

INDUSTRIAL RELATIONS SOCIETY OF VICTORIA

CONFERENCE - OCTOBER 1976, SHEPPARTON

THE NEW CHALLENGES FOR INDUSTRIAL RELATIONS

CAN WE MUDDLE THROUGH?

Hon Justice M D Kirby

October 1976

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Opening Address by the Hon. Mr. Justice M.D. Kirby **

A PAGE OF HISTORY

Most of us have come a long way to talk about industrial relations. Industrial relations have also come a long way.

Our President, Mr. Justice Robinson, has on the wall of his chambers a constant reminder of the progress we have made. The rules of McBride and Smith, Merchants and Ships' Chandlers, 1852, will be well known to most of you. Can I remind you of some of the rules? Resist the temptation to nostalgia, as you listen to them:

Rule XIII

The new increased weekly wages are as hereunder detailed:-

Junior boys to 11 years	1/4d
Boys to 14 years	2/1d
Senior Clerks after 15 yrs with owners	21/-

The owners hereby recognize the generosity of the new labour laws but would expect a great rise in output of work to compensate for these Utopian conditions.

Rule VII

Any member of the clerical staff may not leave the room without the permission of Mr. Ryder. Calls of nature are permitted and the clerical staff may use the garden below the second gate. This area must be kept in good order.

Of special relevance to the present company is Rule IX.

Rule IX

The craving for tobacco, wines and spirits is a human weakness and as such is forbidden to all members of the clerical staff.

Having told you that these rules are to be found in a prominent place in his Honour's Chambers, I would not want you to think that his Honour has constant access to them in preparing the decisions of the Australian Conciliation and Arbitration Commission. Indeed it is instructive to contrast Rule IV with a recent arbitral decision in Australia. It shows, revealingly, just how far we have come in industrial and other relations -

Rule IV

Clothing must be of a sober nature. The clerical staff will not disport themselves in raiments (sic) of bright colours nor will they wear hose unless in good repair.

Emphasis in industrial relations changes but the concerns remain the same. In 1976 the Federated Liquor and Allied Industries Employees Union of Australia (South Australian Branch) sought an order from the South Australian Commission that -

"No female employee shall work pursuant to any classification contained in the Hotels, Clubs Etc. Award whilst their breasts are bare or wear clothing which completely reveals their breasts".²

Injunctions were sought from the Supreme Court of South Australia to restrain the Union from interfering with the supply of liquor and other goods to the hotel so that it could continue to trade in its normal way. The Manager of the hotel, one Andrew Robinson Ingram finally agreed to the removal of the proceedings to the Industrial Court and later to the Industrial Commission where it came before Commissioner Greg Stevens.

The parties recognized the existence of an industrial dispute. They agreed that the proceedings fell within the jurisdiction of the Commission. They further agreed -

"...even in the technical eventuality or the unlikely eventuality that [the Commission has] no strict jurisdiction, none the less in that event both the Liquor Trades Union and the hotel agree to abide by [the] decision".³

The Commissioner conducted a thorough "view" of the premises in question.⁴

He evaluated the several arguments of management and union alike. Great emphasis was laid by the Union upon the advantages of a "cover-up" in this particular setting. Much stress was placed upon the argument that topless waitresses represented a "thin end of the wedge".

In the end, the Commissioner after quoting the opinion of the girls themselves and fellow employees concluded with recommendations against the Union's claim. There was no suggestion, he said, from either of the parties "that the remainder of the hotel industry and/or the restaurant industry has been waiting with bated breath for the 'green light' to be given by [the] Commission to the employment of topless waitresses".⁵

In every way, we have come a long journey from the rules of McBride and Smith of March 1852. Wages have increased. Some even contend that the increases are so great as to be self-defeating through the scourge of inflation. "Daily prayers" are no longer held.⁶ The rule that "clothing must be of a sober nature" has taken something of a battering.

Where is this leading us? What are the big themes that a conference such as this should address itself to? What are the big issues that will face industrial relations in Australia in the last quarter of this century?

