Managed Decentralism in Australia's Industrial Relations

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Description
This paper was originally entitled Industrial Relations in 1989: Is 'a New Province of Law and Order’ achievable? being the 11th Sir Richard Kirby Lecture which was delivered by Mr A C Evans, A M., Chief Executive MTIA at the University of Wollongong, 16 October 1989.

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THE REVISED TITLE BORROWS A TERM USED IN A RECENT ARTICLE
BY TRISH McDONALD AND MALCOLM RIMMER, PUBLISHED BY CEDA
What this paper argues - author's comments

The following is the text of the Sir Richard Kirby Lecture which I gave at the University of Wollongong on 16 October 1989, entitled "Industrial Relations in 1989: is a new province of law and order achievable?"

In it I have argued that a new province of law and order is not only achievable, but is indeed taking shape under a system of conciliation and arbitration, as opposed to an enterprise based system of collective bargaining.

Since writing the paper I have read the article by McDonald and Rimmer, "Award Restructuring and Wages Policy" (GROWTH 37: "Wage Determination in Australia". Published by CEDA September 1989). In their article the authors use the term, "managed decentralism", to describe the shift which has taken place in wages policy since 1986.

The authors attribute two broad objectives to managed decentralism: "macro-economic wage restraint and improved micro economic efficiency (mainly higher labour productivity)".

If I had read the McDonald and Rimmer article before delivering the Kirby Lecture I would have sought the authors' permission to use the term "managed decentralism" in my title, because the term captures perfectly MTIA's strategy for reforming the labour market in the metal and engineering industry.

In fact, my paper specifically addresses the two objectives of "managed decentralism".

On the first objective - micro-economic reform - I have argued that:

"... in the past three years in particular, the (conciliation and arbitration) system has demonstrated a remarkable adaptability in meeting the nation's need for wholesale labour market reform through a program of award restructuring."
As far as MTIA is concerned, our whole strategy for achieving an internationally competitive industry rests upon acceptance, at the enterprise level, of the concept of mutuality of interests between management and employees in place of conflict. Fostering this mutuality of interests has been MTIA’s key objective since 1986.

MTIA’s approach and that adopted by the Industrial Relations Commission in its Structural Efficiency Principle have been to commence the process of reform at the industry level by removing the institutionalised roadblocks represented by an outmoded award structure and inadequate training systems, and to put into place a new framework which will encourage and facilitate change at the enterprise level. As employers are now beginning to understand, faced with the task of having to introduce a completely new job classification structure, the major responsibility for implementing the reform program will fall on them. MTIA sees that its role, in co-operation with the trade unions, is to create the environment in which enterprises can reasonably expect to achieve the changes they need”.

Since I delivered the Lecture in mid-October 1989, MTIA has put to the metal trades unions a proposal – entirely consistent with the idea of “managed decentralism” – to incorporate a provision in the Metal Industry Award to enable employers and employees to negotiate “Enterprise Flexibility Agreements”, the terms of which shall be in substitution for the provisions of the Award. The unions are yet to respond to the proposal but early signs are encouraging for further progress in this micro-economic reform.

The second objective of managed decentralism is, as I have pointed out, macro-economic wage restraint.

My paper draws attention to the fact that “... labour costs have been contained to a remarkable degree in the face of strong demand for labour which saw 380,000 jobs created in the last year”. The point is made that there has been a substantial redistribution of national income from wages to profits, helping to fund a sustained surge in business investment.

It is crucial that wage restraint be maintained. As I argue in the paper:

“We have had to find a wages system which offers a balanced approach to the competing needs of considering the macro-wages outcome and the need to maintain the momentum of labour market reform over the next two to three critical years.

I believe we need to retain a centralised approach to set a ceiling on wage increases, but to provide the opportunity to industries or enterprises to negotiate wage increases to the maximum amount available with the objective of improving the productivity and efficiency of the enterprise. I think the emphasis, however, should be on the enterprise. More likely there could be room for a combination of both.”

Deregulation of the labour market is perhaps the most prominent issue on the economic agenda at present and there is unquestionably a need for business to understand the implications of the various options being proposed. This is not an easy task, given the range of views being put forward on a daily basis by economic commentaters, editorial writers, politicians, employer spokesmen, trade union leaders, and others. The paper is offered as a contribution to the public debate.

Given the subject matter and the distinguished Australian whom this lecture honours, it is fitting that I should commence with a statement by Sir Richard Kirby written 25 years ago in his capacity as President of the Commonwealth Conciliation and Arbitration Commission:

"Australians have long prided themselves on the value of the arbitration system with the disciplines it imposes, particularly that imposed by the requirement that the parties put their cases to the test of open argument in public hearing. This has been a striking contrast which our system presents, to the method of collective bargaining practised overseas. It would be a sorry concept of 'a new province of law and order' if now the handling of problems . . . were to lead to the chaos of the jungle. The issue goes beyond the interest of one side or other seeking to get the most out of a situation for individual advantage - it goes right to the heart of the nation's interest".

The basis of the Australian system

As every student of industrial relations knows, it was a predecessor of Sir Richard, His Honour Mr Justice Higgins who coined that familiar phrase, "a new province of law and order" to describe the industrial relations system of conciliation and arbitration then being inaugurated. Justice Higgins summed up the objective of the new system in these words:

"The process of conciliation, with arbitration in the background, is substituted for the rude and barbarous process of strike and lock-out. Reason is to displace force; the might of the State is to enforce peace between industrial combatants, as well as between other combatants; and all in the interests of the public".

The system in operation

If we are to imply from Justice Higgins, remarks that strikes were to be eliminated, then it has to be said that the new province of law and order has been seldom, if ever, achieved. The fact is that Australia has had strikes by unions to a greater or a lesser extent, in practically every year since that much quoted phrase was first used.

This is despite numerous legislative changes to the Conciliation and Arbitration Act (now the Industrial Relations Act) designed to make the system more effective.

What the record has shown is that you cannot legislate to prevent entirely all the emotional, social and economic factors which lie behind industrial disputation, from erupting.
But they are much less likely to erupt if the nation’s industrial culture has been developed to full, positive maturity.

No one appreciated this more than His Honour Sir Richard Kirby who said in his annual report of 1971:

“I feel it my duty to report my strong opinion, based on my experience as a Judge of the old Court and as President of this Commission for its first 15 years, that in the long term a reduction in strikes can only be brought about by an improvement in industrial relationships, and that this is far more likely to arise from changed attitudes of the organised employers on the one hand and the organised trade union movement on the other hand than from mere changes in Acts of parliament . . .”.

The two statements by Sir Richard Kirby that I have quoted form the basis of my lecture. What I shall argue is that a new province of law and order is achievable, indeed has been achieved under a system of conciliation and arbitration as opposed to a system of collective bargaining, and that the single most important factor in bringing this about in Australia’s largest manufacturing sector – the metal and engineering industry – has been the “changed attitudes of organised employers and the organised trade union movement”.

**The confrontation years**

We do well, when we wish to assess the present and the future, to look at the past. Certainly in the metal and engineering industry, industrial behaviour during the Sixties and early Seventies fully warranted the concern which His Honour expressed.

In 1963, for example, MTIA or MTEA as it then was, handled the greatest number of strikes and disputes (209) in its 90-year history, clear evidence that the “rude and barbarous process” of strikes had not been displaced. There were:

- strikes to force re-employment of retrenched employees;
- strikes for wage increases;
- strikes to force weekly hiring of casuals; besides a host of demarcation disputes, overtime bans and other industrial problems.

