

A Lawyer's Role in Labor's Rise: Albert Brundage, 1916-2014

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Longtime San Francisco labor lawyer Albert Brundage died on March 18, having retired from his in-house position at San Francisco's Plumbers Local 38 last June.

Brundage was part of a remarkable cohort of Bay Area, union-side labor lawyers that included future state Supreme Court justices Mathew Tobriner and Joseph Grodin. In the post-World War II period these lawyers helped transform not only San Francisco's tumultuous labor relations, but also its political and social structure.

When Brundage, who was 98, was admitted to practice in 1947, the influence of working people and their unions had waned in the city. San Francisco regularly was electing Republican mayors who maintained an uneasy conservative economic and cultural ascendancy that continued throughout the 1950s and into the early 1960s.

The FBI's DETCOM program was part of this era, targeting local labor leaders, assorted radicals and suspect politicians like future mayor John Shelley. The period also produced spectacles like the 1960 House Un-American Activities Committee hearings held in city hall and the pornography trials of comedian Lenny Bruce and bookstore owner Lawrence Ferlinghetti, the latter for selling Allen Ginsberg's "Howl."

As unions gained economic power, the city became progressively more liberal and tolerant, politically and socially. But these changes took decades to complete. During the Great Depression, San Francisco was wracked by labor strife. A 1934 dockworkers strike for a dollar-a-day subsistence wage led to a general strike by all the city's unions after police killed two strikers on what became known as Bloody Thursday. Such violent confrontations here and in other parts of the country convinced some national labor leaders, like the Teamsters' Farrell Dobbs, that labor relations had become a Darwinian struggle in which power was more important than legality or social rules. Franklin Roosevelt's administration, as well as state and local governments, responded aggressively to civil unrest, but Roosevelt's New Deal also brought labor law reforms that gave unions greater power.

After the lifting of wartime restrictions and price controls, labor unrest again began to spread. Success of the New Deal reforms was dependent upon the development of a labor bar and supporting infrastructure that would allow the unions to take full advantage of their newly created rights.

Brundage described his early working years in an interview with the Local 38 newsletter shortly before his retirement last June. He did graduate studies in economics that earned him a job with the Pacific Coast Labor Bureau, where he worked with other economists and lawyers on wage issues. It was there he met labor leaders like fiery long-shoreman union head Harry Bridges and future Local 38 chief Joe Mazzola.

After obtaining a law degree from the University of California, Brundage joined Mathew Tobriner's firm, then named Tobriner & Lazarus, that became the largest union side labor law firm in the western United States. While at the firm and its subsequent iterations, he practiced with notable labor law practitioners Joseph Grodin, Stanley Neyhart and Duane Beeson, among others. Together, they helped unions to organize companies, negotiate collective bargaining agreements and enforce the agreements' terms.

Brundage represented unions throughout the state in addition to Local 38, including at one point most of the building trades in Southern California. He became what he described as an adviser and friend to by then Teamster President Jimmy Hoffa, who was a major target of Robert Kennedy and subsequent U.S. attorneys general.

Brundage had sometimes tense relations with colleagues, reflected in the numerous partnership reshufflings that occurred before he went in-house at Local 38. My late wife Sarah Kenyon Kraw had a difficult time working with him briefly as a young union-side labor lawyer. The "do what needs to be done" attitude forged in the labor struggles of earlier years did not sit well in all situations in later times (note to younger lawyers: tensions between lawyer colleagues from different generations were ever thus).

After they stopped practicing together, Tobriner and Brundage took different career paths but both continued a lifetime's work for social justice. As judges, Tobriner and Grodin used the position as a means for protecting weaker parties against abuses of power by stronger individuals and groups, both public and private. Grodin later wrote of Tobriner that the latter's years as a union lawyer had made him recognize the "need to balance individual interests

with group interests.” Brundage and other practitioners were left to address the messy, day-to-day needs of unions and members in situations with sometimes ambiguous circumstances and no clear right or wrong. Ultimately, many unions solved the problem of how to protect their members and working people by becoming powerful institutions themselves, with all the potential contradictions that brings.

In 1947, the same year Brundage was admitted to the bar, the Taft-Hartley Act was passed by a Republican Congress over the veto of President Harry Truman. The law sought to undo many of the New Deal labor reforms. But Taft-Hartley also had an unintended consequence that later surprised both its authors and its opponents. It created so-called “multi-employer” benefit plans that allowed workers to contribute to trusts that provided pensions, health care, vocational training, unemployment coverage and other employee benefits.

These plans proved successful beyond anyone’s expectation and were especially helpful to the construction industry unions, with their mobile workforces that moved from job to job and employer to employer, and greatly aided union organizing campaigns. The pension funds allowed the unions to build significant investment funds that were not taxed until they were paid as benefits.

Because of their size, the funds became significant financial enterprises on their own and made their union sponsors part of the financial establishment with a stake in making the status quo work. Many construction industry unions used these funds to initiate their own real estate projects. A resort funded by the Local 38 pension plan in Lake County drew the scrutiny of government regulators in the 1980s and led Joe Mazolla to ask Brundage come in-house, a position he retained until his retirement.

The last Republican mayor, George Christopher, left office in 1964, to be succeeded by John Shelley, a former president of the San Francisco Labor Council.

San Francisco today remains a union city, while union participation in the private workforce has declined precipitously throughout the country. The union influence means that the city has generally higher wages and benefits for workers and greater social protections for all citizens through city government. Successful unions now advertise their members as being middle class and see themselves as providing ladders of opportunity for new workers, rather than fighting for dollar-a-day (adjusted for inflation) subsistence wages for the rank and file.

Lawyers were not the instigators of the labor struggles and the changes they brought; those came from broader social forces and were led by union and community leaders. But the lawyers were important enablers that made the changes possible. Al Brundage’s long professional career tracked this period that saw a better San Francisco come out of the struggle that Brundage’s clients began, and in which he and his fellow union-side lawyers played a major role.