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Alvin L. Goldman

University of Kentucky College of Law, algold00@uky.edu

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FACULTY COLLECTIVE BARGAINING AND THE LAW SCHOOLS— A PANEL DISCUSSION

ANNUAL MEETING OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS

DECEMBER 28, 1971

INTRODUCTORY ADDRESS

ALVIN L. GOLDMAN*

Turbulence was the mark emblazoned on higher education in the United States during the past decade. From the public's field of vision, that turbulence was student generated and dominated. At first, student activism focused renewed attention upon the American campus as a forum in the call for social and political reform. After a time, student pressures mobilized the campus in an effort to transform the very institutions of higher education into tools for such change. Eventually, student activists turned their concerns to academe as an institution which itself needed restructuring.

While public attention fixed on this student generated turbulence, a different surge for change boiled to the surface elsewhere on campus. University faculties experienced their own sense of unrest concerning a broad spectrum of issues. To a large extent the rumblings in faculty ranks reflected vibrations sympathetic with student concerns and demands. Nevertheless, the loudest noises, greatest discomforts and strongest pulsations within faculties were, perhaps, generated by a relatively egocentric issue—the challenge which unionization posed to the structure for resolving questions concerning the terms and conditions of academic employment.

By mid-1970 the National Labor Relations Board, in a departure from precedent, decided that university based labor disputes had developed a sufficient impact upon interstate commerce to warrant the Board's exercising its jurisdiction over employer-employee relations in higher education.¹ Although this decision reflected a concern for labor relations affecting all categories of employees in higher education, the implications with respect to academic personnel attracted particular attention.²

Within a year, legal education was confronted with a concrete case presenting several choices involving important aspects of the structure and content of law school governance. That case involved Fordham University

* Professor of Law, University of Kentucky.

¹ Cornell University, 183 N.L.R.B. No. 41 (1970), *overruling* Trustees of Columbia University, 97 N.L.R.B. No. 72 (1951).

² See, e.g., *Symposium: Collective Negotiations in Higher Education*, 1971 WISC. L. REV. 1; Lieberman, *Professors, Unite!*, HARPER'S, Oct. 1971, at 61.

where the American Association of University Professors was seeking certification as the faculty's collective bargaining representative.³ Members of the law faculty sought to have the law school treated as a separate bargaining unit for the purposes of the impending NLRB election.

Guided by recommendations of a special committee,⁴ the Executive Committee of the Association of American Law Schools submitted to the NLRB an amicus brief supporting the Fordham law faculty's position. A decision issued in September of 1971 permitting the Fordham law faculty to vote as a separate unit.⁵ In the meantime, unionization activities gave new mediacy to the implications of law faculty collective bargaining at several other schools.⁶

On December 28, 1971, a panel convened at the annual meeting of the Association of American Law Schools to discuss the then recently emerging union activities upon legal education and the impact which such activities might have upon law faculties. This panel was billed in the program as a round table meeting on "Law Faculties in Collective Bargaining." The text which follows contains the remarks of the panel members followed by the questions and comments by the panel members and the audience. The text has been edited by the speakers, but still represents a true record of the proceedings. Footnotes have been added where necessary for clarity.

³ Fordham University, 193 N.L.R.B. No. 23 (1971).

⁴ R. Gorman, W. Oberer & M. Sovern, *Report of the Special Committee on Law Faculties in Collective Bargaining Units*, ANNUAL MEETING OF THE ASS'N OF AMER. LAW SCHOOLS. PROCEEDINGS, Part One, § 1 at 46 (1971).

⁵ Fordham University, 193 N.L.R.B. No. 23 (1971).

⁶ Included were Temple, Wayne State, Rutgers and S.U.N.Y.-Buffalo.