THREE BIG ISSUES

At the heart of industrial relations must be the resolution of the bargain between employers and employees. Wages and conditions: the rewards for work will continue to absorb the energies of employer and employee alike. In recent days, there has been a revival of the suggestion that the Commonwealth Government should be armed with constitutional power to deal with prices and incomes generally.⁷ If the pressures of current economic circumstances continue indefinitely, I have no doubt that we will see more of this proposal. Meanwhile, working within severe constitutional limitations the national government can influence policy only indirectly -

"...the Prices Justification Tribunal oversees the advancement of prices; the Restrictive Trade Practices Tribunal concentrates on enterprise

competitiveness; the Industries Assistance Commission influences the industrial structure and tariffs;...Cabinet Ministers, the Reserve Bank and to a lesser extent Treasury, make decisions about exchange rate adjustments; the Arbitration...Commission essentially confines its attention to industrial relations and wage settlements; Government expenditures and taxes are determined partly independently by the Federal Government and six State Governments, and partly at an annual '...haggle' when representatives of the six States meet with representatives of the Australian Government; and employment policy is affected by the whims of the Government of the day, the National Employment and Training Scheme, the Regional Employment Development Scheme and various apprenticeship commissions in the States. This list, which is by no means exhaustive, illustrates the Australian penchant for establishing special bodies or commissions to handle specific problems." ⁸

I have no doubt that we will continue to ask ourselves as we approach the twenty-first century whether the compact of the 1890s, struck by the Founding Fathers, allows an adequate institutional framework within which to tackle the problems of a complex national economy and sensitive industrial relations. At the moment we are "getting by". But governments are plainly held responsible by the electorate for the state of the economy. In these circumstances, if things were to get worse, one could clearly understand the view developing that the present constitutional harness is unsuitable for modern times. I make no comment on this. I simply say that it is an issue which the Australian community will keep under critical review; measuring the effectiveness of present institutions working within present constitutional limitations against the economic and social problems that have to be solved.

Heady matters such as this may be solved at a constitutional convention in Hobart or Melbourne. It is scarcely a matter that we can resolve here in Shepparton. I therefore suggest two other themes, each of them related, which comprise the big issues that should agitate our minds. I suggest that they will be the principal long-run concerns of industrial relations in the next decade. The first, I shall call "industrial democracy". The second is "quality of life" and how to get it. We must face up to these currents. They are not just "fads" which

will conveniently go away. They reflect fundamental changes in Australian society that will have to be accommodated if harmonious industrial and social relations are to be secured in coming years.

WHY INDUSTRIAL DEMOCRACY?

The "cut and paste" method of dealing with employment tensions will not be sufficient to keep industrial peace, let alone secure industrial harmony in the next quarter century. By this I mean that exclusive concentration on improving wages and conditions will simply not meet the pressures which are already discernible in Australian society. As usually happens, these pressures are exhibiting themselves some time after they became apparent elsewhere in the world. We must study them. We must understand their reasons. We must look about for Antipodean solutions.

When he was Minister for Labor, Mr. Clyde Cameron, said this -

"In the past it has been assumed that if equitable rates of pay and good working conditions were provided that the worker would automatically be satisfied with his job. Of course these factors are important - they are basics and the worker has a right to expect them - but there is a growing realization that job satisfaction is more complex than this.

Clearly, management must develop a better understanding of the needs and expectations of its own workforce and re-evaluate organisational practices and managerial assumptions accordingly. In addition, workers organisations must also be involved. They must be prepared to work with management in developing programmes which will ultimately provide more satisfying work experience".⁹

Why should this be so? Why is the provision of "equitable rates of pay and good working conditions" insufficient to ensure good industrial relations? Are we not asking too much of employers and capital? Is this a challenge to the whole system?

There are, of course, those who talk of "worker control" and see anything short of this as a sop or flea bite. But they are in the small minority. The rest of us simply look at changes in society and in particular changes in Australian society and draw conclusions from what we see. There are, I would suggest, short run and long run forces at work.

