Beyond Enterprise Bargaining:

The Case for Ongoing Reform of

Workplace Relations in Australia

A REPORT PREPARED BY

THE AUSTRALIAN MINES AND METALS ASSOCIATION (AMMA)

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Introduction and Overview

The Early Years of Conciliation and Arbitration

One hundred years ago Australia was a world leader in important areas of social and political change, pioneering advances in areas such as female suffrage and public education. A strong and democratic labour movement was evolving and significant advances in work standards, such as the eight hour working day, had been achieved. At the time, Australians enjoyed one of the highest living standards in the world based on the export of primary and mineral products to the United Kingdom and to Europe.

One of the institutions established at that time that has proved to be unique and enduring is the system of conciliation and arbitration. It is through this system that industrial disputes (actual or threatened) between employers and unions are either prevented or settled by independent tribunal. The system established by federal legislation in 1904, with similar mechanisms introduced in most of the states of the Commonwealth, has operated with little substantial change throughout most of this century.

At the time of its inception, the creation and protection by an independent administrative tribunal of minimum wages and conditions of work which must be observed by employers, was linked to the assistance afforded to industry by government in the form of tariff protection. The Commonwealth Court of Conciliation and Arbitration, as it was then known, was to become an Australian icon, part of a historic trilogy (see Kelly, 1992) built around tariff protection, compulsory arbitration and the 'White Australia' policy.

The 'White Australia' policy was overtaken by the opening up of Australia through post Second World War immigration. It was also overtaken by the increasing recognition by successive Australian governments and the community at large of our place in Asia and the Pacific region. Likewise, the opening up of the Australian economy to international competition through the dismantling of high tariff barriers, the floating of the exchange rate and the deregulation of the financial sector, has brought the conciliation and arbitration system (which was essentially a system for the protection of what was considered fair wages and conditions) under close scrutiny. It has been these fundamental economic changes that have provided the impetus for substantive reform of the industrial relations system in the last decade.

First Comprehensive Review — 80 Years Later

Indeed, the conciliation and arbitration system was not subject to any major public inquiry until the Committee of Review of Australian Industrial Relations Law and Systems (The Hancock Committee of Inquiry) was established in 1984. Perhaps because the forces of microeconomic reform had not then gathered full momentum, the findings of the Hancock Inquiry were conservative. The committee recommended that the system of conciliation and arbitration should be retained and the recommendations it made aimed to improve, but not fundamentally change, the structures or processes established under the Act. It should be noted that at the time of the Hancock Inquiry, the system of National Wage Cases administered by the Australian Conciliation and Arbitration Commission (now the Australian Industrial Relations Commission (AIRC)), provided the mechanism for the operation of a voluntary incomes policy known as the 'Prices and Incomes Accord' between the Labor government and the ACTU. It is perhaps not surprising, therefore, that neither the Labor government nor the ACTU wished to make substantial changes to an institution which was pivotal to the operation of a key part of government economic and social policy.

The long period of relatively little substantive legislative change in the system, however, masks the significant level of public and political controversy that has always prevailed around both the AIRC and the processes and outcomes of the industrial relations system.

While the Hancock Inquiry relied on and reiterated what was perceived as the significant level of community support for the continued operation of the conciliation and arbitration system, in fact no consensus has existed at the political or industrial level on key aspects of the Act throughout most of the post-war period. As will be discussed in more detail in Chapter 3, major differences of view have always been evident on, for example, the role of unions in the system, the degree of supervision and control to be exercised by the tribunal on the parties and the agreements they reach and the nature of sanctions or remedies available for non-compliance with the rules that apply.

Economic Drivers of Change

It is not until the 1990s that it could be said that major changes to some of the fundamental characteristics of the Australian industrial relations system occurred, as evidenced in the 1992 amendments and the Industrial Relations Reform Bill of 1993, introduced by the Labor government, and the Workplace Relations Act 1996, introduced by the current Liberal/National government. It is important to observe that the processes of economic reform instituted in the previous decade by the Labor government were by the 1990s, having a major impact on the economic environment in which Australian trade and commerce was being conducted.

The significance of the change in direction that occurred with the introduction of the 1992 Amendments and 1993 Reform Bill can be highlighted by reference to just a few of their key features:

- For the first time, the Act opened up the prospect of an industrial agreement being reached between a company and its employees directly, with no requirement for union representation or involvement.

- The supervisory role of the AIRC was significantly reduced with the emphasis on the parties determining and agreeing their own interests in the form of a collective agreement, rather than the AIRC making an assessment of that agreement against the public interest. Significantly, a key object was, for the first time, omitted from the Act:

  > to ensure that … proper regard is had to the interests of the parties immediately concerned and to the interests (including the economic interests) of the Australian community as a whole.

- The notion of a right to strike in pursuit of authorised collective bargaining was recognised within the Act. This contrasts to the origins and objects of the 1904 Act, which in large part were intended to render unnecessary recourse to 'the barbarous expedient' of the strike.

Emerging Common Ground?

The Workplace Relations Act 1996 builds upon many of the changes introduced by the previous government. However, it would be wrong to conclude that a measure of political consensus is emerging on the direction of labour relations and workplace reform. Indeed, if taken at face value, public statements of policy and legislative intention from the opposition suggest that, if elected, a Labor government would change significantly the current legislation. In particular, this would involve changes to the role of unions and the degree of supervision and control exercised by the AIRC, including its public interest role. These changes, on current indications, would take the Act back to a form much more in line with that which prevailed in the 1980s.

The Industrial Relations Pendulum

This pattern of change and reversal of change, or what might be described as 'the swinging pendulum' of industrial relations legislative change, has been a characteristic of the post-war period. Chapter 3 sets out in some detail those key sections of the Act that have been the subject of major change by one government with subsequent modification

and reversal by a succeeding government of a different political persuasion. On the basis of this analysis of the nature of legislative change back and forth across the political divide, it is predicted that, unless there is a break from past experience and practice, a similar process will occur with a re-election of a Labor government.

Economic Reform Irreversible

However, if, as has been suggested, the most recent and most dramatic changes in industrial relations and workplace reform are largely a response to fundamental changes in Australia's economic structure and competitive environment that have been occurring since the early 1980s, then another adjustment to the 'pendulum' to restore the 'status quo ante' is likely to encounter the very same forces that generated fundamental change in the first place. The social and economic consequences of such a basic conflict are unlikely to be beneficial, especially if the 'rhetoric of re-regulation' is interpreted by international capital markets as a signal that the trend in labour and product market reform is to be halted or reversed.

It will be argued in this study that it is not appropriate or practical to attempt to reverse the direction of reform started by the previous Labor government and expanded and accelerated by the current Liberal/National Coalition. Our system of employee relations is now centred on the enterprise and on agreements made between employers and employees, both individually and collectively. The era of compulsory arbitration and third party intervention to settle industrial disputes is clearly over.

Fairness Still Essential

Many of the issues that were sought to be addressed by the founders of the system nonetheless remain. Notions of adequate minimum standards below which employees' wages and conditions should not fall and appropriate protection against unfair treatment and discrimination at the workplace because of conscientious belief, race or religion, are basic objectives which continue to resonate with values strongly held in Australian society. Australian Mines and Metals Association (AMMA) believes that all Australians and Australian institutions would wish to have these values respected and preserved in law, custom and practice. Concerns around these issues and the role of tribunals, unions and employers and the protections to be afforded to working people, permeate much of the debate about recent legislative reforms introduced by the current and previous federal governments.

AMMA's Position

Australian Mines and Metals Association is the national employer association for the mining, hydrocarbons, and associated processing and service industries.

Underlying all AMMA's activities is the belief that direct, cooperative and mutually rewarding relationships between employers and employees at the enterprise level are the best way to achieve efficient and productive workplaces.

In 1988, *AMMA — The Way Ahead* was released as a blueprint for industrial relations reform. It advocated the move to enterprise-based bargaining, which has since occurred. AMMA now seeks to go beyond enterprise bargaining. It seeks to make the case for genuine self-regulation in employee relations based on high standards of managerial leadership and fair and effective systems for the internal regulation of employee relations.

AMMA believes that these standards, once met, should enable the organisation and its employees to be free from extensive external interference and control. The industrial relations legislative framework in Australia must be reformed so that the realisation of this vision by Australian enterprises can be encouraged and sustained.

In a truly competitive and successful enterprise there can be no trade-off between efficiency and fairness, just as there can be no trade-off between cost and quality and safety and production. The pathway chosen to achieve these competitive standards will, of course, vary.

It is in this context that this report *Beyond Enterprise Bargaining* has been undertaken.

Purpose of the Study

The statement of purpose of the report is as follows:

> To set out AMMA's perspective on the basis and direction of future changes in workplace relations in Australia, in order to contribute to a national debate on the further reforms in labour legislation and managerial practice and leadership, necessary to promote world competitive enterprises where people:
>
> - are productively engaged
> - feel their work is valued, and
> - are treated fairly.

Structure

The report follows the structure set out below:

- *Recent changes in the nature and structure of workplace relations in Australia:* This includes a brief review of our productivity performance at the national and industry level.

- *The history of the federal industrial relations legislative reform since 1956:* This covers an examination of the key legislative changes in the period and the position of the main political parties on these issues, the areas of major agreement and disagreement and how the position of the political parties has changed over this period.

- *Lessons from overseas experience:* This draws upon a major study commissioned by the National Institute of Labour Studies.

- *The AMMA approach — Beyond Enterprise Bargaining:* This includes a discussion on strategic options that may be open to member companies in the development of their own employee relations and the Employee Relations Charter that AMMA members (indeed, all companies) would be expected to follow in moving towards the internal regulation of their employee relations. This chapter also discusses the implications for current and future industrial legislation and the next steps in broadening the national debate on how we make Australian workplaces better, safer and more productive.

Chapter 2

Key Changes in Economic Structure and Workplace Relations in Australia

The last ten to fifteen years have seen some major changes in the structure of the Australian economy and in the nature of workplace relations. This chapter aims to highlight changes in the economic environment in which industrial relations legislation has operated and workplace relations have been conducted. It seeks to indicate some of the main changes in the economy and in the conduct and nature of workplace relations and to examine some aspects of economic performance associated with these major changes.

Microeconomic Reform

In the 1980s, many of Australia's economic problems (inflation, unemployment, and balance of payments deficit) persisted, despite conservative macroeconomic management. About that time, a discernable shift occurred in the balance of economic policy to include attention to the underlying structure of the economy and the efficiency of its institutions. Although the agenda for change was broad and the impact of change was felt throughout the whole of the Australian economy, a process had begun which the then Labor government termed 'microeconomic reform'. Not surprisingly, those areas of the economy under direct influence and control of the federal government were the first areas for major reform. As the momentum of microeconomic reform increased, pressures inevitably built up around the operation of the labour market and the industrial relations system.

During the period 1983 to 1987, the Conciliation and Arbitration Commission and the system of National Wage Cases conducted by the Commission (and its successor the AIRC), provided the mechanism for the administration of an incomes policy based on the 'Prices and Incomes Accord' between the Labor government and the ACTU. While the centralised wage-fixing system based on the Accord introduced in 1983, played a role in moderating real wages growth and helped the adjustment in real unit labour costs necessary as a result of the 1981 and 1982 wages explosion, the system provided little scope for individual companies to respond to their particular needs or adjust to the major changes in their competitive environment resulting from the process of microeconomic

reform. Some of the major changes in the competitive environment confronting Australian companies during the period were:

- the floating of the exchange rate in December 1983
- the deregulation of the finance/banking sectors and the aviation industry
- the partial privatisation and deregulation of sectors previously dominated by government business monopolies, such as in the telecommunications and power industries
- the successive reductions in levels of tariff protection — which continued into the 1990s to the extent that the average effective level of protection for manufacturing fell from 15 per cent in 1989–90 to 8 per cent in 1995–96.

(A detailed schedule outlining the substantial changes in the structure of competition in Australian from the 1980s is attached as Appendix 1.)

Viewed over a period of more than a decade the extent of change is substantial. While some initiatives may have attracted controversy, particularly the partial privatisation of government enterprises, the general direction of microeconomic reform has not been in dispute between the major political parties.

More significantly in the context of this study, the nature of the changes in the structure of competition in Australia are not readily reversible. In the context of a floating exchange rate, there will be real and immediate economic risks associated with any attempts to 're-regulate' various sectors of the economy. The recent experiences of some Asian economies has highlighted the nature and the extent of some of those risks.

Key Changes in Australian Workplaces

The 1995 Australian Workplace Industrial Relations Survey (AWIRS) provides a wealth of information on the changes that have occurred in the nature and structure of workplace relations in Australia. It is the second survey of its kind — the first survey was conducted in 1990. (More details on the 1995 survey are set out in Appendix 2). Overall, the survey is compelling evidence of the ongoing and substantial changes in workplace relations in Australia. Examples of some of these changes from this source and other ABS data are set out below.

Female Employment

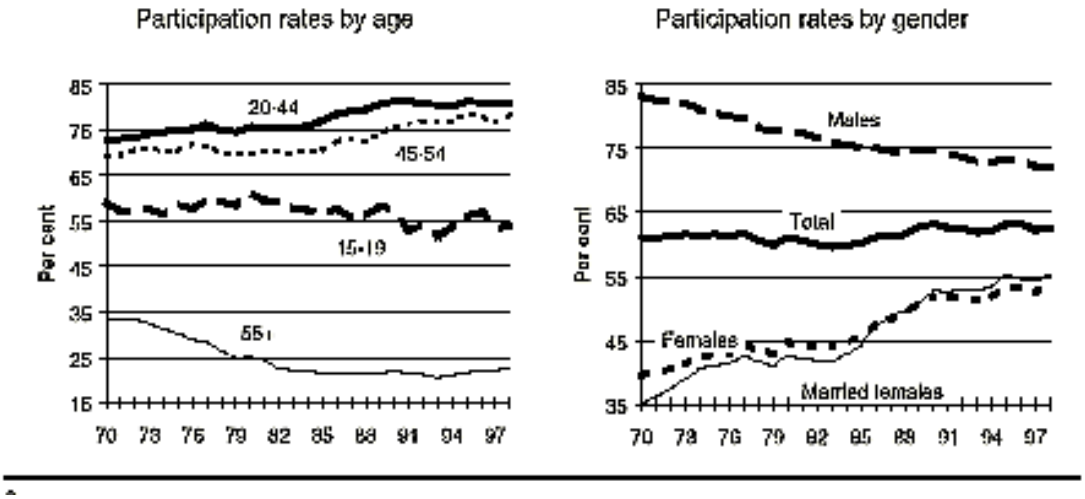
In 1990, 42 per cent of employees in workplaces with five or more people were women. This figure had grown to 46 per cent in 1995. The variation between industries was wide,

with only 9 per cent of female employment in the mining industry, compared to 80 per cent in the health and community services sector.

Labour Force Participation by Age and Gender

While Australia's overall labour force participation rate has shown only modest upward growth since 1970, important changes have occurred in the participation rates of some groups. For instance, there has been a significant increase in the participation of females, including married females, while there has been a steady decline in the overall participation rate by males. In particular age groups, for example, persons over 55, there has been a sharp decline in labour force participation. Likewise there has been a decline in the labour force participation rate in younger people aged 15 to 19 associated with increased school retention rates, progression into tertiary education and the reduction in full-time employment market opportunities. Figure 2.1 from a recent Productivity Commission study of structural change in Australia provides an overview of changes in participation rates by gender and age for the period 1970 to 1997.

Figure 2.1: Labour force participation rates by age and gender, 1970 to 1998[a]



[a] August observations

Source: ABS, The Labour Force, Australia, Cat. No. 6203.0

The Growth in Part-time Employment

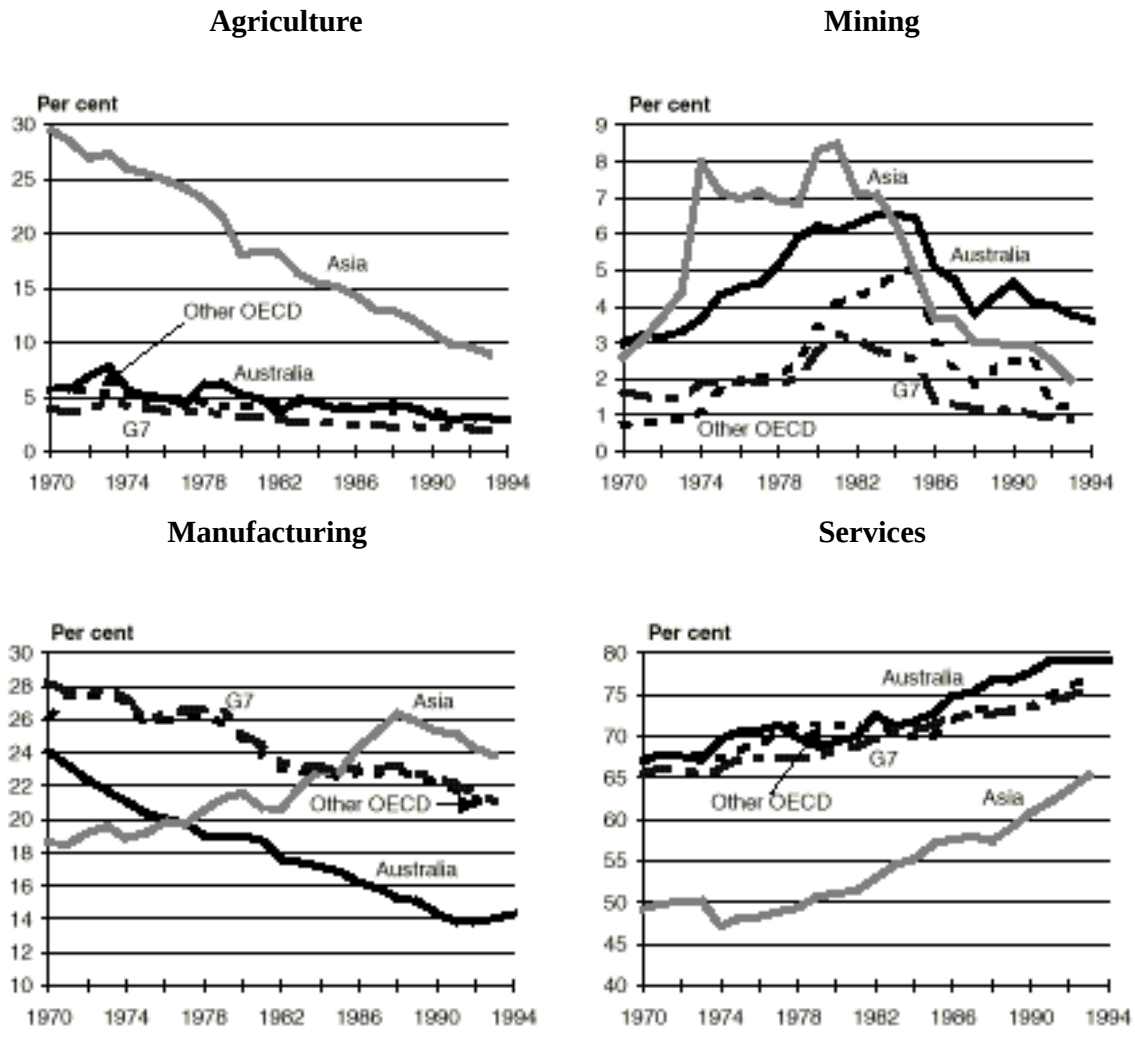
Nineteen per cent of employees in workplaces surveyed in 1990 were employed on a part time basis. This had increased to 26 per cent in 1995. The 1995 survey is consistent with other labour market data which indicate that most new jobs created during the period were part time. ABS data indicate that in August 1998, three-quarters of Australia's employees worked full-time and of those employees working part-time nearly three-

quarters were female. Fifty-five per cent of employed females were employed full-time, compared with 86 per cent of employed males.

