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The United States Conciliation Service

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"Senator Says Draft Strikers," reads the headline in one newspaper.

"Telephone Unions Paralyze Nation," shrieks another.

Bitter industrial conflict seems to have gripped the American society. For many months, it has been one crisis after another: automobiles, steel, shipping, telegraph, electricity, coal, railroads—a never-ending story of breakdown in negotiations followed by strikes.

The story, however, is not an accurate one, because it is an incomplete one. An estimated 100,000 contracts between labor unions and management are in operation today. Arrived at by peaceful collective bargaining, they determine the terms and conditions of employment for about 47% of America's population of workmen, excluding agriculture, domestic service, government and self-employed. While the strike of the day engages the attention of headline readers, approximately 100 other labor agreements are being reopened daily in an atmosphere of mutuality.

This perspective is not to minimize the reality and the seriousness of industrial conflict. The inequalities of income, maldistribution of wealth, continuing threat of insecurity to the American wage earner—all point to a deep and basic malady in the framework of the American economy. Industrial harmony within such an area is indeed much to ask for.

Nevertheless, to the extent that we refer diagnoses and treatment to democratic processes of discussion and legislation, society has an interest in preserving peace within the community and in temporarily salving dislocations which cannot await long term solutions. In that light, harmony in labor relations becomes significant and a worthy goal.

Toward that end, the United States has established a network of statutes, principles, and agencies recognizing the right of labor to organize into unions of their own choosing, on the theory that collective bargaining provides the democratic and most efficient avenue to industrial harmony.

It is the object of this study to investigate the functioning of
one of the agencies, the United States Conciliation Service. The study will be approached from the viewpoint of participants in collective bargaining negotiations. We may assume that the parties are new to the practice. Negotiations seem to be stalled. They are aware from the press that a Conciliation Service exists, but know very little more. Either one or both of the parties, therefore, is making a study of the agency to help decide whether to call on the Service for assistance.¹

A Short History

On March 4, 1913, President Taft, for his last official act in office, signed a bill creating a Department of Labor in the federal government, headed by a Secretary, who would thereby become a member of the Cabinet. Section 8 of the statute declared

“...that the Secretary of Labor shall have power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever in his judgment the interests of industrial peace may require it to be done.”

Congress, however, made no further provision at that time for creating a distinct bureau or agency to carry out the conciliation function. During the first two fiscal years of 1913 and 1914, conciliation was carried on by the Secretary of Labor together with such assistance as he could command from other bureaus in the Department of Labor. There was, in fact, during those years no regular appropriation made and no clerical or supervisory help provided, although deficiency bills for expenses were passed. The fact that the Department’s chief statistician was the conciliator sent to the first cases is evidence of the Service’s condition then.

For the third fiscal year in 1915, however, an appropriation of $50,000 was made for salaries and expenses of commissioners. An executive clerk was hired to care for the clerical work of the service. Finally, in 1917, a Director was appointed and the Conciliation Service thereby became a separate and distinct unit in the Labor Department.

The beginnings of the Service, therefore, firm as they were in statutory grounding, were quite modest as well. The records indicate that from 15 to 24 commissioners were utilized during the

¹Since this article went to press, the Taft-Hartley “Labor Management Relations Act, 1947” (H.R. 3020) became law over the President’s veto. Title II of the Act transfers all mediation and conciliation functions of the Conciliation Service to a newly created independent agency, the Federal Mediation and Conciliation Service, under the direction of a Director, appointed by the President by and with the advice and consent of the Senate.
1915-1916 fiscal year, and an average of no more than 22 commissioners were on the payroll in 1921.

By 1924, however, the annual appropriation for the Service, a good guide as to its growth, reached $200,000, jumped to $488,300 during labor's intensive organizing campaign of 1936 and began to assume its wartime obligations in 1942 with an appropriation of $719,300. During the latter year, incidentally, the Service settled 12,315 disputes involving more than 6 million workers, an average of 33 settled disputes a day. A report of the Department of Labor for the fiscal year ending June 30, 1945, announced that the Service had participated in almost 26,000 cases, more than 5,000 of which had culminated in or were about to lead to strikes.