The pattern from year to year was broadly the same, with unions achieving wage increases by arbitration before the Commission and then using direct action in individual factories to force overaward payments which inevitably flowed across the whole industry.

These strikes entailed the loss of 30 or 40 thousand man-days for the metal industry in any one year in New South Wales alone. They persisted despite a bans clause in the award and access by employers to penal sanctions.

A noticeable feature, as one goes back to records of the mid-Sixties, was the number of strikes which occurred either immediately before or during National Wage Cases. These strikes were not as a result of specific grievances, but were part of concerted union campaigns in an attempt to pressurise the Commission into meeting the unions’ demands. The campaigns continued, even though the Commission repeatedly stated it was not swayed by them. The campaigns were clear manifestations that many trade unions were not prepared to accept the proper processes of obtaining wage increases.
And while they may not have influenced the Commission's decisions, they did have the effect of gaining publicity for the unions among their constituents and building up an expectation for increases to be gained either within the system or outside it.

**Confrontation becomes entrenched**

During this period, MTIA was constantly reiterating the need for arbitration authorities to put beyond question any suggestion that claims backed by strikes could be sanctioned within the system. One MTIA annual report (1967) pointed out that

"... too often encouragement is given to such a dual system and too infrequently is it made clear that the Conciliation and Arbitration Act has as a chief object the avoidance of disputes and strikes".

In 1967-68, in the NSW metal industry, there were 324 strikes following the Work Value decision as well as another 247 other strikes which could be described as the normal yearly quota.

The way in which the "score" of strikes was highlighted each year in MTIA reports is itself a revealing commentary on how the strike mentality and the determination to combat it had become entrenched in the industrial culture of those times:

"During the year (1969) MTEA handled a total of 368 strikes and disputes in New South Wales on behalf of its members . . . this is the greatest number handled by the Association in any one year (excluding the 1967-68 Work Value strikes)".

Thus, year after year a culture of adversarial hostility developed, a far cry indeed from the "new province of law and order" espoused so eloquently by Higgins J so many years before.

The more buoyant the economy, with high employment, full order books and shortages of skilled workers, the more the unions bypassed the system to achieve their aims by attacking employers on a factory by factory basis. Thus the industrial stability in the metal industry which we are experiencing in 1989 flies in the face of history, and I shall have more to say about that later.

**Glimmerings of reason**

In the long journey towards a new province of law and order, there have been attempts to find a smoother road. For example, in 1971 MTIA made a conscious decision to open a dialogue with the metal trades unions and explore the possibility of avoiding the disruption which had become endemic in the industry.

Metal industry employers were anxious to deal with the claims on an orderly basis at a national level through the processes of conciliation and arbitration rather than accompanied by strike action. Our other objectives at that time were:

- to ensure that any increases in the general level of wages in the industry resulted from award changes rather than by individual employers being obliged to make concessions under duress and thereby widening the gap between award wages and actual wages;
- to take all possible steps to ensure that the industrial chaos which occurred in the metal industry
following the Work Value Case in 1967 did not occur again;

- to strengthen the role of the Conciliation and Arbitration system in industrial relations and thereby discount claims that it is ineffective and should be replaced by a system of collective bargaining;
- to establish sound personal relationships with union officials so that employer and union representatives could work together to improve industrial relations in the industry.

The result was that claims made by the metal trades unions in 1971 were settled peaceably before Mr Commissioner Hood through a “collective conciliation” process instead of being fought out in the factories. Parts of the final outcome which related to changes in conditions of employment were substantially agreed upon by the parties; other matters relating to wages were arbitrated expeditiously.

But because many people had forgotten that the Act which governed industrial relations gave the parties access to conciliation as well as to arbitration, there was a public controversy over the outcome. We were accused of undermining the system by entering into collective bargaining arrangements. This was, of course, far from the truth.

What both parties were coming to realise, after many years of confrontation, was that fighting industrial issues by direct action did not provide for orderly relationships between management and employees. Confrontation resulted in lost production, lost wages, inflationary wage settlements made beyond economic capacity and poor workshop relationships.

On the other hand, best results were not achieved if every industrial issue was immediately referred to formal arbitration by a third party. Some decisions flowing from this procedure had proved to be calamitous for industrial relations in the metal trades industry – the 1967 Metal Trades Work Value decision was an example.

The development of conciliation

MTIA decided to tread a new path between these two extremes, the overall objective being to ensure that the claims made for improved wages and conditions in the industry were dealt with orderly and uniformly throughout the industry, but still within the framework of the conciliation and arbitration system.

The emphasis had swung to a fundamental part of the Commonwealth Conciliation and Arbitration Act which read:

"... the chief objects of this Act are (a) to promote goodwill in industry, (b) to encourage conciliation with a view to amicable agreement, thereby preventing and settling industrial disputes...."

Previously the metal industry had become universally acknowledged as the industry where great industrial issues were fought out by direct action.

Industrial relations suffered severely from the “hard line” approach of both sides, who knew that one small gain would soon be reflected throughout the entire Australian workforce. In other words, the conciliation processes of the Act were not being availed of in the metal industry, although conciliation had long been a common practice in several other important industries over many years.

Following the success of the Hood conciliation, claims made by the metal trades unions in May 1972 were therefore dealt with rather differently from the
past, and from the beginning all avenues available under the Act were fully explored.

The unions' claims, which previously would have become a national strike issue, were discussed within the official conciliation and arbitration system. Instead of issues being fought factory by factory with shop stewards versus management, professional officers of MTIA and the unions hammered out the fundamental claims, aided by orderly procedures under the jurisdiction of a Deputy President of the Commission, Mr Justice Williams.

During these procedures the unions used their best endeavours to ensure that work continued, thus avoiding wide scale stoppages which usually occurred when union claims were at issue.

The achievement of stability in wage levels and employment conditions for a defined period had been an important consideration during the proceedings. Twelve months' stability was achieved after the Hood award and continued after the 1972 decision.

**Common goals defined**

An encouraging development at that time – unprecedented, in fact – was the defining by MTIA and the unions of common goals, namely:

"that in the interest of preserving and developing the Australian metal trades industry the parties should use their best endeavours to ensure that adequate recognition is given to the fact that the industry is Australia's largest manufacturing industry, that it provides employment of many thousands of Australian men and women; and, that for their part the Unions and employers will continue to co-operate in ensuring that the industry remains efficient and a vital part of the national economy".

While stability reigned in the metal industry at this time, other industries experienced the full impact of confrontation by other unions: power supplies were cut in NSW, airports had to close, mail was tied up, trains were stopped, and building projects had to be abandoned.

Meanwhile, in the metal industry, company executives were sitting down with union officials and shop stewards from across the industry at various seminars to hear other points of view, and to make their own contributions from the floor.

As I have said, these developments were encouraging but were not sufficient to overcome the pressures brought about by a buoyant economy and high inflation. In the boom period of 1974 the metal trades unions were actively pursuing three alternative methods of gaining increases, namely the industry review, national wage claims and overaward claims on individual employers. Thus, a three tiered wage system was in operation. Seven days of national stoppages occurred during industry negotiations in that year.