The short run forces have been isolated in a splendid paper by Professor Niland, *Industrial Democracy - Industrial Relations: What Are We Talking About?*¹⁰ As this paper was delivered only in August 1976, you may not have seen it. I commend it to you.

The immediate pressures arise, in Niland's view, from the following factors -

- (a) Higher education levels. Figures produced by him demonstrate the significant increase in post-graduate study in the last quarter century; the six-fold increase in total university degrees conferred in that time; the doubling of female students at school at the age of 17 over just five years and the significant overall increase in all young persons receiving education to 17.¹¹
- (b) Decreasing justification for past power structures "which assume that only the hierarchal higher ups are competent to utilize their thinking powers and that lower-level employees must confine their efforts to carrying out pre-packaged decisions".¹²
- (c) Rising affluence levels that turn attention from issues of traditional industrial concern.
- (d) Increased welfarism: With growing acceptance of the proposition that all have the right to employment assured by the State, "it is almost unthinkable in Europe for Governments to pursue economic policies that result in large increases in unemployment".¹³ Where social service benefits are significant, the inducement to reject boring monotonous work and to reject the role of minor cog in the industrial set up is substantial. It is an idea planted by higher education levels, justified by new social attitudes. It can be afforded by general affluence and is supported by social security.

Behind these relatively recent developments can be seen much more important currents.

Just as in the political sphere in the nineteenth century power and authority relationships changed, I have no doubt that similar changes will now be required in the industrial sphere. Worker participation or worker management or joint consultation (or any of the other names by which this movement goes) must be seen by us in context. The context is far wider than the events of a few iron and steel works in Germany. I am sure that it is simply an extension of a social movement which has been developing for the past 200 years. It is a movement which insists that in a free society citizens will in the end secure an ultimate say in the decisions that control their lives. Just as the property franchise gradually disappeared from political institutions (against much opposition, let it be said) similarly I believe we will live to see the property franchise disappear from corporate institutions. I am convinced that this is the proper over-view of the movement which is called "industrial democracy". The precise road we shall take in Australia is not at all clear. The pace at which we will travel this road is equally obscure. But if we keep the underlying movement steadily in mind it will have lessons for those whose task it will be to reform the company and other law in this country. It will also have lessons for those who are involved in the sensitive day by day developments of industrial relations.

One thing that can be said about the various possibilities open to us is that life will not become easier for employer, union, employee or anyone else engaged in industrial relations. Just as in political life, autocratic structures are simpler to administer than democratic ones. But they are not to be preferred for that reason.

WHATS HAPPENING IN AUSTRALIA?

Even a cursory reading of overseas material shows that the pace of change is quickening in Europe and North America. New legislation in the Federal German Republic requires that within two years workers will have 50% of the places on the supervisory board of every company with more than 2,000 employees. This legislation embraces 650 companies employing 4 million of the 24.4 million labour force. It does not affect the steel

and coal industries where for many years there has been full equality with employers. Shareholders retain the ultimate say through a casting vote.¹⁴

New laws in Sweden, France, Italy and the Netherlands reflect, with differing emphasis, the same movement.¹⁵

Lest this be dismissed as a continental "fad", the same moves are now afoot in the United Kingdom: the traditional source of our company law and practice.¹⁶ In 1968 the Donovan Report majority rejected the notion of "worker directors". But today, it is the minority position that is being heard. Listen to what the majority said -

"A majority of us feel unable to recommend the appointment of 'worker-directors' to the Board of companies; and have reached this conclusion for a number of reasons. One is that such an office might expose its holder at times to an almost intolerable strain when decisions unfavourable to workers (for example, on redundancy) had to be taken because they were in the interest of the company as a whole..."¹⁷

But then the minority put its case -

"The present position in which the shareholders in a concern have the exclusive right to elect directors is inappropriate. Persons whose daily work and livelihood are bound up with a company are more personally involved in its well-being than those to whom it is merely something in which they have a financial share capable of being bought and sold; and meantime yielding dividends".¹⁸

Whether one approaches these arguments and the developments from a political or philosophical basis or whether one looks to the cold hard fact of industrial relations, harmony and productivity in countries where consultation at the highest level exists, it is scarcely likely that we in Australia can quarantine ourselves from all forms of industrial democracy.