The Structure and Composition of GDP

Figure 2.2, also drawn from the Productivity Commission's study, shows the changes in the share of GDP of different sectors of the economy in Australia compared with Asia and other OECD and G7 countries. It shows that, in Australia, the manufacturing sector has consistently declined in its share of GDP over the period 1970 to 1994 and its share of GDP is significantly below the average for other OECD countries.

Figure 2.2: Sector shares of GDP, selected countries, 1970 to 1994[a] measured in current prices



[a] Shares are based on value-added data in current prices converted to US$ using annual average exchange rates

Sources: PC estimates based on data from: SNZ Economics Database; World Bank Tables; OECD (1996c); UN (various years); UNIDO (1995, 1997)

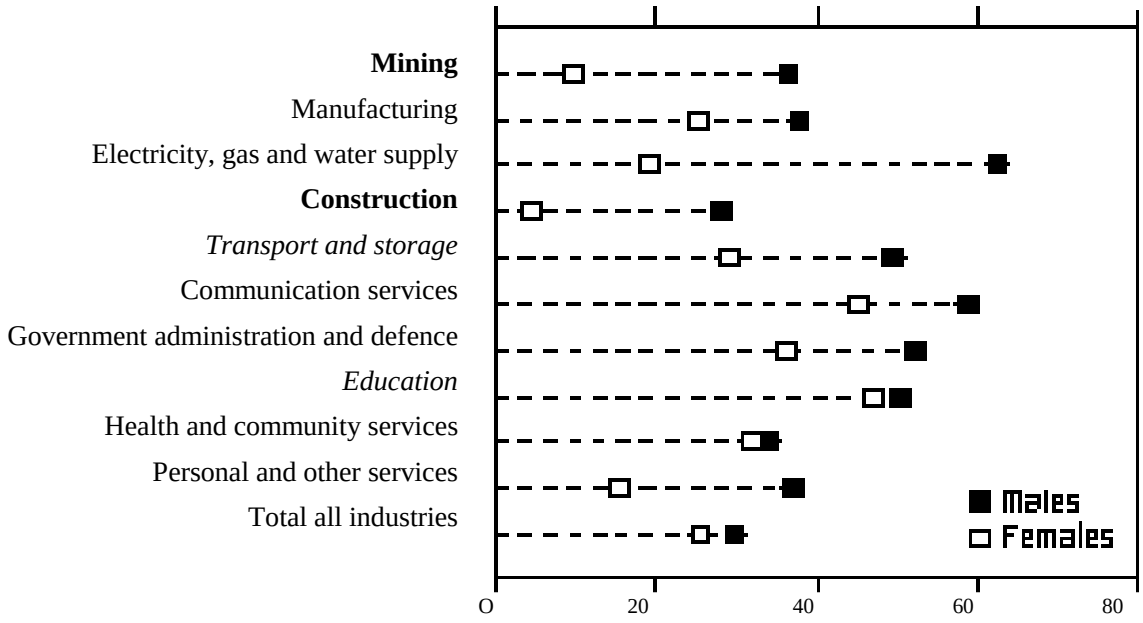
In Figure 2.2 the G7 group of countries comprises the United States; Canada; Japan; France; West Germany; Italy; and the United Kingdom. Other OECD is comprised of the following smaller OECD countries: New Zealand; Belgium; Denmark; Finland; Netherlands; Norway; and Sweden. Asia comprises the following countries: Hong Kong; Indonesia; the Republic of Korea; Philippines; Singapore; and Thailand.

By contrast the services sector as a share of GDP is higher in Australia than any of the other countries represented. This is also true for the mining sector, although in Australia this has both grown and declined over the period. The same study also measures overall structural change which has been, for Australia, above the OECD average and more recently above that measured in Asian countries. These changes in the structure of the economy and the trends in part time employment are no doubt factors influencing the level of union density discussed below.

Declines in Union Density

In line with OECD trends, the level of union membership as a proportion of the total workforce (union density) has declined, especially over the last ten years. In the last five years union membership has fallen both relatively and absolutely. The Australian Bureau of Statistics (ABS) figures indicate that there were 3 million financial union members in 1990, compared to 2.4 million by mid-1995. The overall level of union density fell from 46 per cent in 1986 to 28 per cent in 1998. The fall has been concentrated in the private sector where union density is currently about 21 per cent. Industries where the fall in union density has been substantial are mining, construction, transport and storage, cultural and recreational services, and personal and other services (see Figure 2.3).

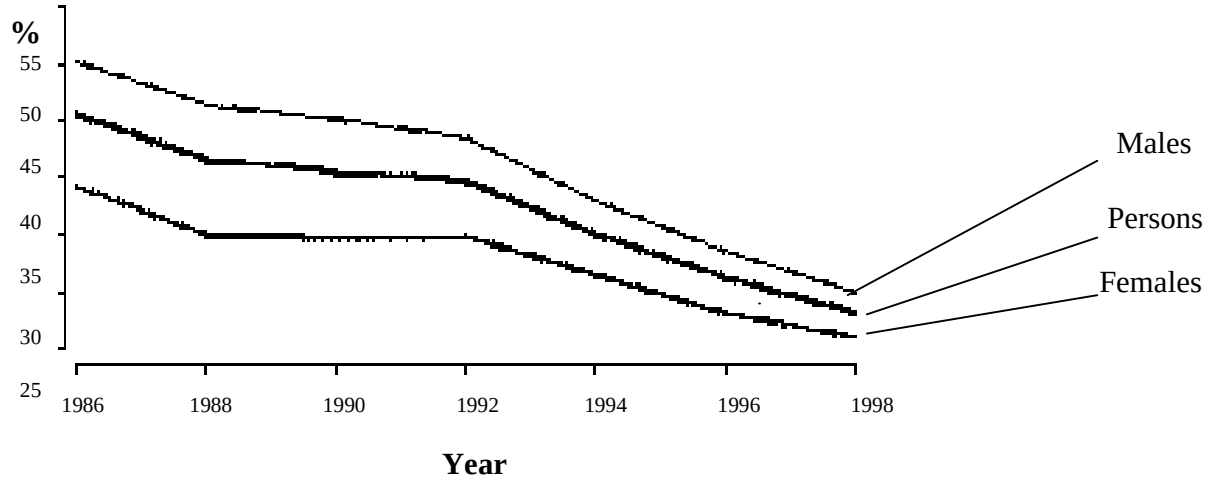
Figure 2.3: Proportion of all employees who were trade union members, in main job, by selected industries



Source: ABS Cat. No. 6310.0, August 1998

The declining trend in trade union membership was evident for both males and females (see Figure 2.4).

Figure 2.4: Proportion of all employees who were trade union members in main job



Source: ABS, Cat. No. 6310, August 1998

Widespread Organisational Changes

Fifty-one per cent of organisations surveyed reported some form of organisational change or restructuring. Eighty-one per cent reported that this occurred some time in the two years prior to the 1995 survey. Forty-seven per cent reported the introduction of new office technology and 43 per cent reported changes in the way non-managerial staff do their work. Fifty-three per cent of respondents indicated that changes were introduced in order to improve productivity and efficiency and 24 per cent indicated changes were introduced to reduce costs (Morehead and others, 1997: 241). Beyond any doubt, the 1995 AWIRS survey confirms that extensive organisational change in Australian industry is the norm, not the exception. This accords with the experience of AMMA members and private industry in Australia generally.

Coverage of Collective Agreements

Between 1990 and 1995, collective agreements overtook awards as a primary function through which wages and conditions were negotiated. Table 2.1 from the 1995 AWIRS shows that for all workplaces the number of employees covered by federal awards has fallen to only 12 per cent of employees. More than 50 per cent of employees are covered by collective agreements or individual arrangements.

Table 2.1: Estimated percentage of employees covered by different systems of wage determination, by sector and wage levels, 1995

	Covered by …					
Workplace characteristics	*State awards*	*State over-awards*	*Federal awards*	*Federal over-awards*	*Collective agreements*	*Individual arrangements*
All workplaces	21	7	12	6	44	9
Sector:						
Private	17	8	13	8	38	14
Public	29	3	9	1	55	1
Wage level:						
High	7	5	4	5	59	20
Medium	19	8	9	7	47	10
Low	30	5	23	5	33	4

Population: All workplaces with 20 or more employees; figures are weighted and based on responses from 1821 workplaces

Source: AWIRS 1995 main survey, employee relations management questionnaire

Question: Which category best describes how pay and conditions are determined (for each occupation present at the workplace)?

How to read: An estimated 21 per cent of employees at workplaces with at least 20 employees were covered by state awards; an estimated 7 per cent of employees were covered by state awards and were also paid over-awards

Source: Morehead and others, 1997: Table 10.14, p. 227

Individual Contracts

The survey also shows (pp. 205–7) that 26 per cent of workplaces have some non-managerial employees on individual contracts of employment. In the mining industry, 18 per cent of workplaces have all of their staff on individual staff contracts.

Performance Appraisal

The use of performance appraisal systems is also widespread. Sixty-eight per cent of workplaces formally evaluate or appraise the work performance of non-managerial employees at least once a year. Sixty-seven per cent reported using benchmarking to evaluate such factors as their levels of customer service, quality procedures, operating process, relative cost position, labour turnover and occupational health and safety.

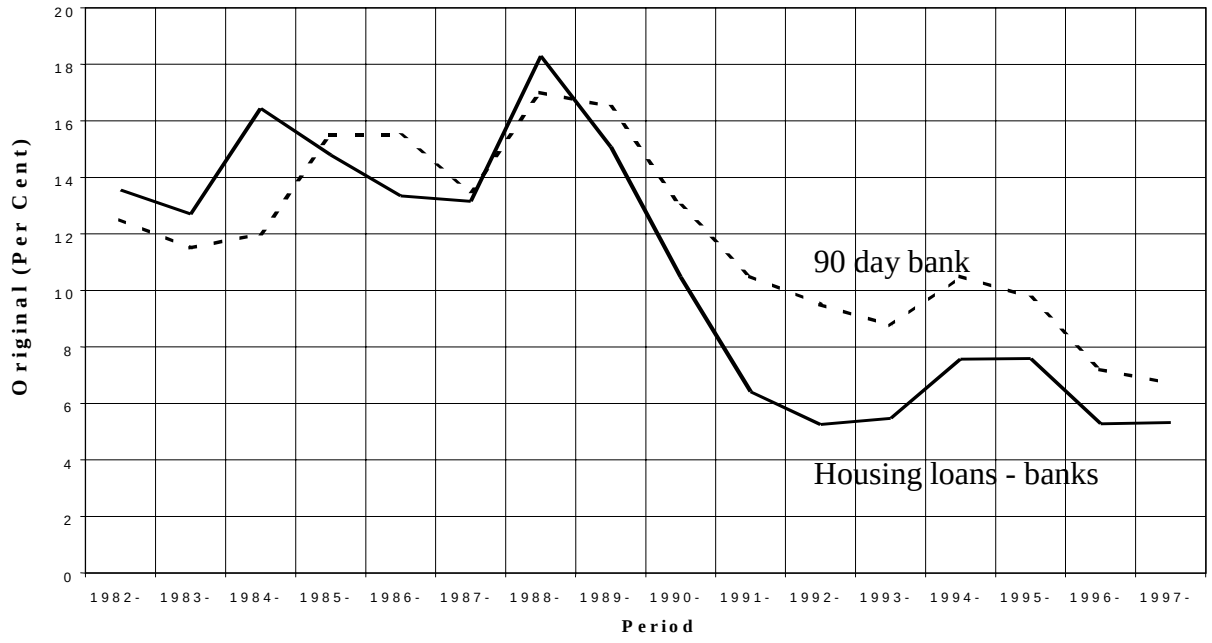
Some Improvements in Macroeconomic Performance

The combination of persistent microeconomic reform combined with conservative macroeconomic management by successive governments has seen some important changes to Australia's macroeconomic performance. Some of the most significant improvements have been the return to relative price stability and a sustained improvement in international competitiveness. The Trade Weighted Index was about 90 in the early 1980s and since 1986 has fluctuated in the 50 to 60 range. In the 1990s, these fluctuations have been accommodated without major repercussions to inflation, which has continued to reduce.

Over the period, the current account deficit has stabilised around 5 per cent of GDP, but the overall foreign debt servicing burden, expressed as a percentage of exports of goods and services, has been reduced from about 20 per cent in 1990–91 to below 12 per cent of total export of goods and services over the last three years. It is currently 10 per cent (Reserve Bank of Australia and Bankers Trust *Economic Outlook*).

Consistent with the sustained fall in inflation in the 1990s, interest rates have also fallen to the lowest levels for many years. Figure 2.5 sets out the rates for 90 day bank bills (an indicator particularly relevant for small business) and standard variable housing loan rates (a key indicator for Australian households). As will be discussed later, the reduction in interest rates is of significant benefit to Australian households, increasing the scope for discretionary consumption for existing home owners and underpinning growth in the domestic building sector through increased home affordability.

Figure 2.5: Key interest rates



Source: 1982 to 1989: Reserve Bank of Australia *Bulletin*, December, 1989; 1990 to 1998: ABS Australian Economic Indicators, Cat. No. 1350.0, December 1998

Trends in Employment, Prices, Productivity and Earnings

Until quite recently Australia's system of wage determination has been centred around National Wage Cases conducted by the AIRC. Various governments have attempted to influence wages policy and the aggregate growth in wages and salaries through what was known as the centralised wage system. The period since the Second World War has been punctuated with episodes of rapid wage and price inflation (1952–53, 1973–74 and 1981–82). Particularly in the 1970s and 1980s, wage and price inflation was followed by a major downturn in the economy, a collapse in employment growth and successively higher levels of unemployment, which have persisted despite subsequent recoveries in GDP and employment growth.

During the painful periods of readjustment during the 1970s and 1980s, centralised wage policy has attempted to constrain the growth in nominal wages. The suppression of industry and company level negotiations during these times of constraint was subject to regular criticisms by individual unions as unfairly constraining their ability to improve the wages and conditions of their members. On the other hand, employer representatives, particularly in the second half of the 1980s when the forces of microeconomic reform had begun to affect the business environment, complained of the stifling effects of the centralised system on their ability to adjust quickly to changing market conditions and to change work organisation and work methods in order to boost productivity.

Sustained Growth in Real Earnings

It is interesting to note, therefore, that in the period since the dismantling of the centralised wage fixing system and the move to enterprise bargaining — a result of both policy change by the AIRC and supporting legislative change — employees have, for the first time in many years, experienced a sustained growth in real earnings without a major blow out in inflation.

Table 2.2 shows that in the period 1990 to 1997, average weekly ordinary time earnings have on average grown by just over 4 per cent per annum, while inflation has slowed substantially to less than 2 per cent, averaging about 2.8 per cent per annum over the period. By contrast, in the 1970s and 1980s, when substantial rises in real earnings occurred (associated with the breakdown of centralised wage fixing arrangements) the increase in real wages proved unsustainable. Major distortions and inequalities also arose in the distribution of income, including sharp reductions in the profit share (gross operating surplus as a proportion of GDP), as well as between individual consumers due to the affects of high inflation and rising unemployment.

It can be seen that only in more recent times has there been a gradual unwinding of the level of unemployment which ratcheted up over the decades of the 1970s and 1980s

(peaking in 1992–93); and only in the 1990s is there a consistent and sustained growth in real average weekly ordinary time earnings.

Table 2.2: Key domestic economic indicators

Year	*Annual GDP growth*[a] *%*	*Annual employment growth*[b] *%*	*Unemployment rate*[b] *%*	*Annual change in CPI*[c] *%*	*Earnings (AWOTE)*[d] *%*
1970	6.2	3.9	1.7	3.7	8.3
1971	4.4	2.4	1.9	6.0	12.5
1972	2.1	1.5	2.8	6.1	8.1
1973	5.7	2.9	2.3	9.2	12.5
1974	2.7	2.2	2.7	15.3	23.3
1975	1.6	-0.4	4.9	15.3	23.0
1976	3.8	1.4	4.8	13.3	14.7
1977	1.9	0.9	5.6	12.4	9.5
1978	2.9	-0.4	6.3	8.0	9.2
1979	5.1	2.1	6.3	9.1	8.2
1980	1.6	2.8	6.1	10.2	13.2
1981	4.0	2.1	5.8	9.6	8.1
1982	0.8	0.0	7.2	11.2	14.6
1983	-0.1	-1.8	10.0	10.1	9.1
1984	6.4	3.1	9.0	4.0[e]	9.3
1985	5.4	3.1	8.3	6.7	5.6
1986	2.1	4.2	8.1	9.1	7.4
1987	4.8	2.2	8.1	8.5	6.0
1988	4.2	3.8	7.2	7.3	6.8
1989	4.7	4.3	6.2	7.5	7.4
1990	1.7	1.8	6.9	7.3	6.8
1991	-1.1	-2.3	9.6	3.2	5.4
1992	2.5	-0.5	10.8	1.0	2.1
1993	3.5	0.6	10.9	1.8	3.4
1994	5.5	3.1	9.8	1.9	4.8
1995	3.7	4.0	8.5	4.6	3.9
1996	3.9	1.3	8.6	2.6	3.9
1997	3.9	1.0	8.6	0.3	4.0
1998	4.9	2.1	8.0	0.9	4.2

Figures are averages over the calendar year, original basis

a *Australian National Accounts – National Income, Expenditure and Product*, ABS Cat. No. 5206.0

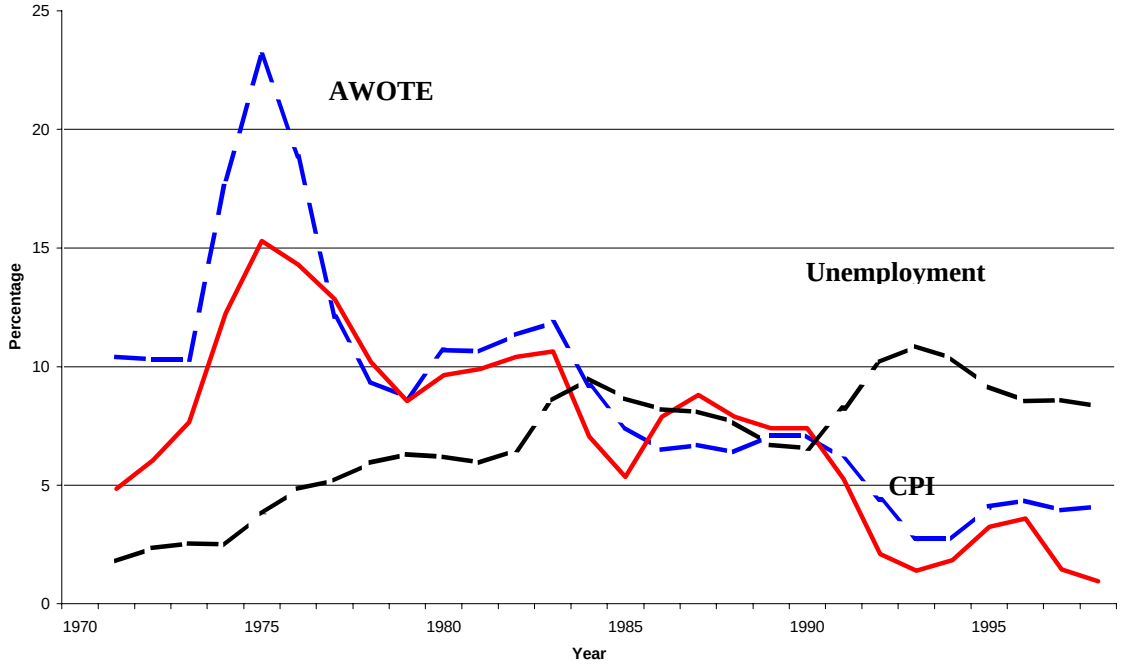
b *Labour Force*, Australia, ABS Cat. No. 6203.0

c *Consumer Price Index*, ABS Cat. No. 6401.0

d The AWOTE series did not begin until 1973, the figures are prior to 1973 drawn from the Average Weekly Earnings series

e Includes impact of changes to health insurance in CPI

Figure 2.6: Percentage change: 24 month rolling averages in AWOTE, CPI and unemployment, 1970 to 1998



Sources: ABS Cat. No. 6203.0, 1970–98; ABS Cat. No. 6410.0, 1970–98; ABS Cat. No. 6302.0, 1970–98

The significant improvement in Australia's inflation performance achieved during the 1990s has allowed the benefits of productivity growth to be distributed much more efficiently and equitably through lower prices, including lower interest rates.

