

Smith: Labor Law: Cases and Materials - Second Edition

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Labor Law: Cases and Materials. Second Edition. By RUSSELL A. SMITH. Indianapolis: The Bobbs-Merrill Co., 1953. Pp. xxxiii, 1003. \$9.00.

It may be unusual to have two individuals read and digest the same book for the purpose of writing a joint review. Such a joint effort, however, makes a great deal of sense when the book to be reviewed is in the labor field, and more particularly so when it is a casebook purportedly designed to cover the labor field at the classroom level.

At the outset we all recognize that there are certain characteristics of the labor law field, namely: that many changes have occurred and that the law of labor is still very much in a state of flux; that there has been, and there still is, a great deal of dissatisfaction with present, and a real need for good, teaching materials; that opinions as to what constitute good teaching materials vary greatly, and that feelings in this field are very often quite violent. With these in mind, and in order to evaluate and review as fairly as possible, we have undertaken this joint review.

It is perhaps also somewhat unusual that the opinions of two individuals who separately read and evaluate a casebook should so closely concur. Perhaps, this in itself would reflect the over-all excellence of Professor Smith's work.

As a matter of fact, little objection is found to the over-all quality of the book. Whatever objections there are, are registered as to matters of quantity in certain areas, emphasis, and the brevity of treatment in others.

This is a second edition of an outstanding casebook, the first edition of which appeared in 1950 in "loose leaf" form. In this second edition, Professor Smith has made many changes, including the addition of a number of recent leading cases, the omission of a number of cases which have been modified either by Court decision or Board ruling, the substitution of a number of cases, the omission of some note material and the addition of others. These changes, together with deletion or reduction of material on certain statutes, and particularly on the subject of history or background of American labor law, has had the effect of bringing the edition up to date and making for a more comprehensive, better-balanced and teachable book.

This second edition is a 1003 page volume in comparison to the 1450 pages contained in the original edition, which, as is noted above, was in "loose leaf" style, the purpose of which undoubtedly was to feed both student and professor with recent materials and cases. As might be suspected, this objective in a field so fluid as labor law was obviously found to be too costly, burdensome and impracticable.

Since any additional comparisons between first and second edition would be of little interest or value, we shall confine this review solely to the second edition and refer the reader, should he desire a review on the first edition, to an excellent one made by Livengood.¹

This casebook might well be called a book on industrial relations rather than a book on labor law, since it is confined primarily to the National Labor Relations Act, as amended by the Labor Management Relations Act, and the methods of attaining good management-labor relations. The field, covered by the Fair Labor Standards Act, Byrne's Act, Portal to Portal Act, Workmen's Compensations Laws and others are left undeveloped. This is as it should be.

¹ Livengood, Book Review, 3 J. Legal Educ. 319 (1950).

Some of these acts are so extensive in themselves that all of them should not be attempted in one volume.

The comprehensiveness of this work in the field above defined can be readily ascertained by scanning the table of contents which indicates a general division of the subject matter into four parts.

PART ONE deals with the background and history of American labor law, including the development of American legislative policy with respect to unionism. The subject is covered in something less than 30 pages, considerably less than the space required in the original edition. It is not to be supposed, however, that this treatment is inadequate, for with the references and citations to law review articles, texts, congressional reports, and speeches, the coverage is complete enough to satisfy the most ardent student of labor relations.

PART TWO treats unionization and collective action. In this section the terminology so peculiar to labor law is generally defined. This is of inestimable benefit to the professor who so frequently finds in his classes a group of students who are totally lacking in any background of labor relations. This section is replete with statistics, legislative reports, debates and pertinent Board reports. The constitutionality of the labor relations legislation is covered in but very few pages, yet all of the landmark cases are not only cited but treated very adequately in short paragraphs.

In this section, the notes are truly exhaustive and each important statutory field is developed from legislative sources down through administrative rules and regulations. It is here that an objection may be registered, bearing in mind that the casebook is geared primarily for student use. The student would, we are afraid, soon find himself lost in the maze of minute and meticulous development. While such an exhaustive treatment by note material may be invaluable to professor and practitioner, it may "scare away" the novice in the labor field.

In dealing with the so-called "C" and "R" cases, the editor deals almost exclusively with WHAT would supply the basis for unfair labor practices and representation proceedings, but omits any consideration as to HOW these unfair labor practices or representation problems may be heard and decided by the Board and appealed to the Courts. A diagram of steps in both types of cases would aid both student and new practitioner.

PART THREE is exceptionally excellent in its content and development. It is a refreshing blend of the theoretical and the practical, leaving the student with something of real value. The section itself is divided into two parts, i.e., the making and enforcement of the collective agreement and the voluntary arbitration of labor disputes. The making and enforcing of the collective agreement not only is developed in theory by cases as to the statutory requirements, but contains also the practical approach to the bargaining procedure. Professor Smith has taken portions of actual contracts between labor unions and management in illustrating the subject matter which should be included in the negotiation of a contract.

Of course, the teacher of labor law will soon recognize and realize that too much time cannot be devoted in the average course of one semester to the development of collective agreements and arbitration. However, this portion of the casebook contains in itself enough material to form the basis of a full term's work in collective agreements and arbitration.

PART FOUR deals with the internal and external relations of unions, including the legal status of unions, development of unions through case and statute, federal and state. The selection of cases in this part of the book is excellent, as are the footnotes. While these footnotes appear to be exhaustive, it is the only manner in which the subject matter in question can be properly treated without an almost endless chain of cases.

Again, as is true in certain other portions of the work, there seems to be an emphasis on WHAT rights the union member has and what disciplinary actions may be taken against him by the union. There is an almost too obvious absence of HOW he should proceed and what remedies are available to him.

In summary and conclusion, two general observations may be made:

First, the principal objection or weakness of the casebook, in our opinion, is that too much emphasis has been placed on the WHAT and too little on the HOW; that the editor and author would have achieved a more adequate coverage and a book of greater value to the student who takes only one course in labor law if more of the practical procedural steps of presenting cases before administrative bodies and appellate tribunals had been woven into its fabric.

Secondly, taking the casebook as a whole, it is an excellent one and is undoubtedly the best labor law book published to date. As such it fills a real and long-existing void in the teaching materials of an important phase of public law.

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