

Industrial Law in Victoria, by STEPHEN G. ALLEY, LL.B., (Butterworths, Australia, 1973), pp. i-xx, 1-340. Recommended Australian price \$19.00, including first supplement. ISBN 0 409 34695 0.

This book is number six in Butterworths' Australian Industrial Law Series. The rapid expansion of the series clearly shows the recognized need for making data more readily available to practitioners of industrial relations in Australia.

The book is quite simply an annotation of the Labour and Industry Act 1958. It systematically sets out the Act, section by section, and discusses each provision in detail. The only criticism that can be made of this book is that the choice of this form of presentation is disappointing. The Labour and Industry Act is, as its long title reveals,¹ far from being a statute dedicated to providing machinery for the implementation of an overriding philosophy of labour relations. Rather, it is a hodge podge of ideas which regulates some aspects of employment relationships in Victoria, as well as the health, safety and convenience of both employees and the public at large. Reading the statute as a whole will certainly not disclose the full extent and nature of labour relations in Victoria; consequently, reading this book as a whole will not do so either. For instance, because of the chosen format, the legal relationship between federal awards and state Wages Boards' Determinations is only cursorily examined² and certainly it is hard to gauge the economic and social relationship between these two spheres of employment regulation in Victoria. In a similar vein, the structure of trade union organization is not discussed; there is no examination of Victorian trade unions as such, nor of their relationship with federal organizations or the Trades Hall Council or with the various political parties. On a more legalistic front, the format also proves somewhat inhibiting. For example, when discussing part IX of the Act, it is notable that apart from an odd reference (such as at p. 178) the author discusses the legislation with respect to safety provisions as being legislation which imposes sanctions for non-compliance; very little is said of the relationship of this legislation to causes of action in tort based on negligence, statutory breach of duty and occupiers' liability.

But all that the foregoing criticism points to is that the author did not write the kind of book that is, in my view, needed as much as the kind of book he did write. There is no question that, given the fact that Mr Alley set out to provide a guide to all aspects of the interpretation of the Labour and Industry Act, he has done a masterly job. His attention to detail is highly commendable and there is no question that every industrial relations' practitioner must put this book on his shelf. The introductions to each section of the book, the historical notes and the use of comparative jurisdictions' interpretations of analogous sections, makes the book a very useful tool for daily practice. In addition, the inclusion of the bulk of the Regulations made under the Labour and Industry Act provides an invaluable reference service. The production of the book is first-rate and this, plus the author's avowed intention of providing a Supplement Service—the first supplement is already being sold with the text—makes Alley's *Industrial Law in Victoria* a welcome addition to the field of labour law writings.

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¹ 'An Act to consolidate the Law relating to the Ministry of Labour and Industry, Industrial Matters and Supervision and Regulation of Factory Shops and other Premises.'

² Pp. 18-20, also p. 42.

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Australian Constitutional Law Cases Materials and Text, by J. I. FAJGENBAUM and P. J. HANKS (Butterworths, Australia, 1972), pp. i-xxxii, 1-709. Recommended Australian price \$18.50 (hard), \$14.50 (limp). ISBN 0 409 43570 8 (hard), 0 409 43571 6 (limp).

The subject of Australian Constitutional Law, for some time, has stood in clear need of a satisfactory casebook to supplement the authoritative texts already in print. Sawyer's *Australian Constitutional Cases*,¹ published originally in 1946 and which has now run into its third edition is not only out of date but also suffers from the defects common to early casebooks which were intended rather as adjuncts to overtaxed library resources than as exegeses on the topic in question.

So a new casebook was needed. But teachers, students and others should be warned that *Australian Constitutional Law Cases Materials and Text* is a rather ambitious and, to that extent, misleading title for a treatment which excludes from its pages some of the salient topics traditionally and recently associated with the subject such as, Trade and Commerce, Conciliation and Arbitration and Civil Liberties.

However, the confined scope of the treatment would appear to be the deliberate intention of the authors; for what they have attempted is to provide a fully integrated first book in basic constitutional law covering topics, some of which commonly arise in the discussion of any constitutional democracy and others which are peculiar to a federal and responsible system of government such as our own, but without concentrating on any particular powers as such. And in this respect they have succeeded admirably.

For the greater part, the text proceeds to discuss matters raised jointly at both federal and state levels. The treatment commences with a thorough survey of the law and conventions appropriate to the Executive. It provides, for the first time in such a book, a compendious survey of the occasions of and reasons for the exercise of the gubernatorial discretions. In the exercise of these prerogatives, the Governors [or Governors-General] are not responsible to the legislature nor are their decisions justiciable. Whether, in fact, these should be the subject of judicial scrutiny is a question raised frequently and the authors have included ample material upon which students can form thoughtful conclusions. It appears that the authors tend to the conclusion that since someone has to make the decision the 'political irresponsibility' of a Governor is a qualification rather than a disqualification. The Double Dissolutions of 1914 and 1951 receive passing treatment and the authors suggest that, in fact, the Governor-General has no effective discretion under Section 57 of the Constitution. This may well be so, but obviously the Labor Party in 1951 thought differently for many members of its caucus were known to be furious when McKell, a Labor appointee, granted Menzies' request for the Dissolution. The matter is not without significance today.

The treatment of the conventions involved in 'ministerial responsibility' is less exhaustive. The case studies are interesting and, in some cases, of recent memory, such as the circumstances which led to the resignation of Mr Gorton from the McMahon ministry in August 1971. A section has been included on the peculiar difficulties raised by Labor Party practice of having caucus elect the ministry which places under some strain a doctrine of responsibility founded upon the practice that the Head of the Cabinet chooses his own ministry. A Labor Prime Minister has neither the freedom to choose nor to dismiss. The treatment of this area is rather thin although this is probably of necessity as the issue is one of power rather than convention which is patent in Australia today.

One has the impression that Australia is about to see the development of a wider body of constitutional 'lore'; and in this respect one might feel that the treatment in this book is dated rather than speculative. The portents have appeared

¹ Sawyer, *Cases on the Constitution of the Commonwealth of Australia* (3rd ed. 1964) Supplement to 3rd edition (Reprinted 1970).