A Job to Do

It would appear, therefore, that the Conciliation Service has passed the preliminary test of time. The fact that it has existed through 33 years, including two wars, and has grown during the period indicates that it has probably accomplished the purposes expected of it. Our investigation must now define the purposes which the Service seeks to perform.

The basic element of collective bargaining is that of free negotiation between the parties leading to a voluntary agreement. It is not within the scope of this paper to discuss the processes of negotiation. Suffice it to say that instances arise, where, due to a variety of circumstances, the parties cannot come to a complete meeting of minds on the matters being negotiated. It is then that the voluntary entrance of a third party into the picture may facilitate the direct negotiation of the parties and lead to an agreement. Conciliation takes place when the third party considers it his function merely to assist the parties, make suggestions and not decisions, so that the final agreement reached is truly that of the parties.

Since it is clear that such a voluntary agreement is the most desirable for a lasting relationship between the parties, our government, through the Conciliation Service, makes its services available to help bring that about by designating Commissioners of Conciliation whose training makes them capable of taking their place around the conference table as conciliators.

Experience of the Service reveals broadly that a conciliator has a place around the collective bargaining table in either of the six cases that follow:

a—where the parties are new at collective bargaining and re-
quire the assistance of an expert in drawing up their first formal agreement.

b—where the parties disagree over the inclusion of a specific proposal in the agreement, such as arbitration, sick leave, or grievance procedure.

c—where the parties disagree over a specific clause to be included in a contract.

d—where questions arise as to the relative merits of hourly rates, piece work, or some other form of incentive in calculating wages.

e—where there is disagreement over the carrying out of an existing contract.

f—where the parties cannot agree on the terms of a new contract.

Notice should here be taken of the important fact that either party to the dispute may accept or refuse the assistance of the Conciliation Service. It, therefore, has no legal jurisdiction over any dispute, although it does have the strength of the understanding that public opinion would tend to be hostile toward groups not willing to accept the efforts of government to achieve settlement.2

At the same time, the jurisdiction of the Service is theoretically unlimited, without regard to the nature of commerce involved. Since it provides a service and does not enforce a law, it is not restricted to disputes of an interstate nature. It, therefore, enters into purely intrastate disputes as well where there is no appropriate state body to cope with the dispute, where it does not properly function, or to supplement the work of the state agency. This arrangement has a potential for friction, however, and it is often the case that the federal conciliator must begin his conciliation with the state conciliator. Friction has been at a minimum, however.3

**Internal Organization**

We next turn our attention to the structure and organization of the Conciliation Service. How complicated is the machinery? How deeply enmeshed in bureaucratic red tape will we become? These questions are of real interest to parties considering whether to make use of government facilities. Out of proportion though

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2Sec. 204(3) of the Taft-Hartley Bill obligates employers and employees to "cooperate fully and promptly in such procedures as may be undertaken by the Service under this Act for the purpose of aiding in a settlement of the dispute."

3Under the terms of the new legislation, it is no longer clear, Sec. 203(b), whether the Service may interfere with disputes of an intrastate nature. Pending further interpretation, the Service is limiting its jurisdiction to disputes of an interstate nature only.
they may appear, they are of real concern to people already overburdened with the intricacies of modern government.

The delays and confusions, however, commonly identified with modern bureaucracy are conspicuous by their absence in the Conciliation Service. Even a cursory layman's examination of the functions to be performed demonstrate how vital that absence is to any proper functioning of the organization.

All activities of the Service stem from the office of the Director, whose duty it is to keep in constant touch with the Secretary of Labor, nominally responsible, particularly of late, for all personnel and activities. Edgar L. Warren, most recent director, was the third one to be in office. He was preceded by Mr. Hugh Kerwin, 1917-1937, and by Dr. John R. Steelman, 1937-1945.

A special Assistant to the Director acts in the capacity of Director in the absence of the latter and is legal adviser as well.

An Administrative Assistant relieves the Director of many detailed tasks and formulates and installs policies and methods deemed most likely to effect and maintain greater operating efficiency.

In 1938, when it became clear that the Service would be entering into a period of increased activity which would call for a more mobile and prompt use of staff, Dr. Steelman reorganized the Service on a regional basis. Five regions were created, now increased to seven, each under the supervision of a regional director. In each region, there are Branch Offices under Branch Office Managers in cities that are centers of great industrial activity.

