

## *Batons and Blockades: Policing industrial disputes in Australasia,* David Baker, Circa, Beaconsfield, 2005

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With industrial relations changes currently and firmly on the Howard government's agenda, the release of this book is timely indeed. David Baker sets out to examine the way in which police handle industrial disputes and to draw some conclusions concerning police responsibilities and preferred models of operation. Baker has produced an excellent historical overview of many of the industrial disputes in Australia and New Zealand that have made their way into the headlines over the past century, and, at the same time, addressed some thorny and perennial questions regarding the legitimacy and acceptability of protest behaviour.

Should police enforce the letter of the law, with or without formal direction by the courts, or should they adopt a more non-confrontational approach in order to reduce the anger and tension in these situations of public disorder? The police roles and functions in what are usually private industrial disputes have always tossed up tricky operational and legal questions. Since police are the legitimate and coercive arm of the state, their authority is essential if obstructionist pickets are to be removed or by-passed. By the same token, one can argue that workers who have nothing left to bargain with in a private dispute need some way of protecting their interests, and the withdrawal of labour is the ultimate tool. That withdrawal is pointless unless they can stop others from taking their place, and their pursuit of private justice should not be undermined by the state using state authority. Which is the preferred position? The law does not, generally speaking, remain neutral. Once a court decides that the police should act, the police must obey and they cannot adopt a position of neutrality. They must move against the picket line. But with what level of force, and what if they perceive that there is a more effective way of achieving the desired outcomes other than from violent confrontation? Who gets the final say?

Moving through these difficult questions, Baker addresses the debates over the right to strike, the notion of justice (and competing interests therein), and strategic policing options. He briefly discusses the debate over the often-mentioned 'independence' of a police commissioner, although he doesn't cite what many consider to be the most fundamental proposition in this area of law: the statement of Lord Denning in *R v Commissioner of Police of the Metropolis, ex parte Blackburn* [1973] QB 241 where the judge commented that '... in the carrying out of their duty to enforce the law, the police have a discretion with which the courts will not interfere. There might, however, be extreme cases in which [an officer] was not carrying out his duty. And then we would.' What classifies as an 'extreme' case was not pursued by Baker and could have provided a useful starting point for discussion.

The author uses a number of case studies to illustrate the points he raises; the Burnie (Tasmania) paper mill dispute in 1992, the Melbourne maritime dispute in 1998, and the 1999 tragedy at the Lyttelton (New Zealand) picket line when a protester was run over and killed. More succinct coverage is given to the infamous Richmond College (Melbourne) 'baton charge' in 1993, the SEQEB dispute of 1984-5 (discussion of which was resurrected recently with the death of chief union antagonist and then Premier Sir Joh Bjelke-Petersen) and major strikes in Mt Isa in 1961, 1964-5 and 1995.

Baker's legal analysis is sound and helpful. It highlights what most observers would agree on: that the law itself is a blunt and often inconsistent instrument by which to resolve these dilemmas. He makes the point that, while legal judgments and orders will vary from dispute to dispute, and from judge to judge, courts are usually less than sympathetic to police calls for restraint. He cites the view of Justice Wright in the Burnie dispute, where His Honour stated that police commanders were 'clearly wrong' when they suggested that 'police should not interfere in a situation which has its genesis in an industrial dispute'. The judge reiterated that one must not 'endorse the law of the jungle. It leads to anarchy. It is plainly unacceptable'. Baker later cites Justice Panckhurst, who presided over the criminal trial of the man convicted (later acquitted on appeal) of causing the death of the Lyttelton protestor. His Honour referred to as 'folly' an approach by police that attempted to accommodate the rights of the picketers. Finally, Baker refers to the 1998 Victorian Supreme Court order issued by Justice Beach that banned protesters from picketing Patrick Stevedore's terminals because the picketers were 'guilty of serious criminal behaviour'.

In highlighting the apparent intransigence of the law, the author contrasts the growing public and political sympathy for any police strategy that explores non-confrontational options such as those pursued by Victoria Police Commissioner Neil Comrie in the 1998 waterfront dispute. The author's sentiments on this subject are clear. 'Whenever police have been unsuccessful in removing a picket, mob rule has not triumphed', he notes (p 112). Moreover, the Lyttelton tragedy was a 'one-off' incident, and 'should not be used to justify a return to traditionally aggressive, legalistic and confrontational policing of industrial disputation' (p 139). Baker makes his case well, and presents his arguments concisely and cogently.

Finally, the sub-title's reference to 'Australasia' is a little misleading given that the focus is solely on Australia and New Zealand, and Australasia is broader than that. There are some editorial glitches too. Putting those minor matters to one side, the book is well presented and essential reading for those interested not only in the policing of industrial disputes specifically, but the policing of public order more generally.

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