

THE LATE JUSTICE BRENNAN AND AMERICAN LABOR LAW

By John G. Adam

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The late Justice William J. Brennan, Jr. was a member of the Supreme Court for 34 years from October 15, 1956 until his July 20, 1990 retirement. Before his 1956 election-eve appointment by President Eisenhower, during a Senate recess, Justice Brennan was a trial judge and an associate justice of the New Jersey Supreme Court.

Before his judicial service, Justice Brennan was a management lawyer. Justice Hugo Black wrote shortly after Brennan's appointment: "I like the new justice very much. Maybe he has been a labor lawyer for business but so far his approach to cases does not indicate such lawyers do not have just as much desire to do justice as lawyers that represent the labor unions themselves," (R. Newman, *Hugo Black*, 473 (1994)). In fact, Justice Brennan's background was rooted in labor and Democratic politics. Brennan "had grown up on the poor side of Newark and learned the rough-and-tumble of politics from his father, an Irish immigrant, who was by turn a union leader, a Democratic politician, and a police commissioner," (B. Woodward and S. Armstrong, *The Brethren* 17 (1979)).

When Justice Brennan was appointed, the Court consisted of Chief Justice Earl Warren and Associate Justices Hugo Black, Stanley Reed, Felix Frankfurter, William Douglas, Harold Burton, Tom Clark and John Harlan. When Justice Brennan retired, the Court consisted of Chief Justice Rehnquist and Associate Justices White, Marshall, Blackmun, Stevens, O'Connor, Scalia and Kennedy. During his years on the court, Justice Brennan served with 22 other justices. Justice Brennan was succeeded by Justice David Souter.

Justice Brennan wrote more than 1,350 opinions, including 461 majority opinions. His most significant cases, according to many scholars, were *Baker v. Carr*, 369 U.S. 186 (1962) (one person, one vote) and *New York Times v. Sullivan*, 376 U.S. 254 (1963) (libel and the First Amendment). His place in history is secured, however, by both the length of his service and the power of his opinions. His opinions, from *Putnam v. Commissioner*, 352 U.S. 82 (1956) to *Metro Broadcasting v. FCC*, 497 U.S. 547 (1990), span 145 volumes of the United States Reports.

Justice Brennan played a major role in the development of modern American labor law. He authored many important labor opinions, generally agreeing with the positions advocated by the NLRB or the union. His first labor law case was *Textile Workers Union v. Lincoln Mills*, reported at 353 U.S. 448 (1956). He joined the five member majority in an opinion by Justice Douglas which established the right of a labor union to sue in federal court to compel arbitration under Section 301 of the Labor Management Relations Act. He announced the Court's opinions in the 1960

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