In addition to the seven regions, out of which 225 Commissioners operate, there are four divisions in the Service.

The Field Operations Division has the responsibility of directing and assisting the regional offices, coordinating their work and keeping in touch with the progress of the field staff.

The Program Division, which replaced the Training and Procedures Division, will be described in greater detail below when we analyze the qualifications of Commissioners. Its functions are to establish training programs and refresher courses for personnel and furnish the staff with current industrial relations information.

The Technical Service Division consists of a small staff of Commissioners whose training and experience have been along engineering and industrial management lines. They assist the negotiations, upon joint request of the parties, when impartial technical analysis is required, on such matters as work load, job
analysis, comparative wage rates in relation to job assignments, merit rating, classification, incentive plans and the like.

The fourth is the Arbitration Division, with a unique and distinct function, recently revised, which will be described below.

**THE COMMISSIONER OF CONCILIATION**

We now come to the actual work of conciliation. Although experience has led the Service to prefer to be called in during the early stages of industrial disputes and a number of unions have followed the practice of withholding strike sanction from their locals until the Conciliation Service has been notified and has had the opportunity to function, this policy of “preventive conciliation” has often been by-passed by the parties who wait until tempers are high and is near before they will call for assistance.

The Conciliation Service may be called into a dispute at the invitation of one of the parties or at its own initiative when the public interest is directly affected. The latter contingency often materializes, though the former is preferable, since at times strained relations among the parties cause both to refrain from any move in the direction of conciliation lest it be construed as a sign of weakness.\(^4\)

The request to the Service may come by mail, phone, telegraph, or through personal call. The actual assignment of the case to a Commissioner is now the responsibility of the Branch Office Manager. If the case should cross branch lines, the assignment is made by the Assistant Regional Director; if it crosses regional lines, the assignment is made by the Field Operations Division in Washington.

The assignment of Commissioners to specific regions is not only valuable as a time saver, but also enables the Commissioner to become acquainted with the industries in his area, know their problems, when agreement renewals are due and when strikes are likely to “break.”

A few words might now be pertinent to prepare the parties for what to expect in the person of the conciliator. Commissioners of Conciliation today come from diverse backgrounds and include

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\(^4\) During the war, the Smith-Connally Act provided for the filing of notices by unions before striking and that the Service be notified of such disputes. An estimated average of 35-40% of all cases handled by the Service came on the docket by this procedure.

The new Labor Management Relations Act of 1947, Sec. 8(d) requires that the Federal Mediation and Conciliation Service be notified of unsettled disputes 30 days before the expiration of contracts.
labor leaders, lawyers, personnel experts, educators, engineers and managers. They are chosen by the Director because their experience has given them an understanding of industrial relations and human nature as well as tact in dealing with people. A good conciliator should be impartial, patient, cool, resourceful, with ability at framing language and at inspiring confidence. He must, therefore, be a skilled bargainer, a keen judge of men and at least a practical psychologist.

In view of the special needs of the Service, Commissioners are exempt from competitive examinations under Rule II, Section 3 of the Civil Service Act, but once appointed, they are classified on the same Classified Administrative and Fiscal Service grade basis used by the Civil Service Commission. The range of salaries for Commissioners without supervisory duties is $4300-6200 annually, approximating CAF 11-13.

New Commissioners added to the Service are put through a training period of about one week in the Washington office and from six to twelve weeks in the field offices. At the completion of the training period and after the men in the field have had an opportunity to estimate the abilities of the man, he is assigned to a regional office to handle cases of minor importance independently. His progress thereafter is measured by his ability and his record of accomplishment.

**Tools of the Trade**

We are now ready to pick up the story again from the request to the Service for assistance. When a request comes into the Conciliation Service, it is usually with regard to matters included in one of two classifications “labor disputes” and “other situations.” Under “labor disputes” are placed conflicts that have resulted in strikes, threatened strikes, lockouts and the like. Under “other situations” are listed controversies calling for technical or other investigations, arbitration, requests for consent elections, verification of union membership, technical service, information, and similar special services.

