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Industrial Democracy and the NRA

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INDUSTRIAL DEMOCRACY AND THE NRA

BY

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CHAPTER I

MIDDLE-ROAD ECONOMY

After this second world war will come peace. Soldiers released from the armies will seek civilian jobs again. Factories which are building tanks will go back to building trucks and tractors. Factories making rifles will return to making washing machines or vacuum cleaners. The nations of the world will face the difficult problems of twisting their economic life from a war pattern to a peace pattern. These problems are especially acute for the large industrial nations; they are especially acute for America.

When the pressing war needs are over, then America will have to decide what sort of industrial economy she is to have. We shall have three general roads before us: the right; the left; and the middle. If we choose the road to the right, we shall choose the old laissez-faire economy of, let us say, the 1880's before the Sherman Anti-trust Act. This is unthinkable. Or perhaps it might be some milder gradation of "comparatively" laissez-faire economy, such as we had in the 1920's, with only a few alphabet commissions attempting to direct business from Washington. It seems very unlikely that we shall take this road to the right. First, because the resulting industrial anarchy seemed unable to give us economic security, and powerless to protect us from depressions. Secondly, because the

war-intrenched New Deal will doubtless be unwilling to make the sacrifice of its alphabet bureaus that would be necessary for a return to the pre-New Deal status of the 1920's. The road to the right seems an unwise choice even if it were possible. In this booklet, we do not attempt to prove that this road can only lead to failure. We take it for granted.

The road to the left also lies before us. It will mean a permanent New Deal with wartime powers projected into peace time; with a permanent peace production board, a permanent office of price administration, a permanent and powerful grip on business by Washington bureaucracy. It will mean State Socialism. Private property will continue. Even the large key industries such as steel, will continue to be owned by private stockholders. Practically, however, the total control over these industries will be in the hands of the government. The government will dictate prices at which the goods may be sold, the volume and quality to be produced, the types of products to be introduced or withdrawn from the market. The government will control labor, dictating where and when it may work, for what wages, at what hours, under what conditions. Now while we are at war doubtless we need this form of State Socialism in order that our entire industry may be coordinated into one gigantic war effort. At any rate, we have it. And it seems to work. Not a few social planners proclaim that this socialistic road to the left is the only wartime road, and the only

peacetime road for America to follow. They say: After the war, go left.

But State Socialism cannot help us as a permanent measure. It will lead us dangerously close to Totalitarianism; it will plunge us in the quicksands of bureaucratic inefficiency; it may well imperil the rights of the individual; it will probably stagnate business initiative which is so necessary in our dynamic economic order; it will take over functions which can better be performed by smaller groups than the state. It will surely fail to bring us lasting economic security and liberty. We do not prove here that the road to the left can only lead to failure; that would require another booklet; we simply take it for granted as provable elsewhere.

We propose in this booklet a third road for the government of America's business after the war. It is neither a road to the right nor a road to the left; it is the middle road. It is the Popes' Plan for Industrial Democracy. Industrial Democracy means the self government of industry by organic, vertical, vocational groups of labor and management subject to the political state. We call Industrial Democracy the middle road because it excludes the old rugged individualism and business anarchy of the right, and because it excludes the super-imposed, bureaucratic control of the huge political machine, of the left. Since it is founded upon organic vocational groups, it is closer to, and more able to protect the

individual than the state is close to him and able to protect him. Since it is founded upon these groups it is better able to lead the individual and force him if necessary, to cooperate for the good of the vocational group and the entire economic order. The old rugged individualism was unable to effect cooperation for the common good. Industrial Democracy is neither excessively individualistic, nor is it totalitarian. It is the middle road.

Since this thesis treats Industrial Democracy, it will not specifically treat any political system, either international or national. It will not treat global politics, an international league, an international police force, or an international economic planning board regulating markets and access to raw materials, even though these institutions would very much affect an Industrial Democracy within any one nation such as America. It would expand this project beyond workable measure to treat these problems here. Moreover we shall not treat national political problems, at least to the extent that they are purely political. Thus we do not concern ourselves as to whether a republic might be a better form of government than an aristocracy or a monarchy. However, there is one political fact which is vitally necessary if our Industrial Democracy is to work well; namely, political Democracy. That is, we should have a political system in which the power is recognized to be radicated in the people by God, whether that

power expresses itself through representatives, "blue-bloods", or a monarch. Thus any form of Totalitarianism which claims to be the source of civil rights makes Industrial Democracy impossible.

Secondly, we shall not treat specifically any problems of economic recovery or stability. We shall not discuss whether or not prices should be forced up or down, or questions of wages, interest, rents or profits, or questions of business cycles, of gold, of banking, of strikes. Nor shall we discuss the problem of competition versus monopoly. That problem is always with us - with or without the vocational group system. Hence it requires separate treatment.

What we are treating in this Thesis is the machinery for solving these problems of economic recovery and stability. We believe that the best machinery is Industrial Democracy. We ask: Do the principles of ethics, political science and economics provide us with a plan for a better organization of our business life than the one we now have? Can these principles be applied to practical life? We answer to both questions: Yes. We are discussing the feasibility and desirability of an economic quasi-state within the political state. We are not treating the economic problems which our economic quasi-state will have to meet once it is set up. We are simply asking whether it can, and ought to be set up in the first place.

We are well aware of the many obstacles in the way of establishing Industrial Democracy in America - obstacles such as a huge national debt, the need for planned food production immediately after the war, the fact that when powers have been once granted to the government it is desperately hard to withdraw them, etc. We believe that an Industrial Democracy can be attained, but not overnight, and not without education, propaganda and study. We shall not treat here - except in passing - ways and means of actually "selling" Industrial Democracy to the American people. However we shall treat many difficulties which the social "salesman" as well as the social engineer must know something about. The importance, therefore, of attaining a middle road solution, especially for those who have the Christian concept of society, can hardly be over-estimated. As Wilfrid Parsons, S.J. recently put it:

It seems to me that...we may be approaching the reason for the admitted impotence of the Church in the modern world. We are always allowing ourselves to be caught on the horns of a dilemma. Once it was either capitalism or socialism. Again it was either Fascism or Communism. And so on. Both sides conspire in saying we have no choice. The traditional murmur of the Church, "datur tertium", is urbanely smiled away...

But the very existence, humanly speaking, of the Church depends on our maintaining that "tertium", that middle way. (Catholics) cannot go to the Right, for that way lies oblivion, as in the past. We cannot go to the Left, for that way lies destruction. Our whole temporal salvation, and that of society, depends on our being able to estab-

lish our middle course...

The time is running out. Even now the collectivists and the individualists are entrenching themselves, creating a situation which will exclude us. Both of them are in strategic positions in our Government, and in governments everywhere, and they are planning for the post-war world. They are already telling us we have to chose between them...¹

While it is true that Catholic thinkers, such as Bishop von Ketteler, Popes Leo XIII, Pius XI and Pius XII have brought to light principles for a middle road solution, it is also true that these principles have not been adequately applied to practical life; they have remained "up in the air", in the realm of mere principles. Therefore they have made but little impact upon modern non-Catholic and even Catholic leaders. Thus in this booklet we shall endeavor to apply in a practical way the Popes' Plan for Industrial Democracy to a large, industrial nation, the United States. We shall not write an actual blueprint for the future. However, we shall examine what we believe to be the only "flesh and blood" experiment in any modern, industrial nation of a plan closely approaching the Popes' Plan; namely, our own National Recovery Administration of 1933-5. Thus we transfer from the realm of principle to the realm of practice. We ask: What can the NRA tell us

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Wilfrid Parsons, S.J., "Blueprint for Catholics for 1943",
America, Jan. 2, '43, 342.

about Industrial Democracy in a practical way? What warnings can it give us? What inspirations and suggestions for a future blueprint? Our field of treatment, therefore, is Industrial Democracy and the NRA.

What is a brief chart of the course we shall travel through this booklet? First, we shall examine in some detail the principles of Industrial Democracy, or the Corporative Society, as proposed by the Popes, especially as found in "Quadragesimo Anno" and "Divini Redemptoris". Secondly, we shall examine the NRA, giving a brief descriptive history of the Recovery Act and the Recovery Administration. Then we shall consider two general problems which the NRA uncovers for us. The problem of vocational group unity - whether or not there are, or can be vocational groups with a real bond of unity making them into big "families" - whether or not these groups can be effectively delimited one from another. And the problem of vocational group government - what sort of legislation should evoke these groups? What sort of legislation can, and should, these groups pass for their own regulation? Who did govern these groups under the NRA? Who should govern them?

Finally in our summary and conclusion, we shall claim that a vocationally organized society is possible in a modern industrial nation, that a very flexible type of blueprint is desirable because of the great differences between the various

vocational groups, that the system should not be imposed from above, that it cannot be created over night by the stroke of a pen, but rather that it must evolve, with the initiative coming from management and labor as much as possible.

CHAPTER II

INDUSTRIAL DEMOCRACY DEFINED

What is the Pope's Plan for Industrial Democracy? Catholic students are not in agreement upon a satisfactory English title for the Pope's new order. It has been called the Corporative State, the Corporative Society, Corporatism, Solidarism, Sodalism, the Vocational Society, the Occupational Society, etc. We reject here the title Corporative State as too redolent of Italian Facism. This was certainly not the Pope's plan, as Fr. Nell-Bruening well points out.¹ For the same reason we reject Corporatism and the Corporate Society. The other titles mentioned above we reject since we believe they are not sufficiently "salable" to the American public. We choose Industrial Democracy² as a title readily palatable to Americans, clearly

¹ Oswald Von Nell-Bruening, S.J., "Reorganization of Social Economy" transl. by Bernard W. Dempsey, S.J., Bruce, Milwaukee, 1936, 254-8.

² The title "Industrial Democracy" certainly does present difficulties. It seems to exclude the professions such as independent lawyers, engineers, doctors, accountants, etc. In the ideal corporative order such as the Pope's Plan, these professions would be represented. However, we have no better title than Industrial Democracy at hand. If it seems to exclude the professions we shall simply have to explain to the professions that they are not excluded.

Moreover, our title seems to exclude agriculture. Again we shall have to explain. Just how the farmers are to be included in our plan of industrial self-government, we do not say. The NRA kept hands off the farmers since the AAA was taking care of them. We keep hands off too, in this thesis.

suggestive of the Pope's idea, and not yet too encumbered with connotations contrary to the Pope's idea. However we do not hold on to our title too strenuously. The idea behind it is the important thing. We would be glad to exchange our title for a better one, even for one of those rejected above, if good reasons were to dictate it.

We are concerned in this booklet primarily with the Pope's plan as presented in the encyclical "Quadragesimo Anno", using this presentation as a basis and a starting point. The Pope does not use the term Industrial Democracy; he does say that the social order must be reconstructed on the basis of vocational groups, "ordines". After treating the evils respectively of excessive Individualism and excessive Collectivism, and after enunciating his famous Principle of Subsidiarity, the Pope goes on to say;

Now this is the primary duty of the State and of all good citizens; to abolish conflict between classes with divergent interests, and thus foster and promote harmony between the various ranks of society.

The aim of social legislation must therefore be the re-establishment of vocational groups. Society today still remains in a strained and therefore unstable and uncertain state, being founded on classes with contradictory interests and hence opposed to each other, and consequently prone to enmity and strife.⁵

⁵ Nell-Bruening, 423, "Quadragesimo Anno", Nos. 81,82

The Pope goes on to delineate in greater detail what he means by "classes" and "vocational groups".

Labor, indeed, as has been well said by Our Predecessor in his Encyclical, is not a mere chattel, since the human dignity of the working man must be recognized in it, and consequently it cannot be bought and sold like any piece of merchandise. None the less, the demand and supply of labor divides men on the labor market into two classes, as into two camps, and the bargaining between these parties transforms this labor market into an arena where the two armies are engaged in combat. To this grave disorder, which is leading society to ruin, a remedy must evidently be applied as speedily as possible. But there cannot be question of any perfect cure, except this opposition be done away with, and well-ordered members of the social body come into being anew, vocational groups, namely, binding men together not according to the position they occupy in the labor market, but according to the diverse functions which they exercise in society. For as nature induces those who dwell in close proximity to unite into municipalities, so those who practice the same trade or profession, economic or otherwise, combine into vocational groups. These groups, in a true sense autonomous, are considered by many to be, if not essential to civil society, at least its natural and spontaneous development.⁴

Thus the Pope seems to say that management and labor opposing each other in the arena of the labor market are therefore two contradictory classes and always prone to enmity and strife. A society built upon these two opposing forces is in grave disorder and is speeding to ruin. The only correction

⁴ Ibid., 423, No. 83

of this grave disorder is the doing away with this opposition by reconstructing society on a vocational group basis.

