enforce the provisions of its act and to prohibit unfair labor practices.

It is to be pointed out that these boards have real authority, real power, and they have time and time again exercised their power in a forceful way. No one defies successfully the decisions of these boards.

A Viewpoint of a Committee of Congress

A United States Senate Committee on Education and Labor has this to say of the National Labor Relations Act:

> "A major objective of the bill is to encourage, by developing the procedure of collective bargaining, that equality of bargaining power which is a prerequisite to equality of opportunity and freedom of control. The relative weakness of the isolated wage-earner caught in the complex of modern industrialism has become such a common place of our economic, literary, and political vocabulary that it needs no exposition. This relative weakness of position has been intensified by the technological forces of driving toward greater concentration of business and cooperative activity among trade and industrial groups. With these objectives in mind, Congress enacted the Wagner Act, the National Labor Relations Act, enumerating therein the rights of labor, the activities of the employers which shall be considered infringements of those rights, and the machinery whereby the infringement of laborer's right may be prevented or remedied."

The National Labor Relations Board in its 1943 annual report, after eight years of existence, had this to say of its work:

> "The conclusion expressed by Congress in the Act, that protection of the right of employees to organize and bargain collectively would encourage the practice and procedure of collective bargaining is supported by the experience of the Board."

Thus we see that the National Labor Relations Act and the State Acts were purposely created for the specific reason of helping labor organize, so that it might bargain collectively on equal footing with employers.

The Japanese Law

An examination of your own Trade Union Law is pertinent here. Article 11 of that Act reads:

> "The employer shall be disallowed to discharge or give a discriminatory treatment to a worker for his being a member of a trade union, for having tried to form or join a trade union, or for having performed proper acts of a trade union law.
>
> "No employer shall make it a condition of employment that the worker must not join or must withdraw from a trade union."

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Article two of your same law requires that a trade union be autonomous--i.e., not employer dominated, not a company union.

Article six gives your committee the power and the duty to determine whether a union is in fact autonomous and your Imperial Ordinance Number 108, promulgated 27 February 1946 in Articles 2-8 inclusive prescribed the procedure looking to the disestablishment of a union if it is employer dominated.

Articles 11, 27 and 33 of the Trade Union Law give your committee the power and the duty to protect workers in the exercise of their right to organize.

Specific Cases

Now, then, essentially your powers and responsibilities in these respects are the same as the responsibilities of similar Boards in America. Although in subsequent lectures we will consider in detail the question of unfair labor practices and employer-dominated unions, it might be pertinent to pause here and illustrate how our Boards in one or two cases meet these responsibilities. In respect to a discriminatory discharge, the New York State Labor Relations Board stated in one case, in part, as follows:

> "It is hard to believe that the respondent (employer) would have discharged one of its best mechanics without first attempting to retain him by some adjustment of his wages. It is more likely, and we find that the discharge of Judski was intended as an example to the rest of the employees and was designed to discourage union activities. The discharge of the highest paid mechanic in the shop for union activities could readily serve as an effective deterrent to union activities of less skilled employees."

Needless to say, Mr. Judski was reinstated in his job by order of the Board and the employer also had to pay him for any money he lost in wages while he was out of work.

On the question of a company-dominated puppet union being used by an employer to defeat a free choice of union by the workers, the language of the same Board in another case is helpful.

> "The evidence shows that respondents (employers) did not wish to bargain with Local 306 because they did not like the terms presented in them. Having come to an understanding with a union that did not represent a majority of the employees, the employer proceeded to discharge that majority. The employer entered into a contract with the union that did not represent the majority of their employees and thereby attempted to preclude such employees from receiving employment at respondent's theatres unless they were to become members of the Empire Union and were to cease their affiliation with Local 306. The entrance into the contract itself clearly constitutes and interferes with the rights of their employees to organize and bargain collectively through representatives of their own choosing. A clearer violation of the express provisions of the Act could scarcely be presented."

Here was a case where an employer, afraid to deal with a bona-fide union, quickly made a contract with a puppet union granting that union a closed shop--that is, requiring that all his employees must be members of that puppet union. How could workers freely exercise their choice of union when the employer told them they must join the puppet union or be discharged?

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In this case the Labor Board ordered the puppet union dissolved--forbid the employer to recognize or negotiate with it and declared void the contract the employer had made with the puppet union.

These are only two cases. Many more illustrations of the points involved will be referred to in later lectures devoted to unfair labor practices and company-dominated unions. It is enough now to illustrate that society gave the Board a purpose and the machinery thru which to execute that purpose, and time after time the American Labor Boards have forcefully served that purpose. Moreover, time after time Labor Unions have appealed to these boards and came prepared to prove specific violations of the law, and found the help they sought. Many times, where necessary, they have stimulated these boards to act when they were reluctant or slow to act.