Whatever the nature of the dispute, however, it is necessary for the conciliator to bring to the conference table more than a knowledge of labor problems. The trend in collective wage determinations today stresses factual economic and statistical material. Parties are finding that it is no longer enough to pound the table and state a case in eloquent terms. Coming into that environment, the able Commissioner of Conciliation must be well versed in statistics,
UNITED STATES CONCILIATION SERVICE

production and general market details. Either he must himself contribute information or know how to handle the reports of technicians on such matters as cost of living, work load studies, job analysis, job evaluation, wages as the percentage of production cost, prevailing wages, and employment factors.

Toward that end, the Program Division of the Service, recently reorganized, is oriented. The Division is organized with a staff in Washington and with a staff of Regional Service Coordinators in the field offices throughout the country. Each coordinator is on the staff of the Regional Director and is responsible to him.

The theory behind the services they perform is that "conciliation is a profession for which high professional standards are being developed through experience."

It is still too early to judge the efficiency of the Program Division's work, but we can present its plan. Its most important function is to provide the Commissioners with basic and current information and it does that in a variety of ways.

First, with a Weekly Newsletter designed to summarize current labor relations developments within and without the Service. The Division plans to issue a quarterly index of the letter. An examination of the two letters issued in 1946 produced information as to the details of the Yale & Towne settlement, the International Harvester dispute, news of a reorganization within the Department of Labor; news as to the formation of the new CIO Utility Workers Union, reports on current legislation, analysis by the Bureau of Labor Statistics, and the merits of the controversy over job training for veterans.

Another service, in operation during the wartime stabilization period, newly instituted, is a weekly memorandum on Wage Price Information, combined in a single report, indexed and classified for ready reference.

Thirdly, and one not yet instituted according to presently available material, is a Basic Reference Handbook, loose leaf, containing basic labor laws and regulations, sample contract clauses and related industrial relations data.

The Program Division also proposes to assist Commissioners through the holding of periodic area conferences to review current trends and share experiences, supply weekly strike statistics and monthly operating statistics; occasional analyses of case reports making available thereby data on the trends of settlements reached.

Finally, the Division has the responsibility of acting as liaison
with other government agencies, obtaining interpretations from them on new rulings and developments.

ON THE JOB

Fully prepared, as he is expected to be, with the background of experience, training and data supplied him by the Program Division through the Regional Service Coordinator, the Commissioner is now ready to enter the case.

Under normal circumstances, the conciliator, upon first entering, will separately interview both parties and obtain a clear understanding of the issues in dispute. This initial effort serves too as a way of becoming acquainted with the parties and with their respective claims.

The next step of the conciliator is to make plans for a joint conference and at the same time attempt, if he can, to bring about a gradual narrowing of the issues and an acceptability by the parties of each other's reasonableness.

In planning for the conference, it is advisable to have the conference table removed from the scene of conflict, for the conciliator's aim is to create an atmosphere of fair dealing and cordiality.

The conference itself is to start, where possible, as an informal conversation to establish off-the-record feelings of confidence. Points of mutuality, including agreement even on minor points, should be established as quickly as possible, points of difference should not be harangued, but rather set aside for special consideration at a later time. Only after all preliminaries have been handled and all possible agreements reached should the conferees be steered to the difficult problems.

The role of the Commissioner in all of these negotiations, of course, is one of complete impartiality. He must encourage the parties to work out their own solution. Within that zone, however, to have awareness that he has a significant contribution to make. Experience demonstrates that parties to a dispute are reluctant to reveal their utmost concessions for fear it will be interpreted as a sign of weakness or considered by the other party as a maximum to be worked downward. This is particularly true of wage rates and thus very frequently neither party makes known its exact position. A third party who is trusted, therefore, could well discover that the parties are not actually far apart, if at all, and a settlement is more easily reached.

A conciliator also plays an important part in helping one or both of the parties "save face." Statements are often made in the
heat of a dispute which are regretted and cannot be fulfilled if a settlement is to be made. The presence of a friendly third party can leave intact the self-respect of the parties.

Within that area, however, certain questions present themselves. For example, does the conciliator seek only an agreement or does he seek a just agreement?

It seems clear, in answering the question, that the conciliator does not directly enter the dispute as a social reformer. His difficult task is never to take sides and never commit himself to the merits of a dispute. Were he to violate that rule, confidence in him might conceivably be greatly impaired, for parties, motivated by self interest, consider their position in most cases to be just, or they would not have advanced it.

