

*Bill Holdsworth**

LABOUR LAW, TEXT AND MATERIALS

By WB Creighton and RJ Mitchell

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THIS is an impressive book not only for its length (of some 1564 pages) but more for the successful, by and large, fulfilment of an ambitious project to provide a comprehensive, substantial, and perceptive set of materials on Australian Industrial Law. I came to this book after a break of some four years in teaching Industrial Law at a tertiary level. My return was something of a culture shock to find not only that the formal area of Industrial Law had expanded and changed such an amount; but also that students of the subject sought a broader approach. Their interest was not only in the formal legal principles, but also the context set by the Industrial Relations system. It is to the credit of the authors that they have responded to these twin needs in a very thorough fashion. Given that the book is about Labour Law they have reached an appropriate balance of non-legal supporting material in most sections.

Early this year I had no hesitation in recommending this text to a former student of mine who was looking for a book or course of study that would act as a refresher in Industrial Law in the current environment. However, my high regard for this work has to be tempered by some comments that query some aspects of the project.

My first concern is the sheer size and price of the text book. I have seen no indication that university students are any more flush with funds now than they were three and a half decades ago when I began my study. At \$125.00 this becomes an extremely expensive text book. To justify the cost of this, a responsible lecturer would have to be able to use this text for the totality of the course. It is unfortunate that this may be difficult. Given the length of the academic year (and in general Labour Law courses at most run for one academic year), then the use of this book as a teaching text would require, in my assessment, a course far longer than twelve months or one at least in

* Lecturer in Law, University of Adelaide.

which the syllabus and structure was far more flexible than is usually found.

In like manner one needs to consider the particular weighting of material. It is trite to observe that this must coincide with the particular weighting chosen by the individual academic. I take for example the treatment of the Federal Industrial Relations system. I must question the amount of space spent on the pre Social Workers case material on the meaning of industrial dispute. The particular author must be congratulated for the detail and the quality of the research that went into these chapters but from the point of view of teaching Industrial Law this review questions whether in the post Social Workers Case period such an emphasis is needed upon the topics so treated. This point can be reinforced by pointing to a number of texts that deal with the material adequately. It is perhaps a criticism of the book that it seems focused in some aspects away from the current expansive approach of the Courts, particularly the High Court in its interpretation of the Federal Jurisdiction, despite paying lip service to these recent developments. Such criticism could be answered by pointing out that it is a question of balance or that the real aim and value of the work would be diluted by too great an exploration of future potential.

This leads me to an analogous point: one must question in this period of immense change in our Industrial Law the useful life span of a book such as this. At the time of writing this review changes are being made to the Federal Industrial Relations system (by using constitutional powers other than the "Industrial Relations Power") which may alter the legal basis of our system totally. In like manner the State systems are under review. There is a more critical appreciation of the current state of the law by practitioners who are becoming more vocal about developing the system in different directions. It may be that the approach of developing a single volume text may have to be reassessed in light of these initiatives. Certainly, the authors should consider regular supplements to update the material and retain the book's currency.

Any teaching program must deal with the domestic State Industrial Relations systems. The authors do not disregard the State systems; but deal with them peripherally. Perhaps more attention could have been given to the various State systems and their relative strengths as opposed to the Federal system. What is being lost sight of in the general change process is the value and contribution of State industrial systems: these have never been hampered by the constitutional structures of the Federal system. They have therefore been able to be in the nature of quiet achievers in the Industrial

Relations scene. Recognition of this must be reflected in any text on the Industrial Relations system, even though we are moving towards a more centralised system. If we do not we will be guilty of throwing the baby out with the bath water. This point is reinforced by a walk down any Law School Library shelves on Industrial Law. A cursory glance shows a number of significant texts based around the State systems. The fact that these texts can be and need to be written indicates to me that the State systems still have a great deal to contribute and this text does not sufficiently recognise that.

In summary this is a valuable contribution to the Labour Law literature because it brings together a balanced presentation of cases, legal commentary, and Industrial Relations material. The questions inserted throughout the text are perceptive and require both the student and the teacher to think seriously about not only the legal principles involved but their relevance to the social context.

I recently heard one of the most perceptive comments about Australian Industrial Relations. I was discussing the current round of industrial reforms and a colleague remarked that the real problem with the Australian Industrial Relations System is that everybody has persistently refused to ask, and answer, the hard questions. We have been content to develop our Industrial Relations system on an ad hoc basis. I regard this text as a valuable contribution to the debate should ever we, as an Industrial Relations community, bite the bullet and start dealing with the hard questions about what sort of system we really should have. I trust the book will have the success it very justly deserves.