BOOK REVIEW

Bonus : Indian Law and Practice, By G. B. Pai; 517+xliv pp.; (1962); N. M. Tripathi Private Ltd., Princess Street, Bombay-2; Price Rs. 25/-.

Mr. G. B. Pai deserves the thanks of the rapidly growing band of labour lawyers and students of labour law in India for bringing out this up-to-date exhaustive and elegantly produced volume on Bonus.

At the very outset it may be stated that with his experience and knowledge the author need not have completely kept himself in the background. We would certainly have been grateful if on each of the controversies dealt with in this book he had given his own views. However, since the policy decision he took on the matter being deliberate and fairly set out in his Introduction there is no point in attempting to review a book on bonus which Mr. Pai could have written.

The book is divided into six parts and 31 Chapters with 3 appendices. Part I in three chapters deals with the historical evolution and current concept of Bonus. The historical treatment in the first Chapter takes the readers to what is known as the First Full Bench Formula of the Labour Appellate Tribunal in 1950 and considered by the Supreme Court in all its aspects for the first time in 1959, in the *Associated Cement Company* case.[1] From this "genesis" the entire book is devoted to reach "revelation" but as we are told in the Introduction of the book itself, in the words of a learned Judge bonus is a legal claim the types and boundaries of which the courts are struggling to formulate. From Part II to Part V the picture of this struggle is graphically shown in its theoretical and analytical aspects as well as in its application to particular industries. Bonus is wages and is the share of the labour in the surplus of an industry which is demandable either when the pre-existing wages are below the living standard or when the surplus is huge and is partly the result of the contribution of labour to production. The surplus is arrived at after the deduction of five first charges on gross profit, which may be called for convenience the DRIIT (Depreciation, Rehabilitation, Interest on paid up capital, Interest on working capital and Tax). The living wage requires gauging but a

1. [1959] S.C.R. 925. The Supreme Court had welcomed the formula in 1955 in the *Muir Mills* Case [1955] 1 S.C.R. 991.

start has to be made on the need-based minimum wages which is calculated by the Tripartite Committee in 1957 [2] on a five petalled pattern of life. We are told [3] that the national income of India is too low to prescribe by law a minimum wage which would correspond to the concept of a living wage. Still the "rudder is set in the direction of a living wage," and one has to note carefully that even if that winning post is passed, still, the right of labour to demand a bonus is not exhausted because the theory of contribution (Ch. VI) vouchsafes the right of labour to share in surplus profits which is the last condition in our definition of bonus.

Thus in closely linked chapters the saga of bonus is unfolded through the most authoritative materials. Chapter XXX, which gives copious comparative material from the Statute Books of a score of countries on profit sharing bonus, is helpful and relevant. The last chapter collects at one place all relevant statutory provisions in India on the subject. The present reviewer got light even from the appendices, the Ahamedabad Bonus Agreement which is the first appendix, for example.

The Book is fully documented and is dependable, as already stated too much authoritative. It is hoped that in the next edition the learned author would come out more to the forefront and give more of his own thoughts. It is developing law that needs more of moulding hands, not crystallised ones.

There is no doubt that industry and labour counsels, judges and students of labour law would do well to possess a copy of this book and study carefully its contents.[4]

A. T. Markose

ADMINISTRATIVE JUSTICE

By 1900 other countries had become preoccupied with the problem of administrative justice. In Britain the question was posed, and the wrong answer given, by Dicey in his famous work *The Law of the Constitution*. He managed both to define the 'Rule of Law' in a way which meant that virtually no other country in Europe possessed it; and also so to misinterpret the powers and responsibility of the Conseil d' Etat as to mislead whole generations of British lawyers as to what administrative justice was about.

2. P. 87.
3. P. 98.
4. This reviewer did not come across any printing mistakes except the word 'establish' for 'established' on p. 24, 12, line 17.

In fact, Dicey's views were in full accord with the particular spirit of the English Law. The administration of the law and the practice of the law in England retained much more of the medieval spirit than in other European countries. It was a small closed profession and judges in the courts were drawn from the most successful practitioners of the art. The complications of common law made its full understanding much more of a mystery (in the medieval sense) than that of the more coherent written law on the Continent. Furthermore, the social composition of the English judiciary and legal profession was far narrower than on the Continent, so that lawyers and judges drawn from the wealthier classes were almost unanimously hostile to the extension of public services, to any form of state intervention, and to interference with property rights and the relations between master and servant.

A contrary process was occurring in other European countries. Law was the subject recommended for any poor student who wished to make his way in the world. University education was far more widespread, and law could be read as a mental discipline rather than as a feat of memory. It was the discipline which opened all doors except those of literary salons. Law was not a mystery, but a widely studied subject in which journalists, publicists, businessmen, and civil servants had graduated.

This had important repercussions. Continental countries has state magistracies; that is, candidates entered the judicial career by examination, and worked their way through courts as judges or through departments of the State Attorney as prosecutors and examining magistrates; if they were successful they might reach the highest ranks of the judiciary. This meant able young men without resources could enter the judiciary as they might the civil service, and many posts in the judiciary were filled by men of humble, or at least unostentatious origins. The social weighting of the judiciaries in European countries is quite different to that in England.

By the end of the nineteenth century countries other than Britain which had started from the principle that the ordinary courts should deal with the control of the administration, had seriously revised their views.

—Brian Chapman, *The Profession of Government*, pp. 192-93.