In Conclusion

In America then the Act was created to help labor. It is, in that respect purposely one sided. That is not to say that it is unfair or unjust. An allegation that an employer discriminated against an employee in regard to his union activity must be proved. It cannot be merely propaganda or loose talk. Appropriate and detailed procedures have been established so that the Labor Boards may be sure in their judgments, but once they find the law has been violated, then they never falter from their purpose of helping a worker.

Now why does such legislation result in industrial peace? It can be easily illustrated in part. If A, the employer, discharges B, the worker, because B, the worker, sought to organize a union or sought to lead the union in militant wage negotiations, then the worker has two alternatives. One, he can call all his fellow workers out on strike or can appeal to the Labor Relations Board--if he knows that the Labor Relations Board will compel the employer to rehire him and pay him any back pay he may have lost. In thousands of cases in America just that has happened and many, many strikes have been avoided because Labor had confidence that their Boards would protect them. In a broader sense the resultant equality of bargaining power results in the improvement of the welfare of a large segment of society and is thus a benefit to society as a whole. In America we have stated this latter purpose by enacting the laws we have discussed and also seeing that these laws were really enforced.

Now you have essentially the same law here. Your Diet has enacted in Section 11 and Section 2 of your Trade Union Law similar provisions protecting the rights of workers. This then is the law of Japan--this idea of helping workers to organize is not something the Communists, the Socialists, the Liberals or any other party thought up. It is the law of the Japanese people, all of the Japanese people.

You have been given the honor, duty and responsibility for enforcing it. How well will you meet that responsibility?

At our next meeting we will consider the purpose of legislation and agencies providing for the peaceful solution of labor disputes through conciliation, mediation and voluntary arbitration and then we will go on to study the internal structure and organization of the National Labor Relations Board, giving consideration to its size, its personnel, its volume of business and its procedures.

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Osako MGT
attn: CI&E

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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 343

EXCERPTS FROM LABOR RELATIONS CONFERENCES

The following questions and answers are excerpts from the recent labor relations conferences. The material contained herein represents approved policy, which is furnished for information and guidance.

General Policy

Q. Can you re-state briefly the policy concerning labor relations?

A. The policy involves 3 points:

(1) Dealing with democratic labor organizations
(2) Development of orderly procedures and machinery
(3) Provisions of government services

Responsibility for Labor Policy

Q. The commerce and Industry Officer has practically all of the contacts with the employer, but the C.I.& E. officers do not see much of them; if they could, they would have a great chance to influence them.

A. It would be a fine chance for liaison. The C.I.& E. officer could do his information work in cooperation with the Commerce and Industry Officer.

Inclosure No. 1

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The C.I.& E. officers are supposed to be the people who send material out to the press and magazines and who are the contact people on the various teams for publications of information material. The Labor Relations Officers are the oneswho deal directly with the labor employer associations, prospective unions, etc. In each team, there should be one person who knows the subject of labor relations thoroughly and who will be the one to energize and encourage this program.

Attitude in Labor Disputes.

Q: Our attitude, so far, by request, has been "hands off" on all labor difficulties. We have been asked by the Japanese to take sides, but we have not taken sides in any case. Should our attitude remain "hands off"?

A: The policy is "hands off" insofar as acting as referee or taking sides is concerned. However, in major disputes which result in active or threatened work stoppages, you will have to investigate the cause of the dispute, the events leading up to it, and its effects, in addition to inquiring into the attempts being made to settle or prevent the strike. In other words, you must still investigate and report information concerning strikes.

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Attitude in Labor Disputes.

Stress the fact that because SCAP jealousy guards the right to strike in every case, we must be careful not to abrogate that right, while at the same time discouraging abuse of the right. Encourage the attitude that everything possible in the way of mediation, conciliation, and arbitration be done prior to a strike. Try to get the idea across that a strike never settles anything, that even if one occurs, a settlement still has to be reached later. Therefore, why not have the arbitration, conciliation, or mediation first and thereby avoid a strike?

Problems in Labor Education

Q: On most of the labor education programs that have gone out, we deal entirely with the privileges and opportunities of the working class, but have not discussed their responsibilities too. Is that part of the program?

A: Yes, indeed. We must outline responsibilities of the labor unions. They must be made aware of their duties and responsibilities as well as the rights and privileges.

Q. Have you had any contact with employer associations so far; have any employers come in to you looking for information?

A: Yes. From time to time, individual employers who represent large plants will request that you come out to their factory to give a lecture on labor relations. No matter what you say, after you have gone, the employer concerned may use his contact with you as giving endorsement to his every viewpoint.

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Problems in Labor Education

We have found it a better policy to deal with employers throug a series of lectures - having an entire industry, such as a number of employers, so that there will be no favoritism shown to any particular company or factory.

Q: Is there a danger that the pamphlet material on labor will get to the union heads, but never reach the rank-and-file members of the union?

