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Book Note

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BOOK NOTE

LAW AND THE NATIONAL LABOR POLICY. By Archibald Cox. Los Angeles: Institute of Industrial Relations of the University of California, 1960. Pp. x, 111. \$2.50. Professor Cox of the Harvard Law School is a leading authority on labor law and has written widely on the subject, both academically and legislatively. In this short treatise, he furnishes the professional, as well as the lay reader, a cosmic glimpse of our national labor policy since the addition of its newest statutory cornerstone, the Labor-Management Reporting and Disclosure Act of 1959. And his views are most worthy of observation, for they are those of an adviser to a particularly prominent national legislator, Senator John F. Kennedy. Each of the five chapters was originally a complete lecture in itself; the order and progression is logical and very compact. Each chapter is united by a somewhat discerning emphasis on the philosophical underpinning which has supported every major federal regulation in the labor field. This philosophy is a result of our frontier-bred distrust of government. It is a confidence in self-determination. Also, throughout, Professor Cox displays his belief in unionization and what he sees as the still lingering need for it. But while so oriented, he still openly faces the problems that confront the future of the American labor movement, such as cost-push inflation,¹ and the possible failings of the labor movement, for example, its loss of idealism.² As the reader finishes each chapter, Professor Cox succeeds in leaving him with a concise picture of the legal and philosophical principles discussed.

In four of the chapters, Professor Cox discusses the demands made on our law by the self-help philosophy of the American labor movement. One of these demands, the right to form, join and assist labor organizations, requires, he says, maximum freedom to use economic weapons in the form of strikes, boycotts, picketing and other concerted activities. The author gives an excellent summary of the gradual recognition of these demands in the Norris-LaGuardia and Wagner Acts; and he capably poses the problems that threaten the effectiveness of these economic weapons today. His detailed discussion of the present trend in statutory law toward more control of these concerted economic activities is written from a union supporter's vantage point and is possibly less than objective. In fact, the author forthrightly admits his assailable belief that there is still great need for further unionization in nonunionized fields of employment. He comments unfavorably on the newly added subsection 8(b)(7) to the Taft-Hartley Act, which prohibits picketing under specified circumstances not heretofore outlawed.³ His recommendations⁴ in regard to the judicial treatment of secondary boycotts in a less uniform fashion than that required by old subsection 8(b)(4)(A) of the Taft-Hartley Act are worth noting.

The second large demand made on the national legislator by labor's self-help philosophy is, he says, the demand for collective bargaining between labor and management. The author's treatment of this is a restatement of the present viewpoints on possible solutions to the problem of protecting the public interest in the resolution of disputes in vital industries. Notwithstanding the able restatement, though, Professor Cox fails to suggest a practical legal solution. Economists have advocated for some time the addition of government as a third party at early-stage collective bargaining conferences.⁵ Possibly the author's commitment to a

1 Text at 58-63.

2 *Id.* at 47.

3 *Id.* at 23-31.

4 *Id.* at 31-38.

5 See JOHN MAURICE CLARK, *ECONOMIC INSTITUTIONS AND HUMAN WELFARE* (1957).

philosophy of self-help⁶ explains his failure to offer more effective legal remedies for paralyzing national strikes and inflationary wage increases.

In his last chapter, Professor Cox considers the most recent development in the national labor policy, government regulation of the internal affairs of labor unions. This is an area not heretofore touched, to any great extent, by legislation or the courts. The author admits that the internal relationships of the powerful unions have become a federal problem "because labor unions enjoy their present power chiefly by virtue of the National Labor Relations and Railway Labor Acts."⁷ Professor Cox molded some of the content of the Labor-Management Reporting and Disclosure Act, and his optimistic comments about the import of the new act, if neither surprising nor extensive, are worth the observation of every practicing attorney.

These five short essays make profitable reading. The author, an advocate of further unionization, reflects that fundamental element in the tradition of the common law which Roscoe Pound chooses to call its spirit.⁸ While recommending continued collective bargaining, without governmental interference, and with a minimum of judicial intervention, Professor Cox reaffirms that the law is supreme and that the insistence upon law as reason, to be developed by judicial experience in the decision of concrete cases and a refusal to shift the burden of upholding right from the concrete each to the abstract all, is essential. Lawyers practicing in the national labor field will find the proposals and specifics of *LAW AND THE NATIONAL LABOR POLICY* informative, but they may agree that the real value in the book is a reaffirmation of a philosophical commitment that government should not resolve labor disputes or substitute its wage and price determinations for private contracts in a free market.

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6 Text at 61-2.

