of technicalities, inconsistencies and uncertainties'[2] to manageable data. Chapter 17 is devoted to the restrictive covenant and the Torrens system. In this chapter the effect of notification on the register in each State is commented on by reference, *inter alia,* to the over-worked *Miller v. Minister of Mines and the A.G. of N.Z.*[3] and the oft neglected section 43 of the Transfer of Land Act 1958.

In the third part of the book, Chapter 18 deals with remedies and Chapter 19 concerns the modification and extinguishment of these easements. The authors were responsible for the sections on their particular interests. One can find out all one needs to know about equitable relief in the excellent texts by Meagher, Gummow and Lehane,[4] and by Spry.[5] However, Chapter 18 sets the context for the relief peculiar to breach of covenants and disturbance of the easement, including relevant legal relief for the latter interest.

It could be said that this book will appeal to several groups. Presumably it is hoped that the book will be used by practitioners for whom particularly the sections involving Torrens legislation will reward constant reference. The second group is that of law students and academics, for the former it will be an invaluable medium for learning and for the latter, at the least, an excellent aide-memoire. The student or practitioner of town planning, environmental studies and the like, form the third group to whom the book should appeal. With such a diverse audience, it must be asked whether the text will suit all? Obviously, yes. The clarity of the material aided by the simplicity of its presentation will enable these needs to be met.

The authors set out to examine the 'rules which govern the creation, enforceability and extinguishment' (Preface) of the easement and the restrictive covenant through 'a study of the large body of Australian case and statute law which has developed in this area' (Preface). They have achieved their aim admirably.

JUDITH SIHOMBING*

Strike Law in Australia by E. I. Sykes (Law Book Company, Sydney, 1982) pp. xxiii, 1-369, $35.00 (hardback) ISBN 0 455 20089 0.

Professor Sykes' second edition of *Strike Law in Australia* updates his previous book written in the late 1950's and incorporates the considerable legislative and common law changes that have occurred since that time. Sykes also sees it as an opportunity to record the 'changed social attitudes to the use of judicial restraints over direct action by the participants in industrial relations'.[1] The book is certainly ample testament to our obsession with reducing industrial action by imposing layer upon layer of sanctions and controls on legislatures which are already overburdened with anti-strike provisions. Of course much of it is the product of a conservative ideology. The maze of legal controls over strikes, picketing, secondary boycotts and black bans as contained in both statutory limitations and ordinary criminal law are designed to regulate and control industrial conflict by reducing the collective power of labour and limiting the more disruptive effects of industrial pressure. Its application is however rather limited. Today much of it lies dormant and unused except for the odd maverick employer or state premier who has neither the prescience nor perhaps the need to cultivate good long term industrial relationships.

[2] *Ibid.* 197.

[3] [1963] A.C. 484.

[4] Meagher R. G., Gummow W. M. C. and Lehane J. R. F., *Equity: Doctrines and Remedies* (1975).

[5] Spry I. C. F., *The Principles of Equitable Remedies* 2nd ed. (1980).

* LL.B. (Melb.), LL.M. (Malaya), Barrister and Solicitor (Vic.), Lecturer In Law, Monash University.

[1] Sykes E. I., *Strike Law In Australia* (1982) (v).

Sykes has written a valuable account of the legal mechanisms that have developed in order to constrain the use of industrial action. As he shows, most of it has evolved through state industrial arbitration statutes or other statutes directed against strikes and lock outs as such. Controls are also embodied in the Commonwealth arbitration system. Many of these have their ultimate authorization in statute though their employment is sometimes dependent on the discretion of the arbitration tribunals themselves. This statutory involvement is consistent with the special role that governments have assumed in the settlement of industrial disputes. Since arbitration displaced collective bargaining as the main form of resolving industrial grievances early this century, the state has played an active role in the mediation of conflict and in devising liabilities for the non-observance of dispute settlement procedures.

While most of the controls are designed to encumber trade union activities rather than those of employers, this is not inconsistent with the concept and development of arbitration. In essence the arbitration systems were originally conceived as a method of compelling strong employers to meet and deal with a weak trade union movement for collective bargaining purposes. They gave protection to the fledgeling trade unions and curbed the excesses of nineteenth century employer power. But in exchange trade unions, at least at the federal level, had to submit to the enactment of provisions which initially forbade them from using the strike weapon. Mr. Justice Higgins, one of the architects of the federal arbitration system, elegantly described the worker and his trade union as being 'in a similar position, in principle, as Esau, when he surrendered his birthright for a square meal, or as a traveller, when he had to give up his money to a highwayman for the privilege of life'.[2]

The arbitration system was to be a 'new province for law and order' where legally regulated processes were, according to Higgins, 'to secure the reign of justice as against violence, of right as against might'.[3] But of course neither in practice nor in theory has the prevalence of industrial regulation in Australia involved a complete surrender of the right to strike, although that right has certainly been limited to a considerable extent.