Many factors have contributed to this improved outcome. The decentralisation of wage negotiations and the move away from general wage increases by the AIRC and its state counterparts, have been an important element. At the same time, the improving trend in multifactor productivity growth has helped to underpin non-inflationary earnings growth. Although it is too soon to tell, the significant improvement in multifactor productivity growth that has occurred may be associated with the cumulative effects of microeconomic reform. Figure 2.7 (reproduced from an Industry Commission study) sets out the trends in multifactor productivity growth from 1964–65 to 1995–96.

A more detailed discussion of recent productivity performance in Australia is set out in Appendix 3. The discussion is based directly on the Industry Commission Research Paper 'Assessing Australia's Productivity Performance'.

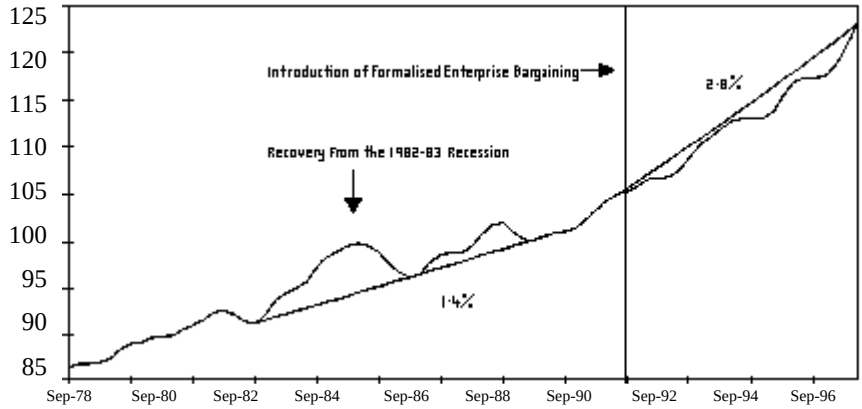
Research commissioned by the Minister for Workplace Relations and Small Business also examines movements in labour productivity since the introduction of formalised enterprise bargaining in November 1991. Figure 2.8 indicates that labour productivity per hour worked in the non-farm market sector has doubled in the period September 1992 to September 1996 compared with the average trend over most of the 1980s.

Figure 2.7: Annual growth in trend multifactor productivity[a], 1964–65 to 1995–96 (%)

[a] Change from previous year.

Source: Derived from ABS data

Figure 2.8: Productivity growth — labour productivity per hour worked (non-farm market sector)



Source: ABS Cat. No. 5206.0, February 1998

Better Outcomes for Wage and Salary Earners

From the perspective of Australian wage and salary earners, the outcomes of the major transformation in industrial relations and wage fixing arrangements have been positive, especially when compared to the periods of the 1970s and 1980s.

It is arguable, of course, that the decentralisation of wage negotiation processes will result in a wider dispersion of earnings. Historically the wage structure in Australia has

been more compressed compared to the United States and other countries where collective bargaining is the norm. However, whether this potential outcome of the current direction of reform is somehow 'unfair' or 'inequitable' is a moot point at best. If, for instance, the Australian cycle of recurrent wage inflation and subsequent price inflation and recession has been broken by the structural reforms that are occurring in the economy and in the industrial relations system, then the government of the day will have more scope to maintain a higher level of aggregate demand in the domestic economy than would otherwise have been the case. Governments, therefore, will have a greater degree of freedom to grow the economy at a rate more likely to be sufficient to reduce the level of unemployment.

Sustained economic growth is underpinning employment growth and is making gradual inroads into unemployment. The latest unemployment figure for February 1999 is 7.4 per cent. This outcome, while modest, is much more favourable than in western Europe where not one net new job was created from 1973 to 1994 (Solow, 1994). But it pales into insignificance when compared to the performance of the United States labour market where, in early 1999, the unemployment rate had fallen to a twenty-eight year low of 4.3 per cent.

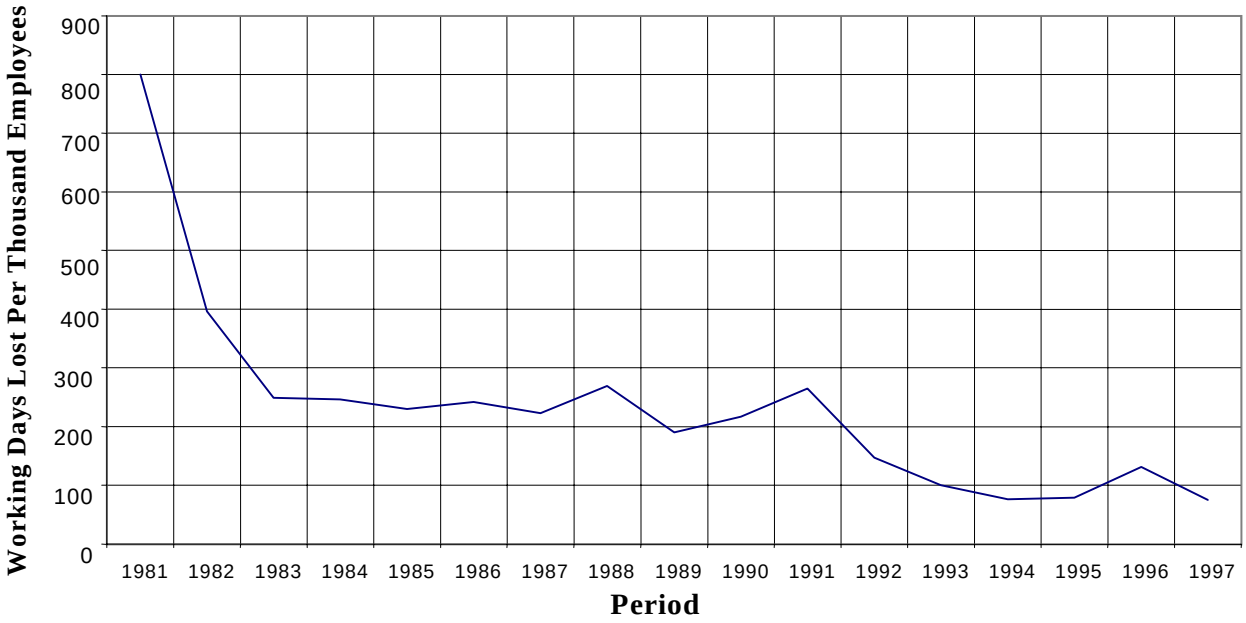
The case for maintaining a higher rate of economic growth underpinned by the fundamental changes in the structure of the Australian economy was recently put by Dr John Edwards, chief economist at HSBC and former economic policy advisor to Prime Minister Paul Keating. Dr Edwards argues that because of these underlying structural changes we are now in a position to make significant inroads into unemployment through sustained economic growth (*The Financial Review*, 8 March 1999).

Furthermore, as mentioned previously, the distribution of benefits of productivity growth through the price mechanism is more equitable and efficient for consumers, whether they are inside or outside the labour market.

Industrial Disputes

It is perhaps ironic that the move to an industrial relations system which includes significantly enhanced scope for enterprise bargaining is also associated with historically low levels of industrial disputes and working days lost (see Figure 2.9).

Figure 2.9: Industrial disputes — number of working days lost per thousand employees



Source: ABS Cat. No. 6322.0; 1992–97; ABS Cat. No. 6302.0, 1970–92

While there is no doubt that declining levels of industrial time lost is a worldwide phenonenom in western market economies, the industrial relations system for Australia in the 1990s, which emphasises enterprise-based bargaining, is performing better than the conciliation and arbitration system which was founded on the explicit objective of preventing and settling industrial disputes.

Conclusions

The above analysis suggests that over the last decade profound changes have occurred to the structure and nature of competition in the Australian economic system, the nature of employment, the industrial relations system, the structure and size of the trade union movement, and the processes of wage negotiations and work organisation in Australian workplaces.

In the process, a major breakthrough has been achieved in dismantling Australia's inflation-prone centralised wage fixing system. This change will allow governments to maintain a higher level of economic growth than previously would have been possible. This is not to say major constraints do not still exist. If anything, this analysis highlights the importance of improving our international competitiveness in both export and import competing industries in order to reduce the balance of payments constraint on domestic growth. Given the higher rate of growth the Australian economy is currently enjoying compared to major trading partners, this constraint is likely to become more apparent over the next two years.

Superior economic outcomes for wage and salary earners and consumers have occurred during a period in which there has been a move to greater flexibility in the Australian labour market and a more competitive economic structure that has evolved through the process of microeconomic reform. The continuation of this policy direction holds out the prospect of further reductions in unemployment while at the same time entrenching a much more resilient and adaptive economy than was apparent in the previous decades.

The changes have flowed as a result of microeconomic reform and from policy changes developed and supported from within the industrial relations system (the AIRC, unions and employers) and from changes in the legislative framework introduced by both Labor and Liberal/National governments. It is ironic, therefore, in the face of what can reasonably be described as a historic step forward, that industrial relations and workplace reform are the subject of sometimes acrimonious public debate which generates more heat than light.

As the next chapter will establish in detail, prior to the fundamental changes to the structure of our economy and its opening up to the global market place, the Industrial Relations Act was frequently a pawn in the parliamentary political process, where government and opposition as a matter of routine took opposite sides of the debate. Each side seized upon the process of amendment to the Act as an opportunity for 'political product differentiation'.

As the review of the period 1956 to 1997 will show, the outcome for most of the period has been a sterile debate around recurring themes which, until recently, yielded little fundamental change or improvement in the processes or outcomes of the system.

It is important, therefore, that another round of 'political product differentiation' does not occur which works against the establishment of a more enduring consensus across the industrial relations and political organisations of the nation on the directions of labour market and workplace reform.

In this context it is worth quoting from the summation presented by Professor Kenneth Wiltshire at the 1998 Committee for Economic Development of Australia (CEDA) conference on the economic and political outlook for Australia just prior to the last federal election.

> This will almost certainly be the last federal election this century and this millennium. Many of the issues around which it will be fought — the head of state, native title, the nature of the taxation system, the public/private mix in the economy, the balance between social safety nets and self-reliance in health education and welfare, the plight of our young people — strike at the heart of Australia's identity and direction. In foreign policy we stood more on our own feet in 1997 and seem likely to continue, which is yet another force

calling for the shaping of our national identity. Preparation for the 2000 Olympics is another.

The actions of both the present Coalition government and the previous Labor government in promoting civics education are welcome and so too is the contemplation of the significance of the centenary of federation, which is beginning to dawn. But they are still just a little too late or too distant to be strong influences guiding this election campaign. Hopefully next time.

However, this election could begin the process of collectively pursuing national identity, appropriate models of governance, and the nature of our mixed economy. This is a very difficult task given the complexity and past divisiveness of the issues to be debated.

For a nation which, at the turn of the century, will have only 20 million people in a land blessed with natural resources it seems absurd to contemplate extreme polarisation and division of opinion, especially when the twin values which have underpinned Australia for most of its history, enterprise and equity — 'have a go' and 'a fair go' — are as relevant as ever …

Chapter 3

An Analysis of Parliamentary Amendments to the Industrial Relations Act 1956 to 1997

In support of this report, AMMA commissioned Carol Fox (Senior Lecturer, Faculty of Business and Economics) and Marilyn Pittard (Associate Professor, Faculty of Law) from Monash University, to research changes in the Industrial Relations Act over the period 1956 to 1997. The year 1956 was chosen as the starting point as it effectively marked the creation of the AIRC (as it is now known) in its current form, following the separation of arbitral and judicial powers required as a result of the High Court decision in the Boilermakers' Case. The analysis of the legislation and parliamentary debates concentrated on some key provisions of the Act:

- conciliation and arbitration
- collective bargaining
- awards
- agreements
- sanctions and the regulation of industrial action
- unions (including freedom of association, preference to unionists, etc)
- union regulation
- individuals and employment
- the objects of the Act
- third party (including government) intervention
- individual bargaining
- the role of the AIRC (including its economic and social role, and its role supervising agreements)
- individual and collective interests under the Act

- constitutional heads of power
- legislative proscription versus tribunal discretion
- enforcement.

The full report of this research will be separately published and may be requested from its authors at Monash University.

Purpose

The examination of this period of legislative changes is intended to review the position of the main political parties on key aspects of the Act over the period 1956 to 1997, in order to evaluate the contribution of the parliamentary political process to the improved operation of the industrial relations system and workplace reform.

A number of caveats need to borne in mind when interpreting the results and conclusions of this analysis. First, there is no suggestion that the Industrial Relations Act is the only determinant of how the industrial relations system operates. Indeed, there has always been a major tension between the narrow constitutional head of power (the conciliation and arbitration power), under which the AIRC until recently has formally operated, and the wider social and economic role that the AIRC has played. Second, there has always been scope for the development of policy within the system that affects the effective operation of industrial relations and workplace reform. This has traditionally manifested in Full Bench decisions on major test case standards and the wage fixing guidelines that have applied from time to time and guided the AIRC in its interpretation of the public interest. Likewise, it is the policies and behaviours of the participants in the system that generate the outcomes observed. Third, it is important to distinguish between mere political rhetoric and the substantive policy of the government and the opposition. The analysis conducted by Pittard and Fox attempts to look behind the rhetoric to the formal position adopted in the federal parliament by the parties on substantive provisions of the Act.

The 1956 to 1988 Period: Much Amendment, Little Agreement

While there has been a broad consensus in favour of the system of conciliation and arbitration as a means of settling industrial disputes, there has been a singular lack of consensus on the procedures and functions of the AIRC (and the Court).

Between 1956 and the 1988 Act (which incorporated the government's consideration of the Hancock Inquiry), there was little substantive change to the fundamentals of the system. However in the intervening period, the Act had been the subject of fifty-two

amending Bills (of which thirteen were defeated, withdrawn or lapsed), and any agreement in the parliamentary debates on an amending provision was rare.

For example, the only point of agreement in the 1956 debate on the major issues related to the provision for conscientious objection to union membership. One of the few other areas usually agreed between the parties in the 1956 to 1988 period was the increase from time to time in the number of judges comprising the Industrial Court. Indeed, when the areas of agreement in the parliament identified by Fox and Pittard are examined in detail, the matters nearly all relate to procedural arrangements under the Act and in some fewer instances they relate to the regulation of internal administrative practices of registered organisations.

Even a national tripartite agreement on a set of 'Principles for Guidance in Establishing and Using Effective Procedures for Avoiding and Settling Industrial Disputes' could not be agreed — despite the fact that it did not involve any changes in legislation and had been developed by National Labour Advisory Council (NLAC), the forerunner to the National Labour Consultative Council (NLCC).

Some other important, but not major areas of the Act on which rare agreement was reached during the period 1956 to 1988 included:

- The partial reintegration of the powers of conciliation and arbitration able to be exercised by a single member of the AIRC. This amendment was agreed following the unsuccessful attempt to separate strictly the conciliation and arbitration function within the AIRC introduced by the previous Liberal government in the 1972 Act (1973 Conciliation and Arbitration Bill No. 2).

- In relation to the approval of agreements by the AIRC, the Parliamentary parties agreed that the principal terms of any agreement should be approved by the committee of management of the organisations party to that agreement (1973 Conciliation and Arbitration Bill No. 2).

- In the same year there was agreement on a new object of the Act:

  > … to encourage the democratic control of organisations and the full participation by members in the affairs of the organisation.

- In the same Bill, there was bipartisan agreement on the election of full time federal officials by direct vote of the rank and file and protection of those officials from dismissal during the period of office.

Over the period 1956 to 1988, fifty-two amending Bills had been introduced, considered and voted upon by parliament, yet the only area of agreement with respect to the 1988 Industrial Relations Act which was framed having regard for the outcomes of the Hancock Inquiry was that the system of conciliation and arbitration should be retained. The parties were agreed on this point in 1956 too!

No Senate debate was required on this issue. However, if the numerous areas of disagreement are any indication, 'conciliation and arbitration' meant different things to different people (see Table 3.1). Furthermore, even this agreement of basic principle became irrelevant within the next five years, as both parties began to move away from the traditional model to support for an enterprise bargaining based system.

Over the period 1956 to 1988, on virtually every other major issue the political parties were divided. From time to time, with the help of minority parties such as the Democratic Labour Party (DLP) in the early 1970s, the opposition was able to defeat or substantially amend government legislation (for example, Clyde Cameron's 1973 Bill was denied a second reading in the Senate).

Table 3.1: Industrial Relations Bill 1988 and Industrial Relations (Consequential Provisions) Bill 1988

Hawke Labor government. Minister for Labour: Mr Ralph Willis

(Shadow Ministers: Fred Chancy (to 16 September), Peter Reith (from 16 September))

Introduced: 28 April 1988. Passed by Senate with no major amendments: 12 October 1998. Assented to: 10 November 1988

Provision	***Bipart-isan***	***Outcome and comment***
The Bill retains the system of conciliation and arbitration as Australia's system of industrial regulation, but replaces Conciliation and Arbitration Act 1904.	Yes	Retained (no Senate Committee debate). Consistent with 1956 debate.
The Bill provides for fixed term, non-variable binding agreements which may be certified by the AIRC (such agreements provide for settlements which differ from those generally prevailing under the wages system) provided a Full Bench is satisfied that they're not against the public interest — that is, would not undermine the industrial relations system. The Bill also limits flow-on to other awards of the terms contained in a certified agreement.	No	Retained (SC812). Contrast to limitations on supervisory role that the AIRC adopted in 1990s amendments by Labor and Liberal/National governments.
The Bill retains the bans clause procedures under the Conciliation and Arbitration Act 1904 (which have been redrafted to make them more easily understood) — that is, the existing system of compliance was retained, rather than, as previously proposed under the lapsed Industrial Relations Bill 1987 to introduce new directions and injunctions processes, to transfer the jurisdiction to deal with trade union contraventions to a Labour Court and to restrict access to sections 45D and E of the Trade Practices Act and to common law injunctions.	No	Retained (SC1231, SC1235). Contrast to position of Labor government in 1973 Bill.
The Bill allows the AIRC to continue to insert preference clauses into awards.	No	Retained (SC1116). Contrast to position of Labor government in 1973 Bill.

Provision	*Bipartisan*	*Outcome and comment*
The tests to be applied for the purposes of seeking a conscientious objection certificate have been eased and clarified, and extended to employer organisations. Sanctions for offences against conscientious objectors have been extended to include the power to reinstate.	No	Carried (SC1116). Contrast to unanimous agreement in 1956.
The Bill eases the making of a declaration by an AIRC presidential member that a 'community of interest' exists between unions seeking to amalgamate. The Bill provides for speedier amalgamation of unions (that is, only 25 per cent of the membership of the relevant unions need vote in order to approve an amalgamation — where no declaration by a Presidential member has been made). The Bill reduces opportunities for objections to amalgamations (that is, if the AIRC determines that an amalgamation will not extend the overall coverage of the unions, the objection procedures will not apply).	No	Carried (SC1082). Consistent opposition by Liberal/National parties to amalgamation law changes.
The Bill increases the number of members required for registration purposes to 3000 (except in special cases). Unions must achieve this within three years. There will be a review in the fourth year.	No	The Australian Democrats proposed that the minimum requirement for 3000 members be reduced to 1000. The Australian Democrats' proposed amendment was carried — Senator Harradine and the opposition supported the Australian Democrats (SC1105).
The Bill gives the AIRC discretion to allow the ACTU to attempt to settle a demarcation dispute before it exercises its own powers.	No	Carried (no Senate Committee debate). Demarcation disputes always criticised by both parties.
The proposed AIRC is to be able to deal with claims concerning alleged unfair dismissals (this provision is a result of the Ranger Uranium decision).	No	Carried (no Senate Committee debate).
Clause 3(a) of the Bill promotes the objectives of industrial harmony and cooperation among the parties involved in industrial relations in Australia. The opposition sought to replace the words 'among the parties involved in industrial relations in Australia', with 'between employers and employees'.	No	The opposition's proposed amendments were defeated (Australian Democrats voted with the government — SC641). Important differences on collective assumptions underpinning the Act emerging.
The Bill requires the AIRC to take into account the extent to which grievance procedures have been followed by the parties when deciding whether it will deal with a dispute.	No	Carried (no Senate Committee debate). Both parties shall support grievance procedures. Contrast to previous rejection of NLAC guidelines.

