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Unfair Labour Practices : An Explanatory Study of the Efficacy of the Law of Unfair Labour Practices in Canada, by Inis Christie and Morly Gorsky, Study no 10, Task Force on Labour Relations, Ottawa, Privy Council Office, 1968, 220 pp.

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Unfair Labour Practices: An Explanatory Study of the Efficacy of the Law of Unfair Labour Practices in Canada, by Innis Christie and Morley Gorsky, Study no 10, Task Force on Labour Relations, Ottawa, Privy council office, 1968, 220 pp.

This is a study commissioned by the Task Force on Labour Relations to determine how well the unfair labour practice provisions in Canadian provincial and federal labour relations legislation are achieving the purposes for which they were enacted. « Unfair labour practices » in the context of this study include not only those activities that are prohibited to ensure the right of employees to organize free from employer interference, or to outlaw coercive organizing methods of trade unions, but also any other activities prohibited as being inconsistent with the operation of the collective bargaining system; in the authors' words, « all those activities, not otherwise illegal, that are prohibited by labour relations statutes ». Significant among these are the failure to bargain in good faith and illegal strikes and illegal picketing.

The method of inquiry was a survey in Canada of informed opinion and a similar survey on a limited scale in the United States in order to obtain a point of comparison. A subsidiary study was made of the reactions of employers and unions, who, in the year following February 1, 1966, had been involved in proceeding under Section 65 of the Labour Relations Act of Ontario.

Interviews were conducted with persons in different areas of Canada who had particular knowledge of the working of the law — lawyers active in labour relations, members and officers of labour relations boards, academic labour lawyers, union representatives who have appeared as counsel before the boards. These were divided into three groups: committed to management, committed to labour, uncommitted.

In the report, the prohibited practices are identified under each of the four stages of the collective bargaining relationship : organization, recognition, negotiation, and the administration of the collective agreement; under each of these headings the authors report their assessment of how efficacious the unfair labour practice provisions are considered to be by each of the groups interviewed. They then conclude by giving their personal assessment and their suggestions for improvement.

It is well to look at what the authors say about this unusual method for carrying out an examination of the effectiveness of legislation as a contribution to the development of policy. The questions to which they sought answers are reproduced in the Appendix, and are described by the authors as designed to elicit opinion on the efficacy of the legislation, facts about its application, legal opinion on its meaning and effect, and suggestions for reform. They do not claim that there was any scientific basis for the selection of persons to be interviewed. They describe the results obtained from the interviews as, in most cases, « a subjective reaction to accumulated experience, often greatly coloured by the most recent experience ». They acknowledge that a lawyer committed to labour or to management is likely to discuss the effectiveness of provisions from the point of view of how well they serve the interests of his client; and while it would appear to me that the « uncommitted » group offset this bias to some extent, if they are members or officials of boards they are likely to look favourably upon the legislative system under which they operate, or if they are academic lawyers, to be somewhat removed from the actual arena of labour conflicts. The group questioned are clearly more competent to answer some questions than others. The authors give us clair warning of the limitations of their method, and the reader should not be misled into thinking that the survey of informed opinion that the study presents has more validity as a basis for the formulation of public policy than it deserves. It is significant that when it came to the point of drawing conclusions, the authors label the chapter a personal assessment, and their conclusions do not necessarily follow from the survey.

The method had advantages. The survey coverage included persons familiar with unfair labour practice legislation and administration in the federal jurisdiction and in all provinces, so that we have a Canada-wide overview,

and the structure of the interviews and the knowledge of the persons interviewed were such as to bring into the discussion a broad range of the current issues as they saw them. Also, the method has to be weighed against possible alternatives. As one whose work for many years involved a seeking after tests of the efficacy of legislation, I know how difficult it is to collect reliable data on which to base an assessment. Such records as there are of the various tribunals in which unfair practice cases have been adjudicated are difficult to come by and, if collected, might provide little more than a quantitative measure. The informality surrounding settlements achieved through accommodative methods leaves the researcher without objective data. Field studies are slow and expensive.

Once the limitations of the method are understood and accepted, the reader can proceed to derive considerable insight from the study. The survey was worth while and has been well organized and reported. An additional contribution is made by the personal work of the two authors.

The comparative study of the relevant United States federal labour law is a useful chapter in the report. The author has wisely confined it to a brief description of the method of handling unfair labour practice cases in the United States and the role of the trial examiner, the National Labor Relations Board, the courts and the arbitrator. It does not purport to do more than point out the main differences from the Canadian system, and suggest areas where further examination of the United States experience would be fruitful.

The project of interviews with management and union representatives who had been directly involved in unfair practices proceedings before the Ontario Board obviously had to be curtailed for lack of time. Among the questions there were some designed to inquire into the effect of the complaint on the work life of the individual involved in the dispute, but no results are reported of this inquiry. Perhaps that would have to be a subject for a case study extending over a longer period of time. The interviews did reveal some sobering facts about the relationships between the parties after the complaint proceedings. In most cases the union succeeded in getting certified, but only in about half of the cases did the parties eventually make a collective agreement.

In their personal assessment, the authors see the law as reasonably satisfactory, except in the area of picketing where they recommend a codification which would clearly identify what is legal and that is illegal, but they would make changes in administration. Jurisdiction over the whole range of unfair practices, including illegal strikes and picketing and failure to bargain in good faith, should, in their view, be assigned to a specialized tribunal such as a labour relations board. An important advantage would be the opportunity that would be afforded, if the tribunal was required to give reasons for decision, to build up a consistent labour relations jurisprudence that would, in time, clarify such matters as the duty to bargain in good faith. Unfair practices which are also breaches of a collective agreement they would, in general, leave to arbitration. They would retain the accommodative approach in the settlement of unfair practices issues through the use of field officers.

The study makes a useful addition to the scanty Canadian literature on unfair labour practices provisions.

Edith LORENTSEN

Industrial Conversion and Workers' Attitudes to Change in Different industries, by Jan J. Louser and Michael Fullan, Study no 12, Task Force on Labour Relations, Ottawa, Privy council office, 1970, 270 pp.

This study, like many others in the highly commendable series commissioned by the federal Task Force on Labour Relations, investigates an important area of Canadian labour relations that has been neglected in the past. While the impact of industrial change is a matter of importance to industry, government, labour unions, and the general public in any modern, industrial society, the dynamic nature of our economy and the need to fully utilize and positively motivate our labour force confers an added