To be most effective in his job, the good conciliator is guided by a particular approach toward the parties. He understands that labor is not an abstract force subject to control like a machine, but that he is dealing with a group of persons of widely varying instincts, emotions, habits, customs, experience and training. Similarly, management to him is not an overweight individual controlling the wealth of the nation and motivated by a desire to squeeze profits out of the labor of his employees, but rather a person engaged in productive processes with intricate problems to deal with in relation to costs, prices, production and raw material supplies.

In spite of this preparation and these attitudes, however, progress is nevertheless often extremely tortuous and slow. There are numerous cases on record of conciliation conferences continuing in session almost without interruption for some days, and even weeks. Through all this, the conciliator must patiently listen, keep from losing his temper, and above all, keep the parties together in conference.

A few illustrations might here be introduced to point up the varied problems facing the conciliator. The records include one incident where the employer distrusted the local union agent and would not meet with him. The Commissioner discovered that both the agent and employer were candid camera addicts. While in the employer's office one day, he casually tossed some striking photos of children on the desk. The employer admired the work and the children. He was then told that the shots were taken by the agent of his children. Within a short while, a conference between the parties was arranged.

Another case in the files tells the story of an employer adamant
in his refusal to meet the union committee and an equally as adamant committee insisting that he meet with all of them or none of them. Understanding was quickly reached when the conciliator discovered that the employer dreaded speaking before large groups and felt at a decided disadvantage in facing many people.

On another level, a conciliator in California found the union representative unyielding on a crucial point. Reporting that evening to Director Steelman in Washington, a plan was decided upon. In a few minutes, the negotiators in California, Dr Steelman in Washington and the international president of the union in Pittsburgh were engaged in a telephonic conference which ended in a settlement satisfactory to all that very evening.

Hundreds of other illustrations could be provided describing other interesting peculiarities and ingenuities facing Commissioners of Conciliation in their work daily

**Arbitration**

The Commissioner of Conciliation, able and expert as he may be, however, does not provide the panacea for all labor problems. We have alluded to the fact, first of all, that collective bargaining does not solve the basic problems of the economy and unrest still remains.

The conciliator is also powerless against the refusal of a die-hard employer who refuses to recognize the fact of collective bargaining. Similarly, on another level, he can do little to affect negotiations where the union's internal affairs are controlled by Communists and their political considerations call for strife and confusion. Witness the activities of some unions prior to June 21, 1941 and their sudden reversal thereafter.

More significant and numerous, however, are the occasions when, after diligent effort on the part of the parties, an agreement is not reached. In important cases, particularly of late, the parties have been brought to Washington for discussion with top government officials, but that too often fails to produce a contract. In such an event, the Commissioner suggests arbitration as the next best way of resolving the dispute.

The Conciliation Service began to concern itself with arbitration in 1938 when two Commissioners were designated to do arbitration exclusively. This was indicative of a developing trend in industrial relations. By 1940, a staff of arbitrators was on the
Service's payroll dealing with disputes over the interpretation or application of contracts and resolving terms to be included in new contracts.

Since the approaches of conciliation and arbitration were so diverse, however, and the necessity of keeping conciliators impartial and noncommittal so paramount, the Service adopted a policy making a clear cleavage between its two functions. Commissioners chosen to arbitrate were not those regularly doing conciliation work. This policy, however, was not established in the early days of the Service's arbitration work and it took experience for the agency to learn its advisability.

Nevertheless, there were infrequent occasions when a Commissioner assigned to a case as conciliator, was permitted to act as arbitrator at the request of the parties. Normally, however, in the event of a deadlock, the Commissioner, upon agreement by the parties to adhere to the decision of an arbitrator, would suggest use of the Service's panel or of other arbitrators in the community.

Even with the policy of keeping the conciliation and arbitration functions divided, however, there was much disagreement over the formal connection of the functions within the one Service. This culminated in a series of recommendations by the Labor-Management Conference which met in Washington at the call of President Truman in November and December 1945. The import of the recommendations on arbitration called for the reorganization of the Division of Arbitration with all arbitrators on the payroll transferred or absorbed in other work. Instead, the Division was asked to have a pool or list of trained impartial arbitrators, paid per diem, made available to labor and management.