A: Yes, one of our jobs is seeing that these materials are circulated. It is difficult to get the top leadership to do anything. We've been giving out these pamphlets, and by a checker find that they are not getting anywhere. This conference is making them available to you. See that they get down to the lowest level. Because of the paper shortage, the limited number of copies will make it difficult.

Q: Are you planning a series of labor lectures?

A: Yes, we are planning to have a series of four lectures: one is fairly general, on industrial problems; the second on labor relations; and the third, questions and answers on the preceding two lectures; the fourth, lecture on their own request. Things that the employers are quite interested in are:

(1) The wage system in the United States (the method of paying salaries in the United States)

(2) How we classify a job (method for determining how a perso is to be paid)

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(3) Time study (in Japan you see one-half of the people working in a factory, while the other one-half is drinking tea and having a "bull-session" - you would never see such things in the United States)

(4) Foremanship (the work of a foreman is a democratic society-developing the conception of having a man working inside the factory representing the management to keep the job moving, and the workers working. Productivity cannot be increased unless some "retainers" get to work. A foreman should be a coordinator, not a "Simon Legree." In the Japanese language, there is no word for "foreman.")

You need not be discouraged because employers do not come to see you, but I believe that as a result of this publicity campaign to the rank and file, the employers will soon be coming in to find out what is happening. Even now the CI&E library is being used for material relating to labor management and the settling of any issues between them.

Paternalism in Labor.

Q: Does the ESS Labor Division feel there is any objection to hobi and gift remuneration?

A: There is no objection to any form of remuneration; it is the attitude that it is a gesture of paternalism that we wish to discourage.

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It may not work to bring in the hourly wage system found in America; it might disrupt the whole Japanese working and pay scale.

As a dignified person, the worker is able to achieve for himself things that are his just due; it is another thing to get from a well-meaning employer the same thing as a gift. There is no democracy in a situation where the workers don't think for themselves. Do not encourage perpetuation of a situation in which the employers arbitrarily run the entire industry. In America you cannot assemble even in one building the industrial power of American economy, whereas; in Japan early in the occupation you could assemble in one room the people who absolutely controlled the industrial economy of Japan. For protection of democratic institutions in the future, paternalism is not desirable. Democracy is not furthered by anticipating all the cares of the workers. They must have a chance to think for themselves.

Unions for Special Groups

Q: Are SCAP policies any different towards government workers' unions and local unions?

A: SCAP policy is not the right term for it. I think Japanese law is a better term, because it goes into more detail. Japane law states that anybody can join a trade union except policemen, firemen, or guards of a penal institution. The Labor Relations Adjustment Law says anyone can strike except policemen, firemen and employees of a penal institution.

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Government employees who are directly engaged in administrative and judiciary work may not strike, but the janitor who serves them tea has the right to do so. Railroad, communications and government services (which, in Japan are owned by the government) have the right to strike. If it is a public utility, whether it be privately or publicly owned, there is a thirty-day waiting period before they can strike: we do not want the Japanese Government to be in a position where they can be overthrown by a small group of people. That is the reason why the administrative and judiciary officials do not have the right to strike. It is all in the Labor Relations Adjustment Law.

Q: People employed on a public works are government employees. What will be their status?

A: They are <u>not</u> government administrative employees. They will be able to strike and join unions. The only people who can't strike are those stated in the question above. Some government employees have the right to strike, some do not. All have the benefits of conciliation, mediation, and arbitration. Railroad and communications employees have certain restrictions. Employees in the government monopolies, such as camphor, tobacco, and salt, are not restricted as to the right to strike.

Under the trade union law, employees of police, fire department,

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and penal institutions cannot join trade unions, and government administrative employees cannot strike.

Q: What is SCAP's policy toward labor unions of employees of the occupation forces?

A: They can have unions. Some time in the spring, instructions will be issued which define the rights of the occupation force worker.

Q: Does your division anticipate any specialized method of handling problems of teachers' unions, or what attitude or action would you suggest on the part of CI&E labor officials toward teachers' unions?

A: We know that those are special problems, but I have not been convinced that they are of such magnitude that they require a new approach on the problems of teachers. Of course, we don't want a situation in which the teachers' unions are running the educational system, because the educational system should be responsible to the whole people and not just the member of the union, even more so since the union may be controlled by a small group. On the other hand, the teachers have a perfect right to deal in the usual union fashion. In matters dealing with the working conditions and economic status, the teachers may strike, but if they strike simply because they do not like the principal or want to change the text and the books, etc., they will receive no special legal protection as accorded under the Trade Union Law.

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Q: What specific law or SCAP policy would be violated by the teachers' union, which struck because the members did not like the principal?

