DEMOCRATS MINORITY REPORT

Inquiry into the provisions of five Bills amending the Workplace Relations Act:

- ***Workplace Relations Amendment (Genuine Bargaining) Bill 2002***
- ***Workplace Relations Amendment (Fair Dismissal) Bill 2002***
- ***Workplace Relations Amendment (Fair Termination) Bill 2002***
- ***Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002***
- ***Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002***

May 2002

Introduction

I have been a member of the Senate committees reviewing Workplace Relations Act legislation for six years now. With this inquiry, once again I have been struck by the fact that employer and employee organisations have sincere well-argued and persuasive cases – that are inevitably opposed.

How one asks, can they see things so differently, faced with the same circumstances? How is it possible for one clever and informed side to claim that a proposed change is moderate and essential, and the other clever and informed side to say it is extreme and unnecessary? How much is attitude, how much is self-interest?

Matters are poisoned even more by a union view[1] that the Howard Coalition government (or is it any Coalition government?) is anti-worker and anti-union. Unions quite openly view Coalition Government bills with great suspicion. Employer organisations (although less obviously) seem to take the opposite view.

If it is the adversarial and ideological culture and history of WR and traditional Coalition/Labor IR politics that is a problem, the common result seems to be often that neither side of the argument will concede any of their opponents' argument. Consequently submissions frequently overstate the dangers of proposals before us and understate the benefits, or vice versa. Such opposed arguments make deciding the merits of WR Bills harder.

If adversarial advocacy is likely to distort or exaggerate a case, empirical evidence (not assertion) and precedent or experience elsewhere is helpful in evaluating the probable effects of new WR bills.

We have a workplace relations environment characterised by lower unemployment, higher productivity, higher real wage growth, greater export competitiveness and lower levels of industrial disputation. Many factors contribute to that, but the 'big bang' IR federal law changes of 1993/4 and 1996/7 can take much of the credit.

Six years on, those big changes are still being absorbed. Jurisprudence, systems, culture, convention, enforcement and implementation are still being developed. WR law needs to be flexible but certain. Any new WR laws proposed for an Act that that remains complex and difficult need time to settle in, in this highly charged field.

It remains the view of the Australian Democrats that the major changes it supported in 1996 do not require further major change, so soon thereafter. We do accept however that the law does need constant attention with moderate adjustments, since the workplace relations environment is a dynamic one.

This Inquiry has addressed five bills introduced by the Government in 2002.

Two bills would reform unfair dismissal law, and the other three change the treatment of bargaining, introduce additional secret ballots in relation to protected industrial action, and prohibit the collection of union bargaining fees through enterprise agreements.

Together these bills amount to a large set of amendments to Australia's federal WR laws. Submissions to the Committee certainly saw significant consequences flowing from their implementation, or alternatively, the failure to implement them. By and large the intentions in these

[1] Hansard EWRE 15 Thursday 2 May 2002

bills are not new to the Parliament: many of these directions were anticipated in bills that previous Parliaments have considered. There are some significant differences, however.

It is important to consider the current industrial context in Australia; several features are striking. These bills come to us at a time when unemployment, while falling, remains high with over 621,000 Australians looking for work. Underemployment reputedly affects well over a million Australians. It is essential that we continue to take action to reduce this source of social and economic waste. There are those who argue that a heavily deregulated IR environment would deliver many more jobs and much greater growth to Australia. However, the strength of the link between levels of regulation and employment creation remains contentious, as many passages of evidence to this inquiry revealed[2].

At the same time, productivity has been improving. It showed a 3.2 per cent annual increase in each of the years 1997, 1998 and 1999, 1.4 per cent in 2000, while it slowed to 0.1 per cent in 2001[3]. Inflation remains low, while real wages have been growing at a steady rate. After falling during the mid and late 1980s, real wages rose significantly during the later 1990s and have shown continuing but more modest growth in 2000 and 2001[4]. Industrial disputation is at an historic low. Working days lost due to industrial disputes are now the lowest in at least two decades. In the 12 month period ended January 2002 a total of 49 working days were lost per thousand employees. This is a dramatic reduction compared with the 12 month period ended January 1983 (the earliest period available on the ABS database) when the number of comparable days lost was 325.[5]

Simultaneously, our labour market is characterised by rising levels of part-time work, much of which is casual. Many witnesses to this inquiry commented upon the growth in casual employment in Australia (now around 27 per cent of the workforce), pointing to its high level as compared with other industrialised countries. Some witnesses suggested, anecdotally, that employers and employees, particularly young people and mothers, valued this casualisation, while others pointed to the insecurity and restrictions this implied – for access to finance for example, or uncertain irregular income. The rise in casual employment creates a potential new policy focus, with some calling for greater regulation in response, not less.

We do have a workplace relations environment characterised by lower unemployment, higher productivity, higher real wage growth, greater export competitiveness and lower levels of industrial disputation. Unions hotly resist change in the law. The AIRC itself continues to develop principles and practices that advance the intent of the law. Such activity by the AIRC may make specific black letter law changes unnecessary in those areas it has so addressed. In the face of these facts, the necessity, wisdom or the urgency of further workplace relations law reform therefore have to be confronted and justified.

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[2] Some discussion of the macroeconomic effects of bargaining arrangements is provided in Workplace Relations Amendment (Genuine Bargaining) Bill 2002 Digest 125, p. 5.

[3] ABS Australian System of National Accounts, Cat. No. 5204.

[4] ABS Average Weekly Earnings, Cat. No. 6302, ABS Consumer Price Index, Cat. No. 6401.0

[5] ABS Industrial Disputes, Cat. No. 6321.0.

Successive federal Governments have been undertaking significant industrial reforms since at least 1993 as we have discussed in previous reports[6]. The latest changes – to the regulation of federal dismissal laws – occurred in the second half of 2001.

The Australian Democrats intend taking an approach to these five bills that is consistent with our past approach. In reflecting on the 1999 Workplace Relations Legislation Amendment (More Jobs, Better Pay Bill) 1999, (the MOJO bill) we said:

The Democrats are beholden to neither unions nor business. Our policies are strongly supportive of a fair balance between the rights of unions and employers, and of ensuring a strong award safety net, particularly for workers in a disadvantaged bargaining position. We support access to the independent umpire in the Australian Industrial Relations Commission; we support productivity-based enterprise bargaining where employers and employees genuinely wish to bargain, and promoting industrial democracy.

These background principles guide our approach to this legislation.[7]

We supported the introduction of the Workplace Relations Act against strong opposition. It is not a perfect Act, but our commitment to it is proven. With the policy independence of being beholden to no single interest, the Democrats look for evidence and convincing argument in support of further changes, particularly in light of the pace and scope of change since 1993, and the relative health of the current system, judged on most relevant indicators.

As usual, the bills considered here will be dealt with by the Australian Democrats in the Senate on their merits.

Workplace Relations Amendment (Genuine Bargaining) Bill 2002

This Workplace Relations Amendment (Genuine Bargaining) Bill 2002 amends the WRA 1996 to direct the AIRC to consider evidence of 'de facto or covert forms of industry-wide bargaining'[8] or 'pattern' bargaining, in determining whether access should be given to protected bargaining. It seeks to further discourage industry-wide bargaining and to reinforce enterprise bargaining. The bill adds to the existing powers to suspend a bargaining period. A 'bargaining period' provides statutory protection to persons engaged in industrial action as part of the effort to achieve a new workplace agreement.

This bill follows in the footsteps of proposals dealing with these issues in the MOJO bill, and the Workplace Relations Amendment Bill 2000 (the 2000 bill), but with significant modifications. It is more moderate than the previous proposals.

At its heart this bill does seek to make it harder to obtain access to protected bargaining periods in specified circumstances.

Negotiated settlements are now key to collective agreement making. Collective enterprise agreements cover about one third of all employees. (The rest are on individual contracts and

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[6] Supplementary Report on the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, Senator Andrew Murray: November 1999, p. 389, main report.

7 Supplementary Report on the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, Senator Andrew Murray: November 1999, p. 389, main report.

[8] Workplace Relations Amendment (Genuine Bargaining) Bill 2002, Bills Digest, No 125, 2001-02, p1.

awards). The current system of industrial relations gives primacy to enterprise bargaining and all federal parliamentary parties support this primacy. Enterprise bargaining and the associated protected action brings with it the accepted risk of disputation and, as we have previously noted, parties to disputation must be given the opportunity to work matters through[9]. The system we now have, by and large, serves Australia well. Unions and employer organisations, and employers and employees, have a growing experience with enterprise bargaining. Clearly the Australian Industrial Relations Commission (AIRC) has also developed principles and practices to deal with the complex and varied bargaining circumstances that come before it.

The fear of manipulated enterprise bargaining (primarily in manufacturing) – manipulated so that as a 'pattern' it would revert to industry-wide bargaining – emerged in 2000. The predictions made at the time the 2000 Bill was brought before Parliament (that the pattern approach of 'Campaign 2000' would result in widespread disruptive and economically destructive industrial action across manufacturing) thankfully largely proved unfounded.

As many witnesses to this inquiry made clear, enterprise bargaining is not necessarily at odds with industry-wide negotiations. The two are not mutually exclusive, and nor are multi-employer site or sector agreements necessarily at odds with efficient and effective industrial outcomes. In some cases, both employers and employees see benefits in having an industry or sectoral standard in mind as they approach bargaining at the enterprise level. Indeed, the federal government itself bargains in a whole-of-government manner in the context of their 'Policy Parameters' that shape bargaining in the public sector and give it a comparable character across different government agencies.

The WRA does allow for some multi-employer agreements but only if certified by the full bench of the AIRC, and where it is in the public interest.

Munro J., in the decision which is said to have provided a basis for aspects of this bill, points to practices on the side of both employers and unions in pursuit of patterned claims[10]. A number of witnesses to this inquiry also made this point. This is not new, nor is it necessarily undesirable. As we noted in 2000:

The Democrats recognise that there is a role for industry level, multi-employer bargaining. This [2000] Committee has received extensive evidence of multi-employer agreements in retailing, media, education and electrical contracting which suit both unions and employers, particularly smaller employers. Indeed, the Democrats insisted on an amendment to the Act in 1996 to allow for multi-employer agreements to be made where the Commission concluded that they were appropriate and in the public interest.[11] What the Act acknowledges is that if that level of bargaining suits both employers and unions, then it should apply. But, the principal emphasis of the 1993 and 1996 Acts remains on collective enterprise level bargaining as the best means of unlocking productivity and hence affording sustainable increases in real wages.[12]

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[9] Supplementary Report on the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, Senator Andrew Murray: November 1999, p. 397.

[10] In Australian Industry Group – and - AMWU (Print T1982, 16 October 2000), Munro J.

11 Workplace Relations Act 1996 sect. 170LC(4)

[12] Senator Andrew Murray, Workplace Relations Amendment Bill 2000, Minority Report, p. 51.

