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Introduction

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As a matter of first principle, it is possible to divide all private relations into two broad categories: those that are concerned with the disposition of property and those that are concerned with the disposition of labor. Thus categorized, labor law covers an enormous portion of the legal landscape. The disposition of labor, like the disposition of property, may be regulated in many different ways. From the earliest time, the common law developed extensive rules governing contracts of employment. Yet from an equally early date, direct legislation (for example, the Statute of Labourers of 1350) displaced the common law, either in whole or in part. In the modern day, public concern with the employment relationship has grown, as evidenced first by the passage of the National Labor Relations Act, which instituted the present system of mandatory collective bargaining, and then by the Civil Rights Act of 1964, which outlawed discrimination in employment on the bases of race, color, religion, sex, and national origin. The present array of legal controls over labor relations thus depends upon an elaborate network of common law, statutory, and administrative rules that reveals at every point a persistent tension between the market so-

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lution and the direct-regulation approach to allocating labor resources.

The purpose of the papers in this symposium is to cut through the day-to-day complexity of the subject in order to lay bare its conceptual foundations. The authors bring legal, historical, philosophical, and economic expertise to the various aspects of labor relations. The first paper, by Richard Epstein, defends the contract at will, and the principle of freedom of contract upon which it rests, against modern trends toward creating causes of action for wrongful discharge. Sherwin Rosen comments on this argument from the point of view of a labor economist. Richard Posner then applies the fundamentals of economic theory to labor contracts and collective bargaining. Charles Fried and Cass Sunstein explore the ways in which labor law might reconcile the competing claims of individual fairness, group participation, and economic efficiency. Then Daniel Fischel looks at the legal organization of labor markets, using an approach adapted from capital-market theory.

The papers in the next group are more focused in orientation. First Mayer Freed and Daniel Polsby, and then Mary Becker, consider the operation of the Equal Pay Act and its implications for the doctrine of comparable worth, often described as the major labor issue of the next decade. Charles Rowley then examines the interaction between the British law of labor relations and the behavior of trade unions, private firms, and the British government. Jennifer Roback concludes the symposium with her reevaluation of the history of Jim Crow legislation in the South and its impact upon labor markets.

These papers were originally prepared for a conference, "The Conceptual Foundations of Labor Law," organized by the Social Philosophy and Policy Center of Bowling Green State University and the University of Chicago Law School, held at the Law School from April 13th to 15th, 1984. The conference itself was made possible by a generous grant from the Stranahan Foundation, to which we give our thanks. We also thank the editors of *The University of Chicago Law Review* for publishing the conference papers and for providing the authors with thoughtful and able editorial assistance.