law on the organization of local governments in one comprehensive statute. If the law schools in the United States were to broaden their courses in municipal corporations to courses in the law relating to local government, it would be a step in the general direction taken by recent curriculum revisions, towards more comprehensive and meaningful subjects.

Dean Fordham's work is distinctive in several other respects. About one-third of the entire book consists of material written by him. A brief history of English and American local government is followed by descriptive accounts of the various types of local units. Throughout the book, and placed so as to lead the student logically from one topic to another, are notes on current issues of local government and the legal issues that they raise. There are many references to legal and documentary materials that will be especially valuable to teachers and to those doing research. In connection with the materials on the borrowing power, there is a complete transcript of all the proceedings relating to an actual bond issue.

The book is unusual also in the emphasis it places on relatively new developments in the field, such as the relations between the national and local governments, state administrative supervision, inter-local relations, unionization of local employees, community planning and development, public housing and slum clearance.

Any reader will naturally find points to criticize adversely. The selection of leading decisions is in some cases debatable. Presumably the decisions selected represent a sort of majority view, but it is not everywhere made clear that there are contrary holdings. The background materials on local government are good enough, but they give too little idea of the developments in the case law of the subject and in the adoption of general statutes.

Mechanically and typographically the work seems to be better than average among casebooks, with perhaps fewer typographical errors. The index is adequate, but the cross references in the text are all-too-few.

On the whole this is an original and outstanding work. It sets a new course for students in the field, whether their interest is primarily in law or in local government. The more widely it is used in teaching the sooner will the practitioners in the field develop a modern and comprehensive view of the law of local government.

William Anderson*

COLLECTIVE BARGAINING. By John T. Dunlop. Chicago: Richard D. Irwin, Inc. 1949. Pp. xvi, 433. $4.00.

COLLECTIVE BARGAINING. By Herman Lazarus and Joseph P. Goldberg. Washington, D. C.: The Public Affairs Institute. 1949. Pp. 72. $0.50.

Throughout the nation lawyers are concerned about their "public relations." Surveys are conducted in an effort to determine what the people think about lawyers and why. Meetings are held in which lawyers vigorously discuss what they can do to improve their "public relations." That

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phase of the law known as labor law (still indexed as "master and servant" in many legal tomes) has perhaps been provocative of more "bad public relations" than any other field of the law. There are a number of reasons for this. The common law was nurtured in rural environs, and has not been able to sense the tempo of our modern industrial life. Too many lawyers have approached problems of labor law with a litigious frame of mind, simply because they have not appreciated the intricacies and complexities of industrial relations. With some exceptions, law schools have ill-prepared young lawyers to counsel and advise clients concerning this vital field of law.

A realistic appraisal of the lawyer's role in industrial relations readily explains why lawyers are *persona non grata* in many segments of both management and labor.[1] Law suits, even though technically successful, are frequently very hollow and costly victories. Ordinarily, a particular dispute between management and labor cannot be isolated from the continuing relationship of the parties or from the socio-economic background of the dispute. Yet, a considerable number of lawyers have attempted such isolation every time they have been consulted about an industrial relations question. Where such practice has prevailed, the advice given has not generall been good. Such lawyers frequently find that they have had a one-time client. Thereafter, the client may go his own way or consult that new "profession" of industrial relations consultants.

It is indeed encouraging to note that some of our law schools are beginning to do a better job of preparing young lawyers for the field of labor law. Thus, Professors Archibald Cox and John T. Dunlop of Harvard University have recently conducted a seminar with students of law and students of labor economics to give them the experience of working together in a joint undertaking.[2]

Professor Dunlop's *Collective Bargaining, Principles and Cases* is a college textbook. It is a unique book and is a valuable contribution in educational technique. Through collective bargaining, management and labor have developed what might well be termed industrial jurisprudence. This body of jurisprudence operates by way of the grievance procedure and arbitration, rather than by way of courts. In this book, Professor Dunlop adopts the case method, familiar to lawyers, to develop the fundamentals of collective bargaining. Seventy well-selected cases present the major difficult problems currently encountered in collective bargaining. The cases are grouped under the following headings: Discharge and Discipline, Status of Union and Management Representatives, Union Security, Employment Rights in Jobs, Work Schedules and Premium Pay, Vacation Provisions, Wage Structure, General Wage Changes and Miscellaneous Cases. The cases, with few exceptions, are not accompanied by any answers. Instead, each case is followed by a series of provocative questions.