At the time of consideration of that earlier bill, we noted the predictions of high levels of industrial action as the AMWU pursued an industry log of claims ('Campaign 2000'), and pointed out that 'time will tell'[13]. At that time we concluded:

Our best assessment is that there is a problem emerging with changing attitudes of some unions to collective enterprise bargaining that may threaten Australia's record in recent years of rising real wages, employment and productivity. It may be that the current legal framework is adequate to deal with that challenge. The powers of the Commission to suspend or terminate access to protected action in the face of real or impending industrial action in section 170MW may be sufficient to deal with these campaigns…A responsible trade union movement and a responsible employer movement must be supported. The Democrats will continue to support legislation that acts against irresponsible action that materially threatens Australian jobs, industry prospects and Australia's economic performance.[14]

In the event, the record on industrial disputation has continued to improve. The current legal framework has by and large proven itself adequate to deal with the challenges before it.

As I remarked in my Report on the 2000 Bill, strikes and lockouts as a part of the bargaining process are not legal unless under protected action circumstances. There have been incidences of unprotected industrial action – some of them very damaging to Australian employers and employees, like the recent dispute in the vehicle industry in relation to employee entitlements, (see the evidence to this inquiry). It is important to note that strong criticism concerning industrial disputation often relates to *un*protected action disputation, rather than protected action disputation. It is possible that of days lost in disputation that a significant (but to date unknown[15]) proportion of days lost are actually lost in unprotected industrial action. Very heavy penalties are already in the law to address unprotected action. If they are not used it is hardly the fault of the law.

However, this bill addresses protected action processes, not unprotected action.

Overall the level of disputation is at an historical low. There are relatively few prolonged enterprise bargaining disputes. Contrary to popular belief, some of the most protracted have been by employers not unions, through lockouts. On any assessment it appears that to date at least, the parties, including the AIRC, have matured into a system of bargaining (some of which has some pattern to it), which gives primacy to reaching agreement at the enterprise level, and which involves relatively low levels of serious disputation. Current legislation therefore can be said to work well at present, for the most part.

Significantly, Munro J. felt no limitation on the ability or capacity of the AIRC to effectively deal with the matters in this bill, under current law. Referring to the AIRC's existing powers to suspend or terminate bargaining (s. 170MW) he pointed to the necessity to consider the facts of particular cases that may be complex, and arrive at a decision that implemented a 'sensible and practical' resolution. However, he effectively recommended against the unnecessary codification of specific solutions given the complexity of specific situations:

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13 Senator Andrew Murray, Workplace Relations Amendment Bill 2000, Minority Report, p. 53.

14 Senator Andrew Murray, Workplace Relations Amendment Bill 2000, Minority Report, p. 66.

15 Hansard EWRE 106 Friday 3 May 2002

For reasons that relate to the character of different sets of employer negotiating parties, it is undesirable in my view to elevate construction of these provisions into a policy dogma that compels a lopsided application of the associated powers'.[16]

In this light it seems fair to require that the argument for new instructions or power for the AIRC be convincing. Are the genuine bargaining changes necessary? The new Bill gives powers that arguably already exist at least in part, and in practical effect, within the existing Act, although in a less prescriptive manner. As the ACCI put it:

The genuine bargaining bill really makes explicit—or codifies, in a way—some of the principles that the commission is in the process of developing when it is interpreting the current law dealing with protected action. So we do not see the genuine bargaining bill as a major departure or even a major extension of the current statutory framework. It really is building on some of the general propositions in the statutory framework that concern the protected action provisions of the act.[17]

A key challenge is to ensure that any such codification does not introduce unwanted or unexpected new rigidities. Other witnesses argued, for example, that such risks are real, and would constrict the operation of the system, perhaps even preventing its effective operation in relation to some matters.

On the issue of the termination of bargaining periods it is important that unions and employers not manipulate bargaining periods to prevent effective bargaining. Bargaining in good faith - genuine bargaining – is essential. The WRA may need some further emphasis here. However, if the AIRC has effectively acted to discipline such activities already, that would make the case for further strengthening capacities to terminate bargaining not all that vital.

On the issue of cooling off periods, the WRA (s 170MW and 170MV) provides such a mechanism at present. The AIRC can suspend a bargaining period where parties are not genuinely negotiating, are causing significant damage to the economy, or have failed to comply with directions. The argument was put that the bill as currently drafted works in a lopsided way (given that most industrial action is taken by unions not employers) in that it strengthens the AIRC's powers to impose a cooling off period. In practical effect this would mostly impact upon unions (given they initiate most industrial action), while no penalty exists to force an employer to bargain in a timely way, and the capacities of the AIRC to arbitrate there remain very restricted.

There is also the unresolved criticism by the ILO that the existing regime of statutory protection in relation to industrial action does not extend to those engaging in industry bargaining.

In view of the effective operation of the system, it is important that legislators do no harm to a system that functions in a flexible way, and ensures effective enterprise bargaining in line with the objects of the current Act. It would be counter productive to introduce new provisions that cause confusion or legal argument (an example is provided by the phrase 'shows an intention') and which reduce the flexible capacities of the system overall.

It is important that the system facilitate negotiations of the parties, that they be required to bargain in good faith to genuinely reach agreement at the enterprise level, and that no new rigidities or prescriptions be introduced that would impede such bargaining.

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[16] Australian Industry Group – and – AMWU (Print T1982, 16 October 2000, para. 51.

[17] Proof Committee Hansard, Senate Employment, Workplace Relations and Education Legislation Committee, Reference: Workplace Relations Amendment Bills 2002, Friday, 3 May 2002, p. 57.

Clearly, enterprise patterns are not uncommon in many industries, authored both by employer and employee bodies. The TWU pointed to issues that they seek to negotiate at an industry level, often with employers' agreement, like wages in the long haul truck driving industry, while the SDA pointed to employer willingness to engage in negotiations around extended unpaid parental leave, the definition of regular casuals, rostering in relation to family responsibilities and junior rates. While enterprise outcomes may differ, they were concerned that these approaches or intentions would, in the words of Joe De Bruyn of the SDA 'fall foul of the new Bill if passed' and that many employers were willing to negotiate such issues that generated business, community and social benefit.

The case for codifying powers that the AIRC believes it already has (and have not been subject to appeal or legal contest) is weak, especially if it carries the danger of introducing new rigidities of the kind that a number of submissions point to. The powers of the AIRC to terminate protected action where parties do not genuinely bargain, and their capacity to establish cooling off periods, are already extensive, and we see no hesitation in the AIRC's willingness to apply them.

Having said that, it is important to ensure that the parties continue to feel pressure to genuinely bargain in good faith at the enterprise level, and to ensure that coercive or mischievous manipulation of bargaining periods (as Munro J. felt moved to restrain) does not occur.

The AIG pointed to the 'exhaustive' processes entailed. The benefits of a WR system that does require exhaustive testing at law have long been thought to be greater than the costs of such a system. Australia has established a tribunal system that has specific and considerable powers, and is directed to facilitate enterprise bargaining and effective industrial negotiation. Regrettably for those who bear the cost, it may not always be desirable to draw into black letter law every 'sensible and practical' solution arrived at by the AIRC to short cut the process. Instead, it is sensible and practical to ensure that the AIRC has the capacities and punitive powers to ensure its task is done well in the face of constantly changing and complex circumstances, many of which we cannot predict or prescribe.

If, however, specific administrative arrangements can be suggested to assist organisations like AIG in meeting the technical demands of enterprise bargaining, as referred to in their verbal submission[18], then they should be considered.

Workplace Relations Amendment (Fair Dismissal) Bill 2002

Despite rejecting this very proposition in 1996, the Howard Government has since moved a number of times to remove small business from the federal unfair dismissal jurisdiction. The main provision of this Workplace Relations Amendment (Fair Dismissal) Bill 2002 would exempt businesses with fewer than 20 employees from unfair dismissal provisions. Although the bill only applies to persons hired after the amendments come into effect, over time small business employees under federal law, as a class, would be denied access to unfair dismissal protections.

It is not known how many small businesses fall under the federal jurisdiction in the States, although there are 291400 small businesses under federal jurisdiction in Victoria, the ACT and the Northern Territory. When asked for that information with a question on notice, as recently as 11 March

[18] Proof Hansard, 2 May 2002, p.11. The AIG specifically referred to the difficulty of obtaining commission case numbers. The current Bill does not appear to go to this issue.

2002[19], the Government indicated that it needed more time to investigate the data. There are over 1.1 million Australian small businesses according to the ABS.

Some industries are more represented under federal law than others, it seems. For instance the NFF in evidence to the Committee believes that (excluding Victoria, which is wholly federal), 60% of agricultural businesses fall under federal awards, 40% under state awards. Interestingly, (again excluding Victoria), the NFF said that approximately 60% of their unfair dismissal claims experienced were to state jurisdictions, 40% to federal. On the face of it, this could mean that 40% of agricultural businesses falling under state awards are generating 60% of the claims, a sure sign of less stringent state laws. The NFF said that 90% of claims by farm casual employees were under state laws.

Some sources believe that around 600,000 small business employees are affected by federal unfair dismissals law, throughout Australia. As there are over 3 million employees in small business, this would represent up to 20% of all federal state and territory small business employees. The Prime Minister and other ministers have repeatedly claimed that exempting small business (600 000 employees) from federal unfair dismissal laws would deliver 50 000 jobs. This has been shown to be a singularly dubious claim.

The issue of access to unfair dismissal remedies in small business was the subject of greatest discussion in the submissions made to the committee, and continues to generate vigorous disagreement. While we have good data about the incidence of unfair dismissal applications at federal and state level, the debate continues to be confounded by the absence of good evidence about the effects on employees and employers of the six different federal and state regimes of unfair dismissal law.

We have good sites for such research before us. In Tasmania and Western Australia for instance, the absence of many restrictions on unfair dismissal application that apply federally make them good sites for comparison with the more restrictive federal case, yet neither employer nor employee associations could provide the committee with evidence about the effects of these differences.

Similarly, the assertion of the employment-creation effects of removing unfair dismissal access in small businesses remains unproven. This effect and some of the estimates circulating in public debate were questioned by unions and employer associations (for example, COSBOA's President had limited confidence in the claim that 53,000 new jobs would be created through the Bill).

This is a vital point. The Government's case rests on a public interest trade-off. They say the public good would be served by the creation of 53 000 jobs, set against the public harm of removing rights from a little over 2 600 federal small business unfair dismissal applications. Until the evidence exists, the argument that employment will be created by removal of rights from a class of employees based on business size is moot, to put it mildly[20]. Moreover, the removal of these rights remains unacceptable to the Australian Democrats, on human rights and equity grounds.

As we said in relation to the MOJO bill:

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[19] Senator Murray: Question 16 upon notice, 24 January 2002

[20] Hamzy v Tricon International Restaurants trading as KFC (2001), FCA 1589, (16 November 2001)

The Democrats have consistently opposed removing the right to access unfair dismissal provisions, but have always supported improvements to process.[21].

This remains our position, as I have again stated in the Parliament recently[22]. Several factors reinforce our opposition. We note that many employers (and indeed unions) are unsure of whether federal or state law covers them. Many criticisms are consequently singularly ill informed, since complaints about federal law are often in fact based on entirely different state law experiences. Further, the great bulk of unfair dismissals occur under state laws, which this bill will not touch. Frankly, the Government has grossly misled most small businesses. Were this bill to pass, they would wake up in NSW and WA for instance, to the reality that most of them fall under state law, and nothing would have changed.

