

REVIEWS

Brosnan, P. and Wilkinson, F. *Low pay and the minimum wage* NZIIR Research Monograph No. 2, 99 pp., \$24.95 incl. GST.

The authors of this monograph make a strong ethical claim for the desirability of raising the minimum wage which at the time of writing stood at 53 percent of mean earnings (Table 1, p. 19). Few readers of the monograph will fail to sympathise with this appeal. More controversial, undoubtedly, will be some of the arguments that the authors present in support of their plea. It is (one hopes) fair comment to suggest that the position of the authors is essentially highly critical of the neo-classical approach to explanations of why wage rates are what they are. Thus on page 37:

The explanation of low pay is therefore to be found in the social structuring of jobs and workers; and related considerations of industrial and political power. This has been exacerbated by high unemployment and government policy...This analysis runs counter to the orthodox economist's perception of low pay as the penalty for low skill and ability - which serves to provide justification for society's discriminatory practices. It suggests markets are socially constructed and sustained - a most frightening notion for the orthodox economists.

Arguing in this spirit, the authors present a considerable body of statistics showing the widespread occurrence of low pay and argue that, within limits, a reasonable increase in the minimum wage could be accommodated without serious inflationary effects or job losses in the industries most affected (Chapter 6, *A realistic minimum wage*). From a strictly economic standpoint, this will undoubtedly provoke considerable discussion and outright disagreement from at least some of the economics profession. Indeed, the present reviewer feels that a major contribution this monograph makes is to challenge what do sometimes seem simplistic analyses of the impact of minimum wage legislation common to many economics texts.

For the non-specialist in the area, the authors have performed a valuable service in collecting and tabulating a large amount of labour market data which will make the text a useful reference work for some years to come.

P. Henderson
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Ozaki, Muneto et al. *Labour relations in the public service: developing countries* International Labour Office, 1988, 205 pp.

This book is a companion volume to *Public service labour relations: recent trends and future prospects* which dealt with public employee relations in developed countries. In an earlier review of that work (*New Zealand journal of industrial relations*, April 1989), I found it disappointing for its lack of contextual material and analysis.

Nonetheless, I found myself looking forward to reading the companion volume, if only because the 6 national studies that constitute most of the work were written by experts from the subject developing countries, rather than by more established, but perhaps culturally less sensitive Western writers.

But this book is, if anything, more disappointing than the earlier volume. It consists almost entirely of purely factual descriptions of formal labour relations systems. The countries covered are Algeria, India, Malaysia, Peru, Tanzania and Venezuela.

For readers with an in-depth understanding of the religious, racial, ideological, cultural, social, colonial, national, political and economic histories and circumstances of these countries, the detail on the formal machinery of labour relations is all here. They can do their own analysis of how these contextual factors interact with and shape labour relations and the role of the public service. And they can fill in the details on the non-formal aspects of labour relations. Unfortunately, other readers get a lot of information but, with one outstanding exception, very little understanding.

The exception that accentuates the sterility of the rest of the book is a superb chapter on Tanzania. Professor Paschal B. Mihyo of the University of Dar es Salaam, in writing this chapter, takes as his theme that, "the civil service and its characteristics are part of society in general and should be studied as such". And that is what he does. The chapters on Venezuela and, to a lesser extent, Peru, contain sporadic stabs at such an approach but fall short. The others don't even try.

What the book does in essence, again with the exception of the chapter on Tanzania, is provide the dry details of the extent to which Western-style labour relations institutions have been adopted in developing countries. In early 1989, it took three days of rioting, looting and bloodshed to win Venezuelan workers concessions from the government on pay and subsidies for basic foods, medicines and bus services. Viewed from the perspective of labour relations technique, this would be unusual in the experience of most of us. But, whatever else it might be, it is also labour relations reality.

The recent histories of labour relations in the countries studied in this volume are replete with happenings that are beyond the experience of most of us. To ignore such things in labour relations writing, rather than to address them and seek to understand them, is to present a very sterile picture of a very dynamic subject. Regrettably, with the exception mentioned, that is what this book does.

Ian McAndrew
University of Otago

Smith, Graham F. *Public employment law: the role of the contract of employment in Australia and Britain* Butterworths, Sydney, 1987, pp xxiv and 207. Price \$54.35, paperback.