A: Strikes initiated by teachers' unions for reasons other than to improve hours, wages, and working conditions do not violate existing laws, nor SCAP policy. However, the Ministry of Education has the prerogative of dismissing teachers who strike for acts of dispute not protected by the Trade Union Act of 1946 (See Article 11, Basic Japanese Labor Union Legislation, ESS, GHQ, SCAP, March 1946).

Determination of the legality of strikes, or acts of dispute is a function of the Labor Relations Committee. Strikes of this nature do not normally constitute a basis for action by SCAP, unless a general trend is indicated toward ends which are incompatible with occupation objectives. Further, if such a strike is communist-inspired, it is a matter of interest to SCAP, but does not necessarily comprise cause for SCAP action.

Q: Would people who have made statements that have gone to the press that teachers in the United States do not strike and that therefore the Japanese teachers should not strike, be stepping out of line?

A: In the first place, teachers in the United States have struck, and in the second place, the Japanese law governs in this case and the Japanese law gives the teachers a right to strike.

Politics in Labor

Q: Why should trade unions be allowed to take part in political activities and support political parties?

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A: The democratic way of accomplishing your aims is through having a person or group that will represent your wants, and it is perfectly legitimate for unions to get the support of parties and voting representatives that will work for their best interests. Free assembly of people should be encouraged to participate to the maximum through the use of democratic procedures - not by a general strike, but through elections.

Q: If the minority groups get control of the unions through undemocratic methods and try to dominate policies, is there any particular line of action we should take?

A: The line of action for the Military Government man to take would be largely a question-and-answer approach to the people most closely connected, such as asking the questionable officials "When was the last election and when were they elected?" "How were the elections conducted?" On the SCAP level, we are considering whatever may be necessary along the lines of amended national legislation on such questions as requiring elections by secret ballot at regular intervals and requiring the union to make its financial statement available to the public. Also, proper investigation and report of conditions should be made to higher headquarters.

Q: During the Toho movie strike, a communistic problem came up, and one of the employers asked whether there was any specific information available showing the problems that the

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American unions have had with Communistic elements within the rank and file. Is there any particular slant in the Information and Education field that SCAP is putting out along that line, or is it strongly 100% "hands off" and let the unions work it out themselves?

A: First of all, the SCAP attitude is that the unions should be democratic. If the union elects Communists, it is "hands off" as far as their democratic and orderly activities are concerned; SCAP does not specifically act against Communistic elements as such, but does act if there is a perversion of democracy. In the case of the Youth Action Corps, where they actually have, through intimidation, through secret caucus, through perversion or avoidance of free elections, seized control of unions, it is our job to expose them.

Q: What do you mean by "exposing" them?

A: We will simply make it clear that the union members were not told what we asked the union leaders to tell them- that the membership were not asked under what conditions they would strike. We need not get to the point of mentioning names. If a man has been following an anti-occupation course - if we get the evidence - he will be hauled into the Provost Court. Basic methods will have to be approved in higher echelon.

Q: I suggest that we get more information about Youth Action Corps to Military Government Teams to avoid confusion. In Kyoto prefecture there are more than 300 youth groups,

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which are parts of the Sanbetsu Kyoto Prefecture Branch.

It is extremely doubtful that of the 300, they were all inspired by anti-occupation leaders. Many could be under the extremely intra-union democratic influence.

A: The basic job is one of democratic education. Specific activities may be sound; there is no objection to a Youth Action Corps which serves the youth as such. There is, however, specific objection to any Corps that acts as a caucus to get undemocratic representation or to force minority views on the majority through force or intimidation.

Screening.

Q: What steps is Military Government supposed to take to insur compliance by the Japanese Government with the new regulations purging various people from labor administration?

A: Military government units should report any non-compliance in the form of a report to higher headquarters giving the names of the individuals in question. Basically, the thing is in the Imperial Japanese Ordinance, and should be answered by the Japanese. It is the responsibility of the Japane to see to it that a new official is clean insofar as the purge is concerned. If they fail, they are breaking the law.

Q: How would we be able to check which labor leaders should be screened by the prefecture screening committee?

A: The appointment of purged officials would be unlawful; it's the responsibility of the appointing officials to see that any they appoint are eligible under the law. A survey is

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being made of present administrative officials who may come within the purge. Enforcement will come from the public, who should be informed as to who has been purged. The unions are aware of purging, and will insist upon removal even if the government doesn't. They have a screening committee for each city of 50,000 or more, and they don't necessarily screen everyone, only those brought to their attention. You labor Relations people can check on trade unions. Ask them to bring you a list of officials of the union. You probably will not have time to check all of them, but you can keep your ears open. When some question comes up, check the list and call in someone and ask questions. We have two large affiliations, CIU and JFL. No person who is subject to a purge or who was connected with the wartime obstruction or repression of trade union organization or activity should be allowed to hold office in a trade union. Government or other agencies which were set up to obstruct free labor organization and legitimate trade union activities should be abolished or their powers in respect to labor revoked, and undemocratic workers' organizations should be dissolved and not allowed to revive.

