

SUMMARY TABLE OF CONTENTS

VOLUMES I & II

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|----------------------------------|----------------------------|-------------------------|
| FOREWORD | xxx | xxxi |
| PREFACE..... | xxxiii | xxxiii |
| DETAILED TABLE OF CONTENTS | xl | xl |

PART I

HISTORY OF THE NATIONAL LABOR RELATIONS ACT

| | | |
|--|------|-----|
| CHAPTER 1. Historical Background of the Wagner Act..... | 1-1 | 1-1 |
| I. The Inadequacies of Judicial Regulation | 1-2 | — |
| II. The Rise of Federal Regulation | 1-6 | — |
| III. An Affirmative National Labor Policy: The Ancestry of the Wagner Act..... | 1-10 | — |
| CHAPTER 2. The Wagner Act Period | 2-1 | — |
| I. The Role of Senator Wagner | 2-2 | — |
| II. The National Labor Relations Act: The Beginning of an Era | 2-3 | — |
| III. Criticism of the Act: One-Sided Legislation... | 2-6 | — |
| CHAPTER 3. The Taft-Hartley Changes | 3-1 | — |
| I. Industrial Unrest and Congressional Response | 3-2 | — |

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|---|----------------------------|-------------------------|
| II. The New Amendments..... | 3-7 | — |
| III. The Reaction..... | 3-13 | — |
| CHAPTER 4. The Landrum-Griffin Changes | 4-1 | — |
| I. The Impetus of Legislative Investigation | 4-2 | — |
| II. The Political Climate..... | 4-3 | — |
| III. Senate Action..... | 4-4 | — |
| IV. Struggle in the House..... | 4-5 | — |
| V. Reconciling Title VII..... | 4-7 | — |
| VI. The Conference Committee Version | 4-10 | — |
| CHAPTER 5. The Post-Landrum-Griffin Period..... | 5-1 | — |
| I. Jurisdiction Over U.S. Postal Service..... | 5-1 | — |
| II. Section 302 Amendments and Additional Bargaining Subjects..... | 5-2 | — |
| III. Health Care Institution Amendments..... | 5-5 | — |
| IV. Court Invalidates Act Giving Religious Conscientious Objectors Exemption From Union-Security Coverage | 5-6 | — |
| V. Unsuccessful Efforts to Amend the Basic Act | 5-7 | — |

PART II

PROTECTED EMPLOYEE ACTIVITY

| | | |
|---|-------|------|
| CHAPTER 6. Interference With Protected Rights | 6-1 | 6-1 |
| I. Overview..... | 6-6 | 6-7 |
| II. Organizational and Preelection Activity | 6-27 | 6-8 |
| III. Other Concerted Activity | 6-131 | 6-20 |
| IV. Union Restraint and Coercion | 6-207 | 6-27 |
| CHAPTER 7. Discrimination in Employment..... | 7-1 | 7-1 |
| I. Discrimination as an Unfair Labor Practice .. | 7-3 | — |
| II. Employer Discrimination | 7-5 | 7-3 |
| III. Union Inducement of Employer to Discriminate | 7-93 | 7-7 |
| IV. Discrimination Because of Involvement With NLRB Procedures: Section 8(a) (4) | 7-109 | — |
| CHAPTER 8. Employer Domination of and Assistance to Labor Organizations | 8-1 | 8-1 |
| I. Introduction: Section 8(a)(2)..... | 8-2 | — |
| II. Labor Organization Defined | 8-4 | 8-2 |

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|--|----------------------------|-------------------------|
| III. Employer Domination..... | 8-13 | — |
| IV. Employer Interference..... | 8-20 | — |
| V. The Requirement of Employer Neutrality..... | 8-29 | — |
| VI. Employer Support Versus Cooperation..... | 8-37 | — |
| VII. The Union as Party to the Employer's Domination, Assistance, or Support..... | 8-42 | 8-2 |
| VIII. Remedies..... | 8-44 | 8-2 |