WHAT ARE WE DOING?

Part of our reticence can be linked to the difficulty of securing a national approach to the amendment of company and industrial laws. This much will be conceded to the arbitration system, that it has demonstrated a

genius for adapting to the needs and opportunities of the time.¹⁹ Robinson J recently reminded us -

"The phrases 'management rights' or 'management prerogatives' have been used over the years to delineate those areas of business activity which are not 'industrial matters' and are therefore properly removed from union interference or influence. It must be said that the right of management to 'run its own business' is not as untrammelled or clear cut as it was twenty, or even ten years ago. I do not comment on the desirability or undesirability of this evolutionary process, it simply is a fact of current industrial relations".²⁰

Having said that, there are clear limitations. Anyone who expects the Arbitration Commission to provide a package answer on the questions of "worker participation" or "industrial democracy" should read what Sir Garfield Barwick has said about the constitutional limitations within which the Arbitration Commission must work. This is what the Chief Justice said:

"Whilst it is a truism that both industrial disputes and awards made in their settlement may consequentially have an impact upon the management of an enterprise and upon otherwise unfettered managerial discretions, the management of the enterprise is not itself a subject matter of industrial dispute".²¹

Indeed, some have suggested that the existence of the well established conciliation and arbitration system throughout Australia encourages the centralization of union decision making and discourages the devolution of power to unionists in the individual enterprise.

Now, I know that this is something of a controversial subject. One distinguished Australian director describes "worker participation" as "shareholder extermination". Reservations about the various options for "industrial democracy" have been expressed by spokesmen whose view do not otherwise generally coincide. Mr. Ian Spicer, Secretary of the Victorian Employers' Federation told the 1976 Summer School of the Australian Institute of Political Science -

"If we are trying for [a greater share of power in the existing social and economic framework] then move for worker directors and supervisory boards of directors with equal representation of workers and shareholders. The fact that by becoming a worker director you alienate yourself from the people you are trying to represent is no problem, because their interests are not your

real concern - power alone is the real issue - power either for you personally or for your trade union".²²

Not to put too fine a point on it, Mr. Spicer opposed replacement of what some would see as the "elitism of capitalist control with control by a trade union elite".

Nor is this statement of reservation limited to the employers' side. Mr. Laurie Short, National Secretary of the Federated Ironworkers' Association is recently reported to have said this -

"I'm not over-optimistic about the possibility of [worker participation] because the average person is not very interested in how his company is run.

I don't think people who go to work necessarily want to be involved in the day-to-day, let alone hour by hour decisions of management... Many workers want to lead a fuller life away from the workplace... They don't want to participate all the time in the running of their workshop or the running of the government... This is proved by attendance at union meetings... It is sad but true that even at bitterly contested union elections it is difficult to get more than 50 percent of the members to vote at all."²³

Mr. Short is not alone in his scepticism. Mr. John Halfpenny of the Amalgamated Metal Workers' Union is also less than enthusiastic -

"I reject the notion of co-determination because it is little short of management-labour co-operation for the achievement of management objectives... It was merely the form for achieving greater productivity or channelling the ever-increasing demands of workers for greater involvement into more respectable channels which pose less of a threat to management power... Worker participation to me is a means of extracting from workers and their unions a commitment to your system".²⁴

POLITICAL VIEWPOINTS

Each of the major political parties in Australia has begun to edge towards an indigenous approach to "worker participation". In February 1972 the South Australian Government appointed a Committee to

examine the issue and its reports were released in May 1973.²⁵ In November 1973 Sir Robert Askin, then Premier of New South Wales, pledged encouragement of profit sharing and involvement of employees in decision making.²⁶ In February 1975 the Federal Platform of the Australian Labor Party was amended to express the belief "that one of the roles of Government in Australia must be to spearhead legitimate attempts at promoting a greater degree of industrial democracy".²⁷ It was proposed that committees should be established to investigate the matter and to examine the possibility of amending company law.

