

WESTERN AUSTRALIA



THIRTY NINTH ANNUAL REPORT  
OF  
THE CHIEF COMMISSIONER  
OF THE  
WESTERN AUSTRALIAN  
INDUSTRIAL RELATIONS COMMISSION  
FOR THE PERIOD  
1 JULY 2001 TO 30 JUNE 2002

PURSUANT TO SECTION 16, SUBSECTION (2)(b) OF  
THE INDUSTRIAL RELATIONS ACT, 1979

2002

WESTERN AUSTRALIA



Report of the Chief Commissioner  
of the Western Australian Industrial Relations Commission

on the operation

of the Industrial Relations Act, 1979

1 July 2001 to 30 June 2002

Minister Responsible For the Administration of the Act

The Hon. J Kobelke MLA

in his capacity as Minister for Consumer and Employment Protection

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## **MEMBERSHIP AND PRINCIPAL OFFICERS**

### **WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

During the year to 30<sup>th</sup> June 2002, the Commission was constituted by the following members:

<b>President</b>	The Honourable P J Sharkey
<b>Chief Commissioner</b>	W S Coleman
<b>Senior Commissioner</b>	A R Beech
<b>Commissioners</b>	J F Gregor
	P E Scott
	S J Kenner
	J H Smith
	S Wood
	J L Harrison

During the reporting period the composition of the Commission changed in the following manner:

Commissioner A. R. Beech was appointed Senior Commissioner on 25<sup>th</sup> March 2002.

Commissioner J L Harrison was appointed to the Commission on 5<sup>th</sup> March 2002

#### **Public Service Arbitrators**

Commissioner P E Scott was appointed as the Public Service Arbitrator for two years from 18 June 2001.

Commissioner J L Harrison was appointed as an additional Public Service Arbitrator for two years from 26 April 2002.

Senior Commissioner A R Beech was appointed as an additional Public Service Arbitrator for one year from 19 June 2002.

Commissioner S J Kenner was appointed as an additional Public Service Arbitrator for one year from 19 June 2002.

#### **Railways Classification Board**

Commissioner SJ Kenner's appointment as Deputy Chairperson was cancelled from 11 June 2002.

Commissioner J. H. Smith was appointed as Chairman for two years from 11 June 2002.

Commissioner J. L. Harrison was appointed as Deputy Chairperson for two years from 11 June 2002.

#### **Registry**

During the period in review the Principal Officers of the Registry were: Mr J Spurling (Registrar) and Deputy Registrars Mr R C Lovegrove (Retired on 6 June 2002) , Mr D Buttel (Retired 28 June 2002), Mr K McCann, Ms S Bastian and Ms S Tuna.

### **THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT**

During the year to 30<sup>th</sup> June 2002, The Western Australian Industrial Appeal Court was constituted by the following members:

The Honourable Justice Kennedy	Presiding Judge (retired) and Acting Ordinary Member 1-31 August 2001
The Honourable Justice Anderson	Presiding Judge
The Honourable Justice Scott	Deputy Presiding Judge
The Honourable Justice Parker	Ordinary Member
The Honourable Justice Hasluck	Ordinary Member
The Honourable Justice McKechnie	Acting Ordinary Member 1-30 June 2001

#### **INDUSTRIAL MAGISTRATES**

During the reporting period, Industrial Magistrates Mr G Cicchini SM, Mr W G Tarr SM and P G Thobaven SM exercised jurisdiction as Industrial Magistrates at June. Mr D M Imlah SM was appointed an Industrial Magistrate on 21 August 2001 and Mr S P Sharratt was appointed an Industrial Magistrate on 5 March 2002.

## **MATTERS BEFORE THE COMMISSION**

### **1. FULL BENCH MATTERS**

The Full Bench has been constituted on each occasion by the President, The Honourable P J Sharkey and two Commissioners.

