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Atleson writes on labor law during wartime

BY LISA MUELLER '93

Reform of the federal law of labor relations has been a staple of discussion among legal scholars for many years. Most examinations of this area have tended to emphasize substantive and procedural changes. UB Law Professor James B. Atleson adds a new dimension to that discussion in his recent book, "Labor and the Wartime State, Labor Relations and Law during World War II." Atleson, who teaches labor law history at UB Law with Professor Alfred S. Konefsky, has devoted substantial time to examining the role of history in providing the context in which legal rules have arisen. After completing his first book, "Values and Assumptions in American Labor Law," 1983, Atleson says, "I became convinced that the World War II period was important in the development of post-war labor law.

"Too many law history books end one chapter with 'And then came the war...' and begin the next chapter with 'During the post-war period...' as if nothing happened. I was convinced that the World War II era had a significant impact on post-war labor law, and the more I studied it, the more I realized that its effects were several."

In "Labor and the Wartime State," Atleson addresses these effects by looking back to one of the formative stages of labor law and labor relations in the United States. He describes the 1940s and, specifically, the wartime period as a critical time in the formation of legal and labor relations policies and institutions. His analysis demonstrates that legal regulations, policies and pressures during the war had a profound effect upon labor union structure, labor law, and collective bargaining in the post-war period.

"I began this project with the notion that legal regulation during the war profoundly affected the structure of post-war law," says Atleson. "But I soon realized that the war itself — its policies, needs and pressures — were as important as wartime legal rules."

Much of Atleson's discussion focuses

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es on how the impact of the war affected labor relations both during and after the war. Atleson shows how wartime ideas, policies, and even language were smoothly carried over into peacetime.

This transition is made clear in Atleson's discussion of how the development of collective bargaining in the 1950s and 1960s mirrors labor relations policies during World War II.

"At the time of the war, all of the lawyers, scholars, economists and practitioners were in government positions in Washington. It was only natural that the

views and policies they formed in Washington were carried over and applied to labor law policy years later," says Atleson.

Atleson's book also addresses the historical misconception that strikes led by wartime factory workers were a product of the employees' lack of sophistication. A significant number of wartime workers included women and farm workers.

"Although there were no organized union strikes during the war, there were thousands of wildcat strikes," says Atleson. "One of the great historical questions is, why did they occur? Why would workers strike during a popular war, when they were being paid the highest wage level that they had ever received in their lives?"

"One of the historical explanations is that the workers did not understand the production requirements of the factories, or the union grievance process."

Atleson disagrees and points out that contrary to common belief, wartime factory workers had not simply moved from the home to their first paid employment position. The majority had worked previously and shifted to the higher paid factory positions left vacant by those serving in the war.

"Most of these workers knew about work. It was not simply that they did not understand the work environment," explains Atleson. "A basic battle was going on as to how and when labor issues should be resolved. Workers believed that labor concerns should be resolved at work, where the question arose, while it was the basic belief of the unions that the issue be resolved at arbitration."

"These workers were not behaving any differently than workers have throughout time."



Professor James B. Atleson

Atleson expands his analysis with a comparison of wartime attitudes to the flurry of union employee strikes in the late 1960s and early 1970s. The latter period of employee unrest led to significant legal changes, ultimately strengthening the voice of the union employee. Atleson focuses on the auto workers strike at the General Motors plant in Lordstown, Ohio. Occurring in the early 1970s, it was the most famous strike of that period. Union workers at automobile plants tended to be young and presumably inexperienced, thus easily characterized as unsophisticated.

"The same argument was made by unions that these were new workers who simply didn't understand the way a factory was supposed to be run, or the way a union should be run," he explains.

"Again, the focus was on the unsophistication of the worker rather than the merits of their claim. But it turns out that these workers were striking about things that have always bothered workers. They may have been young, but many of them had worked in other factories and their parents had worked in plants as well.

"I used the Lordstown strike to reflect back on the wartime strikes and explain their actions — not by lack of sophistication, but by a desire to react to what was thought of as improper or unfair, and what led to the strike in the first place."

Atleson is a 1962 graduate of the Ohio State University College of Law where he was editor-in-chief of the *Ohio State Law Journal*. He received an LL.M. from Stanford University in 1964 and was a teaching fellow at Stanford prior to joining the faculty at UB Law in 1964.

Atleson lectures on Labor Law, Law and the Visual Arts, International Labor Law and Labor History. He is the author of "Labor Law and Collective Bargaining in Private Employment" with Rabin, Schatzki, Silverstein & Sherman, 1978, 2d ed., 1984, and "Values and Assumptions in American Labor Law," 1983. ■