more competition. On the other hand, as Professor Machlup stresses, there is the danger that price discrimination can lead to systematic dumping for the purpose of eliminating competitors. Discrimination, for such a purpose, however, is at present in violation of anti-trust law. Presumably Professor Machlup, unlike Professor J. M. Clark, feels that the practical difficulty of establishing "purpose" is so great as to require administrative ruling of what must be done rather than the usual anti-trust method of only attempting to set out what can not be done.

Irrespective of the merits of compulsory f.o.b. pricing there seems to be legal and economic concurrence that basing-point systems should be outlawed. There can be no system of basing points meeting current standards of anti-trust law so long as it is held that "[i]t is enough to warrant a finding of a 'combination' within the meaning of the Sherman Act, if there is evidence that persons with knowledge that concerted action was contemplated and invited, give adherence to and then participate in a scheme." Consequently, regardless what the verdict turns out to be about the rationality of the system, the cross-hauling of freight, the economics of location, or the oppression of the small by the large, advocates of systematic formula pricing are not likely to receive comfort from current economic analysis of the subject.

Ward S. Bowman


Unusual thought, discussion, and other energy have been devoted since the war to the content of law school courses in labor relations. The old content is widely deemed unsatisfactory for a number of reasons. Except for its concern with the National Labor Relations Act, it concentrates almost wholly on labor war, that is, the use of economic weapons—strikes, boycotts, picketing, and the like. And even the major portion of its concern with the National Labor Relations Act is directed to labor war, the unfair labor practices designed to discourage unionization. Practically no attention is paid to the relations of employees and unions for the greater periods of time in which they bargain collectively and adjust their differences without resort to the economic weapons. The materials, almost wholly judicial opinions, have not adequately expounded the real problems involved in the cases, nor the wider economic and social problems of which the cases are symptomatic; nor have the materials explored the possible methods of solution.

While this casebook by Gregory and Katz is on the whole the best of the Labor Law
casebooks now in print, it is not a product of or response to this dissatisfaction. Rather, it is a superb execution of the old idea. Of the 1280 pages of materials, 480 deal with strikes, boycotts, injunctions, and restraint of trade; 520 deal with the National Labor Relations Act as amended (more than 300 being devoted to employer unfair labor practices); 70 pages are given to "the internal affairs of labor organizations"; 45 pages deal with the judicial enforceability of collective agreements; and about 160 pages at the end of the volume are devoted to "collective bargaining": its "nature," its "basic problems and trends," some of its "practical aspects," enforcement of collective agreements by arbitration and the settlement of "collective bargaining disputes." Articles from "nonlegal" sources constitute most of the material in these 160 pages.

The authors chose their structure deliberately—almost defiantly—with full knowledge of the advance criticism. While agreeing "naturally ... with the growing sentiment that the big problem in contemporary labor relations policy and law is to devise methods for getting employers and unions together on a peaceful and smooth working basis," they built their book on the "conviction that the fundamental issue in labor relations law always has been, certainly still is, and probably shall continue to be, the extent to which workers may [legally] unite and exert collective economic force against employers in order to secure by self-help those advantages which they have always believed they would not otherwise gain." They have chosen in general "to follow a chronological pattern" in order that "law students should study labor relations law somewhat as a panorama ... an unfolding and ever developing political adaptation of an increasingly industrialized society to our working population's conceptions of their needs which are created by such industrialization," and in order that, by thorough acquaintance "with the past labor relations law," the student "may have some perspective on what it has become today and may develop into in the future under constantly shifting balances of political power." The organization of the materials was influenced also by the "practical" notions that "the lawyer is customarily a legal adviser, not a director of labor relations or a union organizer"; that "sound industrial relations will more readily be achieved if lawyers recognize their essentially professional role in the collective bargaining process and leave the more fundamental decisions of policy to be made by the parties themselves"; and that "the proper components of industrial peace," that is, "the personalities and everyday experiences of management representatives and union officials, with their incidental practical understanding of the interplay of the social and economic forces involved in collective bargaining ... are things which law students cannot very well acquire in schools."2

This is not the bliss of ignorance or the narrow legalist's plea for professional blinders. Professor Gregory has had wide experience with labor problems and with collective bargaining in their peaceful adjustment. He has been an active participant in the efforts of the University of Chicago Law School to integrate the social sciences and teach law in its social context. The materials and the numerous editorial comments in the casebook show that the author's own interest, insight, and knowledge are catholic and are not contained by assumed boundaries of a "professional role."

The actual facts of time and space (for example, forty-five hours or a single volume of 2 pages) do, of course, require choice of materials and emphasis. Much of the con-

* The quotations are from the Preface, pp. iii-iv.
troversy as to the choice and its feared evil consequences could be avoided by ex-

panding the limits of time and space. But the choice, when made, must be influenced 

by the desire to promote deeper knowledge and understanding rather than by notions 

of what will do for a limited professional role. Law students do not study labor law 

in preparation for any particular role. And there are no specified roles for lawyers 

in respect to labor relations. Some lawyers may never strike a labor problem at all; 

others may be called upon occasionally for very limited advice; still others may be 

called in solely to prosecute or defend a litigation; and others yet may in fact, if not 

also in name, be charged with the responsibility of a director of labor relations or 

union leader. This is quite apart from the lawyer’s influence as a citizen, an arbitrator, 

a politician, a government officer, or an officer or director of a business enterprise. 

The lawyer’s skill is not single. He is not called upon merely to expound or predict the 

law. He can have other skills generally expected from him—as advocate, negotiator, 

peacemaker, analyst, or general counsellor. To a large extent, the lawyer’s role is 

shaped by his capacity. Even his legal advice is likely to be wiser and sounder the 

more he understands the context in which the legal questions are raised. This must be 
especially true of a branch of the law having the characteristics described in the 
authors’ preface as quoted above.

I like the authors’ insistence upon providing materials which adequately show the 
development of labor law over the years. I like their insistence upon a “chronological” 
development; indeed, I wish they had followed it more rigidly than they have and had 
treated the cases together, with only temporal divisions, whether they involved picket-
ing, inducement of breach of contract, boycott, or restraint of trade. Familiarity with 
historic development seems to me to be a sine qua non in this field. But this objective 
can be achieved without the voluminous detail which the authors have provided. Their 
own many editorial comments show how this can be done. But they obviously enjoyed 
such fun in their sharp analysis and demolition of the judicial opinions that they piled 
them up enthusiastically and with little restraint. That takes much space in the vol-

ume. But, particularly because of the authors’ running comments, it need not take 
much classroom time. Gobs of the material can be assigned as required collateral 
reading without specific class discussion.

The volume shows long labor and great care in its preparation. It exudes the au-
thors’ lively enthusiasms and teaches itself. It is an excellent book for one course. 
And it calls loudly for another course. For, whatever one may think of the authors’ 
conviction as to “the fundamental issue in labor relations law,” there are other issues 
and other areas for exploration.

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