When in 1975 the Commission in its National Wage decision introduced wage indexation, MTIA saw the decision as a highly significant and constructive attempt to halt the inflationary spiral by allowing wage increases only within the ambit of the conditions laid down. MTIA members saw wage indexation as holding out some hope – a forlorn hope, as it eventually turned out – of achieving stability and predictability in relation to their escalating wage costs, and certainly preferable to the industrial turmoil which had become the norm. When wage indexation was abandoned by the Commission because of lack of support from the parties, history repeated itself with a return to factory
by factory chaos, culminating in the damaging 35-hour week campaign in 1980-81.

Summing up the events of this whole period, it must be said that despite sporadic headway made during the Seventies, we still had a long way to go before we could build upon the mutuality of interests which exists between management and the workforce.

**Towards a productive industrial culture**

In this regard, I should explain more fully what we were trying to achieve in our endeavours to open up a dialogue with the unions.

We are indebted to another farsighted Australian, Senator John Button, for a definition of the kind of "industrial culture" earlier foreshadowed by Sir Richard Kirby.

Senator Button described industrial culture as "the unofficial, unwritten background against which decisions are made, and which, to a large extent, determines the decisions you can effectively make". The important words are "decisions you can effectively make".

If the industrial culture is not conducive to a decision which has been made, whether it is one made by government, an industrial tribunal or a company, then the chance of it achieving community acceptance and of putting it into effect will not be very good.

A positive industrial culture is one in which employees and unions are at least reasonably satisfied with their working conditions, employers are able to operate profitably, and both are aware of the mutuality of interests which binds them.

A negative industrial culture is one marked by a dissatisfied and belligerent workforce and by employers who are more interested in exploiting workers for short term gain rather than in a longer term, mutually rewarding relationship.

It seems to me that an industrial culture consists of two main elements. One is concerned with attitudes:

- the way people think about work, its satisfactions, and its rewards;
- how they view the employer-employee relationship - whether with hostility, with affability, or somewhere in between;
- what they perceive the role of business to be - as exploiters or as partners in community wealth creation;
- how they see the role of trade unions - as bully boys or responsible representatives of workers with a legitimate role;
- how they see Australia fitting into the rest of the world - appreciating that world developments intimately affect our national economy, or alternatively, adopting an isolationist, head-in-the-sand attitude.

These factors are involved in the first element of industrial culture - that which deals with attitudes.

**Alternative industrial structures**

The second element is not attitudinal, but structural. It is the organisational and procedural framework within which attitudes have been allowed to develop, and which provides the mechanism for dealing with issues that have to be resolved.

At one extreme, this framework may be a deregulated collective bargaining system:
in which the parties pit their strengths against each other - we have witnessed this in the domestic pilots' dispute;

- a bargaining system in which the market is the final arbiter;

- with no account being taken of the public interest.

This is one of the possible outcomes so clearly described by Sir Richard Kirby 25 years ago, which I quoted at the beginning of my paper.

At the other end of the scale of possibilities is a rigid, compulsory arbitration system:

- with no responsibility on the parties to work out solutions;

- one in which industrial issues are decided arbitrarily by a third party.

We know now that the ideal system must be somewhere between one of complete deregulation and rigid control. But in our search for a new province of law and order, should it lie more within the framework of a collective bargaining system or a system of compulsory conciliation and arbitration? I will deal with that question now.

Collective bargaining and compulsory conciliation and arbitration - the fundamental difference

There are those who argue that the system of conciliation and arbitration is not serving Australia well and that its abandonment should be a national priority. Then there are those who, while they believe conciliation and arbitration has outlived its usefulness, take a more pragmatic view and favour a gradual dismantling of the system in favour of a collective bargaining system which focuses on the enterprise. In other words, the responsibility for setting wage levels, conditions of employment and managing labour relations would devolve entirely to the enterprise.

An enterprise based system of collective bargaining is fundamentally different from a compulsory conciliation and arbitration system as we know it, and it is important to state this fundamental difference at the outset. The Australian conciliation and arbitration system is based on the public interest being paramount as, you will recall, Sir Richard Kirby reminded us from time to time; but in collective bargaining systems, where no agreement or contract is in operation between the parties, there exists the legal and moral right to strike or lock-out, without any consideration of the public interest.

This means that when a government and a society accepts collective bargaining, they also accept that serious and very long strikes and lock-outs, highly disruptive at times to the economy of the country, may occur without access to any outside body to terminate the strike or lock-out. Shortly stated, collective bargaining is a free and voluntary process by which employers and employees in many countries negotiate between themselves to establish terms and conditions of employment suitable to that enterprise or industry without any regard to the effects it may have on the national economy, and hence on the public interest.

The advantage in such a system is that both parties, realising this, are required to face up to the issues squarely and accept the responsibility for achieving the objective which serves their own interests.

Conciliation, on the other hand, is a process by which employers and employees in Australia negotiate between themselves in an endeavour to establish terms and conditions of employment which will be ratified by
tribunals unless opposed to the public interest.

The founders of the Australian system provided for independent tribunals to determine what is right and fair between the parties, a procedure supported by laws to prevent the occurrence of long strikes (or lock-outs) in breach of an award – a procedure backed up at that time by effective laws; it is a matter of regret that effective sanctions no longer exist within the industrial relations system. It is imperative that this be redressed.

In the event that no agreement is reached, both parties are required by law to submit to compulsory arbitration and to observe the decision which is based on the public interest being paramount, the Commission being required by law to have regard to the economic consequences of its decision.

**Collective bargaining in operation**

Now, it has to be said as a matter of historical fact that during the period of the Sixties, Seventies and early Eighties, in the absence of effective sanctions and lack of commitment by the parties, the operation of the conciliation and arbitration system left much to be desired.

On the other hand, we have to ask ourselves whether under a system of collective bargaining this earlier turbulent period would have been any different.

Frankly, I think not, because the irony is that the period 1968-1982, except for the operation of centralized wage fixing, reflected more of a collective bargaining system than a system of compulsory conciliation and arbitration.

As I have already argued, one of the central tenets of a system of collective bargaining is acceptance of the legal and moral right to strike. This has been recognised in the Niland Green Paper, "Transforming Industrial Relations in New South Wales", which recommends that the industrial relations system be radically changed by encouraging enterprise based collective bargaining, with strike action being legitimate during the bargaining process.

In the Sixties, Seventies and early Eighties, while strike action was not "legitimate", unions nevertheless struck with impunity. In damaging factory by factory disputation, wages and conditions settlement of a diverse nature were demanded of employers. Different settlements at various enterprises created anomalies and inequities in the minds of employees. Employees in a particular factory would become discontented when they learned of more favourable wages and conditions of employment being granted in other workplaces nearby. This discontent, exploited by the unions, caused further disputation.

A classic example of collective bargaining, causing dissatisfaction, further disputation and a costly outcome for Australia occurred in 1970 in the oil industry and the ACI Engineering Company. During the bargaining process the oil companies offered four weeks annual leave. In the same time-frame during bargaining over a new agreement, the ACI Engineering Company conceded a 17 1/2% loading on three weeks annual leave.

Employers across the country were individually and collectively pursued by the unions to grant to employees both of these highly costly conditions of employment.