The number of times each Commissioner has been a member of the Full Bench is as follows: -

Chief Commissioner W S Coleman	43
Senior Commissioner A R Beech	13
Commissioner J F Gregor	9
Commissioner P E Scott	8
Commissioner S J Kenner	14
Commissioner J H Smith	14
Commissioner S Wood	18
Commissioner J L Harrison	2

**Matters dealt with by the Full Bench: -**

#### **Appeals – Heard and determined from decisions of the: -**

Commission	42
Industrial Magistrate	6
Coal Industry Tribunal	0
Public Service Arbitrator	5
Railways Classification Board	0

#### **Organisations: - Full Bench matters to do with Organisations**

Application to register and organisation pursuant to s.54	1
Applications to amend rules of a registered organisation pursuant to s.62	0
Applications relating to state branches of federal organisations pursuant to s.71	0
Applications to adopt the rules of federal organisations pursuant to s.71A	0
Applications for registration of a new organisation pursuant to s.72	1
Applications seeking coverage of employee organisations pursuant to s.72A	0
Applications for the cancellation/suspension of registration of organisations pursuant to s73	0

#### **Other**

Proceedings for enforcement pursuant to section 84A brought by the Minister, or another person or organisation	1
Questions of Law referred to Full Bench	0
Matters remitted by Industrial Appeal Court	0
Applications for extension of time to file Notice of Appeal	4

#### **Orders: -**

Orders issued by the Full Bench (Published orders)	61
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### **2. PRESIDENT**

Matters before the President sitting alone were as follows: -

Applications for an order that the operation of a decision appealed against be stayed pursuant to s. 49(11)	8
Applications for an order, declaration or direction pursuant to s. 66**	19

The following summarises s.66 applications: -

Application finalised	13
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Directions hearings**	18
Applications part heard**	4
Applications withdrawn by order	2
Applications discontinued by order	2

Orders issued by the President in matters heard from 1 July 2001 to 30 June 2002 inclusive: -

Section 49(11)	12
Section 66**	24
Section 72A(6)	0
Section 92	0
Section 97Q	0
Remitted from the Industrial Appeal Court	0

### **Consultations**

Consultations with the Registrar pursuant to s.62 of the Act	8
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\*\*These statistics include matters heard or part heard in 2001/2001 but not yet finally determined.

### **3. COMMISSION IN COURT SESSION**

During the period under review the Commission in Court Session has been constituted 17 times, each time by three Commissioners and the extent to which each Commissioner has been a member of the Commission in Court Session is indicated by the following figures:

Chief Commissioner W S Coleman	5	
Senior Commissioner G L Fielding	1	(Final Order issued after retirement)
Senior Commissioner A R Beech	10	
Commissioner J F Gregor	9	
Commissioner P E Scott	6	
Commissioner S.J. Kenner	3	
Commissioner J H Smith	10	
Commissioner S Wood	4	
Commissioner J Harrison	3	

The matters dealt with by the Commission in Court Session were as follows:

State Wage Case – s.51	1
Review of Minimum Weekly Rates of Pay	1
General Order – s.50	1
New Award	2
New Agreement	2
Variation of an Award	6
Conference pursuant to Section 44	2
Joinder to Award	2

### **4. FEDERAL MATTERS**

Federal matters dealt with by (WAIRC) Commissioners	2
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#### **State Matters Completed By A Federal (AIRC) Commissioner**

Enterprise agreements with joint State/Federal coverage	0
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## **5. RULE VARIATION**

Variation of Organisation Rules by the Deputy Registrar (Designate)	8
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## **6. BOARDS OF REFERENCE**

Long Service Leave General Order – resolved by investigation (Chaired by Registrar)	2
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## **7. INDUSTRIAL AGENTS REGISTERED BY REGISTRAR**

Number of Agents registered in this period	13
Total number of agents registered as corporate body	36
Total number of agents registered as individuals	39
Total number registered as at 30 June 2001	75

## **AWARDS AND AGREEMENTS IN FORCE UNDER THE INDUSTRIAL RELATIONS ACT 1979**

<b>Year</b>	<b>Number at 30 June</b>
1997	1661
1998	1899
1999	2071
2000	2166
2001	2316
2002	2359

## **INDUSTRIAL ORGANISATIONS REGISTERED AS AT 30 JUNE, 2002**

	<b>Employee Organisations</b>	<b>Employer organisations</b>
Number of organisations	54	17
Aggregate membership	149,828	3415



