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## RECENT PUBLICATIONS

REGOVERNING THE WORKPLACE: FROM SELF-REGULATION TO CO-REGULATION. By Cynthia Estlund. New Haven, Conn.: Yale University Press. 2010. Pp. xi, 308. \$50.00. Americans go to work each day in the shadow of two overarching legal regimes: an “ossified labor law regime” which covers fewer and fewer workers as union membership declines over time (p. 51), and an employment law framework of minimum standards in wages, hours, antidiscrimination, and workplace safety. In *Regoverning the Workplace*, Professor Cynthia Estlund explains that employers have for many reasons begun to implement “regulated self-regulation” to monitor their own compliance with employment law standards (p. 76). She advocates for the further evolution of such employer-centered self-regulation into a “co-regulation” framework that would reintroduce collective employee participation as part of the process (p. 89). Professor Estlund provides both fascinating case studies of employers’, employees’, and regulators’ fledgling efforts to construct co-regulation schemes, and a cogent exploration of the academic literatures, trenchant political tensions, and economic forces that shape and limit those efforts. The book ends with thoughtful chapters on how to construct a system of co-regulation that includes such essential elements as internal employee committees, strong internal whistleblower protections, independent external monitors, and strategic allocation of government enforcement resources. *Regoverning the Workplace* weaves together both the vitality of recent innovations in collective representation and the constructive elements of trends toward corporate self-regulation, outlining a viable way forward for labor law.

A SHAMEFUL BUSINESS: THE CASE FOR HUMAN RIGHTS IN THE AMERICAN WORKPLACE. By James A. Gross. Ithaca, N.Y.: Cornell University Press. 2010. Pp. 251. \$21.95. The union of labor policy and human rights is a relatively unfamiliar idea in the United States. In *A Shameful Business*, Professor James Gross advocates for rethinking American labor policy as a matter of respect for human rights and dignity. Through this lens of human rights, Professor Gross provocatively addresses topics from freedom of association and racial discrimination to management rights, workplace safety, and human resources. In each case, exacting scrutiny is applied to the so-called “best practices” of American business management. The book argues that the American market-based philosophy has created an economic and regulatory climate of subordination and degradation that ignores the fact that “human beings do not become something less than human when they enter the workplace” (p. 203). *A Shameful Business* is a call to action for all those concerned with American workplace conditions.

THE DOUBLE HELIX AND THE LAW OF EVIDENCE. By David H. Kaye. Cambridge, Mass.: Harvard University Press. 2010. Pp. xvi, 330. \$45.00. The use of DNA identification evidence has been one of the most significant advancements in the search for truth across numerous bodies of law, and of course in the criminal justice system particularly. Professor David H. Kaye provides a thorough and engaging review of the use of DNA evidence, using, in his words, “part history, part legal analysis, part popular science, and part applied statistics” in a manner that is sophisticated yet accessible to the average lawyer or layman (p. xi). Professor Kaye insightfully examines the interplay between the rules of evidence and the acceptability of scientific findings, reviewing scientific and legal milestones from the first uses of genetic markers to the much-publicized arguments about the use of DNA evidence in the O.J. Simpson trial and beyond. After sketching the legal debates over admissibility of DNA evidence beginning in the 1980s, Professor Kaye turns to modern developments such as the continued and perhaps misguided use of racial categories in making decisions about admissibility and the potential of mitochondrial DNA. He concludes with reflections on what this history can teach us about the integration of science into law and how the process might be improved.

SUPREME POWER: FRANKLIN ROOSEVELT VS. THE SUPREME COURT. By Jeff Shesol. New York, N.Y.: W.W. Norton & Company. 2010. Pp. 529. \$27.95. In early 1937, it could be said that President Franklin Roosevelt, who had just won an overwhelming electoral mandate, together with his Democratic supermajorities in Congress, were approaching “supreme power” — at least were it not for the Supreme Court, which again and again rejected the President’s popular New Deal agenda on constitutional grounds. In this carefully documented but always lively history, Jeff Shesol unearths the genealogy of FDR’s infamous Court-packing plan, not only through a close examination of the decisions that sparked FDR’s scheme, but also by drawing extensively from contemporaneous personal diaries, private letters, speeches, and press accounts. Ultimately, Shesol agrees with FDR’s own judgment that, while the specific battle to expand the number of Justices was lost in Congress, the war for the institutionalization of the New Deal was won when the Court eventually shifted course. At the same time, however, Shesol argues that the Court-packing plan was “the catalyst that helped fracture the New Deal coalition; reawaken the GOP; unite conservatives across party lines; and shatter the myth of Roosevelt’s omnipotence” (p. 525). An exciting political narrative that brings to life the intersection of law and politics in the evolution of the Supreme Court’s jurisprudence, this book is the authoritative account of what was arguably FDR’s biggest political defeat.