As you are no doubt aware, the four weeks annual leave and the 17 1/2% annual leave loading ultimately flowed on to all employees in Australia.
It has to be said that these concessions occurred as a result of consent agreements and not as a result of arbitrated decisions of industrial tribunals. Indeed, when the metal industry as a whole was presented with these demands, we found ourselves surrounded by concessions in other industries, so that there was no other course reasonably and sensibly open to us but to agree to vary the award by consent.

Before this occurred MTIA members had, through a series of secret ballots, expressed the view that they were not prepared to shut down their factories on claims which had been widely conceded and which had virtually become national standards.

Support for introducing collective bargaining at the enterprise level

The lessons of the past are not always applied to determine the future.

As I have already indicated, there is a body of opinion that the current system of regulating industrial relations in Australia should be replaced by a deregulated enterprise based system of bargaining directly between employers and employees. This opinion has increasingly manifested itself in the form of policy statements, Green Papers and, indeed, legislative form in Queensland.

The impetus given to the debate over what type of industrial relations system would best serve Australia's future needs is probably a by-product of the wider economic debate. Undoubtedly though, it has been thrown into sharper focus by the operation of the centralised wage fixing system which is an integral feature of the formal system of conciliation and arbitration – indeed, in the context of the current debate, synonymous with it.

It is both necessary and useful to consider some of the policies supporting a deregulated approach.

The Liberal Party's industrial relations policy focuses squarely on the enterprise and productivity related wage rises.

In Queensland, the Industrial Conciliation and Arbitration Act provides for Voluntary Employment Agreements (VEA). The basic thrust of VEAs is to encourage enterprise-based agreements which, subject to meeting certain minimum standards, enables an employer and employees to negotiate wages and working conditions outside the formal system of conciliation and arbitration. I understand, though, that the incidence of VEAs is not high.

In New South Wales the State Government has in general terms embraced the recommendations of the Niland Green Paper I referred to earlier. It is expected that many of the Niland recommendations will pass into law later this year, including those initiatives aimed at encouraging a shift in the focus of industrial relations activity to the enterprise. For example, the Green paper recommends that:

1. Procedures be established for the formation and recognition of enterprise focused bargaining units and for the development of enterprise focused awards and agreements;

2. The option of establishing an enterprise-wide trade union where more than 200 employees vote for such a proposal;

3. The rationalisation of existing trade union structures which facilitate the formation of enterprise focused and/or industry based unions.
As mentioned earlier, the Green Paper also recommends the introduction of the concept of distinguishing between interest disputes and rights disputes. The former relate to the making of terms of employment, the latter relate to the interpretation of the rights of the parties to an agreement. This entails accepting the legitimacy of the right to strike in respect of interest disputes (that is, where there is no agreement between the parties or the agreement has expired) but casting strikes in respect of rights as unlawful and therefore open to action by affected parties (that is, where one side or the other breaches the terms of the agreement).*

The Green Paper makes this clear when it says (p66):

"As discussed elsewhere (Sections 2.8 and 2.9), strikes (and bans) as a general rule should be accepted as legitimate and lawful in the first phase, but they would not be legitimate in the second phase".

Indeed, as we have seen, this is a fundamental aspect of a free collective bargaining system, namely the legal and moral right to strike and lockout where no contract is in existence between the parties.

I simply pose the question: how many employers will want to embrace enterprise bargaining on this basis?

In the federal arena of labour relations, the Industrial Relations Act, 1988 which commenced to operate in March this year makes provision for the certification of agreements under Section 115.

This section of the Act sanctions decentralised bargaining to the extent that:

1. An agreement must be in the public interest but it will not necessarily be contrary to the public interest merely because it is inconsistent with National Wage Case wage fixing principles;
2. An agreement automatically lapses when its term of operation expires;
3. An agreement will not be able to be varied during its life except in special and compelling circumstances;
4. In the event of industrial action a party may be permitted to treat the agreement as terminated.

However, it is important to note that in its May 1989 decision, a Full Bench in the National Wage Case ruled that before certifying an agreement pursuant to S.115 the Commission must be satisfied that the agreement is not a device to circumvent the general wage fixation principles and thus threaten the orderly operation of the industrial relations system. S.115 and the Australian Industrial Relations Commission's approach to it signals a far more cautious approach to enterprise bargaining than in the case with VEAs or the New South Wales Green Paper.

**Viability of a deregulated system of enterprise by enterprise collective bargaining**

Having canvassed the heightened interest in a deregulated system of enterprise bargaining, I have to consider whether in contemporary Australia, it is a viable alternative.

There are several key factors which mitigate against appropriate outcomes through a factory by factory collective bargaining system. The first of these is the concept of comparative wage justice, a deeply

*The NSW Govt. has since announced it does not intend to embrace this aspect.*
An entrenched belief held by the Australian workforce which guarantees that new standards of wages and/or conditions conceded in one enterprise or one industry flow to employees in other industries.

Even though we may fervently wish that this entrenched view would disappear, we are dealing with industrial reality – the concept of comparative wage justice is the most fundamental reality of industrial life and it will not disappear. Under a system of enterprise by enterprise bargaining, increases in wages and salaries granted in one enterprise or sector quickly flow through to other sectors of the economy. This can be particularly damaging when sectors of the economy not subject to international competitive pressure to hold prices down, easily concede to excessive union demands.

A second factor linked to the first is the comparatively small industrial/services base in Australia, a large proportion of it being concentrated along the eastern seaboard. This factor, combined with the strongly held “comparative wage justice” principle, creates a very fast transfer of improved wages and conditions of employment in one enterprise or industry to all sectors of the economy. In countries like USA where collective bargaining operates, the huge industrial/services sector spread throughout the country make this flow on of improvements far more difficult.

The third key factor is the structure and power of the trade union movement in Australia, particularly among blue collar workers. We have witnessed in the metal and engineering and other industries on many, many occasions the devastation which a national union or unions can cause when they decide to press demands on one company.

An individual enterprise in the bargaining process as envisaged by Professor Niland, in the face of strong national unions, is in a very weak bargaining position in view of the fact that unions would know they were legally and morally entitled to go on strike at the time of the bargaining process. Such an enterprise, in our experience, will sooner or later accede to the demands of the unions. If it does otherwise, the individual enterprise will lose market share and eventually go out of business. A simple illustration is the case where two or three market leaders dominate. One is attacked with strike action, and the other one or two take the market share, which is afterwards not recovered.

In a system based on collective bargaining at the enterprise level, with strike action legalised and no recourse to the law, the concessions forced on one individual enterprise will very quickly flow to other enterprises. As indicated earlier, enterprises operating in industries not faced with international competition and able to pass on concessions to their customers, will more quickly concede large wage increases to satisfy the demands of the trade union.

Another factor which cannot be dismissed is that a great number of companies have long term contracts, some as long as 20 years, where cost recovery occurs only if legally binding variations are made by the Industrial Relations Commission to the Metal Industry Award. In these cases, overaward payments or enterprise agreements would not qualify for recoupment and the companies concerned would face massive economic losses. I know of no other country in the world where such a rigid system of rise and fall clauses exists. Whether this is a good or bad thing is not the issue. It is the reality.
A deregulated system
and its implications for wage fixing

If the suggestion is that a system of enterprise based bargaining should be instituted as the exclusive system of wage fixing to take Australia into the next decade, then despite its inherent virtues I am not convinced that it is a viable, realistic proposition.