## SUMMARY OF MAIN STATISTICS

### WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

	MATTERS DEALT WITH			
	1998-1999	1999-2000	2000-2001	2001-2002
<b>Full Bench</b>				
Appeals	29	54	56	53
Other matters	16	11	7	7
<b>President sitting alone</b>				
S.66 matters	7	10	4	19
S.66 Orders issued	10	10	4	24
S.49 (11) Matters	5	15	12	8
Other Matters	0	2	1	0
S.97Q	2	0	0	0
S.72(A)(6)	1	0	2	0
Consultations under s.62	8	6	5	8
<b>Commission in Court Session</b>				
General Orders	3	2	2	2
Other Matters	59	17	15	15
<b>Public Service Appeal Board</b>				
Appeals To Public Service Appeal Board	17	7	29	10
<b>Commissioners sitting alone</b>				
Conferences <sup>1</sup>	603	477	434	368
New Agreements	328	418	346	287
New Awards	1	4	7	4
Variation of Agreements	3	0	19	0
Variation of Awards	249	219	298	271
Other Matters <sup>2</sup>	26	51	50	53
Federal matters	16	10	0	0
Participation of dual appointees on Federal matters	6	30	4	2
Board Of Reference - Other Awards (Chaired by a Commissioner)	2	2	7	4
<b>Unfair Dismissal Matters Concluded</b>				
Unfair Dismissal claims	1249	938	1064	1137
Contractual Benefits	405	312	322	297
Unfair Dismissal & Contractual Benefits	564	499	605	534
<b>Public Service Arbitrator:</b>				
Award/Agreement Variations	32	28	33	20
New Agreements	60	73	37	44
Orders Pursuant to S 80E	6	11	21	28
Reclassification Appeals	447	137	18	19
<b>Railways Classification Board</b>				
Variation of Awards	1	0	0	0
Variation of Agreement	1	0	0	0
Appeals	1	0	0	0
<b>TOTALS</b>	<b>4157</b>	<b>3316</b>	<b>3403</b>	<b>3214</b>

Notes

<sup>1</sup> CONFERENCES	1998-1999	1999-2000	2000-2001	2001-2002
Conferences (S 44)	423	337	298	274
Conferences Referred For Arbitration	66	74	58	58
PSA conferences	96	50	19	33
PSA conferences referred	8	11	4	2
Conferences divided	0	2	0	0
Conferences referred and divided	0	2	0	0
PSA conference divided	9	1	0	1
Railways Classification Board	1	0	0	0
<b>TOTALS</b>	<b>603</b>	<b>477</b>	<b>379</b>	<b>368</b>

  

<sup>2</sup> OTHER MATTERS	1998-1999	1999-2000	2000-2001	2001-2002
Applications	75	45	30	40
Apprenticeship Appeals	1	0	0	1
Occupational Health Safety & Welfare	0	0	0	0
Public Service Applications	0	0	0	5
Teacher Applications	1	0	0	0
Workplace Agreements	3	11	5	7
<b>TOTALS</b>	<b>26</b>	<b>51</b>	<b>35</b>	<b>53</b>

## THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT

Decisions issued by the Court during this period

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## INDUSTRIAL MAGISTRATE'S COURT

The following summarises the Court for the period under review.

Lodged	443
Resolved	485
Lodged and resolved	290
Resolved but lodged in another financial period	195
Pending	151
Total number of penalties imposed	13
Total value of penalties imposed	\$20,970.00
Total number of claims/complaints resulting in awarding of disbursements	17
Total value of disbursements awarded	\$2,271.07
Total number of claims/complaints resulting in awarding of wages	36
Total value of wages awarded	\$141,992.50
Interest	\$667.01

The matters dealt with related to alleged breaches of federal awards and agreements, state awards and agreements and the Minimum Conditions of Employment Act, together with claims pursuant to the Long Service Leave Act and enforcement of orders of the Western Australian Industrial Relations Commission.

## COMMENTARY

### 1. LEGISLATION

The Corporations (Consequential Amendment) Act 2001 part 33 commenced on 15 July 2001. The amendment applied to the Industrial Relations Act to make terms consistent with the new corporations law.

