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Review

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Review by: Fran Ansley

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A Strike Like No Other Strike: Law and Resistance during the Pittston Coal Strike of 1989 - 1990

Richard A. Brisbin, Jr.

Baltimore and London: Johns Hopkins University Press, 2002; 368 pp.

Richard Brisbin has done a service in putting together this book about the great 1989–90 mineworkers' strike against the Pittston Coal Group. For all its astonishing drama, the strike was met by a near total blackout from national news media, so this book is a welcome new resource.

Beyond assembling facts, this book sets out to draw lessons about the relationship between law and resistance. Brisbin views law as a central mechanism maintaining the status quo—both through its powers of coercion, but even more through its ability to legitimate power and constrain imagination. For instance, Brisbin sees legalism as foundational to the post-World War II accord in U.S. labor relations, an accord now under severe pressure but still nonetheless constituting a pervasive frame for conceptualizing workplace justice.

In Appalachia, the post-war accord supplanted a brutal system of direct domination by coal operators. However, it also cost unions their spark—changing the UMWA “from a social movement into a specific form of legal association” (49). In this analysis, the Pittston strike is noteworthy as a moment when miners transcended the domesticating dominance of “liberal legalism” and its accompanying “legal complex” of rules and practices.

Brisbin analyzes this rupture with legalism by using tools from social science, matching the forces he sees at work in the strike with labels developed elsewhere in the literature on social movements and legal ideology. He seeks to unearth the ingredients that allowed Pittston strikers to transcend the bounds of legal liberalism and find another language for talking about goodness and justice.

Brisbin also looks unflinchingly at the limited gains of the strike and its negligible long-term impact on labor relations. He describes how miners were forced firmly back into the domain of law at the conclusion of the strike, settling into a new contract and enduring a long train of defusing litigation whose judicial imprimatur at the end of the day gave the impression that the strike and its achievements could all adequately be understood through a lens of law.

Brisbin's conclusions about what caused this rollback and what lessons we should derive from the overall saga do not entirely fulfill the book's

ambitious promise. This reader at least was hungry for conclusions, and found those sections of the book to be somewhat scattershot and thinly argued.

A large part of the blame for the disheartening conclusion of the strike Brisbin puts on lawyers. ("During the coal strike the propping up of legalism came from lawyers. . . . It was the preferences of lawyers, especially those employed by the UMWA, that domesticated the strike on legal terrain") (249). As a law professor, I welcome the critical eye he casts on the profession here. I plan to share his claim with my students and will urge them to take it seriously. On the other hand, I think he misapprehends the role that lawyers played and the constraints of the environment within which they were asked to work, a misapprehension that may obscure some of the ways that law and legalism actually function.

Having reviewed the multifold briefs and hearing transcripts from the river of cases that accompanied the strike, Brisbin observes that "UMWA lawyers employed complex legal words and sentences with special definitions about the elements of contempt doctrine" (354); he complains that they crafted arguments that "rested on legalities" (253); and he says the lawyers "always displayed a willingness to work within the framework of existing legal doctrines, precedent and other 'boundary language'" (257). He claims that in this way the union's own lawyers ultimately "redirect[ed] . . . discipline[d] and circumscribe[d] . . . its members' oppositional imagination" (257), and brought them back within the fold of legalism.

It is my strong impression that Brisbin overestimates the power of the lawyers in this situation and the causative force of the rhetoric they deployed in briefs and courtroom arguments. The union did not cede authority to the attorneys it hired, but sent them into court precisely to use the tools and language expected and required there. Their assignment was to do what they could to preserve the union's ability to continue fighting on many other fronts that everyone understood were more important than the legal battles—the fight to stop or slow coal production in struck mines and the battle to win public opinion in and beyond the coalfields.

I will lodge one additional complaint about this good book before concluding. Brisbin interviewed a wealth of people for this project, but the full voices of his subjects rarely make it into the text. Given the strike's high drama, I find it frustrating that the book conveys so little narrative excitement. Brisbin explains that he intentionally avoids historical and sociological approaches, and perhaps I am only revealing my regret at that perfectly legitimate choice. But I found myself hungry for more stories, images, and communicative detail.

In any case, for those interested in a stronger narrative line and a more visceral sense of the energy that suffused the Pittston strike, other

resources are available. Anne Lewis's video, "Justice in the Coal Fields," from Appalshop, includes stunning interviews with a range of participants during and after the strike. Jim Sessions and I tried to convey our amazement about the strike in a chapter we contributed to Steve Fisher's *Fighting Back in Appalachia*.

Meanwhile, with the publication of *A Strike Like No Other Strike*, teachers who want to share this dramatic story now have a text that conveys important historical background, a full and well-documented chronology, and social science tools for analyzing what went on and why. All or parts of this book could fruitfully be joined with some of the more narrative sources to make up an accessible and well-documented case study adaptable to a range of courses. We are accordingly in Mr. Brisbin's debt.

Fran Ansley teaches law at the University of Tennessee in Knoxville. Her research interests include the theory and practice of learning, race and racism, and local impacts of globalization in Appalachia and the Southeast.

The Thistle and the Brier: Historical Links and Cultural Parallels between Scotland and Appalachia

Richard Blaustein

Contributions to Southern Appalachian Studies, 7

Jefferson, NC: McFarland & Company, Inc., 2003; 174 pp.

How identity—regional, ethnic, and personal—relates to Appalachia's history of economic exploitation and cultural marginality has engrossed Appalachian scholars for decades. The legacy of Scottish immigration to Appalachia has significantly shaped that identity formation. However, those who explore Scottish roots too often are captivated by romanticized Highland elements—games, kilts, bagpipes—that have had only a marginal historical presence in Appalachia. As founding director of East Tennessee State University's Center for Appalachian Studies and Services, Richard Blaustein has avidly participated in cultural exchanges with Scotland. In this collection of essays he draws upon his experiences both with the Scottish identity movement and with three decades of living, researching, and teaching in Appalachia to draw connections between identity issues in Appalachia and Scotland.

The result on one level is a discussion of psychohistory and identity politics that gleans elements from such disparate and controversial conceptualists as psychiatrist R.D. Laing, sociologist and world-systems expositor Immanuel Wallerstein, and literary critics Rodger Cunningham, Alan Bold, and Ted Cowan. In particular, Blaustein embraces their ideas