Does the Pope mean that management and labor as such must be done away with? Does he mean that in his ideal order there must be one class: "managerial labor", in which all members of the vocational group will share in the management of the various companies (at least by remote control) as well as sharing in the labor to be done? Does he go further and say that there can be no division within the vocational groups between those who own the means of production and those who do not, but that there must be one class only, every member of which is a part owner of the means of production?

We do not believe the Pope means all this. Nevertheless, we believe that Section 83 of "Quadragesimo Anno", if taken in isolation, leaves much in the way of clarity to be desired, and might well lead to misunderstandings. In this section, the Pope might seem to say implicitly that labor must be done away with. Then we ask: Would it be possible to do away with the opposition between management and labor without making labor a manager-owner, merely by some sort of new cooperation as within a joint council within the vocational groups? The Pope might seem to say that this is impossible for he says "the demand and supply of labor divides men on the labor market into two classes...(like)...two armies engaged in combat..." Therefore it might seem that the very fact that some men are offering their

but rather submerged, or redistributed, into vocational groups.

But does not the Pope say that the very existence of a labor market implies a fundamental split in society? Yes. But, when the Pope says labor market, he means a) a market in which labor is treated as a mere commodity, and b) a market upon whose two contending sides society is founded. The labor market, taken in this sense, must go. But the Pope cannot be interpreted to mean here that collective bargaining and the wage contract must go if these recognize the dignity of labor, and if they are exercised within vocational groups.

Therefore the Pope does not say in this section of "Quadragesimo Anno" that the ideal Industrial Democracy must have one class-less managing-owning-laboring group in which individual or collective bargaining will be unknown. He merely says that the conflict arising from a lack of the right integration of management and labor must be done away with.

In another section of the Encyclical, the Pope makes his position in this matter quite clear:

In the first place, it is obvious to all that the entire economic scene has greatly changed. You are aware, Venerable Brethren and Beloved Children, that Our Predecessor, of happy memory, had chiefly in mind that economic regime in which were provided by different people the capital and labor jointly needed for production. He described it in a happy phrase: "Capital cannot do without labor, nor labor without capital".

Leo XIII's whole endeavor was to ad-

just this economic regime to the standards of true order; whence it follows that the system itself is not to be condemned. And surely it is not vicious of its very nature; but it violates right order whenever capital so employs the working or wage-earning classes as to divert business and economic activity entirely to its own arbitrary will and advantage without any regard to the human dignity of the workers, the social character of economic life, social justice and the common good.⁵

It seems clear that the system the Pope is defending is Capitalism (when it is operating in a just manner, of course). It also seems clear that by Capitalism, the Pope means, among other things, that system in which "production is regulated by the cooperation of two groups bound by contract, one of which possesses all necessary goods, while the other.....contributes merely its personal labor" (as Goetz Briefs and Nell-Bruening put it.)⁶ Therefore the Pope seems to defend here a social system in which we have the two different classes, management and labor, provided, of course, that social justice and the common good are sought. The Pope is obviously against unbridled ambition and violations of justice. But he does not seem to be against the existence in society of these two different classes, management and labor.

However, the Pope does not want the laboring class to be entirely non-managing and non-owning in his Industrial Demo-

⁵ Ibid., 427, Nos. 100,101.

⁶ Ibid., 270

cracy. On the contrary, he wishes that steps toward some management and ownership for labor should be taken:

In the present state of human society, however, We deem it advisable that the wage contract should, when possible, be modified somewhat by a contract of partnership as is already being tried in various ways to the no small gain both of the wage earners and of the employers. In this way, wage-earners are made sharers in some sort in the ownership, or the management, or the profits.
[Italics ours.]

Therefore the Pope wants managing-labor and indeed managing-owning labor, at least to some extent. However, he modifies the assertion by the words "somewhat" and "in some sort" so that he cannot be said to base his whole reconstruction of the social order on the complete substitution (within the vocational groups) of managing-owning-laborers for managers and laborers bargaining with each other. Indeed in the preceding section, he asserts that the wage contract is not essentially unjust.⁸

⁷ Ibid., 419, No. 65

⁸ The ideal of Pope Pius XI was clearly that of the widest possible ownership of the means of production. An ownerless group might be permitted, but only ad interim, until this wider diffusion could be achieved. Such was also the ideal of Pope Leo XIII: "Many excellent results will follow from this (fair wages and sacredness of private property); and first of all, property will certainly become more equitably divided...If work-people can be encouraged to look forward to obtaining a share in the land, the result will be that the gulf between vast wealth and deep poverty will be bridged over and the two orders will be brought nearer together." (Nell-Bruening, pp. 386-7, "Rerum Novarum", No. 35).

Thus it is clear that the Pope's Industrial Democracy does not necessarily exclude separate groups of management and labor. But these groups will be broken up within vocational groups, in which collective bargaining will continue, modified by justice and the common good of each particular vocational group. We also see that there will be a greater diffusion of productive ownership than we have at present so that "some" laborers, at least, will also be manager-owners.

It will be well to note the Pope's own commentary on his plan in the Encyclical "Divini Redemptoris" of 1937. He reiterates the need for a vocational society;

We have indicated how a sound prosperity is to be restored according to the true principles of a sane corporative system which respects the proper hierarchic structure of society; and how all the occupational groups would be fused into a harmonious unity inspired by the principle of the common good.⁹

He also implies that in the Industrial Democracy, management and labor and the wage contract are not to be extinct:

We explained clearly the right and dignity of labor, the relations of mutual aid and collaboration which should exist between those who possess capital and those who work, the salary due in strict justice to the worker for himself and for his family. ¹⁰

⁹ Pope Pius XI, "Atheistic Communism", ("Divini Redemptoris"), Paulist Press, New York City, 1937, 13, No. 32.

¹⁰ Ibid., 13, No. 31

The American Bishops in a pastoral letter of 1940 re-state and re-emphasize this same position of the Pope:

There must be re-established some form of guild or vocational groups which will bind men together in society according to their respective occupations, thus creating a moral unity.¹¹

Not only must employers and employees be organized singly and jointly, but their organizations must be impregnated with Christian moral and social principles.¹²

Thus the Bishops state that the need for a vocationally organized society is truly imperative. They also imply that within this society the separate employer and employee groups are not necessarily to be abolished.

Many modern commentators have attempted to explain and elaborate the principles of the Popes' Plan. Father Wilfrid Parsons, S.J., for instance, states that:

It should be clear, I think, that the Pope is not talking of the "orders" as something new to be fashioned, but as something that already exists. Whether they think of it or not, there is a common interest between all, employers and employed, who are engaged, each in his own way, in producing a certain commodity or rendering a certain service

11 Archbishops and Bishops of Administrative Board of National Catholic Welfare Conference, "The Church and Social Order", NCWC, Washington, D.C., 1940, 27, No. 54.

12 Ibid., 28, No. 56.

or practising a certain profession, and hence there exists an order to which all of these jointly belong. ¹³

The Pope's main criticism of modern society is that by organizing it on a basis of "classes", we have been trying to introduce a principle which is really one of disorder...The employer is concerned with two things, costs and prices...The interests of the employed are just the reverse, wages and the cost of living. The employer wants lower costs and higher prices; the employed wants higher wages and lower prices. Their respective interests run directly counter to each other. To base a social order on the conflicting interests of classes, as we have done, is to base it on a principle of disorder. This is our fundamental error. ¹⁴

Thus Father Parsons asserts that there is a real basis for unity between management and labor within our various vocational groups or trades or industries. We have not let that unity assert itself. We have tried to base our economic life on the opposed institutions of unions and management associations. This can only lead to disorder. Father Parsons goes on to say:

It should, I think, be clear that the "orders" or vocational groups are not the same as a council uniting labor unions and employer groups...To base reconstruction on the free associations, the labor unions and employer groups, would be to perpetuate the division by classes. However, the Pope clearly sees that the free associations can also do their part in emancipating the orders so that they can operate freely. ¹⁵

13 Wilfrid Parsons, S.J., "What Are Vocational Groups?" Thought Fordham Press, New York City, Sept. 1942, 468.

14 Ibid., 469.

15 Ibid., 471.

Here Father Parsons would seem to exclude the Industry-Councils Plan of the CIO (which we shall treat in a later chapter) as the ideal realization of the Popes' Plan. Presumably the CIO plan would be useful only as a stepping stone to a true vocational order. In such an order "horizontal" labor unions, such as the CIO and the AFL would tend to divert a laborer's loyalty from his own vocational group to the labor movement as a whole, and "horizontal" management associations would tend to make an executive more loyal to his class than to his own vocational group. Hence such "horizontal" free associations would be a source of disharmony in the vocational group system. However, such associations can be very useful as means of arriving at the vocational order. But they should gradually become submerged in their various vocational groups.

Father Nell-Bruening sees in the Popes' Plan two separate management and labor classes, cooperating, however, with justice:

Corporate order does not touch upon the separation of capital and labor. Insofar, therefore, capitalistic economy as understood by the Encyclical (III,1) is entirely possible also in a corporate order of human society. However, the establishment of the right order for human society eliminates from the separation of capital and labor that side which makes it so unbearable at present; it makes full-fledged and fully qualified professional members of those who by their labor add to production, and thus to the common contribution to the welfare of society; thereby it restores them to the nation; it assures them

of their standing in society, something that had become lost. Thus it restores true national order.¹⁶

It is clearly Father Nell-Bruening's position that the Popes' new order does not call for a complete overthrow of our old economic and social order, but only a modification of it by grouping it vocationally under justice and charity. Thus we have seen that the Popes, the Bishops, and specialists in Catholic social thought have a reasonably unified and consistent set of principles for social reconstruction. The vocational plan they offer we have called Industrial Democracy.

In arriving at a working definition of Industrial Democracy, we meet this question: How are the vocational groups or orders to be governed? "Quadragesimo Anno" treats this briefly:

It is hardly necessary to note that what Leo XIII taught concerning the form of political governments can, in due measure, be applied also to vocational groups. Here, too, men may choose whatever form they please, provided that both justice and the common good be taken into account.¹⁷

Therefore, according to the Pope, if the subjects in a given vocational group wish to rule through elected representatives (republicanism, often called "democracy"), well and good. If they wish to leave actual governing to a governing class (quasi-aristocracy), well and good. If they wish a kind of constitutional monarch to run their group, again well and good.

¹⁶ Nell-Bruening, 233.

¹⁷ Ibid., 424, "Quadragesimo Anno", No. 86.

Any one of these forms of rule or any variation of them may be more desirable in certain cases, provided that in every case power is recognized to be from God, and provided that justice is done and the common welfare sought.

A final question regarding the Pope's ideas on Industrial Democracy cannot be put aside. How is industrial Democracy to be brought about - by "compelling" social legislation imposed from above by the state - or by the initiative and control of the vocational groups themselves, helped and unified merely by the "enabling" legislation of the state? The Pope's views on this are clear. By his famous "Principle of Subsidiarity", and by his direct statement, (quoted above) that vocational groups are "in a true sense, autonomous", he shows that he does not wish the groups either to be established or run by a domineering state, imposing them from above. He recognizes the fact that some of the initiative and most of the legal authorization required for the beginning of the vocational order would have to come from the state. He states, as we said, that the "aim of social legislation must therefore be the re-establishment of the vocational groups..." However, as Father Parsons points out, a better translation would be: "The social-political art, therefore, must set itself to re-establishing the 'orders'". The standard English version might create the impression that the Pope wished the vocational

groups to be the mere creatures of government. However the Pope merely wished a minimum of "enabling" legislation to launch the groups who would be expected to do most of the work for their own organization and management themselves. Thus the Pope's Plan is a far cry from any hue of Fascism or Totalitarianism.

