

CHAPTER VI

AN INDUCTIVE ANALYSIS OF  
LABOR-MANAGEMENT ATTITUDES

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I propose to examine with you the forces which have tended to shape labor-management affairs and particularly the attitudes and disposition of the parties. This I shall do from the viewpoint of one who has observed the play and counterplay of these forces over a period of some 40 years. My purpose is not to state my conclusions but rather to present material from which you can draw your own inferences and reach your own judgment. I speak to you as a voice from the age that is past. I am now in the stage of venerability in which the trends I see and the predictions I make are no longer disputed. They are simply ignored.

You of the age that is waiting before should make your own analyses. All I desire to do is to stimulate this dialectic exercise. In your look toward the future, I hope you will give some attention to the experiences of the expiring generation. These cases, or minicases, are useful in the inductive or pragmatic approach and reflect attitudes that have changed with the passage of time.

These case studies or incidents evolved out of experience in various peacemaking capacities in labor relations. They will be presented chronologically, for historic perspective, rather than by subject matter. They took place in three successive decades. If you have difficulty in seeing the thread, please be patient. Perhaps this will become apparent to you upon further reflection in the solitude of your own study. The only guidance I offer is that in

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the application of epistemology you give due weight to the psychological factors.

The first group relates to the 1930's, the second to the 1940's, and the last to the period starting in 1950.

Expert labor mediators constituted a practically unknown breed in the primitive 1930's. Fiorella La Guardia faced a political crisis in New York City when, shortly before the Jewish holidays, the kosher butchers went out on strike. He called in Ben Golden, one of the pioneer permanent arbitrators of the country, who served mainly in the retail trade. "I am making you my labor adviser," said the Mayor.

"Thank you very much, your Honor."

"Now," said the Little Flower, "I want you to do something about that kosher butcher strike."

"What can I do?" asked Ben. "Everybody knows there are thugs working on both sides."

"As my labor adviser, you must arrange a conference and do something. Do you know how many Jewish votes there are in New York City?"

Still at a loss as to what he could do, Golden called the parties together at a meeting at one of the hotels. His confidence was shattered as he observed the principals come in, each accompanied by a rough-looking bodyguard. To start proceedings, he decided to assume a light vein. "This is going to be a friendly meeting. You all have to park your guns on the table." There was a puzzled quiet, and then one bodyguard arose and, as he approached Golden, removed his pistol from the holster. Another and then another followed, while Golden's eyes almost popped out. In all, 26 guns were deposited on the table in front of him!

In the early 1930's I represented silk manufacturers in my home town of Paterson, N.J. We had plenty of labor pains long before most of the country had heard about them. At that time Carl Holderman and Al Barkan were leaders in the local textile union. Although I could have been accused of consorting with the enemy, I invited them to go swimming with me in the country club pool.

Carl was floating on his back spouting water like a carefree youngster. "This isn't bad, Al, is it?"

Al readily agreed, and asked: "What do you think we ought to do about it?"

Carl thought a moment and then suggested: "What do you say we postpone the revolution?"

We experimented very early with the use of arbitration as a means of determining wages. Our collective bargaining agreement provided for wage adjustments up or down depending on certain economic indicators, including cost-of-living changes and rates paid by competitors in Pennsylvania and New England. During the depression the manufacturers moved for a reduction of some size. Although he had never agreed to do so, it was assumed that the president of Princeton University would designate the arbitrator. Letters asking him to name an arbitrator went unanswered. By agreement, a similar request was sent to the president of Fordham, and he named one of his faculty, Dr. Deshell. The case was presented, and it received a good deal of publicity because of its novelty at that time. After some weeks, the award arrived. In it the arbitrator stated: "As pointed out by Pope Leo XIII in his encyclical, *Rerum Novarum*, in 1891," and then followed a lengthy quotation in Latin and a concluding sentence, "I therefore deny the request of the manufacturers."

During an arbitration held in the same period, the arbitrator directed a local union officer to be quiet. The union man drew himself up to his full height, dramatically declaimed, "All good union men follow me," and strode out majestically. There was a stir in the room but no one else left. About two minutes later he returned meekly, and there were no further interruptions.

The textile union followed a shop that had moved from Paterson to Pennsylvania and, after much difficulty, succeeded in organizing it. The employer assured the union representatives that now there would be an enlightened relationship. When the first contract grievance was presented, the plant manager requested that the discussion be postponed until the head of the company could come out from New York. When the company official finally arrived, Harry Barr, the local's business agent, was

asked to state his case before a meeting of the company's president, vice president, and plant manager. They then asked him to step out of the room while they considered the matter. Upon his return, the company president said: "Mr. Barr, we have given careful attention to all you said, and we have taken a vote. We decided two to one to deny your grievance."

