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Introductory Remarks

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INTRODUCTORY REMARKS

JOHN D. FEERICK*

THE *Fordham Law Review* is proud to have two excellent articles on crucial contemporary issues of labor law presented to commemorate the numerous and significant contributions made to Fordham University by Joseph R. Crowley, a beloved teacher and administrator who served Fordham for more than twenty-eight years.

The first article, *Interest Arbitration: The Alternative to the Strike* by Arvid Anderson and Loren A. Krause, explores various alternatives for resolving economic and bargaining disputes without a strike. The second, *The National Labor Relations Act at the Crossroads* by Edward Silver and Joan McAvoy, analyzes the continuing controversies relating to the strengths and weaknesses of the National Labor Relations Act.

The subject matter of these articles is particularly appropriate because in 1985, shortly before his death, Joseph Crowley hoped to formulate a law school curriculum "designed to inculcate in law students the fact that litigation is but one way to resolve disputes and not necessarily the better way." Joe, as he was affectionately called, would undoubtedly have agreed that strikes are but one way to resolve labor disputes and not necessarily the best one. Interest arbitration is intended to produce resolutions to issues that arise during negotiations for a contract. This, of course, is in contrast to grievance arbitration which involves disputes relating to an interpretation of an existing contract. *Interest Arbitration: The Alternative to the Strike* demonstrates interest arbitration's potential as a method for resolving major economic issues and terms. Moreover, as the authors point out, interest arbitration may stimulate the bargaining process.

Implementation of an interest arbitration program raises many issues. Should interest arbitration be conducted on the basis that the arbitrator must accept the final offer of one of the parties, or can the arbitrator formulate some intermediate position? Unlike grievance arbitration, interest arbitration is essentially a legislative process. How should this factor affect the presentation of evidence and the scope of review by the courts? Indeed, what standards should be provided for the arbitrator to decide on economic issues? These and many other questions have been thoughtfully reviewed by Arvid Anderson and Loren Krause.

Turning to the private sector in their article, *The National Labor Relations Act at the Crossroads*, Edward Silver and Joan McAvoy suggest an impartial review of the National Labor Relations Act. Can the National Labor Relations Board be restructured to solve the "backlog" problem of currently pending but undecided complaints? To what extent is it beneficial for each political administration to choose its own appointees, who

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often will reverse NLRB precedent to reflect the views of that administration? Should the NLRB issue rules that will give greater guidance to employers and employees, or is it important to retain flexibility? To what extent should the NLRB be permitted to ignore precedent set by the circuit courts? Lastly, should a federal labor court be created? The authors propose a tripartite, private sector conference bringing together, under the auspices of the American Bar Association's Labor Law Section, representatives of labor, management and government to review both legislative and other changes in the NLRA and, hopefully, to resolve these and other issues.

Joe Crowley noted at the end of his seminal article, *The Resolution of Representation Status Disputes under the Taylor Law*,¹ that "[e]xperience will be a teacher; undoubtedly there will be changes as a result of the lessons taught by experience."² Without question, the thoughtful and constructive nature of both of these articles would have appealed to Joe Crowley. Both suggest innovative approaches to the solution of labor relations problems. Both are written by persons whose extensive experiences have contributed greatly to the value of their suggestions. Arvid Anderson and Edward Silver were also close friends of Joe Crowley, and were regarded by him as among the very best in the field of American labor relations. The *Fordham Law Review* is indeed fortunate to be able to present these articles, and I am privileged to have been invited to write this Introduction.

1. 37 *Fordham L. Rev.* 517 (1969).

2. *Id.* at 534.