

program is still in the embryonic stage and that it has many weaknesses.⁷ Thus it makes a real contribution because it will be a catalyst for discussion, such as Jane Jacobs' *The Death and Life of Great American Cities* and Herbert Gans' *The Urban Villagers*. Anderson pinpoints many useful criticisms, and they must not be swept under the rug. Above all, the volume shows how much more research and meaningful analysis is needed to give the federal urban renewal the type of objective, inter-disciplinary, thorough, and broad-range evaluation it deserves. During a period when "research" is not highly respected in the field of housing, and not considered particularly pertinent by the lawmakers in Washington, perhaps it is time to consider cost-benefit analyses, even for a bumbling effort to innovate and to put to action the latest methods of business, industrial and social science research to shed further light on this continually expanding activity of our urban civilization. Urban renewal, with its concomitant elimination of congestion, decay, poverty, and disease will continue, not only because it is good, sound business, but also because it is necessary business.

PETER H. NASH
Dean of the Graduate School
University of Rhode Island

Unionization Attempts in Small Enterprises, A Guide for Employers.
By Morton Gitelman: Callaghan & Co., Illinois, 1963, pp. XV, 203.

This volume is part of a series of studies made of the legal problems of small businesses by the Duke University School of Law. According to the foreword by F. Hodge O'Neal, project director, Duke University's Small Business Studies:

Each of these studies has a twofold objective: (1) to acquaint small businessmen with often unsuspected legal problems involved in planning and operating their businesses, and to give them sufficient understanding of these problems to know when to call on a lawyer and how to get the best service from him; and (2) to provide nonspecialist lawyers with convenient and authoritative guidance so that they can render more effective service to their small business clients. (p. IV.)

And according to the author's preface:

Because this study is designed primarily for the employer who has never undergone a unionization attempt, certain peripheral subjects are not discussed. Thus, omitted from this study are the problems which arise when two or more unions are organizing in rivalry and the questions to be dealt with when a group of em-

⁷ For a well written and soundly reasoned apologia by the Director of the Joint Center for Urban Studies of M.I.T. and Harvard University, although not directly referring to Anderson's book, see Wilson, *Urban Renewal Does Not Always Renew*, *Harvard Today*, Jan. 1965, pp. 2-8.

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ployees seeks to get rid of an existing union in the plant or seeks to replace the present union with another. (p. VIII.)

Professor Gitelman¹ begins his study on a note which may be comforting to the owners or managers of small businesses by pointing out that compared to the size of the labor force, the percentage of organized workers did not significantly increase from 1950 to 1960 and that a 1953-54 survey showed that employees in only slightly more than half of the businesses employing from 51 to 100 workers were organized. However, any joy which might rebound from that information is immediately tempered when he points out that unions have increasingly turned their attention to the smaller establishments after having organized the larger enterprises. And Professor Gitelman offers two of his best pieces of advice early in the study. First:

The decision to resist the union must not be based on the employer's antipathy to unionism but rather on an evaluation of the effect unionization will have on the business, an evaluation of employee sentiment and an understanding of what action is legally permissible in resisting organization. (p. 36.)

Second: "The most profitable measure which an employer can take, upon first learning of a union attempt, is to retain the services of a labor attorney." (p. 42.)

A number of insights regarding why employees are attracted to unions is also presented, with appropriate emphasis on the conclusion that improvement in wages and job security are not necessarily the primary motivations. While none of this is new,² it is useful information for employers faced with an organizational campaign. Similarly helpful is the author's suggestion that, within the limits of the law and the economics of the business, the employer do what he can to alleviate the causes of employee dissatisfaction in order to counter the union's campaign.

Another interesting chapter is devoted to a discussion of the salesman-like characteristics of the union organizer, and the techniques he uses in organizing employees. Employers are put on notice that an organizer is interested in obtaining as much information about the company and the employees as possible, even, in some instances, to bribing office workers for a list of the names and addresses of employees. As the author points out, this is, perhaps, some of the most difficult information to obtain.

By far the major portion of the study is devoted, as might be expected, to an exposition of what an employer may and may not do under the National Labor Relations Act when faced with an organizational campaign, a demand for recognition, or a representation election. Unfair labor practices are treated only as they are incidental to representation matters, and it is in the latter field that the author enters what is probably the most volatile area of labor management relations and the law. As one commentator has expressed it:

¹ Assistant Professor of Law, University of Denver.

² See, e.g., Black & Piccoli, *Successful Labor Relations for Small Business* 107 (1953); Gardner & Moore, *Human Relations in Industry* 227 (rev. ed. 1950); Shefferman, *The Man in the Middle* 110 (1961).

