

### III. AN INDUCTIVE ANALYSIS OF LABOR-MANAGEMENT ATTITUDES, REVISITED

DAVID L. COLE \*

I confess that I am puzzled as to how to proceed. I have never before joined in a three-part performance of a dinner address. One would normally assume that when they dig up for such a performance the three oldest surviving presidents, they must be looking for a nostalgic discourse on the antecedents and hopes of the Academy and on the origins of its traditions.

But yesterday morning we had excellent and thorough papers on the past, the present, and the future of the Academy and of arbitration as a whole, and to make sure that nothing was overlooked, we had the same ground covered in that delightfully whimsical luncheon address of our retiring president. He also gave us a preview of what was to come out of the horse tonight. This compounded my personal problem, because in seniority I am only the third-oldest president, junior to my two esteemed and scholarly colleagues with whom I am to join in this trio performance. As such, I have deferred to them and let them have the choice of the parts of the horse through which they desire to speak. The part they have left me is completely unacceptable. I shall therefore let them cover the antecedents, origins, and hopes of the Academy in a duet instead of a trio.

To myself I am assigning a totally different role—to conduct with you a dialectical exercise which seems, alas, to have remained unfinished over the years. I am entitling my contribution “An Inductive Analysis of Labor-Management Attitudes, Revisited.”

Four years ago, in Cleveland, I asked you to join with me in an inductive analysis of labor-management attitudes. I presented a number of minicases which were drawn from experiences I had participated in over a period of three decades. I offered no conclusions, but asked you to reflect upon them in the solitude of your own study and to come to your own judgment. I must report now that I have had no word as to any judgments reached by any of you. I suspect that this may be because I provided you with insufficient material. This I propose to remedy tonight by giving you a few additional case studies. These additional cases arose

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\* Member and Past President, National Academy of Arbitrators, Paterson, N. J.

mainly in the period since 1950, which has now grown into a score of years rather than a mere decade. But there are a few which may cast some light on the earlier decades, and for historic reasons you should have them.

In an early railroad emergency board proceeding, Eli Oliver was presenting the case for the nonoperating unions. I believe it was Dan Loomis who rose to object: "Mr. Chairman, I don't like to be technical, but these labor organizations have made this same request at least three times, and in every instance the emergency board recommended against it. I feel I should insist this matter is now *res judicata*."

Oliver looked puzzled. "What does that mean?" he asked. I explained that it meant that this issue had already been concluded by a definite ruling.

Thoughtfully, Oliver spoke: "I am a student of evolution. Our forebears, as you know, were water creatures. As ages passed, they began to develop the ability to breathe air. They changed into amphibians. They began to try to leave the water and get on shore. They would leap up but often they would slither down the mud back into the water. As one of them would make his third or fourth attempt, I can just picture a railroad lawyer standing there with his hands up yelling 'No, No! *Res judicata!*'"

In our Cleveland discussion, I mentioned the lengthy and explosive IUE strike at Westinghouse. When the parties sparred over whether the federal or state agencies should conduct the mediation, John Murray, the FMCS mediator, exclaimed in exasperation: "We'll bless anybody who can help end this one, and we don't care whether it's Meany, Miney, or Moel!"

George Taylor, who was on the case with me, coined one of his impromptu gems one day: "You must have this, and the other side must have a whole lot of other things. Somebody better tell us soon which of these are the mustiest musts."

Mike Quill started to leave a session we were having in a hotel, trying to prevent a walkout on the New York subway system. I pointed to a picket line that had just been set up by the bartenders' union. He hesitated, but proceeded to put on his hat and coat. "Surely," I said, "you would not cross that picket line."

"I didn't say I will, now, did I?" he replied. "I'll walk right out the front door, pick up a sign, make two turns, and peel off."

During the years covered by the study in which we are engaged, technology and automation presented growing problems. In August 1951, in an arbitration conducted in Atlantic City over a dispute on the Pennsylvania Railroad as to whether the use of wayside and radio telephones was not an impingement on the scope of work of the railroad telegraphers by members of some of the operating unions, Lester Schoene was counsel for the employees and Guy Knight for the railroad. Schoene frequently arrived late at the morning session and Knight took exception to this waste of time. Schoene's comment was: "Here in Atlantic City there are industry conventions, and I make it a practice to drop in and see what technical innovations there are."

One morning he was later than usual. Guy Knight rose in irritation, exclaiming: "I have checked and the only convention in town is the undertakers'. Surely, Mr. Schoene is not going to claim he was there studying new technology."

Schoene responded at once: "That's where you're wrong. I was there, and, would you believe it, they have a new machine which digs out a grave in one scoop—and" (pointing at counsel for the railroad) "just your size!"