The Labor Management Conference recommendations were in essence put into practice by the Service in April, 1946. There was to be no full time arbitrator on the staff. The per diem list of arbitrators suggestion was also accepted, with the stipulation that labor-management councils in each region would be asked to review the names on the list and introduce others who might serve. Seven such labor-management committees were appointed. A panel of arbitrators was suggested from each region and there is today a list of about 250 arbitrators. Since the arbitrators charge fees, the Service provides free arbitration and pays the compensation from its own funds when either of the parties prove inability to pay
The Labor-Management Conference

We have just seen how the recommendations of the Conference as to arbitration were accepted by the Service. A brief examination of its other suggestions is also of value at this time.

Their report, issued on November 29, 1945, stressed the need for a larger, better trained and more competent personnel, a need, of course, which requires approval by Congress in the form of increased appropriations. Much of this too, they recognized, called for increased salaries to attract the qualified. In addition they suggested that former War Labor Board staff members be recruited and their experience made use of. The latter has since occurred. They also called for a realignment of regional office boundaries and a more equitably distributed field case load based on the ratio of one conciliator to every 5-8 cases per month. This too has been followed by the opening of at least two additional field offices and a reorganization of the Division of Field Operations, described above.

The Conference agreed on the policy of appointing Commissioners without regard to Civil Service requirements, but called for more practical training for new appointees, more frequent refresher courses, and a better organized current information service. It is to be noted from our description of the Program Division above, that a start was made toward accepting the suggestions.

Finally, the report urged that advisory labor-management committees be attached to the Service. As a result, in January of last year, Secretary Schwellenbach created two such committees one to advise on general operations and the other to advise on technical and analytical work, including personnel selection. The committees meet regularly and often and appear to be very effective.

In leaving the recommendations, it is significant to note a preliminary statement of the Conference's report, which throws light on the perspective with which the Service is to be reviewed

"Conciliation, however, should not be the first resort of parties but should be undertaken only after reasonable time and full effort to reach agreement has been made by direct negotiation."

The Impact of the Recent War

If any doubts existed as to the maturity of the Service, they were dispelled by the recent war stress and the manner in which the Service met it. From Pearl Harbor to August 1, 1945, 75,653 cases were referred to the agency Of these, 76.1%, or 57,537, were settled by the Service through conciliation and voluntary arbit-
With war officially imminent and unofficially here in 1940, a Commissioner was appointed to act as liaison officer with the War and Navy Departments and cooperate closely with the Advisory Commission to the Council of National Defense. At about the same time, seven other Commissioners were selected to specialize exclusively in each of seven vital war industries: oil, aviation manufacturing, machine tools, rubber and chemicals, building construction, shipbuilding, and steel. They were instructed to keep in daily contact and conference with the industries, not merely to settle disputes, but to prevent their emergence. For that purpose, they and others assigned to specific defense situations were freed from the burden of other cases.

The following year, due to the wide geographical distribution of the industries selected and the importance of new industries, motor vehicles, lead and copper mining with smelter refining, general machinery and boilership products, lumber and timber products, and textiles, twelve additional key commissioners were selected.

Liaison was also established with other various defense agencies. The Office of Production Management was kept constantly informed of reports from Commissioners in the field. Since the first temporary executive secretary of the National Defense Mediation Board was a Commissioner of Conciliation, cooperation was very close with that agency. That Commissioner remained as the Conciliation Service's liaison man when a permanent executive secretary was chosen.

Finally, with the declaration of war and the creation of the War Labor Board, the President's Executive Order of January 12, 1942 named the Conciliation Service as the first line agency for handling labor disputes affecting war production. The effect of the order substituted virtual compulsory arbitration for voluntary agreement, but the extent to which the Service was able to utilize its conciliation techniques and machinery in the face of the obstacle brought it much respect and praise.

**CRITIQUE AND COMMENT**

The Conciliation Service has demonstrated within the past two years that it is responsive to suggestions and will act on constructive criticism. The changes it instituted after the report of the Labor-Management Conference bear this out.
An important reason for the elasticity is the fact that with the administrative changes that took place, neither Secretary of Labor Schwellenbach nor former Director Edgar L. Warren were in office long enough to have a stake in the status quo. Free of a vested interest when they assumed direction of the Service, they could view recommendations fairly objectively and, in fact, invited critical comments.

