

OPINION
55-72

September 1, 1955 (OPINION)

LABOR

RE: Status of Unions

We have your letter of August 26, 1955, in which an opinion is requested on the following question:

Has a company dominated-union or an independent union of employees the same status under state laws as a bona fide chartered labor union, and if they have the same status under the law do they have the right to choose other than an employee of the Company involved as their bargaining representatives."

Section 34-0901 and 34-1005 of the 1953 Supplement to the North Dakota Revised Code of 1943 provide as follows:

34-0901. DECLARATION OF PUBLIC POLICY. The public policy of this state is declared to be that a worker shall be free to decline to associate with his fellows and shall be free to obtain employment wherever possible without interference or being hindered in any way, but that he shall also have the right to association and organization with his fellow employees and designation of representatives of his own choosing. That a contract made and entered into between an employer of labor and a worker or workers or any agent, bargaining agent or representative of a worker or workers shall be binding and equally enforceable upon both parties to said contract. That elections by secret ballot held to determine the question of who shall be the bargaining representative of a worker or workers or whether a worker or workers shall strike against an employer shall be free and impartial without being influenced by either an employer or worker or any third parties. That secondary boycotts and sympathy strikes are hereby declared to be against public interest and unlawful."

34-1005. EMPLOYEE REPRESENTATION FOR COLLECTIVE BARGAINING; ACTION BY LABOR DISPUTE BOARD; ELECTION. Whenever there is involved in a labor dispute for which a labor dispute board has been established as provided in this Act (chapter), a question concerning representation of employees, the board having jurisdiction of such dispute, after investigation, may determine the appropriate unit or units of representation and the name or names of the representatives designated or selected by each such unit. The board may utilize any suitable method of determining such representatives except that if either party to the dispute so requests as to any such unit a secret ballot of the employees in such unit shall be taken under the supervision of the board or its agent or agents appointed for that purpose. Representatives so designated or selected in any unit shall represent all employees in such unit for the purpose of collective bargaining concerning rates of pay, wages, hours

of employment, or other conditions of employment but notwithstanding such representation any employee or employees shall have the right to confer with or present grievances to their employer."

Under section 34-0901 no differentiation is made as to the type of association or organization which an employee may join. The statute merely provides that a bargaining representative may be selected by a worker or workers and that when such bargaining agent has been selected contracts entered into by such bargaining agent with the employer shall be enforceable upon both parties. Section 34-1005 provides authority for the labor dispute board to utilize any suitable method of determining employee bargaining representatives.

Therefore, under the foregoing statutes a company dominated union or an independent union has the same status as a bona fide chartered labor union, and members of such unions may select any bargaining representative of their choosing in accordance with the provisions of sections 34-0901 and 34-1005.

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