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Cases and Materials on Labor Law (8th Ed.) by Archibald Cox, Derek Curtis Bok, and Robert Gorman

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Book Review

CASES AND MATERIALS ON LABOR LAW (8th ed.). By Archibald Cox, Derek Curtis Bok, and Robert A. Gorman. The Foundation Press, Inc., 1977. Mineola, New York. Pp. xxi, 1315. \$21.50

On First Looking into Cox, Bok & Gorman¹

*Much have I travell'd in the tomes of gold,
And many goodly texts and casebooks seen;²
Round many labor problems have I been
Which scholars in fealty to the Board do hold.
Oft of new edition had I been told
That Cox and Bok ruled as their demesne;
Yet did I never breathe its pure serene
Till I heard Gorman revise it sound and bold;³
Then felt I like some watcher of the Court
When a new holding swims into his ken;
Or like stout Warren when with all resort
He star'd at the land—and all his men
Look'd at each other with full import—
Call'd "freedom," to the nation again.⁴*

ROGER I. ABRAMS*

1. A. COX, D. BOK & R. GORMAN, LABOR LAW (8th ed. 1977) [hereinafter cited as C,B & G].

2. Casebook materials for a course in labor law are "goodly" and abundant. B. MELTZER, LABOR LAW (2d ed. 1970); W. OBERER & K. HANSLOWE, CASES AND MATERIALS ON LABOR LAW: COLLECTIVE BARGAINING IN A FREE SOCIETY (1972); R. SMITH, L. MERRIFIELD & T. ST. ANTOINE, LABOR RELATIONS LAW (5th ed. 1974); C. SUMMERS & H. WELLINGTON, CASES AND MATERIALS ON LABOR LAW (1968); LABOR LAW COURSE (CCH 1976); LABOR RELATIONS AND SOCIAL PROBLEMS (The Labor Law Group 1972). One major deficiency in the field, a comprehensive Prosserian hornbook, was admirably filled by the recent publication of Robert Gorman's LABOR LAW (1976).

3. The eighth edition retains the traditional order of presentation. First, the authors present selected historical vignettes. Then they trace the development of the collective relationship—the organizational, election-recognitional, and negotiation phases—followed by discussion of strikes, boycotts, and picketing (not an unusual sequence in the real world of labor relations). Antitrust and preemption materials are moved forward, leaving the final 200 pages for intra-union matters.

Unfortunately, the seventh edition chapter on the public sector was deleted. The authors rue that they cannot "do justice" to the area in one brief chapter. However, the well-written text was a useful introduction to the area, especially in those law schools that do not offer an entire course in public sector labor law.

The selection, editing, and ordering of cases in this weighty effort (a gain of ¼ pound and 57 pages over the seventh edition) are, for the most part, commendable and include some noteworthy changes. The outdated cases (e.g., NLRB v. Stowe Spinning Co., 336 U.S. 226 (1949) (company town)) and the overruled cases (e.g., Sinclair Refining Co. v. Atkinson, 370 U.S. 195 (1962) (labor injunction)) have been removed. The authors add most major post-1969 decisions and accord case treatment to major pre-1969 decisions including *Moore Dry Dock* (Sailors' Union of the Pacific, AFL and Moore Dry Dock Co., 92 N.L.R.B. 547 (1950) (C,B & G 833)), *Strucknes Construction Co.* (Strucknes Constr. Co. and Int'l Union of Operating Eng'rs Local 49, 165 N.L.R.B. 1062 (1967) (C,B & G 200)), and *NLRB v. Babcock & Wilcox Co.*, 351

U.S. 105 (1956) (C,B & G 135). Regrettably, *Gateway Coal Co. v. UMW*, 414 U.S. 368 (1974), is relegated to a problem (C,B & G 716-17), *Buffalo Forge v. Steelworkers*, 423 U.S. 911 (1976), to a squib (C,B & G 714-15), and Justice White's dissent in *Savair* (NLRB v. Savair Mfg. Co., 414 U.S. 270 (1973)), has been omitted altogether. The remedies against ULP recidivist J.P. Stevens & Co. appear in note instead of in case form (C,B & G 269); *Nutone* (NLRB v. United Steelworkers, 357 U.S. 357 (1958) (C,B & G 142)), *Virginia Electric* (NLRB v. Virginia Elec. & Power Co., 314 U.S. 469 (1941) (C,B & G 160)), and *Rapid Bindery* (NLRB v. Rapid Bindery, Inc., 293 F.2d 170 (2d Cir. 1961) (C,B & G 255)), are also now treated in note form. The selection of arbitration cases is much changed and improved. The *Steelworkers' Trilogy* is split up (heresy?) by *John Wiley & Sons v. Livingston*, 376 U.S. 543 (1964) (C,B & G 672), and a discussion of a successor's obligation to arbitrate.

The major contribution made by the eighth edition is the doubling of problems for class discussion. See note 4 *infra*. The problems were one of the major assets of the earlier editions, and their multiplication has improved in a "sound and bold" fashion an already superb set of teaching materials.

4. Much of the anticipation of "first looking into" the "oft" foretold new edition springs from the difficulty of teaching labor law in the late 1970's from a casebook last revised in the late 1960's (even with a 1973 supplement). Labor law is an active discipline; the nature of the practice has changed dramatically in the past decade. The rebirth of both the labor injunction, *Boys Markets, Inc. v. Retail Clerks' Local 770*, 398 U.S. 235 (1970) (C,B & G 702), and the antitrust laws in labor relations, *Connell Construction Co. v. Plumbers Local 100*, 421 U.S. 616 (1975) (C,B & G 1024), the NLRB's deferral policy, *Collyer Insulated Wire*, and *Elec. Workers Local 1098*, 192 N.L.R.B. 837 (1971) (C,B & G 738), the demise of constitutional protection for picketing on private property, *Hudgens v. NLRB*, 424 U.S. 507 (1976) (C,B & G 786), and the extension of federal preemption of state labor regulation, *Lodge 76, Machinists v. Wisconsin Emp. Rels. Comm'n*, 96 S.Ct. 2548 (1976) (C,B & G 1062), are all retold and analyzed in the new edition.

The problems for discussion suggest to the student the practical situations that a labor lawyer faces daily. It is this aspect of the discipline, the concern with the real problems of common people, which distinguishes labor law from the more technical advanced commercial courses which are included in every law school's second and third year curriculae. This enhanced practical dimension of *Cases and Materials on Labor Law* is its most significant aspect. However, the burden still remains on the individual instructor to transmit to her or his students the skills, the importance, and the excitement of labor lawyering. While the true test of the new edition will be in the classroom, at this writing I can see no errors comparable to Keats' apparent attribution of the discovery of the Pacific to Cortez.

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Editors' Note: Professor Abrams' inspiration was John Keats:

On First Looking into Chapman's Homer

*Much have I travell'd in the realms of gold,
 And many goodly states and kingdoms seen;
 Round many western islands have I been
 Which bards in fealty to Apollo hold.
 Oft of one wide expanse had I been told
 That deep-brow'd Homer ruled as his demesne;
 Yet did I never breathe its pure serene
 Till I heard Chapman speak out loud and bold:
 Then felt I like some watcher of the skies
 When a new planet swims into his ken;
 Or like stout Cortez when with eagle eyes
 He star'd at the Pacific—and all his men
 Look'd at each other with a wild surmise—
 Silent, upon a peak in Darien.*

