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## MANAGEMENT RIGHTS IN LABOR RELATIONS, by Steven F. Dunn. Grand Rapids: Woodheck Publishing Co., 1946.

Carl A. Warns Jr.

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MANAGEMENT RIGHTS IN LABOR RELATIONS, by Steven F. Dunn. Grand Rapids: Woodbeck Publishing Co., 1946. Pp. iv, 287.

If this book contained nothing more of substance than its introduction, it would be worth reading. In these few brief pages, the author has struck at the heart of well balanced employer-employee relationships. Mr. Dunn, a member of the Michigan Bar, and a former industry member of the War Labor Board, prefaces his more detailed information with two pertinent observations about labor-management relations: first, that "enlightened management today realizes that labor relations are only human relations," and second, that labor legislation has left a reservoir of management rights, legal and administrative, of which many employers through ignorance, or defeatism were unaware. It is with reference to this second observation that the book is primarily concerned. Practically all literature in the field of labor relations since 1932 has been directed toward analyzing and interpreting Labor's position in the assertion of its industrial rights. The result has been that Management, suddenly bound by restrictive legislation with its consequent flow of administrative rulings which in turn always appeared to be inevitably legitimized by judicial decree, developed an attitude that defined labor law in the following terse sentence: "Labor asks for it, and Labor gets it." Mr. Dunn has sensed this prevailing philosophy of defeatism on the part of management and has compiled this book "to provide business management with a ready reference guide to its rights in dealing with organized labor unions as distinguished from direct dealings with its own employees."

The author has tried to codify court decisions, administrative rulings of the National Labor Relations Board, problems of strikes, pickets, and boycotts, and suits concerning the union contract. In attempting to summarize such an amorphous mass of material in 215 pages, a formidable task, Mr. Dunn has been forced to make many statements which may be generally accepted, but to which one may take exception in a number of cases. Examples of these statements will be pointed out during the discussion of the chapters in which they are contained.

In his opening chapter, Mr. Dunn sets forth the background of modern labor legislation in concise and accurate language. In the two succeeding chapters, he traces and develops, from a business man's standpoint, problems of recognition of the union and general coverage of the National Labor Relations Act. Specific pre-Taft-Hartley Law headaches such as the right of an employer to express an opinion in a labor controversy, and the right of foremen to organize in separate groups or with the rank and file of the employees, are ably explained.

In the fourth, fifth, sixth, ninth and tenth chapters, the author makes his greatest contribution to an alert management anxious to know its rights in Labor Relations, and something of the procedures involved in the collective bargaining process. These chapters deal with issues vital to an employer—the determination of the collective bargaining representation and very practical recommendations in the actual negotiation of the contract. Chapter V, "Employers' Rights in Collective Bargaining,"

is a clear, narrative discussion of an employer's approach to the negotiation. However, it contains one statement that might disturb a reader who has litigated a charge of failure to "bargain in good faith." The author says that "The general rule of the Board states that the terms of the collective contract are left to the parties themselves. No agency has authority either to dictate what should be in a contract or to police a contract after it has been executed."<sup>1</sup> It is believed that this statement, although theoretically correct, is not very realistic.<sup>2</sup> In this same group of chapters, the labor contract itself is analyzed as to those provisions which are helpful, and those which are better avoided. To wade through hundreds of pages of technical materials in order to ascertain these matters would not only discourage, but thoroughly confuse, most employers. Mr. Dunn has given a kind of "distilled essence" of regulations, rulings and decisions, flavored by his own experience, with a result that is most informative and helpful.

The least satisfactory parts of the book are chapters seven and eight, which present among other things a general analysis of the nature and enforceability of the collective bargaining agreement, and the right to injunctive relief under federal and state decisions. These phases of labor law are in an extremely nebulous state, and any attempt to crystalize them may be most unsuccessful. Mr. Dunn seems to recognize this fact, but still attempts to reach definite conclusions. For example, Mr. Dunn is of the opinion with reference to picketing and strikes which are "unlawful", that an employer cannot obtain an injunction without complying with the "strict legal requirements of the federal or state anti-injunction acts." He is overlooking the fact that state decisions are not uniform with regard to the issuance of injunctions against strikes and picketing even in states where there are anti-injunction laws. For example, the courts of New York in cases where they consider the "ends or means" of the union unacceptable, conclude that a "labor dispute" does not exist within the purview of the state law, and issue the injunction on common law grounds without compliance with the procedural requirements of the state anti-injunction law. Examples in New York

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<sup>1</sup> Pages 82, 83.

<sup>2</sup> Matter of Timken Roller Bearing Corp., 70 N.L.R.B. 39 (1946). For analogous material see Note: *The National War Labor Board and Collective Bargaining*. (1944) 44 Col. L. Rev. 409. "... an employer who rejects union demands which seem reasonable to the Board or relies on what the Board regards as specious reasons for rejecting a demand, may incur a substantial risk that his conduct will result in a finding that he has failed to bargain in good faith. If that be true, it follows that the statute, which in theory does not affect the content of the labor agreements but restricts an employer's bargaining freedom only to the extent of compelling him to recognize a majority union and to negotiate with it, may in practice restrict his freedom still further by putting pressure on him to make concessions to suit union demands as a governmental agency is likely to regard as reasonable." Dodd, *From Maximum Wages to Minimum Wages: Six Centuries of Regulation of Employment Contracts* (1943) 43 Col. L. Rev. 643, 675.

are strikes to forbid labor saving machinery<sup>3</sup> and secondary boycott cases outside the "unity of interest."<sup>4</sup>

Mr. Dunn's desire to summarize the law is praiseworthy. It is believed, however, that in this phase of labor jurisprudence, the results of which depend on such abstract considerations as how much appeal to reason is involved in the controversy, what public interests the state is protecting, such as freedom of commercial transactions, employers' rights, interest of the state in technological improvement, and the individual's freedom in case of a closed shop, that a well defined statement of the problem would better serve Management than a summary of questionable conclusions.

Mr. Dunn's plea for corrective legislation has been answered by Congress in the passage of the Labor-Management Relations Act, 1947, (Taft-Hartley Law). This legislation obviously changes many of the conclusions reached by the author, but does not disturb the fundamental philosophic content, helpful recommendations, and general procedure before the Board which Mr. Dunn describes. The reviewer believes that in spite of criticism leveled at occasional over-generalizations, the book renders much more than a modest contribution to efficient management planning.

CARL A. WARNS, JR.\*

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\*Assistant Professor of Law, University of Miami.

<sup>3</sup> *Opera on Tour, Inc. v. Weber*, 285 N.Y. 348, 34 N.E. 2d 349 (1941).

<sup>4</sup> *Weil & Co. v. Doe*, 168 Misc. 211, 5 N.Y. S. 2d 559 (1938).