7 *Id.* at 87.

8 ROSCOE POUND, *THE SPIRIT OF THE COMMON LAW*, ch. 8 (1921).

BOOKS RECEIVED

SELECTED BIBLIOGRAPHY OF THE MAJOR WORKS IN THE FIELD OF "LABOR POWER" IN RECENT YEARS

- AFL-CIO: LABOR UNITED.** By Arthur J. Goldberg.
New York: McGraw-Hill Book Company, Inc., 1956. Pp. 319. \$5.00. The significant factors in the achievement of the AFL-CIO merger are pointed out, and the author's viewpoints are given on the possibility of economic, political and social changes as a result of the merger and the new power position of organized labor.
- AS UNIONS MATURE: AN ANALYSIS OF THE EVOLUTION OF AMERICAN UNIONISM.** By Richard A. Lester.
Princeton: Princeton University Press, 1958. Pp. 171. \$3.75. The author undertakes to develop a theory of union evolution and concludes that unions in the United States have reached "institutional middle age." Although he recognizes that short-term factors may cause actual developments to deviate from the long-term trends, he concludes that the general direction of union development will remain unaltered.
- THE CASE FOR RIGHT-TO-WORK LAWS.** By Rev. Edward A. Keller, C.S.C.
Chicago: The Heritage Foundation, Inc., 1956. Pp. 128. \$1.50. The author presents the case for voluntary rather than compulsory unionism. He contends that the right not to join is a necessary corollary of the right to join and that freedom is destroyed when choice is denied.
- CAUSES OF INDUSTRIAL PEACE UNDER COLLECTIVE BARGAINING.** Edited by Clinton S. Golden and Virginia D. Parker.
New York: Harper and Brothers, 1953. Pp. 369. \$4.75. A two-part study. The first section presents the study of a committee of the National Planning Association as to what makes for labor peace. The second section contains condensations of thirteen reports based upon investigations into the industrial relations climate of eighteen companies enjoying a long period of labor peace.
- CONFLICTS WITHIN THE AFL: A STUDY OF CRAFT VERSUS INDUSTRIAL UNIONISM, 1901-1938.** By James O. Morris.
Ithaca: The New York State School of Industrial and Labor Relations at Cornell University, 1958. Pp. 319. \$5.00. The conflicts within the AFL between the craft union majority and the industrial union minority up to the foundation of the CIO in 1938 are traced. Responsibility for the split is laid upon the leaders of craft unions who, because of their conservatism, would not adapt trade unionism to the social conditions of the times. The merger in 1955 is viewed as not removing the marks of the struggle.
- DIARY OF A STRIKE.** By Bernard Karsh.
Urbana: University of Illinois Press, 1958. Pp. 180. \$3.50. A true story (with the names changed) of an organizational drive culminating in a strike of a small company in a small town. The account throws light upon the organizing process, the tactics of the organizer, and the social pressures that influence particular workers to join the union or to oppose it.
- A HISTORY OF AMERICAN LABOR.** By Joseph G. Rayback.
New York: The Macmillan Company, 1959. Pp. 459. \$6.00. Labor is dealt with not as a separate entity but as an integral part of American life, and its growth, traced from the colonial era to the present, is viewed against the background of American economic, political, industrial and social life. The impact of labor upon American life and institutions, as well as the

important personalities and significant events in the growth of labor, is discussed.

LABOR. By Neil W. Chamberlain.

New York: McGraw-Hill Book Company, Inc., 1958. Pp. 625. \$7.00. An examination of the way unions operate and the problems which they face and create. The union-management relationship is viewed as being largely a power relationship with collective bargaining as the instrument through which power is asserted. The author notes six significant changes in this power relationship in recent years. He also evaluates the economic effects of union organization.

LABOR DISPUTES AND THEIR SETTLEMENT. By Kurt Braun.

Baltimore: The John Hopkins Press, 1955. Pp. 343. \$6.00. An analysis of the background of labor-management strife. The author examines the basic methods of settling labor disputes and discusses the structure, jurisdiction and procedure of both private and public settlement machinery.

LABOR IN A FREE SOCIETY. Edited by Michael Harrington and Paul Jacobs.

Berkeley: University of California Press, 1959. Pp. 186. \$3.00. A compilation of seven papers presented by leading authorities in the field of labor relations at a symposium on Labor and a Free Society. These papers examine the adequacy of our basic ideas of freedom and justice in the light of the experiences and needs of the industrial society of today. In a concluding chapter the editors present the points raised in a round-table discussion following the presentation of these papers, and they point to a common feeling among the participants that the American labor movement will encounter new problems as indicative of a need for creative thinking in the future.