Barr asked, "You three voted on my case? Wait a minute, I'm going to vote." He walked over to the corner of the room, placed his head on his arm, came back, and announced with complete seriousness, "I've just taken a vote. It's unanimous. This plant goes down tomorrow morning!"

The employer's vote was promptly reversed and the grievance was granted.

During the National Industrial Recovery Administration, there was a serious silk strike which shut down most of the northern silk mills. The issue was wages, but it was complicated by the inclusion of rayon (then known as artificial silk) in the cotton-textile code. This meant that the wages were regulated by cotton standards which were substantially below those of the silk industry. This was in the early part of Franklin Roosevelt's first administration, and he had set up an imposing and highly respected mediation arm as an adjunct of the NIRA. After the strike had been in progress for a month, a mass meeting of silk manufacturers was held in New York. It was attended by three of the President's top-level mediators—Sidney Hillman, Senator Robert Wagner, and Father (later Bishop) Haas. After some hours, an employer's subcommittee met privately with the mediators. One of the employers declared emphatically that no settlement could be reached until rayon was taken out of the cotton code and placed in the silk code. Hillman spoke up. "I agree with you, and I promise I'll do my best to see that this is done."

Senator Wagner then stated, "And you have my word that I'll join with Mr. Hillman in this."

Then Father Haas made a similar promise. There was silence for a moment, and the manufacturer who most ardently wanted the strike settled made this appeal to his associates: "Look, they agree with us. They can only promise us here. But what promises!

Here the big labor movement promises. That's Sidney Hillman. If that's not enough, we have a promise from Uncle Sam. That's the Senator here. If that's not enough we got it from God, himself. We have the word from the good Father!"

The strike continued, however, for two more weeks. The union representatives were confronted with a charge of bad faith because a basis of settlement had been agreed upon by the negotiators five weeks before, during the early part of the strike. Hillman stepped up and insisted on knowing whether, in fact, such an understanding had been reached. "Yes," said Judge Panken, the union's attorney, "but I was almost thrown out of the window when I presented it to the membership for ratification. You can ask Norman Thomas, he was there."

"But you shook hands, didn't you?" asked Hillman.

"Sure, but our union is democratic, just like yours."

"I know, I know, but in my union they vote the way I shake hands."

This led to a quick settlement. But, it should be mentioned, rayon remained in the cotton-textile code.

The only other incident of the 1930's that I shall recount is the one in which the New York City Board of Transportation ran into labor difficulties in Herald Square while building the Independent subway system. This subway is several levels below the street and there are three other subways above. At Gimbels, two maintenance carpenters were picketing the employees' entrance because they wanted to be severed from the industrial unit in the store, and the hundreds of subway construction workers working underground, four levels below, were refusing to cross *under* a picket line.

It was during the next decade—the 1940's—that we began to see more sophistication in the various techniques associated with labor relations. Undoubtedly, a substantial contribution was made by the War Labor Board. The parties became more accustomed to facing each other, to digging out and using economic data, and to accepting intervention and help from third parties, whether as mediators or as decision-makers of one kind or another. These changes came gradually.

At the very beginning of the War Labor Board's disputes procedure, a panel was set up with Geza Schutz as chairman. He was a Minnesota flax farmer, and was a cultured man who had come from Hungary. The behavior of the parties was extremely bad at the hearing, which was marked by yelling, recriminations, threats, and confusion. As Schutz was gathering his papers together at the conclusion of the hearing, an impatient spokesman demanded to know when the decision would be made.

Schutz replied, "This is a very important case and needs careful consideration. I am going back to my farm, and while I shovel manure I'm sure I'll come up with the answer."

It was at about the same time that, as chairman of the New Jersey State Board of Mediation, I stepped into a strike situation. All parties looked me over with most critical eyes. As our meeting started, the company's attorney spoke up, "Before we start we want you to know that whatever it is they want, the answer is no."

We saw the other side of the coin some time later when a federal mediator reported that the superintendent had met one of his employees during a strike and had asked him the reason for the strong feelings. The employee responded: "I'm not exactly sure what we are after, but, by God, we're not going back until we get it!"

In the course of a wage arbitration in the New York City restaurant industry, we visited Lindy's restaurant at lunch time to observe the conditions under which the staff worked. Some months later I was having lunch at the restaurant. The proprietor, Mr. Lindeman, came to my table, looked me over quizzically, and asked, "From where do I know you?"

My answer was: "How much is your weekly payroll?"

"Oh, the arbitrator. Before I met you, my payroll was \$13,000, and now it is \$17,000." He walked off, looking very angry.