As early as August 1945, for example, Secretary Schwellenbach appointed an advisory committee consisting of Sumner H. Slichter, Arthur S. Meyer, Vincent Ahearn, Frank Fenton and John Brophy to work with Mr. Warren and assist in strengthening the Service.

Since it has been beyond the scope of this study to be technically concerned with particular administrative processes of the Service, our own conclusions are valid only insofar as they deal with broad policies and as they judge attempts at change through legislation.5

It is clear, first of all, that the most immediate changes require action on a level beyond the authority of the Director or the Department of Labor. To enlarge the staff, recruit personnel from the most able and qualified in the field, and expand training programs and information services requires action by Congress in the form of larger appropriations. The change must take place if the organization is to flourish, however, for the Conciliation Service today, according to interviews with government and labor representatives in a position to know, is burdened with much "dead wood," people along in years with energy, enthusiasm, and imagination lacking.

It remains, therefore, for the Service to take the first step and present for Congressional approval its definite plans for reorganization and increased activity.

There are also important areas that do not call for Congressional action. To date, there has been a minimum of friction between the various state labor departments, many of whom at least nominally carry on conciliation functions, and the U. S. Conciliation Service. The potential for tension and misunderstanding is present, however, and cannot lightly be dismissed with the observation that it calls for conciliation to begin among the conciliators. If the Service is to take its rightful place in the field of labor relations, it should make a thorough survey of all conciliation services.

5The passage of the Taft-Hartley Bill, as it relates to conciliation functions, should again be noted at this time.
offered by the 43 states and territories with labor departments. It should then, in concert with state officials, either encourage and strengthen the state agencies or formally work at an understanding with them. An informal attempt at the latter has been made with about ten states. More specific agreement is called for, however, which will either make the state agencies, voluntarily, an arm and part of the Conciliation Service, or which will establish procedure by which state conciliators would feel free to call upon the U. S. Service for assistance. It might well be that the U. S. Service should have prior call where the effect of the dispute would extend beyond state borders or where the industry problems are of such a nature that experience and technical knowledge beyond the state level is called for.

In any event, whatever agreement is reached, such a study and attempt at solution should be made.6

So far, our comments have proceeded from the assumption that conciliation has a legitimate function in labor relations. Note should be taken, however, of the view held by some on both sides of the table, that “conciliation is nothing but compromise and we don’t want compromise.” Identified with this position is the contention that disputes and strikes have a tendency to resolve themselves without interference by conciliators.

Without detracting any from the validity of that statement, however, or the merits of an agreement freely arrived at to one reached after government interference of any sort, it is nevertheless proper to add that solutions reached by furious struggle are often resolved when one or both sides are worn down and beaten by the conflict; that prolonged bargaining and stubborn delay result in strikes which affect the public interest; and that future relations among the parties would tend to be bitter and suspicious.

More serious, because it is more widely held today, however, is the view that worthwhile as conciliation may be, strikes are so vital a threat to society in this age of interdependency, that arbitration is called for. Many advocates of this position have no wish to abolish conciliation, but wish only to call for compulsory arbitration when the conciliation fails.

Debates on this vital question occupy endless pages of print and will not be repeated here. Let it merely suffice to say in rebuttal

6Sec. 203(b) of the Taft-Hartley Act provides that “The Director and the Service are directed to avoid attempting to mediate disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties.”
that a system of compulsory arbitration, preceded by attempts at conciliation as its sincere advocates may wish, is in essence the substitution of compulsion for free negotiation in labor relations. Parties, with a threat of compulsion over them, are not free parties.

Furthermore, even a cursory examination of the war record indicates that while in 1940, the Conciliation Service peaceably adjusted 94% of its cases, it only so adjusted 76.1% of its cases from Pearl Harbor to August 1, 1945. The other cases had to be referred to the War Labor Board, the compulsory agency. These figures lend credence to the argument that parties with an appeal to a higher agency will often tend to keep from entering into an agreement by collective bargaining in the hope that they can obtain a more favorable decision. Such a tendency would increase where, unlike the wartime experience, there would be less delay on appeal and the terms of the decision would be less pre-determined.

