
Arbitration

by Eugene V. Debs

Published in *Locomotive Firemen's Magazine*, vol. 18, no. 2 (Feb. 1894), pp. 135-139.

We have on our table Transportation for September 1893, in which appears the thoughtful article captioned, "Arbitration as Applied to Railroad Corporations and their Employees," by Edward A. Moseley, Secretary of the Interstate Commerce Commission.

Mr. Moseley is in a position to write instructively and entertainingly of railroad affairs. His position as Secretary of the Interstate Commerce Commission enables him, in many matters, to be approximately correct, where others are left to wrestle with statements, which, to put it mildly, are often vague, and so elastic that they can be twisted about in a way to suit a great variety of views and conclusions. Railroad employees will feel under obligations to Mr. Moseley for giving certain importance to their calling which it has been the ambition of railway magnates to deny, especially at such times as the employees have had a grievance which they have desired to have removed by the said magnates.

Moseley recites numerous propositions relating to "combinations of capital" and "organizations of labor," stating that "they represent the two great interdependent and interacting forces of industry," and adds:

Overwhelming power in the hands of the first means unbearable oppression to the other, while extreme advantage conferred upon the latter would, if unwisely used, inflict ruin upon the former. Each side is governed by the dominant motive of self-interest, and they should be placed and kept upon equal footing. To do this full recognition of labor organizations is essential. A corporation which has brain and sinew for capital should be regarded as similar, in a legal sense, to a joint stock concern with a paid up money capital. This much I believe is due to labor in any branch of industry.

The term, “overwhelming power,” we suppose means autocratic, absolute power — the power to grant, the power to withhold — and this power corporations possess in certain cases, or, if limited at all, it is only when labor organizations have interfered to check its sway. It is impracticable to parallel a money corporation and a labor organization. They are essentially dissimilar. They cannot be “placed and kept upon a similar footing,” not even when “a corporation with brain and sinew for its capital” is pronounced, in a “legal sense,” the equal of “a joint stock concern with a paid up money capital.” True it is that capital is unproductive without labor, and that, in so far as great industrial enterprises are concerned, labor is unproductive without capital, but such statements are the merest platitudes in the discussion of the comparative power of a capital corporation and a labor organization, or, if you please, a labor corporation. Mr. Moseley refers to Homestead, and Homestead confirms our position, vividly illustrates our idea. Say, for instance, the capital corporation of Homestead represented \$10 million, and the labor corporation at Homestead represented 10,000 men of “brain and sinew.” There are the two “corporations” side by side, dominated by “self-interest.” The capital corporation possessed “overwhelming power,” the corporation of “brains and sinew” in this contest had, in fact, no power at all, or if it had power, by exerting it did so to its own injury. True, it stopped the productiveness of capital, which, demanding neither food, clothing, nor shelter, subject to neither sickness, sorrow, pain, nor death, could retire, keep quiet, and wait, while the labor corporation starved, froze, went naked, took sick, and died. What “extreme advantage conferred” upon the labor corporation could have inflicted ruin upon the capital corporation that would not have been equally ruinous to itself? and even suppose it had utterly wiped out of existence the Homestead mills, the comfort of Carnegie and Frick and those identified with them as capitalists would not have been marred, while the *stockholders* in the corporation of “brain and sinew” would have perished.

In discussing troubles arising between labor and certain capitalists — never between labor and capital — it is readily admitted that parties to the controversies are governed by “self-interest.” This self-interest question presents widely different phases when discussed from points of observation occupied by a capital corporation and a labor organization. Mr. Moseley is well aware that the estimated value of the railroads of the United States represents not less than \$4 billions of dollars of *water* — of fraud. It is called “capitalization,” and

capital corporations perpetrate the frauds. Labor corporations exhibit to the world no such “self-interest.” They have never demanded more than would afford their “stockholders” of “brain and sinew” a respectable living. Hence it is seen that on the one hand capital corporations are animated by a “self-interest” essentially different from that which characterizes labor corporations or organizations. Labor corporations carry no watered investments. Congress nor the states give them land. Their schemes to wreck and rob have not called for congressional legislation nor state legislation to put an end to their perfidies — they have only “brain and sinew,” and it is Mr. Moseley’s idea to legislate in such a way as to bring about an “equality of power and force” between the two corporations and thereby establish arbitration. He says:

One is the full recognition of railway labor societies as corporations. The other is the settlement of disputes between railway employer and railway employees by means of compulsory arbitration between the men represented by their labor corporation as one party and the stockholders of the company represented by the railway corporation as the other party. We then obtain that *equality of power and force which compels* the essential requisites of friendly relation, respect, consideration, and forbearance.¹ Disputes between employers and employees can be satisfactorily adjusted only upon the basis of fair concession and mutual advantage. The strict rules of law are wholly inapplicable to such controversies, and as far the only plan which appears to offer a solution of the difficulty is arbitration. It is not conceded to be practicable to compel the parties engaged in productive enterprises to accept arbitration, but that objection loses all its force when it is proposed to limit it to those engaged in railway transportation.