While there have been no amendments to the Industrial Relations Act 1979 in the period under review it is interesting to comment on the results of past changes prior to commencement of the Labour Relations Reform Act 2002. The “Second and Third Wave” of amendments to the Industrial Relations Legislation in 1995 and 1997 introduced new provisions that had the potential to result in new applications to or orders of the Commission including: -

- the ability of the Commission to order a party to an industrial dispute to comply with the dispute settlement procedures in an award, agreement or applicable order, under s.49A,
- the Commission dealing with disputes over the power of entry by union officials for the purpose of inspecting records under s.49AB; and
- the requirement to apply to the Commission for a pre-strike secret ballot before taking industrial action under Part VIB.

Since 1997 up until the end of the reporting period there were four applications specifically relating to the power of entry (inspection of record) provisions under s.49AB. Three of those were discontinued and the other was settled. However, there were eight applications for conferences under s.44 regarding right of entry issues over the same period. All were concluded in conference proceedings.

In relation to pre-strike ballots the Commission’s records show that one application was filed but did not meet legislative requirements and the matter was not pursued.

### 2. STATE WAGE CASE

On 14 May 2002 the Commission constituted for the purpose of section 51 of the *Industrial Relations Act 1979* issued a Statement advising that it did not consider that there was anything within the industrial relations environment which gave good reason not to give effect to the National Wage Decision which issued from the Australian Industrial Relations Commission in the Safety Net Review – Wages Case [Print PR 002002] on 9 May 2002.

The Commission heard from parties pursuant to section 50(10) of the Act and afforded any other person with an interest the opportunity to be heard. Those proceedings were conducted on 20 May 2002.

In summary, the Commission decided that:-

- Awards, but not industrial agreements, were to be varied by General Order to give effect to the arbitrated safety net adjustment of \$18.00 per week to all classifications. However, in the awards specified by the Commission junior rates were to be increased by way of application.
- Arbitrated safety net adjustments were to operate from the beginning of the first pay period commencing on or after 1<sup>st</sup> August 2002.
- The Minimum Adult Wage was increased to \$431.40 per week with effect from the beginning of the first pay period commencing on or after the 1<sup>st</sup> August 2002.
- Arbitrated safety net adjustments (and the increase to the Minimum Adult Award Wage) were to be absorbed under the same terms as previous arbitrated safety net adjustments.
- The Statement of Principles – June 2001 – was varied to provide –
  - (a) Principle 2

Add subclause (i)

“(i) Where awards already make provision for superannuation pursuant to principles which operated under State Wage Cases from 1986 until 1993 the terms of those clauses may be varied to refer to current Federal statutes in lieu of employers’ contributions, but these clauses shall not be varied otherwise”.

(b) Principles 8 and 9

To be varied to give effect to the arbitrated safety net adjustment and the increase to the Minimum Adult Award Wage respectively.

(c) Principle 10

To delete the first paragraph and in lieu thereof insert the following –

“An application or reference for a variation in wages or conditions above or below the safety net will be referred to the Chief Commissioner for him to determine whether the matter should be dealt with by a Commission In Court Session or by a single Commissioner”.

- The provisions of Clause 1B – Minimum Adult Award Wage (or its equivalent) were to be varied to include its application to piece workers or employees who are remunerated wholly on the basis of payment by result. Further amendments address the exclusion of employees under the Supported Wage Scheme and its application during any period of paid employment.

*((2002) 82 WAIG 1369, (2002) 82 WAIG 1372 and (2002) 82 WAIG 1375))*

### **3. AWARD VARIATIONS**

In the commentary on the State Wage Case in last year’s Annual Report I noted problems encountered in giving effect to a State Wage Case by General order. The calculation of adjustments to casual rates, junior rates and annualised salaries were cited.

The work done by members of Registry under the Registrar’s direction since the 2001 State Wage Case, in reviewing awards enabled to Commission to provide comprehensive and correct schedules for the 2002 State Wage Case. In this respect officers from the Chamber of Commerce and Industry of Western Australia, the Trades and Labour Council and Unions, the Australiana Mines and Metals Association and the Department of Employment and Consumer Protection assisted. The co-operation is appreciated.

As a result of the award review undertaken by the Registry and the protocol put in place to process award variations generally, the Commission is well placed to discharge its functions under section 40B of the Act as amended by the *Labour Relations Reform Act 2002* (power to vary awards to reflect statutory and other requirements to promote efficiency and to facilitate implementation).