As the Australian Commission said in its August 1989 National Wage decision:

"Ultimately the test is not the pursuit of what is perfect in the abstract, but what is the best outcome which is workable and sustainable immediately and over the medium and longer term'.

Does a system based exclusively on enterprise bargaining meet this test, you may ask.

You may also ask how the macro economic outcomes can be controlled if there are no constraints on the settlements as a result of the free bargaining process. Indeed, it is inevitable that in many cases industrial pressure will be applied to maximise the settlements.

A number of other factors have to be considered.

The first is that wages policy is essentially set in the federal arena. The Labor Government, through its Prices and Incomes Accord with the ACTU, has a dominant influence over wages policy. There is no sign that the Government intends to even countenance a deregulated wages system which focuses on enterprise bargaining.

Secondly, it could be argued that the States could bypass federal dominance over wages policy by ignoring the established convention of adopting National Wage fixing principles and set their own independent wages policy. For example, in Queensland VEA's could be the vehicle. The difficulty with this proposition is that in Australia we have a federal system for regulating industrial relations. Trade union power and influence essentially resides in federal unions and their peak council, the ACTU. Therefore, any move towards an isolationist wages policy would prove difficult because an individual enterprise is in a very weak bargaining position when confronted by large unions whose power base is national and who would have learned a few strategic lessons from the SEQEB dispute.

Moreover, any attempt to increase the effectiveness of penalties and sanctions against the excesses of trade unions would prove less than useful if those unions were able to retreat into the federal jurisdiction by, for example, serving logs of claims on individual enterprises for the purpose of bringing them under federal awards.

The third factor: it could be argued that with a federal election in prospect, a change of government would bring with it a change in wages policy. And given the Coalition's policy on wages, the focus would be on enterprise bargaining. However, as I understand it, the Coalition's policy does not necessarily mean abandonment of the existing system of conciliation and arbitration, involving as it does registered organisations of employees and an independent body, namely, the Australian Industrial Relations Commission, that administers the laws relating to industrial relations.

While a Coalition Federal Government might follow the Queensland and New South Wales examples of setting up a system of enterprise based bargaining in competition with the established system of industrial regulation, with the objective that in time the former
will replace the latter as the preferred system, it would remain the case for some years that the existing system would continue to operate. Furthermore, I expect that the ACTU would still be entitled to make national wage claims and the Commission would still be entitled to hear and determine those claims in an independent manner.

In doing so, I would be surprised, given the obvious course which the Commission has set in terms of a centralised approach to wage fixing, that it would do an about face within the next two years and while progress was still being made under its Structural Efficiency Principle, by adopting a system of enterprise bargaining. The Commission has already heard very powerful arguments in support of an enterprise approach in the last two wage cases and has rejected them.

One thing is perfectly clear: those who own and/or manage companies in the metal and engineering industry have demonstrated time and time again that they are not prepared to risk factory by factory bargaining with national unions. Throughout the Eighties, MTIA members have voted almost unanimously, in secret ballots, for industry settlements when these options have been put to them. For example, in June 1988, having had an extensive briefing on the metal unions wage claims, members were asked to vote on one of five options. Rather than risk the prospect of a wages breakout, the meeting voted overwhelmingly in favour of an option which authorised MTIA to take all reasonable steps to resolve the claims on terms acceptable to the Commonwealth Government and the Arbitration Commission. In February 1989, a similar ballot was held with unanimous support for MTIA to resolve the claims on an industry basis thereby avoiding a damaging factory by factory overaward payment campaign. The options put to members in June 1988 and February 1989 are set out in the Appendices.

**Benefits from centralised system**

I now want to consider what has been achieved under a system of conciliation and arbitration of which centralised wage fixing is currently an integral feature.

Firstly, labour costs have been contained to a remarkable degree in the face of strong demand for labour which saw 380,000 jobs created in the last year. This point was made in the Australian Financial Review (Michael Stutchbury 13/9/89), and I quote:

"The bottom line is that Kelty and Keating have kept the lid on wage inflation during what has been Australia's biggest economic boom since at least the early 1970s. Under the Wages Accord, the ACTU has deliberately facilitated the biggest redistribution of national income from wages to profits for at least a generation.

"This fact seems to be conveniently forgotten by those who are now squawking for an abandonment of any centralised rein on aggregate labour costs. By correcting what in the 1970s was seen by these same people as the Australian economy's fundamental imbalance (the so-called real wage overhang), the Accord has underwritten the corporate profit boom which in turn is funding the current surge in business investment"."
Under the two-tier system in 1987-88 and the subsequent structural efficiency principle, the centralised system has accelerated the contribution that parties to awards could make to improve Australia's economic performance, by giving priority to labour market reform.

It also provided a stable industrial relations environment in relation to wage fixing. There would undeniably have been a wages breakout in December 1988 in the metal industry if the structural efficiency principle had not determined an agenda for discussions in August 1988 relating to award restructuring, this with the full support and participation by organisations such as MTIA.

At that time, in the face of severe labour shortages, MTIA advised its members not to increase overaward payments for fear that this would snowball and develop into a wages free-for-all with serious economic consequences.

The trade unions also showed remarkable restraint because they knew that if there were a wages explosion it would spell the end of any reform program through award restructuring.

The critics of centralised wage fixing argue that a decentralised approach governed essentially by market forces would have achieved a better wages outcome. But would it? Certainly not in the metal and engineering industry for the reason I have already explained and I dare say it would not have in building, transport, airlines, and some other key industry sectors. This is because you cannot ignore those other market forces which, in the absence of the constraints imposed by a centralised wage fixing system, would have operated to increase substantially the pressure on wages, namely, severe labour shortages, high interest rates and the cuts in real wages which have occurred over the past six years.

**Adaptability of the conciliation and arbitration system**

I believe MTIA's position in the debate over which system is to be preferred - collective bargaining or conciliation and arbitration - can be summed up as follows:

The Australian Constitution has provided us with a conciliation and arbitration system which has shown
remarkable flexibility and ability to adapt to changing social and economic imperatives, while at the same time affording at least some protection to those within its jurisdiction and, not least, to the public interest. In the turbulent years after World War II, parties to the system failed to take advantage of the system's potential; failed to broaden its scope, preferring to operate within the narrow parameters of arbitration. But in the past three years in particular, the system has demonstrated a remarkable adaptability in meeting the nation's need for wholesale labour market reform through a program of award restructuring.

As far as MTIA is concerned, our whole strategy for achieving an internationally competitive industry rests upon acceptance, at the enterprise level, of the concept of mutuality of interests between management and employees in place of conflict. Fostering this mutuality of interests has been MTIA's key objective since 1986.

MTIA's approach and that adopted by the Industrial Relations Commission in its Structural Efficiency Principle has been to commence the process of reform at the industry level by removing the institutionalised roadblocks represented by an outmoded award structure and inadequate training systems, and to put into place a new framework which will encourage and facilitate change at the enterprise level. As employers are now beginning to understand, faced with the task of having to introduce a completely new job classification structure, the major responsibility for implementing the reform program will fall to them. MTIA sees that its role, in cooperation with the trade unions, is to create the environment in which enterprises can reasonably expect to achieve the changes they need.

