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Ouvrage recensé :

Labored Relations: Law, Politics and the NLRB by William B. GOULD IV, Cambridge, Mass.: MIT Press, 2000, 449 pp., ISBN 0-262-07205-X (hc: alk. paper), 0-262-57155-2 (pbk).

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Relations industrielles / Industrial Relations, vol. 57, n° 2, 2002, p. 400-402.

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DOI: 10.7202/006789ar

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(RI/IR 56: 4, ISBN 0-19-541479-9) begins precisely this quest by proposing a “people-centred agenda for work reform” in the belief that “individuals can shape the future of work to meet their needs and aspirations.” It makes a thoughtful beginning. Filling this gap in *What’s a Good Job?* is also necessary. It would be significantly facilitated by a theoretical approach that actually in-

tegrated the “relational” with the “structural.” In so doing, both the conflictual and accommodational dynamics of employee and employer relations could be specified in a manner that provided some direction for the way forward to “good jobs” for all.

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Labored Relations: Law, Politics and the NLRB

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The presidency of William Jefferson Clinton was launched amidst a flurry of reformist zeal. Health insurance and gays in the military attracted the highest public and media profiles but labour law reform also figured prominently among candidates for fundamental review. Like the top-billed issues, however, it did not sustain its early promise and little of the ambitious agenda was realized. Bill Gould’s *Labored Relations*, a memoir of the four and a half turbulent years he spent as Chairman of the National Labor Relations Board, offers insights into the meagre outcome and, in a narrative laced with excerpts from his diaries and buttressed with extensive appendices, sets out a decidedly personal view of events and characters militating against more substantive achievements.

William B. Gould IV, the great-grandson of a former slave and a life-long Democrat, is Professor of Law at Stanford Law School and a respected labour relations scholar. Gould asserts that his book is about “the relationship between law, a quasi-judicial administrative agency and politics in the volatile arena of labor policy.” He adds that it is also about “the balance of power between labor and management” and “the rule of law and the role of labor in the modern economy,” but it is the first of the three themes that dominates the text and that unintentionally, it is

presumed, portrays a Chairman who contributes to and intensifies the volatility.

At the time of his nomination to the NLRB Chairmanship in June, 1993, Gould’s views on reform of the National Labor Relations Act were already well known. Other writings and public utterances had identified his opinions on specific changes needed to address deficiencies in the Act and its interpretation, which he considers inhibit access to collective bargaining and contribute to the overall decline of the American labour movement. His reform list included such features as first contract arbitration, certification based on signed cards and restrictions on permanent replacement workers. These were the kinds of issue, together with procedural reforms such as more readily exercised injunctive relief, the formulation of NLRB rules based on well trodden jurisprudence and expedited case-management practices, which Gould hoped to pursue during his term of office. *Labored Relations* chronicles his attempts to do so, relates his modest successes and, most often, rails against the institutional roadblocks he encountered and the personal opposition he frequently provoked.

Gould makes solid cases for several of the reforms he champions. Virtually none of the substantive changes he

supports would trouble Canadian practitioners. Despite the practical nature of many of Gould's suggestions, few were implemented during his chairmanship. He attributes the lack of progress to political and institutional factors and also blames colleagues for perceived professional and personal weaknesses. The political and business climates were not propitious. Incipient anti-union sentiments blossomed in the Reagan and Bush Sr. years and union avoidance emerged as a subset of management consultancy. By recalling that the NLRA "declares the practice and procedure of collective bargaining to be the public policy of the United States," Gould incurred the wrath of such bodies as the National Right to Work Committee and the Labor Policy Association and invited vehement and sustained opposition from Republican ranks in Congress. That opposition first manifested itself in his confirmation proceedings lasting more than eight months. It intensified after the Republicans took control of both the Senate and the House in 1995, leading to acrimonious appropriation hearings and delayed confirmation of Board appointees. Within the Board, Gould was frustrated by statutory provisions that do not accord the Chairman authority to manage the caseload and that place responsibility for the vast majority of the Board's staff with the General Counsel who is effectively beyond his control.