In June 1975 the New South Wales Branch of that party adopted a policy on worker participation and proposed detailed legislative changes.²⁸ In September 1975 the A.C.T.U. Congress directed the establishment of a committee to investigate the question.²⁹ Meanwhile, the South Australian Government has proceeded with experimental programmes designed to promote consultation between employers and employees.

So far as I am aware, the Prime Minister's only direct statement on this question was made shortly after his appointment as spokesman on labour affairs when the Government parties were in opposition. In August 1973 he told a Branch of the Liberal Party in Victoria this -

"I would support responsible unionists being placed on the boards of Government corporations. I would be wanting to seek ways and means which would encourage private employers to give people who work in an industry a greater sense of participation in that industry; a sense of belonging; of being involved. That cannot occur if workers are regarded as just another input in the production process. Work and work alone is not enough. Reasonable conditions, a good life and participation are all necessary."³⁰

Mr. Street, the present Commonwealth Minister for Employment and Industrial Relations told a Canberra Seminar on this subject in March of this year -

"...[T]he Government's policy does not at present lean towards any particular form of worker participation. Nor does it envisage a legislative approach to this question. Rather, we are concerned to encourage employers and employees to work together in establishing continuing mechanisms of their own choosing to facilitate participation and co-operation.

Accordingly, we place great value on the many significant innovations which have already been implemented co-operatively in individual enterprises...

One important lesson that emerges is that worker participation is not a 'fad' or a 'bandaid' that can be applied to solve *all* the problems of industrial life. Another is that notions of a 'managerial prerogative' and 'managerial authority' can be misleading fictions when considered in relation to the realities of the world today...

Worker participation is often approached in terms of questions such as 'whether information should be shared' or 'whether power should be shared'. The inescapable point is that employees already participate in their enterprises by the very fact that they work there. Whether this participation is channelled in the most productive direction for themselves, for the enterprise and ultimately for our whole society is a question which must be addressed".³¹

Speaking on the subject this week, the Minister suggested that schemes of participation which bring employees into the decision making process and allow them to share in the ownership of the enterprise may solve many of the industrial relations problems now confronting Australia -

"The commitment of the individual to his work is likely to be greater when he is a stakeholder not only in terms of his employment-wages contract, but where he also has a stakeholding in its ownership and reaps rewards accordingly. Initiatives in the areas of work reorganization, joint consultation and financial participation are creative departures from our inherited management methods".³²

The Prime Minister has four times in recent weeks argued the case for greater consultation between management and employees. In employment relations, as in government relationships, we have inherited in this country a somewhat secretive, authoritarian model. Just as "open government" and "freedom of information" are themes for reform in the citizen's relationship with the State, I am convinced that "participation" and "consultation" are imperatives in the improvement of industrial relations. How we will do it is by no means clear. The constitutional and legal position is obscure.

The attitudes to the problem are, as I have demonstrated, diverse. The definition of what we are talking about is all too often unclear. The level at which consultation will be achieved and the pace at which progress will be made are still to be decided.

Our traditional means for resolving differences is through the arbitration system. But this may be of limited utility here. I am sure that unions and employers will be looking to government, not necessarily to legislation, for leadership on this issue. It will not be good enough to leave it to one or two of the larger employers to set the pace and establish the way, in the hope that we can "muddle through". When one considers the speed at which change is being achieved, especially in Europe, I doubt that we can afford to progress at such a leisurely pace. I realize that there are severe restraints on expenditure at the moment. But unless the worker participation movement is *de facto* to be reserved to the "tall poppies" of industry, I believe that appropriate machinery should be established to assist smaller enterprises that wish to experiment in new models of co-operation. Co-operation is not only good economics. It is not only good industrial relations. I suggest it is a desirable end in itself.

