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## Review of the Book *Labor Relations and the Litigation Explosion*

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## Review of the Book *Labor Relations and the Litigation Explosion*

### **Abstract**

[Excerpt] *Labor Relations and the Litigation Explosion* is a very readable book that is easily accessible to nonspecialists. (The author has presented more technical treatments of the material elsewhere; see Flanagan 1986a, 1986b.) The early chapters begin with a discussion of federal policy towards labor relations in the United States under the National Labor Relations Act, a documentation of the growth of unfair labor practice charges that occurred over the 1950-1980 period and then a demonstration that this growth can be only partially "explained" by the changing industrial and regional distribution of employment in the United States. Quite interestingly, he presents comparative data from Canada, which has a regulatory system for labor relations similar to the NLRA, and shows that similar growth occurred there. Chapter 4 then critically surveys the extensive prior literature that purports to show how unfair labor practice charges have influenced union growth in the United States; Flanagan's conclusion here, buttressed by some empirical work of his own, is that changes in labor law policy are unlikely to have a broad influence on the degree of union representation in the economy.

### **Keywords**

labor relations, National Labor Relations Act, NLRA, labor law, union representation

### **Disciplines**

Labor Economics | Labor Relations

### **Comments**

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also eased what people both inside and outside the industry see as a gradual decline and a giving away to imports.

In sum this is a good book and should be read by all interested in the Japanese economy, industrial policy, trade and comparative systems. Economists who expect price and income effects and formal models bristling with equations and parameter estimates may be disappointed but those interested in learning more about the institutional side of the Japanese economy during its era of adjustment to slow growth will find much to learn and cull from this valuable and succinct account.

CARL MOSK

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*Labor relations and the litigation explosion.* By ROBERT J. FLANAGAN. Washington, DC: Brookings Institution, 1987. Pp. x, 122. \$26.95, cloth; \$9.95, paper. ISBN 0-8157-2858-1. *JEL 87-1219*

When requested to review this book, written by a coauthor of mine, I thought about declining the assignment on the grounds that a review from a totally disinterested observer would be preferable. However, since I had previously read the book and concluded that it presented an important message, I decided instead to use the opportunity to express this view.

In recent years, much attention has been devoted in both academic literature and the popular press to the decline in union membership in the United States and the increased propensity of unions to lose organizing elections. Numerous explanations have been offered for these trends including changes in the industrial, regional, and demographic distributions of employment and the belief that management has become more "anti-union." The latter claim is often documented by referring to the large increase in the number of unfair labor practice charges filed by unions and employers with the National Labor Relations Board, the regulatory agency that supervises labor management relations in the United States. Such evidence provides the basis for many proposals to reform labor relations law.

Robert Flanagan's brief monograph is a comprehensive analysis of the "explosion" of unfair labor practice charges in the United States and of the factors responsible for this explosion.

While there is a long literature in economics that follows in the tradition of the pioneering works of Gary Becker and George Stigler and treats compliance with various types of legislation (e.g., minimum wage, overtime pay premium, personal income tax) in a benefit/cost framework, Flanagan is the first researcher to use such an approach to explain the behavior of participants in the labor-relations law arena.

In particular, Flanagan stresses the important role played by growing union/nonunion wage differentials throughout the decade of the 1970s in providing an economic incentive *both* for employers increasingly to violate the National Labor Relations Act *and* for unions increasingly to challenge actual and perceived violations of it. In contrast to more traditional approaches that stress changing attitudes towards unions and changing interpretation and enforcement of labor law by "anti-union administrations," Flanagan stresses underlying economic forces. This novel perspective permits him to bring fresh insights to the debate about the desirability of alternative forms of labor law reform.

*Labor Relations and the Litigation Explosion* is a very readable book that is easily accessible to nonspecialists. (The author has presented more technical treatments of the material elsewhere; see Flanagan 1986a, 1986b.) The early chapters begin with a discussion of federal policy towards labor relations in the United States under the National Labor Relations Act, a documentation of the growth of unfair labor practice charges that occurred over the 1950-1980 period and then a demonstration that this growth can be only partially "explained" by the changing industrial and regional distribution of employment in the United States. Quite interestingly, he presents comparative data from Canada, which has a regulatory system for labor relations similar to the NLRA, and shows that similar growth occurred there. Chapter 4 then critically surveys the extensive prior literature that purports to show how unfair labor practice charges have influenced union growth in the United States; Flanagan's conclusion here, buttressed by some empirical work of his own, is that changes in labor law policy are unlikely to have a broad influence on the degree of union representation in the economy.

The heart of the book, however, is Chapter 5 which presents a model of optimal labor-law

compliance from the perspective of both unions and management and then empirically tests the model using aggregate time-series data on unfair labor practices over the 1950–1980 period. The evidence in this chapter strongly suggests that the economic benefits and costs to unionization, as crudely proxied by the union/non-union wage differential, more strongly influence the volume of unfair labor practices than the way the NLRA has been administered. Given this evidence, the discussion in Chapter 6 of potential policy reforms is heavily influenced by how these reforms would influence employers' and unions' benefit/cost calculations.

To say that I think highly of this book is not to say that it is without shortcomings. I rue the fact that much of Flanagan's empirical analyses stop in 1980; the reader can only wonder how the changing economic fortunes of unions in the 1980s, have influenced the volume of unfair labor practice charges. I also regret that virtually all of Flanagan's econometric tests utilize only 30 annual aggregate time series observations; one wonders if panel data at the level of bargaining units or industries could have been used to conduct more precise econometric tests of hypotheses. These shortcomings, however, in no way minimize the major contribution I believe this book has made. Subsequent analyses of labor law reform will be heavily influenced by Flanagan's economic analysis of labor law compliance.

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