In our most recent industry negotiations with the metal unions, where the wage requirements were set by the Industrial Relations Commission, we have emphasised the importance of discussions at the plant level. In particular, MTIA is pressing the unions to agree to award variations which would allow management and its employees by agreement to change hours of work, meal breaks, annual leave breaks etc. In addition, we are seeking agreement on relaxation of demarcation lines, new training procedures and many other things, all of which must be implemented by discussion at the enterprise level. We are, therefore, clearly supportive of negotiations at the enterprise level designed to increase productivity. Indeed, we believe this to be essential. What we are opposed to is the introduction of a system that would encourage an industrial free-for-all which would have no regard for the public interest. Such an industrial free-for-all would crucify our companies and in the current environment result in a massive wages break-out.

It is MTIA's assessment that in the last three years, while many of the achievements are not yet highly visible, the basic building blocks of labour market reform are now being put into final position and we expect the benefits will begin to be realised in 1990/91. This extraordinary degree of change is occurring under the existing conciliation and arbitration system and within a timeframe which I do not consider would be achievable under a fragmented, uncoordinated system of collective bargaining.

We have witnessed the parameters of our system of conciliation and arbitration being pushed out to an unprecedented extent in recent years. But I do not believe we have yet reached the boundaries of our system's full potential – the system can no doubt be eased out further. But it is an evolutionary, not a
revolutionary process. Some impatient reformers would want us to scrap the system we have and begin again. That old cliche, throwing the baby out with the bathwater, seems to be the only apt description for this approach, because when you scrap our system in favour of a laissez-faire approach, you not only free up the labour market, you also unleash raw industrial power which can then be exercised quite legitimately in a free market. You are back to the "rude and barbarous process of strike and lock-out", and public interest safeguards become just a memory.

A change in attitudes

I have argued that conciliation and arbitration, through the mechanism of centralised wage fixing, has proved its remarkable adaptability. And I have touched upon the program of labour market reform currently underway. I now want to explain how this evolved in the metal and engineering industry and in doing so highlight the attitudinal change which has been a necessary prerequisite for achieving reform.

I mentioned earlier that MTIA members, in secret ballots, have voted for industry settlements rather than factory by factory settlements.

They also voted, indeed demanded, that MTIA change its traditional ways of automatically rejecting union claims and being seen to be adopting negative positions. There was a virtually unanimous view that MTIA had to adopt positive attitudes - to be seen to be setting the agenda.

In the adversarial system that exists in Australia for settling industries disputes, it is easy to take the traditional employer role and always refuse to concede that there might be a case for employees to receive a wage increase.

It does not require any great intelligence or courage to simply direct our advocate at Commission hearings to say no. Employers have done that many times in the past, and often with very good reason.

But that does not mean that employers must never, under any circumstances, say yes; it does not mean that we cannot recognise particular circumstances that prevail at any given time; that we cannot then look at that situation entirely on its merits.

An overwhelming majority of MTIA members have taken the view that the cost of a reasonable wage increase has to be set against the advantages which will accrue from restructuring the Metal Industry Award and establishing an up-to-date training and re-training system. They look beyond the present and see the impact of these changes on the productivity and international competitiveness of their industry, with all the benefits which will flow on from that across the Australian economy.

That change in attitude was an essential precondition for creating the kind of productive culture advocated in the Seventies by Sir Richard Kirby and revived by Senator Button in the Eighties.

In the Sixties, when employers and unions were fighting the absorption and the penal clauses issues, the relationship between MTIA and the unions was one of aloofness and mutual suspicion.

At that time of all-out confrontation, when we did have occasion to meet, it was from well entrenched positions on both sides - the unions making inflexible demands and employers giving a flat rejection in reply.

To give effect to the expressed desire of our members, for MTIA to adopt a pro-active stance, the Association in 1986 took an initiative with the metal
trades unions designed to make the industry more internationally competitive.

We produced a document which we called “MTIA Proposal For a Compact With The Metal Unions”, and presented it to them in December of that year.

The Compact took as its starting point a shared concern by employers and unions regarding industry's viability and future employment prospects.

What the Compact sought to achieve was harmonious industrial relations based on the mutuality of interests of management and employees in the enterprise; the sad fact was, in all those years of industrial conflict, we had never had the will to persevere – I’m talking about the whole Australian community here as well as the metal industry – with the creation of this kind of industrial relations culture.

The MTIA Compact proposal sought to build upon that mutual interests foundation to achieve with the unions:

□ an industry and economic environment which would encourage investment and profitability;
□ increased disposable income for employees, but making rises cost-neutral by means of trade-offs;
□ development of the skills and capacities of individual employees, and increased skill levels and capacities in the industry as a whole; and overall
□ a much better image for the industry, including a reputation for quality products and for reliability at home and overseas.

The Compact made a detailed examination of 16 separate subjects of mutual interest to unions and employers.

Forerunner to award restructuring

By March 1987, after an encouraging union response, we were able to refine the Compact so that it contained specific and detailed proposals which had the broad agreement of both parties. These matters related to:

□ multi-skilling;
□ broadbanding;
□ revision of training programs and techniques; and
□ discussion on such issues as wage levels, union coverage, absorption etc.

These and similar proposals have since worked their way through the union policymaking processes.

Many of the proposals, training and career development, for example, which the unions have adopted and which form the basis of the present award restructuring program, stem from MTIA initiatives in 1986 when we sat down with union officials to establish a bipartisan approach in the area of training and career development.

Likewise, a report released by the metal trades unions and the ACTU in 1987 followed the closely reasoned MTIA Compact proposals on multi-skilling, higher trade classifications, wage levels, absorption and union coverage.

Another important initiative can be found in our submission to the Hancock Committee, set up to examine the federal system of industrial regulation.

MTIA proposed that a new object should be added to Section 2 of the Conciliation and Arbitration Act, requiring the Commission “to pay proper regard to the effect its awards may have on the ability of import-
competing and export-oriented industries to remain internationally competitive”.

Later, the ACTU in its policy document, “Australia Re-constructed”, conceded that the wages system should “pay due regard to price and productivity movements in the internationally traded goods and services sector and that “any community standard should, as far as possible, be set in this sector”.

I refer to these developments, not in order to seek credit for my own Association, but merely to show the vastly different industrial environment which has developed as a result of changed attitudes on the part of employers and unions - changes which Sir Richard Kirby referred to in prophetic terms back in 1971.

A genuine response from the employers has produced a like response from the unions. This reflects great credit on the leadership of the ACTU and the metal unions. When one considers the long-held antagonisms of many trade unionists towards employers and the unaccustomed restraint on the part of unionists which the new industrial culture has required, the ACTU has demonstrated leadership which is highly responsible as well as being unprecedented. The new relationship between employers and unions must be nurtured and above all, not taken for granted, because if circumstances at some future time made it desirable for the unions to do so, they could still revert to the use of their industrial power.

**Award restructuring**

Without these significant changes in attitudes, progress in award restructuring would not have been achieved.

In the process of changing Australia’s industrial culture, MTIA has been the initiator and at the cutting edge of award restructuring.

Award restructuring is a deceptively simple title for complex changes which will have far reaching consequences in the way workplaces operate, in the way people are trained, and in the creation of career paths for occupations which have never enjoyed planned enhancement of skills and opportunities for advancement.

Much more is involved than broadbanding and changing the titles of job classifications - we are seeing the beginning of a fundamental change in the way work is performed, the objective being greater labour flexibility and job satisfaction, higher productivity and international competitiveness. Changes like these, which amount to the introduction of a new industrial culture, require careful planning and gradual implementation, and a time scale of between three and five years.