CHAPTER III

THE NRA EXPERIMENT

The National Recovery Act and Administration are as dead as a dodo. But since they were the only "flesh and blood", practical experiment of a plan somewhat resembling the Pope's Plan in any modern industrial nation, a post-mortem examination of them is worthwhile. There were other corporative experiments in Portugal, Ireland, Belgium, Italy. None of these can help us very much. The Italian Corporative State was a Fascist Dictatorship, and hence not the Pope's plan at all. The Corporative plans of Portugal and other small countries have been excellent, and in some cases highly successful. However, because they are found only in small countries whose economic life depends upon fishing, small agriculture and crafts, they are only of negligible assistance in providing precedent for large countries whose economic life depends upon large scale agriculture, mining and mass-production. The former German cartels might have been a help since they took place in a large industrial nation. However because their organization was excessively loose and because they made no pretence at being more than highly cooperative trade associations, they were too far removed from the Pope's plan to be of much assistance to us.

The NRA, therefore, was the only large attempt at industrial self-government. It is dead and no doubt justly so. But

we can learn much by studying its life and the reasons for its demise. In fact we are all but compelled to do so if we would bring our plans for Industrial Democracy out of the skies of principle down to the brass tacks of practice. In this matter we follow the example of those who are attempting to plan a post-war league of nations. They do not simply start writing plans "ab ovo". They turn back and study the old League of Nations, which, like the NRA, is also dead as the dodo, but which can tell us many things about launching a new league, things we could learn from no other source. Hence our justification for bringing NRA back from the grave.

The NRA dwelled among us for just two years - between the summer of 1933 and the summer of 1935. On June 16, 1933, Congress passed, and the President signed, the National Industrial Recovery Act. We were at the bottom of the Great Depression and at the beginning of the New Deal. The Act had three parts, or titles; the first was concerned with the organization of industry and was to remain in force for two years; the second created a vast public works program; the third treated miscellaneous activities. We shall consider here only the first title. The Act began with a declaration of policy.

"...It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of indus-

try for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production...to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources." ¹ [Italics ours.]

It is clear from this declaration of policy that the NRA had at least a double purpose, first, to promote recovery by various devices; second to induce certain needed social reforms. In this booklet it is important to note that we are concerned only with the second purpose of NRA, namely, social reforms. In a way, it was unfortunate that these two purposes should have been joined in one act, for Recovery had to be produced at once, but Reform is something which should come slowly.

The purpose of NIRA reminds us very much of "Quadragesimo Anno". The Act stated that it wished to promote the organization of industry among trade groups and to induce united action of management and labor. The Encyclical states that we must re-establish vocational (trade) groups and abolish conflict between classes with divergent interests. We certainly

¹ Lyon, Homan, Terborgh, Lorwin, Dearing, Marshall, "The National Recovery Administration", The Brookings Institution, Washington, D.C., 1935, 889.

do not claim that the NIRA was an exact statement of the Pope's Plan. But we do claim that it approached the Pope's Plan rather closely both in theory and in application.

It will be interesting to consider briefly the more important sections of the NIRA.² Section One declared the policy of the Act. This is given above. Section Two empowered the President to set up the vast machinery needed for the administration of the Act, and also to delegate his powers to his chosen administrators. Also, this section limited the existence of NIRA to two years or less. Section Three contained the meat of the Act for it gave the procedure by which the codes (or laws of the various trade groups) were to be drawn up. It stated that the initiative towards forming the codes should come from trade associations. The President might approve such codes if he found that the applicants were not unfair to others in their trade, if these applicants were really representative of their trade, and if they did not "promote monopolies or .. eliminate or oppress small enterprises." Paragraph (b) made the approved codes legally binding, fully equal to United States law. Paragraph (c) stated that the Department of Justice and the District Courts were empowered to enforce these "non-congressional", semi-public Codes. Paragraph (f) made violations of the codes a misdemeanor with a

² Ibid., 889.

fine of \$500 a day for each offense.

Section Four (b) gave great power to the President. It gave him the authority to issue licenses and to revoke them for any given trade or industry. If he saw a business was engaged in vicious price cutting or wage cutting he could refuse to issue a license or he could revoke one at will if it had already been obtained. It would, of course, be a serious misdemeanor to do business without a license. Thus the President practically had powers of life or death over business.

Section Five stated that those concerns who were operating under the code system would be exempt from all anti-trust legislation. No doubt this was rich bait at which many big business houses jumped.

Section Seven was the famous labor section equalling a real Magna Charta for labor, guaranteeing its right to organize and bargain collectively, and specifying that conditions regarding maximum working hours and minimum wages must be written into the codes and approved by the President. It is important to remember that in 1933, labor was much less powerful than it is now, and vertical unions like the CIO were practically non-existent. Because of this fact, labor was never adequately represented in the drafting of the codes. This difficulty we shall treat at greater length in a later chapter.

Finally, it should be said that the National Industrial

Recovery Act gave unprecedented peacetime powers to the President to make and administer a considerable body of law. The question as to whether it was not merely "enabling" legislation but also "compelling" legislation will also be treated in detail below.

The National Industrial Recovery Act had as its foremost creature the National Recovery Administration. This was the agency created to supervise the preparation of the codes and to enforce their observance. Gen. Hugh S. Johnson was named the first Administrator. The historian, Beard describes the process:

To supervise and press forward the process of organizing trade, industry and labor, the NRA was established under the direction of Gen. Hugh Johnson, who combined a limited amount of homely wisdom with the irritating methods of a drill sergeant. Leaders in commerce, industry, and trade unionism rolled into Washington. Amid much confusion and table pounding, codes were drafted, approved, and put into effect. Wrangles within and between trade associations were heard and decisions rendered. To every individual and concern that complied with the terms of the appropriate code, an emblem - the Blue Eagle - was awarded. Like a sudden rash, Blue Eagles burst forth in the windows of shops, on walls of factories, and in the advertisements of merchants.³

Beard is perhaps a little hard on Johnson, whose pugnacity

³ Charles A. and Mary R. Beard, "America in Midpassage", Macmillan, New York City, 1939, 234.

seemed really necessary to get the stalled wheels of recovery moving again.

The chief assistants of the Administrator⁴ were Assistant Administrators for Industry, Labor and Special Problems, the General Counsel and the Economic Adviser. There were also seven division administrators⁵ in charge of the codes themselves, in fields ranging from the field of mining, metals, utilities, automobiles, rubber and shipping activities, to the field of publishing and graphic arts industries. There was a compliance board charged with the enforcement of the codes. Then there were three advisory boards.⁶ The Industrial Advisory Board, composed of business-men, advised the Administrator on all matters of industrial policy. The Labor Advisory Board was to help out with labor questions especially regarding child labor, the right to organize, wages and hours. The Consumers Advisory Board was supposed to guide the Administrator in problems vital to consumers - prices and quality. This Board, unlike the other two, was not backed up by any pressure group.

Once the huge NRA machinery started to grind out the codes from June 1933 to March 1934, it was marked by tremendous vitality, and also often by confusion and even hysteria. The code-making process⁷ in most cases was comparatively simple.

⁴ Lyon, 55

⁵ Ibid., 51

⁶ Ibid., 118

⁷ Ibid., 48

Representative groups in each industry, usually working through their trade associations (and therefore without labor representation) drew up codes which were then presented to the NRA for consideration. Public hearings were held under the direction of deputy administrators, at which the viewpoints and objections of consumers, labor, and other interested parties could be presented; upon the acceptance of these codes by the deputy and division administrators, the documents were submitted to the President or the NRA Administrator for his approval. (In practice, Johnson ran the whole show.) After the proper approval, the code had all the force of a statute. Once the code was completed, an agency was set up in each industry, called the Code Authority, which was indeed, the agency of self-government in the industry. In most cases, the Code Authorities were merely the old trade associations in new guise, except for the occasional addition of a small number of "publicly known" representatives. Labor as such was given a formal place on very few of the Code Authorities.

Compliance with the codes of fair competition and with the President's Reemployment Agreement (which we shall describe below) was obtained by the Compliance Division, both regional and national, except in those cases where labor disputes were involved. These were handled by the newly created National Labor Board. Difficult cases of compliance were turned over

to the Attorney General for prosecution in the district courts.

The difficulties attendant upon drafting the codes, and the impossibility of one Administrator (Johnson) overseeing everything at the same time, created a bottleneck almost from the very start. The NRA was supposed to pull the country out of the depression, but the code-mill was grinding slowly and the situation was nearly desperate. Out of this situation the President's Reemployment Agreement was born, on September 1, 1933. Under this agreement, so-called "blanket" codes were drawn up between the President and various individual concerns who volunteered to enter the blanket code and who were not yet members of any standard code group. The blanket codes provided for many conditions of fair competition including minimum wages and maximum working hours.

And yet the gigantic task of turning out the codes did proceed apace. The first code to be signed was the cotton textile code, approved by the President on July 9, 1933; on July 26, the wool, textile and shipbuilding codes were approved; on August 4, the electrical and coat-and-suit codes; on August 19, the petroleum, iron and steel, and lumber codes. By the middle of May 1934, more than 400 codes had been prepared and signed, while an additional 300 codes already had had their hearings completed. A year after the establishment of the NRA

it was estimated that some 20,000,000 workers were employed under the Blue Eagle.

During the first half-year of the NRA's existence, most of its effort had been directed towards drafting the codes. But by March, 1934, it became increasingly obvious that industry had to be educated and organized if it were to govern itself. Therefore the NRA staff now endeavored to supply the codes which had already been drafted with adequate administrative and enforcement machinery. More time was spent on organizing and supervizing Code Authorities, and especially now in enforcing compliance with the codes.⁸

After a year of existence, NRA was still in serious trouble because of the enormity of its task and also because of its own internal wrangling and confused administration. The Brookings Survey makes the following perhaps rather harsh diagnosis:

At the end of the first year, in spite of numerous reorganizations and adjustments, both in structure and in method, the NRA was a sprawling, poorly co-ordinated, and relatively ineffective organization. Innumerable shifts in internal method had kept the administrative personnel in constant confusion, and the code authority representatives in a state of irritation. Morale both of NRA and industry agencies was anything but the best. Each NRA policy or procedural announcement, followed as it was by modifications,

⁸ Ibid., 54

retractions and explanations (for example, on price policy, budgets, and government contracts) gave rise to a series of "revolts" among industry members of various codes. Contending factions had sprung up within the NRA itself. Public discussion and general opinion were both pointing toward a change of direction for NRA. ⁹

The situation was rapidly drawing to a climax. Gen. Johnson clearly saw the handwriting on the wall. He stated in August, 1934:

No one man can watch the operation of 450 codes - I hope we can reduce them to 250 by consolidation, but even that is too many for one man. It needs a commission. I think the War Industries Board model was good - a commission of responsible executives sat to co-ordinate activity, but it had no vote. Its chairman was responsible and had the final decision.¹⁰

The crash came on September 27, 1934, when the President (with sincere commendations of Johnson's efforts) substituted the National Industrial Recovery Board for the single NRA Administrator.¹¹ This Board was made up of five members (appointed by the President), plus two ex-officio members. It was to have all the powers and duties formerly held by Johnson. However its work was subject to the general approval, of a higher committee, the Industrial Emergency Committee, which was charged with the general policy-making of the NRA subject in