THE LABOR POLICY OF THE FREE SOCIETY. By Sylvester Petro.

New York: The Ronald Press Company, 1957. Pp. 339. \$5.00. The author discusses the place of unions in our free society and urges the correction of antisocial practices.

LABOR UNIONS AND PUBLIC POLICY. By Edward H. Chamberlin, Philip D. Bradley, Gerard D. Reilly, Roscoe Pound.

Washington: American Enterprise Association, 1958. Pp. 177. \$4.50. A compilation of four essays, each of which was previously published as a separate monograph. The chief concern is with the power position of labor and the desirability of reducing this power either by federal or state legislation.

LABOR UNION THEORIES IN AMERICA—BACKGROUND AND DEVELOPMENT. By Mark Perlman.

Evanston: Row, Peterson and Company, 1958. Pp. 313. \$6.00. The author attempts to classify, summarize and assess the literature dealing with labor unionism in America. He distinguishes five approaches to the history of the labor movement. They are: (1) unionism as a moral institution, (2) unionism as a revolutionary institution, (3) unionism as a psychological institution, (4) unionism as a welfare institution and (5) unionism as a part of the democratic process.

LAW AND THE NATIONAL LABOR POLICY. By Archibald Cox.

Los Angeles: Institute of Industrial Relations, University of California, 1960. Pp. 111. \$2.50.

NEW DIMENSIONS IN COLLECTIVE BARGAINING. Edited by Harold W. Davey, Howard S. Kaltenborn and Stanley H. Ruttenberg.

New York: Harper and Brothers, 1959. Pp. 203. \$3.50. A series of articles studying significant present day trends in collective bargaining. The subject is covered under five major headings: the AFL-CIO merger, technological change, employee security, long-term contracts, and public policy.

POWER UNLIMITED—THE CORRUPTION OF UNION LEADERSHIP. By Sylvester Petro.

New York: The Ronald Press Company, 1959. Pp. 323. \$5.00. The author decries the power of unions and pleads for responsibility and maturity in the labor movement. The testimony at the McClellan Committee hearings is used to substantiate the axiom, "Power corrupts and absolute power corrupts absolutely." However, he concludes that it would be undesirable to enact punitive legislation in retaliation for the evils disclosed.

THE PRACTICE OF UNIONISM. By Jack Barbash.

New York: Harper and Brothers, 1956. Pp. 465. \$5.00. An investigation of unions as workaday enterprises. The author examines the reasons why men join unions, the methods of organization, the administration of union funds, and internal discipline. He also probes racketeering and communist infiltration.

PREPARING FOR COLLECTIVE BARGAINING. Studies in Personnel Policy, No. 172 by the National Industrial Conference Board.

New York: National Industrial Conference Board, Inc., 1959. Pp. 160. A four year study on collective bargaining illustrating the attitudes of companies and unions in regard to such facets of the problem as long range goals and policies, the conduct of negotiations, and the securing of information on the internal operations of the other party to the negotiations.

RIGHT-TO-WORK LAWS: A STUDY IN CONFLICT. By Paul Sultan.

Los Angeles: Institute of Industrial Relations at the University of California, 1958. Pp. 134. \$1.75. A monograph analyzing the arguments advanced by those favoring and those opposing right-to-work laws, as well as the general problem of union security in its economic, social and legal contexts. The author concludes that individualism and freedom do not always march hand in hand, but that power is a determinant of freedom and in the labor market collective action is a determinant of power.

SAMUEL GOMPERS—AMERICAN STATESMAN. By Florence Calvert Thorne.

New York: Philosophical Library, Inc., 1957. Pp. 174. \$3.75. A study of the life and doctrines of Samuel Gompers, a leader in the American labor movement and one of the principal founders of the American Federation of Labor. The author presents Gompers as a firm believer in voluntarism in labor and as an opponent of compulsory arbitration legislation, socialism and political affiliation for labor. The book provides an insight into the ideals which guided the foundation of the modern labor movement and a basis for comparison with labor as it exists today.

SOCIAL RESPONSIBILITIES OF ORGANIZED LABOR. By John A. Fitch.

New York: Harper and Brothers, 1956. Pp. 465. \$5.00. A number of crucial ethical and social problems in regard to the labor movement are raised. The author recognizes the conditions which gave rise to various practices but questions their propriety.

THE TEAMSTERS UNION. By Robert D. Leiter.