Compulsory arbitration too, though it may result in a settlement, creates thereby an atmosphere of animosity which will not serve as a basis for lasting industrial peace and is thus at a disadvantage when compared to conciliation.

Of greater importance, however, is the effect of compulsory arbitration on the right to strike. If the right of wage earners to refuse to work is to be regarded not only as a legal right, but also as a fundamental human right, a necessary ingredient of a democratic society, then legislation for compulsory arbitration has no place in industrial relations.

Much of the same comments apply to legislation for the creation of fact finding boards which are commissioned to come forward with proposals the parties are expected to agree to. Fact finding boards have a real and worthwhile function to perform in discovering facts and in clarifying the issues of the dispute for the public, thereby permitting the public to judge the merits of the controversy and act accordingly, but their function comes close to compulsory arbitration when they go beyond that and attempt to present a decision.

The last significant proposed Conciliation Service modification to discuss is its relation to the Department of Labor. The oft-quoted statement of one labor leader poses the problem: "Employers still think the Department of Labor is prejudiced in favor of labor—which it ought to be but isn’t!"

Thus, the proposal runs that since the conciliation function is
impartial, it should not be part of any agency partisan to labor. It is, therefore, often recommended that the Conciliation Service be separated from the Department, or, as recent legislation proposes, that the Director of the Service be free from control of the Secretary of Labor, even while within the Department. Actually, of course, the Department of Labor is no more partial to labor than it is to management and receives the plaudits and criticism of both. The recent polemics by organized labor against the Bureau of Labor Statistics cost of living index are germane here.

A decisive factor in this controversy is the unanimous recommendation by the Labor-Management Conference that the Conciliation Service be kept within the Department of Labor.7

Conclusion

Our study has provided our symbolic negotiators with a kaleidoscopic view of a democratic phenomenon in labor relations. The U. S. Conciliation Service is not a panacea. It has grown and learned much from experience. Many mistakes have been made in the process. There is still much room for improvement.

Its role, however, is a vital one in a society attempting to adjust its democratic roots to the vicissitudes of an impatient disordered era. Whether we choose freedom with its inconveniences or "order" and "efficiency" with its accompanying totalitarian servitudes is directly related to the question of whether we choose to settle our industrial disputes through negotiations and conciliation or through arbitrary government fiat.

Selected Annotated Bibliography

Bernhardt, Joshua—*The Division of Conciliation*, Johns Hopkins Press, Baltimore, 1923.

The twentieth monograph in a series of studies of U. S. government administrative procedures by the Institute of Government Research. Of particular assistance in dealing with the early history of the U. S. Conciliation Service.


A doctoral dissertation published by the Catholic University of America as Volume 11 in its "Studies in Economics." The most thorough examination available of an agency which has escaped careful study for too long. Not too critical or exhaustive, however, in its treatment.

7The Labor Management Relations Act of 1947, Sec. 202(d) provides.

"The Director and the Service shall not be subject in any way to the jurisdiction or authority of the Secretary of Labor or any official or division of the Department of Labor."
A rather careful and well written article stressing the activities of the U. S. Conciliation Service, with some attention to the problems facing conciliators.

A simple report of a few incidents in conciliation, highlighting the philosophy and efforts of the Service.

A weekly service published by the Bureau of National Affairs which reports current developments in labor relations. Important as a source for recent administrative changes in the U. S. Conciliation Service and for details on the Labor-Management Conference.

A description of the impact of war on Commissioners of Conciliation, using a number of actual illustrations.

A series of reports, some of them confidential, describing the operation of the Service and the recent administrative reorganization. Instructions to conciliators are particularly significant.

Valuable for statistical data of U. S. Conciliation Service's activities and for annual resume of those activities.

Contains a resume of the U. S. Conciliation Service's activities from 1913-1938.

In addition to an examination of primary and secondary sources, the most important of which are described above, periodic interviews were held with a Commissioner of Conciliation, two staff members of the National Labor Relations Board and a number of trade union officials. By agreement, their names are being withheld. The interviews served to clarify a number of ambiguities, but since they took place before the completion of this study, some ambiguities may still remain.