You will recall that in Cleveland I described the 1952 meeting in the White House of President Truman, John L. Lewis, Harry Moses, and several others in connection with the possible review of the rejection by the Wage Stabilization Board of six cents of the negotiated contract settlement in coal mining. On Thanksgiving eve, after General Eisenhower had been elected, the President invited Roger Putnam, the Stabilization Director, and his superior, Henry Fowler, John Steelman, Dave Stowe, and me to meet with him. Putnam opposed the reversal of the Board's ruling. I argued for a reversal. The President finally addressed us in the manner of a school teacher. He said: "David, I agree with you and I shall grant the appeal and approve the wage settlement. Please write up the reasons just as you gave them here today." He turned toward Putnam and said: "Roger, you would do me a favor if you would delay your resignation for at least three weeks."

There are two incidents far removed from one another through which a common thread seems to run. Judge Samuel Rosenman was a member of the 1949 Steel Industry Board. At one stage lawyers arose, one after the other, arguing that their clients were

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not in the basic steel industry and should be eliminated from the proceeding. Judge Rosenman, in executive session, modestly explained that, although he knew little about labor relations, he had had a good deal to do with lawyers and suggested that he handle this part of the hearing. When we resumed and yet another contention of the same kind was made, the judge interrupted and observed that there was no need to go any further because the motion was granted.

The attorney hesitated and then asked: "This means that we shall have no part in fixing our contract terms, doesn't it?"

"Very likely so," answered the judge.

After a short recess, this lawyer and several others stood up and requested permission to withdraw their motions to be excluded, having decided that they preferred to remain in the case.

In 1962 I was a member of a panel sent by the International Labor Organization to Japan in response to repeated complaints made for years by Sohyo, the General Council of Trade Unions of Japan. The complaint was that, contrary to its pledge when it was readmitted to the ILO, the Government of Japan had failed to ratify ILO Convention No. 87, which deals with public employees' freedom of association, and to repeal Japanese laws inconsistent with this convention. Our proceedings extended more than a year, with hearings in Geneva as well as Tokyo. Finally, after lengthy meetings with members of the cabinet and the Prime Minister himself, we called in the officials of Sohyo and announced, with much gratification, that a special session of the Diet was about to be called at which Convention 87 would be ratified and conflicting laws repealed—in other words, complete satisfaction for Sohyo. The response was strangely bland. After a 20-minute caucus, Akira Iwai, general secretary of Sohyo, stood up and protested: "We don't accept."

It was not easy for us to comprehend that at that point the perpetuation of the issue—its injustice—was considered to be of greater value than its resolution.

Two members of a board on which I served disagreed as to whether a certain technical discussion should be included in the board's report. The third member, Judge Rosenman, settled this by saying: "My friends know I couldn't have written this because I don't even understand it. Therefore, I vote to leave it out."

Otherwise, do you know what they will say? 'Sammy, the ghost writer, has gotten himself a ghost writer.' ”

I have the urge to observe at this point that, distinguished as our line of 23 presidents has been, how much might have been added if we had only dragooned a few of the pioneers and giants who escaped us. I think of men like William H. Davis, Sumner Slichter, William Leiserson, George Taylor, John Dunlop, Nate Feinsinger, and Willard Wirtz.

One of the grand figures of the labor relations world was Will Davis. Among other things, he had originated and served as chairman of the Atomic Energy Labor Relations Panel. With the changing of the guard at the end of the Truman Administration, the personnel of this panel was abruptly dropped. There was, however, a most difficult dispute that needed attention critically. As Mediation Director, I recommended to Governor Sherman Adams that Will Davis be asked for advice. Adams insisted that I invite him to come to Washington. This Will was, of course, happy to do. Just before we met with Adams, Will commented: “Do you know that I hold a rare distinction? When I was fired by Governor Adams in April, he told me he was making it retroactive to January 21st.” As we walked through the gate into the White House grounds, Will cautioned: “Watch out, or you’ll get conked on the head by a golf ball.”

In the first year of the Eisenhower Administration, there was a Taft-Hartley board in the troubled longshore industry. You will remember that the ILA was then outside the Federation. We tried to meet with its president, Joe Ryan, but were told he was in the hospital. When we offered to visit him at the hospital, before we could arrange for the visit, we learned that he had suddenly recovered and departed.

Conditions on the waterfront were chaotic, to put it mildly. John L. Lewis asked me what was going on. At that time he was still non grata in the White House. His suggestion was that the longshore industry was in real need of some sort of czar with authority over both the workers and the employers if operations were to be conducted productively. He volunteered to urge this on President Eisenhower if asked for advice. When I asked him how the so-called czar would enforce the rules or regulations, his answer was: “I would promise you that there would be no enforcement problem. Some of my boys would be assigned to New

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York to make sure of this." The President, however, did not ask for advice and nothing more was heard of this idea.

President Kennedy set up a Taft-Hartley board in the 1961 maritime strike. Our board did some mediating but, as you know, we were forbidden by law to make recommendations. Nevertheless, within a relatively short time, the parties arrived at a settlement. The President had been worried about the adverse effects of such a tie-up on foreign commerce and the balance of payments. When the settlement was reached, he invited us, through Arthur Goldberg, then Secretary of Labor, to come to Hyannis to receive his personal thanks. We were to be flown up on a Saturday.

