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## Review of “Industrial Disputes and Federal Legislation,” By Thomas Russell Fisher

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would seem desirable to have the course in restitution and use a casebook like Professor Thurston's. This is in line with the more recent tendency to eliminate the courses in equitable remedies as such and treat them in conjunction with and parallel to legal remedies.

A most desirable end would be obtained if the bar could become well acquainted with the Restatement of Restitution and Unjust Enrichment and with the very illuminating materials and notes of Professor Thurston. Various ways must be devised to bring home to the bar the merits of this Restatement as a contribution to legal scholarship through the selection of related matter from other fields under one title, such as was accomplished when "the collective name of 'Torts' was given in a treatise to the wrongs for which actions of trespass on the case were permitted in a great variety of situations."<sup>2</sup>

CHARLES E. CULLEN.†

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INDUSTRIAL DISPUTES AND FEDERAL LEGISLATION. By Thomas Russell Fisher. New York: Columbia University Press, 1940. Pp. 370. \$4.75. c

This book, one of the Columbia University Studies in History, Economics, and Public Law, is a critical survey of federal legislation relating to labor disputes from 1900 to 1939. It contains special studies of the railroad, coal and steel industries, but these are chiefly used to illuminate the more general problem of federal control over industrial relations. The author's theme is that the strike and lockout are damaging to the participants and to the public, and that the most effective remedy is government intervention through mediation and arbitration.

For convenience, the book may be divided into three main parts. The first, consisting of four chapters, is an introduction to the general field. It contains a discussion of the background of industrial disputes, and a survey of relevant federal legislation since 1900. The second part consists of three chapters which cover briefly the history of labor relations in the railroad, coal, and steel industries respectively. These chapters, which are, in the opinion of the reviewer, the best in the book, tell the principal facts about past labor disputes in the three industries, and place the pertinent federal statutes and commissions in this historical background. The third part of the book consists of four chapters dealing respectively with the prevention and settling of labor disputes, employee representation plans, the function of government in labor disputes, and the need for social legislation in this field.

The best and the worst that can be said of this book is that it is a survey. Considering the length of time and amount of material covered, it would be impossible in the space of three hundred and seventy pages to do more than sketch the facts and suggest solutions. Perhaps the most serious criticism of the book is that although the author seems to have convictions they are nowhere clearly set out. In fact, his conclusions seem contradictory. For example, on page 153, arbitration "by boards of unqualified

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2. (1938) 54 Law Quarterly Rev. 33.

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qualifications and honor" is suggested as the remedy for the American labor problem, and the Canadian law with its reliance upon mediation is dismissed as inadequate. But on page 340, tentative approval is given for "experimenting along the lines of the Canadian Industrial Disputes Act." Again, on page 335, the author suggests "a nation-wide regulation of wages and working standards administered by an independent board." The boards for mediation or arbitration would almost certainly run afoul of a board fixing wages and working standards but the administrative ramifications of this joint procedure are nowhere worked out or even suggested. The problem is not clarified by the statement on page 347 that the government "should establish agencies and enforce laws which prevent exploitation, equalize opportunity, and help each person to realize his potentialities \* \* \* ." It is, however, fairly clear that the author does not favor the present administrative procedure of the National Labor Relations Board, for he suggests, on page 175, that it is better to leave the enforcement of orders in labor disputes "to the ordinary courts" than to a "quasi-judicial body" like the National Labor Relations Board. Enough has been said to show from these scattered hints that the book does not convey to the reader any clear idea of either the problem or its solution. Consequently, the book is no more than a fairly brief and not very penetrating survey.<sup>1</sup>

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1. Certain less obvious shortcomings ought to be noted. For example, it is said that the prices of anthracite on the one hand "have been maintained at a high level by means of restricting production," while, on the other hand but apparently at the same time, "destructive competition" between old operators and independents "makes for low prices \* \* \* ." P. 231. If both of these statements are true at the same time and place, their ramifications need to be worked out in detail.

It is perhaps inevitable that the legal analysis should seem inadequate to a lawyer. For instance, on page 107, speaking of the *Apex* case as decided in the district court, the author says that the question of the application of the anti-trust laws was "a much closer one than it was" in the *Danbury Hatters'* case and the *Bedford Stone* case.

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