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Industrial Tribunals-

Practice and Procedure

Industrial Tribunals— Practice and Procedure

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Preface

An ancient religious book tells the story of the old father and his young son travelling with their ass. At first, passers-by hurled abuse at the boy for showing no respect for age in insisting that the old man walked while he rode comfortably on the donkey. After they changed places, members of the public shouted at the father for being so inconsiderate as to make the little boy walk while he made his journey on the ass. The father and son were put out by the comments they had received, and decided that they, as well as the ass, continued their journey on foot. They met with further derision from the crowd, who criticised them for failing to make good use of the ass.

When they went on their journey carrying the ass, the crowds laughed at their stupidity.

The industrial tribunal has been met with criticism from all sides in much the same way as the old man and his young son. Employers have complained that the legislation is weighted in favour of the employee, and that tribunals lean over backwards to carry out the intention of Parliament (an unbalanced position more favoured by acrobats rather than by courts or tribunals!). Unions and employees accuse the tribunal of throwing out too many claims brought by applicants. Both 'sides' of industry tend to regard the tribunals as either being too legalistic or too informal!

Despite these criticisms, the tribunals attempt to provide a cheap, speedy and largely informal manner of airing and dealing with what may be termed 'grievances' of both employers and employees. They have endeavoured to translate the political phrase 'In place of strife' into the practical disposal of such grievances in a traditionally British manner, by an approach combining conciliation with litigation. 'Talking out' a genuine grievance, or rather what is genuinely felt to be a grievance around, or in front of, a table is as good a way of approaching an industrial problem as any. It may even be better than most others.

Many books and booklets have been written on industrial tribunals. Not unlike the tribunals themselves, the books have met with a variety of criticisms. However, unlike the tribunals, they largely merit such criticism. Some are written by academics for other academics, some deal with the law as it should be instead of as it is,

others deal with one specialised aspect or another of the work of the tribunals.

We have tried to produce a work that contains sufficient material to enable legal practitioners, union officials, personnel officers and advice bureaux to look at the more usual types of case dealt with by the tribunal. We have set out the relevant portions of the law (whether from Acts of Parliament and Statutory Instruments or decided cases) that apply and have gone on to examine some areas where difficult points have arisen. Wherever we have been able to do so, we have tried to give some practical guidance to those involved in cases coming before the tribunals.

Perhaps the moral of the little story with which this preface was introduced was that the man and the son should have sold the donkey and bought a car! That is what we have hoped to do in this book: to bring within the pages of one book sufficient details of the *main* types of case coming before the tribunal and the way in which they are dealt with.

The authors are grateful to the Controller of Her Majesty's Stationery Office for kind permission to reproduce the documents set out in the Appendices.

Donald B. Williams
D. J. Walker
October 1979

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