

**Defending Rights:  
Law, Labor Politics, and the State in California,  
1890–1925, by Thomas Ralph Clark**  
(Detroit: Wayne State Press, 2002)

*Reviewed by Catherine L. Fisk<sup>1</sup>*

Most labor history over the past two generations has, in one way or another, attempted to come to grips with the absence of a labor party in the United States. Debate has raged over whether, when, or why organized labor attempted to improve working conditions through politics rather than, or in addition to, collective bargaining. One group of scholars exhaustively probed the extent of and reasons for labor's lack of political success, variously attributing it to antistatist culture, judicial repression of strikes, picketing and protest, and racial and craft-based divisions in the labor movement. Another wave of scholarship challenged the thesis that American labor was politically disengaged in comparison to labor movements in Europe and revealed the various ways in which organized labor was quite political.

In *Defending Rights: Law, Labor Politics, and the State in California, 1890–1925*, Thomas Ralph Clark makes an excellent addition to this second wave, while drawing out the ideas its shares with the scholars who focus on legal repression of labor. Clark's study of California organized labor's political activism and attitudes toward judicial regulation in the decades bracketing the

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turn of the twentieth century demonstrates that California labor activists were quite politically engaged at both the state and local level. The book is at once an engaging and detailed history of organized labor in California and a penetrating assessment of labor law historiography of the last two generations.

The thesis of the book is that the hostility of the entities that enforced law—especially the police and the judiciary—did not cause California labor activists to abandon politics but instead compelled them to redouble their effort to use politics and law to facilitate labor's organizational and bargaining goals. Clark asserts that judicial hostility toward and police repression of labor protests sparked labor to run third-party candidates for state and local office.

When these political movements succeeded in giving labor a degree of control over local police, as they did in San Francisco, employers turned to the courts for injunctions. But while court intervention frustrated labor's political efforts, it did not cause labor to retreat from politics. . . . California labor leaders constructed not a labor version of *laissez-faire*, but a complex political philosophy that demanded an expansion of the state's responsibility for social welfare while at the same time obliging the state to protect a sphere of voluntary collective action. (221)

The book is organized chronologically. Part I covers the Progressive Era (1890–1916), and Part II examines the World War I period and its aftermath. Chapter 1 describes the relationship to police of organized labor in San Francisco and Los Angeles as well as employer control of the police. Relying on news accounts and other archival sources, Clark shows the crucial role of local police in crushing worker protests in both cities. Clark argues that, contrary to general wisdom, labor unions did not retreat from local politics in response to local oppression, but instead attempted to combat police abuse by gaining political power in municipal elections. As he says:

When organized employers wanted to break key strikes, especially those that included demands for the closed shop or union recognition, they sought the services of local police to break up picket lines and protect imported strikebreakers. When local officials complied, even those labor leaders who most distrusted independent labor politics threw their support to third parties—to the Union Labor Party in San Francisco and to the Socialist Party in Los Angeles. (33)

The strategy succeeded, for a short time, in San Francisco, where following brutal police repression of the 1901 waterfront strike, labor formed a successful third party, the Union Labor Party, which controlled city government for nearly 10 years. Although the Union Labor Party eventually collapsed amid charges of vice and corruption, its restrained policing policy exerted a moderating influence on policing policy of later city governments.

Clark offers a detailed and convincing account of why police repression of strikers in Los Angeles, which was even more vigorous than in San Francisco,

failed to generate a similarly successful labor third party in Los Angeles. The determination of leading Los Angeles employers such as Henry Huntington, who were willing to put their considerable capital behind efforts to defeat unions, played a role. In addition, trade unionists and working class voters were more geographically dispersed and comprised a smaller percentage of the electorate in Los Angeles than in San Francisco. Moreover, the 1910 bombing of the *Los Angeles Times* building undermined support for labor and hurt the third-party candidate; for example, the suspects in the bombing pleaded guilty just days before the run-off election which labor's Socialist candidate lost. Finally, and perhaps surprisingly, the women's vote may have played a role. In this first election in which women were permitted to vote, middle-class women registered and voted in greater numbers than working-class women.

Chapter 2 documents injunctions against unions and their supporters in California. The use and abuse of labor injunctions nationwide during this era is a story that has been told well and often. The contribution of this book is to explore injunctions in California. Although Clark candidly admits that a thorough analysis of labor injunctions would require research in the archives of California's 58 counties that he did not do, he makes a credible assessment of the prevalence and impact of injunctions based on newspaper and other sources. His analysis in some cases buttresses and in some cases invites modest revision of the thinking of earlier scholars of labor injunctions by showing that labor leaders did not uniformly eschew politics or courts in response to labor injunctions.