⁹ Ibid., 67

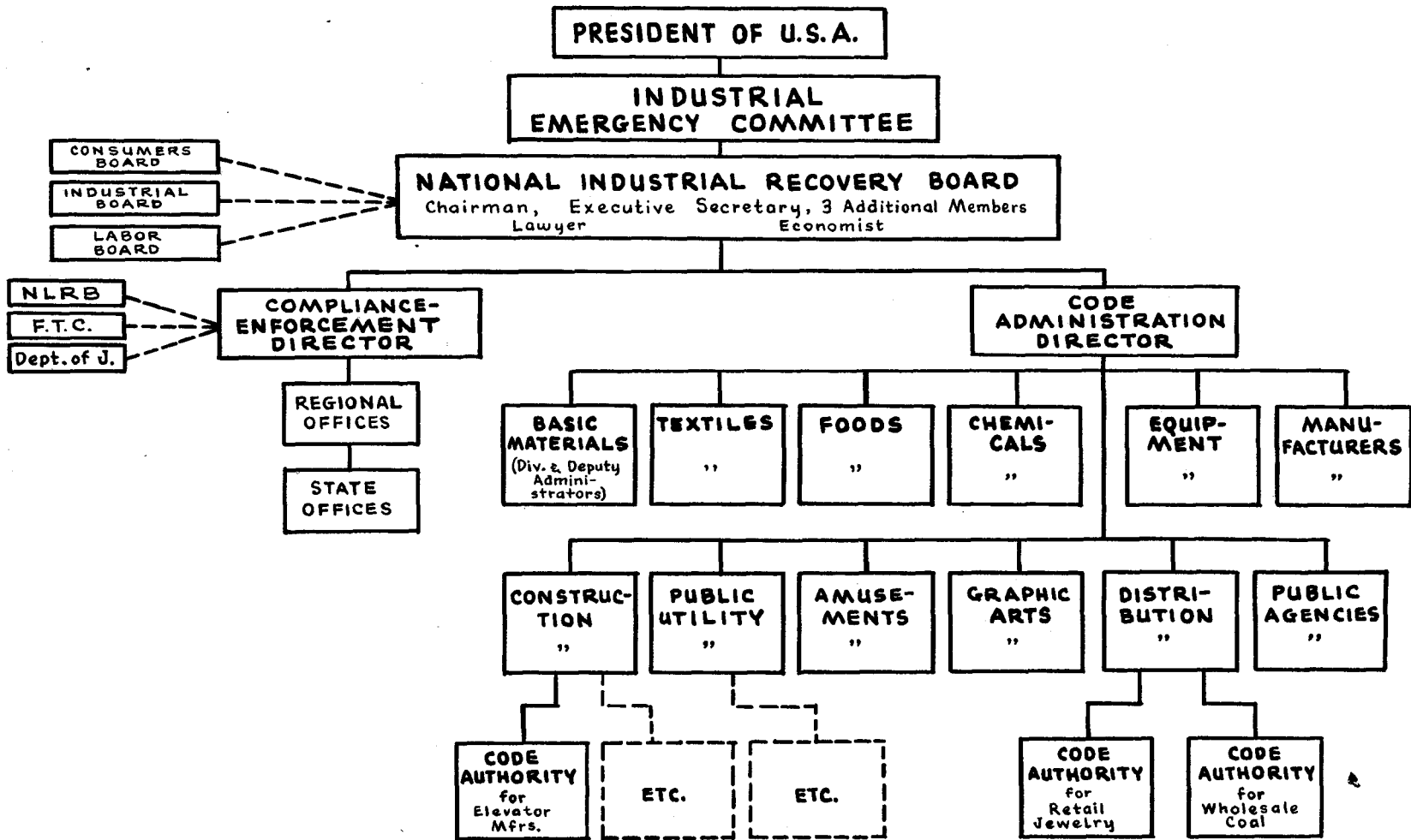
¹⁰ Gen. Hugh Johnson, NRA Release No. 7119, Aug. 2, 1934; address of Recovery Administrator.

¹¹ Lyon, 68.

turn to the approval of the President. The Industrial Emergency Committee was composed of the Secretaries of the Interior and of Labor, the Chairman of the National Industrial Recovery Board, the Administrator of the Agricultural Adjustment, the Administrator of Federal Emergency Relief, and the Director of the Committee.

The Recovery Board undertook a drastic re-organization of the NRA machinery. (For chart of final set-up, see page 37.) The function of effecting compliance was clearly distinguished from the function of supervising the codes. Divisions were re-grouped on the basis of function, and authority was decentralized. But the re-organization did little to stem the rising tide of opposition to the NRA. Enthusiasm for the Act was dying by the end of 1934, and the almost insuperable difficulties of enforcement were worrying the Administration. Now the Act was attacked by some of the very businessmen who had sponsored it in the first place, a year and a half before. None of the various pressure groups originally interested in the NRA were satisfied that they were getting out of it anything like what they had once hoped they would. The job of trying to get industry to try peaceful methods of cooperation instead of the old hit-and-run competition had seemingly proved too big a job. A demand for the old free-for-all competition spread throughout the land. We shall see in later

THE NRA IN ITS FINAL FORM, BEGINNING SEPT. 27, 1934



(SOME TECHNICAL AND MINOR DIVISIONS OMITTED)

chapters the detailed causes for the failure of NRA: code violations, fostering of monopoly, labor troubles, etc.

By this time there were over 585 Code Authorities,¹² which we might call "quasi-states" of the NRA Industrial Democracy. Each of these little states was passing and administering its own laws or codes. Furthermore, there were several thousand regional and divisional agencies for administering the codes; these might be called "municipalities" in the Industrial Democracy. The numbers of people involved in the codes varied from 45 workers in the Animal-soft-hair Code, to 3,500,000 workers in the Retail Trade Code. Of course by this time the NRA itself had become a huge organization, employing more than 4,500 employees. Its codes filled 13,000 pages and were supplemented by over 11,000 executive orders which in some cases very much affected the codes. To say the least, it was all very bewildering.

The end came at last, on May 27, 1935, when the United States Supreme Court unanimously agreed¹³ that the National Industrial Recovery was null and void, in the famous Schechter case. The Act was found defective for two main reasons. First, it was claimed that the Act violated our constitutional separation of powers by illegally delegating the legislative powers of Congress to the President in giving the President unduly

¹² Ibid., 29.

¹³ Beard, 264.

wide and sweeping powers to set up codes (laws) of fair competition and to formulate general policies.

Secondly, the Supreme Court ruled that the Act went beyond inter-state commerce and tried to regulate intra-state commerce, the which also is unconstitutional. The Schechter Brothers were shipping poultry into New York City from New Jersey and other states, and then selling them in New York City at terms in violation of the Poultry Code. The Court held that the Schechters were engaging in inter-state commerce only during the moments when the chickens were actually being shipped. But once the chickens arrived in New York City and were later sold, this later action was not inter-state commerce but intra-state commerce ("intra" New York State), and could not be touched, therefore, by any federal regulation such as the NRA code.

Thus, in the summer of 1935, almost two years after its birth, the NRA, the one great experiment in Industrial Democracy, was laid in its grave. There can be little doubt but that it was dead months before the Schechter case. Not only had it failed to bring about Recovery (with which problem we are not concerned here), but also it had not really proved to be Industrial Democracy at all. Yet it was the closest attempt that had ever been made in a modern industrial nation. To say the least it was a "noble experiment".

CHAPTER IV

THE BASIS OF VOCATIONAL GROUP UNITY

Did the NRA believe there was a basic unity actually present within each of America's various industrial groups? Did the NRA find a common bond binding together every one in the steel business, for example, the scrub women, the puddlers, the electricians, the chairman of the board of directors - into one little society? Or was such a bond of unity just considered a pious fiction of dreaming social planners? To answer these questions, we must first understand clearly just what is meant by a "bond of unity".

Suppose a party of travelers is shipwrecked on a south sea island. There are men, women, and children in the party, Catholics, Protestants and Jews, blacks and whites, businessmen, carpenters, sailors, writers, mechanics, etc. There is no sign of habitation on the island but it is luxurious with tropical fruits and some small game. The surrounding sea has plenty of fish. The island is not large however, and the castaways are many. The food must be sought. Tropical storms are prevalent. Fever lurks in the bush. Obviously there is a job to be done if these people are to survive.

Now we ask the questions: Is there a basis of unity in this party of very diversified travelers? Do the very circumstances of their shipwreck seem necessarily to bind them to-

gether in a little society which is to last at least while they are together on the island? The answer is surely: Yes. These people are all "in the same boat" or on the same island. If they are to survive, they must work together. Some must fish, others pick fruits, others make shelters, others make clothes and instruments. If there is a doctor, he will have to tend the sick; if there is an electrician, he will try to improvise a radio with what parts he has in order to call for help, etc. However, if each castaway insists on doing just what he pleases, doubtless many, or most, of the group will perish. If they are to survive, there must be order, authority; there must not be anarchy. These people all have a common end, namely survival. Moreover, they must all use common means to attain that end. The radioman tries to fix up a radio not only for himself but as a common means for saving all. The fishermen do not catch fish just for themselves but as common food for the whole group.

Now precisely because these people have a common end and can only attain it by using common means, therefore basic unity is already among them. It is true that they are not yet an organized society until they set up an authority to rule themselves. But they are potentially such a society; they should be such a society. The basis for unity is there.

What then, do we mean by a "basis of unity"? If people

are so thrown together so that they all have one common end or goal which they can only attain by common means, by working together, then, we assert, this common end and those common means constitute a basis of unity. Such people should form some kind of a society.

We may now proceed to this question: Did NRA think there was a basis of unity within the various vocational or trade groups of this country? The answer is: Yes.¹ Otherwise why would NRA have tried to cement the various business of a trade group into one unit obeying one Code Authority? However, it is important to note that NRA did not theorize very much about the basis of vocational group unity. Nor did it have a completely adequate concept of this unity. The NRA planners saw that unfair competition within the various industrial groups and that badly planned production were equally pulling down together all the business houses within those groups. Therefore, thought these planners, we will bind these various business houses together into Code Groups according to the similar products which they produce or services which they perform. Thus each Code Group can solve the mutual competition and production problems of all the members of that group. Obviously therefore, NRA recognized the fact that all the textile businesses, to take one example, had a common end (economic prosperity) which could only best be attained by common means

¹ Lyon 415.

(mutually fair competition, pricing, production, etc.) NRA saw, then, that there was a true basis for unity among the various trade groups.

NRA's picture may be said to be incomplete, however, largely because it did not adequately include labor's share.² The unity which NRA saw was unity largely between the various management staffs - a unity often rather closely knit in the various trade associations, such as the Iron and Steel Institute. This unity was not seen so clearly to include every last workingman within each trade group. Labor was thought of, of course - but rather at the periphery, than at the center of each group. The reason for this of course is quite understandable when we remember that "industrial" unions were practically unknown in 1933. However NRA may have failed to get the complete picture of vocational group unity, it certainly did point the way for us. For two years it got the country to recognize the real basis of unity which exists within our various trade groups. It is unfortunate that since the demise of NRA, this basic unity has been forgotten by many.

What proof can we offer that there is, today, a real basis of unity within our vocational groups? (We shall consider at this point, only those vocational groups whose area seems

² Ibid., 120-3, 423, Also National Recovery Administration Release No. 5418, May 31, 1934, 3.

clearly defined, such as steel, autos, power, etc. We abstract here from those heterogeneous groups such as retail trade and agriculture, since it is very difficult to determine what businesses should be considered to be within these groups, and what should not be so considered.) Can we prove that there is today a common bond of unity linking together everyone working in the steel business, for example....linking together the iron miners, the ore boat sailors, the blast furnace operators, the sheet-mill workers, the switch-engine engineers, the office clerks and stenographers, the metallurgists, the engineers, the electricians, painters, carpenters, plumbers, crane operators, foremen, scrubwomen, watchmen, executives, salesmen, advertising men, statisticians and accountants, office boys, board of directors? Are all these people, doing so many different things, really linked together by one common bond which we shall call: STEEL? Have the electricians of the Inland Steel Company for example, more in common with all the other workers and executives of the Inland Steel Company and the other steel companies than they have with the electricians of some street-car company, or some contracting firm? They have. They belong to steel.

Our proof for the above is founded on the following fact: Prosperity goes up or down in this country, primarily by industries. (Though it is also true that when many industries concur in their variations, a common variation of the whole

business cycle is had.) Thus it is that the whole machine-tool industry, for example, goes up or down, rather independently of other industries such as autos, textiles, etc. We certainly do not deny here that all industries inter-act and affect each other. But we do assert that variations first begin within an industry, and first affect that industry. The survey, "National Income in the United States - 1929-35" proves statistically these variations by industry. It sums up this point as follows:

In reality, all income payments are drafts on the national income...the breakdown of the national income by industrial classification indicates something of the relative importance of the various industries in contributing to the net product of the Nation, in giving employment to gainful workers and in disbursing compensation to individuals for their efforts. Moreover the divergence of trends and fluctuations in income for different industries reflects the changing nature of our industrial pattern, the stability or instability of different industries during various stages of business cycles, and to some extent the interdependence of all industries... [Income payments] can be of considerable value in studying the past and planning for the future, provided they are interpreted correctly. [Italics ours] ³

³ "National Income in the United States--1929-35", U.S. Department of Commerce, Bureau of Domestic and Foreign Commerce, 21, cited by Rev. B.W. Dempsey, S.J., "Corporate Democracy", Central Bureau Press, St. Louis, 1941, 14.