QUALITY OF LIFE AND HOW TO GET IT

The very forces that promote a "heightened taste for self determination and participation in the decision making process" also encourage growing sensitivity to the so-called "quality of life". Work is a significant part of life. It is fairly plain that satisfaction with work has a significant impact on longevity, disease and physical and mental health, family stability and "balanced" socio-political attitudes.³³ The experiments by Saab and Volvo in Sweden with job rotation and job enlargement demonstrate to my satisfaction that experiments of this kind promote satisfaction in work, reduce labour turnover and absenteeism, improve quality of output and diminish industrial friction.³⁴ There have been isolated efforts at improving the quality of work life in Australia. However, there is no momentum at present for this idea.³⁵

Mr. Street recently tabled the study by Dr. F.E. Emery and Mr. Chris Phillips, commissioned by his predecessors and titled *Living at Work*.³⁶

This little book contains some very interesting reflections on attitudes to work and life which anybody concerned with industrial relations in Australia should ponder on. The authors speak of the spread of the Scandinavian experiment as "no passing fad" -

"The results in terms of productivity are too striking to be ignored. More important is the effect of these changes on people. Remember that one of the real products of work is people. A lifetime of work can shape, bend or develop the way people live the other parts of their life. In the traditional bureaucratic forms of work people are typically condemned to using only a small fraction of their skills or abilities, under a childlike subjection to a direct supervisor and usually within the physical constraints of a work station desk or counter...The attitudes of 'I'm alright Jack', 'me first - ism', 'keep self to self' are natural concomitants of trying to live with this sort of system..."³⁷

Now, I am sure that we should not get too "starry-eyed" about a subject with such a pompous title as "Quality of Life". Just the same, there are signs to be read. Only last week, Mr. Whitlam told the Building Workers' Industrial Union in Canberra that the union movement was undergoing a period of "fundamental change" -

"What is happening is that the lines separating what is and what is not legitimate union activity are blurring. Unions will still be concerned with the immediate industrial issues like wages, hours and conditions of work, but along with these traditional concerns other issues will be proper subjects for union consideration and action.

Unions are saying 'What's the use of wage rises and increased leisure time if you don't have the means of enjoying them, if the social system is inadequate, if the air isn't fit to breathe, if we don't know how usefully to fill our leisure hours?'"³⁸

Now, I realize that many face this news with sincere apprehension. Certainly it predicts an uncomfortable time ahead. The model for the activities of unions, which has endured for a hundred years is one that we have got used to. It has followed the classic historical pattern. The unthinkable has

become inevitable; the inevitable desirable. The "desirable" has become almost - but not quite, "compulsory".

This is not the occasion to reflect upon the problems that will be raised by the unions turning the focus of their attention away from wages and conditions. One obvious problem will be how we are to resolve disputes that arise, as inevitably they will, if the prognosis of Mr. Whitlam is borne out. The warrant of the Arbitration Commission and of State industrial tribunals is, generally speaking, confined to "industrial matters". Although the scope of what is "industrial" has clearly expanded greatly in recent years, there are, ultimately, limits.³⁹

Talking of the challenge to the rule of law in modern industrial societies, Sir Leslie Scarman, first Chairman of the Law Commission and a Lord Justice of Appeal in England, recently said this -

"The real contribution of the legal process is to ensure that disputes will be handled in a low-key way, that their resolution will be a routine business, that controversy will be kept within limits and handled without passion".⁴⁰

This statement could almost pass as the modern rationale for conciliation and arbitration in Australia. But now arbitration tribunals are faced with disputes that involve the standards of community morality, as did the topless waitress case in Adelaide.⁴¹ Likewise, efforts are made to ventilate environmental issues inherent in the so-called "green bans". Such a case recently came before Mr. Commissioner Brown and the Arbitration Commission provided the venue for the parties to ventilate and ultimately settle some of their differences.⁴² Now, Victoria has a very serious issue before it concerning the construction of the Newport power station. Opposition has been expressed to the project by people concerned for damage to the environment and waste of a natural resource. Some of this concern has been evidenced in union activity. Clearly this is a symptom of the growing interest of unions in matters far beyond their traditional charter. I make no comment on the merits of the arguments. The Premier of Victoria has said that many of those who have expressed opposition are "genuinely concerned".⁴³