Opposition to Gould from Republicans in Congress and from doctrinaire members of the management community, would likely have proved insurmountable under then prevailing political circumstances. The Chairman's style, however, did nothing to smooth the path. At times he leaves the impression that he could pick a quarrel with a love bird. Fresh from stormy Senate confirmation proceedings with "a badge of honor" in the form of the most No votes of any Clinton nominee to that point, he issues a terse statement claiming "a victory over a determined campaign of

cynical character assassination waged... by right wing ideologues in the Republican Party" whom he subsequently equates with, "those who have promoted partisan politics over good government." But his "victory" was not the end of the battle; it was not even remotely the beginning of the end. Licking wounds and taking stock might have served him better than poking the finger in the eyes of those who would have much to say about the Board's resources.

Saying too much or saying the right thing but in the wrong place or at the wrong time seem to be well developed propensities. Responding to Senators with seminar like replies did not help. Gould promised himself to exercise greater caution but to no avail. Close to the end of his term, he became embroiled in controversy over written testimony he filed with the California legislature concerning Proposition 226. The proposition required prior permission from union members to spend dues for political purposes rather than the negative option approach inherent in NLRB jurisprudence. His criticisms included mention that a result would be to cripple a major source of funding for the Democratic Party. Republicans jumped on the statement as further proof of the Chairman's partisanship but, perhaps more telling of a faulty political antenna, he also incurred the displeasure of Democrats who did not want attention drawn to their finances.

Board collegiality seems to have been a problem. Sworn in the same day as three colleagues, Gould had his ceremony conducted by a Judge friend rather than the Secretary of Labor who officiated for the others. This assertion of special status continued in the form of apparently frequent separate concurring opinions. More pointed are his repeated criticisms of fellow Board members. Washington insiders who had "walked across the street" from positions as congressional staffers or similar jobs, receive particular mention.

Gould believes that their main concern was to seek re-appointment and remain secure in the Washington milieu. The prospect that the very people who know the system could help is discounted. Few are perfect and doubtless some of Gould's criticisms, particularly those about timeliness, were founded but often it seems that all but chosen members of the Chairman's personal staff were out of step.

The content of labour legislation is the domain of governments and legislatures but, to borrow a phrase coined by Marc Lapointe, former Chair of the Canada Labour Relations Board, "breathing life into the law" is a legitimate role for labour boards. In this respect, Bill Gould's efforts met with limited success. As a result, *Labored Relations* is an account of frustration and disappointment. However, that does not make it a disappointing book. It provides a portrait of one agency caught in a larger maelstrom of legislative gridlock and two shut downs of government operations in the world's most powerful nation. With *Locked in the Cabinet*, the humorous and thoughtful memoir of Robert Reich, Secretary of Labor in the Clinton first term, it helps explain why the Administration's priority for labour relations reform was derailed. Gould's style aggravated matters but it was not at the root of the right-wing tsunami that washed up the Republicans' *Contract with America*. All the same, his opinionated and combative tendencies, qualities that may serve the academic to advantage, are not always appropriate for the public official. Given the prevailing political turmoil, he may have benefited by heeding advice to moderate his public statements.

The failed attempt at labour law reform during the 1990's is evidence of the strength of the anti-union lobby in

the United States. The American private sector is under the virtually single jurisdiction of the National Labor Relations Act which, subsequent to the adoption of the Wagner Act in 1935, a law favourable to collective bargaining, has been subjected to a dilution of union rights. Congressional pressure has been the driving force, whether through adopting, over a presidential veto, Taft-Hartley with its confirmation of state right-to-work laws, or through blocking attempts at reform under the Carter and Clinton Administrations. Arguably, the result of the division between executive and legislative branches has been more check than balance. In Canada, the lobby is less well entrenched and support for free collective bargaining more evident. Also relevant is a Parliamentary system in which the executive and the legislative overlap and governments are more certain of realizing their legislative objectives. In general, these factors have resulted in a pattern of incremental and balanced amendment to our labour laws. However, with multiple labour relations jurisdictions, one federal and ten provincial, some provinces have witnessed successive governments pursuing polarized positions with too little regard for balancing the interests of both labour and management. Ontario, first under the NDP and then under the Conservatives, offers a recent example of this pendulum effect and reminds us that labour law is a politically charged subject matter. The challenge for administrators is to insulate labour law reform from political excess, a challenge which *Labored Relations* suggests Bill Gould had difficulty in meeting.

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