PART III

THE REPRESENTATION PROCESS AND UNION RECOGNITION

| | | |
|--|-------|------|
| CHAPTER 9. Restrictions on Preelection Activity: “Laboratory Conditions”..... | 9-1 | 9-1 |
| I. Introduction..... | 9-3 | 9-3 |
| II. Grounds for Setting Aside Elections..... | 9-15 | 9-6 |
| III. Remedies..... | 9-71 | 9-9 |
| CHAPTER 10. Representation Proceedings and Elections..... | 10-1 | 10-1 |
| I. Questions Concerning Representation..... | 10-4 | — |
| II. Policies and Statutory Provisions Affecting the Processing of Petitions..... | 10-21 | — |
| III. Election Procedures..... | 10-59 | 10-4 |
| CHAPTER 11. Appropriate Bargaining Units..... | 11-1 | 11-1 |
| I. Background..... | 11-3 | — |
| II. General Factors in Unit Determinations..... | 11-6 | 11-4 |
| III. Types of Units..... | 11-16 | 11-5 |
| CHAPTER 12. Recognition and Withdrawal of Recognition Without an Election..... | 12-1 | 12-1 |
| I. Introduction..... | 12-3 | — |
| II. History..... | 12-6 | — |
| III. Elements of a Bargaining Obligation in the Absence of an Election..... | 12-16 | 12-3 |
| IV. Bargaining Obligation Established by Employer Card Checks, Polls, and Other Independent Means..... | 12-43 | 12-4 |
| V. Defenses to the Remedial Bargaining Order..... | 12-51 | 12-4 |
| VI. Withdrawal of Recognition..... | 12-63 | 12-5 |

*Seventh
Edition**Supple-
ment***PART IV****THE COLLECTIVE BARGAINING PROCESS**

| | | |
|---|--------|-------|
| CHAPTER 13. The Duty to Bargain | 13-1 | 13-1 |
| I. Introduction..... | 13-4 | 13-5 |
| II. Per Se Violations..... | 13-13 | 13-5 |
| III. The Good Faith Requirement | 13-32 | 13-6 |
| IV. The Duty to Furnish Information..... | 13-88 | 13-8 |
| V. Economic Pressure During Bargaining..... | 13-154 | 13-11 |
| VI. Bargaining Impasses..... | 13-161 | 13-12 |
| VII. Defenses and Exceptions: Waiver, Suspension, and Termination of Bargaining Rights..... | 13-179 | 13-14 |
| VIII. The Construction Industry: Section 8(f) | 13-213 | 13-23 |
| IX. Notice to Terminate or Modify the Labor Agreement..... | 13-224 | — |
| X. Coalition or Coordinated Bargaining | 13-236 | — |
| XI. Bargaining During the Term of an Existing Agreement..... | 13-240 | 13-24 |
| XII. Dual Employer Operations: The “Double-Breasted” Issue | 13-247 | 13-25 |
| CHAPTER 14. Effect of Change in Bargaining Representative During the Term of a Collective Bargaining Agreement..... | 14-1 | 14-1 |
| I. Context in Which the Issue Arises..... | 14-1 | — |
| II. Rights and Obligations of New Bargaining Representative and Employer Under Contract With Prior Representative | 14-3 | — |
| III. Mergers and Transfers of Affiliation..... | 14-8 | — |
| CHAPTER 15. Effect of Change in the Employing Unit: Successorship | 15-1 | 15-1 |
| I. Scope of the Topic..... | 15-3 | — |
| II. Historical Development | 15-6 | — |
| III. Successorship and the Bargaining Obligation | 15-22 | 15-3 |
| IV. Successorship and the Contractual Obligation | 15-77 | 15-5 |

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|--|----------------------------|-------------------------|
| V. Successorship and the Contract-Bar Doctrine | 15-120 | 15-6 |
| VI. Liability of Successor for Predecessor's Unfair Labor Practices | 15-124 | — |
| VII. Liability of Successor to Remedy Delinquent Pension Fund Contributions | 15-134 | 15-7 |
| CHAPTER 16. Subjects of Bargaining..... | 16-1 | 16-1 |
| I. Introduction..... | 16-3 | — |
| II. Historical Background | 16-4 | — |
| III. Development of the Distinction Between “Mandatory” and “Permissive” | 16-7 | — |
| IV. Mandatory Subjects of Bargaining | 16-20 | 16-4 |
| V. Permissive Subjects of Bargaining | 16-119 | — |
| VI. Illegal Subjects of Bargaining | 16-150 | — |