We sometimes find that labor relations committees are dormant. Machinery set up to settle labor disputes sometimes doesn't function too well. You can stimulate them by asking questions such as: Who is on your committee? What's his back ground? Who is the executive director? When was he appointed?

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How many cases has the committee handled by conciliation, mediation, arbitration? What's the definition of conciliation, mediation, arbitration?

Do you have a system of job classification? Do you interview and classify them? What kind of job analysis is made? Get them interested in the public works program, unemployment, vocational training.

Prefectural or Government Labor Committees.

Some of the labor committees are good and some bad. Few people in Japan know anything about labor relations. It is difficult to get good neutrals to serve on the committees. A committee may be re-organized. The laborers can select people they trust, and the employers can select people they trust. The neutral members should represent the public; don't let each side choose half the "neutral" members. You don't direct that the committee be reorganized, but you can refer every case, explain potentialities to the labor unions, and encourage them to use the labor committees. In some disputes, the labor committee has authority to go ahead. In others, it waits until asked to do something by either the laborer or the employer. Military Government officers will <u>not</u> attempt to settle labor disputes, but will refer parties to existing labor committees (see OD 1, Hq 8th Army, dated 5 Jan 46, and OD 1/1, dated 18 Feb 46). The function of MG is to encourage recourse to orderly procedure under law.

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Publication Policy

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Q: Do we have full reproduction and translation rights on all of this material that comes down to us?

A: Only for the material you receive which is marked "Release for Publication," or which is indicated on a letter to be sent through technical channels, listing materials which are released for publication but which have not been so marked. In other words, you will receive notice in writing, either by letter or by notation on the publication itself, that such and such material is "Released for Publication." No other material is so released. "Released for Publication" means that the material can be printed in newspapers and magazines. It does not mean that the material may be published in a bulletin or booklet or to be sold, special arrangements will have to be made with SCAP for that.

Q: Is that doing away with the 500-word policy? Up until now, you have permitted the re-printing of up to 500 words of any article in any educational magazine.

A: In anything we send you marked "Released for Publication," you can give to the people in your area permission to reproduce as much as they wish, provided it is released in magazines and newspapers.

Q: Why are some pamphlets not released except by permission?

A: They are released for reproduction by yourself to get out to the unions. The restriction is only on commercial pub-

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lications. Newspapers and magazines are not considered commercial publications. This restriction is to prevent the individual commercial publisher from maneuvering you into a pressure position on the paper allocation committee.

Q: Should MG be mentioned as responsible for distribution of information that is released by them?

A: Credit need not be given military government and above all never should the release be interpreted as coming directly from the Supreme Commander of the Allied Powers. It can be said that Military Government made the following material available. Don't indicate that the matter is a directive. Merely say we are making the information available. If the Japanese print the material themselves, they do not have to give credit to Military Government; they must not say it is an official SCAP statement. In cases of distortion by the press, report such distortion to your nearest CCD man or send it to Eighth Army.

Q: You do not order anything published?

A: No, if they want it, they can print it; if they don't want it, they don't have to.

Q: Do you have policies set up as to the proper action to be taken by the people who want to make speeches?

A: CI&E Section at SCAP is the one that does the releasing and checking for SCAP policy for anything going to the Japanese for publication or on the radio. Speeches are a command responsibility. On labor subjects, our material should come from these SCAP pamphlets. If we confine our

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talks to the things found in the pamphlets, there should be no worry on anybody's part. Just don't inject your own ideas.

Q: Is the speech material we receive released for publication?

A: The printed material of the speeches given at this conference should not be released for publication, because the material is presented from the wrong viewpoint insofar as publication is concerned. It is just a medium of explaining to those in the field what they should know about the subject. These speeches are for your personal file and are not meant for publication. One primary mission of CI&E officers is to work with editors. Show them the press code, and tell them they are expected to live up to it. When anything is given to the press, it might be a good idea to let CCD know so it can follow up and check.

Censorship

CCD operates principally from Tokyo. It exists in the field particularly for the handling of Japanese radio. Programming and policy are directly under CI&E; security under CCD. CCD has post-censorship on newspapers and magazines. Contact your nearest CCD station if you have any trouble in the field. Because of increased use of the press, you may have to set up a surveillance system. You will run across papers getting out of line. These should be reported

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to CCD through local commanders. Give name of papers, editors, what the violations were, and what date. They will run a special investigation of the papers for you. Some of these violators you can keep in line with the press code. On press censorship, CCD does not have time or resources to censor all this material. On any items that should be pre-censored, if you find it difficult to handle through military means, require the Japanese to get it cleared through the CCD. CCD has the authority to censor everything in Japan. It is not possible or practical to censor it all. Spot checking is used. Any I&E officer of a military government unit may require newspapers and magazines in his area to send him copies of the publications.