In recent years the arbitration statutes covering strikes have been liberalised in a number of states. Up until the 1970's the states of Western Australia and South Australia possessed extremely draconian provisions which, with very few qualifications, expressly prohibited all engagements in strikes. In 1972 the South Australian Labor government relaxed its laws and followed the example of New South Wales where the full veto was limited to strikes in the public service or public utility undertakings. Western Australia amended its legislation in 1979 and now provides that strikes are illegal unless the strike proposal is first approved at a union controlled ballot.

However this has not meant that the states have adopted a softer stance to anti-strike legislation. Non-Labor states in particular have been quite active in imposing new legislative constraints on various areas of trade union activity. The Queensland Essential Services Act 1979, which was enacted following widespread disputes in the power generation industry in that year, provides extremely wide ranging restrictions on strike action. In Victoria, the State Vital Projects Act 1976 and in Western Australia, the Essential Foodstuffs and Essential Commodities Act 1971 impose additional curbs on strikes. Unfortunately, Sykes omits to discuss these last two pieces of legislation.

Moreover, the Commonwealth, although forced to dilute the 'bans clause' provisions of the Conciliation and Arbitration Act 1904 following the gaoling of Clarrie O'Shea in 1969, has subsequently sought to impose further restraints on various forms of industrial action. Sykes devotes an entire chapter to perhaps the most important one, that relating to secondary boycotts as covered by section 45D of the Trade Practices Act 1974 (introduced in 1977). Despite the fact that this Act does not create criminal offences as such it does provide proceedings for substantial pecuniary penalties against unions (up to an amount of $250,000) and the recovery of damages against those involved in the boycott action. While this Act opens up new and frightening liabilities

[2] Higgins H. B., *A New Province for Law and Order* (1922) 60.
[3] *Ibid.* 61.

for unions its usefulness to employers as an industrial relations weapon is likely to be more limited to the actual threat of penalties. Given the character of Australian industrial relations and the financial plight of the bulk of labour organisations, it is probable that most unions either could not or would not meet their liabilities. Even so, the Trade Practices legislation along with the whole range of other forms of penalties which provide sanctions against unions for collective action do serve to regulate and confine their operations. While trade unions infrequently incur the sanctions which may be imposed upon them they do not in general disregard their possible invocation.

Sykes' volume provides a thorough and detailed history of common law and legislative action on strikes. Perhaps more importantly his treatment of the subject provides little encouragement for those who believe that industrial conflict can be reduced by adding further legal controls. It is a message that should be conveyed a little more forcefully to those in power.

STEPHEN DEERY*

The Torrens System in Australia by D. J. Whalan (Law Book Co. Ltd, Australia, 1982) ISBN 0 455 20357 1.

Since the inception of the Torrens system of land registration in the various Australian States a number of books concerning the operation of the system have been published. However, many of these books have been concerned with the Torrens legislation in a particular State and with the exception of *The Transfer of Land in Victoria* by S. Robinson, they were written a number of years ago.[1] The texts which deal with the operation of the Torrens system in all States are now outdated.[2] Furthermore, on the whole these texts do not discuss the relevant statutes in light of the Torrens system philosophy. Teachers of property law have for some time considered that an updated text on the philosophy and operation of the Torrens system would be an invaluable aid in the teaching of property law. It was therefore with some eagerness that the publishing of Professor Whalan's book, *The Torrens System in Australia*, was awaited.

In his preface, Professor Whalan states that the main purpose of the text is 'to discuss the Torrens statutes against a background of Torrens system philosophy'. Such a task is not a simple one: to provide a clear analysis of each of the systems and their intricacies is in itself difficult. Professor Whalan's book succeeds admirably in its stated purpose. *The Torrens System in Australia* is an exceptional book. It contains a clearly drawn account of the history and workings of the Torrens system in each Australian State. Differences in the operation of the systems are explained succinctly and set out in a manner which is easy to read and follow. Throughout, the meticulously referenced statements of principle are discussed in light of the Torrens system philosophy. There is no doubt that teachers, students and practitioners alike will benefit greatly from the book.

Professor Whalan emphasises that the book is one on the Torrens system specifically and not a general property law text. However, it is clear that even a book aimed primarily at an analysis of the Torrens statutes cannot ignore completely general principles of property law. In a number of instances, the principles of law applicable on the one hand to land under the Torrens system of land registration and on the other hand to land under the general law land system are the same. It would be difficult to divorce a consideration of the Torrens system from principles of law applicable to

* Graduate School of Business Administration, University of Melbourne.

[1] E.g. Fox P. M., *Transfer of Land Act* 1954 (Vic.).

[2] E.g. Kerr, *Australian Land Titles (Torrens) System* (1905); Francis E. A., *Torrens Title in Australasia* (1972).