There is associated with the term “arbitration” that which smacks of justice, equity, fair play; the same is true of courts established to administer justice evenhanded, but pity it is that courts are uncertain, so unreliable that men are advised to “keep out of court” — but there is this thing about judicial proceedings in courts of law — men may *appeal*, and the propriety of exercising the privilege is shown in the fact that the decisions of lower courts are often reversed, but if we understand Mr. Moseley, his idea is to have the decision of arbitrators *final*. He says:

¹ An early statement of the concept of “countervailing power” made famous by economist **John Kenneth Galbraith** (1908-2006).

But so far as the settlement of disputes in which the public has direct interest is concerned, like those arising in the course of railway employment, Congress unquestionably has power to compel arbitration. The tendency of Congress to recognize labor associations has already been shown. It is but a step further to provide that organizations of railway employees shall, when disputes arise with railway managers, file approved bonds with designated officials for and in behalf of the men, that they will abide by the decision of the board of arbitration; that the railway corporations shall likewise file similar bonds; and that awards made under such conditions shall be enforceable in the courts.

It does not require a *seer* to see at once that Mr. Moseley maps out a stupendous job. It may be true that congress has the power to compel railroad employees to arbitrate, to single them out from all other classes of wage earners and rob them of their right to choose their own methods of settling their own grievances. Says Mr. Moseley: "It is not conceded to be practicable to compel the parties engaged in productive enterprises to accept arbitration, but that objection loses all its force when it is proposed to limit it to those engaged in railway transportation." Why it "loses all its force" Mr. Moseley does not inform the public, but it is easy to fathom the omission. When the railway corporation, being a "common carrier," oppresses its employees, and the employees quit work, the "common carrier" and the *public* are inconvenienced, hence, it is necessary for congress to pass a law" providing that railway employees shall *not* quit work, hut shall apply for arbitration and *remain* at work pending a decision. He says:

Moreover, questions arising between employer and employee demand the most prompt method of settlement; and pending final settlement the relations existing at the time the dispute arose should be maintained and the parties should bear their grievances patiently during that period and rely upon just and proper revision and adjustment by the board of arbitration.

It is worthy of remark that when railway corporations have grievances against an employee they discharge him, or subject him to some penalty — *lay him off* for a period of time, which is simply a *fine* of so many dollars, hut the *grievance* of the corporations against their men is, that the men annoy the corporation with their grievances, and insist upon sending their grievance committees to "headquarters" to obtain redress. This action, on the part of the employees, through

their organizations has become so odious that the corporations desire the utter overthrow of the organizations, as has sometimes been accomplished. The organizations are thoroughly equipped to arbitrate, in compromise, to give and take, to settle every difficulty, but, as in the case of the Lehigh Valley corporation, the officials utterly refused to talk matters over with the officials of the organizations, President Wilbur contending that to make concessions would be, in effect, to abandon the control of the road to the organizations. To overcome this difficulty, organizations of railway employees are to be regularly *chartered* by Congress, the intimation being that when so chartered they shall be empowered to make contracts for the men who are members of the organizations, and this idea is emphasized by Mr. Moseley when referring to the "pecuniary" irresponsibility of individual members, which he suggests would be removed when the organization is empowered to "treat with the corporation," which, *boiled down*, means, simply that the officials of an organization of railway employees shall have the authority to *hire out* the members of the organization, make all needed contracts for them — a species of chattel slavery that would decimate the organizations as if struck with the plague.

Manifestly, arbitration of a voluntary character is well enough, but the instant compulsory arbitration is suggested, manhood, citizenship, independence and self-respect revolt. We have already, as has been suggested, the courts, all the way up from a justice of the peace to the silk-gowned body known as the Supreme Court of the United States, and we have laws enough, if they were woolen blankets, to keep the frigid zone warm. An arbitration court or courts, for to do any good there would have to be a multitude of them, would make a complex problem more complicated. A moment's reflection will confirm the conclusion. The statistician of the Interstate Commerce Commission informs the public that there are 171,503 miles of railroad track in the United States, controlled by 1,822 corporations, employing 821,415 persons. These employees, on lines sufficient to encircle the earth seven times, have a great number of grievances, and since Mr. Moseley says, "questions arising between employer and employee demand the most prompt method of settlement," it would seem advisable to have a Board of Arbitration for each railroad corporation, or 1,822 boards, ready to adopt "the most prompt method of settlement." If each Board of Arbitration consisted of three members then there would be spawned upon the country 5,446 arbitrators, or,

if the Boards of Arbitration were to itinerate, their traveling expenses and hotel bills would be enormous; bills would peep o'er bills, and bills on bills arise, until there would be a revolt.

But there is another thing to be considered. Mr. Moselv suggests the giving of bonds by the organizations of railway employees to abide by the decision of the Board of Arbitration. To illustrate: take a railroad, say of 1,000 miles, on which the firemen have a grievance; suppose there are on the road twenty lodges, or organizations, of firemen. Is it to be understood that each one of the twenty organizations is to give bond before arbitration can begin? The inquiry is pertinent — grows out of the arbitration question — or is it to be understood that the Grand Lodge of the firemen's order is to give the bond and be held responsible? If the latter idea is to be adopted, the Grand Lodge, if it had wings and could out-travel a homing pigeon, would not be able to respond to the demand. In a word, is the proposition, compulsory arbitration, as suggested by Mr. Moseley, or any other gentleman, practicable?