The "Statistical Abstract of the United States" also shows the importance of variations - by industries - of the national income produced annually. These industrial variations seem to be fully as important as the variations of the total income produced.

All in the Steel Industry, for example, go up and down together, as the Industry prospers or suffers - no matter what is happening in other industries. All, from scrubwomen to President, are in the same boat in the Steel Industry. Naturally they all want economic prosperity; and they all get it (or lose it) together. Therefore does not this prove that they all have a common end - namely, mutual prosperity?

Is it not also true that all in the Steel Industry can attain this common end only by working together, that is, by common means? If Labor strikes, not only Labor loses but also Management loses. If Management mismanages, not only does Management lose, but Labor loses too. In other words, it means more to an electrician in the steel business that his steel executives do a good job of managing, than it does that some electrician working in the contracting business does a good job of being an electrician. The steel electrician has more in common with the steel executives than he has with the contracting electrician because his prosperity (at least immediately) goes up or down with the steel industry, not with the contract-

ing business. Now if all in the steel industry have a real common end, which they can only best attain through common means, then they are bound together by a common bond of unity. There is a real basis of unity already present among them. It is true that this unity has not expressed itself in fully unified cooperative action. These people have not "actualized" their common basic unity into an industrial society. But since they really have true basic unity, they are potentially such a society. All they need is some sort of authority to activate and order their natural unity. As Father Bernard Dempsey puts it:

...There are in our country...real vocational groups actually, whether they are conscious of it or not, bound together by their common functions of producing this or that for the national product. When we attempt to compute figures which will show the state of national welfare, we immediately come face to face with that fact...The corporative order, therefore, calls for the explicit recognition of relationships that are already present.⁴

It seems clear that American business competitors in the same industries are closely interdependent with regard to fair prices, fair competition, fair wages, quality, optimum quantity to be produced, etc. Of course, we do not deny that all our industries are interdependent; but we do assert that the interdependence of firms within a trade group is primary

⁴ Dempsey, 15.

and of greatest importance to those firms. We do not deny, therefore, the interaction between industries - the fact that, for example, if steel prices are unduly high, steel users will substitute lighter metals or plastics, thus causing a probable slump in the steel business - the fact that, if coal miners insist upon unduly high wages, they will affect the price of electric power. It is clear that disputes and problems arising between the various industrial groups must be solved. For this, some sort of super-council or board representing all the vocational groups will doubtless be necessary.

But we wish to stress here the real and close interdependence of business houses within their own industries. With this fact we must begin. If one company wants to pay fair wages, it is unable to do so unless its competitors (first of all, within its industry) also pay fair wages. Of course we grant that many firms outside of its industry may be its potential competitors by substitute products and that, therefore, they too must pay fair wages in order that our one company may afford to do so. But the problem begins, and is most acute, within a given industry. It must be solved first there, so that a reasonably united industrial front may be presented to other substitute-product industries, that the remaining problem between the industries may be solved by some inter-industrial authority.

The CIO has clearly recognized this need for industry-wide cooperation:

Obviously one company could not grant a general increase to its maintenance workers without putting its costs out of line with the rest of the industry. Such a large-cost problem requires simultaneous consideration and action throughout the whole of an industry.⁵

...Two weeks after SWOC (the Steel Workers Organizing Committee) signed its first contract with the largest steel firm, in the spring of 1937, its officers presented several admittedly meritorious grievances involving big cost items. Management said; "We have signed a contract with your union. But most of our major competitors have not. We have taken on costs through our contract which these competitors have not yet assumed. We're hard-pressed enough. Why don't you bring these other companies into line? Then we'll see what can be done about these grievances you are pressing that would only raise our costs at present." The union recognized these reasons to be sound, it accepted the fact that the extent to which it could advance the economic interests of its members was limited until every major producer in the industry was organized and operating under a like collective-bargaining contract.⁶
[Italics ours.]

The CIO is not talking merely about industry-wide labor organization. It recognizes the need for industry-wide management organization:

The limitations on union-management relations at the level of the local plant and individual firm are a constant, irresistible pressure on unions and management alike to extend

⁵ Clinton, Golden and Harold Rутtenberg, "The Dynamics of Industrial Democracy", Harper, New York City, 1942, 303.

⁶ Ibid., 310-11

their relations. In no small measure the industrial strife of the last few years is attributable to the absence of industry-wide associations of management designed especially to work out many of these problems with national unions.⁷

The CIO believes there is a basis for unity by industries because of the natural interdependence of firms therein. It considers the recognition of this fact "a natural and necessary development":

Thus in steel the patterns of industrial democracy on an industry-wide basis that prevail in the coal industries are becoming visible. That they will eventually develop into formal conferences between two co-equal industry-wide organizations, fully empowered to negotiate the basic terms of employment for the industry, seems to us to be both a natural and a necessary development.⁸

Thus we have a large labor organization asserting through its spokesmen that there is a real basis for unity among the businesses (including both management and labor) within a given industry. It is precisely in the greater recognition accorded to labor in such industrial unity that the CIO program advances beyond the NRA experiment.

The position of labor of course, is important. There can be no doubt that it is to labor's first interest to seek the prosperity of its entire industry. Ordway Tead stresses this in his "New Adventures in Democracy":

As they (labor unions) gain inclusive membership, maturity, and able, continuing leadership, they are associations profoundly

⁷ Ibid., 309.

⁸ Ibid., 313.

concerned to advance the total effectiveness of the specific calling or industry in the total economy. The well-established union is, and has to be, as much concerned as the associated employers of an industry, with the development of conditions which foster that industry's prosperity. There is a real sense in which the affiliated workers of an industry have more at stake in helping an industry to thrive than the salaried managers or the scattering of absentee stockholders.⁹

Finally, therefore, we believe that the close economic interdependence of American business - by industries - gives solid ground for the unification of those businesses into vocational groups.

The vocational group unity which we have found is not unaccompanied by difficulties. It is not always easy to delimit American business into workable vocational groups. However, this problem is not so acute in the large, rather homogeneous basic industries, such as the fuel, raw materials, durable goods, foods and wholesale industries. The problem is acute in the many smaller, more independent businesses, such as retail trade.

First, the difficulty of overlapping definitions. Under the NRA, each industrial or trade group tried to define its area of coverage. But in practice, many definitions overlapped

⁹ Ordway Tead, "New Adventures in Democracy", Whittlesey House, MacGraw-Hill, New York City, 1939, 92.

one another either explicitly in the legal statement of the Code Authority, or implicitly.¹⁰ All this created severe jurisdictional conflicts between the various code authorities.

We present several examples: The definition of the electrical manufacturing business is "the manufacture for sale of electrical apparatus, appliances, material or supplies, and such other electrical or allied products as are natural affiliates".

[Italics ours.] This small tail-end phrase left the door wide open to a variety of jurisdictional claims by the electrical manufacturing code authority, which could thus elbow its way into the field of many other code authorities. Because of a like looseness of definition, there was a jurisdictional dispute between the farm machinery authority and the road machinery authority over the question: Who should control tractors? Conflicts of definition were also very severe in the garment industry. There were many code groups and each tried to define itself so as to be unique; but overlapping was wide-spread. Some of the groups were as follows: The Women's Coat and Suit Group, Men's Clothing Group, Underwear and Allied Products Group, Infants and Children's Wear Group, Blouse and Skirt Code Group, etc. From the above, it is obvious that the maker of red woolen underwear might be under any one of several codes. Moreover, the Cotton Garment Group overlapped most of the

¹⁰ Lyon, 15-0

others. And since it had easy wage and hour requirements from the point of view of the employer, many manufacturers sought refuge under it to escape the other code groups in the garment business.

It is not easy, obviously, so neatly to define an industry or trade as not to overlap an allied industry or trade. NRA ran headlong into this difficulty and was faced with an angry sea of jurisdictional conflicts between various code groups as a result. This difficulty of definition remains today and will remain in the future. Anybody who tries to revamp America into an Industrial Democracy must solve this difficulty of definition. In the case of a few industries like Steel and Autos, delimiting the area will be easy. In the rest of our manufacturing, distributing, and other businesses, it will often be difficult. The difficulty of defining the various code groups is really the effect of the difficulty of classifying our many varied businesses.

Secondly, the difficulty of classification of vocational groups. Under the NRA there were, in general, two types of classification-contrasts: "horizontal" versus "vertical" groups, and "straight-line" versus "circular" groups.

"Horizontal" and "vertical" groups.¹¹ Most of the codes were "horizontal" codes, that is, applying to one stage of

11 Ibid., 153

manufacturing, processing or distributing a product, as for example the Auto Group. "Vertical" codes were codes applying to two or more stages of manufacture, processing or distribution, as for example, the Lumber Group which extended from trees in the forest to wooden crates and baskets. Many important codes were vertical. Serious jurisdictional overlappings were to be expected. Most of the manufacturing concerns were organized into horizontal groups handling only the "manufacture and first sale" of a definite list of products. Similarly, the distributing concerns were organized into various specialized groups in the wholesaling and retailing levels. However, we have as an opposite extreme, the oil burner group which was organized all the way from manufacture to retailing in one long vertical code. Of course many concerns - the majority of those in vertical groups - were in groups handling only a few stages of processing.

The Lumber Group was a good example of a code uniting many businesses of varying types from all over the country. The producing areas for lumber were widely scattered from Maine to Oregon and Alabama. Many small and some large firms were the producers. Many different types of wood were produced. There were many stages of lumber fabrication. There were many wood end-products. It was hard to see what basis of unity would hold together all these divergent groups against their natural

separatist tendencies. Many codes were possible in this situation. Yet one all-embracing code was the result, covering everything from the felling of trees to wood shipping-crate manufacture. This was thanks in good part to the strong trade association organization of the lumber industry. Yet in spite of this strong vertical group, there were many other wood-product groups, such as the insignificant Wood-plug Group, the Paper Group, the Newsprint and Paperboard Group, etc.

It is important to notice that nearly all the vertical groups began with the stage of actually preparing the raw materials which were later to be processed. This points to the economic logic and efficiency of the vertical organization of industry and the resulting vertical code groups. It was evident that in many industries the vertical set-up meant savings and greater productivity. Businessmen put it in because it paid. It was also evident that not all industries lent themselves to the vertical set-up. It seems that both the horizontal and the vertical types are with us to stay.

Under the NRA, the co-existence of these two types made for difficulties. For example, many firms found themselves included in a horizontal group and in some vertical group as well - and were thus faced with a confusing and differing array of wage, hour, price and marketing regulations. Again, many distributors (retailers and wholesalers) found themselves

subject to codes which they themselves had had little part in forming, but which had been handed over to them by their manufacturers.

"Straightline" and "circular" groups.¹² A "straightline" group is one that manufactures a single product or a very few closely related products derived from the same raw materials and selling on the same market. The Sandstone Code Group is an example. A "circular" group, on the other hand, is one that covers not only a single product, but also a diverse range of complementary products related only because they have a common destination in the same end-product. An example of this is the Automotive Parts and Equipment Manufacturing Group, who are united because the windshield makers, the car radio makers, the tail light makers, the battery makers, the magneto makers, the upholstery makers, the carburetor makers, etc., all put their products on the same finished end-product, the car.

There can be little doubt that "circular" code groups have reduced the number of basic codes and thereby the amount of "multiple coverage" which might be imposed upon any single business firm. They have, however, created difficulties of overlapping. For example, a manufacturer who makes rubber balls may find himself at the same time under the Toy Code

¹² Ibid., 157.

Group and the Athletic Goods Group. At once a jurisdictional problem arises; especially if these two groups have markedly different requirements about wages, hours, prices, etc. Under the NRA, this problem was serious. The social planner of Industrial Democracy will have to meet it. Doubtless there will have to be both "straightline" and "circular" groups. But the resulting confusion will be a practical obstacle to a system of industrial self-government. We believe the problem can be solved; but it will have to be met.

