BRYANT H. PRENTICE, JR.
Bell Aircraft Corporation
Burlington, Vermont

May 9, 1946

Mr. Marriner S. Eccles, Chairman
Federal Reserve Bank
of the United States
Washington, D. C.

Dear Mr. Eccles:

The attached clipping from the Burlington Free Press, Thursday, May 9, made me think that you might be interested in the ideas expressed in the enclosed article.

Bryant H. Prentice, Jr.
Industrial Relations Manager

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Encl. (2)

Labor, management, and government spokesmen agree that the current rash of labor-management strife bodes nothing but harm to the nation as a whole. Beyond that point, there is no agreement. Each proposes a different solution to the problem.

Is it not time to set aside the natural prejudices developed over a period of years by labor, management and government representatives who deal with labor relations problems? Would it not be well to reduce the problem to its simplest terms and having defined the problem, seek a fundamental solution?

All during the New Deal era and the war period which followed, government by commissions, boards, bureaus and the like grew apace. In fact, we as a nation, have had so much experience with alphabetical government that we sometimes forget that there may be another approach to our problems. The best minds representing labor, management and the government attempting to solve the existing labor-management difficulties, seem to be inclined to advocate the establishment of another committee, board, bureau or variation thereof, to take over the responsibilities handled by the War Labor Board and the National Labor Relations Board during the war and the years immediately preceding. That approach to the problem only serves to confuse the issue and entirely misses the real point.

The use of the strike or lockout in the settlement of a labor dispute is likely to lead to settlement on a basis of strength, rather than on a basis of justice. Although it is recognized that there are some who believe in the philosophy of might makes right, anyone with a practical knowledge of labor-management problems recognizes that sound labor relations over a long period must be based on justice and not on a test of strength.

The problem then, is to eliminate wherever possible, the use of strikes and lockouts; to eliminate the tests of strength between labor and management, and to substitute a medium wherein there can be an objective evaluation of the justice of the claims made by the parties. If this could be accomplished, the public would no longer be subjected to the waste and suffering which inevitably come as a result of a strike. The alternative to a test of strength is law. There must be a true court of law to settle those problems which in the past have been settled by strikes or lockouts.

Until now, the passage of an industrial relations law fair to both management and labor, probably would have proved impossible. Only recently has management fully conceded that unions and collective bargaining are here to stay. By today's standards, nearly everyone recognizes that both parties to a labor dispute, either where a contract exists, or where there is no contract, have an equity. So does the public.

When two parties each have an equity, and the result may be a dispute harmful to society, this country has seen fit in the past to put into law the rights of both parties. Once the law was passed, the administration and interpretation of the law was put in the hands of a proper court. Parenthetically, such authority should never be placed in the hands of an all-powerful body such as the National Labor Relations Board. In addition to the court, an enforcement body was established to ascertain that the court's decisions were enforced. Instead of experimenting with the establishment of more boards, commissions, or bureaus to handle the labor relations problems so prevalent today, we should consider the other approach outlined above. Action should be instituted immediately with the consent of labor, management and the government to establish the three fundamentals necessary to a solution of the labor-management problems presently facing our country. The three fundamentals are:

(1) A labor-law defining and protecting the equities and rights of both labor and management.

(2) The establishment of a labor court to invoke judgment for damages against either party violating the law, and to make declaratory judgments in any instances wherein the parties voluntarily go to the court for a ruling in labor relations matters.

(3) The establishment of a proper enforcement agency to see to it that the court's orders are followed.

The United States of America needs a new labor-management law and a labor court to administer it. The law must be fair and equitable, setting forth the rights and privileges of both labor and management. It should be administered by a federal court. As a matter of fact, the labor law which should be passed to set forth the rights and privileges of both labor and management, should also make provision for the establishment of the labor court. The National Labor Relations Act must be amended or replaced in order that the law may give justice to both parties and protect the rights of each. The Wagner Act gave organized labor authority without imposing responsibility. The recognized authority of both labor and management should be defined in the new law. Each should be made to accept full responsibility for the exercise of that authority.

The National Labor Relations Board must be replaced by a true court wherein each party may present his case. It may be well to digress for a moment to point out the reasons why a labor court should be established instead of having the labor law prosecuted by the state or federal courts already in existence. The complex nature of labor-management problems today can only be understood and successfully analyzed by persons thoroughly familiar with all of the details pertaining to the labor-management relationship. Just as it is necessary to have a court of specialists to handle legal taxation controversies, so it is necessary to establish a specialized federal court to handle the highly specialized and technical problems of labor-management relationships. Such a labor court ought to be staffed with some of the best jurists in the country. The judges should be appointed, not elected, and the bench should be endowed with honor and distinction. The term of office should be not less than ten years.

