

CONCISE
COLLEGE
TEXTS

LABOUR LAW

THIRD EDITION

C.D. DRAKE



SWEET
& MAXWELL

CONCISE COLLEGE TEXTS

LABOUR LAW

Third Edition

by

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London
SWEET & MAXWELL
1981

First Edition 1969
Second Edition 1973
Third Edition 1981

Published in 1981 by
Sweet & Maxwell Limited of
11 New Fetter Lane, London
Computerset by
MFK Graphic Systems (Typesetting) Ltd., Saffron Walden, Essex
Printed in the United States of America
by Edwards Bros. Inc.

British Library Cataloguing in Publication Data

Drake, Charles D.

Labour law. — 3rd ed. — (Concise college texts)

1. Labor laws and legislation—Great Britain

I. Title II. Series

344.104'125 KD3009

ISBN 0-421-281006

ISBN 0-421-281103 Pbk

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PREFACE

Labour law has undergone a profound transformation since the second edition of this small book in 1972, based as it was on the Industrial Relations Act 1971, now a receding memory. Since then, our collective labour relations have the support of a new body, ACAS, with the "TULRA system" as an ultimate legal long-stop resort. So far as individual employment relationships are concerned we have witnessed a legislative programme of Benthamite proportions. Bentham referred to Demosthenes in his speech against Theocrates in which the contrast was drawn between the incessant legislative changes in Athens with the permanence achieved at Locri in Italy, where proponents of legal change were required to wear a halter which was removed or tightened till they died, according to the approval or disapproval with which the change was received. We have clearly been living in Athens over the past few years. Bentham would most assuredly have not welcomed the "explosion" of law reports, monographs, periodicals and the like, which now provide a service (or disservice) to labour law. Lord Denning has expressed anxiety at the volume of law books on this subject, under which, he fears, the industrial tribunals may be bent down or, what is worse, sent to sleep. One might add that we might also find a few students asleep under the weight of material.

The writing of this third edition was postponed for a number of reasons. For myself, I wished to postpone the task until labour law had settled down, but I learned that no man can go down twice to the same river, as Heraclitus reminds us. It remains to be seen whether or not the Employment Act 1980 provides an equilibrium—probably not. Secondly, because I shared Lord Denning's anxiety at the sheer weight of material in labour law, I was reluctant to add my own voice to what in some respects had become a Tower of Babel. However, with the multiplication of reports and monographs I came to see that there might continue to be a place for a small and general book which would provide the bony structure to which the reader could add flesh. In so doing I am fully aware that I have perforce had to skim over certain technical topics, such as the circumstances in which a late claim for unfair dismissal will be accepted.

In acknowledging the help of others I confirm the truth of Donne's assertion that no man is an island unto himself. First and foremost I am deeply indebted to my colleague Miss Gwyneth Pitt, with whom I have shared the teaching of labour law for some time. She has submitted to the thankless task of reading certain chapters in typescript and for this I am most grateful. I also add my prospective thanks for her kindness in agreeing to read the proofs whilst I am away in the South Seas. Two of my third-year students, Janice Smith and Jill Merreywether, read and corrected a fair number of chapters in the weeks before Christmas 1980 and I am genuinely grateful for their help at a time when their own plates

were full. To these and those whose greater knowledge I tapped, I am happy to give the customary absolution from such errors and imperfections as may remain. Mrs. Doris Jones has put me in her debt by the cheerful and tolerant way in which she managed to accommodate an irregular flow of material. Since I am distributing largesse, it would be wrong not to mention my gratitude to my wife for putting up with me and to my daughter, Marion, who tried her 'prentice hand at typing one chapter.

February 1981

Charles D. Drake

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