

WALTER GORDON MERRITT AND LABOR-MANAGEMENT RELATIONS

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"Unchecked human power never stops at the portals of human justice," warned Walter Gordon Merritt in an address to the Brooklyn Institute of Arts and Sciences in 1937.¹ The evening's topic was the labor movement in the U.S. and Merritt was strongly advocating regulations of unions and their activities. The theme is a familiar one for anyone who looks at Merritt's career. He spent most of his life as a courtroom lawyer battling against the growing labor movement. The fact that he was often successful established his reputation firmly as an "enemy of labor."²

Merritt's career began in 1903 in the Danbury Hatters' Case. The parties involved were a labor union, the United Hatters' of North America, and a hat manufacturer, Dietrich Loewe and Co. of Danbury, Connecticut. Loewe ran an "open" shop-- he hired both union and non-union workers. From 1900-1903 the American Federation of Labor underwent a drive to unionize all shops. John Moffit, President of the Hatters' union, tried to convince Loewe to unionize. Loewe refused emphatically. The union countered with a strike and threatened a nationwide boycott of Loewe's products. Loewe prepared to begin legal proceedings against the Hatters to recover losses of his business.³

Walter Gordon Merritt's father, Charles, was also a hat manufacturer in Danbury, and a close friend to Loewe. Walter Merritt's involvement in the Hatters' Case began in 1901, when the union president John Moffit first threatened Loewe with the boycott. At his father's suggestion, 21-year-old Walter wrote an article entitled "The Neglected Side of Trade Unionism: The Boycott." It was privately printed at his father's expense but newspapers throughout the country featured it and Merritt's accusation that the A.F.L. had become a gigantic engine of tyranny through use of the boycott was widely read.⁴ In his later book, Destination Unknown: Fifty Years of Labor History, Merritt vividly described the Hatters' Case and repeated the same argument:

The American Federation of Labor, organized in 1886, had developed an astonishing machine to destroy the goodwill and business of manufacturers

The Danbury Hatters' Case passed through many courts before final judgment was reached. It was 1917 before the Supreme Court made the ultimate decision in favor of management. Loewe was vindicated to the sum of \$252,130 compensation and trial money. None of the Hatters lost their homes or bank accounts: the A.F.L. collected \$164,000 and the hatters raised the rest.⁷ A note of irony: Dietrich Loewe died in 1935 after declaring bankruptcy. His grandson, Mathias C. Loewe, Jr., joined a hatters union in 1947 in Wallkill, New York.⁸

A direct result of the Hatters' Case was the Clayton Anti-Trust Act, passed in 1917, which freed unions from prosecution as monopolies, stating that "the labor of a human being is not a commodity or article of commerce."⁹

Merritt's unsympathetic and hard-lined attitude toward the working man was first evident in his reaction to the hatters in danger of losing their homes in the Hatters' Case. He affected sympathy:

"But to sell homes--homes of old people, homes that were loved--was something. A ghastly spectacle was thus projected. A few remarks by the auctioneer and in a matter of minutes, a family would lose their home, which reflected the accumulation of a lifetime, just as overnight Mr. Loewe seemed to have lost his business...¹⁰

but was prepared to go on with the auction:

"The bankers' committee was at my elbow urging compromise, but I did not wish to end what seemed to me to be a noble battle with an anticlimax of haggling; and so, surrounded by glances of disapproval from the banking fraternity, I announced there would be no compromise."¹¹

Merritt believed that the union's monetary loss to Loewe was actually a labor movement triumph.

"We rejoice that our repeated efforts to settle this case have been successful. We feel nothing could have been better for organized labor or resound more to the reputation and credit of organized labor. If the union did not keep its agreement with its own members, how could it be expected that the union would keep agreements with employers."¹²

In 1915, Merritt began work for the Pennsylvania Mining Company which was suing the United Mine Workers. Merritt did not present the case himself, but acted as coordinator and strategist

for the other lawyers employed by the company. All information was funneled to him and he decided how to use it. Management won the case and the judge later remarked that he had never heard such a carefully organized case.¹³

Merritt did not always work for management: as long as the plaintiff was anti-labor, he seemed satisfied to take the case. One case involved the hatters' union again and took place during part of the time the Danbury Hatters' Case was going on. In 1910, Dominick Connors, a union hatter in Bethel, Connecticut was fired by his employer because of union pressure. The union said that Connors had not paid his union dues; Connors felt the union owed him money for strike benefits. Merritt filed suit against the union and won a refund for Connors.¹⁴