Moreover, Mr. Moseley makes some suggestions which to our mind upset the superstructure. He seems to have an idea, after all, that there are insuperable difficulties in the way, found in the fact that the right sort of men to act as arbitrators are about as scarce as watermelons in Greenland. He says:

To make arbitration effective and just, the arbitrators should be drawn from the vicinage and with particular reference to the particular case. A man who knows nothing about the work involved is not qualified to decide the question. When the matter in controversy involves how many hours a man should work, what pay he should receive, or any of the questions which cause dispute between the employer and the employee, those questions should be considered by men familiar with the particular employment under consideration as well as with the needs and situation of the employer. Such well informed persons are to be found in every locality, and when questions arise between employer and employees they are best qualified to decide what concessions are fair and what will redound to the mutual advantage of the parties. As a rule men who hold office for life or a defined term are unfit for such positions. A person to be a good arbitrator must be directly responsible in every case. Men who hold definite terms of office are placed in a position where they regard mankind as divided into classes, and they have, too often, but the instincts and sympathies of their "class." The ultraconserva-

tive man, the man whose whole interest lies in maintaining the present order of things, is prone to look through the closed window of his richly furnished apartment, and in this refracted light and perverted view to imagine that he sees in the workman passing by with blouse and dinner pail a member of "the dangerous classes." Arbitrators, on the other hand, should be men who know no class, but who represent the sovereign whole. The utmost publicity should be given to such awards, and to attain this end the law regulating arbitration might contain provision for a report by all boards of arbitration of the awards made by them to the executive head of the government and for the formal and official promulgation by him of all awards so made.

Anyone who will read the foregoing carefully, will, we think, conclude that compulsory arbitration is not the way out of troubles between railroad employers and employees; that the scheme is largely visionary; that arbitration, well enough under certain conditions, would likely prove worse than valueless when made compulsory without the right to appeal.

Suppose the grievance of the employees should be opposition to a reduction of wages of say, 10 percent. Arbitration is demanded. Thousands of the men are not organized, can give no bond and are not, therefore, in the contest. They simply submit. Some of the employees receiving \$3 and \$4 a day accept the reduction. We will say the firemen demand a board of arbitration to sit in their ease. Who are to be selected? According to Mr. Moseley, men "familiar" with the work, duties and responsibilities of firemen, as also with "the needs and situation of the employer." In such a case about the best that could be done would be to have one fireman on the board, one railroad official, and one — anybody that the fireman and the official might select. The case is begun. The fireman says "to reduce his pay 10 percent, 20 cents a day, \$60 a year, is to subject him and family to serious privations; that at his present wages he is barely able to live." The railroad corporation says "business is dull; that it pays no dividends, and that in reducing wages it is governed by necessities that can not be overcome." The board takes the case and decides that the railroad corporation must be content with 5 percent reduction, and that the fireman must submit to a loss of \$30 a year. The corporation is happy because it expected its demands to be reduced 5 percent, and therefore made the cut 10 percent. It has got what it expected in the ease, and is serene. It employs say, 1,000 men, and by the cut makes a

clear gain of from \$30,000 to \$75,000 a year. True, it may be said that because of arbitration some of the men, at least, saved 5 percent, that otherwise would have been lost. This is assumption. It may be that with a strike and a tie up in full view no reduction would have been demanded. Victories for the right have been gained in the past for courageous men who knew their rights and dared to defend them.

One of the hallucinations of the period is that the government is clothed with such absolute power that it can by statute provide employment for the idle, regulate wages and do all other things that an autocrat may do. There is heard from many quarters a wild hue and cry in favor of a paternal government, such as exists in Europe, where the individual is lost sight of and the government overshadows everything, and compulsory arbitration is in that line: the term “compulsory” has that significance.

There are those who think that railroads should have at least a *semi-military* government, and that men should be *enlisted* for a term of years. Gods! The military idea was illustrated at Homestead, Buffalo, and other localities. Still, scabs might enlist.

There are those who seem to be of the opinion that the relations existing between the government and the corporations, and between the government and the individuals are practically the same, and that legislation, with equal propriety, may include both. There is, however, this difference: The government *creates* the corporation, but does not *create* the individual, and ours is a government of the people — of the individual. When the people become so degenerate as to passively submit to have their individuality wiped out, to be herded like cattle, no matter what plausible arguments are used to accomplish their degradation, the time will have arrived to sing again the old song addressed to the flag —

Haul down that flaunting lie.²

Edited with a footnote by Tim Davenport

1000 Flowers Publishing, Corvallis, OR · June 2017 · Non-commercial reproduction permitted.
First Edition

² “On the Flag” was a poem associated with Horace Greeley and the Abolitionist movement circa 1860, which included the words, “Haul down that flaunting lie! / Half-mast the starry rag; / Pollute not freedom’s sky / With hate’s polluted flag.”