I thought: "Here's where I get some arsenic in my coffee."

Lindy returned to the table a few minutes later, looked at me with a frown, and then broke into a smile: "But you was right!"

The period of 1940 to 1950 had as two of its principal actors President Truman and John L. Lewis.

When the 1948 railroad board on which I served was making its report to President Truman, he inquired about featherbedding. In response, Billy Leiserson, who was our board chairman, chided him about the practices of his union, the Musicians' Union. The President responded with a laugh. "Oh, Jimmy Petrillos' union. Do you know what he tried to do to my Margaret? She was going to sing at a charity affair, no pay. Jimmy told her she was forbidden to sing because the band was nonunion. I took care of him pretty quick. Do you know what band it was that he wanted to join his union? The United States Marine Corps Band!"

I remarked to the President that I had been considerably disturbed over the derogatory remarks of Whitney of the Railroad Trainmen about him. When the President directed the railroad unions not to strike and threatened to draft the employees and order them to continue on their jobs, Whitney had made a bitter speech at Cooper Union Hall in New York. He said: "You can't make a purse out of a sow's ear, or a President out of a haberdashery clerk. My union will devote its whole treasury to his defeat."

The President smiled. "He did nothing like what he threatened. Actually, he supported me in the end and contributed to my campaign."

"Still," I said, "my respect for you and for the office of President made me feel seriously offended. I would have replied to Whitney, 'It may be true that you cannot make a President out of a haberdashery clerk or a purse out of a sow's ear, but it certainly is also true that you can't make a labor leader out of a sow's rear.'"

The President roared with laughter. "Why didn't you tell me that? I would have used it on a national hookup."

You remember that John L. Lewis and the Miners' Union were fined heavily by Judge Goldsborough for continuing a strike after a court injunction had been issued. A year later another strike broke out. Again an injunction was issued, and again the strike continued. There was a contempt trial, and just before the judge rendered his decision I made a special effort to get a concession from Lewis that might have led to a settlement. In urging him to make this compromise, I pointed out that the contempt pro-

ceeding could probably be discontinued if a settlement were reached. Lewis declined, saying: "The southern coal operators have been planning this thing for months, waiting for the day when we will get the business. They've been smelling our blood all this while and you can't deny them the chance to taste it. Everybody knows the judge is writing his opinion right now on an adding machine."

That afternoon the verdict came down: Not guilty!

*The Washington Star* carried a cartoon of Lewis standing before the court bench, with the judge proclaiming, "Not guilty." There was a look of amazement on Lewis' face. The caption was, "Who, me!"

We were sitting on a New York City transit dispute when I received a call from Washington to step into still another coal dispute. I announced to the parties in the transit case that I would have to go to Washington but that the transit hearings would continue with the other board members in charge. I would catch up by reading the transcript. Ted Kheel, then still a prodigy, spoke up: "Our chairman didn't tell you that the call he just had was from the President."

Mike Quill, never at a loss in the presence of an audience, stood up and said: "Will the chairman be good enough to tell the President organized labor is always ready to cooperate with him."

There was applause from his adherents, and I asked: "Will you do me the kindness of suggesting the same thought to John L. Lewis?"

Quill immediately responded, "Oh, no! That's what you're getting paid for."

This coal dispute involved a partial strike under the union's "willing and able" clause. They were willing and able to work only three days per week while the dispute remained open. We settled down into a so-called "subbed down" committee of four on each side, and for several days we droned on with no noticeable progress. Then one afternoon, Lewis addressed himself to George Love, the chairman of the operators' group. "George, it was not uncommon at a stage like this for your preceptor, George Humphrey, and me to take a walk together toward the men's room,

where we often got some inspiration. Would you like to take a walk with me?"

"Oh, no," said Love, "our committee represents different kinds of mining interests and we must all participate in every discussion."

Lewis turned to Harry Moses, another member of the employers' committee, who spoke for the captive mines. "Harry, your preceptor, Ben Fairless, and I also took some fruitful excursions. Would you care to accompany me?"

Harry Moses' answer was identical with that previously given by George Love. Lewis then turned toward our board, which included Willard Wirtz and John Dunlop. "Let me introduce these men to you."

"Mr. Lewis, we know Mr. Love and Mr. Moses."

"Not the way I'm going to introduce them," said he. "Meet George Love, an up-and-coming young industrialist, an idealist of sorts, but an idealist with a slide-rule brain. And Harry Moses, a sad case. He should know better, because his father certainly understood the coal mine union and its problems. George and Harry, you've put on your performance for the benefit of the board, but you know that I know better. Despite what you have just said, you and I know that you all blow through the same nose."