In addition to those items already mentioned, it is also necessary to incorporate in the labor law, the following matters. Labor-management collective bargaining should be compulsory under the law, but only with reference to wages, hours, and working conditions. This would not prevent the parties from negotiating contract provisions dealing with matters other than those covered by the general heading of wages, hours, and working conditions, if they so desired.

The law should make provision for damages to be collected by either party in the event that the other violated any provision of the law or of an existing labor contract.

The law should require that where a certified bargaining agency has been established to represent the workers of any given company, that the union so certified shall be held responsible for the action of all employees covered by the union. Where no certified bargaining agency has been established, union leaders and/or individual participants who violated the provisions of the labor law should be held liable for their action and subject to fine and/or imprisonment. By the same token, the management of any given company shall be made responsible for any of its representatives excluded from union representation. Failure on the part of management to comply with the labor law shall result in fine and/or prison penalties.

Where a contract exists, strikes or lockouts should be declared illegal. Should either party resort to a strike or lockout, the other party should be given the right to sue for damages in the labor court.

Controversies between labor and management arising from some provision of the contract should be settled by the contract provisions and if the contract calls for arbitration as the last step of the grievance procedure, provision should be made for the arbitrator's decision to be reviewed in a court hearing, if so desired by either party. If there is no provision in the contract for arbitration, there should be a provision whereby either party may request and obtain a court hearing and court decision, after the last step of the grievance procedure has been used.

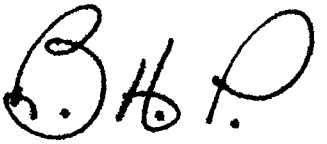
In those instances where no contract exists between the parties, the law should provide that the court enforce the proper determination of representation procedures. The law should make provision for the court to order an election among any group of employees to determine what if any union shall represent them. Substantially the same provisions which now exist under the NLRA, Section 9, should be incorporated in the new labor law to cover the choice by employees of a union. Should a corporation fail to comply with the legal determination of union representation procedures, the law should make provision for the court to order enforcement. Furthermore, should the union be able to show cause, the court should be empowered to award damages against the employer.

Proper provision in the law should be made to cover jurisdictional disputes between unions which under today's conditions often result in strike action. This type of strike should be outlawed, and any management so struck, should have legal recourse to sue for damages one or both unions involved. The law should make provision, however, that unions involved in jurisdictional disputes could take their case to court for final decision.

Where no contract exists and the parties fail to agree after negotiation on wages, hours, and working conditions provisions in the contract being negotiated, provision should be made under the law for a court hearing to be held prior to the use of strike or lockout by either party. The court should then make public its findings and recommendations to the parties. Thereafter, if one or both parties fail to abide by the court's recommendations, one or both parties may legally resort to the use of economic sanctions, strike or lockout. If the parties have exhausted every means of reaching an agreement, and even after the court hearing fail to agree, it may very likely be that a test of strength may be necessary to reach a settlement.

Quite apparently, in the settlement of the various matters which might come before a labor court such as that outlined above, it will be necessary for the court to have access to certain factual and statistical material. In order that the facts and statistics necessary to an equitable decision be entirely free of prejudice, it may be necessary to make provisions in the law for the establishment of a non-political, independent, fact-finding group, to be attached to the labor court.

If a law can be written covering at least those points outlined above, setting forth in a fair and just manner the rights of both parties, and if a court of competent personnel can be established to administer the law and enforce its provisions, then there will be a minimum of time, money, and production lost, and a minimum of damage done as a result of either party attempting to gain its selfish interests by the use of economic strength.



May 22, 1946.

Mr. Bryant H. Prentice, Jr.,
Industrial Relations Manager,
Bell Aircraft Corporation,
Burlington, Vermont.

Dear Mr. Prentice:

This is to thank you for your letter of May 9, enclosing your article on labor-management problems. The creation of competent courts to which disputes may be carried, if collective bargaining fails to produce agreement, seems to me to offer the best hope of settling controversies without resort to the tests of strength which injure the economy as a whole. I think you are on the right track, and I appreciate having your thoughtful and constructive article.

Sincerely yours,

M. S. Eccles,
Chairman.