Improvements to process, in 1996 and 2001, supported by the Democrats, have meant that there has been a significant fall in the number of unfair dismissal applications. The total number of federal cases in 2001 was 8157, down from 15,083 in 1996[23]. Only a small portion of federal unfair dismissal applications are in small businesses. Finally, the important changes made in August 2001 have not yet been analysed for effect, as witnesses indicated to the Committee. Their effects are still in the pipeline. Given that they exempt the great majority of employees in their first 3 months of employment, the reforms were significant, as the Minister pointed out at the time. However, the fact that at least one representative of a peak organisation appearing before this committee had no knowledge of these changes, suggests that education around existing provisions is needed.

The AIG proposed another approach: they suggested extending the current blanket exemption of 3 months to 12 months in small business. However, this will arbitrarily remove the right for a large number of employees and we would oppose it, in line with our test of fairness.

The AIG also suggested removal of some of the procedural constraints on small business, when they are obliged to respond to applications for unfair dismissal. We would consider specific proposals on their merits.

The main challenges for unfair dismissal reform appear to be two-fold: firstly, moving towards some convergence in state and federal approaches[24]; and secondly, taking steps to better inform employers of their real capacities to dismiss employees. Recent surveys strongly suggest that public alarmism about unfair dismissal has fostered misconceptions about what employers can actually legally do to deal with a range of employee misdemeanors. An education program is sorely needed to address this issue. Submissions to this inquiry provide much more support for this step than further legislative change.

The core proposition of this bill is unacceptable to the Australian Democrats. Our views on this matter have been consistently put in detail, on the record. As previously announced, we will oppose this bill.

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[21] Supplementary Report on the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, Senator Andrew Murray: November 1999, main report., p 396.

[22] Hansard, x March 2002.

[23] DIR data supplied to the Committee by Senator Murray.

[24] The NFF for instance in written supplementary evidence indicated that NSW differences to the federal jurisdiction were problematic:"farmers continually raised concerns…"

Workplace Relations Amendment (Fair Termination) Bill 2002

As its main proposition, this Workplace Relations Amendment (Fair Termination) Bill 2002 seeks to put into primary law matters that have been the subject of regulation for the last five years.

The bill would confirm a range of exclusions from unfair dismissal provisions in federal law for certain classes of employee (including limited term employees, probationers, casual employees engaged for a short period as defined, and trainees) that were largely already excluded previously through regulation. The outcome of the Federal Court decision in relation to *Hamzy v Tricon International Restaurants trading as KFC (2001),* FCA 1589, (16 November 2001), and the consequential invalidation of regulations which essentially ensured these exclusions, has led to development of the Bill. The bill would also confirm the continuance of the federal $50 application filing fee that has also been in place for five years.

The Australian Democrats supported these WRA provisions and regulations that have been in place since 1996.

In their submissions to the Committee, employers were concerned at the uncertainty that changes to existing regulations would generate.

Employers were also concerned at a campaign to grant casuals earlier access to federal unfair dismissal provisions than the present 12-month exclusion. The labour market is dynamic. Growth in casual employment has accelerated to reach 27% of all employees. This may not be as relevant in the federal jurisdiction as some submissions believe. Except for Victoria, which falls under federal law, it seems likely that most casuals fall under state law, not federal law, but more data is needed. The ABS indicates that the total number of casual employees in Australia now totals over 2 million.

There appears to be growing attention to the issues affecting workers who may be casual, including in relation to conditions like unpaid parental leave, and their access to permanent employment after certain periods of time. The definitions of casual undoubtedly need refinement and improvement, possibly to reflect the diversity of different types and permanency rates of casual employment in different industries.

There are also obvious differences in the treatment of casuals in relation to unfair dismissal at state level. Casuals are not excluded from access to unfair dismissal provisions in WA and Tasmania. In NSW the exclusion is for 6 months, South Australia for 9 months, and Queensland and the Commonwealth are 12 months. These differences constitute an argument for an agreed national/state approach to this issue, so that the obvious uncertainty, inconsistency and lack of knowledge of rights – on the side of employer and employee – can be addressed and reduced.

Unfortunately we still have no indication about the number of federal employees that are likely to be affected by the continuing exclusion of casuals as defined in the Bill.

On balance, it would seem the most sensible and consistent course would be to preserve the situation of limited exclusions that have existed since 1996. That does not preclude examination of other issues however. For instance the exclusion of casual workers from the unlawful dismissal provisions may need attention.

We believe that the larger issue of the definition of casual employees, and their conditions and bases of employment, deserve serious examination in view of the rapid growth of this less secure form of employment. The committee heard a range of views about the merits of casual work, with

arguments that it facilitated family-friendly flexibility and the preferences of young mobile workers, alongside views that it constrained employees' ability to borrow money or have predictability in their lives. The evidence on these questions still remains largely anecdotal it seems.

On the issue of filing fees, we were concerned in 1996 about the effect these might have on lower income applicants and potential applicants and successfully argued for a process of fee waiver in cases of hardship. This occurs at a very high percentage. We believe that this is appropriate and should continue. In this light we support the setting of a filing fee at its 1996 level of $50, and its indexation, although we remain open minded about the basis of indexation, in view of the AIG's recommendation that it be indexed to average weekly earnings rather than inflation. Four of the six IR jurisdictions presently apply a filing fee.

The Committee hearings were useful for flushing out some further process improvement possibilities. Some of these could perhaps be considered more fully when the bill is debated in the Senate.

Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002

This Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 will require the conduct of a secret ballot amongst employees as a prerequisite for taking legal protected action during enterprise bargaining. Similar provisions were included in the MOJO bill in 1999, and again in the Workplace Relations Amendment (Secret Ballots for Protected Action) bill 2000. The provisions in the bill are additional to those that already exist in the WRA.

Despite changes to this bill from it's predecessors, my comments in my Minority Report at the time of the inquiry into the MOJO bill, about the proposed additional requirements for secret ballots remain, by and large, relevant. At that time I noted:

As a principle, the Australian Democrats are generally strongly supportive of direct democracy. Democrats are also strongly supportive of the democratic protections afforded by secret balloting processes. These are available under the WRA. At present pre-strike ballots are available to employees under section 136 of the Act, and the Commission can order secret ballots at its discretion under section 135. And of course, elections of union officials are by secret ballot. The provisions of section 135 and 136 have apparently been rarely used, suggesting that there maybe little real demand from employers or employees for further access to secret ballots.

However, the new provisions pose great dangers of actually escalating conflict, lengthening disputes, and making for more litigation. (see submissions from Professors Isaac and McCullum.) The committee heard evidence concerning the poorly designed Western Australian secret ballot laws, forced through their compliant upper house before the Coalition lost control of it. They have been an utter failure.

In short, the provisions of this Schedule add little to industrial democracy and add greatly to impediments to unions to undertake legitimate industrial action, while opening up the prospect of longer disputes and litigation.

This schedule should be opposed outright. It does not add to industrial democracy.[25]

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[25] Supplementary Report on the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, Senator Andrew Murray: November 1999, main report. p. 398

The bill varies in some ways from previous approaches, and is less aggressive. The relevant Bills Digest see these changes as 'subtle' while the ACCI describes them as more significant.

A number of submissions to the committee addressed the issue of secret ballots and a range of significant points arose.

Coercion: Clearly some witnesses believe that coercion of at least some employees occurs, or that some employees perceive that they are under pressure to vote a certain way, in the event of an attendance vote on industrial action. This is not hard to imagine in some circumstances, but there is no indication that it is usual or common. Obviously, if at all possible, such coercion should be prevented where it exists. The Department however, advised the Committee that this was not the prime purpose of the bill.

Mr. Smythe – I do not think the legislation is predicated on the premise that there is intimidation and therefore there must be secret ballots. As you have acknowledged, it is not impossible that there may be intimidation, but I think the simple proposition is, as Mr. Anderson said, that a secret ballot process can most readily guarantee the principle of democracy.[26]

This bill is directed at secret ballots prior to protected action being taken, with consequent disputation occurring. However, as outlined earlier in my remarks on the Genuine Bargaining bill, disputation may well be more common as a result of unprotected action. In evidence to the Committee, the Department indicated that it had no data to separate out the protected action disputation days lost from unprotected action disputation days lost, although it was negotiating with the ABS to ascertain such data in the future. If the purpose of the bill is to encourage employees to take their time and be more considered when taking strike and other actions, the bill will be ineffectual if it is in fact unprotected action strikes that occur.

The Bill imposes a comprehensive and detailed requirement on all unions in relation to protected action, regardless of their past record or responsibility in ensuring an effective and informed employee voice. Admittedly the sample was small, but four unions questioned at the Hearings all indicated there was no impediment at all to employees asking for a secret ballot at the time of any vote, or in introducing rules that required secret ballots in specific circumstances. It is possible that numbers of unions may already have such provisions in their rules.

Given that the WRA already has provisions for secret ballots, if the Government want additional protection to ensure union democracy, it may be that a simpler approach at this stage would be for the WRA to simply require that union rules recorded that secret ballots were possible on request by show of hands at any vote, and themselves detailed the procedures to accomplish that. Procedures could vary from the very comprehensive to putting slips of paper in a box to be counted at the meeting. Those rules could be subject to AIRC review.

The Bill is somewhat arbitrary in terms of the events that it prescribes a secret ballot for. There is no provision requiring a secret ballot in relation to acceptance/rejection of an enterprise agreement, and no requirement in relation to the ending of protected action. A more comprehensive imposition of secret ballots to end disputes would be in danger of increasing the length of disputation rather than reducing it, given the delays it may result in – a point accepted by unions and employer organisations alike.

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[26] Hansard EWRE 107, Friday 3 May 2002

There is no reciprocal obligation upon employers or their organisations to ensure their internal democracy through a secret ballot of an appropriate constituency in relation to lockouts or industrial action by employers. Why should an employer's lockout commencement not be subject to a vote of shareholders, if such is necessary for a vote for employees to strike? If democracy is the object of this bill, then a more even handed approach to the imposition of secret ballots may be called for.

At present pre-strike secret ballots are available to employees under section 136 of the Act, and the Commission can order secret ballots at its discretion under section 135. The mechanisms for such ballots are deliberately not prescribed in the Act in detail, except that they must be conducted 'in accordance with directions given by the Commission'. This discretion may be useful to retain. Certainly the provisions of section 135 and 136 have been seldom used, perhaps suggesting that there may be little real demand from employers or employees for further access to secret ballots, or perhaps because the strike or industrial action is more often taken in unprotected circumstances, so the employees would not be approaching the AIRC anyway.

In 1999/2000, for example, while 9640 applications were made for a bargaining period, only 2 orders for a secret ballot were made, presumably because the AIRC did not judge it would be helpful to do so. Only 12 orders for such ballots have been made since 1996._ In the same period 32957 applications were made for a bargaining period. There does not appear to be a need, certainly as perceived by the AIRC, for ballots to allow members to express views that are seen to be well expressed by existing methods of decision-making.

There does not appear to be any criticism of the AIRC's current methods that it uses to implement the conduct of a ballot 'in accordance with directions given by the Commission'. Their approach gives the AIRC powers to flexibly determine the mechanisms for the conduct of a ballot, rather than prescribe them step by step. The bill in contrast seeks to impose a fairly fixed approach, in all examples of protected action, creating new administrative complexity, cost and (no doubt) legal argument. The potential for delays in implementation, while exaggerated by some, exists. Unions have argued the bill's real intent is to frustrate the timely exercise of employee democracy, and work to reduce (through the burden of administrative complexity) the level of industrial action taken around enterprise agreements.

