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Lecht: Experience Under Railway Labor Legislation

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RECENT BOOKS

EXPERIENCE UNDER RAILWAY LABOR LEGISLATION. By *Leonard A. Lecht*. New York: Columbia University Press. 1955. Pp. viii, 254. \$4.50.

The conclusion to be drawn from Mr. Lecht's book is that the railroad industry generally and its labor relations particularly are a mess. The book *states* no such conclusions, however. On the contrary, Mr. Lecht lets the facts speak for themselves. Indeed, in my opinion he goes too far in this respect. He operates within no perceptible theoretical or analytical framework. His factual framework, too, is rigorously confined to *railway labor* legislation. This may seem an element of strength; at least some may think such rigor commendable. I should like to suggest, however, that the book might have been immensely more valuable had its sights been lifted somewhat. Mr. Lecht is one of the few disinterested persons who sees the whole railroad story in all its sad ramifications. That being the case, he could have helped a great deal more had he brought to bear on his excellent researches some explicit standard or standards of evaluation and criticism.

The railroad industry is in bad shape. Remedying the situation effectively of course requires knowledge of the facts. But that is not enough. A genuinely effective remedy can come only with a sound theoretical orientation, an appreciation of the relationships between factors and results. In human and social affairs, the facts never speak for themselves, any cliché to the contrary notwithstanding. Usually, when people talk about "facts speaking for themselves," they are unconsciously supplying a framework of assumptions, frequently nothing more than prejudice, which supplies a voice to the mute facts. I am going to try in this review to give Mr. Lecht's facts a theoretical context.

I

One can readily think of useful theoretical systems within which the main effort and researches of the book might have been immeasurably more fruitfully oriented. For instance, one might have approached the railroad industry as one of the outstanding American experiments in syndicalism and welfare-statism. Here is a great industry which has been dealt with as an entity separable from the rest of the economy, in accordance with classic syndicalist theory. Industrial self-government has been largely the rule, in both its labor and commercial affairs. True, the Interstate Commerce Commission is supposed to supervise commercial aspects; and the National Mediation Board, another government agency, is supposed to supervise labor aspects. But one of the salient facts revealed by Mr. Lecht is that both these agencies, as well as the myriad other forms of political intervention which have drifted in and out of the railroad industry's labor and commercial affairs, have proved powerless in the face of the massive social, political, and economic forces of the nation (and the world).

The conclusion would have to be that syndicalism in the railroad industry has not produced socially desirable results. From the public's point

of view, it has produced high rates, poor service, antiquated equipment, fantastic wastes of manpower, institutionalized featherbedding, and, perhaps most important of all, a creeping tendency to limit the competition of any other industry which might make the shaky, high-cost, inefficient, and wasteful railroad industry fall to the ground. From the point of view of the railroad workers and their unions, their unbending resistance to any effort on the part of the railroads to economize on labor *may* have resulted in the employment of more workers than there otherwise might have been. The consequences of this approach, however, have been a relative loss in wages, high railroad rates, and, consequently, quite possibly *less* railroad employment than there might have been. From the point of view of the owners and managers of the railroads, the result has been loss of the right to run their businesses as they wish, loss of business, as well as loss of profits. The system has also been a bust politically. The government's encouragement of industry-wide (compulsory) unionism has proved to be a method of breeding crisis. Every railway dispute now creates a national emergency. We cannot afford a railway strike.

So, disputes which might have been small and insignificant had we run railway affairs intelligently now tend to imperil the nation, and they evoke concessions and compulsions which simply cannot be reconciled with a free and smoothly functioning economic, social, and political system.

One of the big railway unions will become dissatisfied with the way things are running. A weak stab at "collective bargaining" between carriers and union will be made, with no results. The union will then issue a strike notice. This is usually the signal for the National Mediation Board to call for an Emergency Board. In the usual case, the Emergency Board's proposal will be unacceptable. The union will reject it and announce its intention to strike. The President of the United States may then appoint more compliant "arbitrators," but if the union will not accept what these more agreeable men offer, then the President has to "seize" the railroads. At that point the workers become "employees" of the government. Wages, and ultimately rates, too, are dictated, and the right to strike is gone.

With every concession to the unions—and the wage boosts are probably less important than the concessions which aggravate the already institutionalized featherbedding—costs go up. Then rates have to go up. As rates go up, the competitive position of the railroads worsens. Then efforts have to be made to keep competitive transport from toppling the rickety framework.

Syndicalist and socialist theory to the contrary notwithstanding, the economic system is a unitary thing. There is no way to insulate one aspect of economic activity from all the rest without begging everyone in order to subsidize the favored. Everyone has to pay for the waste encouraged by the syndicalist experiment in the railroads.

Nothing more favorable can be said of the other great syndicalist device of the Railway Labor Act, the National Railroad Adjustment Board. The NRAB, hailed as a great venture in "industrial democracy" or "self-government," is an arbitration agency composed of equal numbers of representa-

tives of the big trade unions and the carrier managements. Its duty is to resolve "minor" disputes involving interpretation of collective agreements. NRAB decisions may be appealed to the courts only to enforce decisions favorable to trade unions. The carriers may not appeal to the courts from unfavorable decisions. Space considerations preclude a recounting of the dismal failures of this agency. The reader is referred to Lecht's excellent account of the matter. (p. 188 et seq.) Suffice it to say here that the NRAB, too, is another signal syndicalist failure.

II

Laissez-faire might have provided another fruitful analytical framework for Mr. Lecht's book. Then one might have said that the trouble started when, in a misapplication of the Sherman Act, the United States Supreme Court, over powerful dissents, refused to permit the railroad companies to perfect the cost-saving mergers which they were planning in the early years of the century.¹ In more recent times, as Mr. Lecht points out, such mergers have been proposed by the government, and only fear of the unions has prevented their execution. (pp. 102-117) For the unions insist that there must not be any adverse effect on employment. (pp. 102-117) However, since one of the main reasons for the mergers is to economize employment, obviously they become pointless so long as the government lives in such deadly fear of the trade unionists.

Again, in the laissez-faire framework, the controls of the Interstate Commerce Commission would be seen, not as devices to keep prices down for consumers, but—and this is what they have actually turned out to be—as devices to impose governmental restraints upon competition. The commission simply does not keep down railroad rates. Only competition and wise capital investment can do that. In limiting competition, the ICC therefore defeats its own *raison d'être*. Meanwhile other government interventions make real, forward-looking capital investment impossible: taxes, welfare programs, labor-wasting laws and concessions to the unions—these all tend to suffocate rather than to encourage dynamic action by the railroads.

Perhaps it was not meant to do so, but Mr. Lecht's book nevertheless constitutes one of the most potent arguments for laissez-faire that the present reviewer has read in a long time. Nowhere recently have the contradictions and absurdities of aimless and politically motivated intervention in the economic system been made so manifest. Unfortunately, Mr. Lecht himself offers no systematic reform proposals. Would it be too radical to suggest that the whole interventionist system has proved its bankruptcy, and that perhaps it is time to free the railroads of the controls that have been strangling them? What really would happen if the ICC were abolished, the Railway Labor Act repealed, and railway labor relations regulated by a strictly enforced and appropriately amended Taft-Hartley Act? Isn't the burden properly placed on those who insist upon special treatment of the railroad industry?

¹ Northern Securities Co. v. United States, 193 U.S. 197 (1904).

Mr. Lecht does not consciously address himself to these issues. That is unfortunate, but much is owed him for having made the inquiries which do nevertheless pose these issues in a striking way.

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