

**P Punch, *Australian Industrial Law*, North Ryde:  
CCH Australia Ltd, 1995.**

In this era when the major parties in Australian politics are being described as tweedledum and tweedledee as far as their policies are concerned one of the few wedges which can still be driven between them is their views on industrial relations. As a result one of the constants in industrial law is that with every change of government there is a change in the language of industrial law (whether industrial relations practice changes as well is another matter). The permutations for change in our federal system consisting of the Commonwealth government and six State governments is mind boggling. This is because, by virtue of section 51 (xxxv) of the Commonwealth Constitution, the Commonwealth government is restricted in its capacity to enact industrial law to those laws which are "with respect to conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one state." The States, on the other hand, are left with full and plenary powers to make laws with regard to their own industrial relations systems. The scope for rapid change in Australian industrial law thus becomes apparent. Already, since this book has been published, there has been a change in governments in NSW and the Commonwealth with proposed changes to their respective industrial relations systems. Any textbook on industrial law will find it virtually impossible to remain up-to-date for long.

Another difficulty in industrial law is the breadth of material which the subject covers. Lord Wedderburn in *The Worker and the Law* (Harmondsworth: Penguin Books, 1986, 13) states that labour law covers five main areas, viz.

- (i) The employment relationship between employer and employee,
- (ii) The area of collective bargaining,
- (iii) Minimum rights for employees e.g. work safety, job security (unfair dismissal and redundancy), anti-discrimination legislation, and protection of wages, superannuation, trainee guarantee legislation and leave legislation,
- (iv) Industrial conflict, and
- (v) Trade unions.

On the periphery are the areas of taxation law, social security law and incomes policy. In Australia the octopus which is industrial law must also spread its tentacles to cover Australia's unique areas such as conciliation and arbitration.

*Australian Industrial Law* touches on all of the main areas listed by Lord Wedderburn but attempts to limit its subject matter by taking pains to point out that there is a distinction between employment law and

industrial or labour law. The former deals with the individual aspects of employment whilst the latter deals with collective aspects of employment. This stated emphasis on the collective aspects of employment law has resulted in a change in title from this book's predecessor, *Law of Employment in Australia*, to *Australian Industrial Law*. However, the individual aspects of employment law cannot be ignored in a book on industrial law because, as the author states "[m]ost important in the context of this book is the fact that the highly complex and elaborate federal and State systems of industrial relations have no operation unless and until it is clear that two particular parties have entered into a contract of employment ...". By default the book thus contains a good basic coverage of the individual aspects of employment law.

The book takes a no-frills, practical and functional approach to its subject matter. This is most evident when relaying information about the conciliation and arbitration systems, collective and enterprise agreements and terminations of employment. Its coverage of these areas is, nevertheless, most comprehensive as it covers not only the federal jurisdiction but, in turn, each of the State jurisdictions. With the current emphasis on enterprise bargaining the material relating to collective and enterprise bargaining is an important new addition to the book. A pleasing feature is that it goes beyond merely relating the law as to collective and enterprise agreements and provides some eminently practical advice on negotiating and drafting agreements, dealing with problem areas and discussing matters which may be the subject of enterprise bargaining.

The book also contains new parts relating to minimum conditions (formerly wages and conditions in *Law of Employment in Australia*) and industrial action (de-emphasised in *Law of Employment in Australia* but still not dealt with in great detail here). Trade unions are dealt with in relation to the federal conciliation and arbitration system and there is a perfunctory treatment of important labour law areas such as the law relating to equal opportunity, occupational health and safety, workers' compensation, and apprenticeship. Whilst the emphasis is on the conciliation and arbitration systems and collective bargaining all areas of labour law are at least touched upon even though perhaps not in great detail.

One of the outstanding new features of this book is the first chapter which is entitled "An overview of Australian industrial law". Even though it is basically a summary of the material which is to follow it does have the effect of putting into place some of the pieces of the Australian industrial law jigsaw. One of the perennial problems with Australian industrial law is trying to figure out just where all of the parts fit. Although it may never be possible to complete the industrial law puzzle this chapter goes some way to addressing that particular problem for readers unfamiliar with the system.

The book is much better organised and homogenous than its predecessor. It does attempt to be a comprehensive account of Australian industrial law in a no nonsense way and for those readers simply

requiring basic information easily found *Australian Industrial Law* is a commendable place to start. Whether this book can be described as a “text which students and practitioners can turn to as their basic guide on *all* [my emphasis] aspects of Australian employment and industrial laws” as this book claims in the preface may be debatable. It can be argued that to be that text the book would need to be even thicker.

**Bert Groen**