Instead, the AIRC might be directed to require a ballot in relation to the taking of protected action 'in accordance with directions given by the Commission', and to do so in situations where it perceives that an argument for secret ballots arises, for example where the AIRC has suspicion that members' views are not being properly represented by an association, or where there is historical evidence suggesting that coercion has occurred or might have occurred. There are industries, employers and unions, whose history is known to the AIRC, who might properly take that history into account. In those cases the AIRC might be encouraged to be more likely to impose additional secret ballots, but still at their discretion. This more targeted approach to secret ballots might be less onerous for the parties, less costly, and achieve an increase in democratic voice and decision making in the areas where it is truly needed.

Will more secret ballots across the whole union sector make a difference? The committee was not presented with evidence about whether the outcomes that arise from mandating more secret ballots than we presently have were expected to be different from, say, a show of hands. While UK precedents for such laws were cited, empirical evidence was not led for Australia to expect a change in industrial action that could be expected to flow from the bill. If there were to be, in fact, little

[27] Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 Digest, 2001-02, p. 7.

material difference to the outcome, the cost and complexity of imposing these ballot provisions might turn out to be a waste of private and public resources.

The technical prescription is fairly onerous. The bill generally requires a secret postal ballot although some provision for an attendance ballot exists. It also requires 'a ballot to hold a ballot' and is quite detailed in its requirements.

It is hard to estimate the effect of this Bill on the outcomes of decision making about protected action, or upon the costs it will impose not only on the public purse, and upon the AIRC, but also upon the employers and unions who must compile lists of employees and meet requirements about the conduct of ballots.

The object of the Bill is 'to establish a transparent process which allows employees directly concerned to choose' whether to take industrial action. It is sensible to guard against coercion of employees into protected action that they do not support (remembering that any employee can elect not to join industrial action). However, this object might be approached by a much simpler mechanism that builds upon the WRA's existing provisions.

Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002

This Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 will prevent collective certified agreements containing requirements that non-union members pay bargaining fees to unions, and will prevent the forced payment of such fees.

The Australian Democrats have considered this issue in the recent past and concluded:

The Australian Democrats support the rights of employees and employers to join or not to join registered organisations. We support the prohibition on duress. This bill addresses the possibility of non-members of unions being forced to pay bargaining fees (fee-for-service as it is also known), which then converts into a kind of compulsory unionism. The Democrats believe that fee-for-service issues must be separated out from issues of freedom of association and a prohibition on duress. Both fee-for-service and freedom of association are principles we support. The question then revolves around enabling legislation and whether this bill is the appropriate vehicle for the resolution of these issues.

The Government has characterised such fees as a form of compulsory unionism and this comprises their main argument for these amendments.

It is hard to see how provisions for bargaining fees should be against the spirit of the WRA and its object of facilitating agreement making. Agreement making is desirable, and if fee-for-service contributes to that, it is to the good. There is also the issue of 'free-riders', by employers on the backs of employer organisations, and employees on the backs of unions.

We consider it fair that those who benefit from agreement making should make a contribution towards its costs, whether employers or employees. This strikes us as a fair principle.

The bargaining fee may represent only a small portion of the real cost of completing an agreement, for instance where that agreement involves union members' foregone earnings through taking protected action.

We see a clear distinction between the notion of compulsory unionism (which we oppose) and a contribution to the costs of bargaining, where the person paying is a direct beneficiary of that bargaining. Such payees are not joining a union, but clearly the fee should not be a substitute for a normal union fee. They are paying for a service. They are not contributing to other activities of the union, or electing to play any role in the activities, policies or other conduct of the organisation, or getting any of the other benefits of a union. They are not union members.

Coercive attempts to force union membership are clearly illegal under the WRA and should remain so.

At that time we noted that a fee-for-service is not at all unusual under industrial relations and bargaining regimes in other countries. In some countries it is imposed. In the US those non-unionists in workplaces where a majority vote to join a union, and who then benefit from bargaining to reach workplace agreements, must generally pay a fee to the union that wins the certification ballot and negotiates the agreement. Allowing workplaces to take a vote on agreements which include provision to charge such a fee, and then where the majority vote in its support, permit its collection, is not out of step with practice in other places. To repeat, it seems fair and reasonable that those who benefit, whether employers or employees, also pay. The ILO view bargaining fees as a legitimate issue for collective bargaining.

One submission stated

…the ACCER does not support the charging of a bargaining fee without the direct consent and authorisation of the non-union member, prior to the negotiation of a certified agreement.[28]

This statement encapsulates some key principles – that the consent has to be direct by the employee affected, [without duress], and prior to the negotiation, not subsequent.

It seems, then, that a series of principles to guide the setting of fees could include:

Advance notice: individuals should know in advance of paying a fee, what that fee will be, and what it purchases (unions and employer organisations would need a 'price/service list');

The fee should be a one-off for the service, not an annual charge;

No coercion: no one should be coerced into paying a bargaining fee. Payment of fees should be entirely voluntary;

No payment, no benefit: however, if a fee is not paid, then it is fair that non-contributory parties should not receive the benefits achieved by bargaining or association efforts. Without this requirement, there will be no inducement for free riders to pay a fee, which is clearly fair where they receive the benefit. This principle is not implied in the current bill;

Fee level: individuals have a right to know in advance the relevant fee, and it should be set at a reasonable level. If it was not below relevant comparable union membership rates (compared on an average annual basis), in the case of union bargaining, there should be suspicion, given that a fee buys less than the full benefits of union membership;

Clear expression in an agreement: the arrangements for such fees should be clearly set out in any agreement

[28]John Ryan, Executive Officer Australian Catholic Commission for Employment Relations

The current bill achieves some of these principles, but prevents others. The Democrats will consider the bill further as it proceeds through Parliament, guided by these principles. We remain open to the possibility that bargaining fees or fee-for-service provisions become part of workplace law, within the principles of freedom of association.

Senator Andrew Murray

APPENDICES

Appendix 1: Key features of Federal and State Termination Laws

Appendix 2: Question on Notice: Unfair Dismissal Applications (No. 1005)

Appendix 3: Question on Notice: Small Business (No. 16)

Appendix 4: Question on Notice: Workplace Relations: Unfair Dismissals (No. 5)

Appendix 5: Federal Unfair Dismissal Cases

APPENDIX 1

KEY FEATURES OF FEDERAL AND STATE TERMINATION LAWS

	Cmwth	NSW	QLD	SA	WA	Tas
Employee able to apply for remedy?	Yes	Yes	Yes	Yes	Yes	Yes
Max time period after termination to apply	21 days	21 days	21 days	21 days	28 days	21 days
Filing Fee	$50.00	$50.00	$46.50	$0.00	$5.00	$0.00
Casuals excluded, for what period?	12 mths	6 mnths	12 mths	9 mnths	No	No
Statutory default probationary period	3 mnths	No	3 mnths	No	No	No
Conciliation before arbitration	Yes	Yes	Yes	Yes	Yes	Yes
Certificate issued if conciliation fails?	Yes	No	Yes	Assess-ment made	No	No
Penalty for disregarding assessment?	Yes	No	No	Yes	No	No
Commission to consider size of business?	Yes					
Penalties against advocates for vexatious claims	Yes					
Requirement to disclose 'no win no fee'	Yes					
Dismiss claims which have no prospect of success?	Yes					
Is salary compensation capped?	6 months remuneration. Limited to $37,600 for non-award employees	6 months remuner ation	6 months average wage	6 months remuner-ation limited to $38,700	6 months remuner-ation	6 months ordinary pay

Note: termination provisions contained in the CCH Australian Employment Legislation at 21 December 2001.

No attempt has been made to include other authority a tribunal might rely on to deal with a matter beyond those prescribed under the particular termination provisions.

WA provisions do not apply to WA employees under WA Workplace Agreements, and new industrial legislation will come into effect in Western Australia post May 2002.

Prepared by Steve O'Neill, Department of the Parliamentary Library for the Senate Employment, Workplace Relations and Education Legislation Committee.

APPENDIX 2

QUESTION ON NOTICE: UNFAIR DISMISSAL APPLICATIONS

(Question No. 1005) Senator Murray asked the Minister representing the Minister for Workplace Relations and Small Business, upon notice, on 26 November 1997:

(1) With reference to an answer to a question on notice asked during the 1997-98 Budget Supplementary Estimates hearings of the Economics Legislation Committee concerning the Industrial Relations portfolio, subprogram 1.2—Legal and Industry:

Can a comparison of the industrial relations systems' nine unfair dismissal jurisdictions in 1997 as compared to 1996 be provided at the earliest date following 31 December 1997.

(2) At the earliest date following 31 December 1997, could details of research undertaken on the number and percentage of unfair dismissal applications which apply to small businesses with less than 15 employees, compared with total unfair dismissal applications for 1997, in all nine unfair dismissal jurisdictions be provided.

Senator Alston—The Minister for Workplace Relations and Small Business has provided the following answer to the honourable senator's questions:

(1) A comparison of unfair dismissal applications in all jurisdictions in 1997 as compared to 1996 is as follows.

State/Territory	Jan-Dec 1996 1	Jan- Dec 1997 a	Combined 1997 Figures as % of				
	Federal	State	Combined	Federal	State	Combined	Combined 1996 Figures 1
New South Wales	4,290	2,186	6,476	1,115	4,558	5,673	88%
South Australia	633	1,240	1,873	273	1,384 2	1,6572	88%
Queensland	512	1,932	2,444	623	1,932	2,555	105%
Western Australia	1,875	918	2,793	271	1,824	2,095	75%
Tasmania 3	360	1143	474	117	3693	486	103%
Victoria 4	5,958	358	6,316	4,527	NA4	4,527	72%
ACT 4	509	NA4	509	260	NA4	260	51%
NT 4	396	NA4	396	277	NA4	277	70%
Total	14,533	6,748	21,281	7,463	10,067	17,530	82%

Notes 1. Federal and State figures are based on calendar months, and incorporate estimates and interpolations, where original data not available. Official and unofficial sources are used.

2. The SA Commission has advised that figures for the months of February, April and June 1997 were inflated by applications lodged on behalf of over 100 workers each month who were made redundant from SAMCorp (a large SA meat processing corporation) in February and April and from Bells (Sizzler) in June.

3. Tasmanian State figures are unofficial only. Official monthly figures are not produced by the Tasmanian Commission. The official total figures for the 1995/1996 and

1996/1997 financial years were contained in the Commission's annual reports for those years.

4. There are no separate Territory unfair dismissal systems, and there has been no separate Victorian unfair dismissal system after 1996.

(2) In relation to Federal unfair dismissal applications, the Australian Industrial Registry is collecting information on the number and percentage of unfair dismissal applications which apply to small businesses with 15 or less employees, for each month from December 1997 to May 1998. This information is being forwarded to Senator Murray. The information relating to applications from 1 December 1997 to 31 January 1998 is as follows.