Award restructuring has effectively set the scene for much greater emphasis to be placed on productivity improvements negotiated and implemented at the enterprise level. It preserves all the advantages of industrial stability which the centralised system can deliver, while shifting the industrial relations centre of gravity, as it were, closer to the workplace itself. Award restructuring has done this by setting out to remove the road blocks which had become entrenched and institutionalised in the systems over many decades, without the removal of which smooth headway could not be made: an inflexible, outdated system of labour classification gives way to broadbanding and multiskilling, allowing employees to perform a wider range of tasks; a new training system, conducive to
career path development being developed in conjunction with TAFE, replaces a narrow training regimen based on exclusivity and demarcation.

A joint educational approach by the parties to the award means that managers, supervisors and shop stewards attend courses designed to facilitate, in a co-operative environment, implementation of the new system and with it opportunities for raising productivity in the enterprise.

The ramifications of award restructuring thus go far beyond the question of changed work practices. It marks another stage in the development of our industrial culture, a broadening of our horizons, so that we begin to see the big picture: a nation made more productive, more economically sound because managements and employees in its enterprises have the will and the means to achieve their full capabilities.

Towards a better future

I stated earlier that we have made considerable progress towards implementing our reform agenda. Of course, we have had to deal with some significant problems as you might expect when the objective is to overturn 90 years of an industrial way of life.

Nevertheless, I am optimistic that, with patience and commonsense, and relying on the trust and confidence which has built up between organised employers and organised employees over the past three years, we will achieve our ambitious goals.

That brings me to what lies ahead and, in this regard, I want to be reasonably selective and address two areas that I consider to be critical to our ongoing program of reform: 1. Union Structures; 2. The Wages System.

Trade union structures

It is axiomatic in my view that if we are to achieve greater labour flexibility, including multi-skilling, we must rationalise the union structures in our industry. If current union structures and the accompanying demarcation lines continue to operate, then the more flexible job classification system we are putting into place will simply be a waste of time.

Rationalisation of union structures was high on the agenda of the recent Biennial Congress of the ACTU and I believe there is sufficient commitment within the trade union movement to achieve change. Indeed, I think most unions accept that in the longer term they may not survive unless they can accommodate the needs and aspirations of a workforce whose composition and attitudes have changed markedly in the last 50 years. But it is not only the needs of potential members that will have to be met. The needs of industry must also be met. Gone are the days when enterprises can be expected to operate efficiently and profitably with – taking a real instance – 23 unions representing 23 sections of the plant’s workforce.

I am also reminded of the problems of multiple unions when I look back over the past 12 months of negotiating an award restructuring agenda in the metal and engineering industry and realise how difficult it was. Not because of the differences between MTIA and the main union elements but because of the differences between the unions themselves.

As I have said, the unions have recognised the need for more rational structures. And amalgamation of unions is occurring at an increasing rate. For example,
next year the Amalgamated Metal Workers Union and the Association of Draughting, Supervisory and Technical Employees are to merge, as are the Electrical Trades Union and the Australasian Society of Engineers. I think the Federated Ironworkers Association and the Australian Workers Union are still intending to amalgamate.

While amalgamation is the primary mechanism for achieving rational union structure, there is also Section 118 of the Industrial Relations Act. This Section provides that the Commission may make an order to the effect that although a union might not have coverage of a group of employees under its Rules, it may be given coverage to the exclusion of another union who might have that coverage already. The FIA has sought to take early advantage of this new provision but, as you might expect, the unions who are likely to lose as a result of any order under Section 118 are less than enthusiastic about this device for achieving rational union structures.

Now, amalgamations and the use of Section 118 are not exactly “fast-track” procedures. And while they are vital elements in any successful strategy of labour market reform, there are other arrangements we should not overlook and which employers can help to initiate.

For example, in setting up new manufacturing plants or “greenfield sites”, union coverage can be limited to 2 or 3 unions and, in some cases, to single union coverage.

Secondly, as an interim measure, it is open to the unions to meet among themselves and agree on a code to be adopted where, in the interests of labour flexibility, members of one union are able to perform the work traditionally performed by other unions.

The metal unions have already committed themselves to this process.

Thirdly, depending on what develops at the industry level, I think it is open to employers and unions within an enterprise to come to their own arrangements to avoid demarcation problems.

The main responsibility for achieving change in this area lies with the unions themselves, principally through amalgamations.

But there are opportunities to make immediate changes by agreement between employers and unions at the industry and enterprise level. We simply cannot wait for amalgamations to solve a problem which will arise tomorrow because the forklift driven by an ironworker is not allowed to cross the yellow line into the stores area or because the mechanical fitter cannot change an electric light globe.

Future wages policy

While award restructuring will take the next three to five years to implement, this does not mean that there will be no further wage increases for that period. Any person or organisation which relies on such a strategy will be irrelevant in any future debate over wages policy.

Already, the Australian Council of Trade Unions (ACTU) has signalled that in May 1990 it will lodge claims for cost of living adjustments to operate from September 1990.

Accordingly, employers and their representative organisations need to be considering now what their position will be regarding wage policy next year and in the years immediately following.
Viable options

The serious and deepseated nature of our economic problems should rule out the possibility of the prevailing system of wage fixation being discarded, at least in the short term.

Assuming it is retained, it must provide for an orderly process and which produces a macro-wages outcome which is economically sustainable.

In this context, cost of living adjustments are unsustainable.

A highly centralised system of that type which operated between 1983 and 1986 and which focused almost exclusively on cost of living adjustments delivered through the mechanism of National Wage Cases is, in my view, not a system which is appropriate for Australia in the early 1990s. That view is not shared by the ACTU, which proposes that wages should be adjusted for prices in 1990. The ACTU may well have decided that, with the second tier exercise in 1987 and the structural efficiency principles in 1988 and 1989, the union movement has taken restructuring as far as its constituents will bear at this time: perhaps the unions feel they need a break from the hard grind of negotiating restructuring agreements in return for wage increases.

The fact of the matter is, however, that “manna from heaven” wage increases granted without productivity off-sets are a luxury the Australian economy can no longer afford.

Given the progress we have made over the past three years towards a more productivity related wages system, to revert to wage/prices adjustments is not a viable option for this country.

The Industrial Relations Commission said in its August 1989 National Wage decision:

“There is no doubt that labour market reform and in particular, award wage restraint, have over recent years contributed positively to the rapid growth in many sectors of the economy.

“. . . it is also apparent that continued efficiencies and improvements in labour flexibility as well as ongoing wage restraint will remain necessary”.

We have to find a wages system which offers a balanced approach to the competing needs of controlling the macro-wages outcome and the need to maintain the momentum of labour market reform over the next two to three critical years.

I believe we need to retain the centralised approach to set a ceiling on wage increases but provide the opportunity to industries or enterprises to negotiate wage increases to the maximum amount available with the objective of improving the productivity and efficiency of the industry or enterprise. I think the emphasis, however, should be on the enterprise. More than likely there could be room for a combination of both.

There will be those in the union movement in particular who throw up their hands in horror at this approach because it will remind them of the 1987 two tier approach to wage fixing. The two tier approach relied too heavily on a narrow agenda largely directed at removing restrictive work practices and has been criticised for its negative, cost-cutting approach.