### **4. MINIMUM WEEKLY WAGE**

Under Section 14 of the Minimum Conditions of Employment Act 1993 the Commission was required to review minimum weekly rates of pay and make a recommendation to the Minister not later than 31 May each year.

On 8 February 2002 the Commission constituted for the purpose of reviewing minimum weekly rates and formulating the recommendation under Section 14 of the Minimum Conditions of Employment Act 1993 received submissions from:

- Unions WA
- Chamber of Commerce & Industry Western Australia
- Australian Mines and Metals Association Inc.
- Western Australian Fruit Growers’ Association Inc.
- Master Cleaners Guild of Western Australian (Inc.)
- Sunrise Northwest Pty Ltd Child Care Centre

The Commission's deliberations were assisted by submissions on the State's economy from the Department of Treasury and Finance and the Chamber of Commerce and Industry Western Australia.

At that time the weekly rate was \$400.40 for an employee 21 or more years of age. This rate was determined in March 2001 (WA Government Gazette 22 March 2001, No. 60 (Special)). The amount of \$400.40 per week was then the same as the minimum adult award wage established by the Commission in the July 2001 State Wage Case ((2000) 80 WAIG 3381). In July 2001 the minimum adult award wage was increased to \$413.40 per week with effect from the beginning of the first pay period commencing on or after 1 August 2001 ((2001) 81 WAIG 1721).

Matters addressed in the submissions went to the practical implications of wage rates determined under the Minimum Conditions of Employment Act either as benefits to low paid employees with justification for the increase being based on grounds of equity or the minimum wage as an economic factor directly affecting labour costs of industry participants in the market. Each is a valid perspective when considered from employers and employee view points within their particular industries i.e. contract cleaning and fruit growing.

In the recommendation on 5 March 2002 to the Minister the Commission stated:

“From the submissions received it is claimed that the minimum wage may have direct and indirect consequences throughout the economy of the State. Living standards will be affected. Wage relativities, wage outcomes based on gender and youth employment may also be affected.

The concept of the “minimum wage” and its role within the community, its application to the workforce and its impact on the economy have never been properly articulated or ascertained. Should the adult minimum wage operate as a benchmark for wage rates generally with its application being limited in some way to probationary employment for the period prior to the employee's acquisition of skills or should it reflect the value of work sufficient for an employee to maintain a standard of living which enables the person and the family to participate in community life? Should the wage merely reflect the rate low enough to entice employers to take on additional labour and high enough to be an incentive for an unemployed person to take up work? These are some of the issues which underlie submissions presented to the Commission from time to time.

The only guidance that can be taken on the role of the Minimum Wage is the intention expressed when the Minimum Conditions of Employment Act was enacted that the minimum wage would provide an “equitable level of remuneration consistent with principles of fairness and justice.” (Western Australian Parliamentary Debates (HANSARD) Thursday 8 July 1993 at p. 1456).

In the absence of a specific legislative framework for the identification of factors to be taken into account in determining weekly wage rates under the Minimum Conditions of Employment Act over the years, various approaches have been followed. Broadly these have been:

- rates established by reference to the needs of a 21 year old unskilled employee in full-time employment based on a survey of household expenditure (with subsequent adjustments in line with movements in the consumer price index);
- rates determined by reference to the industrial relations framework established by this Commission following decisions of the Australian Industrial Relations Commission in National Wage Cases; and
- adjustments to the previous year's rate based on community wage movements generally.”

...

To date information available to this Commission on the number of employees affected by increases in the Adult Minimum Wage has been based on estimates from various surveys. The limitations of these sources have been readily acknowledged. In an attempt to obtain more reliable information the Commission has, for the purpose of formulating its recommendation approached the Australian Bureau of Statistics (ABS)”.

The Commission went on to note that the ABS survey of Employee Earnings and Hours is conducted biennially. This has afforded the Commission the opportunity to develop protocols in conjunction with officers of the ABS for the collection of data in Western Australia which will be relevant to gaining an appreciation of the application of the minimum wage rates in this State. Information on full-time, part-time and casual employment may be available together with statistics on employment in various industries, junior employment and gender factors within the workforce. However, this data will not be available until early 2003.

