

tion, and of the complexities and controversies it has created. Its achievement is not diminished by its one shortcoming – that a number of the essays have been published previously as conference papers and in journals, and a few could have been updated. While serious followers of the money trail may find some material familiar, the value of bringing it together is that it shows just how abundant a source of legal, ethical, and political complexities the pursuit of the money trail is.

SIMON BAILEY

Simon Bailey is a Melbourne lawyer.

Women Social Security Offenders Experiences of the criminal justice system in Western Australia

by Meredith Wilkie; University of Western Australia Crime Research Centre, Research Report No. 8, June 1993; 131 pp; \$15.00

This recently released report on women and social security fraud is important and significant in the area of women and the criminal justice system. Other research has shown that women's offending is different from men's and that courts may treat women offenders quite differently. To understand the reasons for women's offending and whether they are sentenced according to how they are perceived by the courts as well as their life situations, more research is required. Press reports have demonstrated that fundamental problems such as discriminatory sentencing and treatment in the courts do exist. This report by the Western Australian Crime Research Centre provides statistical evidence of such discriminatory treatment of women in the justice system. The author, Meredith Wilkie, concludes that women are more likely to be imprisoned for social security fraud than men – or indeed for any other offence – and that they are more likely to receive community service orders and bonds for this behaviour, while men are more likely to receive fines.

The report demonstrates that the reason for women's higher imprisonment

rate is in part because their offences are more likely to involve significantly higher amounts and to have occurred over longer time periods than men's offences. This is a significant finding. While the courts must have some measure of sorts to fix sentences, it is clear here that an economic measure is not adequate. The report points out that one reason larger amounts are more likely to be involved is because women are more likely to have children to support, so making the overall benefit paid higher. This report shows that the courts' economic measure cannot take women's life situations into account, and therefore produces unfair results.

While I agree with the thrust of the report's argument, some aspects of its methodology concern me. The report documents discriminatory practices by the methods of assessing statistical data and interviewing women social security offenders. There are problems with both.

The report examines the statistical data on the number of men and women prosecuted, convicted and imprisoned for social security fraud in Western Australia over four years. However, the analysis and conclusions only look at the total number of women social security offenders compared to men. This approach misses many relevant differences between different social security benefit categories among women themselves and also between men and women. Such differences may be significant when assessing the reasons for women's offending. For example, if women with children to support are more likely to defraud the department for reasons of need, then this aspect could be examined. The report's analysis would be adequate if all social security beneficiary cases were examined and reviewed in the same way. But this is not so. By simply comparing men to women, only part of the story is told. The numbers involved include women on age pensions (the largest proportion of women welfare recipients), women on unemployment benefit, and those on sickness benefit, many of whom have no dependent children. It also includes men on unemployment benefits – who may have dependent children.

A more interesting and possibly fruitful way of analysing women's situations would be to look at the different social security categories of benefits of men and women and compare them, for

example comparing male sole parent pensioners with female sole parent pensioners. These in fact show almost identical imprisonment rates. Not only would this sort of analysis demonstrate whether women with children (whose needs are greater) are dealt with more severely, it would also take account of the different life circumstances, different review times, and different opportunities that prevail for different benefit recipients – as well as examining the different offending rates of men and women. It would also answer such questions as: are unemployed females just as likely to defraud the department as unemployed males; are women who are in the same benefit category as men prosecuted at similar rates; are certain categories of social security recipients more likely to offend than others?

The report also shows that women are sentenced quite differently from men. Women are more likely to receive community service orders and bonds for offences, and men are more likely to receive fines. This may be because the majority of women who offend are sole parent pensioners relying entirely on welfare for their income. These women may find it difficult to pay a fine and more practical to do community service. The majority of men, on the other hand, may be more likely to be on unemployment benefit – for them a fine seems a more logical sentencing option. The report concedes this point but still finds it interesting that the courts' sentencing approach is so distinct in relation to men and women. Unfortunately, the report does not pursue this sentencing anomaly further. It does not, for example, look at the issue of any or different legal representation, it does not investigate the degree to which women themselves or their legal representatives influence their sentencing choice, and it does not investigate when such things as community service orders are given to women – it may be for fine default. Such an investigation would further illuminate the reasons for the courts' sentencing approach.

The report also discusses women's lives on state welfare and concludes that women offend for different reasons from men, because they are more likely to have children to support. Although I do not disagree with this, it is demonstrated by only 20 personal, informal interviews with a self-selected group of women. The women relate their experiences of the Department of Social Security and

the Perth office of the Commonwealth Director of Public Prosecutions. More structured interviews of a larger, more representative sample of women on social security would not only be more rigorous, but also lead to sounder conclusions.