The law concerning representation elections has had a turbulent history. To be sure, there is a hard core of legal doctrine that has withstood the vicissitudes of changing attitudes and administrations. But few principles have escaped sharp criticism from at least a minority of judges and administrators. Most rules have undergone a continuous process of refinement and change, and some have enjoyed a particularly checkered career, being born in one period, laid to rest in another, only to be resurrected, like the Phoenix, garbed in slightly different plumage.³

For example, the volume was published prior to the NLRB's decision in *Bernel Foam Prods. Co.*⁴ in which the Board reversed the rule of *Aiello Dairy Farms*,⁵ which had been that a union which resorted to and lost a representation election with knowledge of an employer's unfair labor practices could not pursue a refusal to bargain charge after losing the election. Under the current Board doctrine, the union is not faced with the choice of pursuing either the election route or the unfair labor practice route to obtain bargaining rights, subject to the qualification that if the union first takes the election route and loses, the election must be set aside before a refusal to bargain charge will be entertained. Other changes in Board policy might be cited, but that would seem profitless here since those changes themselves may well be altered in the future. Suffice it to say, and with no disparagement of the author intended (for he fully realized that the "rules of the game" were subject to change virtually without notice), that the businessman or practitioner relies at his peril on the statements of Board law. Nevertheless, the book contains a helpful guide to potential trouble spots, and once they are noted, current decisions affecting them are readily available.

Of major significance is the author's stress on a reasoned, temperate approach to communications with employees during an organizational or pre-election campaign. The emphasis is on a calm, factual and truthful presentation of the benefits to be derived from employee's remaining unorganized or the disadvantages to be suffered from union representation. Support for this thesis may be found in many places. For example, it has been said that:

Various experiments have revealed the range of defense mechanisms that many listeners instinctively adopt to disbelieve or downgrade the words of the speaker who seeks to evoke disagreeable images in their minds. In fact, the most careful experiment yet performed in this area found that persons exposed to a calm and rational argument were persuaded more often to alter their conduct and remained more resistant to counterarguments than those who had listened to emotional statements which played upon the unpleasant consequences that would result if the speaker's recommendations were disregarded. One need not insist that such experiments are dis-

³ Bok, *The Regulation of Campaign Tactics in Representation Elections Under the National Labor Relations Act*, 78 Harv. L. Rev. 38, 39 (1964).

⁴ 146 N.L.R.B. No. 161 (May 4, 1964).

⁵ 110 N.L.R.B. 1365 (1954).

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positive of the issue; they are not conclusive nor do they purport to be. But they serve, at least, to underscore the speculative nature of any conclusions that would emphasize the impact of intemperate statements on the voters.⁶

For this reason, Professor Gitelman has been careful to caution against excessive or inflammatory communications to employees in an effort to dissuade them from supporting a union. This emphasis is highly desirable since the Board has become concerned of late with inflammatory communications concerning such matters as race and violent strikes,⁷ and the courts, and, to a lesser extent, the Board, have undertaken the condemnation of major misrepresentations or misstatements of fact in election campaigns.⁸

On the other hand, in *Appendix A, Employer Notices, Letters and Speeches*, the author presents a number of examples of material which employers have used during election campaigns. These items are prefaced with the caveat that the author does not endorse or recommend them but merely presents them as examples of what some employers have used. However, the first item, a bulletin board notice, has figured in a number of Board decisions and has been held to contain an implied threat to employees in violation of section 8(a)(1) of the act.⁹ The other material, a letter to employees and several employer speeches, appears to be a bit more extreme than the author counselled in his text, and one of the speeches reproduced from the *Lux Clock Mfg. Co.* case¹⁰ is of dubious innocence today.

Subject to these qualifications, the study represents a careful, painstaking effort to present a subject, complicated from both an emotional and a legal standpoint, clearly and concisely in layman's language. In this the author has been successful, and the volume should be of real usefulness to the audience to which it is directed.

STUART ROTHMAN
Royall, Koegel & Rogers
New York & Washington, D.C.

Federal Taxation and Unreasonable Compensation. By Crawford C. Halsey & Maurice E. Peloubet: Ronald Press, New York, 1964, pp. 180.

Perhaps one valid generalization about our legal process is that the legislatively-imposed standard of "reasonableness" has left the judicial system with difficult problems of interpretation. A perfect case in point is the provision of Section 162(a) of the 1954 Internal Revenue Code, as amended, which permits corporations an income tax deduction for

⁶ Bok, *supra* note 3, at 72-73.

⁷ General Indus. Electronics Co., 146 N.L.R.B. No. 115 (April 28, 1964); Patz Co., 4 CCH Lab. L. Rep. ¶ 12958 (1964).

⁸ See, e.g., NLRB v. Gilmore Indus., Inc., 341 F.2d 240 (6th Cir. 1965); NLRB v. Bonnie Enterprises, Inc., 341 F.2d 712 (4th Cir. 1965).

⁹ M. Lowenstein & Sons, Inc., 150 N.L.R.B. No. 66 (1964); White Oaks Acres, Inc., 134 N.L.R.B. 1145 (1961).

¹⁰ 113 N.L.R.B. 1194 (1955).