1. See Wirtz, *Lawyers in Labor Negotiations and Arbitrations*, 34 A.B.A.J. 547 (1948); Asher, *The Lawyer in the Field of Labor*, 1 LABOR L. J. 302 (1950).

2. See Cox and Dunlop, *Regulation of Collective Bargaining by the National Labor Relations Board*, 63 HARV. L. REV. 389 (1950).

Any person who reads the cases and then endeavors honestly to answer the questions will do a lot of head scratching. He will soon discover that there are relatively few pat answers in this field. He will realize that every issue has its own peculiar aspects which must be individually probed and answered. Lawyers who want an alert understanding of collective bargaining issues will do well to avail themselves of the brisk mental exercises Prof. Dunlop has prepared for his students.

It is significant that Prof. Dunlop does not provide the answers to the cases he has collected. Since all of the cases were actually decided, there were, of course, actual answers; but that does not necessarily mean that the answer developed in each particular situation was the correct answer. More important, perhaps, is the recognition that cases in collective bargaining do not readily lend themselves to a precedent system. On the contrary, such cases should ordinarily be approached with the attitude of "what is unique about this case?", "what has caused this *partciular* dispute?" Searching for similarities between cases is likely to cause one to miss the real issues and to jeopardize sound solutions. Lawyers sometimes fail to recognize this.

As an introduction to the cases, Prof. Dunlop provides a brief and succinct text of some fundamentals useful in considering the cases. This introduction considers the development of collective bargaining, the national policy toward collective bargaining, the nature of management and union organization for conducting bargaining, the nature of the labor agreement and standards of wage determination.

The analysis of standards for wage determination is refreshing and many of the cobwebs surrounding such arguments as "productivity," "cost of living," "comparative wage rates" and "ability to pay" are duly demolished. It is high time that we recognize the spurious nature of many such currently vague shibboleths bandied about in wage determination discussions. Prof. Dunlop contributes to the clarification of this problem.

The discussion of the Taft-Hartley Law, while brief, is enlightening. Most people believe that the Taft-Hartley Law is based on the philosophy that governmental regulation of industrial relations should be restricted. As a matter of fact, that law "involved a radical expansion of the authority of government in the collective bargaining process."[3] Since the enactment of the Taft-Hartley Law, the Government has become concerned not only with whether or not the parties have bargained in good faith, but now concerns itself about the contents of collective bargaining. The Government now can, and frequently does, regulate the substantive scope of collective bargaining. Hence, we have witnessed the Government "regulating" collective bargaining on such issues as welfare and retirement plans, merit increases, subcontracting, etc.

With respect to future legislation affecting collective bargaining, Prof. Dunlop suggests:

> The time has arrived to establish the principle that the legal framework of collective bargaining shall represent largely the consensus of labor and management. The time has passed for more "get even"

3. P. 35.

labor legislation. There will be some issues on which the public interest will require limitations and regulations of collective bargaining. In such instances, it is important that the proposed regulations be filtered through the experience and thinking of the representatives of both sides in collective bargaining.[4]

Collective Bargaining by Herman Lazarus and Joseph P. Goldberg is a pamphlet published by The Public Affairs Institute. Dewey Anderson, the Executive Director of the Institute, describes this pamphlet as an "objective analysis of labor-management relations under both the Wagner Act and the Taft-Hartley Act." Actually, it is written with much of the spirit of the early pamphleteer. The authors do not like the Taft-Hartley Act. They marshal the myriad arguments (both sound and unsound) which have been leveled against this Act. They conclude that instead of "restoring equality" and permitting "free" collective bargaining, the Taft-Hartley Act gives employers an advantageous position in their dealings with unions; that instead of contributing to stability in labor-management relations, the Act impedes the development of collective bargaining; that instead of increasing democracy in trade unions, the Act violates the fundamental principle of rule by the majority; that instead of providing a democratic and sound approach to the development of a national labor policy, the Act reflects

