

# Washington University Law Review

---

Volume 1949 | Issue 1

---

January 1949

## Review of “Cases on Labor Relations,” By Harry Shulman and Neil Chamberlain

Elmer E. Hilpert  
*Washington University School of Law*

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_lawreview](https://openscholarship.wustl.edu/law_lawreview)



Part of the [Law Commons](#)

---

### Recommended Citation

Elmer E. Hilpert, *Review of “Cases on Labor Relations,” By Harry Shulman and Neil Chamberlain*, 1949 WASH. U. L. Q. 200 (1949).

Available at: [https://openscholarship.wustl.edu/law\\_lawreview/vol1949/iss1/8](https://openscholarship.wustl.edu/law_lawreview/vol1949/iss1/8)

This Book Review is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

Law may find Mr. Gregory's book more exciting and more comprehensive. The practitioner engaged in the day-to-day corporate and labor practice will find much of value in Mr. Cox's materials. Both volumes might well find their place on the practicing lawyer's library shelves.

CHRISTIAN B. PEPER†

CASES ON LABOR RELATIONS. By Harry Shulman and Neil W. Chamberlain. The Foundation Press, Inc. Brooklyn. 1949. Pp. ix, 1266. Price, \$8.00.

The appearance of this book is a pleasant surprise! It is not just another casebook on "labor law." As its title states, it is a casebook on "labor relations,"—which is quite another, and a much more significant, matter. Its title, however, does not sufficiently apprise one of the book's unique character—it is a collection of the opinions of arbitrators in labor-management disputes.

Those who actively engage in labor relations as company personnel directors, union representatives, or arbitrators will recognize at once the timely need for this casebook. To law students and to most lawyers, certainly, and, very probably, even to some lawyers who advise clients on labor relations, this book will present an area of labor "law" in which they have hitherto been quite unversed. Whether or not one belongs to the school of thought that reacts violently to any suggestion of *stare decisis* in labor arbitrations, this book will provide an opportunity "to learn," as the editors put it, "by vicarious experience." A study of materials such as are here collected will add very considerably to one's knowledge and understanding of the problems of draftsmanship and of administration that arise under "collective bargaining" agreements; it will help prepare those who hope to participate, and will assist those who already participate, in labor relations; it will invite comparison; and it is bound to exert an influence much the same as is exerted by the "comparative" study of law in our law schools.

The editors of this casebook came to their task singularly well-equipped. Mr. Shulman, Sterling Professor of Law at Yale University School of Law, and a skilled casebook editor in more traditional law school subjects, has also practiced law and been in government service. He is a widely experienced and highly successful labor arbitrator. In this field, Mr. Shulman is perhaps best known as the permanent Umpire for the Ford Motor Company and the United Automobile, Etc., Workers of America, C. I. O. Mr. Chamberlain is an economist on the faculty of Yale University; and he is the Director of Research of that university's Labor Management Center. Among others, he has published a brilliant article entitled "Collective Bargaining and the Concept of Contract."<sup>1</sup> Thus, not only does each of the editors have some of the training and experience, and possess some of the skills, needful to an appreciation of the problems of labor

† Member of the St. Louis Mo. Bar.

1. Chamberlain, *Collective Bargaining and the Concept of Contract* (1949) 49 Col. L. Rev. 829.

and management, but the training, experience and skills of each complement those of the other.

*Cases on Labor Relations* was designed for use in courses "in law schools, business schools, schools of industrial relations, or departments of economics, sociology or political science." The mere introduction of the "case method" into college, and into business and industrial school courses, especially in the study of labor problems and labor relations, would be a step forward toward careful and cautious analysis; but here it would seem that this book would better serve as "readings" to supplement lecture and text. Its approach is so much that of the traditional law school case-book, and the subject-matter is so interwoven in the fabric of the law, that it would better be reserved, as a principal basis for instruction, for law school courses. In law schools, a course based on materials such as these has long been wanted to provide instruction above and beyond the usual course on Labor Law.<sup>2</sup> Law schools with small faculties, and consequently limited as to curricula, might adopt the book for a "post-admissions" course in labor relations. Urban-located law schools may well find such a "post-admissions" course exceptionally well-received by members of the Bar who advise, or aspire to advise, on labor relations on the basis of formal training that antedates the rise of "collective bargaining" and of labor arbitration.