Recent press reports of judges' attitudes to women in court make it clear that there is a need for more awareness of the discriminatory practices faced by women in the legal system. This report is important in that such problems can be examined and exposed with a view to positive change. However, if research is not initially extensive enough, it will have less impact. For social security offenders, focusing on discriminatory treatment is likely to obscure other more fundamental issues – and create deviant populations. It may be that combined factors such as being working class, poor, and having little education may have more to do with why social security recipients are sent to gaol than gender. For example, the differential and much less punitive treatment of taxation offenders as compared to social security offenders suggests that the particular experiences of women outlined in this report are not dissimilar to the experiences of all social security beneficiaries. While this report highlights useful issues, it does not go deep enough.

ANNELIES GROOTHEDDE

Annelies Groothedde is doing a higher degree in legal studies at Flinders University.

Labour Law Text and Materials

by W.B. Creighton, W.J. Ford, R.J. Mitchell; Law Book Company, 1993; 1564 pp; \$125.00.

The authors of *Labour Law: Text and Materials* have achieved their aim – to provide a balanced exposition of the relationship between law and labour relations in Australia. They have done so comprehensively and clearly in 41 chapters over 1564 pages of text. It is difficult to do justice to such an extensive text in this brief review.

The second edition of *Labour Law* was published in January 1993. It is a fully revised version of the first edition published in 1983. While it is one of

the most up to date books, it does not cover the changes in late 1992 in Victoria with the introduction of the *Employee Relations Act 1992* or the recent developments in enterprise agreements at the State and federal level.

This is not just a text for people searching for extracts of cases, pithy summaries, and key provisions of legislation. The authors also go much further by analysing the practice and principles of industrial law in a political, social, economic, and philosophical context.

The book addresses the micro and macro levels of industrial relations, from the relationship between individual employee and employer, to the award system and the role of trade unions, government, the courts, and the Commission in formulating and implementing industrial law.

These authors rely on a wide range of resources. They cover leading Australian and overseas decisions, newspaper reports and letters to the editor, journal articles, extracts of awards and parliamentary debates. The bibliography is extensive – and throughout the text the reader is referred to interesting and varied material.

Case studies illustrate industrial law in practice. An example is the Queensland electricity industry dispute in the chapter on the dominance of federal awards. Here, the Full Bench's decision is discussed in the light of the history of industrial disputes in the electricity industry and the parties' approach to resolving the dispute. The example gives an insight into the powers of the Commission and its role in disputes.

The book is divided into five parts: the individual employment relationship; the Australian labour law system; trade unions and industrial organisations; industrial action; and occupational health and safety.

Clearly, there are many other areas that it could cover. There is little discussion about equal opportunity and anti-discrimination law – growing in importance. Likewise the authors have not tackled the corporatisation of workplaces through employee share schemes, or the application of sophisticated management theories and techniques to improve the workplace ethos,

productivity and profits. The authors have chosen to focus on traditional industrial law issues.

Throughout the book, the authors take the view that a sound understanding of Australian labour law requires appreciating the constitutional process and how it operates in a federal context. The process is more than the demarcation between Commonwealth and State power, or the identification of an interstate dispute. For example, chapter 14 considers the Commonwealth's constitutional power in the recent decision of *Polyukhovich v The Commonwealth* (1991) 172 CLR 501 and the use of the external affairs power (s.51 xxix). This in turn raises the issue of the impact of international labour laws and the International Labour Organisation's work in Australia. The book's coverage of international labour issues is enlightening.

If recent debate is any indication, Australian labour relations and industrial law will continue to play a significant role in Australian political and social life. People wanting to participate in the debate should be familiar with the industrial process and its history in Australia. This book provides this and much more. It will be an invaluable resource to experienced practitioners and to students of industrial law and relations.

KATE EASTMAN

Kate Eastman is a Sydney solicitor.

TO SUBSCRIBE

Alternative Law Journal

(Includes Aboriginal Law Bulletin)

- Concession \$33
(full-time students, unemployed)
- Individual \$48
- Institutions \$63
(offices, schools, libraries etc.)

Cheque enclosed \$

or please charge my
Bankcard/Mastercard/Visa

No

Signature

Expiry date

Return to: LSB Co-op., C/- Law Faculty,
Monash University, Clayton 3168
Tel. (03) 544 0974 Fax (03) 565 5305

Name

Address

..... Pcode.....

Occupation