The Commission concluded that there was little to suggest at that time that an increase in the Adult Minimum Wage of \$13.00 per week could not be accommodated. The Commission was cognisant of the fact that compulsory superannuation contributions by employers would increase by 1% to 9% from July 2002.

It was recommended that the Adult Minimum Wage under the *Minimum Conditions of Employment Act 1993* be increased to \$413.40 per week.

In conclusion the Commission noted

“Finally there is the matter of junior rates. It has been put to the Commission that the determination of minimum weekly wages has particular relevance in areas of youth employment. In this respect there are two aspects of the determination to be considered. First, there is the level of the adult minimum wage which sets the level of wage for each age group below 21 years of age. Second there is the percentage of the adult wage upon which the wages for each age group are calculated. If information was available on the distribution of young employees in particular industries in this State and if the impact of wage rates at various age levels on employment, in particular if it is most relevant to part-time or casual youth employment, then there may be grounds for varying the relativities of age level wage rates with the adult minimum wage. In the absence of any data at this time there are no firm grounds upon which to recommend a departure from the existing relativity structure”.

[Note: *The Minimum Weekly Rates of Pay Order 2002 published in the Western Australian Government Gazette of 29 April 2002, No 77 Special increased the Adult Minimum Wage to \$413.40 per week.*]

[Note: *The Labour Relations Reform Act 2002, has amended the Industrial Relations Act 1979 to provide for the Commission to now review minimum weekly rates of pay for the purposes of the Minimum Conditions of Employment Act.*]

## 5. CLAIMS BY INDIVIDUALS – SECTION 29

Using the same broad estimates and data collection as were applied last year, this report continues an analysis of applications concerning unfair dismissal and denial of contractual benefit. These applications are made under the following provisions of the Industrial Relations Act.

- ★ Section 29(1)(b)(i) - Claims alleging unfair dismissal
- ★ Section 29(1)(b)(ii), claims alleging a denied contractual benefit
- ★ A combination of both in the same application

For the purposes of this analysis the three types of application are referred to in the following tables as “Section 29” applications.

### Section 29 Applications Lodged

Applications alleging unfair dismissal continue to represent the most significant proportion of the types of applications that can be lodged under Section 29.

Section 29 applications lodged	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002
Unfair Dismissal	1205	901	926	1127	1141
Denial of Contractual Benefits	343	299	277	352	289
Both in same application	578	502	515	627	593
TOTAL	2126	1702	1718	2106	2023

Interpolating the total of “both in same application” from the foregoing table to the two principal claims of unfair dismissal and contractual benefits, shows the following:

<b>Section 29 applications</b>	<b>1997-1998</b>	<b>%</b>	<b>1998-1999</b>	<b>%</b>	<b>1999-2000</b>	<b>%</b>	<b>2000-2001</b>	<b>%</b>	<b>2001-2002</b>	<b>%</b>
Unfair Dismissal	1783	66%	1403	64%	1441	65%	1755	83%	1438	71%
Denial of Contractual Benefits	921	34%	801	36%	792	35%	351	17%	586	29%

### **Section 29 Applications Finalised**

	<b>1997-1998</b>	<b>1998-1999</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>
Unfair Dismissal	1301	1249	939	1069	1137
Denial of Contractual Benefits	336	405	312	325	297
Both in same application	517	564	498	607	534
<b>TOTAL</b>	<b>2154</b>	<b>2218</b>	<b>1749</b>	<b>2001</b>	<b>1968</b>

Interpolating the total of “both in same application” from the foregoing table to the two principal claims of unfair dismissal and contractual benefits, shows the following:

	<b>1997-1998</b>	<b>%</b>	<b>1998-1999</b>	<b>%</b>	<b>1999-2000</b>	<b>%</b>	<b>2000-2001</b>	<b>%</b>	<b>2001-2002</b>	<b>%</b>
Unfair Dismissal	1818	68%	1813	65%	1437	64%	1676	84%	1404	71%
Denial of Contractual Benefits	853	32%	969	35%	810	36%	325	16%	564	29%

### **Compared with All Other Matters<sup>1</sup> Lodged**

Section 29 Applications continue to represent over half of all the matters lodged in the Commission and this pattern has been evident over the last four reporting years.