The third difficulty which arises in the attempt to delimit code groups and which has already been mentioned, is that of "multiple coverage".¹³ By the time the NRA had reached its death struggle there were over 750 code groups. Many codes often included the same manufacturer or business house in their constituency, so that such a firm was "covered" by many codes at the same time, resulting in the difficulty of "multiple coverage". This stubborn difficulty arose largely because of the great diversity of operations often found housed under the roof of one American business house. Especially is this true in the field of retailing. If there were separate codes, for example, for retailing of food, of tobacco, of drugs, then the average "general store drug store" might be covered by three or

¹³ Ibid., 158.

more codes at the same time, with the resulting confusion of different wage provisions, etc. The Brookings "National Recovery Administration" cites an example of this difficulty:

An example...is that of a certain New England factory which produces washing machines, vacuum cleaners, electric motors, and other lines, the number of applicable codes being ten. Certain work rooms are specialized by products, and the workers therein are clearly under a single code. On the other hand, there are metal, wood-working, and other shops where parts are made or materials processed for all departments. A single workman may in a single day work under two or three codes. Or at a single moment different workers in the same shop may be working under five or six codes.¹⁴

It would seem evident that the resulting wage, hour, and price confusion in the above New England factory would make code observance often an insuperable difficulty and code enforcement at least in some particulars almost impossible. Loopholes and chances for evasion of code-group requirements would abound.

Multiple coverage was caused not only by the diverse operations of many firms, but also by the vague and all-inclusive definitions of some of the codes (as we noted above). For example there was a code group called the "Light Sewing Industry, Except Garments". This group, at least according to its definition, included almost everybody and every firm doing any stitching or sewing on a button! Thus, multiple coverage was inevitable.

Another aspect of multiple coverage occurred when one

¹⁴ Ibid., 159

definite business function, such as trucking, would lie within the scope of different code groups with different standards of competition. Brookings gives an example:

Wholly similar trucking operations are being carried on by delivery fleets owned by retail stores and by for-hire truck operators performing delivery operations for retail stores under contract. Trucking operations performed by store-owned trucks are excepted from the jurisdiction of the trucking code. Since wage and hour provisions of the retail trade code are much less onerous than those of the trucking code, the situation tends to induce stores to purchase and operate their own delivery equipment at the expense of the independent trucker.¹⁵

Many other examples could be given which would show further the jurisdictional confusion between the various code groups under the NRA.

The three difficulties which we have given to show the great difficulties involved in trying to delimit vocational groups, are not, we believe, insuperable. But we insist that they prevent the establishment of an Industrial Democracy from being an easy matter. Granted that a few industries like Steel and Autos may be easy to delimit, nevertheless the delimitation of the vast remaining part of American industry will be far from easy. One of the mistakes of the NRA was that it formed too many codes too hastily. The above difficulties were

¹⁵ Ibid., 161

partially the result of this. To this extent the future social planner may avoid these difficulties if he plans fewer groups (than 750) and tries to establish them more slowly. However much of the difficulty remains because of the very complicated structure and functions of American business. We believe that careful planning, plus a certain amount of patient trial and error will bring a fair solution to the difficulty. Of course we do not think that Industrial Democracy can at once be extended to all business firms in the country. Anything organic is the result of slow, steady growth.

CHAPTER V

VOCATIONAL GROUP LEGISLATION

The first problem of vocational group government concerns the very act of Congress which sets up the industrial self-government machinery. In the case of the NRA, this was the NIRA, the National Industrial Recovery Act. What was the nature of this Act as a legislative technique, and what can it tell us about a future act necessary to bring about our Industrial Democracy?

First, the NIRA was administrative, executive, or enabling law.¹ That is, the Congress laid down a line of policy, but the specific detailed content of the law derived from the rules and regulations promulgated by the Administration, the Executive, the President of the U.S. The administration therefore exercised in large degree what was really legislative power. Moreover, it had some power to interpret the rules and to settle disputes arising under them, thereby exercising what are, strictly speaking, judicial powers. Thus to some extent, at least, our old traditional division of powers between the

¹ For a brief treatment, written before the Schechter decision, of the problems of administrative law by governmental agencies, see the Brookings survey, Lyon, 31-7. Also, William Bennett Munro, "The Government of the United States", Macmillan, New York City, 1928, 354-5.

legislative, executive and judicial branches of government was broken down.

Is some delegation of powers a bad thing? Very likely not. However, the NRA was, as one Supreme Court Justice put it, "delegation run wild". For that reason, mainly, it was declared unconstitutional. This much we learn, therefore, from the NIRA....any future act must avoid the reef of unconstitutionality. This should not be a serious problem since the Congress could ratify in some way the legislation of the executive branch. The Code Authority could present its plans to Congress for approval.

Secondly, the NIRA was theoretically coercive legislation though practically it was rather persuasive than coercive. Section 3d of the Act² enables the President to force the Act on American business, should it be necessary to do so. Section 4b gives him licensing power over business, that is, ultimately the power of life and death.³ Theoretically, therefore the Act was coercive. However the President never used these powers. How much force did the NRA exert - practically? The answer to that question will vary with every code that was drafted. In some cases the NRA deputy administrator was himself snowed under by the business trade associations so that he could hardly be said to have used force on them. In other

² Lyon, 891.

³ Ibid., 893.

cases, the Administrator undoubtedly did attempt to coerce business.⁴ However, we believe that as a whole the NRA should be styled "persuasive" rather than "coercive" legislation.

Should some future Act be coercive or persuasive? We believe it should be flexible, that is, coercive enough to rouse that section of American business and labor which will resist vocational organization, but not so coercive as to antagonize those who will welcome such organization from the start. It is obvious that more or less coercion will have to be exerted as more or less resistance may be expected from the different industries. However it is very important that no coercion be used which will result in making the various Industrial Groups mere extension tools of the U.S. Government. The will to organize vocationally, the enthusiasm, the initiative should come "from below", from Management and Labor. Obviously the first legal steps will have to be taken by the Congress of the United States. Obviously too, some government agency will have to start the ball rolling to organize the many divergent interests among Labor and Management. But the goal is Industrial self-government, not government controlled Industrial puppet-government.

It should be obvious too, that we cannot successfully reach such a goal as this by revolutionary changes but only by

⁴ Ibid., 134-7.

evolutionary changes. The great fault of the NRA was that it tried to launch the ship of industrial democracy before that ship's hull and launching ways were completed, that is, before American business and labor were prepared for it. We must use the existing agencies we now have in existence and try to shape them gradually towards industrial democracy. To be concrete: we must try to refashion the AFL, CIO, Association of Manufacturers, the various co-operatives, trade associations, etc., along the lines of industrial democracy. We cannot simply junk all our existing agencies and suddenly start an ideal industrial democracy. We must use what we have. We cannot stop our economic machine; we must remodel it while it runs. For example, the CIO's Political Action Committee is now (1944) proposing a National Planning Board which shall encourage "the establishment for each industry of an Industry Council composed of representatives of labor, management, or agriculture if the case requires, and government, to assist in the formulation and administration of plans for full production and full employment within such industry".⁵ Here is an existing agency which is heading towards some sort of an industrial democracy. Let it be used, not opposed. Rather let it be encouraged and refashioned towards the Pope's Plan for

5 "Economic Democracy", The Wage Earner, Association of Catholic Trade Unionists, Detroit, July 7, 1944, 2.

industrial democracy. Only after American labor and management have been prepared for industrial democracy by education and experimentation will it be time to talk of formal campaigning and acts of Congress. This preparation is now in process. It is the job of the Catholic social planner to direct and encourage it.

The second legislative problem concerns those legislative acts within the industrial groups for their own government. Who were the law makers or the code makers under the NRA? There were four groups: 1) the code committee representing the applicant business group, 2) the representatives of the three advisory boards, 3) the representatives of the two technical divisions and 4) the deputy administrator.

The Code Committee. Most committees represented trade associations of business men. The trade association was the easily available and obvious foundation upon which the NRA chose to build its industrial self-government. The harassed NRA administrators trying to organize a very disorganized American business in a very short time naturally seized upon whatever shreds of organization they could find. Such were the trade associations. As the NRA put it:

Nearly every principal employer belongs to what is called a trade association. These associations were mostly formed long ago for what mutual help the members could get by agreement within the law (the anti-trust laws).

They were not very strong under the old law, but the new one (the NIRA) makes them highly important. They are almost a part of the government and they can do, and agree to, many more things than they could ever do before.⁶

Now the Code Committees, since they represented such trade associations, definitely had the "business-man's point of view." They approached the code-makers' table (or better, arena) with certain advantages over the other code-making groups.⁷ They had already prepared the first draft of the code to be proposed. They knew its "ins and outs", its subtleties. They had the positive side; it was up to the other parties to hack away at their proposal or bring forth a better proposal. They had most of the statistical evidence in their own industrial group. They had the best of legal, engineering and economic advisers. They initiated the whole law-making proceedings and they could terminate them. On the other hand, they were in on a law-making job utterly new to them. Many of them came from antagonistic business factions. They differed greatly among themselves as to definiteness of purpose. They knew that they faced an NRA administration that could impose a code on them whether they liked it or not, if it so desired. Therefore the Code Committee was not exactly all-powerful; it had its limit-

⁶ National Recovery Administration, Release No. 11, Washington, D.C., June 25, 1933

⁷ Lyon, 117.

tions; however, it did seem to have the edge over the other groups, excepting perhaps the administrator.

The three Advisory Boards. These boards were supposed to represent the three pressure groups interested in the outcome of the code-law. However, since they were purely advisory, they did not have a great deal of real power in the actual formation of the codes. The Industrial Advisory Board, appointed by the Secretary of Commerce, usually rubber-stamped whatever the business men's Code Committee was trying to put into effect.

The Labor Advisory Board was somewhat more important. Since it was appointed by the Secretary of Labor, it was independent of the direct control of the NRA administration. It was made up of leaders of organized labor, and one or two individuals supposedly qualified to represent unorganized labor. It had a permanent staff of labor specialists and drew heavily upon the facilities of the U.S. Department of Labor, the U.S. Employment Service, and the Public Health Service. In those industries in which organized labor was strong, the members of the Labor Advisory Board had strong labor backing when they did their share in negotiating a code.⁸ But in those industries in which organized labor was weak (in 1933, the mass-production industries), they had almost no strategic advantage at all over the other code-makers. Be it noted that those labor leaders on the Board were not from strongly integrated

⁸ Ibid., 123.

vertical or industrial unions simply because there were few such unions in 1933-4.

The Consumers' Advisory Board was a kind of odd fish. It was appointed by the Administrator and was supposed to represent all the consumers who might be affected by the code legislation. Actually, however, unlike the industrial and labor advisory groups, it lacked support from any well-organized or articulate constituency. Consumers were usually either on the side of labor or on the side of management; they had no organized basis for acting as a pressure group, either in initiating measures to protect their interest, or in backing up the recommendations of the Consumers' Advisory Board in the code bargaining process. Thus the Board had no real bargaining power.

Representatives of the technical divisions. These divisions were Legal and Research and Planning. They did not exert much influence in the actual framing of the codes unless the other groups happened to like and support their findings.

The Deputy Administrator. In some of the big Codes, Gen. Johnson himself performed this function. For the hundreds of smaller codes, it was impossible for him to have time to do so. The deputy administrator, however, had a great deal of power in the actual framing of the codes.⁹ His functions were

⁹ Ibid., 107.

multiple: supervising the bargaining process, entering into the bargaining process to promote what he understood to be NRA policies, reconciling the forces of controversy into some sort of an agreement, judging the desirability of the result.

We may now ask this question: Were the code-makers adequately representative of the various pressure groups? Were they likely to produce good law? What warnings does the NRA set-up give to us about future code-makers in an Industrial Democracy? First of all, the Code Committee, representing (so largely) the trade association, seems to be a necessary and fair party to code making. It seems inevitable that the future social planner will have to deal with trade associations. Some industries, of course, will not be very "trade association conscious". In those industries, the business houses which are not members of the trade association will have to be represented fairly. NRA tried to do this. So must the future social planner.

What about the Advisory Boards? It might be well in the future to have an Industrial Advisory Board; however it seems an unimportant matter and we pass over it here. But in regard to the Labor Advisory Board, we want to make what we consider a very important point. If this Labor Board is to have real power it must be composed of the representatives of that industrial union in whose industry the code is now being set up.