As Dr Mark Freedland points out in his foreword to this book, it is in the public employment sector in Australia and Britain that the largest questions remain unanswered about the contract of employment and in which the most momentous developments are taking place. In both countries the "government" is also the largest single employer. Thus, a study of this topic is timely and to be welcomed.

The book commences in chapters 1 and 2 with a study of the legal framework of industrial relations in Australia and Britain respectively, and of the discrete legal provision for public sector employment in each jurisdiction. These chapters - which constitute almost half of the book - touch on, but do not examine in depth, the law relating to wage-fixing, thus setting the scene for the remainder of the book which centres on the individual employment relationship. Summaries, of course, present their own dangers and inevitably the legislative base of the Australian system provides a firmer foundation for synopsis than the tangled web of collective *laissez faire*, common law rules and legislative intervention of which the British system is comprised. Nevertheless, in discussing the difficulties British collective agreements present in terms of legal enforcement (pp 55 ff) space might usefully have been made for mention of the conclusive presumption of non-enforceability of collective agreements, under s 18 of the Trade Unions and Labour Relations Act 1974 (UK).

The remainder of the book focuses on the role played by the contract of employment in public employment. Chapter 3 canvasses the peculiar characteristics of the common law governing public employment, in particular the questions whether Crown servants have a contract of employment, the "dismissal at pleasure" doctrine and the effect of statutory codes on the common law contract. The law is stated lucidly and succinctly and, on the interrelationship between codes and the law, it is instructive to compare the "broad brush" approach of the New Zealand Court of Appeal with the more traditional close conceptual analysis of the issues by the Australian courts. Sir Robin Cooke, President of the New Zealand Court of Appeal, has recently stated that - in his opinion - there is not in New Zealand a sharp line of distinction between public and private law and the New Zealand public sector cases provide a tidy illustration of this approach.

To those of us in New Zealand who had only just got to grips with the structure of the State Services Act 1962 and State Services Conditions of Employment Act 1977 before they were repealed, the text provides a nostalgic reference point for the useful comparisons which might have been made between those pieces of legislation and their counterparts in Australia and Britain.

Given the scope of the book, it is no criticism of the author that the New Zealand case law is thin on the ground. To have tackled a topic of this breadth and complexity was brave enough. Thus *Deynzer v Campbell* [1950] NZLR 790 is discussed on the perennial question of the Crown's right to transfer, but more recent decisions such as *Poananga v State Services Commission* [1985] 2 NZLR 385 - which provides valuable guidance on the unresolved relationship in Australia between "administrative" and "disciplinary" transfer (p 109) - are left untouched. The spate of High Court and Court of Appeal decisions during the early 1980s under the "major offence" procedure in the now-repealed 1962 Act might provide a useful comparison for any future edition of the book. There is a marked similarity between the statutory framework for control, discipline and dismissal in Australia (summarised in Chapter 4 of the book) and that which used to exist in New Zealand. The "good employer" requirements written into the State Sector Act 1988 and related legislation perhaps provide an illustration of the author's point that exemplary standards expected of public employees have not usually been seen by the courts as carrying the corresponding expectation that public employers will also serve as models of their kind (p 117).

Notwithstanding the sweeping changes to the state sector in New Zealand, there is much in this book that remains of more than comparative relevance in this country and not only because many of the features of Australian public sector employment (fixed term contracts, performance appraisal mechanisms, the Senior Executive Service, to name but three) are now part of the New Zealand scene. The author's concentration on the contract of employment leads to discussion of case law on issues such as the basis of implied terms, the duty to obey, the duty of fidelity, the "no work, no pay" doctrine and the right to suspend. In each case, the author's treatment raised points of discussion and Australian decisions which were new to this reviewer and might profitably be examined by anyone

advising in this field. Nor should it be assumed automatically that the passing of the State Sector Act 1988 has rendered redundant all of the issues surrounding Crown employment.

The book concludes with a brief chapter considering the role and nature of the contract of employment in public employment. The author isolates the most significant difference between Australia and Britain as being that, paradoxically, in the comparatively unregulated climate of Britain, Crown employees may not have a contract of employment with the Crown, but that in Australia - with its detailed institutional framework - they clearly do (p 189). A second difference emerges in the approach taken between the two jurisdictions as to the ouster of contractual terms by a code (a point developed by the author at length in chapters 3 and 4). Again, the greater willingness of the Court of Appeal in New Zealand to read the requirement of fairness into such codes (thereby avoiding the practical consequences presented by the exercise) might provide a useful comparison. The absence of any statutory Australian counterpart to Britain's "unfair dismissal" jurisdiction is also touched upon. This remarkable lacuna in Australian labour law is suggested by the author as arising in part from the protection conferred on employees in the public sector, thereby reducing the impetus for reform (p 192).