Chapter 3 shows that California labor unions, unlike the American Federation of Labor at the federal level, did not retreat from politics in response to judicial and police repression of local unions. Instead, labor repeatedly sought to enact legislation that both banned injunctions (no surprise there) and improved working conditions. Labor enjoyed modest success in achieving state regulation of hours and safety. However, the state anti-injunction legislation failed to pass all three times it was tried because of opposition from elected officials, including Progressive Governor Hiram Johnson, who ordinarily would have allied with labor. (It was not until 2000 that the California legislature finally enacted a statute prohibiting state court labor injunctions comparable to the statute that Congress enacted in 1932 prohibiting federal courts from issuing injunctions in labor disputes.)

The book makes the important although often neglected point that in the federal system of the pre-New Deal era, Congress had little power to regulate working conditions. In the constitutional regime of the United States prior to 1937, the states had considerably greater power than Congress to regulate working conditions, health and safety, and other core areas of labor concern were significantly greater. Thus it made sense for state and local labor leaders to seek state legislation on core labor issues, just as it made sense for national labor leaders not to waste their time with Congress. Clark makes a strong case for the need for labor historians to examine the labor movements of each state before reaching general conclusions about organized labor's attitude toward politics. Although at the national level the leaders of organized labor could expect little from Congress because

Congress could do little in that era, we must be careful not to equate the AFL's attitude toward legislation with the attitudes of local labor leaders.

Part II is in many ways a story of the decline of labor in California during the years of World War I and its aftermath. The appeal and accomplishment of this part of the book is its illustration of the points at which the fate of organized labor might have taken different turns. Chapter 4 documents the decline of labor's political power during the years leading up to American involvement in World War I. Chapter 5 examines the ambiguous legacy of the war for labor and government. As is well known, labor made substantial organizing gains as a consequence of war-time economic expansion but suffered an economic and political backlash in the 1920s. The last chapter provides nuance and detail in the oft-told story of how the open shop movement of the early 1920s decimated labor's strength. Surprisingly, labor turned to the courts for injunctions against repressive employer open-shop tactics. Thus, contrary to the AFL's resolute opposition to judicial involvement in any labor dispute, California unions proved themselves willing to use the employer's own favorite tactic against them.

The conclusion and epilogue to the book anticipate the New Deal, attempting to show that the politically active labor movement that burst onto the national stage in the 1930s grew out of a tradition of political activism at the state level in the 1920s. Clark argues that the New Deal union activism built upon an established tradition in California (and, presumably, elsewhere) of forming political alliances, electing officials, drafting and lobbying for legislation, and turning to courts when necessary. Thus, Clark argues, we should not be surprised to find unions to be sophisticated political actors pushing for federal protection for collective action (such as the 1932 Norris-LaGuardia Act, which prohibited federal court labor injunctions, and the 1935 Wagner Act, which protected the right to unionize), and for substantive regulation of labor standards (such as the 1938 Fair Labor Standards Act, which regulated wages and hours).

The book is of interest not only to scholars of labor history and labor law but also to western historians. For instance, Clark challenges the notion that southern California was unremittingly antilabor. By looking beyond the pages of the reactionary *Los Angeles Times* and the votes cast by southern California representatives in the state legislature, Clark reveals the existence of strong pockets of labor activism in Los Angeles, even during its most virulently open-shop era. His account of the failure of the labor's Socialist Party candidate in the 1911 election provides a new perspective on the impact of the famously dispersed Los Angeles area geography, but also debunks the popular idea that southern California was somehow inherently politically quiescent and conservative.

Western historians will also find material of interest on the question of race relations in the Progressive Era and the 1920s. Clark demonstrates the radicalism of the Mexican workers on the light rail lines in Los Angeles even as the European-American and African-American workers were more docile. He documents yet again the destructive influence of anti-Asian sentiment among labor leaders. The book nicely reflects different aspects of the relationship between race, labor, and politics in a crucial era of California history that is told, for example, by Erika

Lee (in her recent *At America's Gates* on Chinese exclusion), by Tomas Almaguer (in *Racial Fault Lines*), or more recently by Stephen Pitti (in *The Devil in Silicon Valley*).

At once a thoughtful review of the labor history literature of a generation and a thorough and creative study of important archival material, *Defending Rights* is an important reminder of the importance of intensive regional studies in the historiography of a field. This is particularly so for anyone studying law in the United States prior to the vast expansion of the federal government in the New Deal era. Clark's book is an eminently readable legal, political, and social history of an important state during a formative era. It is a persuasive and penetrating study that deserves a wide readership.