The reviewer would relish the prospect of meeting such a class in labor relations with this collection of materials as the medium of instruction for both teacher and students!

The editors of *Cases on Labor Relations* begin with an introduction to "The Collective Bargaining Process." There is a provocative editorial foreword and an extensive bibliography. There follow fifteen cases; and nothing is taken from their worth by the fact that all of them involve the Ford Motor Company and the United Auto Workers and by the fact that the opinions in all of them were written by Mr. Shulman. While general, as an introductory chapter must be, here is set the tone for all that follows. Lawyers and lawyer-arbitrators, especially, would do well to read this chapter carefully, and pursue its bibliography, the better to understand in the succeeding chapters that "collective bargaining" agreements do not always fit neatly, in their drafting or in their performance, into "Willistonian concepts of contracts." As the editors state in their foreword, the labor-management contract

is to labor relations approximately what the wedding is to domestic relations. It launches the parties on their joint enterprise with good wishes and good intentions. The life of the enterprise then depends on continuous, daily cooperation and adjustment.

There are eleven principal chapters, which in the main follow what one may call the logical arrangement of genesis. There is considered in this order, "Workers' Security of Employment," involving such matters as probation, lay-off and recall; "Assignment," involving such matters as transfers, shift preferences, and job content; "Discipline"; "Promotions and Demotions"; "Wages"; "Hours"; "Overtime and Premium or Penalty

---

2. Wirtz, On Teaching Labor Law (1947) 42 Ill. L. Rev. 1.

Pay"; "Holidays, Vacations and Other Benefits"; "Safety and Health"; "Rates of Operation and Workloads"; and the troublesome matter of "Union Security." The problems arising under these heads, and their resolution by arbitrators, are illustrated through 430-odd cases. The cases seem well-distributed among these topics in proportion to their relative importance or, at least, to the frequency of their appearance in arbitration forums. Thus a great deal more material is devoted to "Assignment," "Discipline," and "Wages" than to "Hours," "Overtime and Premium or Penalty Pay," "Holidays," "Vacations and Other Benefits," "Safety and Health," and "Rates of Operation and Workloads"; and the allotment of material among these principal topics is substantially equal.

An excellent feature is the bibliography that precedes each chapter. There is a very adequate index; but there is no table of cases,—very probably because the style of so very many of them is repetitive.

Of the 430-odd cases appearing in the casebook, 102 are Ford Motor Company cases, decided by Mr. Shulman. This is no doubt due to a need to resort to his back-log of hitherto unpublished opinions for lack of published material, on many points, in either the *Labor Arbitration Reports* or the *American Labor Arbitration Awards*. Another 18 cases are Chrysler Corporation cases, decided by Mr. David A. Wolff, Chairman of the Appeal Board of that corporation and the United Automobile, Etc., Workers of America, C. I. O. This large number of Auto Worker Cases, taken together with a very substantial number of cases involving the United Steelworkers of America, C. I. O., many unduly weight the materials in some respects. Again, there are many more cases involving C. I. O. unions than A. F. of L. unions; but this is understandable and was unavoidable.

On the whole, however, the cases have been well selected. In so far as there are any "leading cases," such as the case establishing the so-called "Rand Formula," these seem to have been included; and most of the well-known arbitrators are well "represented." Thus, there are 32 cases decided by Whitley P. McCoy; 27 decided by Herbert Blumer; 24 decided by George W. Taylor; 17 by Charles O. Gregory; 16 by Clarence M. Updegraff; and numerous cases decided by other arbitrators of note, such as, Dudley E. Whiting, Clark Kerr, Joseph Brandschain, David L. Cole and others. There are also opinions by James M. Landis, Young B. Smith, Walter Gellhorn and Alexander Hamilton Frey.

As would be expected, most of the arbitrators whose opinions were selected for inclusion in this casebook are lawyers; and many of them, as has already been revealed, are law teachers. Hence, despite the note of warning by the editors that these opinions were written primarily for the parties and not for publication, most of them will be found to be "well-written," at least for instructional purposes. But, since the law teachers have enjoyed for years a virtual monopoly in having the "last word" on judicial opinions, one cannot resist an eagerness to take advantage of the opportunity these materials provide to dissect the opinions of law teachers in the class-room.

For this, too, the editors deserve credit.

ELMER E. HILPERT†

---

† Professor of Law, Washington University.