Provision	*Bipart-isan*	*Outcome and comment*
The Bill paves the way for the appointment of joint federal and state commissioners. It also formalises processes for consultation between members of federal and state industrial commissions. (A majority of* states gave their in-principle agreement and intended to pass complementary legislation).	No	Carried (no Senate Committee debate) (see comments in text). More recently, this provision has facilitated the rationalisation of the number of AIRC appointments.
The Bill requires the AIRC to take account of the public interest, the state of the national economy and the likely effect of its decisions on levels of employment and inflation. The AIRC must do this in all proceedings, not just Full Bench matters.	No	Carried (no Senate Committee debate). Contrast to ALP position in 1956 (see comments in text).
The Bill provides that the new AIRC should provide, as far as possible and as far as it considers proper, for uniformity throughout an industry in relation to hours of work, holidays and general conditions.	No	Carried (SC681).
While the AIRC is precluded from dealing with claims for payment covering periods of industrial action, it will be empowered to consider claims which are justified on the grounds that the employees had a reasonable concern about their health and safety.	No	Carried (SC1119).
Under the new Bill, Commonwealth employees will no longer be dealt with under a separate division of the Act, but within the general powers and functions of mainstream AIRC jurisdiction.	No	Carried (no Senate Committee debate).

The areas of disagreement are stark and frequently conflict with the positions taken by the major parties in previous and in subsequent parliamentary debates. A number of examples of this are evident from the table such as:

- *The certification of fixed term agreements:* Even the limited autonomy afforded to the parties in the proposal to decide their own terms of agreement could not be agreed. This contrasts to the dismantling of the supervisory role of the AIRC with respect to the content of agreements incorporated into subsequent Labor government legislation (1992, 1993) and the Workplace Relations Act 1996.

- *The retention of bans clause procedures:* Historically this was a major concession by the Labor government (contrast this to the position of Minister Clyde Cameron in the 1973 Conciliation and Arbitration Bill). It seems apparent that the restricted access to sections 45D and E of the Trade Practices Act proposed under the Bill was the main element attracting criticism from the opposition.

- *Union preference:* This had always been part of the Act and was linked to one of its objectives, which was to encourage the formation and operation of registered organisations under the Act. Preference was part of the original 1956 Act and continued to be a feature of the system throughout the period after the Second World War, including up to the 1996 Act. Opposition to preference by the Liberal/National Party Coalition at this time stands in contrast to its previous position when in

government, but heralds the beginning of a much sharper division between the political parties on the role of unions in the system. This developed further in succeeding years and culminated in removal of power to include preference in awards from the Workplace Relations Act 1996.

- *The facilitation of union amalgamations:* This was one area consistently opposed by the Liberal/National opposition throughout the period under review. Concern about the power of big unions was a driving force behind opposition to the Labor government's amendments in this area in the 1973 Act. The union amalgamation strategy of the ACTU facilitated by this change to the 1988 Act has subsequently attracted criticism from within the trade union movement itself. This particular amendment was intended to give effect to Labor government–ACTU policy. If one of the objectives of this strategy was to make trade unions more effective, then the practical impact of these changes in arresting the decline of union membership are plain (see Chapter 2).

- *The objective of promoting industrial harmony:* On the face of it, opposition to this provision (clause 3(a)) is hard to fathom. However, the opposition sought to amend the words 'among the parties involved in industrial relations' to 'between employers and employees'. This should be seen as an important indication of the changing perspective of the opposition compared to the then government with respect to the role of unions and individual employees in the system. This became more apparent in subsequent debates and legislative change.

- *Grievance procedures:* The intention of this provision was to place greater pressure on the parties to follow grievance procedures prior to a dispute being dealt with by the AIRC. Again, this failed to attract bipartisan support notwithstanding that the previous Fraser government introduced in 1977, and then subsequently withdrew, a Bill which included empowering the AIRC to include dispute settling procedures in awards even if the parties could not agree to their inclusion.

- *Joint appointment of federal and state commissioners:* Notwithstanding that successive Labor and Liberal/National governments have grappled with the problems arising from multiple jurisdictions in the industrial relations area, and despite a majority of support from the states for better cooperation between federal and state tribunals, this provision did not attract bipartisan support. In reality the opposition may have been more formal than real.

- *The requirement to take into account the state of the national economy:* Again, it is quite remarkable that this particular provision did not attract explicit support. Both Labor and Liberal/National governments had relied on the AIRC to administer wages policy and to attempt to moderate the aggregate growth in nominal wages. For instance, the Liberal/National government supported the AIRC in the administration of the Wages Pause in 1982. Likewise, the Labor government supported the AIRC as the administrator of the voluntary incomes policy established under the Accord. This provision had been explicitly introduced by the Liberal/National government in the 1972 Act. The 1998 Act extended the AIRC's obligation to take into account national

economic considerations (the impact on the level of employment and on inflation) to all proceedings of the AIRC, not just Full Bench hearings.

1956 to 1988: A Period Ending in Failure

When the fundamentals of the Act passed by the parliament in 1988 are examined, the rationale, structure and processes are essentially the same as those introduced originally in 1904.

The system was still predicated on the assumption that industrial disputes should be prevented and settled by conciliation and arbitration, that representative organisations of employees (trade unions) would register under the Act and that these bodies could be relied upon to represent the interests of employees. The reality of the workplace, however, was falling union membership and a large and growing gap between the issues determined by the National Wage Full Bench and the day to day concerns and interests of employers and employees. This would have been apparent to anybody prepared to test the assumptions underpinning the system (see 'AMMA The Way Ahead', 1988).

The supervisory role of the AIRC on the processes and outcomes of negotiations was still in place. This in turn was linked to the perceived need to preserve an ineffective and flawed centralised wage system (see Table 2.2). But it was plain to see that the system was coming under increasing pressure from the changes in economic structure and competitive environment facing Australia. This has been recognised by the AIRC and the parties themselves in the changes to the wage fixation system initiated in 1987 and in subsequent National Wage Cases. These changes gave greater scope and encouragement to the parties to agreements and awards to change work practices and enhance productivity performance.

Essentially, however, the status quo had been maintained. J. T. Ludeke QC, former Deputy President of the AIRC, sums up the findings of the Hancock Committee of Inquiry and, by implication, the 1988 Act, as follows:

> The Committee recommended some reforms but, in essence, endorsed the concept of a compulsory, centralised system, in which dispute settlement and Award making were vested in a Tribunal having powers of conciliation and arbitration. It seemed that Australia had been on the right track since 1904, and no good reason had been put forward for changing course (Ludeke, 1996).

In the light of this outcome it seems not unreasonable to ask, albeit with the benefit of hindsight, what practical benefit and sustained improvement in the performance of the industrial relations system had been achieved?

The conclusion to which one is inevitably drawn is an embarrassment to the parliamentary process and the history of public policy making in Australia. At the end of the period (1988), it was plain to see that the economy continued to be plagued by high inflation, high unemployment and low productivity growth. By the early 1990s, the

Industrial Relations Act 1988, as the framework for the system, had been discarded. A wholesale and major reform had begun with the move to an enterprise bargaining based system, first supported by a Labor government in policy and law. The trend to greater flexibility and decentralisation was continued by the subsequent Liberal/National Coalition government. Finally, it should be recalled that all the political rhetoric, countless hours of legislative drafting and parliamentary debate involved in the fifty-two amending Bills introduced over the period 1956 to 1988 cost, conservatively estimated, well in excess of one million dollars for each day's debate. Readers may well question the total cost to taxpayers over the period. And for what net benefit?

The Major Reforms of the 1990s

This section examines the reforms of the 1990s (including the Industrial Relations Amendment Bill 1992, the Industrial Relations Reform Bill 1993, and the Workplace Relations Bill 1996), in order to demonstrate the convergence of industrial relation and workplace reform policy of the current and previous governments — in reality, if not in political rhetoric. The areas of agreement and disagreement will be examined as well as those areas where genuine uncertainty remains on the appropriate direction of further legislative reform.

The 1992 amendments to the Act constitute a major change. For agreements reached between a single business or workplace and a union, the AIRC's power to refuse certification on public interest grounds was removed. These and other amendments did not attract the expressed formal support of the opposition, but the direction of reform was consistent with that advocated by the then Shadow Minister, Mr Howard, and the Liberal and National industrial relations policy.

The Industrial Relations Reform Bill 1993, was an even greater step towards the decentralisation of the industrial relations system. The Bill, assented to in December 1993, made changes in the key areas indicated in Table 3.2.

Part VIB, the section dealing with collective bargaining, the right to strike and agreements, was carried with twenty-two amendments from both the Australian Democrats, the opposition and the government. The amendments were confined to the mechanics of the process, not the basic concepts. Appendix 4 sets out Table 62 and the analysis provided by Monash University of one of the most important recent reforms to the Act. Notwithstanding the areas of formal disagreement, many aspects of this reform Bill were either explicitly or implicitly agreed between the government and the opposition. Indeed, more areas were agreed on this Bill, in terms of stated position in the parliament, than in any other Bill introduced in the 1956 to 1998 period.

Table 3.2: Industrial Relations Reform Bill 1993

Keating Labor government. Minister for Industrial Relations: Laurie Brereton

(Shadow Minister: John Howard)

Introduced: 28 October. Third Senate reading: 13 December. Assented to: 22 December

Provision	*Bipartisan*	*Outcome and comment*
Introduction of collective bargaining — a framework which encourages 'fair and effective bargaining' with focus on enterprise/workplace level bargaining.	No	(Part VIB as a whole): Carried with 22 amendments S4471. (For amendment details see Appendix 4, Attachment A.)
Right to strike via creation of bargaining period and protected action.	No	Liberal/National amendment: Commission required to order secret ballot of organisation members before industrial action can be taken. Defeated by government, Australian Democrats and Greens S4466.
New type of agreement — enterprise flexibility agreement (EFA) — removes union monopoly representative rights.	No	See text.
Union choices (EFA): — Where union has at least one member and is party to (a) relevant award; (b) may participate in negotiations; (c) may be a party to agreement. — Where union has no members but is party to relevant award, may make submission during approval process on whether agreement meets legislative requirements. — No veto power.	No	In practice this provision was little used and the ACTU and government intervened in some key cases to protect the 'representative' role of the union even when, despite union opposition, the majority of employees supported an EFA.
AIRC power to withdraw/suspend the right to strike via suspension or termination of bargaining period, on specified grounds.	No	
AIRC power to make orders to: — ensure 'good faith' bargaining; — promote efficient conduct of negotiations; — facilitate the making of agreements	No	
New object: 'helping to prevent and eliminate discrimination on the basis of race, colour sex etc.'	Yes (some aspects)	
Repeal of section requiring Commission to provide for uniformity throughout an industry re hours of work, holidays and general conditions.		No debate but consistent with Liberal/National Coalition policy.
New preliminary object specific to Part IX (Registered Organisations) additional to those in section 3 and relating to internal government, amalgamations promoting economic prosperity and welfare of the people of Australia.	Yes	Carried S4569. No Senate Committee debate.
Protection against dismissal for engaging in industrial action in relation to an industrial dispute.	Yes	Carried S4570. No Senate Committee debate.

With the introduction of the Workplace Relations Bill in 1996, following a change of government, the fundamental changes in the system that had already begun to occur were consolidated and extended. For the first time in the period since the creation of the AIRC in 1956, the 'industrial relations pendulum' did not swing back but continued in the same direction. The rhetoric and emotion of the political debate, nonetheless, intensified.

Areas of Major Disagreement

Given the magnitude and nature of the changes taking place, it is not surprising that important differences of policy remain between the political parties. The main areas of difference have become more clearly delineated over the last eighteen months and appear to be:

- The role of unions:
  - The presumption of automatic union involvement and representation in the making of agreements no longer prevails under the Workplace Relations Act. The role is much more dependent on the choice of employees and the power of the parties themselves.
  - The power of the AIRC to award preference for unions has been removed.
  - The registration process no longer affords an unqualified monopoly on representation rights that would effectively preclude the formation of other unions covering the same types of employees.
  - The objective of encouraging the organisation of representative bodies of employers and employees and their registration under the Act has been removed.
- The Office of the Employment Advocate: The role of workplace agreements and the supervision of the formation of these individually-based agreements outside the AIRC, through the Office of the Employment Advocate. The operation of this new body was reviewed by a Senate Committee in which the opposition indicated its preference for this process to be supervised by the AIRC. The political divide around the Office of the Employment Advocate parallels that which existed around the creation and subsequent abolition of the Industrial Relations Bureau (IRB) in the late 1970s and early 1980s.
- The supervisory nature of the AIRC, including:
  - the nature of the public interest test and processes to be supervised by the AIRC in the making of agreements is a matter where the political parties appear to disagree as to the detail, for example, the nature of the 'no disadvantage test' to apply

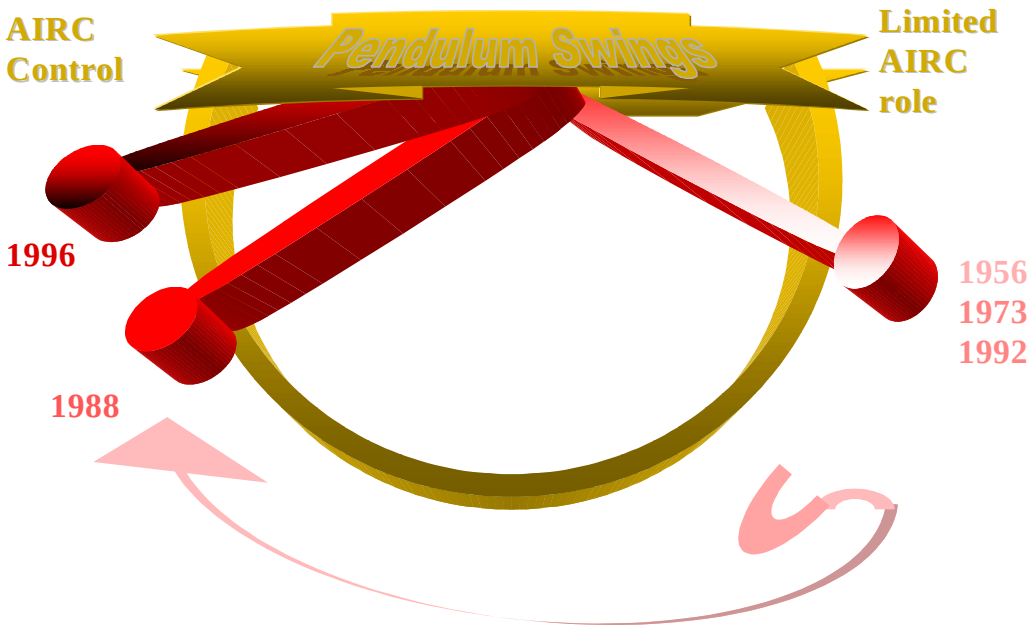
– the presumption that agreements reached between the parties are in the public interest and should be approved under the system is not in dispute.

The Industrial Relations Pendulum

The Monash University study of the Act indicates that in a number of areas of the Act (conciliation and arbitration versus collective bargaining; the scope for individual negotiations versus collective agreements in the system; the degree of AIRC control over agreements) are areas where the positions of the major political parties have been divided over the years, but when viewed over the longer term the positions of the parties on these matters have changed, sometimes to the extent that they are on different sides of the same argument.

One of the best examples of this is found in the area of AIRC control over agreements. The position on this matter of both the Labor Party and the Liberal/National Coalition between 1956 and 1996 is set out following.

Figure 3.1: AIRC control over agreements — Labor Party pendulum

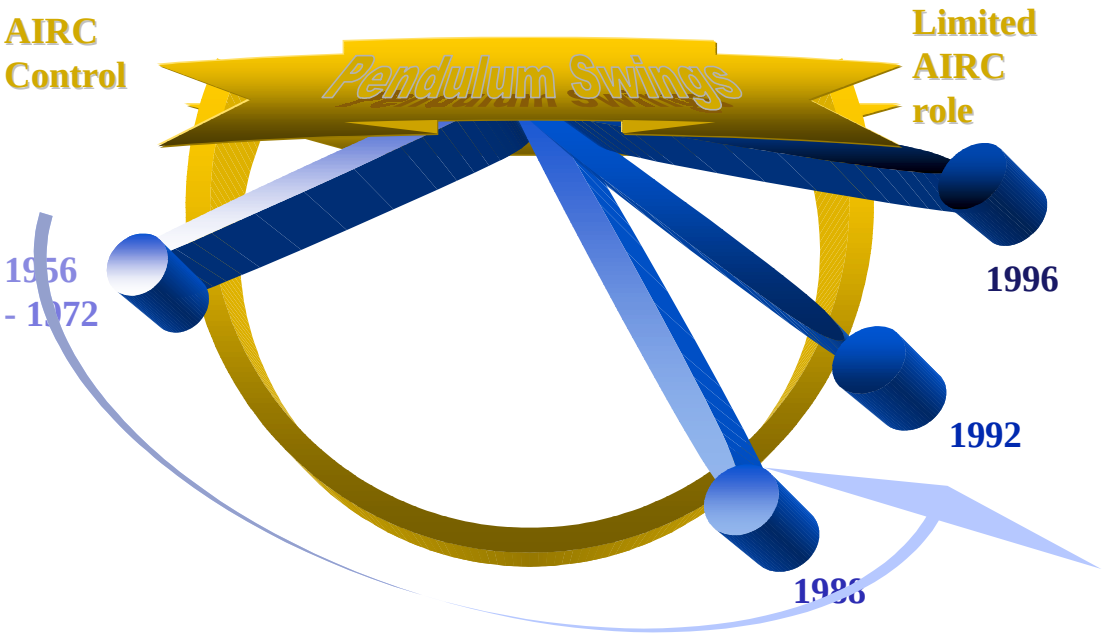


The Labor Party's pendulum has swung back and forwards in relation to the level of AIRC control over agreements. In 1956 the Labor Party argued for limited AIRC control over agreements reached during conciliation conferences as they did not want agreements subject to AIRC veto 'on the basis of some whim, fancy … or other excuse' (Webb, R2359).

In 1973 the Labor Party opposed the introduction of the right for commissioners to refuse to certify agreements which were not in the public interest. In 1988 Labor legislation extended the public interest test (and hence the control of the AIRC). In 1992 the Labor government lessened the AIRC's control by removing the Commissioner's power to refuse certification on public interest grounds for single business agreements.

In 1996, in response to the Howard government's proposed Workplace Relations Act, the Labor Party argued for greater AIRC control over agreements and strongly objected to workplace agreements being assessed by the Employment Advocate, a body outside the AIRC.

Figure 3.2: AIRC control over agreements — Coalition pendulum



The Liberal/National pendulum has also swung back and forth, but in the opposite direction to that of the Labor Party. In 1956 the Liberal/National parties defeated a Labor Party amendment to have agreements made by Conciliation Commissioners automatically certified, arguing that there was a need for review on 'public interest' grounds: the existence of a third partner in arbitration, namely the public, meant such agreements must be reviewed in their interest.

In 1972, The Liberal/National Coalition gave Commissioners the power to refuse certification if agreements were not in the public interest. In 1988, the Liberal/National opposition sought to amend Labor's Industrial Relations Bill by removing the centralised

element (that is, certification process and ministerial power to intervene) and completely quarantine flow-ons to other awards. The Liberal's resistance strengthened in parliamentary debates in 1992.