Through the 1920's and '30's, Merritt wrote, fought and debated against closed shops and union activities. He also firmly lectured management on their responsibilities toward workers, which seemed based on an old-fashioned sense of duty, altruism or "noblesse oblige." At times, Merritt appeared to be the product of a period strongly influenced by social Darwinism. At other times, he seemed to be a class-conscious snob. He divided society into two classes, the "creative" class, which was, of course, management, and the working class. The real danger to our society and system of free enterprise was the propaganda of labor leaders who did not praise the "creative" class and who described management as a common enemy.¹⁵

In 1946, Merritt represented General Motors at a fact-finding panel during a strike that had lasted months. Walter Reuther, the president of the United Auto Workers Union, demanded that a wage increase be granted according to the ability of the individual company to pay. Merritt was opposed to the idea, and asked the panel not to allow it, since it might result in different wage levels for each of the large companies; he also contended that Reuther would not adhere to such a program when the profits receded. The panel took time to consider the idea, and Merritt rose with his delegation and walked off the floor.¹⁶ Here is a picture of Merritt in action, immediately following Reuther's demands:

Walter Gordon Merritt rises....What a contrast! Merritt is 65, old enough to be this whipper-snapper's (Reuther's) father. His voice is bland, suave, sensible. He wears a double-breasted black

suit...there is a splash of orange in his black tie. He is the very picture of rectitude, soundness, probity. His voice is carefully couched to contrast with Reuther's impetuosity; it is a quiet, conversational voice...He engages in a little courteous by-play about his young antagonist; he takes the three man panel into his confidence. His voice is that of an indulgent parent talking to equals about some difficult neighborhood boy.¹⁷

Merritt's technique was partially the result of something he had learned years before in the famous Hatters' Case:

When I thought of the quiet and determined Loewe,
I learned a lesson that since has proven useful.
In times of industrial strife, the person who shouts
the loudest is not always the person who lasts the
longest.¹⁸

In this case, the lesson was not so valid; Reuther gained most of his points for the Auto workers. Labor was beginning to win.

In 1954, Merritt was dropped as counsel for the Hat Corporation of America. No explanation was given at the company's decision to drop its 25 year association with the firm of McLanahan, Merritt and Ingraham. Privately it was said that the cause was Merritt's mellowing toward unions: he was not tough enough in negotiations. The union hat officials concurred that on several occasions during the previous year's strike, Merritt seemed more inclined to work out a peaceful formula than other key company representatives.¹⁹

If Merritt was "mellowing" toward labor as he grew older, it showed no positive influence on his work or writings. Only three years before (1951) he had published his autobiographical book on labor history, Destination Unknown. At the time he was 71 and the book does not sound mellow at all. Fear of labor unions and labor leaders is the strongest theme running throughout. Though Merritt outwardly professed he was pro-union, he attributed characteristics so anti-social and contrary to our ideas of democracy that you wonder on what grounds he sustained his beliefs. "His presentation of the labor movement in America would not win many converts to his faith in labor unions."²⁰

Walter Gordon Merritt was active in law until his death at 88 in September of 1968.²¹ William Raacke, first selectman of New Fairfield, Connecticut where Merritt had moved after the Hatters' Case, proclaimed a day of mourning for the town.²²

FOOTNOTES

1. Address to the Brooklyn Institute of Arts and Sciences, "Lawful and Unlawful Strikes," March 30, 1937.
2. The Century Association 1973 Yearbook, p. 286.
3. Charles H. Green, The Headgear Workers: A Century of Trade Unionism (New York: The Marstein Press, 1944), p. 60.
4. Donald B. Robinson, Spotlight on a Union (New York: The Dial Press, 1948), pp. 77-87.
5. Walter Gordon Merritt, Destination Unknown: Fifty Years of Labor History (New York: Prentice-Hall, Inc., 1951), pp. 8-9.
6. Merritt, Destination Unknown, p. 17.
7. Robinson, Spotlight on a Union, pp. 87-93.
8. " " " " " p. 94.
9. " " " " " p. 94.
10. Merritt, Destination Unknown, pp. 22-23.
11. " " " " " p. 23.
12. Danbury Evening News, July 14, 1917.
13. Durham, N.C., Perkins Library, Walter Gordon Merritt papers.
14. Merritt, Destination Unknown, pp. 128-131.
15. Isadore Katz, book review. University of Penn. Law Review, pp. 300-304.
16. Merritt, Destination Unknown, pp. 345-366.
17. New Republic, January 7, 1946, p. 26.
18. Merritt, Destination Unknown.
19. Norwalk Hour, November 11, 1954.
20. Isadore Katz, book review.
21. H. Gradner Ingraham, 40 Wall Street, New York, New York. March 28, 1974.
22. Danbury News-Times, September 14, 1968.
23. "The Open Shop" a debate between Walter Gordon Merritt and Andrew Furuseth, President of the International Seamen's Union held at Lexington Theatre, N.Y.C. on March 13, 1921. Sponsored by the Intercollegiate Socialist Society.