Interpretation of Policy

Do not invent SCAP policy. All SCAP policy stated at these conferences will reach you in written form. Be sure that you realize not only what you know, but more so, what you do not know. Do not make up SCAP policy.

Perhaps many of you have been questioned by the Japanese regarding the press statement by General MacArthur concerning the general strike. In Tokyo, we get very explicit instructions not to try to interpret an official SCAP statement. You should stick to the letter of the word, especially since SCAP makes it. I invite your attention to the importance of the subject matter being dis-

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cussed, and to the obviously intricate character of labor management relations. SCAP has established the most positive safeguards for you that they could in furnishing you with "canned" speeches, verbatim copies of all speeches being given at conferences, and copies of pamphlets whic have been approved by SCAP on this subject. In addition to that, stenographic notes are being taken so that you will have an accurate copy of everything brought out during the question-and-answer periods.

Obviously, this conference is to enable you to get a reasonable understanding of policies back of labor problems. It must be apparent to you that it is your duty, therefore, to put out to the Japanese people the policies presented to you here. However, I wish to again caution you against entering into labor controversies and labor disputes.

In such cases, you should make available facts and policies to both sides, and urge recourse to available machinery for the peaceful settlement of disputes without in any way giving your support to one side or another. The point is that you must not enter into labor controversies or take sides one way or another, nor must you be a referee in labor controversies.

Labor Libraries

Q: What is the reaction to having a labor-management library in the same room as a CI&E reading room?

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A: Fine. Simply have a special labor-management section in the CI&E reading room.

Q: Could the Japanese Government be asked for financial assistance in setting up these libraries?

A: The Japanese Welfare Ministry put out a request that each Ken set up a Labor Management Library on a Ken basis. If an individual wishes to donate any lump sum, it can be accepted if approved by SCAP. The practice of free librari as in the United States has not been in prevalent use in Japan. The people are hungry for information, but they do not have the opportunity to get the information that they want, so SCAP in a modest way is trying to lead the way, and we feel that they will follow the lead. In Saitama-Ken, they are having a grand opening this Saturday of their new library. The labor material placed in this library has been provided by the Welfare Ministry. Whenever possible, it would be a good idea if Military Government would participate in such openings to show them that we are interested.

BY COMMAND OF LIEUTENANT GENERAL EICHELBERGER:

R. SCHAFER
Lt Col, AGD
Asst Adj Gen

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DECLASSIFIED E.O. 12065 SECTION 3-402/NNDG NO. 775013

1-49

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Economic and Scientific Section

15 July 1946

MEMORANDUM:

FOR : Military Government Labor Officers

SUBJECT : Instructions of Home Ministry Concerning Functions of Police in Labor Disputes

1. Attached herewith are instructions issued by the Home Ministry to Prefectural Governors covering the subject of police functions and responsibilities with regard to labor disputes.

2. For your information.

THEODORE COHEN
Chief, Labor Division

3 Inclosures

1 - Cpy of Translation; No. "Ko" 140, issued from the Police Affairs Sect of the Police Bureau, Home Ministry, dtd 6 Nov 45, subj; "Control of the illegal action, accompanied with mass movements."
2 - Cpy of Translation, dtd 8 Feb 46, subj: "Prevention & Control of Illegal Actions Accompanying Labor Disputes."
3 - Cpy of Translation, dtd 22 Jun 46, subj: "Paying Special Care to the Policemen's Attitude Toward Labor Disputes and the Movement of Laborers."

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COPY OF TRANSLATION

No. "KO" 140, issued from the Police Affairs Section of the Police Bureau, Home Ministry.

November 6th 1945.

From : Director of the Police Bureau of the Home Ministry.

To All the Prefectural Governors.

Subject: Control of the illegal action, accompanied with the mass movements.

Although, perhaps, you might have been already informed of the above-mentioned subject by the joint announcement of the Home and the Justice Ministries through the newspapers, the Government has decided, in the recent cabinet council, the control policy with "re Control concerning the mass movements", which is attached hereto.

By this step, however, we do not aim, as rumored, at oppressing the freedom of speech, meeting, and associations, or legal, social and political movements, and opposing unlawful restrictions upon them or enacting new control measures about them. We merely tried to clear up our intention that in case of the riotous actions, such as agitation, violence or bloodshed caused by the mass movements, we resolutely enforce control by putting the rules now in existence in action. You must, therefore, pay regard to the above circumstances, and must be careful to give justice and order to the mass movements, and maintain the public welfare, under the agitated conditions, resulted from the change of the social situation.