In 1996 the Liberal Party removed the review and approval of one form of agreement making (workplace agreements) from the AIRC to a new body, the Office of the Employment Advocate. In his second reading speech introducing the new Workplace Relations Act 1996, Minister Reith stated:

> The Bill rejects the highly paternalistic presumption that has underpinned the industrial relations system in this country for too long … that employees are not only incapable of protecting their own interests, but even of understanding them, without the compulsory involvement of unions and industrial tribunals.

Can there be a Basis for Agreement in the Future?

Notwithstanding the process of political differentiation that has characterised the debate over the federal Industrial Relations Act, it is evident that there have been important areas of common policy, although at different points in time, in the content of Labor's 1992 and 1993 legislation and the Coalition's Workplace Relations Act 1996. The main areas of commonality appear to be:

- the industrial relations system should have an award safety net arrangement supervised by the AIRC
- enterprise agreements should be the main form of the regulation of industrial relations
- the AIRC should protect procedural fairness and minimum standards, but otherwise not interfere in the outcome of bargaining
- other constitutional heads of power can be used where appropriate, in framing the legislation
- a right to strike should be recognised in the legislation in bargaining for new agreements, and there is a limited role for the AIRC during periods of protected industrial action
- the AIRC's power to intervene to settle an industrial dispute is a function to be exercised in extraordinary events but not normally otherwise
- protection from legal sanction and the common law action should be afforded the parties during periods of protected bargaining, but sanctions for breach of agreements and unauthorised industrial action should be available in other circumstances including access to the common law

- a system of union recognition and registration is required to be maintained as part of the machinery of the industrial relations system.

The areas where real uncertainty still persists as to how the political parties believe the system should operate appear to include the following:

The Role of the AIRC in Maintaining Safety Net Arrangements

This issue is currently before the AIRC and goes right back to the social and economic protection role first developed by the Court through the device of the Basic Wage introduced in 1907. This is a major issue which has to be addressed and involves the consideration of whether the AIRC should be the institution to administer social and economic policy for people in employment as opposed to the income and social security arrangements for those not in the labour market.

The System for Recognition and Structuring of Unions as Bargaining Agents

Major changes to the 'conveniently belong' rule to open up greater scope for the formation and recognition of enterprise bargaining units have been made under the current Act. However, a major issue remains. How should the legislation balance the right of individual choice of membership of a union to represent them with the need, for both employer and unions, for some stability and administrative practicability in the number and structure of bargaining units at the workplace? It should be noted that, as will be discussed in Chapter 4, many countries with a long established collective bargaining tradition, regulate the formation and recognition of bargaining units quite strictly. The rules administered by the United States National Labour Relations Board (NLRB) are a good example which warrants attention by Australian policy makers.

Scope for and Procedures for Individual Agreements in the System

There has always been scope for individual agreements in the system, but the mechanisms and recognition of individual contracts has been now made more explicit in the scheme of the Act. Substantial changes occurred under the previous legislation to open up individual agreements and agreements not involving unions through the EFA provisions, but these proved cumbersome and were little used. As a matter of fact, a significant proportion of non-managerial employees are covered by individual contracts (see Chapter 2). In the rapidly growing services sector, especially in the IT and financial services sector it would not be surprising if a majority of employees are covered by such employment arrangements. These changes in the structure of employment and declines in

the coverage of awards and union membership are part of the new topography of the workplace with which Australia's industrial legislation must now deal. The major issue for AMMA members is:

> How can such arrangements, which are common in the mining industry, be mutually and freely agreed with individuals but more readily recognised and protected within the current system?

• • •

Chapter 5 articulates a basis upon which a more bipartisan approach can emerge in the conduct and regulation of employee relations. Central to the AMMA proposition is the need for business and employer organisations themselves to take the lead in addressing some of the fundamental issues around the protection of the individual's interest in the employment relationship and the acceptance of fair standards of employment. This contrasts to the previous history of dependency of both employers and unions on the government to determine these matters through the creation of industrial tribunals and prescriptive awards.

Conclusion

The Workplace Relations Act 1996 consolidates and builds upon the direction of reform instituted by the previous Labor government. The changes made by the previous government and the current Liberal/National Coalition government are in dramatic contrast to the philosophy and procedures of the Act that had existed up to the 1990s and which were embodied in provisions of the 1988 Act introduced following the Hancock Inquiry.

The reforms of the 1990s were a necessary response to the changes in the economic fundamentals that occurred throughout the 1980s and the nature and structure of workplace relations emerging over the period. The operation of these reforms in the industrial relations system, in the context of fundamental economic change, have been associated with better industrial relations performance in terms of low levels of industrial disputation and sustainable real earnings growth.

Major issues of public policy nonetheless still need to be resolved, especially with respect to how an effective and economic safety net can be put in place for Australian society as a whole, not just for those in employment. It is important that this subject be a matter of wide debate, especially given the persistent high levels of unemployment and the growing evidence that a significant proportion of Australians live in conditions of poverty. This is a debate that cannot be played out in the hearing rooms of the AIRC in the way that the Henderson Report on Poverty in the early 1970s became the touchstone for ACTU advocates in the National Minimum Wage hearings conducted at that time.

Above all, now is not the time for the quality and substance of debate about the future of industrial relations and workplace reform to fall back to the sterile process 'of political product differentiation' that has characterised the past. Should the 'industrial relations pendulum' swing back significantly towards greater centralisation and external regulation of employee relations, a one size fits all approach which hampers the development of employee relations as a source of competitive advantage and benefit for all stakeholders in the enterprise, then Australian businesses will be severely hampered in their ability to cope with the fundamental and irreversible changes in domestic and international competition with which they must now contend.

Calls for a return to a centralised wage system and compulsory arbitration must be resisted just as strongly as the calls from the extreme right for a return to 'fortress Australia' and the White Australia Policy, or modern variants thereof. The historic trilogy (see Chapter 1) is broken and gone forever and to AMMA's knowledge no responsible political party is advocating a re-establishment of the extensive network of tariff protection that was a feature of a large part of the economic history of Australia this century. Individual readers can speculate for themselves about what the impact would be on our exchange rate, inflation and living standards if this were to occur.

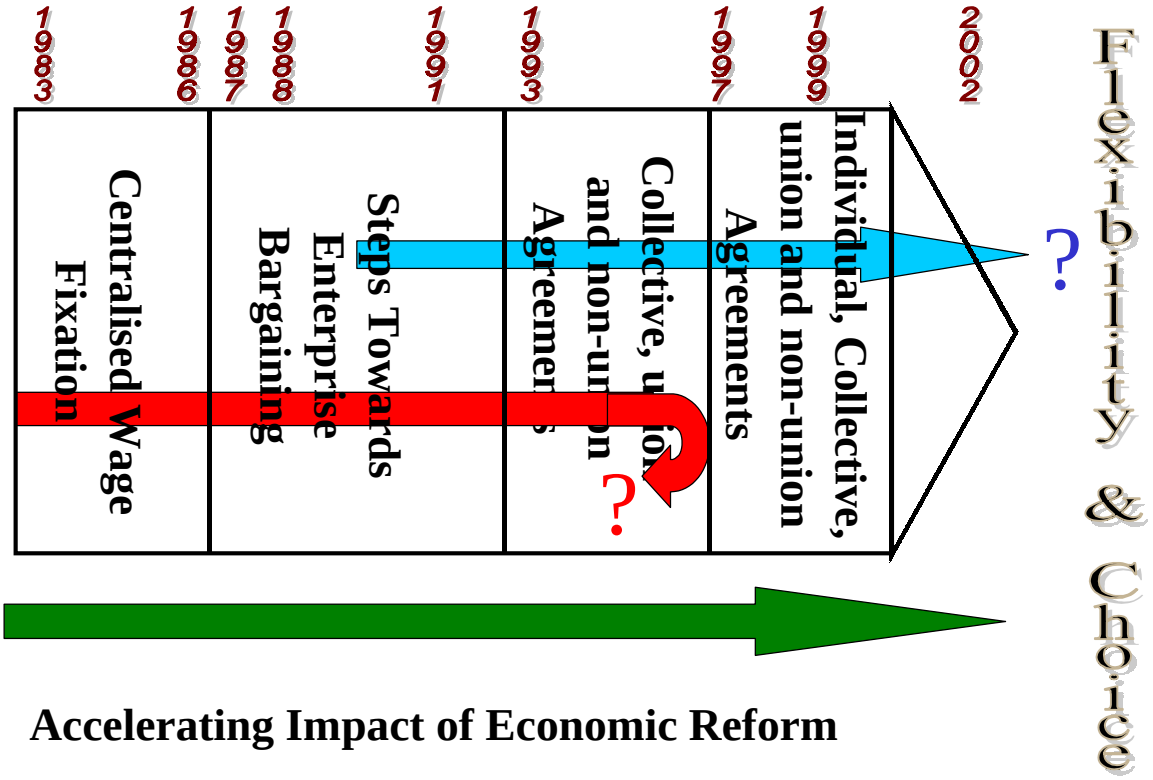


Figure 3.3: Move towards flexibility and choice in industrial relations

It was in an endeavour to add substance to the debate that AMMA commissioned the National Institute of Labour Studies (NILS) to review overseas developments in collective bargaining and industrial relations to glean what might be learned from the overseas experience, to guide the next steps for reform in Australia.

Chapter 4

The Overseas Experience

In the second half of 1997, AMMA commissioned the National Institute of Labour Studies (NILS) to conduct a survey, based on the available literature and current commentaries, of developments in collective bargaining and industrial relations in a number of countries. The countries surveyed were chosen on the basis of their interest and relevance to Australia. OECD member countries were surveyed, but specific details were provided on two countries which have experienced very significant recent changes — the United Kingdom and South Korea. The full report provided by NILS in December 1997 is available from their office at Flinders University. The Executive Summary, prepared by Professor Judith Sloan, is set out in full in this chapter of *Beyond Enterprise Bargaining*.

AMMA's purpose in commissioning this work was:

> To review recent overseas experience with respect to collective bargaining and industrial relations in order to assess the implications for Australia of the current directions of change and the lessons that can be learnt from overseas.

Executive Summary: NILS Survey

Over the last decade, we have witnessed some significant changes to the industrial relations processes and practices in Australia, other OECD countries, and more particularly in the new emerging economies of Asia, such as South Korea.

Despite change being widespread, there has not been a uniform direction of change in these countries. Indeed, even in countries with many labour market similarities, there has not been a uniform trend towards more flexible, enterprise-based bargaining arrangements.

In this report, we identify two distinct features of different bargaining systems — first, the level at which bargaining is undertaken and, second, the degree of coordination (or extension) of bargaining outcomes.

The levels of bargaining can be classified as (i) enterprise-based, (ii) industry (or sector) and (iii) national level bargaining. It should be noted that these levels can occur simultaneously within a system — that is, they are not always mutually exclusive.

The degree of coordination (or extension) of bargaining may relate to measures undertaken by governments, employer groups or trade unions. Examples of highly coordinated bargaining include regulations about the range of issues over which bargaining can occur, tripartite incomes policies, pattern bargaining (including extension of key pay settlements to all workers within industries) and statutory minimum conditions.

Evidence on the macroeconomic performances which are associated with different types of collective bargaining is mixed. Early empirical evidence suggested that more centralised collective bargaining produced better macroeconomic outcomes. Subsequent research suggested that either highly centralised or highly decentralised systems produced better macroeconomic outcomes, with mixed systems (elements of both centralised and decentralised systems) producing the worst. The most recent evidence suggests no statistically significant relationship between measures of macroeconomic performance and different types of bargaining systems (with the exception that centralised systems produce less earnings inequality), although questions persist in relation to the reliability of the research findings. An example of the latter is the reclassification of Australia as having the most centralised system of wage fixing in 1990 to the second most decentralised in 1994 (OECD, 1997) — a purported change most observers of the Australian scene would dispute.

Research on the microeconomic effect of different bargaining arrangements point to the impact on firm efficiency, productivity and growth. More decentralised bargaining arrangements, in association with more competitive product markets, have generally driven superior outcomes at the firm level (see Metcalf, 1993).

Empirical information on patterns of bargaining across countries demonstrates very considerable differences between developed economies. Collective bargaining coverage varies from above 90 per cent in countries such as Sweden, Austria, Finland, France and Germany to below 20 per cent in the United States. In most instances, the coverage of collective bargaining has remained relatively stable over the past decade and a half, although some exceptions include Australia, Japan, New Zealand, the United Kingdom and the United States, in which cases coverage has declined.

The relationship between collective bargaining coverage and trade union density is affected by the existence in a number of countries of statute-based arrangements which extend union-negotiated agreements to non-unionists and to all firms within particular industries/regions. France is an example of a country with high collective bargaining coverage (over 90 per cent) and low union density (below 10 per cent). In English-speaking countries, however, there is a clearer relationship between collective bargaining coverage and unionisation — particularly in the United States, the United Kingdom and New Zealand — with governments increasingly reluctant to mandate extension arrangements. Unionised firms are more likely to be covered by collective agreements than non-unionised firms in these countries.

There is no systematic relationship between collective bargaining coverage and gender across developed economies. Large firms are more likely to be covered by collective bargaining than small firms in countries for which data are available.

Information on individual pay arrangements is relatively scant, although they are clearly more prevalent among managers than among non-managerial workers. Decentralised pay arrangements will typically be more focused on individual pay than centralised ones. Increasing dispersion in occupational earnings points to a shift towards individual or 'merit' pay arrangements and away from 'rate-for-the-job' determinations. Changes in work organisation, particularly the decline in the popularity of tight supervision and Taylorist methods, underpin the shift to more individualised pay arrangements.

The United Kingdom experience with industrial relations reform throws up a number of lessons. First, the process of reform was relatively slow, with a number of statutes being enacted over the 1980s and 1990s by a committed Conservative government. The base line from which reform proceeded was high levels of industrial action, a trade union movement that was widely perceived as having too much power and a languishing British economy. Lower union density (from 50 per cent in 1980 to 34 per cent in 1994), much reduced levels of industrial action and decentralisation of wage setting (industry bargaining having more or less collapsed) have been associated features of the United Kingdom reform process. The election of the Blair Labour government is unlikely to lead to any major revision of the industrial relations agenda, although some changes will occur which are favourable to the trade unions and some form of minimum wage control is to be re-introduced.

The South Korean experience of government involvement in industrial relations illustrates the limitations of repressive control and restricted liberalisation. Prior to 1987, the South Korean government sought to control union activity (only enterprise unions were allowed) as well as establish centrally determined wage norms. The liberalising measures of 1987 retained many of the control features on union coverage and activity, while also maintaining strong employment protection laws restricting employers' right to fire workers. Strikes became much more numerous and central guidance on wage increases was generally ineffective. The attempt by the South Korean government in 1996 to ease the strong employment protection laws as well as delay some of the new regulations in respect of union coverage — to allow industry and national unions, for instance — ultimately failed in the face of very strong union opposition.

The lessons for Australia of these two countries are clear. Control and prescription are clearly unlikely to succeed, as well as being inappropriate to a democracy such as Australia's. By the same token, even a government very committed to the process of industrial relations, as was the Thatcher/Major government in the United Kingdom, will take some time, achieved in steps, to establish an environment which is relatively hands-off in terms of the regulation of the employment relationship. The poor base line of the United Kingdom industrial relations and the need to repair a parlous economy were facilitative factors in the process.

Lessons to be Drawn

It is apparent from the NILS survey and AMMA's contact with overseas companies and agencies that in most overseas countries the debate on the direction and nature of labour market and industrial relations reform is a much stronger feature in the United Kingdom, New Zealand and Australia than in other countries. Even among these English-speaking countries Australia is unique. No other country in the world has devoted as much government and parliamentary time and energy to changes in its industrial relations legislative arrangements — which, over most of the period, have been largely ineffectual. The frequency of change and the resulting complexity of the legislation has also added to business uncertainty and cost.

While in general, there is no clear link between the structure of bargaining and macroeconomic performance, where an impact is evident, it has been the result of sustained reform over a long period. This has clearly been the case in the United Kingdom. In this context it is noteworthy that there is no sign of any major swing-back in the 'industrial relations pendulum' in the United Kingdom. This observation is made not necessarily to endorse the content of workplace reform and labour market reform in the United Kingdom, but rather to observe that, to be effective, the process has to be consistent and persistent.

Although not a specific area examined in the NILS survey, it is worth noting that the United States has also had a very stable legislative framework for collective bargaining. Any inclination to use labour law as a major instrument of economic policy in the United States is profoundly absent. Minimum wage law policy has been conservative and the wage determination system has not been an instrument of quasi-social policy.

The NILS survey reviews recent OECD research into the links between bargaining structures and macroeconomic performance which suggests that little positive correlation exists. At the same time, NILS cautions against reliance on this new research, given doubts about some of the research methods used, the sample size and interpretation of the data on which the survey relied. NILS seems to prefer the earlier research which suggests that the halfway house between highly centralised and decentralised systems may not be desirable and associated with poor macroeconomic performance. This could well be an industrial relations and labour market 'no mans land', which in AMMA's view, Australia could do well to avoid.

The study also shows that some rules relating to collective bargaining are important, particularly the operation of rules to extend the outcomes of collective bargaining across industries and sectors through legislative prescription (this is the practice in France, Germany and Sweden). While this is not generally an issue for collective bargaining in

the federal jurisdiction in Australia, the practice is akin to the common rule arrangements in place in the states, where there is still significant award coverage (see Table 2.1). It is important to note that the intent of the moves to enterprise bargaining under the previous legislation and the Workplace Relations Act 1996 is not to spread the outcome of bargaining to other employers and workplaces by administrative rule. Such a practice conflicts directly with the need for the parties to determine their own outcomes. Furthermore, it risks displacing and distorting the concept of the safety net as a minimum standard through the imposition of a bargained outcome. Such a practice would re-establish the 'wage flow-on' problems of the past and tend to place Australia in the 'no mans land' to which previous reference was made.

It would be appropriate, therefore, in the period ahead for state common rule arrangements to be critically reviewed in the context of the evolution of enterprise bargaining. In the federal jurisdiction, a mechanism is required which allows more flexible and internally regulated employee relations in the firm, while maintaining the protection of federal law for the firm against the intrusion of state common law arrangements.

The NILS survey also points to some decline in multi-employer bargaining, especially in the United Kingdom. It also notes that the model of one-on-one enterprise bargaining moderated by product and labour market conditions only exists in a handful of countries. Furthermore, for the majority of OECD countries, industry or sector level bargaining remains dominant.

The other clear indication from the survey is that the declines in union density that have been witnessed in Australia are not uniform across all OECD countries. Indeed, Sweden, Canada, Spain and Finland have experienced increases in the level of union membership. As the NILS report notes, it is far too soon to announce the death of collectivism worldwide. Indeed, the research makes it clear that trade unions continue to play an important part in the economic process and democratic political activity.

It is appropriate to conclude this chapter by reference to the key implications for Australia that NILS draws from its survey.

> Debate about the appropriate role of government in terms of setting rules and regulations for the labour market has been almost continuous in Australia since the institution of the federal system of compulsory arbitration in 1904. That the system operated in a type of equilibrium with heavily protected product markets meant that the practical seriousness of the debate did not escalate until the protection of product markets began to be dismantled in the 1980s. This said, there remains considerable continuity in the debate; in particular, the themes that employers cannot be trusted and that there is inevitable bargaining power imbalance between employers and employees.

As a consequence, there is a strong and influential school of thought in Australia (and elsewhere) which maintains that governments must actively intervene to protect weak employees. Ways in which such protection may be effected include: a legal presumption of collectivism in employment relations; establishment of third parties to arbitrate on industrial matters; legal protection of trade unions and encouragement of trade union membership; and statutory minimum employment conditions, including restrictions on employers' right to fire workers. To varying degrees, all these interventions continue to exist in Australia, albeit with some changes to their operation.