I hasten to apologize here for inaccurate reporting, asking you to consider it as poetic license. He actually mentioned a different physiological function, which would improve the story, but I hesitate to be too realistic before this audience. The point is quite clear nonetheless.

P.S. The following day Messrs. Love and Lewis were absent at our subbed down meeting. We all pretended not to notice this. After a dull hour or two the telephone rang, and John L. Lewis' sonorous voice was unmistakable. "Mr. Cole, you may have noticed that Mr. Love and I have not been at your meeting. While you were meeting at the Statler we were having some discussions at the Carlton." The kind of dramatic silence for which he is famous followed, and then: "Do you want to announce the settlement, or shall we do it?"

Except for one short flareup caused by a joint protest over a ruling of the Wage Stabilization Board in 1952, there has not been a coal mining strike since then. In fact, there have been no public strike threats. This was over 18 years ago.

In a contract-making arbitration involving the privately operated bus lines in New York City, the company argued that its survey showed that any increase above the nickel fare charged on all lines except the Fifth Avenue Line would result in a loss of riders. Harry Sachar, then counsel for the Transport Workers, insisted on more specific information. Company counsel, after some rummaging around, read that a pedestrian upon being questioned said he was walking from 42nd Street to 51st Street to save five cents.

“On which Avenue was he walking?” asked Sachar.

“What difference does that make?”

“Please indicate the Avenue,” I ruled.

“Madison Avenue,” said counsel, after some searching in his papers.

“The man was a fool,” observed Sachar, sitting down.

“What sort of nonsense is that?” asked the company representative.

Sachar then replied in a deliberate manner, “The man was a fool; why didn’t he walk on Fifth Avenue and save a dime?”

The 1949 steel-industry dispute was concerned largely with the issue of noncontributory pensions. The industry announced that on the following Thursday an important statement would be made by the chairman of the finance committee of one of the nation’s great steel companies. On that day the company official presented his statement, which covered several points. One of his chief arguments was that the men working in steel mills were upstanding and responsible citizens, well able to provide for their own future and the security of their families. Indeed, this corporate official resented the union’s suggestion that these employees would be indigent and irresponsible old men, dependent on some new kind of retirement plan.

Philip Murray immediately arose, out of turn, demanding the right to be heard at once. Pointing a trembling finger at the official who had just spoken, he declared, "There sits an indigent and irresponsible old man. His corporation, knowing he cannot provide for his own future and for the security of his family, has arranged to give him a retirement income, starting two years from now, of more than \$60,000 per year!"

The third period covered by these minicases started in 1950. During this time there have been signs of fulfillment of the promise of collective bargaining as a rational process and, at times, an encouraging search for, and experimentation in, areas of mutual interest. There has also been more local autonomy in the ranks of labor, more resistance to intra-organizational discipline, and a substantial increase of active inter-union rivalries in some industries. Unfortunately, there has been cynicism, if not outright retrogression, in the attitudes of some of our experts.

During the Korean War period, I was holding a wage arbitration which involved Gimbels in New York. The proceedings were interrupted because of a dispute at North American Aviation which could have interfered with the production of Saberjet aircraft. The President referred that dispute to a board of arbitration. Ben Aaron and Willard Wirtz were the two other members. En route from California on an airplane one day, I ran into Bernard Gimbel, who asked when his case would be resumed. I observed: "In your dispute, your people offered to prove operating losses and the union strenuously objected, maintaining that the employees should not subsidize the employer. At North American Aviation, the union is pointing to the profits the company is making, but that company is arguing that profits have nothing to do with wage determination. What do you think we should do?"

Mr. Gimbel replied: "That's why you arbitrators get so mixed up. I suggest you temper your justice with a little mercy."

In the early part of the Eisenhower Administration, there was a bitter and lengthy Westinghouse strike. After the strike had been in progress over four months, George Taylor and I were asked to serve as special mediators. As we walked toward the meeting room our first morning, John Murray, the Federal Mediation Service mediator who had been on the case throughout, and

Al Hartnett, then Secretary-Treasurer of the IUE, touched empty sleeves in a curious form of greeting.

“What’s that for?” I asked.

“Haven’t you heard of the new hands-off policy?” was the reply.

A number of the more difficult disputes came under the Railway Labor Act. In one such case, Donald Richberg, who had long been the spokesman for the labor organizations, appeared in the new role of attorney for the southeastern railroads. He made a critical attack on his former clients. The unions put Eli Oliver on the stand to read testimony that Richberg had given before Senate committees in former years which was now, of course, inconsistent with his current position. When Richberg arose to cross-examine his former colleague, there was drama in the air. He asked: “Whom was I representing in 1935 when I testified as you have just read?”