I may add that in the actual control and guidance, please keep in mind the following items:

I. a. 1. In the items of the second measures of the articles decided at the cabinet council, it is stated, "Dispatching considerable number of police officers for the inspection of the situation". By this it is meant to station proper number of police officers in order to inspect, according to the circumstances, lest there should be any illegal action, instead of dispatching many police officers to the place beforehand in order to practise attendance or inspection for the speech control as ever, or to prepare against the demonstration. Therefore, cautious consideration must be given in arranging the police officials lest it should subjugate the freedom of speech.

b. 1. By "Prevent beforehand occurrence of bad affairs", is meant to prepare beforehand against the meeting and the mass movement lest they should outstep the bounds of the legal action.

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c. 2. The clause, "Proper leading to and guidance of a responsible person and so forth," has no meaning of interference or oppression before the fact. Its meaning is that, when the mass movement gets beyond the bounds and acts illegally, police officials will explain on the spot to a responsible person and make him consent not to act illegally, and thus make the movement fair and orderly.

d. 3. The clause, "to effect completeness of leading" means that, as carrying dangerous weapons cause an illegal act, police officials will observe and lead them carefully when it is clear that they carry these weapons on the spot of assemblage and mass movement; and does not mean to control them to the tip of flag as before.

e. 4. The clause, "If break into one's residence," is misunderstood to overlook even an illegal act accompanying mass movement as a result of abolishment or suspension of Peace Preserving Law and the others concerning the control of social movement; however, this clause does not mean to overlook such acts, but it makes a policy clear to dispose of such act as intrusion into one's residence or damaging utensils promptly and fairly.

f. 5. Concerning the control of Chinese laborers under contract, (Chinese prisoners shall be dealt with in the same manner as Allied Forces) in case a criminal offense has occurred, the police officials and men shall immediately establish communication with the concerned of Allied Forces and shall act not to commit an error to take prompt and impartial measures based upon the principle which has been directed formerly.

II. If mass movement goes beyond bounds and acts illegally, it must be regarded not to mistake, consulting "Reference to Controlling Assemblage and Mass Movement."

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COPY OF TRANSLATION

8 February 1946

FROM : Director of Police Bureau of Home Ministry.

TO : Respective Governors of Province, Municipalities, and Prefectures.

RE : Prevention and Control of Illegal Actions Accompanying Labor Disputes.

Although thru the declaration made by the joint signatures under Home, Justice, Commerce and Industry, Welfare Ministers (dated 2 February 1946) the plan for this control has been clarified and the present measure does not intend to add limitation unjustly toward labor disputes, oppress, or decide upon a new plan of control, but in view of the fact, that the recent trend of labor disputes have been so aggravated, and present situation in part is such that there is development of undesirable illegal action, as violence, intimidation, infringement of right of ownership that this measure hopes to clarify with the aim of enforcing provision of laws and regulations when there is outbreak of unjust and unlawful conducts accompanying such labor disputes.

In the least, for turning toward coercive direction as to accomplish the purpose of labor disputes hook or by crook, or running toward destructive extremity these are not only dangerous for derangement of peace of industries, but since it is considered as to be impedient toward healthy and sound growth of labor movements that when there is any development of such illegal actions must be prevented or pointed out after careful and close consideration. Thereby, it is hoped to have respective notified authorities to contribute toward achievement and activities of sound and harmonious, impartial and orderly disputes. It is also requested that in dealing with such guidance and prevention that it will be done after consideration of following points, and no mistake or over-doing be made.

ACCOUNT

1. The control of the present measure in dealing with labor disputes is not intended to control or check activities of labor disputes itself, but it purports to carry on labor disputes which are sound and orderly. Its object is to check illegal actions which develop accompanying labor disputes. In case there are unlawful acts which are immensely harmful for peace and welfare of the society, as violence, murder, injury, larceny, robbery, damages and loss sustained upon goods (apparatus, furnitures, etc.) and buildings, or in case there is outbreak of unjust criminal acts, these must be controlled in accordance with stipulated provision of laws and regulations.

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Note: The situation when illegal acts or immensely unjustified crime developed means that it must determine whether it will disrupt the order of dispute or not by sufficient consideration of circumstances leading to and of disputes, and just a mere and slight offense, for example, a breakage of a sheet of window glass - - taking it up of it of the case just by evidence of it act does not always be the preservation of order of disputes. Rather by controlling it act will bring up the unnecessary friction. Thereupon, in dealing with such control it means it must closely deliberate upon degrees of offenses (whether it is slight, serious, or not), time and other matters.

2. In case of intimidation: Through the Labor Union Law, Article I, the right of collective bargaining of laborers has been recognized and guaranteed. As a result it cannot be measured with conception of "threat" as hitherto considered. By Clause II of the same Article its illegality has been greatly checked, and thereby for proper and definite acts must take into consideration of various objective conditions leading to it for judgment, and ultimate decision must be left for the judgment of the Court. It, therefore, must pay special attention in handling and judgment in dealing with this case.