Consider first the UK experience. The election of the Conservative Thatcher government occurred against a backdrop of high levels of industrial action including strikes which had seriously inconvenienced the public, and an economy which was widely regarded as parlous. Even so, the long-lasting government was only able to achieve labour market reform in stages, some in the face of protracted and bitter disputes (Wapping and the national coal mining strike are obvious examples). The last sector to be reformed was the public sector and then only partially. Relatively high rates of pay increases exacted by some still powerful unions and high unemployment, especially in some regions, were blights initially associated with the reform process. The key changes associated with the reforms now include: decentralised wage determination; much lower unionisation; more compliant unions (including historically low levels of industrial action); and minimal statutory interference in the bargaining process, extension arrangements and minimum conditions.

With the election of the Blair Labour government, there are likely to be some changes at the margin, in part associated with Britain's signatory of the EU [European Union] Social Charter. Changes will include some restoration of the legal privileges of trade unions and the re-introduction of minimum wage controls. By the same token, there is absolutely no suggestion that there will be a reversion to pre-1980 type arrangements. Wage bargaining is likely to remain highly decentralised, with the enterprise (and the employees) the main focus. Clearly, if reform is driven far enough and for long enough, the core features become essentially irreversible. There is a clear lesson in this for Australia — the Howard government's Workplace Relations Act 1996 is a first step but the structures of previous arrangement are in place. Substantial reversion is a clear possibility in the event of a change in government.

Are there any lessons for Australia in the South Korean experience? Repression and control clearly have their limitations and the imposition of restrictions, for example on unions and union activity, arguably generate pressures which eventually erupt. More broadly, the close relationship between government and business and government's attempt to control the commercial environment of firms have, by recent experience, emerged as dangerous factors in terms of generating long-term economic prosperity.

Chapter 5

Beyond Enterprise Bargaining

Introduction

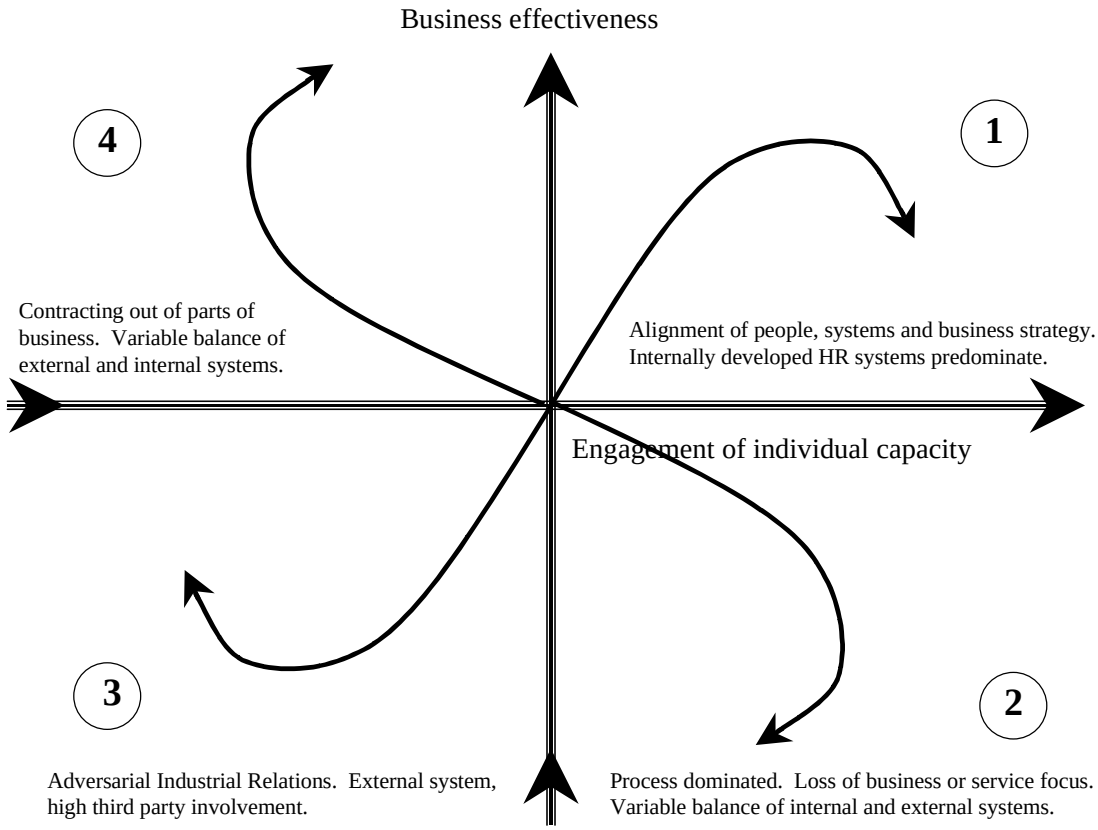
The discussion and material presented thus far has concentrated on federal industrial relations legislation in the post-war period and the changes in the economic environment in which it has operated. The discussion now turns to the issue of managerial practice and managerial leadership that, within an appropriate legal framework, can support and sustain a productive and fair work environment.

To introduce the dimensions of managerial leadership and organisational systems, a simple model is developed. It encompasses a range of approaches to the regulation of workplace relations and the organisation of work.

The fundamental principle underpinning the model is the requirement that companies and their employees must be free to develop the work relationships best suited to their circumstances. The development of these work arrangements should not be free from legislative constraints and standards. Companies would be required to observe minimum standards of employment and procedural fairness and be expected to exceed these standards as an outcome of strategic choice and/or market driven response.

The model of work organisation and work regulation shown in Figure 5.1 is designed to illustrate the strategic choices which should be available to companies and their employees in any system of employment. The key concepts and assumptions underlying the model are discussed below.

Figure 5.1: A model for employee relations strategy



Source: G. W. McGill, 1999

Engagement of Individual Capability as a Means to Business Effectiveness

The assumption underpinning this aspect of the model is that it will be the quality of the systems of the organisation, (for example, systems of task assignment and review, work performance review, remuneration, recognition and reward, training and development, selection, promotion and career advancement) that determine the extent to which the employee will willingly give their best efforts at work.

This commitment from the individual cannot be mandated. The nature of the relationship can only be entered into by the free choice of the individual. This choice will be influenced, inter alia, by whether the workplace is safe and healthy, whether remuneration arrangements meet market standards and are fair, and whether there is some means of review of managerial decisions that the individual believes are unfair. The model assumes that the employee's confidence and trust in the organisation and its leadership will be greater when these basic issues are handled consistently, fairly and quickly by the systems of the organisation, rather than through reliance on external systems and agencies. In this context, an enterprise agreement negotiated specifically for the workplace would not be an external system. However, a multi-employer industry

registered agreement would be an external system, as would an award similarly arbitrated or approved.

It is suggested that organisations that have developed an environment supported by internal systems in which employees are willing and able to work to their full capability will be more effective and productive. Quadrant 1 on Figure 5.1 represents organisations operating in this mode.

No assumption is made about whether organisations in Quadrant 1 are unionised or not. This issue is a matter for the employees at the enterprise. For instance, the US company Federal Express (FedEx) is ranked by *Fortune Magazine* as number one in the global mail, package and freight delivery industry. FedEx is highly regarded for the quality of its human resource systems, including its 'guaranteed fair treatment procedure'. This procedure is designed to ensure access to the review of managerial decisions for an employee at any level in the business and to take that issue up the organisational structure, even to the international CEO in order to resolve the matter. FedEx has well over 140 000 people worldwide, and it is union-free in virtually all its operations. There is no doubt that FedEx is high in Quadrant 1.

By contrast, the New United Motor Manufacturing Incorporation (NUMMI), a GM and Toyota joint venture, is unionised. It is the only remaining motor vehicle manufacturer on the west coast of the United States and has survived the inroads of foreign competition, particularly in the small and medium sized car market. NUMMI is a highly successful model of union/management cooperation. It has developed a participative approach to continuous improvement and is an outstanding example of the application of the Toyota production system in a western company. Management employee relations representatives and local United Auto Workers (UAW) representatives sit side by side in an open planned work environment. For NUMMI the 'them' is the outside competition, the 'us' the management, employees and the union working to sustain a future in a tough market. In the early 1980s, however, NUMMI was the victim of adversarial industrial relations (Quadrant 3, Figure 5.1). Its operation was closed down in 1982. Its rebirth, with the support of the UAW is part of the folk law of modern industrial relations in the United States.

The examples of FedEx and NUMMI highlight the fact that there *is* a strategic choice available to companies and their people to forge a world class business. That same choice should be available within Australian industrial law.

Many Australian organisations in both the public and private sectors will have experienced process-dominated industrial relations (Quadrant 2, Figure 5.1). For instance, many employers and employees will recall the early years of enterprise bargaining where work practice changes were traded off not just once, but two and sometimes three and four times. Frequently this process was far removed from individual employees and was dominated by the attempts of management and unions to 'shoehorn' an agreement into wage guidelines. Within the same quadrant, organisations

will exist that have extensively involved employees in various committees and work organisation experiments. The public sector has had many examples of this, sometimes based on a desire to introduce the principles of 'industrial democracy' into the workplace. In both instances the business effectiveness of the organisation or the quality and efficiency of the public service suffers. The number of organisations that have shown a sustained improvement in the product or service provided to the public are few and far between (see for example, the case studies on participative work design, quality circles and other similar initiatives funded under the Industrial Democracy Progam by the Federal Department of Industrial Relations in the 1980s).

One of the more extreme examples of adversarial industrial relations (Quadrant 3) which many AMMA members will recall is Southern Copper (formally ER&S) situated at Port Kembla in New South Wales. Southern Copper had a notorious industrial relations history. The volatility of the industrial relations climate damaged its reliability as a supplier, the quality of its product and its operating efficiency. Always a marginal business proposition, attempts to upgrade the plant and move away from the culture of conflict failed and it was eventually closed. Southern Copper operated in a traditional industrial relations framework. The unions had a legal monopoly on representation at the workplace but were active in the workplace and the majority of employees were prepared to follow the union leadership in its frequent industrial campaigns. It is encouraging to note that plans are advancing for the re-opening of the facility and it is to be hoped that it can emulate the success of NUMMI.

Although it is hard to imagine that management, unions and employees would choose to operate in such an adversarial industrial relations environment, the fact remains that there are many examples in Australia of entrenched workplace conflict. It is only in very recent times that some new alternatives to this have been explored in some industries, particularly under the legal framework that has emerged in the federal jurisdiction in the 1990s.

The contracting out option (Quadrant 4, Figure 5.1) is an increasingly common feature of business organisation. The provision of such services as security, cleaning, transportation, catering and specific maintenance functions, payroll and sometimes information technology are typically areas that come under review in organsiational change programs. Several companies have gone further and contracted out significant parts of their operations.

The model also hypothesises that business effectiveness can be high, with systems which involve little or no direct engagement of individual capability by the organisation itself (Quadrant 4). In instances where companies contract out specific services or functions, it is a contracting organisation which is concerned with these issues of engagement of capability. The client organisation is clearly interested in output not process. It is essential, of course, that the organisation contracting out such areas of work be satisfied that the contracting organisation is operating within relevant laws and

regulations. Subject to these considerations, the form of work arrangement reflects business strategy.

Figure 5.1 also attempts to portray the dynamic aspects of organisation and workplace change that can involve companies moving from one quadrant to another over time. Sometimes this will be a result of reaction to the changing external environment, sometimes it will be the outcome of a deliberate strategy. For instance, an organisation may face escalating costs when process dominates output and business effectiveness. Attempts to rectify the situation may lead to industrial conflict as perceived threats to employment conditions and job security mount. Such an organisation may drift into Quadrant 3. An organisation experiencing persistent adversarial industrial relations, may cause it to contract out parts (even large parts) of the business in order to maintain viability and move more into Quadrant 4.

It is equally possible, however, for the direction to be reversed. For example, there is a limit to the extent of contracting out, if the core capabilities of the organisation are to be retained. An organisation improving its internal systems and culture through the engagement of individual capability may decide to bring back into the organisation work previously out-sourced, as it can now be done more effectively inside the organisation. This, in turn, may provide work to employees who might otherwise have been displaced by ongoing improvement programs. Similarly, an organisation in Quadrant 2 of Figure 5.1 may seek to escape the dominance of process over business effectiveness and work directly with employees in order to engage their capability rather than perpetuate an unproductive cycle of traditional enterprise bargaining. The development of managerial leadership capability and effective human resource systems within the organisation to work and communicate directly with employees can provide the basis for moving into Quadrant 1.

The implication of all this in terms of industrial relations legislative policy is, of course, that organisations ought not to be constrained in the choice of pathway to achieve the outcomes that they and their employees consider are best for them. In practice, however, the choice of an organisation to work in the top right hand quadrant is still constrained, particularly if an organisation and its employees wish to work directly with each other. Existing external awards may still be imposed as the benchmark against which a ‘no disadvantage test’ is applied.

The legislative framework must provide the opportunity for organisations to establish such systems of internal regulation and employees must be free to determine whether, in their judgement, these systems are adequate. When this is not the case, then the individual must have the protection of the external system (collective agreements and awards) and access to third party protection in the form of unions and industrial tribunals.

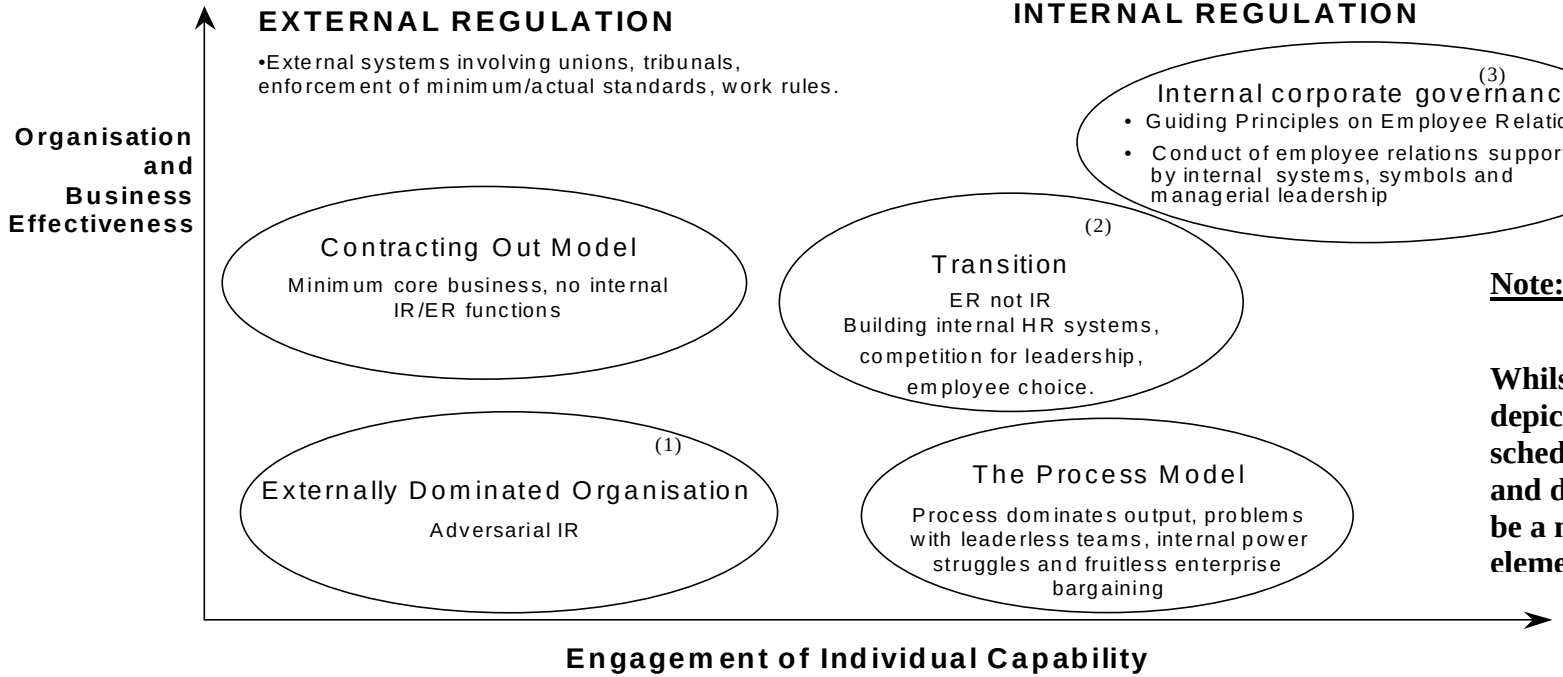
Building the Internal Strength of the Organisation

Figure 5.2 develops the concepts outlined in the model a little further and attempts to map the successive stages through which an organisation might move, as it develops from an externally regulated organisation and with adversarial industrial relations, to one which is internally regulated through a system of corporate governance and where the strategy of the organisation is to engage fully the capability of the individuals within it. Figure 5.2 does not specify a particular pathway or blueprint that an organisation can or should follow. Indeed, the experience of many members of AMMA suggests that in the process of transition from industrial relations to employee relations and to all staff employment, considerable organisation and business challenges must be met. The work of building the internal systems of the organisation must not be underestimated and during this period of transition, robust financial and technical systems are essential to ensure the organisation remains both output and process focused.

It also should be noted that the alternatives hypothesised in Figure 5.2, while a matter of strategy for the organisation, are also subject to the exercise of free choice by employees whether it be to the model of internal regulation or the contracting out model.

In reality, organisations are likely to have a blend of arrangements. All organisations will have their internal human resource systems, many will contract out specific functions — such as catering services, payroll administration, cleaning and maintenance and so on — depending on judgements about the core business production processes from which the organisation gains competitive advantage. Internally-regulated staff arrangements based on individual contracts of employment might apply to managerial and professional staff, while collective agreements specific to the enterprise might govern those employees working in the production process.

FRAMEWORK LEGISLATION



Note:

Whilst each sector is depicted in this schedule as separate and distinct there will be a merging of elements from each

(1)
- limited individual discretion, narrow boundaries set by awards, negotiated "custom and practices"
- reliance on industrial relations experts
- management focus on minimising external risk - industrial disputes, 3rd party interference

(2)
- building leadership capability
- system redesign and implementation to support transition
- transition can be all consuming work for line management
- MD must manage risk of loss of focus on business context, purpose
- robust financial and technical system essential

(3)
- simplification of many HR/Admin. systems especially payroll
- HR advisory roles more complex - internal consulting skills essential, system design skills
- control/audit of systems to ensure consistency effectiveness
- fair treatment systems
- employees' right to choose preserved and protected
- a code of practice or principles to which the organisation is committed in its employee relations.

Source: G.W. McGill 1998

Organisational Leadership: The Fundamentals

Set out below is a summary of the fundamental organisation systems issues and managerial leadership requirements that must be satisfied for achieving an effective organisation. These conditions must be met but will not necessarily guarantee organisational effectiveness.

- The systems of the organisation must create and sustain a working environment where people are:
  - safe and healthy
  - individually recognised and rewarded on merit
  - guaranteed fair treatment.
- The systems of the organisation must be able to answer the following questions for each employee:
  - What is my job?
  - How am I going in my job?
  - What is my future in this organisation?

When these conditions are satisfied by the the internal systems of the organisation it is argued that it is more likely that the employees of an organisation will freely choose the model of internal workforce regulation as hypothesised in Figure 5.1. As suggested in Figure 5.2, the pathway to such working arrangements will always be difficult and the process of change may be slow. It may not be the preferred course for many organisations or individuals, but the legislative framework should ensure that organisations that elect to go down that route are able to do so — provided their employees also freely choose that course and that at all times certain legal standards and safeguards that apply at the workplace are observed.

It is to the issues around the nature of the legislative framework and the safeguards and standards that should apply to support this model of business strategy and employee choice that the discussion now turns.

Implications for Current Industrial Legislation and Workplace Relations Reform

The discussion that follows is based on the premise that profound changes have occurred in the structure of competition and in the nature and structure of employment in Australia. These changes have occurred over the course of the 1980s and 1990s and to a large extent are irreversible. Profound changes have also been occurring in the way in which many companies view the working arrangements with their employees. Many

changes in organisational systems and managerial practices reflect a recognition of the substantial business benefits that can derive from establishing direct working relations with employees based on mutual trust and fairness. The legal framework for employee relations must be able to accommodate these irreversible changes.