Moreover, the industrial union should have true and strong bargaining power. The trouble under the NRA was that Labor never did have adequate representation in the drafting of the codes, because labor was unorganized in the mass-production industries and because labor had not yet become "industry conscious". As two CIO writers put it:

Every time management has undertaken by itself to control the destinies of an industry, or group of industries, the result has been monopolistic and essentially undemocratic, because its primary preoccupation has been with profits and competitive positions. This is demonstrated by the history of the National Industrial Recovery Act in 1933-35.¹⁰

Labor must be given a just share of bargaining power in the framing of the codes. As we implied, we believe that this can come only when, as, and if labor is organized along industrial lines. Therefore we believe that the growing strength of the CIO as opposed to the AFL is a good tendency. We do not claim that all craft unions must go; but we do believe that the industrial union is an essential element in our Industrial Democracy. We do not say that under the NRA Labor did not have at times considerable power. It did. Especially in the framing of the Bituminous Coal Code. John Lewis, Philip Murray and others were in Washington for that job. They fought and fought hard. But they had power precisely because they were

¹⁰ Golden and Ruttenberg, 330.

organized industrially, especially once the Northern and Southern Appalachian fields were united.

What about the Consumers Advisory Board? It is true that the rights of consumers must be safeguarded in the framing of code law. Any future Industrial Democracy ought to try to do a better job than the NRA did. However we do not know just how this job is to be done since consumers are not as yet a strong pressure group. Perhaps appeal could be made to some existing consumers' associations.

In addition to the question as to who the code-makers were and should be, this further question is important: How did the code-makers make the codes? What was the actual process? What can we learn from this? Gen. Johnson describes the process actually used in making the codes:

- 1) Industry (the Code Committee) was to make a proposal.
- 2) It was to be submitted to a public hearing.
- 3) Within NRA itself were departments made up of accredited representatives of the three conflicting interests:
 - a) Industry
 - b) Labor
 - c) Consumers

It was to be their business to point out every Code proposal which they thought might bear harshly or unfairly on the interests they represented. They voiced and supported their protest and...be assured...they did it. The Boards not only were to do this themselves but they were to activate and assist all public

or private groups of similar interest to present their cases.

- 4) These expressed conflicts of interest were then to be digested and the Deputy Administrator was to seek to compose as many as could be composed by conference.
- 5) The Administrator himself, then, with the aid of the Department of Research and Planning and the Legal Department, was to seek either to get complete agreement of all conflicting interests, which was generally done, or else to narrow the field of disagreement to a point where a final decision to be recommended to the President would produce the maximum of fairness and justice and the minimum of harm to all interests.

Of course we invented this system on the principle of trial, error and correction. It was for this reason that...the writer (Gen. Johnson) made his prophecy about dead cats and his eventual decapitation. That required no foresight.¹¹

How did this process really work out in those hectic days of 1933-1934? In most cases it was impossible for the deputy Administrator to retain his position of impartial judge - he was forced into the fray itself, lending support first to one group and then to another according to his own idea of desirable economic and social controls, or his own idea of how to hasten progress on the code. Rarely could he evaluate the whole code in the light of carefully analyzed and evaluated evidence. Rather the code grew, provision by provision, out of

¹¹ Gen. Hugh Johnson, "The Blue Eagle from Egg to Earth", Doubleday Doran, Garden City, New York, 1935, 202.

bargaining and haggling.

Pity the poor deputy! He was submerged in a welter of conflicting testimony and statistics - how could he judge it in a short time? There were literally volumes of conflicting facts and claims brought forth by the two principal gladiators in the arena - the Code Committee and the Labor Adviser. Neither the testimony nor the statistical evidence was entered on the record under oath. There were factions even within the industries proposing the codes trying to convince the deputy of the dire consequences that would redound upon them if the code were to go through. There was the advice of the Consumers' Board and the Research and Planning Board - advice based on the principle that the bargaining process was bad.

On top of all this, the Deputy had to remember that speed was the big thing - that he should get the codes completed as rapidly as possible with a minimum of obvious deficiencies, with the least possible friction. He was told that re-employment considerations (we were at the bottom of the depression then) because of the emergency situation were more important than long-term rehabilitation. Johnson puts his policy clearly:

There were two ways to go about the NRA job, one was to precede definite recovery action by a slow academic study of all the complications and contingencies to be met in code drafting, punctuated by expert testimony and oriented in the long-term

effects of those changes in economic balance that would inevitably result from the new recovery set-up - that is, in the opinion of men who, however rich in academic learning, never knew the weight of a business responsibility in their whole lives.

The other was to get the codes in, meeting the unemployment situation after some fashion, cleaning up the work of the economic abuses, putting first things first, letting the minor maladjustments fall where they might, and dealing with the long-term effects as they became evident.

The choice was between academic conjecture and action and the decision was for action....¹²

Our conclusion about the code-making process is this: It was too often marked by selfish log-rolling and wild, hasty compromises which were not likely to serve the good of anybody, much less the common good. The cause of this was partly the code-makers themselves, but mostly the extreme haste with which the codes were drawn up. What lessons do we learn therefore from this aspect of NRA? The code-makers of our future ideal Industrial Democracy must be much more representative of Labor, must make public adequate and scientific statistics, must make their codes much more slowly, must give much greater thought to the general social welfare outside of their own industrial group, must give more attention to long-term, as well as merely short-term economic effects. Of course, wherever there is law-making by divergent pressure groups there will be discord, log-rolling, lobbying, etc. In a word, there will

¹² Gen. Hugh Johnson, National Recovery Administration, Jan. 25, 1934, address of Administrator.

always be "politics". But the excessively tempestuous and hasty law-making process under the NRA could surely be remedied in the future by taking the proper safeguards against it. This is a problem which the social planner must meet and solve in advance, being careful not to confuse remedies for emergencies with long-time reorganization of our social economy.

A third question to be asked about the codes as legislation is this: What was the typical content of the codes? It will not be necessary to examine a large number of codes to determine this, for they all had many similarities. The Iron and Steel Code is sufficiently fundamental to be a type for the other codes. The Iron and Steel Code was simply a body of laws binding the members of the industry subject to the Code Authority.¹³ These laws declared their own purpose (Article II), who could be members of the Steel Code Group (Article III). They established very concrete and definite regulations about rates of pay, hours of labor and other conditions of employment, (Article IV). This article recognized labor's right to organize, condemned child labor (under sixteen) for the industry, set up geographical wage districts based on varying costs of living, set minimum rates of pay for common labor for those

¹³ Lewis Mayers, "A Handbook of NRA", Federal Codes, Inc., New York City, 1934, 589 ff.

districts, (35 cents an hour, for example, in the Eastern District), set maximum hours for the industry at 48 hours per week. Article V treated production and new capacity. It refused to control or allocate the volume of production or sales among the members, believing that the elimination of unfair trade practices would eliminate any overproduction or inequitable distribution of production or sales. (It is important to note here that we do not claim that all the provisions of the Iron and Steel Code were practically carried out, or in practice operated for the common good. We simply state what they intended to regulate and perform.) Article V forbade the members to expand their plants by new blast furnace, open hearth or Bessemer steel capacity, unless the Code should be amended to permit it. However this article did not seem to restrict unduly the changes and technological improvements of the Steel industry. No mention was made of new continuous strip mills, high grade electric furnaces, etc. Thus the Code seemed sufficiently flexible to admit of the inevitable improvements in processing.

Article VI described and delimited the administration of the steel code. Article VII regulated prices and terms of payment: "None of the members of the Code shall make any sale of any product at a price or on terms and conditions more favorable to the purchaser thereof than the price, terms or

conditions established (by the Code.)" Thus this article set base prices, following the multiple basing point system. Article VIII listed certain unfair practices, the performance of which would constitute a violation of the Code, (for example, bribes to purchasers). Article IX set up the machinery to procure adequate reports and statistics for the industry. Article X treated the all-important subject of penalties and damages, and stated that "Any violation of any provision of the Code by any member of the Industry shall constitute a violation of the Code by such a member." For violation of the price laws, the penalty was a fine of \$10.00 per ton of the products so sold. The other articles regulated general matters, ways of making amendments to the codes, ways to terminate the code, etc.

Thus we see, in conclusion, what a typical body of NRA code law tried to do; namely, to regulate the hours, wages, prices, quality, etc., in the industry for the professedly maximum good of the labor, management, and consumers involved. All the codes in general attempted this, though the extent of the regulatory controls varied in different industries. Such a content would doubtless be the general content of any codes set up in our future Industrial Democracy.

CHAPTER VI

VOCATIONAL GROUP ADMINISTRATION

The problem of administration in self-governing industry under the NRA presented grave difficulties. We are concerned here not with the NRA staff administration problems primarily, but with the administration problems arising from the industrial code-groups themselves. We ask first: Who were the code administrators under the NRA? Whom did they represent? How "representative" were they? How were they selected? What difficulties arose because of this set-up? What warnings does this set-up give us as to the planning of a future industrial democracy?

The Administrators in each code-industry were the "Code Authority", set up to administer the code. In most cases, these code authorities were either composed of - or dominated by - the Trade Association of that industry.¹ A survey of 110 codes (the first 100 plus 10 others) showed that in 63 codes, trade associations ran the show. Often these associations were simply and directly appointed by the code.

The fact that in the remaining 47 codes explicit dominance was not given to a trade association, did not mean that associations did not get the dominance anyway. Usually the

¹ Lyon, 206.

vague statements of the codes calling for a "fair method of selection" or for some sort of election, left the door wide open to powerfully organized trade associations so that they could seize control. Of course, the close relationship between code authorities and the various trade associations was entirely in harmony with the purposes of the NRA. What about provision for non-association members? In most codes, these minority groups were provided representation on the Code Authority. In some codes they were fairly represented, in other, not.

The only problem of code authority personnel with which the NRA concerned itself was that of securing a membership properly representative of the business elements in an industry. It succeeded fairly well in accomplishing this. However there were often enough business factions which were poorly represented. The glaring evil, though, of code authority personnel was the omission of labor representation. In practically no code authority did labor have a single word as to the administration of the code in spite of the fact that labor was immensely affected by such administration. The lopsided personnel of the various code authorities created a fundamental problem imperiling the existence of NRA. The Brookings survey treats it as follows:

The issue is really much more fundamental than its casual treatment by the NRA might

indicate. Its character is sharply seen in the more extreme proposal that code authorities be composed equally of representatives of business interests, labor, and consumers, with a public chairman. This proposal sharply challenges the conception of "industrial self-government" which the present form of code authority supports. It presents the view that if industry is to be organized collectively, it must be defined as including all the groups at interest, and not merely the single group concerned with making a pecuniary gain from industrial operations. There is great force in this contention. It recognizes what is true, that under the aggregate terms of codes as they now (1934) exist there resides a considerable power to restrict the productivity of the economic system to the detriment of the population dependent thereon in their roles both as workers and consumers, so long as such powers exist. It is very difficult to defend the present basis of representation in the hands of the only persons to whose interest it may be to restrict productive activity. [*Italics ours.*]²

Taking human nature as it is, it is not likely that justice will be done to the three groups, management, labor, consumers, when only one group has any real power in the administration of the codes, namely management.

How did the Deputy Administrator fit into the picture of code administration personnel? Some deputy administrator sat in every code authority as evidence of NRA's supervisory responsibility. In view of the debarment of labor and consumer groups from any active part in code administration, the deputy

² Ibid., 213.

was in a highly crucial position. He was the only direct avenue through which the NRA followed up the performance of code authorities and interpreted its policies to such code authorities. He was the outpost of Uncle Sam in the industrial groups, the eyes and ears of the government. He was supposed to guard against code administration slackness or abuse. He had a dual job - to protect basic NRA policies and to be umpire in the factional disputes of the code authorities themselves. He spent much of his time playing umpire.

Actually what happened? The deputy administrator was too often poorly informed about the particular industry whose code he was supposed to be helping to administrate.³ The reason for this was that the NRA was quite unable to secure the necessary large staff of trained administrators in so short a time. The result? The majority of code authorities operated with considerable independence from close NRA supervision - no doubt with too much independence.

A typical example of code authority personnel may help to illustrate our subsequent conclusions. The Steel Industry under the NRA had for its Code Authority the industry's trade association, the Iron and Steel Institute plus the Deputy

³ Ibid., 136, n. 27.

