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# Presidential Seizure in Labor Disputes by John L. Blackmun

Allen E. Ragan  
*Eastern Kentucky University*

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emotional analysis, but an attempt can be made. We can strike out in other directions than the endless "volumes" of socially scientific "facts" which are always waiting for someone else to "interpret,"—i.e., to render emotionally relevant and therefore meaningful.

What I really want to know is Professor Marshall's evaluation of this great agglomeration of data. What does it all mean to him? What living, vital, real, emotional relevance does it have for him and thereby—possibly—for me? Since history is inevitably partial (historians being human beneath the mask) and since the whole scholarly apparatus is perforce a sham, a facade, for hiding the partialities of historians, let's drop the scientific method pretense, discard the facade, unmask, and adopt a naked humanistic method—introspective, intuitive, subjective, value-conscious, honest, emotional, real.

The mind has been exalted to its present heights largely because the mind was first, historically, freed from taboo and thereby was enabled to produce its myriad concrete and often useful results. But mind is neither primary nor fundamental. Mind receives and organizes perceptions and sensations. Those are primary and fundamental. Those are what we must understand, value, develop, and use if the disease of emotional scientism is to be controlled before it develops into a fatal plague. We will probably be as surprised at the concrete, materialistic, down-to-earth results of a humanistic method as we have been amazed at and confused by the results of the scientific method. After all, our crying need is not for more statistics or for more impersonal intellects capable of abstractedly producing more super weapons out of more super facts. Our need is for methods of handling emotions so that we can and will destroy weapons. A race of geniuses with the emotional know-how of cavemen has no survival value at all.

If *Labor in the South* is the gauge, clearly any of the proposed substitutions of social science courses for conventional law school courses in our law schools will substitute Tweedledum for Tweedledee. What is the emotional relevance of *Labor in the South*? Of history? Of the humanities? Of law?

Henry W. Seney  
Assistant Professor of Law  
University of Kentucky

PRESIDENTIAL SEIZURE IN LABOR DISPUTES. By John L. Blackman. Cambridge: Harvard University Press, 1967. Pp. 351. \$10.00.

This scholarly study is written by a former reporter and city editor

of *The Christian Science Monitor* who has extensive experience in labor reporting. Abandoning journalism, the author turned to scholarship. Since receiving a Ph. D. in economics from Harvard in 1957, he has been teaching at the University of Massachusetts.

The book, a comprehensive analysis of the seventy-one presidential seizures of businesses during labor disputes, should be of interest to students of labor-management relations, to the legal profession involved in labor and constitutional law, to students and practitioners of public administration, and to political scientists concerned with the role of the President in settling a labor dispute.

The author's justification for his research in producing the volume is that "The experience with seizure and other forms of required production has not been previously studied in its entirety as a distinct form of presidential action in labor-market impasses. Not only have some of the actual instances been overlooked, but the total experience of required production has not been systematically explored in its relationship to national emergency labor disputes."

The study of seizures reveals what has been done by past presidents in their attempts to protect the public interest, both in time of war when most seizures have occurred, and in more normal times when work stoppages have threatened the national economy. With each strike or threat of strike concern arises as to the adequacy of federal law or authority to protect the national interest.

Seizure, although most frequently used, is only one of several kinds of sanctions authorized by law or improvised by presidents to keep businesses in operation. Other methods employed have been citation of strike leaders for violating injunctions, prosecution under criminal statutes, the use of soldiers and civilians as replacements, qualified martial law, and the enactment of temporary legislation. Nine presidents, beginning with Lincoln's seizure of the Philadelphia and Reading Railroad in 1864, have used one or more of these methods. Presidential intervention in labor disputes has had three purposes: to stop violence, to ensure the continuance of production, and to mediate a settlement.

The author, however, makes it clear that government policy for the past century (despite its general toleration of strikes) has been not to permit its essential operations to be interrupted by industrial stoppages—caused by either labor or management in time of war or peace. These essential operations include those of a military character, the protection of the postal services, and especially, the industrial processes of the nation involved in interstate commerce.

The author covers his subject in ten concisely written chapters

whose titles clearly reveal their general content: control in emergency disputes, resistance to seizure, overcoming resistance to seizure, effectiveness of seizure, keeping production going, enforcement of labor decisions, settlement of disputes, minimizing the interference with managerial authority, reduction of conflict with normal regulatory agencies, and seizures compared with other experience in required operations.

Probably the most interesting chapter to the legally minded, is "Keeping Production Going." The author begins by saying that "The forcible withdrawal of the right to strike and to lockout in a particular dispute, without generally denying this right, places the government under the obligation to use this power responsibly." From this sense of responsibility, administrative standards have evolved from provisions in statutes authorizing seizure, from legal opinions of attorneys general, and from Supreme Court decisions. In short, experience with seizure has clearly indicated that the President cannot go far without the approval of Congress and the Supreme Court. President Truman learned that lesson well from his experience with both Congress and the Supreme Court during the Korean War.

The footnotes to this study are voluminous, consisting of twenty-six pages, and indicative of the scope of the author's exploration of his subject, although some readers may take exception to their location toward the end of the book. The utility of the volume is definitely increased by the inclusion of six appendices and an adequate index. The first appendix provides a list of presidential seizures indicating the property seized, the inception and conclusion of seizure, the seizing and operating agency, and the authority and reason for seizure. Appendix A also contains notes supplying further information on many of the seizures. The remaining appendices deal briefly with federal law authorizing seizure, cases of required production not involving seizure, and other pertinent data.

Over all, this is a rewarding book to the serious student bent upon seeking an understanding of a problem that has plagued the nation for more than a century and one that will continue for the foreseeable future. Perhaps compulsory arbitration of labor disputes will ultimately be resorted to.

Professor Blackman has written well. His phraseology is simple and understandable, free from the often confusing diction of the behaviorists. For that we may be thankful.

Allen E. Ragan  
Professor of Political Science  
Eastern Kentucky University