It must also be recognised that given the rapidity of the changes that have occurred, there is a need to take stock and to consider carefully some of the implications of these changes for Australian society as a whole. For instance, the AIRC is no longer the institution to which we automatically turn, to settle industrial disputes. At the same time, it is clear that there has not been any extensive community or political debate as to whether the appropriate future role of the AIRC is to play a quasi-governmental function through the administration of the 'safety net' underpinning the industrial relations system.

Furthermore, debate in the 1990s has tended to focus on particular aspects of changes to the federal legislation and important questions about the role of unions, the responsbilities of employers and their representatives. The role of the states and legislation at this level may not have received sufficient attention and debate. (There are potentially six industrial relations pendulums, not just the one evident in the federal parliament.) Given the correct analysis that the changes in the industrial relations system that have occurred in the 1990s are the most significant since federation, then it is important to return to these fundamental questions as we prepare to move into the next millenium.

AMMA sees the period ahead as essentially one of consolidation and building on the reforms that have occurred. It is time to acquire a better understanding and clarification of the implications of these changes in practice and, an opportunity to establish some common ground or even consensus on the basic values and behaviour Australians would wish to encourage in the operation of industrial relations law and in the conduct of employee and work relations in Australian enterprise.

The key issues for attention and action can be grouped under the following areas:

The Federal Workplace Relations Act

- How can the mechanisms for the recognition and protection of individual agreements reached directly between employer and employee be improved and streamlined?

- How can Object 3(c) of the Workplace Relations Act be made practicable and workable? Object 3(c) provides:

  > (c) enabling employers and employees to choose the most appropriate form of agreement for their particular circumstances, whether or not that form is provided for by this Act.

- Does the legislation need review to ensure that where employees do choose union representation and collective barganing, unions can operate effectively in that capacity?

- How can internally regulated employee relations arrangments be recognised under the Act so that their operation is protected from other industrial agreements and state common rule awards?

- Are the processes for obtaining section 127 orders responsive enough, particularly for small business, to deal with unlawful industrial action, (threatened or actual)?

- Should the model of competitive unionism, which impacts directly on the stability of bargaining structures at the workplace, be the basis upon which Australia moves from a conciliation and arbitration model to a system based predominantly on enterprise bargaining?

- How can a stable framework of industrial agreements for major projects in Australia be maintained in a manner which protects the interests of the client as well as the interests of small contractors?

- Should the Workplace Relations Act be the subject of a thorough process of consolidation and simplication?

More detailed comments on the Workplace Relations Act 1996, based, in part, on AMMA workshops conducted in July 1997, and in August 1998 are available from the AMMA Melbourne office.

State and Federal Legislation and Regulations

- How do we ensure that the administration of safety net arrangements does not become a defacto mechanism for spreading the results of collective barganing?

- Should the operation of common rule arrangements be reviewed at the federal and state level to ensure that the mechanisms of the old centralised wage fixing system do not operate inconsistently with decentralised collective bargaining arrangements?

- Should the federal government and the states explicity adopt the objective of the creation of a unitary national system of industrial relations?

The Safety Net

- Should a public inquiry be established to review the most appropriate means by which the economic and social safety net referred to in the federal legislation is operated and maintained?

- Should the AIRC have any role in setting minimum standards to be observed uniformly across industry?

- What alternative institutional arrangements could be established to advise governments, or interface with the AIRC on determining safety net arrangements?

- What scope exists for the use of various constitutional powers and areas of complementary state powers to maintain and operate a safety net should that be considered appropriate?

National Leadership

- What can governments do to reduce the uncertainty, confusion and cost created by the continual amendment and tinkering with Australia's industrial relations/workplace relations legislation?

- How can the government and oppostion parties in the federal parliament be persuaded that their adversarial behaviour in the area of industrial and workplace reform *actually* contradicts the cooperative approach which they advocate *should* be followed by employers and employees in Australian workplaces?

- What is required from business and employer organisations to help build a more bipartisan approach to employee relations in Australia?

• • •

In relation to the last critical issue, Appendix 5 sets out an Employee Relations Charter proposed by the Board of AMMA. AMMA believes it can play an important part in advancing Australian industrial relations beyond the rhetoric and division which has characterised it in the past. The principles and values underpinning the Charter are seen as a vision towards which all AMMA members are encouraged to strive and for which

AMMA will seek wider support in the Australian community through a process of consultation with other industrial organisations and national political parties.

The purpose of the proposed Charter is to support the development of world competitive enterprises including those which are internally regulated and where people:

- are productively engaged
- feel their work is valued
- are treated fairly.

Conclusion

As we move into the next century a historic opportunity exists to explore the basis for a renewed consensus on how we work together in the myriad of enterprises and diverse locations and establishments, that constitute the working nation of Australia.

We can learn from the past and avoid the tempation to exploit short term political or industrial advantage. We can take from the system of conciliation and arbitration the tradition of fairness and maintain a system which allows employees easy access to justice in the workplace. A national and unified system that allows employees to seek review and redress when they feel they have been unfairly treated at work — a system which operates with a minimum of formality and legal technicality — would serve Australia well in the next millenium.

Those building and operating within such a system must understand that the industrial relations institutions of the future must be fundamentally different from the past and will operate in a fundamentally different environment. By early next century the remaining vestiges of economic protection on which the industrial relations institutions of the nation were built in the early 1900s will have disappeared. Australian companies will be operating in an environment fully exposed to the rapid transformation of the world market place and international capital flows. More Australian organisations will be important players on this international stage in their own right. The ability of Australian companies to react quickly when opportunity or threat is recognised must be facilitated, not restricted by the framework of industrial relations law.

Individuals within this environment must also be free to make their decisions as to what best suits their interests, subject to any contractual obligations (based on individual or collective agreements), into which they have freely entered. The individual in this context *must* be able to rely on the protection of the system, but the organisation, be it business or trade union, *must not* be able to rely on the system to protect its own inadequacies — either in managerial and business judgement or in membership organisation and bargaining capability.

Appendix 1

Major Changes in the Structure of Australian Economic and Competitive Environment from the 1980s

December 1980	Interest rate ceilings on all trading and savings bank deposits removed.
August 1981	Minimum term on certificates of deposit reduced to 30 days.
March 1982	Minimum terms on many other fixed deposits removed. The requirement of one month's notice of withdrawal from savings bank investment accounts removed.
January 1983	Closer Economic Relations (CER) agreement between New Zealand and Australia.
December 1983	Australian dollar floated and most foreign exchange controls removed.
August 1984	All remaining controls on bank deposits removed, including minimum and maximum terms on bank deposits and restrictions on size of deposits. Savings banks permitted to offer cheque facilities.
February 1985	Foreign banks invited to take up licences.
April 1985	Remaining ceilings on bank interest rates removed, except for some housing loans.
May 1985	Prime assets ratio (PAR) replaces LGS convention.
April 1986	Interest rate ceilings on new housing loans removed.
1988	Natural gas market deregulated.
1988	Telecommunication value added services opened up to full competition.
April 1988	Quotas on motor vehicle imports removed.
May 1988	Quotas on textile clothing and footwear (TCF) to be phased out. Tariffs in excess of 15 per cent on imports other than TCF or motor vehicles to be reduced to 15 per cent and those between 10 and 15 per cent to be reduced to 10 per cent.
August 1988	Capital adequacy guidelines issued.
September 1988	The SRD ratio abolished and replaced by non-callable deposits.
December 1989	Distinctions between savings and trading banks removed.
October 1990	Start of aviation deregulation with the end of the two airline agreement.
1991	Government telecommunication carriers corporatised and exposed to normal taxation. Telecommunications Act: competition over full network introduced. (Optus only allowed into basic telephony.)
March 1991	15 and 10 per cent tariffs to be cut to 5 per cent, tariff on motor vehicle imports to be cut from 40 to 15 per cent, and end to TCF quotas with cuts to TCF tariffs too.
February 1992	Foreign banks permitted to operate with a branch structure.
1995	Free entry into basic telephony from 1997
June 1995	The Competition Reform Act passed.
1995–96	Average effective level of price protection fell from 15 to 8 per cent.
July 1997	Telecommunications industry deregulated.

Appendix 2

Organisational Change is the Norm

In the 1990s organisational change, in Australian industry, is the norm — not the exception:

- 51 per cent of organisations reported restructuring
- 47 per cent reported the introduction of new office technology
- 43 per cent reported a change in the way non-management staff do their work
- 28 per cent reported the introduction of new plant (Morehead and others, 1997: 237, Table 11.1)
- 81 per cent of industry reported that at least one of these changes had occurred at some point in the two years prior to the survey (Morehead and others, 1997: 237)
- 53 per cent of change was introduced in order to improve productivity and efficiency, while 24 per cent introduced was to reduce costs (Morehead and others, 1997: 241)
- organisational structure gradually changed as well — in 1990 only 39 per cent of organisations could be categorised as structured, in that they had formal systems for managing the employment relationship; in 1995 this figure had risen to 59 per cent (Morehead and others, 1997: 325).

Management of the Employee

Between 1990 and 1995, collective agreements overtook awards as the primary function through which wages and conditions were negotiated. A result of the growing proliferation of agreements is that employers are increasingly monitoring the performance of the individual and the organisation, that is, regular, and formalised performance appraisal and evaluation:

- 68 per cent of workplaces formally evaluate or appraise non-managerial work performance at least once a year

- 67 per cent of industry reported using benchmarking (in order of use: customer service, quality procedures, operating process, relative cost position, labour productivity, and occupational health and safety)
- 68 per cent use key performance indicators (KPIs) (this figure increases to 87 per cent for workplaces with over 500 employees)
- 69 per cent measure labour productivity (Morehead and others, 1997: 103–9).

When designing systems of performance measurement, only 7 per cent of organisations with union membership actually consulted the unions involved, while 39 per cent consulted the employees directly (Morehead and others, 1997: 107, Table 6.3).

In the mining sector 25 per cent of organisations formally measure individual productivity (Morehead and others, 1997: 108).

As a result of a tighter focus on performance measures 42 per cent of managers surveyed in 1995 believed that labour productivity was higher than at the same point two years earlier.

Unions in the Workplace

Between 1990 and 1995 union presence across all industries decreased. One of the largest drops occurred in the mining industry (Morehead and others, 1997: 139). In terms of active union workplaces (a delegate must be present and the delegate must spend at least one hour per week on union matters and hold a general meeting twice a year), only 18 per cent of workplaces fell into this category in the 1995 survey, down slightly from 1990 (24 per cent) (Morehead and others, 1997: 139–40).

Eighty-eight per cent of managers surveyed across all industries would prefer to deal with employees directly and not through a union. This figure rises to 93 per cent if only private sector companies are looked at. Only 4 per cent would prefer to deal with a union. The authors of the report argue that the issue of the move of a direct relationship between employee and employer has become more salient since the 1990 report (Morehead and others, 1997: 133–5).

Sixty-nine per cent of managers surveyed believe that the negotiation of a workplace or enterprise agreement is important to be able to achieve the goals of the organisation, even though 59 per cent surveyed believed that the award system had worked well in the past for their specific workplace (Morehead and others, 1997: 133, Table 6.27).

Individual Contracts of Employment

Of all workplaces some 26 per cent employ *some* non-managerial staff on an individual contract basis. Five per cent of workplaces employ *all* their staff on individual contracts, and for the mining industry this figure rises to 18 per cent who employ *all* staff on individual contracts. This is one of the highest figures for total coverage. However, 19 per cent of the mining industry does not operate with award coverage (Morehead and others, 1997: 205–7).

Working Life

Twenty-five per cent of workers have reported an increase in the number of hours they work each week. Managers and professionals account for the largest proportion of this:

- 75 per cent of workers are happy with the hours they work
- 47 per cent of workers believe they are paid fairly — non-union members are more likely to report being fairly paid than are union members.

In the two years prior to the survey, 42 per cent of people reported a change in the way they had to do their work, 46 per cent reported that the work itself had changed. Non-union members were more likely than union members to report feeling job security (Morehead and others, 1997: 261–85).

Appendix 3

Summary: 'Assessing Australia's Productivity Performance'

This research paper, written by the Industry Commission, examines Australia's productivity over the past thirty years. In doing so it explores two main themes:

- why productivity is important
- how Australia has performed in terms of productivity, both in the long and short term.

Definition of Productivity

Productivity is a measure of the capacity of individuals, firms, industries or entire economies to transform inputs into outputs (Industry Commission, 1997: 3), or more precisely it is a measure of the rate at which inputs are transformed into outputs (Industry Commission, 1997: 17).

Why is Productivity Important?

Productivity is crucial to improving living standards.

Higher productivity leads to increased output, which means more income, which leads to higher living standards. Living standards, however, also depend on other factors — such as harnessing the contributions of the available resources in gainful employment. Some productivity improvements could also detract from the standard of living by causing a reduction in employment. When this occurs, the paper advises, improvements to living standards should take precedence.

Estimate of the Contribution of Productivity to Output and Living Standards

Output Growth

Productivity growth has accounted for approximately half of Australia's output growth over the past three decades (the other half has come from increased inputs).

There has been considerable volatility in the contribution of productivity and input growth to output growth. However, capital and labour growth have perhaps been historically more significant than productivity in explaining output growth, but this may change in the future.

Living Standards

Productivity growth has been a major contributor to the growth of real income per person (often used as an indicator of living standards). (See Industry Commission, 1997: 117–23, Appendix A for a full discussion of living standards.)

It accounts for approximately two-thirds of the increase in real income in the period 1964–65 to 1995–96. The remaining one-third of growth came from capital deepening and a minor offset from the terms of trade. Other factors, such as the labour force, unemployment and growth in the working age population, offset each other.

Sources of Productivity Improvement

Productivity growth can be due to several different factors:

- New knowledge (technology) — new knowledge can come from investment in research and development (R&D), the development of human capital through investments in education and training and investment in physical capital (Industry Commission, 1997: 13–15).
- Better organisation of production — both within firms and between industries (Industry Commission, 1997: 15–16).
- Incidental effects, for example, growth in the size of firms and industries. Productivity improvement involves 'working smarter' not just 'working harder' (Industry Commission, 1997: 16–17).

Historical Performance

Long Term

The fastest underlying growth in productivity occurred in the 1960s and early 1970s, when multi-factor productivity (MFP) growth peaked at 2.1 per cent per year (Industry Commission, 1997: 37, 43) (see Attachment 1 below).

Since this period there has been a gradual slowdown in productivity growth. MFP growth reached a low of 0.8 per cent per year in the mid to late 1980s. This decline in productivity growth is probably due to a mixture of reversible and irreversible factors (Industry Commission, 1997: 37–9).

Irreversible factors include an expected slowdown in productivity growth for a mature, industrialised country from unusually high productivity growth in the 'golden age' of the 1950s and 1960s. They also include increasing dominance of growth from the services sector, with its generally lower levels of production, and probable mismeasurement of earlier levels of productivity growth.

Reversible factors include high inflation and some reversal to the usual capital deepening in the late 1980s.

This leads to the conclusion that, all other things equal, it would not be reasonable to expect productivity growth to return to the historically high rates. But other factors, for example, technological advances and the better organisation of production, could make higher productivity growth rates possible (Industry Commission, 1997: 39).

Recent Experience

Since the late 1980s the recovery of productivity growth levels has been quite strong. MFP growth was 1.2 per cent per year for the period from 1988–89 to 1995–96. Australia's performance in the 1990s has been even stronger, with MFP growth of approximately 2 per cent per year (Industry Commission, 1997: 40).

These improvements are more than a recovery from the recession (see Industry Commission, 1997: 40–1 for justification). The recent improvements are consistent with the effects of microeconomic reforms. However, a few points need to be noted:

- other factors may also be partly responsible, such as underlying technological change (for example, business spending on R&D increased significantly from the mid 1980s)
- the effects of some reforms are still likely to be felt

- some reforms did not affect the market sector and so will not show up in the aggregate productivity estimates (see Industry Commission, 1997: 43).

These productivity measures are approximate and cover the market sector only.

Performance of the Different Sectors

Productivity levels and growth differed markedly between the different industry sectors. Contributions to total productivity growth came from all the different sectors of the economy (Industry Commission, 1997: 48–56; 129–37, Appendix C) (see Attachment 2 below). Continuously strong sectors were manufacturing, transport, storage and communication (these two sectors account for approximately 75 per cent of aggregate productivity growth from 1974–75 to 1994–95), electricity, gas and water, retail trade, agriculture and construction (Industry Commission, 1997: 52).

Mining and wholesale trade were sometimes strong sectors (Industry Commission, 1997: 54). Construction, accommodation, cafes and restaurants and cultural and recreational services were stagnant or negative contributors (Industry Commission, 1997: 54–5). The variability of some sectors is due to a range of factors including seasonal variation, investment cycles, unaccounted for quality improvements, compositional changes and data.

The overall downturn in productivity growth in the 1980s was due to a downturn in different sectors, with retail trade especially important. There is evidence of the importance of new knowledge and better organisation in stimulating productivity growth (Industry Commission, 1997: 56). There appears to be a noticeable improvement in productivity growth since the introduction of microeconomic reforms, particularly in transport, storage and communication and electricity, gas and water (Industry Commission, 1997: 56).

International Perspective

Australia's productivity growth has been low by international standards. Australia participated in the 'golden age' from the 1950s to the early 1970s, but not to the extent of other countries (Industry Commission, 1997: 57–9). Australia did not participate as strongly as other countries in the phenomena of catch up (the process whereby a country with relatively low productivity levels grows more quickly than the productivity leader by closing part of the technological gap) and convergence (over time countries move from more disparate productivity levels to more common ones) (Industry Commission, 1997: 64–5).

Between 1950 and 1992, Australia fell from third highest to fourth lowest of the OECD countries in terms of labour productivity levels (Industry Commission, 1997: 65).

Australia had one of the slowest rates of productivity growth in the OECD (20 per cent below average for the period 1974 to 1994) (see Attachment 3 below).

To match the average growth rate, Australia would have needed to increase MFP growth by at least 25 per cent. In comparison to other countries, this should have been possible (Industry Commission, 1997: 68). Australia's recent performance has been better, with a slight improvement in growth while other countries have been in decline. However, it remains to be seen if this growth will be sustained and if the performance of other countries will improve.

Sectors

Manufacturing and transport, storage and communication were also important contributors to productivity growth for other countries. Australia's rate of labour productivity growth was relatively low in manufacturing, agriculture and wholesale and retail trade. It was above average in electricity, gas and water. It was relatively high in transport, storage and communication and mining.

The clearest cases of remaining gaps between Australia and other countries are in the sectors which have been strong and consistent contributors to Australia's productivity growth (manufacturing, transport, storage and communication, and electricity, gas and water).

Distribution of Productivity Gains

> The impacts of productivity improvement on living standards depend not only on the size of the productivity gains but also on how they are distributed. Benefits can be narrowly or widely distributed (Industry Commission, 1997: 89).

Productivity gains can be distributed in a number of interrelated ways: by increased leisure, improved product and service quality, greater human and environmental protection and higher real incomes (Industry Commission, 1997: 79–80, 88). There has been a recent shift towards price decreases instead of wage increases as a means of distributing productivity gains. This shift coincides with government reforms which have led to greater competitive pressures in the economy. (See Industry Commission, 1997: 87 for a summary of the studies used in estimating the gains from economic reforms.)

> Differences in productivity growth among industries are leading to increasing disparities in output prices, not wages — despite the increasing ability to link wages to firm-level productivity under enterprise bargaining (Industry Commission, 1997: 88; see also 84).

Competitive reforms in goods and services markets enhance flow-on gains to the economy and the community, for example, the competitiveness of using industries is advanced, employment opportunities are created and consumers can afford to purchase more.

Effect of Productivity Gains on Employment

> Productivity growth does not have to mean fewer jobs (Industry Commission, 1997: xi).