In summary, this book deserves a place on the bookshelf of all concerned with labour relations in the state sector and it will prove useful as well to private sector advocates seeking a new angle on well-worn questions.

John Hughes
University of Canterbury

Geare, A J *The system of industrial relations in New Zealand* Butterworths of New Zealand, 1988. Price \$79.00

Textbooks pose problems for the reviewer. Unlike monographs devoted to the study of a particular issue, or studies promoting a particular interpretation of theory or events, the textbook has to be judged against more prosaic criteria - price, accessibility, comprehensiveness, ability to stimulate the neophyte's interest, contemporary relevance to name but a few. There is also the possibility that the reader of a review is looking to choose a text which will become a course requirement, adding a further burden to the unhappy reviewer's lot. All in all, it means that textbook reviewing is a difficult task.

Geare's book is very much a textbook, based on a previous edition but amended and complemented by the addition of new chapters. The changes wrought in labour relations over the last five years have called forth this new edition and there is ample coverage of the post-1987 bargaining environment. The structure of the text follows a standard industrial relations model - a touch of theory, the New Zealand System, the parties in labour relations, rules and rule-making, and a survey of some major issues including conflict, wages, participation and the like. There are omissions which some will note, particularly in relation to technological change, labour economics and the labour market, and some will question the emphasis on the legal aspects of the system to the detriment of coverage of attitudinal concerns.

The legalistic approach to the New Zealand system is marked in both the lay-out and the interpretative tenor of the text. I find the system of numbering paragraphs from 101 (page 3) to 1557 (page 486) to be ponderous, as is the referencing of materials by paragraph rather than by chapter. Neither cartoon nor photograph obstructs the ramparts of text, broken only by the occasional table or algorithm. This is not a major problem in monographs, though they could be made more lively, but in a textbook such design questions merit greater attention.

The interpretation of wages in chapter 11 well illustrates the text's legalism. Perhaps half the allotted space is devoted to a discussion of legal measures relating to wages, with

the remaining half of the chapter providing a minimal coverage of other wage-related questions. The economics of wage-fixing, the current debates about wage stickiness and so on are hardly confronted, for example. Such slanting of the text, evident in numerous other contexts, suggests that the author is angling the book towards a particular market, perhaps the students in a law degree intending to cover labour law and related issues. Whilst there is no question about the importance of legal issues in the New Zealand labour relations system, the balance of the text's coverage perhaps shifts too far in that direction.

On a positive note, the discussion of the contemporary bargaining framework primarily to be found in chapters 6-8 is very useful. Here, the legalistic approach is helpful and a student is taken carefully through the minefield which is the post-1987 bargaining process. The chapter on dispute settlement is particularly helpful.

At this point, a review of a textbook must choose to move in one of two directions. It can move through the text in detail accepting or challenging the introductory interpretations offered on the range of themes presented, or it can retreat to a final commentary. The orthodoxy of Geare's general approach makes the former tactic unnecessary. The industrial relations specialist will find little to cause apoplexy. The discussion on voluntary unionism may not please some, but will please many who take a pragmatic position on union membership. The definition of labour relations adopted will provide specialists with ammunition for extended debates about the true nature of labour relations. But in general there is little in the text to which exception may be taken.

The price of the book is high. At \$79, it is an expensive buy and will not find favour amongst the hard-up, fee-paying students of the Goff era. As a final comment, it is a strange move on the part of the publishers to produce a textbook which is clearly costly in relation to competing texts on the market. Students who should read the text and gain from its insights presumably may not as a result of the price, which is unfortunate for them and for the author.

Nigel Haworth
University of Auckland

Reviews Editor

This is Alan Geare's final issue as Reviews Editor. From the next issue, Nigel Haworth, Department of Labour and Management Relations, University of Auckland, takes over as Reviews Editor. Readers interested in assisting with book reviews should contact Nigel Haworth directly. The Editorial Board would like to take this opportunity to thank Alan Geare for his excellent service as Reviews Editor.

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