> to a substantial degree the views of groups which had never accepted collective bargaining with stable and effective trade union organizations as a permanent and desirable addition to American democratic trade union organizations.[5]

Telling criticism can be made of many features of the Taft-Hartley Act. Certainly, some of its provisions ought to be eliminated or corrected. Perhaps, even the entire act should be repealed. Regardless of the wisdom or the stupidity of any provision of the Taft-Hartley Act, any successful approach to labor-management relations must be made with keen awareness of the realities involved. The Achilles heel of the arguments of Messrs. Lazarus and Goldberg is an assumption that unions seldom do anything that would in the long run impede or obstruct the democratic process, or good industrial relations, or efficient productivity. Alleged derelictions are rationalized by one or the other of several arguments: (1) the occurrence is isolated and non-typical; (2) the conduct is not limited to unions, but is found in other segments of society (in discussing make-work rules the authors state: "There are business practices, as well, which impair maximum efficiency of operation"); or (3) the conduct is one which can be corrected only by the unions themselves, and is not a proper subject for governmental intervention. This is illustrated by the authors' consideration of the questions of democracy within trade unions. It is noted that during the debates on the Taft-Hartley Act charges were made of the lack of democracy within trade unions. The authors state:

> the general charges were supported by references to instances in which a union was *alleged* to have coerced individuals into membership or to have expelled members for *apparently* flimsy reasons. [Emphasis supplied.][6]

4. P. 36.
5. P. 64.
6. P. 52.

This bland statement is followed by the argument that democracy within unions must be judged by the same tests applied to democracy within our government. The measure of these tests is set forth in a quotation which reads in part:

> Democracy in operation is often unlovely to behold. * * * If we really prefer the method of democracy to that of dictatorship, we must be somewhat philosophical about its faults, at the same time that we do what we can to make it work more effectively.[7]

After some circumlocution, the authors concede that there are certain features of trade union operations which may go counter to our concepts of political democracy. They feel that this problem is one which the trade union movement must take steps to meet.

The last two pages of this pamphlet are devoted to the exposition of a proposal for constructive action. This proposal is that a series of labor-management conferences should be held on the industry basis. Membership at the conferences should consist of an equal number of management and trade union representatives, selected so that the views of different sectors of the industry (large corporations, small business and the various affected unions) will be obtained. A government representative would be provided to supervise administrative details of each committee. The committees would meet regularly, discuss matters affecting the industry, and make reports to an appropriate branch of the Government. These reports (which might be either unanimous reports or majority and minority reports) should include a statement of the extent to which the items considered constitute problems in the industry, the extent to which the industry is prepared to meet these problems by effective voluntary action, and, where effective voluntary action is not feasible, what legislation would be appropriate. Thus, even where legislation might be necessary, the legislators would have available the considered thinking of management and labor as a basis for formulating a realistic and fair labor program. There is obviously considerable merit to such a proposal, providing management and labor in the various industries would fully participate in such conferences.

The two books under review have completely different approaches to the subject of collective bargaining. Yet, it is significant that both of them advocate the idea that any legislation affecting collective bargaining should be predicated upon the experience and the considered opinions of management and labor. There are others, such as Eric Johnston,[8] who have recently advocated similar ideas. Certainly, such an approach is more likely to be productive of a sound labor policy than was the joint political committee established by the Taft-Hartley Act.[9]

John R. Stockham†

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7. P. 52.

8. Johnston, *For a New Approach to the Labor Issue*, N. Y. Times Magazine, Jan. 29, 1950, p. 7.

9. See Witte, *Review of Reports of Joint Committee on Labor Management Relations*, Congress of United States, SEN. REP. No. 986 (5 Parts), 80th Cong., 2d Sess.; SEN. REP. No. 374, 81st Cong., 1st Sess., 3 INDUSTRIAL AND LABOR RELATIONS REV. 122 (1949).

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