“I don’t remember.”

“Wasn’t I then representing the Railway Labor Executives Association?”

“I don’t remember exactly.”

“You have a convenient memory, don’t you, Mr. Oliver?”

Slowly and deliberately came the answer: “No, I don’t have a convenient memory. It is a merciful memory; it rejects all disagreeable recollections.”

Some of our brethren in the fraternity of neutrals developed and exhibited their own brands of expertise. When an attorney persisted in hair-splitting tactics, Nate Feinsinger’s comment impressed me: “You remind me of the discovery made after long research by a student of mythology who found that the Iliad was not written by Homer but by another Greek of the same name.”

Another example involved a comment by George Taylor at the conclusion of one of our New York City teachers cases. Taylor was asked how he was able to decide which of the dozens of open issues were the few that needed and deserved priority. He answered directly: “When a sculptor was asked how he could create such a beautiful figure of an elephant out of a block of marble, his

answer was, 'Very simple. Just chisel off and throw away the pieces of marble that don't look like an elephant.' "

As we approached the deadline on New Year's Eve in the New York City Transit dispute four years ago, tensions mounted as usual. Mike Quill gathered the press and TV representatives around him and announced with emphasis: "You can quote me directly on this. I tell you by everything that is sacred that if we don't get the four-day, 32-hour week, there won't be a wheel turning on any subway or bus in New York City tomorrow morning."

Four hours later we called a press conference and reported that settlement had been reached.

"Did the union win the 32-hour week?"

"No!"

"Mr. Quill," demanded Damon Stetson of *The New York Times*, "you said only a few hours ago that the transit system would be at a standstill unless you got the four-day week. What induced you to change?"

"Common sense," replied Quill.

President Kennedy's first Taft-Hartley Board was used in the 1961 maritime strike. In this industry as in some others, union rivalry was an important feature. We were conducting hearings at the Edison Hotel in New York when, on the third day, members of the two unlicensed seamen's unions began slugging each other. The hotel manager begged us to leave the hotel. There was to be a wedding in an hour or so, and blood was splattered in the elevators. We accommodated him the next morning by moving to the federal office building on Ninth Avenue. There in the sixth-floor lobby the fighting started again, this time even more viciously. We called for the police riot squad, which arrived promptly but did nothing to stop the fighting. I appealed to the police captain: "Why don't you do something about this?"

"We can't," he replied. "No jurisdiction. This is a Federal building."

"What are we supposed to do? Somebody will be killed."

"Call out the Marines," was his answer.

In their 1952 difficulty, the coal-mine operators and the union reached agreement. The Wage Stabilization Board, however, disallowed part of the agreed-upon increase, and the mines were shut down. As director of the Mediation Service, I almost convinced John L. Lewis that there would be a fair hearing in the appeal procedure. He insisted on assurance from "higher authority." At one time President Truman had stated that Lewis could never come into the White House as long as he was President. Nevertheless, we persuaded the President to meet with Lewis. The meeting took place on a Sunday evening in the family living room on the second floor. There was a coolness and stiffness between the two, and Lewis hesitated to give an unqualified promise that the strike would end quickly. The President then mentioned the fact that the White House had just been almost rebuilt on the inside and invited us to see what had been done. He pointed out a number of interesting items, but nothing really registered until he came to an oval marble-top table.

"This," said the President, "is my favorite of all things here. This is the table on which Lincoln signed the Emancipation Proclamation." He stroked the table affectionately as he spoke.

Lewis, who also has a strong sense of history, spoke up with feeling: "May I touch it, Mr. President?" With this, he stood alongside the President, both of them petting the table. A smile broke out on John Lewis' face. "Mr. President, the coal miners will be back at work tomorrow morning."

And they were.

I come now to the end of this exercise. Tempted as I am to do so, I shall make no pronouncements of my own nor will I state any conclusions or predictions. The temptation is very strong to say something about our experience under the anti-raiding provisions of the AFL-CIO Constitution or about the various experiments to avoid crisis bargaining and to replace punitive action with means of rationally resolving complex problems such as those in the areas of public employment, automation, or grievance handling.

As I said at the outset, I leave it to you to draw your own inferences and reach your own conclusions. In doing so, I hope

you will bear in mind that flexibility and the willingness to meet changing circumstances and developments is vital. Still, I cannot resist telling you that, as a public member of the Kaiser Long Range Sharing Plan Committee, I made a similar appeal not long ago to the union people and an international union representative responded with some feeling: "You tell me to keep an open mind. All right, but does that mean I have to have a hole in my head?"