Registry	Total termination of employment applications lodged	Total employer responses to Industrial Registry's question on employer size	Employers employing 15 or fewer employees	Employers employing 15 or fewer employees as % of total employer responses received
ACT	33	12	9	75
NSW	234	68	19	28
NT	43	18	8	44
QLD	55	29	6	21
SA	42	12	1	8
TAS	16	7	1	14
VIC	810	308	121	39
WA	50	17	1	6
Total	1,283	471	166	35

In relation to State unfair dismissal applications, it is not possible to provide information on the number and percentage of unfair dismissal applications which apply to small businesses with 15 or less employees, as no State collects data on the size of respondents to unfair dismissal applications.

APPENDIX 3

QUESTION ON NOTICE: SMALL BUSINESS

(Question No. 16) Senator Murray asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 24 January 2002:

(1)How many small businesses are there in each state and territory.

(2)For each state and territory, how many small business fall under the Federal Workplace Relations Act provisions for unfair dismissal, as opposed to state provisions for unfair dismissal.

http://hyperlink&class=name&xrefid=ld4/Senator Alston —The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1)The following table provides information on the number of small businesses in each State and Territory:

State/Territory	
Number of small businesses	
New South Wales	360 600
Victoria	264 300
Queensland	205 800
South Australia	78 200
Western Australia	116 300
Tasmania	22 700
Northern Territory	9 100
Australian Capital Territory	18 000
Total	1 075 000

Sources: Australian Bureau of Statistics Catalogues 1321.0, 8127.0, 8141.0 and Yellow Pages Special Report on E-Commerce and computer technology July 2001.

Approximately 50% of these businesses are non-employing businesses. 34% of small businesses employ between 1 and 4 people, and 16% employ 5 to 19 people. A total of 3 181 000 people are employed by small businesses in Australia.

(2)Further time is required to obtain from various sources the information needed to answer this question. The information will be tabled when it is available.

APPENDIX 4

QUESTION ON NOTICE: WORKPLACE RELATIONS: UNFAIR DISMISSALS

(Question No. 5) Senator Murray asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 20 December 2001:

With reference to the answer to question on notice no.1005 (Senate Hansard, 4 March 1998, p. 421):

(1)Can the Minister provide a table for all unfair dismissal applications under federal and state law for the 2000-01 financial year, for all states and territories, showing federal, state and total amounts on a similar basis to (1) of the referenced question?

(2)Can the Minister provide a table for all small business unfair dismissal applications under federal and state law for the 2000-01 financial year, for all states and territories, showing federal, state and total amounts on a similar basis to (1) of the referenced question?

Senator Alston—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1)The following table provides information on unfair dismissal applications lodged in Australian jurisdictions between 1 July 2000 and 30 June 2001:

State/Territory			
Applications lodged between 1 July 2000 and 30 June 20011			
	Federal	State	Combined
New South Wales	1,648	4,041	5,689
Queensland	420	1,866	2,286
Western Australia2	398	1,7592	2,157
South Australia	198	1,175	1,373
Tasmania	137	264	401
Victoria3	4,781	n/a	4,781
Australian Capital Territory3	250	n/a	250
Northern Territory3	263	n/a	263
Total	8,095	9,105	17,200

Notes

1 Federal and State figures are based on calendar months, and incorporate estimates and interpolations where original data are not available. Official and unofficial sources are used.

2 Western Australian State figures include both unfair dismissal applications and applications which combine claims of unfair dismissal and denial of contractual benefits.

3 There are no separate Territory unfair dismissal systems, and there has been no separate Victorian unfair dismissal system since 1996.

(2)The Australian Industrial Registry collects information on the number and percentage of unfair dismissal applications that involve employers with 15 or fewer employees. However, this information relates to unfair dismissal applications under the federal Workplace Relations Act 1996 only. As far as the Federal Government is aware, no State or Territory collects data on the size of respondents to unfair dismissal applications. Therefore, it is not possible to provide a table for all small business unfair dismissals under federal and state law for 2000-01 as requested.

The following table provides information on federal unfair dismissal applications, broken down by the State and Territory in which the federal application was lodged. Note that this information is incomplete, as employers provide the data voluntarily. Not all employers respond to the Registry's request for information on employer size - the total number of respondents who provided information on employer size is indicated in the table.

Federal unfair dismissal applications lodged between 1 July 2000 and 30 June 2001				
Registry	Total termination of employment applications lodged	Total employer responses received to Registry's request for information on employer size	Number of responses received from employers employing 15 or fewer employees	Employers employing 15 or fewer employees as % of total employer responses received
New South Wales	1,648	359	97	27.0%
Queensland	420	283	53	18.7%
Western Australia	398	104	37	35.6%
South Australia	198	104	14	13.5%
Tasmania	137	84	23	27.4%
Victoria	4,781	1,357	530	39.1%
Australian Capital Territory	250	90	35	38.9%
Northern Territory	263	145	50	34.5%
Total	8,095	2,526	839	33.2%

APPENDIX 5

FEDERAL UNFAIR DISMISSAL CASES

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : Australia

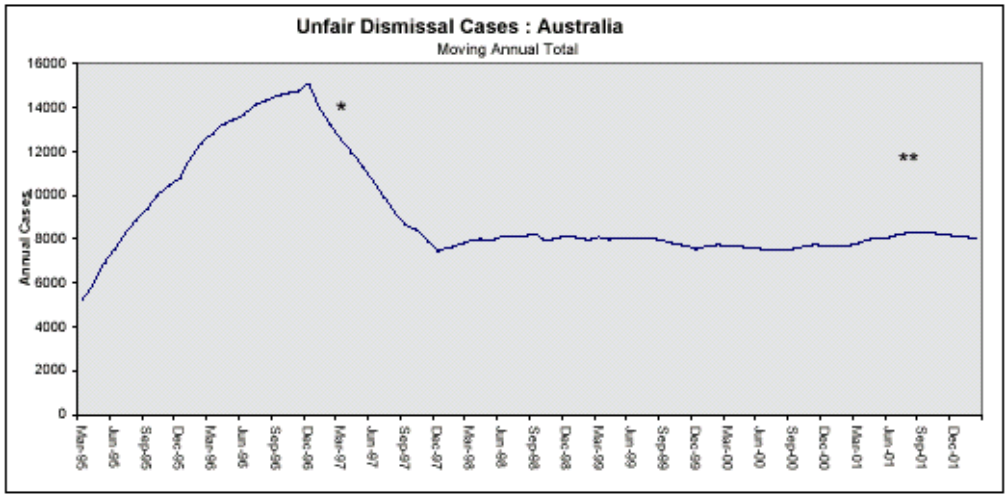
Source:Department of Industrial Relations

*

	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	540	581	535	418	492	354	1511	625	
Feb	572	680	705	618	709	551	1305	613	
March	0	866	755	820	708	547	1235	786	
April	0	705	535	563	666	592	1148	690	1
May	0	709	634	681	597	644	1298	1096	121
June	0	645	624	685	700	533	1207	986	330
July	0	785	615	658	687	712	1427	963	252
Aug	0	690	662	630	609	557	1282	1087	462
Sept	0	577	566	550	682	591	1120	924	440
Oct	0	620	635	539	661	979	1206	1049	373
Nov	0	652	736	634	744	611	1138	1087	703
Dec	0	647	678	745	882	791	1206	830	487
TOTAL	1112	8157	7680	7541	8137	7462	15083	10736	3169

* The Coalition's Workplace Relations Act commenced 1/1/97, and was passed after amendment by the Democrats.

** Changes to Unfair Dismissal process occurred from September 2001, after the Act was amended with Democrat support



Moving Annual Total									
Mar-95	5193	Oct-96	14656	May-98	7946	Dec-99	7541	Jul-01	8248
Apr-95	5882	Nov-96	14707	Jun-98	8113	Jan-00	7658	Aug-01	8276
May-95	6857	Dec-96	15083	Jul-98	8088	Feb-00	7745	Sep-01	8287
Jun-95	7513	Jan-97	13926	Aug-98	8140	Mar-00	7680	Oct-01	8272
Jul-95	8224	Feb-97	13172	Sep-98	8231	Apr-00	7652	Nov-01	8188
Aug-95	8849	Mar-97	12484	Oct-98	7913	May-00	7605	Dec-01	8157
Sep-95	9333	Apr-97	11928	Nov-98	8046	Jun-00	7544	Jan-02	8116
Oct-95	10009	May-97	11274	Dec-98	8137	Jul-00	7501	Feb-02	8008
Nov-95	10393	Jun-97	10600	Jan-99	8063	Aug-00	7533		
Dec-95	10736	Jul-97	9885	Feb-99	7972	Sep-00	7549		
Jan-96	11622	Aug-97	9160	Mar-99	8084	Oct-00	7645		
Feb-96	12314	Sep-97	8631	Apr-99	7981	Nov-00	7747		
Mar-96	12763	Oct-97	8404	May-99	8065	Dec-00	7680		
Apr-96	13221	Nov-97	7877	Jun-99	8050	Jan-01	7726		
May-96	13423	Dec-97	7462	Jul-99	8021	Feb-01	7701		
Jun-96	13644	Jan-98	7600	Aug-99	8042	Mar-01	7812		
Jul-96	14108	Feb-98	7758	Sep-99	7910	Apr-01	7982		
Aug-96	14303	Mar-98	7919	Oct-99	7788	May-01	8057		
Sep-96	14499	Apr-98	7993	Nov-99	7678	Jun-01	8078		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : ACT

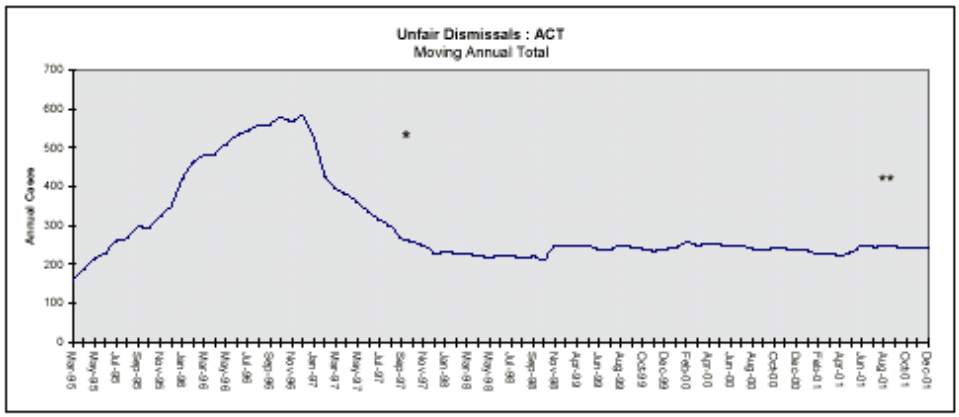
Source:Department of Industrial Relations

*

	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	15	16	16	12	15	11	71	0	
Feb	29	14	23	9	21	24	44	46	
March		24	23	31	19	20	51	32	
April		16	21	16	12	18	31	28	0
May		28	19	22	25	29	52	28	0
June		32	15	18	26	21	45	22	7
July		19	23	24	27	26	45	32	0
Aug		20	19	26	12	21	38	26	20
Sept		17	17	18	24	18	49	46	15
Oct		19	23	21	25	32	40	21	23
Nov		17	18	18	24	22	31	42	14
Dec		21	19	24	19	18	39	24	0
TOTAL	44	243	236	239	249	260	536	347	79

* The Coalition's Workplace Relations Act commenced 1/1/97, and was passed after amendment by the Democrats.