We have to be far more innovative next time around and perhaps there are some lessons to be learned from other countries in this regard. But in no circumstances
can Australia afford to revert to cost of living wage adjustments.

Wages conference proposal

As we look towards the next stage in the evolution of industrial relations, employers need to begin now to stake out their wage policy positions.

In the past, employers have allowed the ACTU to build up expectations about a wages outcome months in advance of it being considered by the Industrial Relations Commission, and as a result it becomes self-fulfilling. Once again, we see the ACTU creating early expectations, attempting to set the agenda, by signalling that its wages policy in 1990 will be based on cost of living movements. It is therefore critical that employers begin the process of formulating a realistic, innovative wage policy which attracts widespread public support.

But this will not be enough. The traditional approach to fixing national wages has been that the ACTU files a claim for a wage increase on behalf of its affiliates and the adversarial process of long-winded, often irrelevant debate begins. Parties are locked into advocating a particular policy from day one with little opportunity for sensible compromise or negotiation later in the proceedings.

If as employers we are serious in wanting a more flexible wages policy, which will maintain the momentum of labour market reform, then we cannot afford to leave matters until the commencement of the next National Wage Case, by which time the agenda will essentially have been determined. What we need is a Wages Conference well before May next year to enable an exchange of views on wages policy and, hopefully, reach some consensus on such a policy. The Conference would necessarily involve the Australian Industrial Relations Commission, the Commonwealth Government, State Governments, major employer bodies, the ACTU, and representatives from State industrial tribunals. Employers must be prepared to be more honest, and lay their cards on the table. The extent to which employer organisations are able to meet this challenge will be a mark of their maturity or otherwise.

Over the next few months, in addition to the massive task of implementing award restructuring, MTIA will be considering its own policy on wages in the light of: progress in award restructuring; the ongoing cost impact over the next two years arising out of the last National Wage Case decision; economic forecasts; and our members' expectations of future business conditions. An assessment of these factors may demand that any potential wage increases over the next two years be substantially discounted. But in the course of our deliberations we will be looking at how we can make a positive and constructive contribution to national wage policy.

Conclusion

In conclusion, the short answer to the proposition posed in the title of my paper is: yes, Australia has demonstrated in 1989 that it is capable of making great progress in adapting industrial relations attitudes and institutions to meet the over-riding public interest – in this case the need to overcome the nation's chronic economic problems. To that extent, who can say that a new province of law and order is not slowly and imperceptibly taking shape around us? If that is so –
and I believe it is – it owes its development and its continued survival to the willingness of those concerned:

☐ to learn the lessons of history
☐ and to apply that knowledge in good conscience and in a spirit of fair dealing.

As Australians, we are the custodians as well as the beneficiaries of a unique but still imperfect system of industrial law and order; it is incumbent upon each generation to leave it in better shape than we found it. As Sir Richard Kirby has said, it “... goes beyond the interest of one side or another seeking to get the most out of a situation for individual advantage – it goes right to the heart of the nation’s interest”.

Wages and Award Restructuring

Having heard a report on claims by the metal trades unions for wage increases and the background to those claims, this meeting:-

1 Confirms that the priority for both employers and employees in the metal and engineering industry must be the maintenance of the industry’s future viability. This will depend to a very large extent on there being a quantum leap in the industry’s productivity and productive culture and that MTIA’s proposals for an agreement with the MTFU on award restructuring, more flexible utilisation of labour and the introduction of career paths provides a sound basis for achieving this;

2 Emphasises the importance of a moderate wages outcome in 1988/89;

3 Notes that in the Economic Statement delivered by the Treasurer on 25 May 1988, he said that:

“Our overriding objective must also be to keep wages growth as close as possible to our trading partners so that we remain competitive on world markets.

After the hard work and sacrifice of recent years, and with inflation now heading towards 5 per cent or lower, this objective is consistent with the overall maintenance of real wages in 1988-89.”

4 Notes further that the Commonwealth Government’s policy in the forthcoming National Wage Case is that it will be advocating that real wages should be maintained in 1988-89 and that any wage increase should be introduced in two stages.
Appendix 1 (continued)

Having regard to the foregoing this meeting has formed the view that:

1. The National Executive of MTIA should authorise a submission to the National Wage Case which reiterates the Association’s existing policy i.e., that the package of training and award restructuring measures referred to in MTIA’s proposals for an agreement with the MTFU are designed to lift productivity at both the industry and enterprise level. However, the amount and timing of any wage increase justified by this package shall be a matter to be determined by the Australian Conciliation and Arbitration Commission in accordance with any principles which may apply following the review of the existing wage fixing principles.

2. The National Executive of MTIA should authorise a positive submission which:

a) emphasises the overriding importance to the industry of the award restructuring exercise which is designed to improve the industry’s productivity and productive culture

b) acknowledges that it is the Commonwealth Government’s objective to maintain the level of real wages in 1989/90, consistent with an inflation rate of 5 per cent or lower;

c) maintains the position that the amount and timing of any wage increase justified by the proposed agreement between MTIA and the MTFU relating to award restructuring, more flexible utilisation of labour and training and career development should be determined in the National Wage Case;

3. The National Executive of MTIA should authorise a submission in the National Wage Case to the effect that the package of measures contained in MTIA’s proposals for an agreement with the MTFU on award restructuring, training and career paths, together with the Commonwealth’s support for a wage increase, provide grounds for wages to be adjusted in two stages in 1988/89 on terms to be decided in the National Wage Case;

OR

The National Executive of MTIA should authorise a submission in the National Wage Case that the package of measures contained in MTIA’s proposals for an agreement with the MTFU on award restructuring, training and career paths, together with the Commonwealth’s support for a wage increase, provide grounds for wages to be adjusted in two stages in 1988/89 on terms to be decided in the National Wage Case;

OR

The National Executive of MTIA should authorise the taking of all steps which are reasonably open to MTIA and which are achievable, to have the matter resolved on terms acceptable to both the Commonwealth Government and the Arbitration Commission and which are consistent with MTIA’s proposals for award restructuring, training and career development.

OR

Any other course of action that members consider appropriate.

Appendix 2 – ballot paper February 1989

Wages and Award Restructuring

Having heard a Full Report on MTIA’s Award Restructuring Proposals and having considered the factors influencing wage levels and industrial relations in 1989-90, this meeting has formed the view that:

1. The National Executive of MTIA should authorise a submission to the May 1989 National Wage Case which reiterates the Association’s existing policy on wages. This means that there should be no general wage increases in the 1989-90 financial year. Any wage increases should only become payable once an individual employee puts to use the new skills acquired under the restructured award. Furthermore, the maximum amounts of any wage increases justified under MTIA’s proposals should be determined by the National Wage Case.

OR

2. The National Executive of MTIA should authorise a submission in the May 1989 National Wage Case as follows: Implementation of the package of measures contained in MTIA’s restructuring proposals, or implementation of any agreement substantially based on those proposals, provide grounds for wages to be adjusted across the board in two stages in 1989-90 on terms to be decided in the National Wage Case.

OR

3. The National Executive of MTIA should authorise the taking of all steps which are reasonably open to MTIA to achieve an agreement with the Metal Trades Unions and the ACTU on wages and award restructuring on terms acceptable to both the Commonwealth Government and the Arbitration Commission and which are consistent with MTIA’s proposals for award restructuring, training and career development.

OR

4. Any other course of action that members consider appropriate.