3. Depending upon the situation, if there is danger of outbreak of illegal actions in labor disputes, and if there is fear of menacing the safety of the general public, the emergency police forces should be deployed to the scene for maintenance of order. But in this case, the duty of the dispatched police force is guarding the possible occurrence of illegal actions, and of course, it has no relation with disputes itself. Therefore, in judging whether there is necessity or not of dispatching must fully consider of the situation, and in case of it dispatch, it must exercise every precaution to avoid hampering the freedom of disputes. This aim should be thoroughly convinced both to the laborer and employer so as to maintain full understanding.

4. Other than cases accompanying illegal actions of three prescribed points, until there is some instruction from the competent ministry, it is advised not to become object of issue for control of Labor's participation in or control of management.

5. The direction must be received after close coordination with the public procurator's authority in case there is necessity of judicial disposition in regard to labor disputes.

6. As regard to the control of mass-movements which develops accompanying the disputes, it must be handled by basing it on "Re. The Control

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of Illegal Acts Accompanying Mass-movement" (Notification issued by the Director of the Police Bureau of Home Office, KO-No. 140, dated 2nd November 1945).

7. Regarding labor disputes, it is directed to try to prevent such illegal actions in them by operating fully the Labor Committee which is to be set up soon according to the Labor Union Law with such purposes as the prevention, the mediation or the arbitration of labor disputes.

8. Concerning the outbreak of illegal actions in labor disputes, in view of not a few facts that the employers lacked understanding and cooperation, a proper warning should be given to the employers.

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COPY OF TRANSLATION

22 June 1946

FROM : Director of Police Bureau of the Home Ministry.

TO : Superintendent General of Metropolitan Police Board and Prefectural Governors.

SUBJECT: Paying Special Care to the Policemen's Attitude Toward Labor Disputes and the Movement of Laborers.

In accordance with today's instructions from GHQ, SCAP, we earnestly request you to pay special attention to dealing with the attitude of the policemen toward labor disputes and the movements of laborers that they may not make a bit of mistake hereafter, and to drive home the items as set forth below to your policemen.

1. With regard to the labor disputes, you must ensure absolute obedience to the purport of the memorandum of Director of Police Bureau, "Subject: the Control and Prevention of the Lawless Actions attendant on the Labor disputes," No. 10, Home Ministry, dated Feb. 8, 1946, and pay special care to the following items.

1) You must never interfere in the labor disputes itself.

2) In connection with the labor troubles, if there is a fear of the occurrence of the unlawful actions under certain circumstances, (these circumstances include the riotous behavior ventured on the part of the laborers as well as the cases where the company and other associations, organizing the gang of terrorists or self-defending band, appeal to force or other provocative actions.) or a danger to disturb public welfare, you must dispatch policemen as the occasion demands, and make them maintain order.

Especially in these cases, it is needless to say that their duty consists wholly in the prevention of unlawful actions attendant on the labor disputes and it has no relation with the disputes itself, so, as to whether the dispatch is unavoidable or not, you must take the circumstances fully into consideration, and, in case of the dispatch, take special attention so as not to oppress the freedom of the troubles for this reason, and, furthermore, to make all concerned understand the purport completely.

3) In case of the disputes the dispatched policemen must take care not only to assume a fair attitude all the time toward both parties concerned, and to be drawn into the vortex of the troubles at random, but also not to make the matter worse because of too strict control of trifle crimes.

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2. The Trade Union Law (21/12/1945 - Law Number 51) guarantees the right of Japanese people to organize or join trade unions freely. In order to assure these rights, therefore, police should never do such action as to interfere in any way with labor union activities except where necessary to quell public disorder, physical violence and other crimes that have occurred or are occurring.

3. The practice of regular police attendance at labor union meetings or collective bargaining conferences will be discontinued.

4. Police will attend labor union meetings or collective bargaining conferences only when

1) Such meetings are held in a public place and the number involved is so large as to require police to maintain public order. In such cases, the number of police will be held to a minimum and in no case will they be so numerous as to give a threatening appearance.

2) Disorder, physical violence or other specific crimes are involved.

5. Police will not collect information on labor union business and will not interrogate labor union officials or members except in connection with specific crimes or contraventions of law. The function of gathering information with respect to labor unions or labor disputes is not a police function but rather a function of the Welfare Ministry.

6. By the SCAP Memorandum of 4/10/1945, subject: "Removal of Restrictions on political, Civil, and Religious Liberties," surveillance, supervision over, or restriction of political, civil and religious liberties on the part of the individuals or groups of persons are prohibited. Hence, it is needless to say that freedom of action, thought, speech, assembly, and organization of associations which are guaranteed by this Memorandum should not be watched over or threatened, provided that no crimes are committed while exercising such right. Consequently, action contrary to paragraph 2, 3, 4, and 5 violates the intention of the SCAP October 4th Memorandum, and the Trade Union Law, and therefore you must be seriously careful to follow these instructions accurately.