There is a lack of a firm relationship between productivity and employment growth (Industry Commission, 1997: see Chapter 8, especially 110–11). Increases in productivity have sometimes led to a reduction in employment, while at other times they have led to higher employment levels. This is true at firm, industry, sectoral and economy-wide levels.

> Productivity growth has coexisted with sustained employment growth over long periods in Australia and other OECD countries (Industry Commission, 1997: xi).

This suggests that other factors are more important to employment levels, for example, general demand conditions, incomes, labour market arrangements and the influence of government policies. Productivity growth does, however, have a significant effect on the industrial and occupational composition of the workforce.

Implications for Government Policy

Productivity growth should be of high priority for government policy. Productivity growth is a vital component of economic growth and thus should be the focus of endeavours to improve growth (Industry Commission, 1997: xxii). All parts of the economy are important for productivity growth (Industry Commission, 1997: xxii–iii). Improving productivity requires a long term approach.

Pro-competitive reforms are an important element of the total policy package because they lead to the creation of a ‘virtuous cycle’ (Industry Commission, 1997: xxiii). There

is a need to address community concerns about the relationship between productivity growth and unemployment (Industry Commission, 1997: xxiv).

Conclusion

> Australia's productivity growth has been below its potential over the past three decades. However, there are now signs of significant improvement …
>
> Australia needs to maintain higher productivity growth as a basis for sustainable, non-inflationary growth and to improve the living standards of Australians (Industry Commission, 1997: xiii).

This does not have to mean fewer jobs. However, it could affect the structure of employment.

ATTACHMENT 1

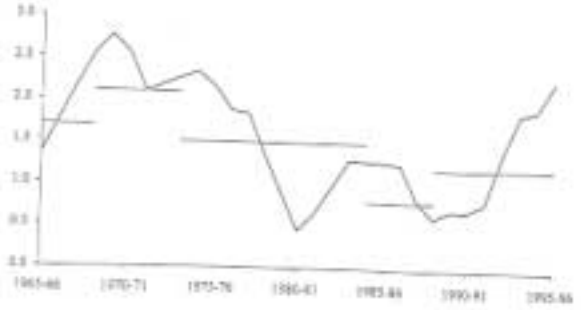
A **multifactor productivity** measure divides outputs by a combination of inputs. In this paper the two inputs used are labour and capital. The growth in multifactor productivity is calculated as the growth in output less the growth in a combined index of labour and capital inputs. (See Box 3.1, p. 19 & Box 4.1, p. 30)

Table 4.1 Average annual rates of growth* in productivity and the capital-labour ratio, various periods, 1964–65 to 1995–96 (per cent)

Periods	Labour productivity	Capital productivity	Multifactor productivity	Capital-labour ratio
1964–65 to 1968–69	2.6	–	1.7	2.6
1968–69 to 1973–74	2.9	0.5	2.1	2.4
1973–74 to 1981–82	2.4	-0.8	1.5	3.3
1981–82 to 1984–85	2.6	-1.8	1.3	3.7
1984–85 to 1988–89	0.7	1.9	0.8	40.3
1988–89 to 1995–96	1.7	0.5	1.2	1.9
1964–65 to 1995–96	2.2	-0.1	1.5	2.2

* Calculated as compound average annual rates of growth from productivity peak to productivity peak.
Source: ABS Cat. no. 5234.0

Figure 4.5 Annual growth in trend multifactor productivity*, 1964–65 to 1995–96 (per cent)



* Change from previous year.
Source: Derived from ABS data.

ATTACHMENT 2

Table 5.2 Average annual rate of multifactor productivity growth in the market sector, by industry sector, various periods, 1974–75 to 1994–95 (per cent)

Industry sector	1974–75 to 1981–82	1981–82 to 1984–85	1984–85 to 1988–89	1988–89 to 1994–95	1974–75 to 1994–95
Agriculture	2.3	3.7	-1.1	0.1	1.2
Mining	-3.7	5.2	0.3	1.9	-0.2
Manufacturing	2.4	1.8	1.7	1.8	2.0
Electricity, gas and water	2.2	1.4	4.4	3.6	2.9
Construction	2.5	0.1	-0.9	-0.4	0.6
Wholesale trade	0.2	-2.5	1.4	0.4	0.1
Retail trade	1.0	2.8	-2.0	0.4	0.5
Accommodation, cafes and restaurants	-0.7	-2.8	-1.7	-1.0	-1.2
Transport, storage and communication	3.6	2.1	2.1	3.6	3.3
Cultural and recreational services	0.1	-1.7	-1.5	-1.5	-1.4
Total	1.5	1.1	0.7	1.2	1.2

Source: Commission estimates based on Gretton and Fisher (1997).

Table 5.3 Sectoral contributions to productivity average annual growth[a] and proportion of market sector, various periods, 1974–75 to 1994–95

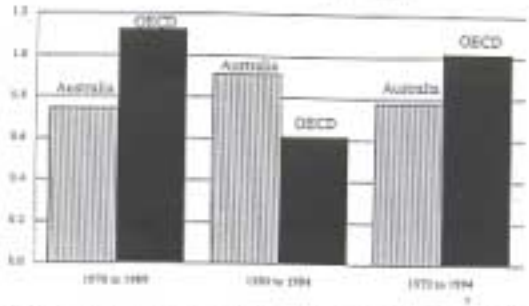
Industry sector	1974–75 to 1981–82	1981–82 to 1984–85	1984–85 to 1988–89	1988–89 to 1994–95	1974–75 to 1994–95	
	percentage point				%	
Agriculture	0.2	0.2	-0.1	0.0	0.1	(7)
Mining	-0.2	0.3	0.0	0.1	0.0	(-1)
Manufacturing	0.7	0.5	0.4	0.4	0.5	(30)
Electricity, gas and water	0.1	0.1	0.1	0.2	0.1	(11)
Construction	0.3	0.0	-0.1	0.0	0.1	(6)
Wholesale trade	0.0	-0.4	0.2	0.1	0.0	(2)
Retail trade	0.1	0.2	-0.3	0.0	0.1	(5)
Accommodation, cafes and restaurants	0.0	-0.1	0.0	0.0	0.0	(-4)
Transport, storage and communication	0.3	0.2	0.3	0.4	0.3	(24)
Cultural and recreational services	0.0	-0.1	-0.1	0.0	0.0	(-1)
Total	1.4	1.0	0.6	1.1	1.1	(100)

a Productivity growth in each sector is weighted by the relative size of the sector in the first year of each period.

Source: Derived from ABS data and table 5.2.

ATTACHMENT 3

Figure 6.2 Average annual multifactor productivity growth for Australia and the OECD*, 1970 to 1994 (per cent)



a OECD MFP includes Agriculture, hunting, forestry and fishing, Mining and quarrying, Manufacturing, Electricity, gas and water, Construction, Wholesale and retail trade, restaurants and hotels, Transport, storage and communication, Finance services, insurance, real estate and business services and Community, social and personal services.

Source: Commission estimates based on OECD data.

Appendix 4

Industrial Relations Reform Bill 1993

Table 62

Keating Labor government: Minister for Industrial Relations: Laurie Brereton

(Shadow Minister: John Howard)

Introduced: 28 October. Third Senate reading: 13 December. Assented to: 22 December

Issue	*Provision*	*Bipartisan*	*Outcome*
2 & 9	Introduction of collective bargaining — a framework which encourages 'fair and effective bargaining' with focus on enterprise/workplace level bargaining.	No	Part VIB as a whole Carried S4471 (with amendments as detailed below and in Attachment A). Senate Committee debate
2(c) & 5	(a) Right to strike via creation of bargaining period and protected action.	No	Liberal/National amendment: Commission required to order secret ballot of organisation members before industrial action can be taken. Defeated by government, Australian Democrates and Greens S4466. Government amendment: Lockout notification — addition of 'or other reasonable steps to be taken to inform the employee' to 72 hours written notice to employees requirement. Carried with Australian Democrats and Greens support. Opposition opposed SC4462.
4, 6 & 14	(b) Certified agreements (CA). retention of provisions introduced by Keating government in 1992	No	There were a number of amendments relating to *both* certified agreements and enterprise flexibility agreements (see Attachment A)
	(c) New type of agreement — enterprise flexibility agreement (EFA) — removes union monopoly representation rights.	No	

Issue	*Provision*	*Bipartisan*	*Outcome*
4 & 6	(d) EFA: union choices. 1 Where union has at least 1 member and is party to relevant award: (a) may participate in negotiations (b) may be a party to agreement. 2 Where union has no members but is party to relevant award, may make submission during approval process on whether agreement meets legislative requirements. 3. No veto power.	No	The amendments specific to EFAs are detailed in Attachment A.
16	(e) Creation of Bargaining Division of Commission.	No	Australian Democrats amendment: removal of veto power of Bargaining Division VP over decisions of President to make available Commissioners to help the core members of the Bargaining Division cope with high workload periods Carried Unanimous SC4466.
2 & 12(d)	(f) Commission power to make orders to: • ensure 'good faith' bargaining • promote efficient conduct of negotiations • facilitate the making of agreements	No	
3, 8 & 12(b)	Commission power to award minimum entitlements to all Australian employees re minimum wages, equal pay for work of equal value and termination of employment (invokes corporations power and external affairs power).	No	Carried SC4356. Senate Committee debate 29pp. 2 Australian Democrats amendments SC4328 & SC4334, 2 government amendments SC4328 & SC4334 and 1 opposition amendment re termination of employment SC4333. Carried; 1 Australian Democrats amendment re carer's leave. Carried SC4356.

Issue	*Provision*	*Bipartisan*	*Outcome*
5	Secondary boycotts: transfer of provisions as they affect unions from Trade Practices Act to Industrial Relations Act. 72 hour (maximum) waiting period before injunctive relief can be pursued. (Invokes trade and commerce power and corporations power).	No	Carried SC4559. Greens amendment — delete provisions from both Industrial Relations Act and Trade Practices Act. Opposed by government, Liberal/Nationals and Australian Democrats. Defeated SC4476. Senate Committee debate 6pp. Opposition amendment — delete secondary boycott provisions from Industrial Relations Act and substitute 'It is hereby declared that the statue laws of the Commonwealth relating to Boycotts as in for 7 December 1993, served the public interest'. Opposed by government, Australian Democrats and Greens. Defeated SC4548. Senate Committee debate 11 pp.
7(d)	Union registration. Minimum membership requirement reduced from 10 000 to 100.	Yes	Carried SC4569. No Senate Committee debate.
7(d)	Repeal of provisions requiring review of organisations with less than 1000 (Stage 1) and 10 000 (Stage 2) employees.	Yes	Carried SC4569. No Senate Committee debate.
17	Creation of the Industrial Relations Court of Australia	No	Carried SC4569. Senate Committee debate 11 pp.
1, 3 & 14	Facilitation of access to federal awards: Commission to proceed quickly re interim award if necessary to protect wages and conditions.	No	Carried SC4324. Opposition amendment: include as ground for not proceeding 'not disturbing an existing state employment agreement which complied with minimum conditions prescribed by a state Act'. Defeated by government, Australian Democrats and Greens SC4324. Senate Committee debate 10 pp.
9	New object*:* 'helping to prevent and eliminate discrimination on the basis of race, colour, sex etc.'	Yes (some aspects)	
3 & 15	Paid rates awards.	Yes	(Introduced as amendment) Carried SC4471. No Senate Committee debate.

Issue	*Provision*	*Bipartisan*	*Outcome*
1, 2, 3	Discretion to Commission to refrain from (further) hearing award variation if it considers parties should negotiate an agreement.		Carried SC4326. No Senate Committee debate.
3	Commission discretion to include in an award a process for negotiating enterprise (specific) flexibility provisions as award variations and requirements for Commission to apply a no disadvantage test to any such agreed variation.		Carried SC4326. No Senate Committee debate.
3	Commission required to ensure awards expressed in plain English and structured in an easy to understand way.		Carried SC4327. No Senate Committee debate.
1 & 9	Increased emphasis on conciliation in exercise of general functions of Commission: Settle disputes 'so far as possible, by conciliation, where necessary by arbitration'.		Carried SC4243. No Senate Committee debate.
1	Additional directions to Commission in performance of its functions under Part VI and Part VIC — with particular reference to exercise of conciliation and arbitration powers.		Carried SC4243. No Senate Committee debate.
1 & 15	Repeal of section requiring Commission to provide for uniformity throughout an industry re hours of work, holidays and general conditions.		Carried SC4243. No Senate Committee debate.
12(b) & 15	Requirement for Commission to take account of the principles embodied in the Family Responsibilities Convention.		Carried SC4243. No Senate Committee debate.
3	Commission required to review awards once in each three year period and to remedy deficiencies, for example, terms below safety net requirements.		Carried with 2 Australian Democrats amendments (deficiencies to include discriminatory provisions and matters prescribed in unnecessary detail) S4328. Senate Committee debate 2pp.
8 & 9	Repeal of limitation on Commission power to remove sex discrimination (Greens amendment).	Yes	Carried SC4325. Unanimous. Senate Committee debate 2pp.

Issue	*Provision*	*Bipartisan*	*Outcome*
6(b)	Reduction of power to award preference: preference cannot be awarded on the grounds of non-union membership. Effect would be to confine preference to members of one union over members of another union (Opposition amendment).	No	Defeated SC4362, Opposed government, Australian Democrats, Greens and Independent. Senate Committee debate 6pp.
16	Unfair contracts with independent contractors: removal of 'against the public interest' as a ground for review by the Court.	Yes	Carried SC4569. No Senate Committee debate.
16	Industry consultative councils: repeal of existing provision and substitution of new section. Commission required to encourage their establishment and effective operation.	Yes	Carried S4569. No Senate Committee debate.
7(b)	New preliminary objects specific to Part IX (Registered Organisations) additional to those in section 3 and relating to internal government, amalgamations promoting economic prosperity and welfare of the people of Australia.	Yes	Carried S4569. No Senate Committee debate.
7(e)	Commission power to refuse to consent to an alteration in an organisation's rules if satisfied the alteration contravenes an agreement or understanding, to which the organisation is a party, concerning the organisation's right to represent the industrial interests of a particular group.	Yes	Carried S4569. No Senate Committee debate.
16	Employer associations required to notify Registrar and unions bound by the relevant awards, of resignation of employer from the association.	No	Carried S4570. Senate Committee debate 2pp.
2(c)	Protection against dismissal for engaging in industrial action in relation to an industrial dispute.	Yes	Carried S4570. No Senate Committee debate.
16	National Labour Consultative Council: changes to employer membership.	No	Defeated SC4571. Opposed by opposition and Australian Democrats. Senate Committee debate 2pp.

Industrial Relations Reform Bill 1993: Attachment A — Senate amendments: Part VIB (agreements)

Certified Agreements and *Enterprise Flexibility Agreements*

1 **Opposition:** Re certification/approval. Commission may certify/approve if *majority* (versus all) employees are covered by an award. Defeated by government and minor parties. SC4369 & SC4442.

2 **Australian Democrats:** Commission must refuse to certify/approve if agreement is discriminatory. Carried with government support. Opposition opposed. SC4408 & SC4443.

3 **Government:** Exemption of discriminatory provision for religious organisations. Carried. Unanimous. SC4409 & SC4449.

4 **Greens:** Re applications to certify/approve agreements: Commission to protect the interests of certain employees, for example, women, young persons, NES. Carried with government and Australian Democrats support. Opposition opposed. SC4411 & SC4450.

5 **Australian Democrats:** Expired CAs/EFAs: Commission to review agreements which continue in force beyond expiry date after three years. Carried with opposition support. SC4414 & SC4450.

6 **Australian Democrats:** Refusal to certify agreements — inclusion of additional grounds in anti-discrimination provisions 'sexual preference, age, physical or mental disability'. Supported by the government. Opposed by opposition. Carried. SC4408 and SC4449.

Enterprise Flexibility Agreements

7 **Australian Democrats:** Organisations entitled to be heard — no automatic notification to unions re approval hearing, law list notice only. Carried with opposition support. SC4414.

8 **Opposition:** Organisations entitled to be heard before EFA approved — withdrawal of union right to be heard where a majority of employees in an enterprise have approved an EFA by secret ballot. Defeated by government and minor parties. SC4437.

9 **Government:** Requirements for approval — removal of requirement that EFA provide for consultation on changes to work organisation and work performance; inclusion of requirement that the EFA establish a process for such consultation. Carried. Unanimous. SC4442.

10 **Government:** Requirements for approval — removal of requirement that, during the negotiations, the employees were consulted about the proposed terms of the agreement; inclusion of requirement that reasonable steps were taken to consult employees about the agreement. Carried. Unanimous. SC4442.

11 **Australian Democrats:** Notification of eligible unions at commencement of negotiations — where employer could not reasonably be expected to have known that a certain union was represented in the workplace, failure to notify would not prevent Commission approval. Carried. Unanimous. SC4443.

12 **Government:** Limits occasions on which an eligible union can become bound. Carried with minor party support. Opposition opposed. SC4454.

13 **Opposition:** Omit section enabling eligible union to be bound by agreement. Defeated by minor parties and government. SC4455.

14 **Australian Democrats:** Representation of employees by union officials in negotiations. Proposed substitute subsection (1) to read '… applies for the purposes of negotiations in relation to the wages and conditions of employment of employees'. Defeated by government and opposition. SC4467.

Appendix 5

Employee Relations Charter

Australian Mines and Metals Association (AMMA) is the national employer association for the mining, hydrocarbons, and associated processing and service industries.

Underlying all AMMA's activities is the belief that direct, cooperative and mutually rewarding relationships between employers and employees at the enterprise level are the best way to achieve efficient and productive workplaces.

In 1988, *AMMA — The Way Ahead* was released as a blue print for industrial relations reform. It advocated the move to enterprise based bargaining, which has since occurred. AMMA now seeks to go beyond enterprise bargaining. It seeks to make the case for genuine self regulation in employee relations based on high standards of managerial leadership and fair and effective systems for the internal regulation of employee relations.

AMMA believes that these standards once met should enable the organisation and its employees to be free from extensive external interference and control. The industrial relations legislative framework in Australia must be reformed so that the realisation of this vision by Australian enterprises can be encouraged and sustained.

An essential feature of the internally regulated enterprise is a commitment to honesty, fairness and accountability in the way the organisation and its employees work with each other. The principles underpinning this philosophy are set out in the Employee Relations Charter developed by the Board of AMMA. It represents a vision towards which all AMMA members are encouraged to strive and for which AMMA will seek wider support in the Australian community.

Employee Relations Charter

Purpose

The Employee Relations Charter has been designed to facilitate the development of world competitive enterprises within Australia.

The charter requires responsible and effective leadership that ensures that employees:

- are productively engaged

- feel their work is valued, and
- are treated fairly.

The Employee Relations Charter

- All employees are entitled to:
  - work in an environment where effective standards of health and safety are in place;
  - be free from workplace harassment and unlawful discrimination
  - have access to appropriate means for internal review of individual concerns or complaints without fear of recrimination, and
  - not join a union or join a union with the legal capacity to represent their industrial interests.
- It is the employer's accountability to:
  - provide remuneration and conditions of employment that are fair and reflect community and industry standards
  - ensure that individual employees have a clear understanding of work requirements and have accurate and timely information about how they are performing in their role with scope for recognition of that performance, and
  - work with all employees honestly and fairly and promote a shared understanding of business direction and performance through managerial leadership and open communications.
- It is the employees' accountability to:
  - work safely
  - act with integrity and honesty, and
  - perform their duties lawfully and effectively.

The Legislative Framework of the Future

Legislation must enable genuine choice to employees and employers as to what form of employment regulation is used at the workplace.

The legislative framework should provide for a full range of options for employers and employees, including awards and statutorily recognised collective and individual agreements, and must not favour one form of arrangement over another.

The workplace envisaged by AMMA can be realised by a number of pathways. Where the necessary features are in place through the development of the internal systems and the leadership capability of the organisation, then employers and employees should be able to make a free and informed choice to work in an internally regulated environment, free from external interference or constraint.

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