New York: Bookman Associates, Inc., 1957. Pp. 304. \$5.00. A study of the sixty-year history of the Teamsters Union. While viewing the union as alert to the needs of the industry, the author indicates that some of the heads of the organization have abused their power. He indicates that labor leaders recognize that union leaders, on the whole, have acted for the benefit of members but concludes that the personal ethics and conduct of teamster officials show little consideration for the needs and interests of the remainder of the labor community. He admits that temporary, but firm, legislative pressures by the federal government will be necessary to correct some abuses.

UNDERSTANDING LABOR PROBLEMS. By Dallas M. Young.

New York: McGraw-Hill Book Company, Inc., 1959. Pp. 477. \$7.95. A thumbnail sketch of the growth of organized labor leads into a discussion of prevailing labor problems which face the nation's business and industry. Included is a section on federal labor legislation, with special emphasis on the Labor-Management Reporting and Disclosure Act of 1959.

UNIONS IN AMERICA: A BRITISH VIEW. By B. C. Roberts.

Princeton: Princeton University Press, 1959. Pp. 137. \$2.00. A non-American looks at labor unions in the United States and comments that the political orientations of British and American labor organizations are not as different as they have often appeared. Noting that corruption is not a problem in British unions, he attributes the corruption of American unions to a deeply-embedded corruption in American political and commercial life. He contends that the democratizing of unions will likely lead to more vigorous collective bargaining but expresses confidence that rank and file trade unionists will recognize their responsibilities to the public.

U.S. INDUSTRIAL RELATIONS: THE NEXT TWENTY YEARS. Edited by Jack Stieber.

East Lansing: Michigan University Press, 1958. Pp. 215. \$5.00. A volume containing a series of lectures presented by six labor relations experts which attempt to predict trends in union growth, collective bargaining, wages and hours, the role of government, and developments in social security.

THE WORKER VIEWS HIS UNION. By Joel Seidman, Jack London, Bernard Karsh, Daisy L. Tagliacozzo.

Chicago: University of Chicago Press, 1958. Pp. 300. \$5.75. Six local unions — coal miners, plumbers, steelworkers, metal workers, knitting mill workers, and telephone workers — are studied in an attempt to uncover the attitudes of the rank and file union member. The authors consider the essential prerequisite to union democracy is the ability of the members to affect decisions, replace leaders and change policies. They conclude that the unions studied are highly democratic.

INTRODUCTORY BIBLIOGRAPHY ON CANADIAN COMPULSORY CONCILIATION*

HANDBOOK OF CANADIAN LABOUR LAW (1957), by A. C. Crysler: A commentary on the legislation of Canada and its provinces and the decisions of the courts respecting labour relations and trade unions.

COMPULSORY CONCILIATION AND COLLECTIVE BARGAINING, THE NEW BRUNSWICK EXPERIENCE, by W. B. Cunningham: Published by the New Brunswick Department of Labour and the Industrial Relations Centre, McGill University.

The Canadian Industrial Disputes Investigation Act, 36 POLITICAL ECONOMY (February, 1928), by C. L. Dankert.

INDUSTRIAL RELATIONS IN CANADA (1957), by Stuart Jamieson.

Industrial Relations and Government Policy, 37 CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SCIENCE, No. 1 (February, 1951), by Stuart Jamieson.

Compulsory Conciliation in Canada, 10 LABOR LAW JOURNAL 110 (1959), by A. E. Kovacs.

TRADE UNIONS IN CANADA (1948), by H. A. Logan.

STATE INTERVENTION AND ASSISTANCE IN COLLECTIVE BARGAINING, THE CANADIAN EXPERIENCE (1956), by H. A. Logan.

* Prepared by David McCord Wright and S. Kazi.

Canada's Control of Labour Relations, 2 BEHIND THE HEADLINES, No. 2 (October, 1941), by H. A. Logan.

PATTERNS OF INDUSTRIAL DISPUTE SETTLEMENT IN FIVE CANADIAN INDUSTRIES (1958), by H. D. Woods: Published by the McGill University Industrial Relations Centre.

Comparative Settlement of Labour Disputes in the United States and Canada, 9 INDUSTRIAL RELATIONS, No. 3 (June, 1954), by H. D. Woods.

Industrial Conflict and Dispute Settlement, in MCGILL UNIVERSITY INDUSTRIAL RELATIONS CENTRE, SEVENTH ANNUAL CONFERENCE (1955), by H. D. Woods.

Canadian Collective Bargaining and Disputes Settlement Policy: An Appraisal 21 CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SCIENCE, No. 14 (November, 1955), by H. D. Woods.