<b>Section 29 compared with all other matters lodged</b>	<b>1997-1998</b>	<b>1998-1999</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>
All Matters Lodged	4115	3487	3312	3671	3627
Section 29 Applications Lodged	2126	1702	1718	2106	2023
Section 29 as Percentage (%) of All Matters Lodged	52%	49%	52%	57%	56%

<sup>1</sup>All Matters means the full range of matters that can be initiated under the Act for reference to the Commission.

### **Section 29 Applications Compared with All Other Matters Finalised**

A similar pattern emerges in that the Section 29 applications represent just over half of all the matters dealt with over the last four reporting years.

<b>Section 29 compared with All other Matters</b>	<b>1997-1998</b>	<b>1998-1999</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>
All Matters finalised	4042	4731	3524	3745	3558
Section 29 Applications finalised	2154	2218	1749	2001	1968
Section 29 as Percentage (%) of All Matters finalised	53%	47%	50%	53%	55%



## Section 29 matters – Method of Settlement

The following table shows the continuing very high percentage of section 29 matters that were settled without recourse to formal arbitration.

<b>Section 29 Matters Method of Settlement</b>	<b>Unfair Dismissal</b>	<b>Contractual Benefits</b>	<b>Both</b>	<b>Total</b>	<b>%</b>
Arbitrated claims in which order issued	70	37	52	159	8%
Settled after proceedings before the Commission	545	124	258	927	47%
Matters referred for investigation resulting in settlement	312	57	139	508	26%
Matters withdrawn before proceedings commenced in the Commission	208	79	84	371	19%
Matters withdrawn without proceedings	2		1	3	0%
Total Finalised in 2001-2002 financial year	1137	297	534	1968	100%

## Demographic Data for Section 29 Applications Collected at the time of Lodgment

The Commission began a demographic data collection system during the 2000/2001 financial year to capture additional information on applications at the time of lodgment. The following tables serve to illustrate a variety of characteristics relating to applicants that have claimed redress under Section 29 of the Act. Approximately 95% of applicants provided some demographic data.

### Representation

The table following was constructed from the survey of cases over the period and shows that the majority of applicants (67%) were prepared to conduct their own case in the Commission whilst the remainder were represented in some form, as set out in the table.

	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
Industrial Agent	70	11%	119	11%	189	11%
Legal representation	64	10%	154	15%	218	13%
Other	47	8%	86	8%	133	9%
Personal	434	71%	678	65%	1112	67%
<i>Total</i>	615	100%	1037	100%	1652	100%

### Age Groups

The following table provides a view of the age ranges and gender distribution of applicants.

<b>Age Group</b>	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
1. Under 16	15	2%	17	1%	32	2%
2. 17 to 20	68	9%	45	4%	113	6%
3. 21 to 25	88	12%	99	8%	187	9%
4. 26 to 40	227	30%	442	36%	669	34%
5. 41 to 50	129	17%	236	19%	365	18%
6. 51 to 60	71	9%	128	10%	199	10%
7. Over 60	10	1%	24	2%	34	2%
8. Data Not Provided	148	20%	231	19%	379	19%
<i>Total</i>	756	100%	1222	100%	1978	100%

### Employment Period

It is significant to note that 24% of all applicants were employed for less than 3 months.

<b>Period of Employment</b>	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
1. Under 3 months	215	28%	257	21%	472	24%
2. 4 to 6 months	87	12%	139	11%	226	11%
3. 7 to 12 months	107	14%	182	15%	289	15%
4. 1 to 2 years	114	15%	160	13%	274	14%
5. 2 to 4 years	92	12%	177	14%	269	14%
6. 4 to 6 years	35	5%	66	5%	101	5%
7. Over 6 years	70	9%	162	13%	232	12%
8. Data Not Provided	36	5%	79	6%	115	5%
<i>Total</i>	756	100%	1222	100%	1978	100%

### Salary Range

	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
1. Under \$200 P/W	154	20%	189	15%	343	17%
2. \$201 to \$600 P/W	359	47%	370	30%	729	37%
3. \$601 to \$1000 P/W	190	25%	385	32%	575	29%
4. \$1001 to \$1500 P/W	32	4%	158	13%	190	10%
5. \$1501 to \$2000 P/W	8	1%	57	5%	65	3%
6. Over \$2001 P/W	13	2%	63	5%	76	4%
<i>Total</i>	756	100%	1222	100%	1978	100%

### Category of Employment

71% of all applicants were Full Time, Permanent or Permanent Full Time employees at the time of their termination.