** Changes to Unfair Dismissal process occurred from September 2001, after the Act was amended with Democrat support.



Moving Annual Total									
Mar-95	157	Oct-96	578	May-98	218	Dec-99	239	Jul-01	245
Apr-95	185	Nov-96	567	Jun-98	223	Jan-00	243	Aug-01	246
May-95	213	Dec-96	582	Jul-98	224	Feb-00	257	Sep-01	246
Jun-95	228	Jan-97	522	Aug-98	215	Mar-00	249	Oct-01	242
Jul-95	260	Feb-97	424	Sep-98	221	Apr-00	254	Nov-01	241
Aug-95	266	Mar-97	393	Oct-98	211	May-00	251	Dec-01	243
Sep-95	297	Apr-97	380	Nov-98	248	Jun-00	248	Jan-02	242
Oct-95	295	May-97	357	Dec-98	249	Jul-00	247	Feb-02	257
Nov-95	323	Jun-97	333	Jan-99	246	Aug-00	240		
Dec-95	347	Jul-97	314	Feb-99	234	Sep-00	239		
Jan-96	418	Aug-97	297	Mar-99	246	Oct-00	241		
Feb-96	462	Sep-97	266	Apr-99	250	Nov-00	241		
Mar-96	481	Oct-97	258	May-99	247	Dec-00	236		
Apr-96	484	Nov-97	249	Jun-99	239	Jan-01	236		
May-96	508	Dec-97	228	Jul-99	236	Feb-01	227		
Jun-96	531	Jan-98	232	Aug-99	250	Mar-01	228		
Jul-96	544	Feb-98	229	Sep-99	244	Apr-01	223		
Aug-96	556	Mar-98	228	Oct-99	240	May-01	232		
Sep-96	559	Apr-98	222	Nov-99	234	Jun-01	249		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : NSW

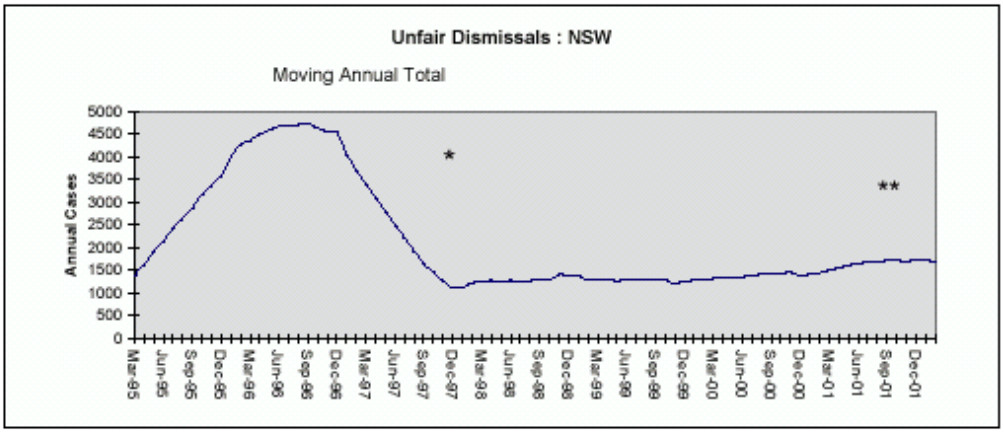
Source:Department of Industrial Relations

*

	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	107	103	78	69	76	57	571	160	
Feb	111	142	111	102	178	78	433	139	
March		195	139	107	124	93	397	309	
April		170	106	92	88	75	366	234	0
May		155	105	98	109	133	410	316	26
June		155	122	104	96	72	371	286	55
July		165	116	93	82	102	386	376	95
Aug		138	136	99	93	78	382	356	149
Sept		124	109	103	126	82	333	305	74
Oct		116	113	101	85	107	286	392	90
Nov		129	141	118	205	100	288	369	183
Dec		129	112	188	121	158	324	314	92
TOTAL	218	1721	1388	1274	1383	1135	4547	3556	764

*The Coalition's Workplace Relations Act commenced 1/1/97, and was passed after amendment by the Democrats.

** Changes to Unfair Dismissal process occurred from September 2001, after the Act was amended with Democrat support



Moving Annual Total									
Mar-95	1372	Oct-96	4618	May-98	1254	Dec-99	1274	Jul-01	1696
Apr-95	1606	Nov-96	4537	Jun-98	1278	Jan-00	1283	Aug-01	1698
May-95	1896	Dec-96	4547	Jul-98	1258	Feb-00	1292	Sep-01	1713
Jun-95	2127	Jan-97	4033	Aug-98	1273	Mar-00	1324	Oct-01	1716
Jul-95	2408	Feb-97	3678	Sep-98	1313	Apr-00	1338	Nov-01	1704
Aug-95	2615	Mar-97	3374	Oct-98	1285	May-00	1345	Dec-01	1721
Sep-95	2846	Apr-97	3083	Nov-98	1420	Jun-00	1363	Jan-02	1725
Oct-95	3148	May-97	2786	Dec-98	1383	Jul-00	1386	Feb-02	1694
Nov-95	3334	Jun-97	2487	Jan-99	1376	Aug-00	1423		
Dec-95	3556	Jul-97	2203	Feb-99	1300	Sep-00	1429		
Jan-96	3967	Aug-97	1899	Mar-99	1283	Oct-00	1441		
Feb-96	4261	Sep-97	1648	Apr-99	1287	Nov-00	1464		
Mar-96	4349	Oct-97	1469	May-99	1276	Dec-00	1388		
Apr-96	4481	Nov-97	1281	Jun-99	1284	Jan-01	1413		
May-96	4575	Dec-97	1115	Jul-99	1295	Feb-01	1444		
Jun-96	4660	Jan-98	1134	Aug-99	1301	Mar-01	1500		
Jul-96	4670	Feb-98	1234	Sep-99	1278	Apr-01	1564		
Aug-96	4696	Mar-98	1265	Oct-99	1294	May-01	1614		
Sep-96	4724	Apr-98	1278	Nov-99	1207	Jun-01	1647		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : NT

Source:Department of Industrial Relations

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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	18	27	78	15	16	18	45	12	
Feb	24	27	29	25	24	24	33	16	
March		28	16	31	21	22	32	24	
April		23	26	27	14	26	33	20	0
May		15	23	20	17	22	30	23	4
June		22	17	22	24	21	21	15	13
July		21	15	22	27	16	38	19	11
Aug		16	23	26	13	17	35	24	3
Sept		21	15	22	14	19	28	30	6
Oct		15	23	11	23	36	30	18	10
Nov		23	25	17	25	29	45	23	13
Dec		20	17	29	15	27	37	23	16
TOTAL	42	258	307	267	233	277	407	247	76

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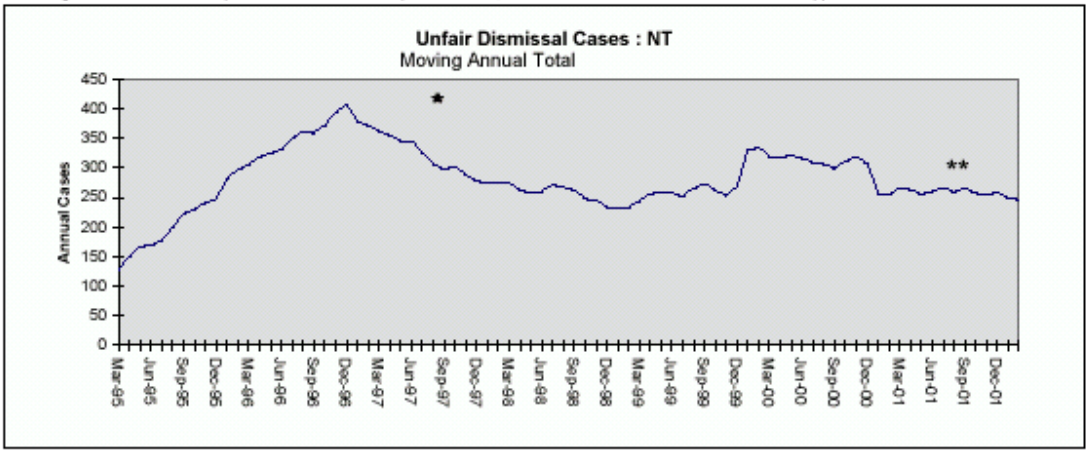

Moving Annual Total									
Mar-95	128	Oct-96	371	May-98	257	Dec-99	267	Jul-01	266
Apr-95	148	Nov-96	393	Jun-98	260	Jan-00	330	Aug-01	259
May-95	167	Dec-96	407	Jul-98	271	Feb-00	334	Sep-01	265
Jun-95	169	Jan-97	378	Aug-98	267	Mar-00	319	Oct-01	257
Jul-95	177	Feb-97	371	Sep-98	262	Apr-00	318	Nov-01	255
Aug-95	198	Mar-97	361	Oct-98	247	May-00	321	Dec-01	258
Sep-95	222	Apr-97	354	Nov-98	245	Jun-00	316	Jan-02	249
Oct-95	230	May-97	346	Dec-98	233	Jul-00	309	Feb-02	246
Nov-95	240	Jun-97	346	Jan-99	232	Aug-00	306		
Dec-95	247	Jul-97	324	Feb-99	233	Sep-00	299		
Jan-96	280	Aug-97	306	Mar-99	243	Oct-00	311		
Feb-96	297	Sep-97	297	Apr-99	256	Nov-00	319		
Mar-96	305	Oct-97	303	May-99	259	Dec-00	307		
Apr-96	318	Nov-97	287	Jun-99	257	Jan-01	256		
May-96	325	Dec-97	277	Jul-99	252	Feb-01	254		
Jun-96	331	Jan-98	275	Aug-99	265	Mar-01	266		
Jul-96	350	Feb-98	275	Sep-99	273	Apr-01	263		
Aug-96	361	Mar-98	274	Oct-99	261	May-01	255		
Sep-96	359	Apr-98	262	Nov-99	253	Jun-01	260		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : Qld

Source:Department of Industrial Relations

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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	36	19	32	22	21	22	86	31	
Feb	29	33	59	24	22	17	43	17	
March		45	58	36	32	27	31	27	
April		47	34	22	29	28	45	49	0
May		41	28	34	24	25	36	28	8
June		48	27	25	37	24	62	49	0
July		36	22	34	29	30	47	35	9
Aug		36	30	18	20	27	39	28	4
Sept		41	24	26	22	21	38	29	2
Oct		34	28	29	23	344	58	50	21
Nov		47	46	29	30	24	38	29	24
Dec		31	28	37	20	34	39	5	30
TOTAL	65	458	416	336	309	623	562	377	98