For those involved in industrial relations, the lessons are there. First, there is not unanimity of union opinion. The latest journal of the Association of Professional Engineers makes it clear that their members "strongly object to unjustified criticism of the professional engineering aspects of the Newport project by persons without either qualifications or experience". The Victorian Branch of the Professional Engineers asserts that adequate consideration was given by the engineers to "all the important issues"⁴⁴

I refer to this not to highlight disagreements between unions. These will often occur. But unlike other disagreements, these do not lend themselves quite so readily to resolution within the existing system.

Secondly, the growing concern with the environment, including union concern, must take account of the consequences for wages and conditions. It is a truism that if we change our "ecological model of the world"⁴⁵ expectations for improvements in wages and conditions may have to be revised. It may be undesirable to continue the pursuit of "unlimited growth". Many ecologists and biologists suggest that it is selfish in the extreme and even dangerous. The point has to be made by somebody that the price of cleaner air, more forests, historical buildings preserved/^{minerals left in the ground} and the environment protected may include diminished expectations in economic growth. It may very well be a choice that our community is mature enough to make. Perhaps it is a choice we *ought* to make. The obligation to choose, at least to some extent, must be faced up to; and so must the possible consequences

CONCLUSIONS

This observation brings me back to Sir Leslie Scarman's comments. We are now fairly used in Australia to resolving very important social and economic disputes through the system of conciliation and arbitration. It is a matter for amazement and wonderment that, given the complications and constitutional restrictions, so much has been achieved.⁴⁶ There are always prophets of doom about. I refuse to be one of them. Just the same, there are very important issues for industrial relations that ought to exercise our minds. The present machinery and institutional framework were certainl

not designed to cope with these new problems. How will we encourage and promote consultation and the participation of workers in the decisions that affect their lives? How will we promote industrial democracy in fact? How can we resolve the differences that will arise out of the new role which unions will seek to play as we advance towards the end of this century? How will disputes affecting work environment, quality of life, preservation of buildings and so on be resolved? Are we to return to the rule of power alone or can these issues, like wages and conditions, be resolved in generally peaceful and rational ways? A conference such as this should not be content with the exchange of information, good fellowship and a few ideas. We should seek to grasp the really major dilemmas and respond to the big themes.

FOOTNOTES

- * Text of a speech delivered at Shepparton, Victoria, 29 October, 1976.
- ** B.A., LL.M., B.Ec.(Syd). Chairman of the Law Reform Commission of Australia, Deputy President of the Australian Conciliation and Arbitration Commission.
- 1. "Rules for the Clerical Staff" appear on the cover of *Make Life Work*, Extracts from a Speech by the Hon.D.A.Dunstan, Given at the Opening of a Seminar on Job Enrichment Arranged by the Department of Labour and Industry (South Australia), 1973.
- 2. *Federated Liquor and Allied Industries Employees Union of Australia, South Australian Branch v. The Princes (Berkeley) Motel-Hotel*, unreported 3 August 1976, Industrial Commission of South Australia, p.1.
- 3. *Loc. cit.*
- 4. *Ibid* p.11.
- 5. *Ibid* p.16.
- 6. McBride and Smith, Rule III.
- 7. The Leader of the Opposition, the Hon. E.G. Whitlam, Q.C.,M.P., has suggested a constitutional referendum on prices and incomes. E.G. Whitlam "Australia in the World Economy", speech to the Financial Times Economic Seminar, Sydney 14 October 1976, (1976) 1 *Commonwealth Record* 975 at p.981.

