

Turning back the clock

By John de Meyrick MBE

From 1860 to 1890, the Australian economy enjoyed a period of unprecedented prosperity that was to be known as the 'long boom'. But little of that prosperity was shared with workers. Having a job at all was considered to be enough. Workers and their unions had no means of seeking improved wages and conditions. The terms of employment were fixed by employers. The law was the law of contract. Ordinary courts could not assist.

Then followed 10 years of depression resulting in widespread unemployment and sustained periods of industrial unrest, mainly among maritime workers and shearers, until a 'cure' was eventually found in the introduction of industrial arbitration in the early 1900s and the establishment of the (then) Court of Conciliation and Arbitration.

In the *Waterside Workers' Case* in 1919 (13 CAR 599 at 619), Justice Higgins noted that: 'The responsibility of this court is very great; but unfortunately few people realise the operations of the court in the true perspective. This court transfers more money and affects directly more human lives than, probably, all the other courts of Australia together.'

The importance of industrial arbitration was also commented upon by Justice Power in 1920 (14 CAR vii at xii) in defence of the court which was coming under severe criticism at the time from both employers and unions: 'I think', he said, 'the need for compulsory arbitration is necessary so long as there are employers who insist on fixing any wage they like, or unreasonable unionists, and until employers and employees act on the precept 'to do unto others as you would that they should do unto you'.

He went on later in that preface to say, 'Few people recognise that the compulsory arbitration courts – federal and state [with] the power to enforce fair wages and conditions from all employers, fair and unfair, are the only safety valves which prevent the spread of social war, communism and Bolshevism in the Commonwealth to the extent they are spreading elsewhere.'



Certainly, these possibilities were festering within the Australian community at that time and not without some due cause, as subsequent events were to show. Whether, and if so to what extent, industrial arbitration served to mollify any such developments is debatable. Fortunately, times have changed and such fears are no longer with us. But one thing is indisputable: the level of wages and conditions and the standard of living that the average Australian enjoys today, not just workers, has been significantly due to our system of industrial arbitration.

The federal government, with its new industrial relations laws, has now turned back the clock. Arbitration is back in its box. Contract law is to the forefront once more.

Perhaps the present climate and the lessons learned, together with the remnants of a dismantled system will temper any return to the 'bad old days' of glaring social injustice and industrial strife. Well, at least whilst the present economic 'long boom' continues. But after that? Keep watching.