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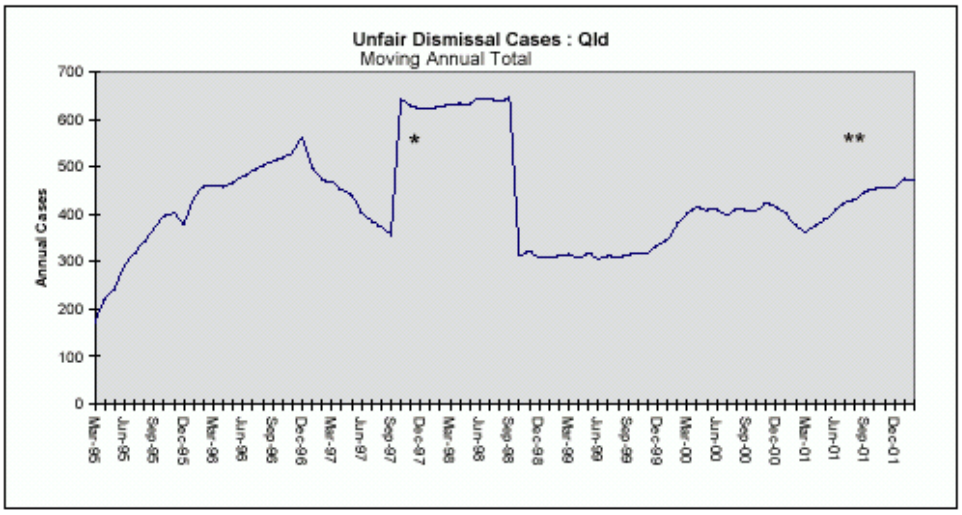

Moving Annual Total									
Mar-95	173	Oct-96	519	May-98	632	Dec-99	336	Jul-01	425
Apr-95	222	Nov-96	528	Jun-98	645	Jan-00	346	Aug-01	431
May-95	242	Dec-96	562	Jul-98	644	Feb-00	381	Sep-01	448
Jun-95	291	Jan-97	498	Aug-98	637	Mar-00	403	Oct-01	454
Jul-95	317	Feb-97	472	Sep-98	646	Apr-00	415	Nov-01	455
Aug-95	341	Mar-97	468	Oct-98	313	May-00	409	Dec-01	458
Sep-95	368	Apr-97	451	Nov-98	323	Jun-00	411	Jan-02	475
Oct-95	397	May-97	440	Dec-98	309	Jul-00	399	Feb-02	471
Nov-95	402	Jun-97	402	Jan-99	310	Aug-00	411		
Dec-95	377	Jul-97	385	Feb-99	312	Sep-00	409		
Jan-96	432	Aug-97	373	Mar-99	316	Oct-00	408		
Feb-96	458	Sep-97	356	Apr-99	309	Nov-00	425		
Mar-96	462	Oct-97	642	May-99	319	Dec-00	416		
Apr-96	458	Nov-97	628	Jun-99	307	Jan-01	403		
May-96	466	Dec-97	623	Jul-99	312	Feb-01	377		
Jun-96	479	Jan-98	622	Aug-99	310	Mar-01	364		
Jul-96	491	Feb-98	627	Sep-99	314	Apr-01	377		
Aug-96	502	Mar-98	632	Oct-99	320	May-01	390		
Sep-96	511	Apr-98	633	Nov-99	319	Jun-01	411		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : SA

Source:Department of Industrial Relations

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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	19	14	5	11	16	6	72	0	
Feb	12	16	14	21	13	20	48	1	
March		13	27	24	40	32	61	0	
April		16	11	18	51	23	62	1	0
May		13	14	14	18	30	47	6	6
June		14	18	23	21	36	41	55	13
July		13	28	24	26	18	65	38	4
Aug		9	15	13	13	18	65	37	8
Sept		10	19	13	30	21	42	52	3
Oct		14	15	13	17	21	58	55	9
Nov		22	14	21	16	22	40	71	0
Dec		16	19	19	23	26	43	58	0
TOTAL	31	170	199	214	284	273	644	374	43

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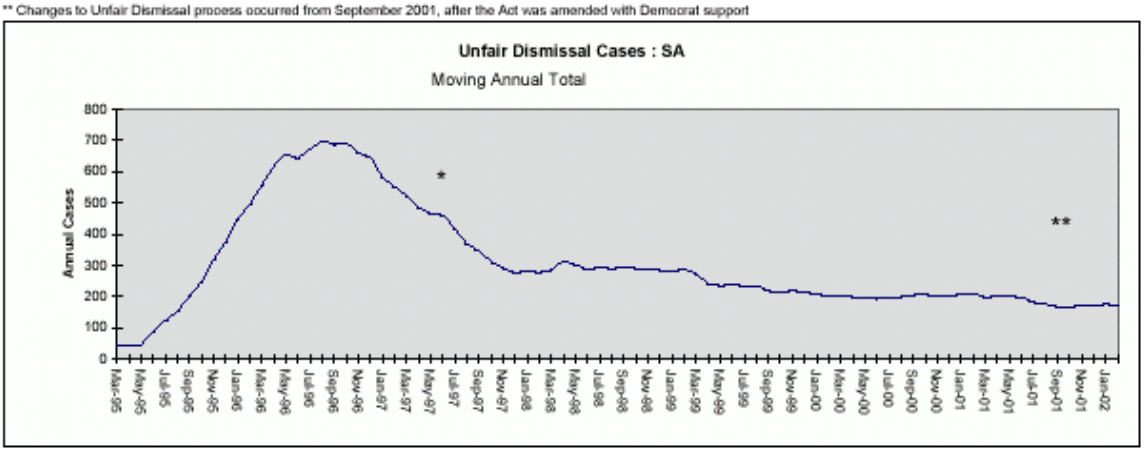

Moving Annual Total									
Mar-95	44	Oct-96	690	May-98	300	Dec-99	214	Jul-01	181
Apr-95	45	Nov-96	659	Jun-98	285	Jan-00	208	Aug-01	175
May-95	45	Dec-96	644	Jul-98	293	Feb-00	201	Sep-01	166
Jun-95	87	Jan-97	578	Aug-98	288	Mar-00	204	Oct-01	165
Jul-95	121	Feb-97	550	Sep-98	296	Apr-00	197	Nov-01	173
Aug-95	150	Mar-97	521	Oct-98	289	May-00	197	Dec-01	170
Sep-95	199	Apr-97	482	Nov-98	287	Jun-00	192	Jan-02	175
Oct-95	245	May-97	465	Dec-98	284	Jul-00	196	Feb-02	171
Nov-95	316	Jun-97	460	Jan-99	279	Aug-00	198		
Dec-95	374	Jul-97	413	Feb-99	287	Sep-00	204		
Jan-96	446	Aug-97	366	Mar-99	271	Oct-00	206		
Feb-96	493	Sep-97	345	Apr-99	238	Nov-00	199		
Mar-96	554	Oct-97	308	May-99	234	Dec-00	199		
Apr-96	615	Nov-97	290	Jun-99	236	Jan-01	208		
May-96	656	Dec-97	273	Jul-99	234	Feb-01	210		
Jun-96	642	Jan-98	283	Aug-99	234	Mar-01	196		
Jul-96	669	Feb-98	276	Sep-99	217	Apr-01	201		
Aug-96	697	Mar-98	284	Oct-99	213	May-01	200		
Sep-96	687	Apr-98	312	Nov-99	218	Jun-01	196		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : Tas

Source:Department of Industrial Relations

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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	13	7	6	15	8	3	28	12	
Feb	11	10	10	14	10	12	22	13	
March		14	16	3	4	7	32	23	
April		8	5	3	16	17	24	17	0
May		18	12	23	8	12	32	29	1
June		13	10	12	8	8	34	26	0
July		13	10	8	12	7	32	31	13
Aug		18	17	9	5	5	35	31	0
Sept		5	5	13	7	23	41	23	22
Oct		15	14	9	10	7	18	11	15
Nov		10	9	11	7	8	38	17	28
Dec		9	13	9	147	8	33	17	21
TOTAL	24	140	127	129	242	117	369	250	100

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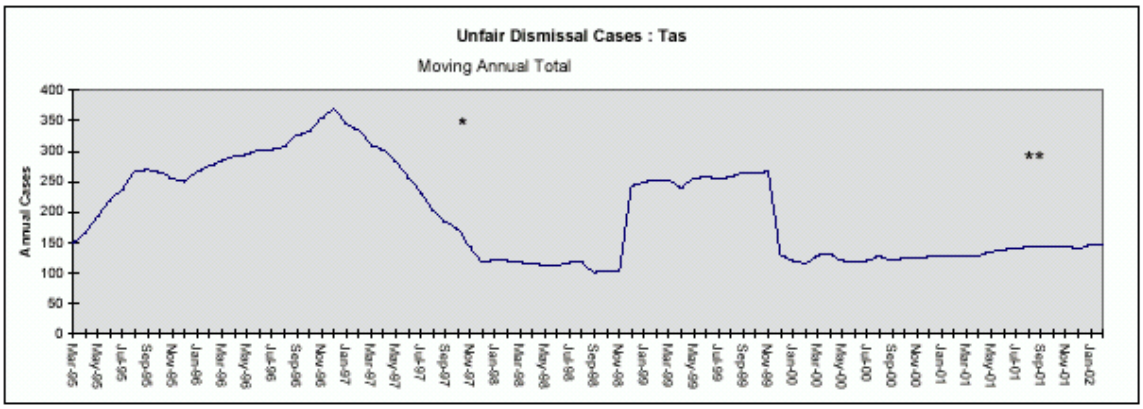

Moving Annual Total									
Mar-95	148	Oct-96	332	May-98	112	Dec-99	129	Jul-01	141
Apr-95	165	Nov-96	353	Jun-98	112	Jan-00	120	Aug-01	142
May-95	193	Dec-96	369	Jul-98	117	Feb-00	116	Sep-01	142
Jun-95	219	Jan-97	344	Aug-98	117	Mar-00	129	Oct-01	143
Jul-95	237	Feb-97	334	Sep-98	101	Apr-00	131	Nov-01	144
Aug-95	268	Mar-97	309	Oct-98	102	May-00	120	Dec-01	140
Sep-95	269	Apr-97	302	Nov-98	103	Jun-00	118	Jan-02	146
Oct-95	265	May-97	282	Dec-98	242	Jul-00	120	Feb-02	147
Nov-95	254	Jun-97	256	Jan-99	249	Aug-00	128		
Dec-95	250	Jul-97	231	Feb-99	253	Sep-00	120		
Jan-96	266	Aug-97	201	Mar-99	252	Oct-00	125		
Feb-96	275	Sep-97	183	Apr-99	239	Nov-00	123		
Mar-96	284	Oct-97	172	May-99	254	Dec-00	127		
Apr-96	291	Nov-97	142	Jun-99	258	Jan-01	128		
May-96	294	Dec-97	117	Jul-99	254	Feb-01	128		
Jun-96	302	Jan-98	122	Aug-99	258	Mar-01	126		
Jul-96	303	Feb-98	120	Sep-99	264	Apr-01	129		
Aug-96	307	Mar-98	117	Oct-99	263	May-01	135		
Sep-96	325	Apr-98	116	Nov-99	267	Jun-01	138		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : Victoria

Source:Department of Industrial Relations

*

	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	304	357	292	256	326	219	534	371	
Feb	326	411	424	392	423	348	505	350	
March		516	436	539	452	323	481	287	
April		393	303	351	425	389	447	286	0
May		403	408	423	380	388	534	593	70
June		340	383	419	435	328	501	456	213
July		485	360	413	457	487	624	359	95
Aug		414	386	398	430	368	504	498	242
Sept		327	354	321	435	396	448	397	290
Oct		384	386	325	461	422	483	430	116
Nov		377	452	392	403	373	516	440	380
Dec		391	422	398	507	484	592	352	302
TOTAL	630	4798	4606	4627	5134	4525	6169	4819	1708

