LAW OF EMPLOYMENT (1990). By G.B. Pai (Vol. 1). Balaji Law House, Madras Pp. cxxxiv+718. Price Rs. 450: £50 : $75.

THIS BOOK[1] is perhaps the only attempt to put together a lot of materials to serve as a source book for lawyers, labour leaders, legal scholars, and industrialists. The book will find a place of pride in any library of high standing. It is mainly a reference book which contains a summary of valuable information including the decisions of the Supreme Court, the High Courts, the Labour Appellate Tribunal, as well as decisions from the courts in the Western countries.

A legal scholar must use the book intelligently and he would find that it contains an abundance of valuable information which he can use to his best advantage.

On the question of wages, for example, an intelligent reader would construct his approach by using the materials in the book as follows. The law of diminishing returns sends farmers under the pressure of growing population looking for jobs in the industry. The industry, however, cannot absorb workers who would be onerous because of being surplus under the theory of diminishing utility. To expand employment opportunities and for the development of the country the state would plan on further industrialisation. But where will the capital come from for investment in the new industries? There will be the need for capital formation therefore for further investments. If wages are kept high as promised by the Directive Principles of State Policy, the capital formation will not take place. Therefore, while on the one hand, the law has to give some wage increases to the workers, on the other hand, it cannot ignore the need for capital formation. This book goes on to give an account of the wage fixation by courts in this background. The industrial adjudication has evolved two principles of wage adjudication. Firstly, it has to be determined whether the industry has the capacity to pay higher wages. If it does, the wages must be in line with what other establishments in that region pay. The judges explain this rule by pointing out that there will be an industrial unrest if wages are not kept uniform in the whole industry in a region. The question there arises that if wages are kept uniform, how will wage increases come about ? Pai's book contains the answer. He summarises a number of wage theories in his book which are said to determine what wages are to be paid to the workers at any particular time in any society.

Two of these theories, outlined in the book, are the theory of marginal productivity and the bargaining theory of wages. Both these theories relate to collective bargaining. The auther gives an account of collective bargaining in the West therefore to show how the profits of an enterprise

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1. G.B. Pai, *Law of Employment* (1990).

are shared through collective bargaining. In doing so, the author gives its history and the history of trade unions. He deals with the concomitant rights of the law relating to recognition of trade unions and other concomitant and related aspects of the right to strike. The book deals with the legitimacy of strikes and whether the right to strike is a fundamental right. It deals with the legal pronouncements on whether a legitimate refusal to perform additional work is strike, the right to peaceful demonstration, pen-down and stay-in-strike, go-slow, and stoppages for short durations. Indeed, in our industrial relations system dictated by the needs of development, the preferred method of dispute settlement is through negotiations, failing which the industrial adjudication favours availing peaceful methods of seeking the remedies through referral of disputes, and discourages the parties from resorting to strikes and lockouts. Wages for strikes are not awarded where strikes have been hasty and without waiting for the government to refer the dispute for adjudication. The main task for industrial adjudication is to maintain peace in the industry so that the needs of development are catered for and it is in the quest of this objective that the industrial adjudication frames its principles to balance as far as possible the conflicting interests of the employers and workers.

It is in this context that the author's contribution in summarising the principles of industrial adjudication assumes great importance. The Industrial Disputes Act does not and could not possibly have provided a law for every situation. Judicial legislation therefore became important and the courts and tribunals laid down rules based on equity, justice and fairplay for adjusting the conflicting claims of the employers and employees. The first volume of this book has admirably complied with these judge-made laws under the various sections of the Industrial Disputes Act.

Of particular importance are the rules concerning principles of natural justice and the retrenchment provisions contained in the book. While the courts keep the wages as low as would satisfy the workers and would prevent them from striking, they ensure that the employers do not arbitrarily dimiss the workers and retrenchment of the workers is not easy. Job security comes as *quid pro quo*. Victimisation is not permitted. It may partake of various types, as for example pressurising an employee to leave the union or union activities, treating an employee in a discriminatory manner or inflicting a grossly monstrous punishment which no rational person would impose.

The Supreme Court gave the meaning of retrenchment a wider amplification in *State Bank of India* v. *N. Sundaramoney*.[2] The court said, "Whatever the reason every termination spellsr etrenchment....A termination takes place where a term expires, either by the active step of the

2. 1976 1L.L.J. 478.

Master or the running of the stipulated term.[3] The court also observed:

> To retrench is to cut down. You cannot retrench without trench ing or cutting. But dictionaries are not dictators of statutory construction where the benignant mood of a law and more emphatically, the definition clause furnish a different denotation. 'Retrenchment is no longer *terra incognita* but area covered by an expansive definition. It means 'to end. conclude, cease' ".[4]

To conclude, this reviewer is in full agreement with the publisher's com ments on the cover of the book that this treatise on the law of employment expresses in lucid and understandable language the entire gamut of the law of employment as applicable to this country, and that the author has sought to highlight the observations on this branch of law by recourse to the salient provisions of the Constitution of India and the conventions of the International Labour Organisation on every aspect of this branch of law.

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3. *Id.* at 482.
4. *Ibid.*

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