That morning the *New York Times* criticized the terms of the settlement and asked how we could have permitted it. The *Times* ignored the fact that we had been appointed for the explicit purpose of shortening a strike that was completely intolerable and that we were legally without any authority.

We went to the airport as planned and met Secretary Goldberg on board the plane. He told us that he had the unhappy duty of asking us to call off our visit—that is, to uninvite us. The President was sensitive to the editorial and was apparently worried that he, too, might be charged with responsibility for what the parties had agreed upon.

Fame in the field of labor relations can be fleeting. At a large conference conducted by President Kennedy's Advisory Committee on Labor Management Policy, Thomas J. Watson was acting as chairman. Someone whispered to him, and he interrupted the proceedings to say: "I hear we have a distinguished visitor here whom I have neglected to introduce—a former great Secretary of Labor. Frances Perkins, will you please rise, sir?"

Twice in the past five years or so I have tried to mediate differences at the Metropolitan Opera, first with the orchestra and later with several of the performing groups. In my first effort, while meeting with the musicians, I told them that I had heard them perform and they sounded so good, played so sweetly; yet here at our meeting they were so aggressive and even abrasive. One of them observed: "Listen to him. Next time we meet we'll bring our instruments."

My next experience at the Metropolitan Opera came shortly

after I had been exposed to a long and trying longshore dispute. After I had been in the case for a month, I received a letter from Admiral John Will, chairman of American Export Isbrandtsen Lines. He wrote:

“I am surprised that after the training and practical experience we gave you in working with the longshoremen you are having difficulty handling that bunch of flute players, ballet dancers and sopranos, male and female, of the Metropolitan Opera. It would seem to me that some of the tactics and language you picked up in our negotiations should have allowed you to straighten out this little affair long ago.”

The remaining incidents will reflect on the growing difficulties of peacemakers in labor disputes. While most relate to mediation, they could readily have happened in the arbitration field as well.

At a “think” conference conducted by the Fund for the Republic in Santa Barbara, somebody caustically observed: “This just goes to show why you are called ‘neutrals.’ The very word stems from the same root as ‘neuter.’” None of the neutrals had a reply, but Dan Bell spoke up, out of sheer kindness, I suspected: “I think the last speaker is overlooking the fact that ‘neutral’ is also related to ‘neutron,’ the nucleus of the atom.”

Accepting the Dan Bell theory, I am encouraged to recount two incidents which I would normally hesitate to describe. I want to do so because they reflect the changing attitudes toward third parties in labor disputes in recent years. My hesitancy is because of the words used. Despite the liberties currently taken, I am still of an age that has passed, and I would gag as I tried to utter such words to this dignified audience. Not only am I encouraged by Professor Bell, but I noted how Erich Fromm managed a similar difficulty in the *New York Times Magazine* of February 27 in his article, “The Curse of Aggression.” He quoted Paul MacLean’s famous four F’s: “feeding, fighting, fleeing and [a few dots]. . . .” These dots bridge a gap, and this suggests to me that in a neological sense I could fashion the word “gap” to be used in place of the dots. Some of you may be troubled by this, but I don’t see how you can intelligently continue the inductive analysis we are engaged in unless you know of prevalent developments and changes in mores and attitudes.

A source of great strength to mediators and special board members acting in major labor disputes over the years has been

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the influence of high government officials under whose authority the neutral is acting. On several occasions when I have told the leaders on both sides that the President has expressed some special hope or some serious concern, this invariably had a strong impact. In a recent national emergency case, however, when in private I told a small group of the union's leadership that the President wanted me to tell them that the nation could not stand the strike and that it simply had to be terminated, the response, to my horror, was: "Gap the President!" If there is any more complete way of deflating and disarming a mediator, particularly one of the old school, I don't know what that could be.

It has always been clear to me that we third parties must remain hopeful and optimistic, and that we cannot avoid being deeply concerned until settlement is reached. Frankly, I have felt that we could not function effectively unless we continued to be so motivated.

In the labor dispute that grew out of the merger of the three newspapers in New York City, as representative of the mayor, I was able rather quickly to help settle the differences involving six of the 10 unions. The others persisted for a considerable period. In particular, I was making no progress with an unaffiliated union of the drivers. In a conversation with its principal officer, I expressed my exasperation. "You won't even agree one and one makes two. I'll stick with you all night if necessary to convince you you are wrong."

His comment was: "You know, you've got the wrong philosophy, the wrong attitude."

"So you are a student of philosophy. What do you say the right philosophy is?"

"Very simple," he answered. "You lead a horse to water. If he won't drink, gap him!"

In the prevailing climate, especially when coupled with the general decline in respect and discipline, the lot of the third-party peacemaker is definitely not becoming easier.

I conclude by reminding you of Bill Mauldin's G.I., Sad Sack. When he returned home, the town put on a jubilant welcome with bands and speeches and finally a medal. He stood there bedraggled, growing more tired and dispirited. When the medal was presented to him, his response was: "Couldn't I please have two aspirins instead?"