

# Labor Unions and Municipal Employee Law (Book Review)

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LABOR UNIONS AND MUNICIPAL EMPLOYEE LAW. By Charles S. Rhyne. Washington, D. C.: National Institute of Municipal Law Officers, 1946. Pp. 583. \$10.

This book continues a study issued in 1941 by the National Institute of Municipal Law Officers (N. I. M. L. O.). It is a comprehensive compilation of materials bearing on the powers of municipal governments, as employers, to enter into bargaining agreements with unions representing municipal employees, and on the extent to which such agreements may include the provisions found in bargaining agreements in private industry. The materials include not only statutes and decisions, both judicial and administrative, but also the opinions of state and municipal law officers, as well as a statement of the experience of a number of municipalities with labor unions. The preponderance of this material looks in the direction of prohibitions against or limitations on the power of municipalities to bargain with or even recognize unions of municipal employees. Mr. Rhyne has thoughtfully included, however, the opinions of general counsel to the C. I. O. and to the A. F. of L., looking in the opposite direction.

Although the municipal employee lives in the same economic society as his fellow worker in private industry, and is equally affected by changing economic conditions, his employer does not enjoy the same freedom to contract, whether the contract is with a labor union or with a construction company for the erection of a public building. Membership in a union by itself, does not seem to be seriously questioned, except in the case of those municipal employees whose work directly involves public safety (firemen, policemen, etc.). Even in those cases where the municipality has gone a step further and admitted its power to contract with a labor union, there has been either a partial or a total exclusion of those provisions which constitute the essence of a collective bargaining agreement—the closed shop, check-off of union dues, wages and hours, promotion and discharge of employees, compulsory arbitration, and the strike.

It is difficult to reconcile the closed shop provision with the right of any qualified individual to obtain public employment. It is equally difficult to conceive a provision for compulsory arbitration which will not constitute an illegal delegation of power or discretion to a public official. Provision for wages and hours and for the promotion and discharge of employees creates an immediate conflict with civil service requirements. In some cases the check-off has been permitted where the deduction from the employee's pay is made pursuant to a voluntary instruction given by him to the city paymaster, and revocable at will.

The opinions of the public officials included in this volume are unanimous in expressing their opposition to the right of municipal employees to strike. Recognition by some of the unions themselves that the weapon of the strike may not be as freely available to municipal employees as it is to employees in private industry is found in the renunciation or disapproval of the strike, either in the union's constitution, or in a collective bargaining agreement.

Out of a total of 400 municipalities covered by this study, agreements with labor unions were found in only seven. With the war over, and with the

C. I. O. and the A. F. of L. both conducting vigorous drives for members among government employees, the questions presented in this volume will soon call for authoritative answers. This book will serve as a valuable guide to those who will have to take part in the decision of those questions. Mr. Rhyne, who is General Counsel to N. I. M. L. O., has rendered a valuable service in preparing this survey.

AARON B. COLEMAN.\*

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## BOOK NOTES

A GUIDE TO MOTION PRACTICE. By Samuel A. Tripp. New York: Queens County Bar Association, 1946. Pp. xi, 180, index. \$5.00.

Mr. Tripp has been a law assistant to the Justices of the Supreme Court of Queens County for ten years. In that position he has read the papers submitted for thousands of motions. It has been his experience that very many papers do not reflect an appreciation of the proper function of a motion or the basic elements necessary to enable the judge to make a decision. In too many cases the necessary information is lacking or buried in meaningless form. This hinders rather than facilitates the rendition of justice.

In *A Guide to Motion Practice* the author presents the results of his unique experience. Although he limits himself to the conventional divisions in handling the subject, it is clear that he feels that motions, in order to be effective, must not be limited in form or use. A wise attorney will not be stopped merely because the situation is novel. "The important consideration is to find the principle as expounded in a controlling decision and then to apply it to the situation at hand." This technique cannot be acquired from form books, however, as many seem to think.

Without sacrificing authority or complete treatment the author has produced a small, well organized, simple-to-use hand book. The material is set forth in outline form which is conducive to clear thinking. It is not encumbered with multitudinous citations, quotations or forms, which features are left to the standard exhaustive works. However, the author does give authority for each proposition to guide the practitioner into the proper channel.

This guide offers to the practitioner first, a chapter containing a thorough treatment of the fundamentals of the motion procedure and the proper functions of the different papers used. This should help the practitioner to view his motions in proper perspective and to make more intelligent use of them.

Second, commencing with Chapter II, the author covers the particular motions with the more common receiving very complete treatment in separate chapters. This should provide the attorney with the elements and the essential information necessary for a proper decision. Form does not interest Mr. Tripp

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