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American Labor Struggles and Law Histories

Kenneth M. Casebeer

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From slave rebellions, to the Lowell Mill girls, to Wisconsin and the Tea Party; this book tells the stories of law and legal action inevitably intersecting the collective actions of workers, in triumph or in anguish, over all of United States history.
Most people assume labor actions are carried out through trade unions and, therefore, that the relevant law of labor is the regulation of a particular form of collective bargaining between the representatives of workers (unions) and the representatives of owners (management). Neither assumption is accurate. It is striking to discover that most of the key labor struggles described in this book started either spontaneously among a group of workers, or at least began out in front of a sometimes unprepared or skeptical national union leadership that had to catch up to its members. Labor has at different times chosen strategies well beyond bargaining backed by strikes, including: consumer information (the union label); boycotts; picketing; small scale and ad hoc control over the tools, speed, and process of work; occupation of industrial plants; cooperative ownership; civil rights actions; independent and/or party politics; mass exodus; or even rebellion.
Not surprisingly, while sometimes invoked by labor as well as management, an amazing range of legal practices have been used by the State in the protection of employer interest and/or the repression of labor. Frequently, law appeared in protection and expansion of the common law prerogatives of property, antitrust legislation applied to unions but not to trusts, criminal and civil conspiracy convictions sustained by courts at all levels through sweeping injunctions prohibiting labor activity, and often use of militia or the U.S. Army explicitly to break strikes.
Importantly, entering law as an intervention in collective struggle inevitably requires a view of law from the bottom up. In contrast, entering law initially via Supreme Court opinions and other elite texts tends to record legal activity as winners-only history. Yet, as American Labor Struggles and Law Histories shows, law is always constructed as one arena of social struggle, channeled and shaped by both winners and losers. The deployment of power in our society has always altered our understandings of the possibility of democracy, particularly as American workers have fought to better their lives.

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