PART V

ARBITRATION AND THE ACT

| | | |
|---|-------|------|
| CHAPTER 17. Relation of Board Action to Enforcement of Agreements Under Section 301 | 17-1 | 17-1 |
| I. Introduction..... | 17-2 | — |
| II. Section 10(a) Power of the Board | 17-3 | — |
| III. Scope and Purpose of Section 301 | 17-5 | 17-3 |
| IV. Injunctions in Aid of Arbitration: Section 301 Versus Norris-LaGuardia..... | 17-41 | 17-4 |
| V. NLRB Interpretation of the Collective Bargaining Agreement | 17-70 | 17-6 |
| CHAPTER 18. Accommodation of Board Action to the Arbitration Process | 18-1 | 18-1 |
| I. Introduction and Historical Development | 18-3 | 18-3 |
| II. Prearbitral Deferral: Applying the <i>Collyer</i> Doctrine | 18-25 | 18-4 |
| III. Post-Arbitral Deferral: Applying the <i>Spielberg</i> Standards..... | 18-47 | 18-5 |
| IV. Other Factors Affecting the Board's Post-Arbitral Deferral Policy | 18-68 | 18-5 |
| V. Response of the Reviewing Court to the Board's Deferral Standards | 18-80 | — |

PART VI
ECONOMIC ACTION

| | | |
|---|--------|------|
| CHAPTER 19. The Primary Strike..... | 19-1 | 19-1 |
| I. Introduction: The Right to Strike..... | 19-2 | — |
| II. Strikes Protected Under the Act..... | 19-19 | — |
| III. Unprotected and Prohibited Strikes | 19-34 | — |
| IV. Rights of Employees Respecting Picket Lines: Sympathy Strikes..... | 19-54 | — |
| CHAPTER 20. The Lockout..... | 20-1 | 20-1 |
| I. Introduction: Historical Perspective | 20-2 | — |
| II. Contemporary Law of Lockouts | 20-20 | 20-2 |
| CHAPTER 21. Picketing for Organization and Recognition..... | 21-1 | 21-1 |
| I. Introduction: Recognitional Picketing in History | 21-2 | — |
| II. Picketing Defined | 21-6 | — |
| III. Proscribed Organizational or Recognitional Objective | 21-14 | — |
| IV. Picketing When Another Union Is Currently Recognized..... | 21-37 | — |
| V. Picketing Within Twelve Months of a Valid Election | 21-42 | — |
| VI. Picketing of Unreasonable Duration Absent a Petition | 21-49 | — |
| VII. The Informational Picketing Proviso | 21-55 | — |
| CHAPTER 22. Secondary Activity: Handbills, Pickets, and Strikes..... | 22-1 | 22-1 |
| I. Introduction: Development of the Law..... | 22-3 | — |
| II. Section 8(b)(4)(B): Prohibited Secondary Activity Defined..... | 22-26 | 22-4 |
| III. Handbilling..... | 22-85 | — |
| IV. Consumer Picketing..... | 22-95 | 22-5 |
| V. Actions for Damages Under Section 303 | 22-107 | 22-5 |
| CHAPTER 23. Section 8(e): The “Hot-Cargo” Agreement..... | 23-1 | 23-1 |
| I. Introduction: The Law Before Landrum-Griffin | 23-2 | — |

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|---|----------------------------|-------------------------|
| II. Enactment of Section 8(e): Agreements to Boycott Prohibited..... | 23-5 | — |
| III. Interpretation and Application | 23-9 | 23-2 |
| CHAPTER 24. Jurisdictional Disputes and “Featherbedding”..... | 24-1 | 24-1 |
| I. Introduction..... | 24-1 | — |
| II. Jurisdictional Disputes..... | 24-2 | 24-2 |
| III. “Featherbedding” | 24-42 | — |