Administrator. The Institute was composed of 32 directors and a chairman.⁴ These men were in large part the President, Congress and Supreme Court of the steel industry's "state" in the NRA industrial democracy. The Steel Code permitted 2000 members or "citizens", (actually there were a little more than 1000 members) who were either individual business men or employees in the steel business or Corporations or Partnerships. Each member had one vote. In addition each member got more votes in proportion to his dollar volume of sales of steel. Thus the nine largest steel companies in the country controlled 52% of the vote of the Code Authority. The powers of the Authority (which were legal, judicial and executive) were to gather statistics, fix damages for code violation, waive damages for code violation, interpret the code, allow deductions below the base prices for steel, set minimum freight charges, determine new unfair practices. The 33 directors were quite independent of the 1000 or so members. They needed the approval of the members only for new amendments to the code.

We may sum up NRA's warnings as to the personnel of Code Authorities as follows: If trade associations are to play an important role in the forming of a future industrial democracy,

⁴ Carroll R. Daugherty, Melvin G. de Chazeau, Samuel S. Stratton. "The Economics of the Iron and Steel Industry", McGraw-Hill, New York City, 1937, I, 221.

better provision must be made for non-association members of an industry. Consumer interests on the code authority must be better represented - doubtless through the deputy administrator. While we must avoid the danger of too dominant government supervision of the various code authorities, still better supervision will be necessary than was had under the NRA. This could be had by insisting on better, and less hastily, trained deputy administrators. Lastly, and most important of all, adequate labor participation in the code authorities is surely a necessary condition for the success of any future industrial democracy. Mere advisory staffs will not be enough. Labor must have a voting power on each code authority. The details of code authority structure will (and doubtless should) vary from industry to industry, but we believe that the above warnings from the NRA experiment in industrial democracy must be heeded if any true system of industrial democracy is to succeed in the future.

The administrative problem of vocational group government has another aspect; namely, how did the administrators administer? How were the code laws of the NRA experiment in Industrial Democracy actually executed? What warnings does such execution give us for the future? Code administration involved many difficulties, but the most important of these was the great difficulty of getting code violators to comply with the code. We have much to learn from the compliance problem.

How was compliance effected under the NRA? In most cases, violators of codes were handled not by the various code authorities but by the compliance division of the NRA staff itself. This staff was highly decentralized into regional and state offices. Only a small residue of complaints reached the Washington Compliance Division. The NRA had no direct powers of enforcement. It had only indirect powers such as removal of the Blue Eagle and the threat of prosecution. The Legal Division of the NRA staff prepared cases against code violators for the Federal Courts. However it could not actually prosecute; this could be done only by the various district attorneys of the Department of Justice. This whole machinery was rather cumbrous technically and rather delicate in human relationships.

The experience of the NRA compliance agencies demonstrated that the compliance problem was almost wholly a problem of the non-compliance of small business units.⁵ Compliance was poorest under the codes whose constituent businesses were quite small, and also among the little fellows in the big code groups. There was almost no compliance problem among large manufacturing enterprises except for some minor technical violations. Compliance was also bad in economically backward regions such as the Ozarks where, for instance, it was almost impossible to enforce the canning code.

⁵ Lyon, 260.

Why did the NRA experiment fail to enforce its laws? In the first place the philosophy of NRA was that the various industrial code groups should attain some real self-government—that these authorities would handle their own complaints and see to the enforcement of their own codes (short of actual federal prosecution, of course.) Thus the government's police work was to be secondary and mainly temporary. As a matter of cold fact, however, the code authorities were not equipped to effect compliance; nor did they do so. The result was that the job fell to the compliance division of the NRA staff. Now this staff was greatly undermanned. Not only was it unable to go out actively and check on the observance of codes by business, but it was unable (even by sitting passively in its offices) to handle the flood of complaints on non-compliance coming in to it from business and labor. The result? Flagrant violations of code laws everywhere. It was an embarrassing situation to be in, and a demoralizing one.⁶

For a future industrial democracy a very large number of observers (or "inspectors" or "policemen") will be necessary to check on business and labor and to gather evidence on compliance. Should these inspectors be part of a U.S. Government staff, or should they be subject to each Code Authority? We believe that the inspection and complaints side of effecting

⁶ Ibid., 272.

compliance should be handled entirely by the Code Authorities who best know their own peculiar problems. We also believe that the vocational groups should have the power, as far as possible, to enforce their own laws by their own complaints departments, fines, etc. of course their decisions would be subject to appeal to the U.S. Courts.

CHAPTER VII

CONCLUSION

Is the Pope's Plan for Industrial Democracy feasible in the United States? We believe that it is, provided we heed the warnings given to us by the NRA experiment. From the NRA we can take many practical suggestions which are of considerable value to us in drawing up a workable blueprint of the Pope's Plan. It must be made clear, however, that we do not recommend a revival of the NRA, even in some altered form. The NRA failed and is dead; it is best that it remain dead. But if the suggestions which flow from it are carried out, Industrial Democracy can be made to work. A summary of these suggestions is as follows:

- 1) We should recognize, first of all, the basic unity or community of interest which actually does exist between employers and employees in the various American business firms and companies. There is a common bond of unity binding together all the workers in a business unit -- scrubwomen, engineers, salesmen, executives. This bond is their mutual dependance for a livelihood upon the success of their business unit. Now Industrial Democracy presupposes this very important unity and builds upon it. But since we already have this unity, at least basically, all we need to do is to let it express itself

in an orderly, democractic way. Thus we see that in this regard, the Pope's Plan is eminently practical; it builds on existing economic conditions.

2) Since there is basic unity within a given business firm, it is important that organized labor be given fair representation and some voting power as to the management of that firm. Is this practicable? There will be huge opposition from some businessmen, of course. Yet surely it can be shown to businessmen that they can profit in the long run if a fair share in management be given to organized labor. In fact there are many cases today in which organized labor has much to say about management, affecting not only wages and hours but production-conditions and prices. These cases prove that such a system can be operated successfully and peacefully. Since there is a unity of interest, there can be peaceful co-operation. Both employers and employees recognize the bond uniting them into a little "society". Each group must recognize the other's right to a voice in settling their common economic problems. Both groups must be willing to make concessions. Where these conditions have been given a fair trial such co-operation has worked in American business. It is not a mere dream; it is a fact.

3) We should also recognize the basic unity which actually does exist within American industrial groups, at least in the basic industries. Our business firms do fall fairly well into

naturally unified "vocational groups". The NRA experiment demonstrated this unity. The fact that economic prosperity varies by groups demonstrates it. The fact that business firms are mutually interdependent within the groups demonstrates it. A major element of the Pope's Plan is that it builds upon vocational group unity. But this unity already exists in American economic life, as we have said, at least in the basic industries. We need only recognize it, use it, build upon it. Thus we see that the underlying conditions presupposed by the Pope's Plan are verified in the United States.

4) That vocational group unity be best expressed, the number of groups must be kept at a minimum and should be far less than the 750 code groups which existed under the NRA. It should be possible to keep the number from swelling beyond all control if industrial democracy is begun slowly and in the basic industries first.

5) However, in spite of the natural unity which exists within our various industrial groups, there will always remain the problem of preventing excessive overlapping of the groups and the resulting jurisdictional conflicts. This problem will not be severe in the basic industries. Such industries are the fuel industries: coal, oil, power; the raw-materials industries: iron, steel, aluminum, rubber, chemicals; the durable goods industries: autos, clothing; the foods industries:

canners, packers; the large wholesaling industries. Industrial Democracy should be begun in these large basic industries first. Let the small manufacturer of unusual products and the retail trade be organized later. Of course a workable compromise will have to be set up between vertical code groups and horizontal, between circular (many-product) groups and straight-line (one-product) groups. And the multiple coverage of one business firm by many code groups will have to be eliminated.

We suggest that if a firm finds it may be covered by several different code groups, it should have the option of choosing whatever group it wants. Such freedom seems essential if the system is to be truly democratic. If this freedom means that many firms will take the line of least resistance and affiliate themselves with groups which favor stockholders to the detriment of labor and consumers, then some standards of choice can be established within which the freedom will operate. However, this freedom of choice should be safeguarded. It is true that the whole problem of overlapping is difficult. But surely it can be solved in a practical way, if the Pope's Plan is begun first in the rather homogeneous basic industries.

6) The series of changes leading to Industrial Democracy must be evolutionary and not revolutionary as they were under the NRA. Probably the changes in our basic industries during the last fifty years have rendered those industries fit to

receive some sort of industrial democracy almost at once. But that our total American economy should be transformed into a working industrial democracy overnight or even within a few years seems to be utterly impracticable. However when the basic industries are operating successfully on a vocational basis, they will offer a powerful incentive to the rest of business to follow suit.

Evolutionary change means first that we should not cast aside our existing labor organizations as outmoded or inadequate, but we should refashion them towards the lines of Industrial Democracy. The CIO, for example, being an association of industrial unions, has already begun to shape labor's role for industrial democracy. In fact the CIO has already become "vocational group conscious", as is indicated by the "Industry Councils Plan" of its President, Mr. Philip Murray. The Catholic social planner can, and should, use the CIO. He should try to impregnate it with the ideals and principles of the Pope's Plan. The AFL, being an association of craft and trade unions, can also help the Catholic social planner. It is true that the AFL will be less useful than the CIO in helping to organize the basic industries vocationally. But the AFL may be very useful later on in helping to spread Industrial Democracy beyond the basic industries to the more independent trades and crafts. Thus we see that from the point of view of labor organization,

the Pope's Plan seems eminently feasible in the United States.

We must also use, as far as possible, our existing management agencies and trade associations. We must try to reshape them for their important part in Industrial Democracy. Is this possible? It is, if the proper education and incentives be given to the management class. Much opposition will undoubtedly come from this class. However a philosophy of social responsibility is growing among business managers. There are hopeful signs that businessmen might welcome industrial democracy especially since it is an alternative to bureaucratic federal control of our economic life.

Lastly, evolutionary change means that in the actual formation of the vocational groups, their code-laws must not be drawn up in the hectic haste of a few months by "log-rolling" and extravagant compromises designed to get the code established rather than to serve the common good. Years may be necessary between first code-law negotiations and final ratification. Attention must be given to long-term as well as to short-term economic effects.

7) There should be every allowance for flexibility of organizational framework and law content among the various vocational groups. What is good for one group, the Coal Mining Group, for example, may not be suited at all for another group, such as the Automobile Group. Furthermore, all the groups

should be flexible enough to handle technological progress and inventions smoothly. Flexibility can be made feasible, we believe, if sufficient self-determination is given to the groups, and if fair representation is given to labor, management and the U.S. Government to determine policies within and between the various groups.

8) The initiative towards Industrial Democracy should come "from below", from management and labor as much as possible, and not "from above", from Washington. Of course an act of Congress will be necessary ultimately to put industrial democracy into effect. But this act should be persuasive rather than coercive legislation. Moreover, in order that laws passed under the authority of this act be constitutional, they should be approved by Congress.

9) The various vocational group administrators must be both unprejudiced men and yet intimately familiar with all the conditions of their respective groups. It seems quite possible to secure an adequate number of such men, especially if the industrial democracy idea grows slowly. No doubt many of them could be secured from the many Washington bureaus, as, so we hope, those bureaus are gradually dissolved.

10) Prosecution and trial of code-law violators should be handled as far as possible by the vocational groups themselves, with appeal, if necessary, to the U.S. Department of

Justice and the U.S. Courts. Inspectors, "policemen", and complaints-adjusters should doubtless be subject directly to the various Vocational Group Authorities. The problem of getting small, scattered businesses to comply with the code will surely be grave. But once again, if Industrial Democracy is begun gradually, and first in the basic industries, this problem of effecting compliance will not be an immediate one. For in the basic industries at least, compliance can be rather readily secured.

It will not be easy for the Catholic social planner to work out all these problems and suggestions presented by the NRA experiment. However they are not insoluble. Hence we are convinced that the Pope's Plan can be practically worked out for the United States. We are not over enthusiastic. Education is necessary; research is necessary. Above all, a better observance of the moral law by more of our citizens is necessary. But with time and work and gradual change, we believe Industrial Democracy can be woven into American life. It will not solve all our economic problems of price control, monopoly, and so forth, automatically. Rather it will merely provide the organizational machinery to solve those problems. But such a machinery is surely the only machinery which can do the job. It is the reasonable, middle ground machinery between the bureaucracy of state socialism and the old cutthroat individual-

ism of "laissez-faire". In the vocational group system our social order may be expected to find stability at last. It is the Catholic challenge to the future.

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