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Report of a Study on the Labour Injunction in Ontario, Ontario Department of Labour Octobre 1966, 769 pages.

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RECENSIONS

Report of a Study on the Labour Injunction in Ontario, Ontario Department of Labour
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This study was undertaken in June, 1966, at the request of the former Minister of Labour for Ontario, Hon. H.L. Rowntree, Q.C., to provide background information for an anticipated public inquiry into the labour laws of the province. The object of the report is to provide data relevant to such an inquiry, expressed in a neutral form, from which others may choose to draw conclusions or on which they may elect to base arguments. It is not the object of this study to plead a case. It was, however, considered useful and desirable that the first essay, on practice and procedure, should include critical comments on the law in action, based on reported cases and events in practice. The last three essays, relating to the law in the United Kingdom, Australia, and the United States, were not prepared under the restraint of "neutrality".

...The study consists of seven independent reports.

Volume 1 contents the first three reports.

The first, entitled «The Labour Injunction in Ontario: Procedure and Practice», is by Professor Horace Krevier of the Faculty of Law at the University of Toronto. The report sets out the procedural law and the practice relating to the use of injunctions in labour disputes.

The second report, entitled «The Labour Injunction in Ontario: Juridical Data 1958-1966», is an analysis of labour injunction litigation in Ontario since 1958. The year 1958 was chosen as a cut off date because in 1960 the Ontario Judicature Act was amended to put certain limitations on the use of interim and ex parte injunctions. It was considered that any change in practice resulting from the amendments would be revealed if the commencement date for the study antedated the amendment by two years. The study was under the direction of Professor E.E. Palmer of the Faculty of Law at the University of Western Ontario.

The third part of this study, entitled «Industrial Conflict in Ontario 1958-1965», is a report, based on materials other than

juridical data found in Part Two, on the extent and degree of industrial conflict in Ontario during the eight years covered by the study. The report itself contains an introduction setting out the purpose and scope of the study. The data is presented with explanatory comment but, as in Part Two, is without interpretive comment, in keeping with the object of providing background information for use by the interested reader. The report was compiled under the direction of Mr. J.R. Kinley, Director of Research for the Ontario Department of Labour.

Volume 2 contents the last four reports.

The fourth part of the report consists of two accounts of labour news and editorial comment appearing in the *Toronto Globe and Mail* from September, 1965 to September, 1966. The first account relates generally to labour news in Canada, the second more specifically to labour news in Ontario. The object of these studies is to provide an account of what has been presented to the public through the medium of the public press respecting industrial conflict. In terms of feasibility, it was determined that time would permit a précis of news from a single newspaper only. The *Globe and Mail* was chosen because of the scope of its circulation and the quantity of labour news which it carries. The studies were prepared by Mr. M.T. Mollison, student-at-law.

The fifth, sixth and seventh parts of this report consist of accounts of industrial relations law in three English speaking industrial common law countries: the United Kingdom, Australia, and the United States. In that part of the law of industrial relations that relates to the use of the injunction, and in the general context of the legal framework of collective bargaining, there are notable differences among three countries and the province of Ontario, even though there is much in common in the structure, composition and operation of industrial society. It was considered relevant, therefore, in a report designed to provide background information to a public inquiry into the labour laws of the province of Ontario, to include an account of laws, entitled «Strike Law and the Labour Injunction: The British Experience 1850-1966», was prepared by K.W. Wedderburn, Cassel Professor of Law in the University of London (London School

of Economics). The report of the Australian law entitled «*Restraints of Trade Union Activity in Australia*», was prepared by H.J. Glasbeek, a member of the Bar of Victoria (Australia), formerly Senior Tutor-in-law at the University of Melbourne, and now Assistant Professor of Law at the University of Western Ontario. The report on the United States law, entitled «*The Labor Injunctions in the United States*», was prepared by Benjamin Aaron, Professor of Law and Director of the Institute of Industrial Relations in the University of California at Los Angeles.

Pierre DIONNE

The Settlement of Labor Disputes on Rights in Australia, Paul F. Brisseden, Monograph series: 13, Institute of Industrial Relations, University of California, Los Angeles, 1966, 125 pages.

In these pages are the results of an attempt to explain to American readers how the Australian systems of industrial arbitration are utilized to deal with industrial grievances, or labor disputes over rights. Since the Australian arbitral apparatus was built up as machinery for the settlement, primarily, of disputes over interests, and was utilized only later, and somewhat as an afterthought, for dealing with rights, it has seemed necessary to give some attention to the systems as a whole, and even to consider their utilization in disputes over interests. Not only is reliance in Australia in large measure upon the same apparatus for handling the two classes of disputes, but also the processes followed are often identical or closely similar.

So, the author discuss the settlement of interest disputes only insofar as necessary to get some perspective on the moving parts in the Australian arbitral system and to see how they are brought to bear on rights disputes.

The inquiry into the Australian system is introduced by a summary description of the continent and the Commonwealth which occupies it. The author then compare the arbitral process in Australia and the analogous process in the United States and note the peripheral nature of the role of collective bargaining in Australia. There follows a brief discussion of the origins and general features of the federal and state arbitral systems and the «*two-story*» wage structure Down Under.

The second chapter presents a description of the Australian arbitral apparatus in the federal jurisdiction and in the four state jurisdictions in which such machinery operates, with emphasis upon the state system in New South Wales.

The next two chapters seek to explore the doctrines of interstateness and of ambit and the limitations these place upon the freedom of action of the tribunals in dealing with the wage structure and upon a careful distinction between labor disputes on rights and those on interest.

Discussion of the operation of the arbitral apparatus occupied the largest section of the monograph. Here the analysis centers upon the principal channels and devices through which disputes on rights are dealt with, such as boards of reference, industrial magistrates, industrial courts, major tribunals, award making, award variation, collective bargaining, and industrial action. Seventeen cases, illustrating most of the methods and involving most of the classes of tribunals, are outlined in the hope that in this way some color of reality may be given to an exposition which otherwise might well seem somewhat fourth-dimensional.

The final chapters, again, point up some differences and similarities between the Australian and the American systems and offer some concluding observations.

Pierre DIONNE

Contemporary Labor Issues, Foget and Kleingartner, Wadsworth Publishing, Belmont, 1966, 462 pages.

This book represents an attempt to provide a more exciting approach to the study of labor. The experience of the author in teaching courses in labor and industrial relations has convinces him that a high degree of student interest in these courses can be awakened by exposing the students to important current issues in the field of labor-issues which have contemporary meaning to people who are interested in what is going on in the world in which they live. Too often, a seminal intrigue with labor problems is stifled by an excessively intellectual or uninspiring presentation of traditional academic subjects. The author believe that an issues approach will stimulate interest in labor problems which will be accompanied and followed by effective learning of appropriate subject matters.