

*Hearst*⁸ and *Switchmen's*⁹ cases to circumscribe its own powers of review over even the legal questions passed upon by the National Labor Relations Board and the Railway Mediation Board, so that these administrative agencies have the real formulation of labor legal policy.

Moreover, the role of the anti-trust laws in the labor field has been peripheral. If such legislation as Mr. Gregory seems to favor were adopted, it would permit the Department of Justice to carry out the kind of prosecutions which Mr. Thurman Arnold so vainly undertook. But it is doubtful that this would do more than curb some of the malpractices of several local craft unions, whereas our principal difficulties today stem from the highly centralized control vested in a few intransigent leaders in many of the big industrial organizations. Such a study of our basic laws as Mr. Gregory has made, however, is equally essential for the legislator and government official who has to meet this challenge.

GERARD D. REILLY*

Arbitration of Labor Disputes. By Updegraff and McCoy. Chicago: Commerce Clearing House, Inc., 1946. Pp. xi, 291. \$3.75.

This book, according to the authors, is designed to accomplish two objectives: (1) to serve as a useful reference work for lawyers; and (2) to be a not-too-technical guide for laymen who are called upon to conduct arbitrations without benefit of counsel. In my opinion, it achieves neither of these aims. The book is not sufficiently comprehensive to satisfy professional needs. Similarly, it is not spelled out enough to constitute a safe guide to the uninitiated.

Like too many of the current crop of legal and quasi-legal books, the present work is obviously and unjustifiably padded. While it has 291 pages, there are, in fact, only 154 pages of text. The balance of the volume consists of an appendix containing a few forms and a number of specimen arbitration awards. Although forms and illustrative material are to be welcomed, those in the book are not adequate to be really useful, just as the text is not sufficiently extensive.

The sketchy character of the development of the subject is illustrated by a section entitled "Historical Backgrounds." Here the authors in four pages attempt to trace the history of arbitrations. They go back to the beginning of law, refer in the next paragraph to Roman jurisprudence, hasten to Bracton's *Note Book* and Coke, manage in the process to interpolate several Latin expressions, and conclude with modern times. In the course of this blitzkrieg, they omit any reference here or elsewhere in the book to the long and honorable history of labor arbitration in the garment industries. How any book can deal with labor arbitrations without even a passing reference to the pragmatic experience in these trades is unintelligible to me.

In their treatment of labor arbitration in modern times the authors seem too much influenced by their experience as arbitrators for the War Labor Board. Arbitration of labor disputes did not commence with the creation of the War Labor Board and will not end with the liquidation of that agency. Moreover, during the war, labor arbitra-

⁸ *NLRB v. Hearst Publications*, 322 U.S. 111 (1944).

⁹ *Switchmen's Union of North America v. National Mediation Board*, 320 U.S. 297 (1943).

* Member of District of Columbia Bar.

tions were, in effect, compulsory in character, and arbitration awards had behind them the sanction of the government. In peacetime, the Constitution does not allow compulsory arbitration and judicial jealousy limits the effective enforcement of even voluntary awards. Arbitration, to become a lasting instrument of peaceful settlement of labor disputes, must, like the United Nations in the international field, win acceptance of all parties involved and prove its effectiveness.

Illustrative of the danger of attempting to advise labor arbitrators on the basis of the War Labor Board experience is the assertion repeatedly made in the book that an arbitrator must never render a decision that represents a compromise. There may be some slight support for this position during a war period when arbitrations are conducted under executive orders having the force of law and enunciating a fixed governmental policy. It is plain piffle, however, for normal times. Every experienced and successful arbitrator knows that reasonable compromise is the foundation upon which a successful arbitration structure necessarily depends.

The authors not only deprecate compromise but they hope that arbitrators will rely on precedent and express the wish that one of the developments of the future will be a set of labor arbitration reports. Heaven save us from this eventuality. Arbitration is already in sufficient danger of being enveloped by legalisms without being ruined by that grubby search for precedent which has become all too characteristic of an American lawyer's art.

The growing importance of labor arbitration calls for adequate study of the subject. The present work does not satisfy the need.

ARTHUR J. GOLDBERG*

Conflict of Laws, The; A Comparative Study. Vol. I. By Ernest Rabel. Ann Arbor: University of Michigan Press, 1945. Pp. lvi, 754. \$12.50.

This book is unique in legal literature. For a field as large as that of conflict of laws, the legal systems of the world are presented fully, accurately, and critically. This work has been done not by a host of experts from various countries, but by one man, whose penetrating mind has welded together all of the vast material into a coherent whole.

The author of this unique work has had an unusual career, beginning with his legal training in Austria and supplemented by study in Germany and France. He was a teacher of Roman Law and modern Civil Law, and sat as a judge on superior courts in Germany and Switzerland, as well as serving on the bench of the German-Italian Mixed Arbitral Tribunal and on the World Court at the Hague. He has carried on basic research in papyrology and in the obscure sources of classical Roman Law; and as founder and, for many years, director of the Kaiser Wilhelm Institute of Foreign and International Private Law, he initiated the fertile research in comparative law which constitutes one of the principal roots for the revitalization of German legal science which had so promisingly begun in the Weimar Republic. As adviser to the Wilhelmstrasse, he was actively engaged in the practice of international law. When his work in Germany was cut short by the Hitler regime, William Draper Lewis, the farsighted director of the American Law Institute, seized upon the opportunity of having the *Restatement of Conflict of Laws* supplemented by a companion work which would present to American attorneys the conflict of laws of the principal foreign countries. He initi-

* Member of the Illinois Bar.