PART VII

RELATIONS BETWEEN EMPLOYEE AND UNION

| | | |
|---|-------|------|
| CHAPTER 25. The Duty of Fair Representation | 25-1 | 25-1 |
| I. Introduction: Origin of the Duty..... | 25-2 | — |
| II. Jurisdiction and Procedures to Enforce the Duty | 25-8 | 25-2 |
| III. Nature of the Duty..... | 25-41 | 25-3 |
| IV. Statutes of Limitations..... | 25-78 | 25-4 |
| V. Remedies..... | 25-88 | 25-7 |
| CHAPTER 26. Union Security | 26-1 | 26-1 |
| I. Introduction: Historical Evolution | 26-2 | — |
| II. Required Membership—The Union Shop | 26-7 | 26-2 |
| III. Variations: The Agency Shop and Maintenance of Membership..... | 26-48 | — |
| IV. Section 14(b) and State “Right-to-Work” Laws | 26-54 | 26-3 |
| V. Hiring-Hall and Job-Referral Practices..... | 26-63 | 26-4 |
| VI. The Dues Checkoff..... | 26-81 | 26-4 |
| VII. Constitutional Dimensions and Other Statutory Requirements..... | 26-94 | 26-5 |

PART VIII

ADMINISTRATION OF THE ACT

| | | |
|---|--------|------|
| CHAPTER 27. Jurisdiction: Coverage of the Act..... | 27-1 | 27-1 |
| I. Constitutionality | 27-3 | 27-3 |
| II. Statutory Jurisdiction..... | 27-13 | 27-3 |
| III. Definitions and Limitations on Coverage | 27-34 | 27-4 |
| IV. Discretionary Administrative Jurisdictional Standards..... | 27-107 | — |

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|--|----------------------------|-------------------------|
| CHAPTER 28. Federal Preemption of State Regulation | 28-1 | 28-1 |
| I. Introduction..... | 28-2 | — |
| II. Evolution of Preemption Doctrine..... | 28-7 | 28-3 |
| III. <i>Garmon</i> Preemption in Specific Situations..... | 28-40 | 28-5 |
| IV. Preemption Under Section 301..... | 28-59 | 28-6 |
| V. Preemptive Effect of Other Statutory Provisions | 28-89 | 28-7 |
| CHAPTER 29. Accommodations to Other Federal Enactments..... | 29-1 | 29-1 |
| I. The NLRA and the Antitrust Law..... | 29-2 | 29-2 |
| II. The NLRA and the Bankruptcy Code..... | 29-33 | 29-4 |
| III. The NLRA and Immigration Law..... | 29-62 | 29-5 |
| CHAPTER 30. RICO and Labor Law..... | 30-1 | 30-1 |
| I. Introduction..... | 30-4 | — |
| II. Historical Background of RICO and Its Applicability to Labor Disputes | 30-6 | — |
| III. Overview of the Statute | 30-15 | — |
| IV. Predicate Acts Commonly Alleged in Labor Cases | 30-72 | — |
| V. Issues in Civil Litigation | 30-127 | — |
| VI. Remedies..... | 30-178 | — |
| CHAPTER 31. NLRB Procedures | 31-1 | 31-1 |
| I. Organization of Board and Office of General Counsel..... | 31-2 | 31-3 |
| II. Procedures in Representation Cases | 31-9 | 31-5 |
| III. Procedures in Unfair Labor Practice Cases ... | 31-41 | 31-7 |
| IV. Procedures Applicable to All Cases | 31-65 | 31-15 |
| V. The NLRB and Rulemaking | 31-76 | — |
| VI. Other Rulemaking Initiatives..... | 31-78 | 31-16 |
| CHAPTER 32. NLRB Orders and Remedies..... | 32-1 | 32-1 |
| I. General Principles | 32-3 | — |
| II. Orders in Representation Cases (Section 9) . | 32-6 | 32-4 |
| III. Orders and Remedies in Complaint Cases (Section 10) | 32-8 | 32-5 |

SUMMARY TABLE OF CONTENTS

xliii

| | <i>Seventh Edition</i> | <i>Supple- ment</i> |
|--|----------------------------|-------------------------|
| CHAPTER 33. Judicial Review and Enforcement..... | 33-1 | 33-1 |
| I. Introduction..... | 33-2 | — |
| II. Appellate Review and Enforcement | 33-4 | 33-2 |
| III. Direct Review and Enforcement..... | 33-39 | — |
| IV. Interim Appellate Relief..... | 33-52 | — |
| APPENDIX National Labor Relations Act..... | A-1 | — |
| TABLE OF CASES | T-1 | T-1 |
| INDEX | I-1 | — |