8. P. Bentley, *Industrial Relations*, Ceda, M Series No. 40, 1975, p.52.
9. C.R. Cameron, *Human Satisfaction - Current Social Standards and Their Effect on Work Production and Productivity*, an address at the A.I.M. Conference on Emerging Concepts of Human Relations, Adelaide, 25 June 1974, A.G.P.S. pp.6-7.
10. J.R. Niland, summary notes prepared for an address to the Second Annual Conference of the Industrial Relations Society of Tasmania, Launceston, 15 August 1976, *mimeo*.
11. *Ibid* pp.10-11.
12. *Ibid* p.3, quoting *Industrial Democracy in Europe: The Challenge and Management Responses*, Business International, Geneva, 1974.
13. *Loc cit*.
14. Cf. D.P. Brandt: "Industrial Democracy: What's On in Europe", *Personnel Management*, August 1975, 22.
15. *Loc cit*.
16. Cf. *The Economist*, 22 May 1976 p.100. Mr. Edmund Dell, Secretary of Trade, is reported to have said that the decision in principle to have worker participation is taken and the issue, now before the Bullock committee, is how.
17. *Royal Commission on Trade Unions and Employers' Associations*, 1968 (The Donovan Report), Cmnd. 3623, H.M.S.O., London p.258.
18. *Ibid* p. 259.
19. Cf. The Hon. Mr. Justice J.F. Dey *Is Industrial Law Adequate For The Future?*, speech to the Seminar "The Future of Industrial Law", Employers' Federation of N.S.W., Sydney, 17 September 1976, *mimeo*, p.4.
20. *The Cinematograph Exhibitors Association v. Australian Theatrical and Amusement Employees Association*, 28 September 1973, print C800, p.2.
21. *The Queen v. Commonwealth Conciliation and Arbitration Commission; Ex Parte The Melbourne and Metropolitan Tramways Board* (1966) 115 C.L.R. 443 at p.451.
22. Statement at the 1976 Summer School of the Australian Institute of Political Science, reported in *Victorian Employers' Federation Report*, 30 January 1976, p.2.
23. *The Bulletin*, 12 June 1976, p.25.
24. *The Sydney Morning Herald*, 18 June 1976.
25. *Worker Participation in Management*, Reports of the Committee on Worker Participation in Management, April 1973, Government Printer, Adelaide.
26. An epitome of Australian moves towards worker participation is found in R.L. Pritchard (ed), *Industrial Democracy in Australia*, C.C.H., 1976, pp.179ff.
27. *Ibid* p.187.
28. *Ibid* pp.188-190.
29. *Ibid* p.197.
30. J.M. Fraser, M.P., speech to the Yarra North Branch of the Liberal Party, 9 August 1973 (unreported).

31. Cited in Pritchard, pp.205-6.
32. As reported in *The Australian Financial Review*, 26 October 1976, p.4. The report is of a speech given by the Minister to the Third National Productivity Conference, Melbourne, 25 October 1976.
33. J. O'Toole et al, *Work in America*, M.I.T. Press, 1973 quoted in Bentley, p.73.
34. Bentley pp.74-6.
35. One scheme is described in *The Australian Financial Review*, 22 September 1976, p.2, "The Industrial Success of the Common Interest Approach".
36. A.G.P.S., Canberra 1976.
37. *Ibid* p.76.
38. Reported in *The Age*, 20 October 1976, p.12.
39. Cf. *Re Portus; Ex Parte A.N.Z. Banking Group Ltd.* (1972) 46 A.L.J.R. 623 criticized (1973) 47 A.L.J.42. The case related to the deduction of union dues.
40. Sir Leslie Scarman, *Fourth Goodman Lecture*, 18 May 1976, mimeo, p.20.
41. See n.2.
42. *Dillingham Constructions Pty. Limited v. The Federated Furnishing Trade Society of Australasia*, unreported, No.C3051 of 1976.
43. Reported in *The Age*, 21 October 1976, p.12.
44. (1976) 30 *Professional Engineer*, p.4.
45. Professor Charles Birch Guest of Honour Australian Broadcasting Commission Sunday 6 June, 1976, *Toward a Just and Sustainable Global Society*. Cf. the seminal paper presented by Ian Castles to the 45th A.N.Z.A.A.S., Congress Perth, 1973 *New Directions for Growth*, mimeo, p.20.
46. Cf. n.19.