

St. John's Law Review

Volume 21
Number 1 *Volume 21, November 1946, Number*
1

Article 27

July 2013

American Labor (Book Review)

Leonard B. Boudin

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

Boudin, Leonard B. (1946) "American Labor (Book Review)," *St. John's Law Review*. Vol. 21 : No. 1 , Article 27.

Available at: <https://scholarship.law.stjohns.edu/lawreview/vol21/iss1/27>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

Unfortunately also the *Tower*³ and *Lusthaus*⁴ cases invalidating many of the family partnerships that sprang up in recent years were decided after this revised edition was published. The author's comments on these cases would be worth reading. The family partnership attempts to split income, usually between husband and wife, pretty much as the law permits them to do in community property states. It has recently been suggested that Congress tax the income of all married persons virtually on a community property basis. This would have the virtue, at least, of overcoming the decided advantage from a tax standpoint enjoyed today by residents of community property states. There is a rather full discussion by the author of the problem of short term trusts as well as of community property.

In his discussion of the characteristics of income the author devotes an interesting chapter to the subject of gross income, gross receipts and net income, and comes to the conclusion that under the tax law and under the Sixteenth Amendment, Congress might levy an income tax on gross income.

In Part 3 of the book, the author discusses miscellaneous types of income, insurance, annuities, gifts and bequests. The final chapter is a fine summary under the title "Toward a Concept of Taxable Income."

The book is definitely required reading for any student of the subject of income taxation.

BENJAMIN HARROW.*

AMERICAN LABOR. By Herbert Harris. New Haven: Yale University Press, 1945. Pp. 459.

In a sense, *American Labor*, first published in 1938, is outdated. The last eight years have been rich, even luxuriant, in labor history as a result of the acceleration in labor organization, the operations of the National Labor Relations Act, the creation of the C. I. O. and, finally, the war. It is this last period that requires study, analysis and indeed, another book.

That a book is outdated in this sense can hardly derogate from the useful function it serves: a vivid picture of labor history in this country from its beginnings until the late 1930's. The method is an interesting one: two extended chapters on labor history, a final chapter containing many debatable assumptions and some questionable conclusions; and, sandwiched in between are seven monographs, each upon an important labor organization: The United Mine Workers, The United Brotherhood of Carpenters and Joiners, The American Newspaper Guild, The International Ladies' Garment Workers' Union, The Railroad Unions, The United Automobile Workers and The Textile Workers' Union.

The chapter on the United Mine Workers is of particular significance in the light of recent events. One is awed by the firmness of the historical pat-

³ 326 U. S. — (1946).

⁴ 327 U. S. — (1946).

* Professor of Law, St. John's University School of Law.

tern when reading of the threatened coal strike after the first World War. There, too, a strike threat, following the rejection of their wage demands, led to a bitter public controversy between John L. Lewis and the President of the United States, then Woodrow Wilson. The government there, too, relied upon a strictly war measure, the Lever Act, which, while technically in effect, had no more right to continued existence than has the Smith-Connally Act today. At the instance of the government, a federal judge issued an injunction against the threatened strike. Finally, a settlement of the controversy—though in that case with a wage increase and the submission of other matters to arbitration—brought about a somewhat different result from that more recently achieved. Yet the parallel is imposing and the honor that must be paid to familiar experience very great.

A true understanding of *In re Debs*, 158 U. S. 564, discussed in connection with the chapter on the railroad unions, requires a knowledge of the background of the Pullman strike of 1894. Harris gives us a good and detailed description of the controversy including the legal developments in the injunction and contempt cases. One must agree with his conclusion with respect to the Supreme Court's opinion: that "to many observers . . . it appeared that the tortuous explanations which accompanied this verdict of the high tribunal formed an excellent example of rationalization."

Likewise, the NRA period and that of the famous sit-down strikes are well illumined. Many of us do not realize how great were the hopes aroused in employees by the famous Section 7a, guaranteeing the right to join unions, and how great the disappointment that resulted from the inadequate protection of this right. The chapter on the American Newspaper Guild owes much to its discussion of this latter subject. As for the sit-down strikes, there are few sources available today for an adequate picture of their origin, meaning and form; hence the value of this book. In the chapter on the United Automobile Workers, one is reminded again of Dean Leon Green's defense of the legality of the sit-down strike—an opinion with which many, of course, have differed. However, the effect of the sit-down strike and other concerted activities more clearly within the traditional framework on the development of the UAWA is well described.

This book is a welcome addition to the literature of labor history. I regret that labor law has not been equally fortunate. For while on one side of the ledger we have such labor historians as Commons and Andrews, Ware, and Millis & Montgomery, the books on labor law have been encyclopedic in nature or superficial in quality. Aside from Professor Gregory's recent "Labor and the Law," very little has been done in a field where the creative lawyer should be most tempted.

LEONARD B. BOUDIN.*

*LL.B. St. John's University School of Law, and member of editorial board *Law Review*, 1935; Chairman, National Committee on Labor Law, National Lawyers Guild, contributor to law reviews and other periodicals.