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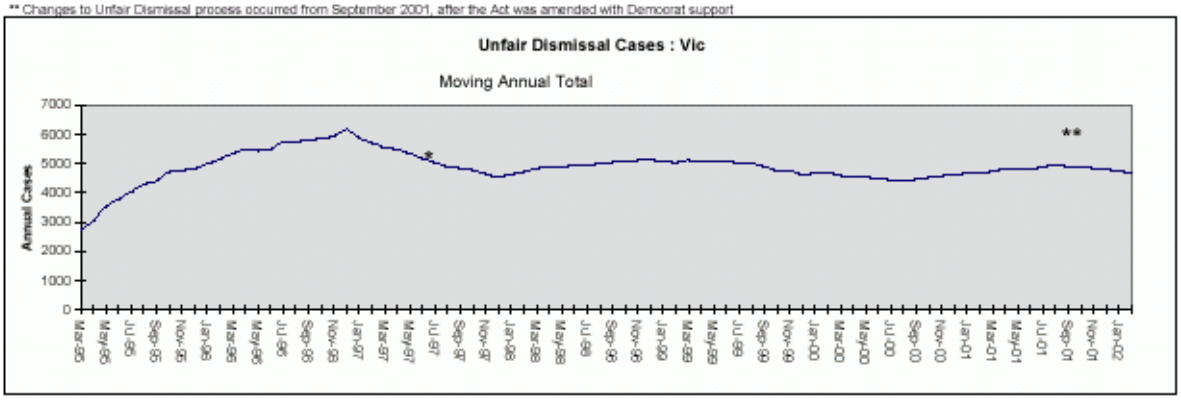

Moving Annual Total									
Mar-95	2716	Oct-96	5853	May-98	4864	Dec-99	4627	Jul-01	4905
Apr-95	3002	Nov-96	5928	Jun-98	4961	Jan-00	4663	Aug-01	4933
May-95	3525	Dec-96	6169	Jul-98	4941	Feb-00	4695	Sep-01	4906
Jun-95	3768	Jan-97	5854	Aug-98	5003	Mar-00	4592	Oct-01	4904
Jul-95	4032	Feb-97	5697	Sep-98	5042	Apr-00	4544	Nov-01	4829
Aug-95	4288	Mar-97	5539	Oct-98	5081	May-00	4529	Dec-01	4798
Sep-95	4395	Apr-97	5481	Nov-98	5111	Jun-00	4493	Jan-02	4745
Oct-95	4709	May-97	5335	Dec-98	5134	Jul-00	4440	Feb-02	4660
Nov-95	4769	Jun-97	5162	Jan-99	5064	Aug-00	4428		
Dec-95	4819	Jul-97	5025	Feb-99	5033	Sep-00	4461		
Jan-96	4982	Aug-97	4889	Mar-99	5120	Oct-00	4522		
Feb-96	5137	Sep-97	4837	Apr-99	5046	Nov-00	4582		
Mar-96	5331	Oct-97	4776	May-99	5089	Dec-00	4606		
Apr-96	5492	Nov-97	4633	Jun-99	5073	Jan-01	4671		
May-96	5433	Dec-97	4525	Jul-99	5029	Feb-01	4658		
Jun-96	5478	Jan-98	4632	Aug-99	4997	Mar-01	4738		
Jul-96	5743	Feb-98	4707	Sep-99	4883	Apr-01	4828		
Aug-96	5749	Mar-98	4836	Oct-99	4747	May-01	4823		
Sep-96	5800	Apr-98	4872	Nov-99	4736	Jun-01	4780		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : WA

Source:Department of Industrial Relations

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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	28	38	28	18	14	18	104	39	
Feb	30	27	35	31	18	28	177	31	
March		31	40	49	16	23	150	84	
April		32	29	34	31	16	140	55	1
May		36	25	47	16	25	157	73	6
June		21	32	62	53	23	132	77	29
July		33	41	40	27	26	190	73	25
Aug		39	36	41	23	23	184	87	36
Sept		32	23	34	24	11	141	42	28
Oct		23	33	30	17	10	233	72	87
Nov		27	31	28	34	33	142	96	61
Dec		30	48	41	30	36	99	37	26
TOTAL	58	369	401	455	303	272	1849	766	299

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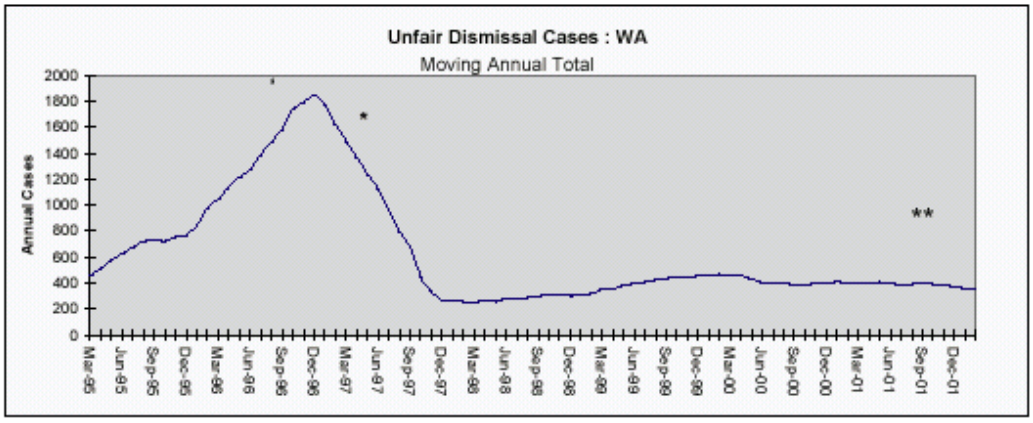

Moving Annual Total									
Mar-95	453	Oct-96	1741	May-98	257	Dec-99	455	Jul-01	389
Apr-95	507	Nov-96	1787	Jun-98	287	Jan-00	465	Aug-01	392
May-95	574	Dec-96	1849	Jul-98	288	Feb-00	469	Sep-01	401
Jun-95	622	Jan-97	1763	Aug-98	288	Mar-00	460	Oct-01	391
Jul-95	670	Feb-97	1614	Sep-98	301	Apr-00	455	Nov-01	387
Aug-95	721	Mar-97	1487	Oct-98	308	May-00	433	Dec-01	369
Sep-95	735	Apr-97	1363	Nov-98	309	Jun-00	403	Jan-02	359
Oct-95	720	May-97	1231	Dec-98	303	Jul-00	404	Feb-02	362
Nov-95	755	Jun-97	1122	Jan-99	307	Aug-00	399		
Dec-95	766	Jul-97	958	Feb-99	320	Sep-00	388		
Jan-96	831	Aug-97	797	Mar-99	353	Oct-00	391		
Feb-96	977	Sep-97	667	Apr-99	356	Nov-00	394		
Mar-96	1043	Oct-97	444	May-99	387	Dec-00	401		
Apr-96	1128	Nov-97	335	Jun-99	396	Jan-01	411		
May-96	1212	Dec-97	272	Jul-99	409	Feb-01	403		
Jun-96	1267	Jan-98	268	Aug-99	427	Mar-01	394		
Jul-96	1384	Feb-98	258	Sep-99	437	Apr-01	397		
Aug-96	1481	Mar-98	251	Oct-99	450	May-01	408		
Sep-96	1580	Apr-98	266	Nov-99	444	Jun-01	397		

Federal Unfair Dismissal Cases

Unfair Dismissal Cases : ACT
Source:Department of Industrial Relations
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	2002	2001	2000	1999	1998	1997	1996	1995	1994
Jan	15	16	16	12	15	11	71	0	
Feb	29	14	23	9	21	24	44	46	
March		24	23	31	19	20	51	32	
April		16	21	16	12	18	31	28	0
May		28	19	22	25	29	52	28	0
June		32	15	18	26	21	45	22	7
July		19	23	24	27	26	45	32	0
Aug		20	19	26	12	21	38	26	20
Sept		17	17	18	24	18	49	46	15
Oct		19	23	21	25	32	40	21	23
Nov		17	18	18	24	22	31	42	14
Dec		21	19	24	19	18	39	24	0
TOTAL	44	243	236	239	249	260	536	347	79

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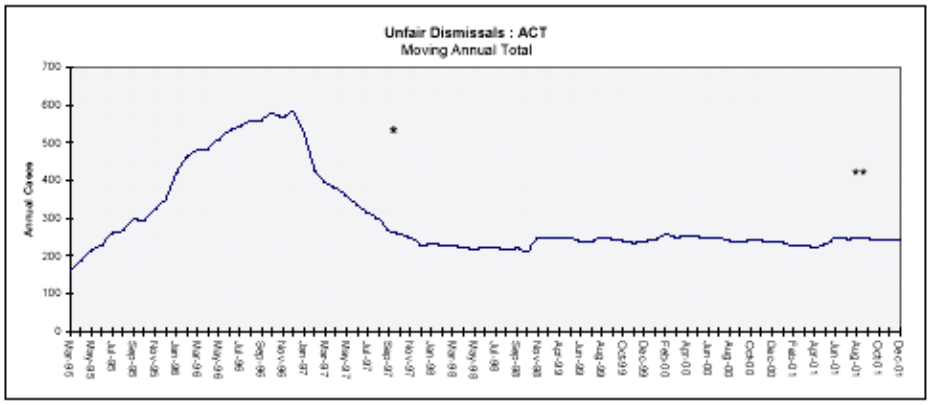

Moving Annual Total									
Mar-95	157	Oct-96	578	May-98	218	Dec-99	239	Jul-01	245
Apr-95	185	Nov-96	567	Jun-98	223	Jan-00	243	Aug-01	246
May-95	213	Dec-96	582	Jul-98	224	Feb-00	257	Sep-01	246
Jun-95	228	Jan-97	522	Aug-98	215	Mar-00	249	Oct-01	242
Jul-95	260	Feb-97	424	Sep-98	221	Apr-00	254	Nov-01	241
Aug-95	266	Mar-97	393	Oct-98	211	May-00	251	Dec-01	243
Sep-95	297	Apr-97	380	Nov-98	248	Jun-00	248	Jan-02	242
Oct-95	295	May-97	357	Dec-98	249	Jul-00	247	Feb-02	257
Nov-95	323	Jun-97	333	Jan-99	246	Aug-00	240		
Dec-95	347	Jul-97	314	Feb-99	234	Sep-00	239		
Jan-96	418	Aug-97	297	Mar-99	246	Oct-00	241		
Feb-96	462	Sep-97	266	Apr-99	250	Nov-00	241		
Mar-96	481	Oct-97	258	May-99	247	Dec-00	236		
Apr-96	484	Nov-97	249	Jun-99	239	Jan-01	236		
May-96	508	Dec-97	228	Jul-99	236	Feb-01	227		
Jun-96	531	Jan-98	232	Aug-99	250	Mar-01	228		
Jul-96	544	Feb-98	229	Sep-99	244	Apr-01	223		
Aug-96	556	Mar-98	228	Oct-99	240	May-01	232		
Sep-96	559	Apr-98	222	Nov-99	234	Jun-01	249		