<b>Period of Employment</b>	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
Casual	91	12%	97	8%	188	10%
Casual Full Time	6	1%	4	0%	10	1%
Casual Part Time	6	1%	2	0%	8	0%
Data Not Available	56	7%	107	9%	163	8%
Fixed Term	8	1%	20	2%	28	1%
Full Time	151	20%	283	23%	434	22%

Part Time	44	6%	16	1%	60	3%
Permanent	77	10%	182	15%	259	13%
Permanent Full Time	235	31%	466	38%	701	36%
Permanent Part Time	68	9%	21	2%	89	5%
Probation	10	1%	19	2%	29	1%
<i>Total</i>	752	100%	1217	100%	1969	100%

### Reinstatement Sought

57% of applicants did not seek reinstatement when they lodged their application.

<b>Reinstatement Sought</b>	<b>Female</b>	<b>% Female</b>	<b>Male</b>	<b>% Male</b>	<b>Total</b>	<b>% Total</b>
No	485	65%	628	52%	1113	57%
Data Not Provided	73	10%	183	15%	256	13%
Yes	193	26%	406	33%	599	30%
<i>Total</i>	751	100%	1217	100%	1968	100%

### Reinstatement Sought by Age Group

This table illustrates a further view of the answer to the question of reinstatement as presented by age group.

<b>Age Groups</b>	<b>No</b>	<b>% No</b>	<b>No Data</b>	<b>% No Data</b>	<b>Yes</b>	<b>% Yes</b>	<b>Total</b>	<b>% Total</b>
1. Under 16	20	2%	0	0%	12	2%	32	2%
2. 17 to 20	78	7%	6	2%	29	5%	113	6%
3. 21 to 25	127	11%	20	7%	42	7%	189	9%
4. 26 to 40	412	36%	67	25%	190	31%	669	33%
5. 41 to 50	206	18%	42	15%	118	19%	366	18%
6. 51 to 60	103	9%	35	13%	62	10%	200	10%
7. Over 60	17	2%	3	1%	14	2%	34	2%
8. Data Not Provided	169	15%	98	36%	139	23%	406	20%
<i>Total</i>	1132	100%	271	100%	606	100%	2009	100%

## **6. SOME DECISIONS OF INTEREST**

### **Applicant working overseas**

In the period under review the Full Bench of the Commission and the Industrial Appeal Court considered whether a person who is engaged to work overseas is nevertheless amenable to the jurisdiction of the Commission when an action is taken for unfair dismissal (*Parker v. Tranfield* (2001) 81 WAIG 2505)). Mr Parker carries on the business of surveying and commissioning marine vessels and employed Mr Tranfield as an oil rig surveyor. There was a written contract of employment in Western Australia and at the time of employment Mr Tranfield resided in Western Australia and continued to do so until the time of his dismissal at least. The employer's head office was situated in Bunbury although it had a branch office in Houston, Texas in the USA. The respondent's business is a world wide operation providing services to the oil drilling industry and Mr Tranfield carried out his actual employment duties in Singapore and France and not at any time in Western Australia although he continued to reside here. He was paid here by the respondent and was paid to travel overseas to work. Mr Tranfield's dismissal was effected in a letter sent to his home in this State.

In the course of its decision the Industrial Appeal Court held that the Western Australian Parliament may make laws for the peace, order and good government of Western Australia and that pursuant to this power its laws may have extra-territorial effect. It was held that to enliven the Commission's jurisdiction, the contract of employment needs to have a "real and substantial connection" (per Kennedy J.); a "real, even though a remote or general connection" (per McKechnie J.); a "real and substantial connection" (per Hasluck J.) with the State. It was held that on the facts of this case Mr Parker's business satisfied that test.

### **Federal Awards**

In *Cousins v. YMCA of Perth* (2002) 82 WAIG 5 Kennedy J. held that "on the face of it, the WA Industrial Relations Commission has conferred upon it no jurisdiction to enforce federal awards" (at [58]). Although the comments of his Honour did not form a central point in the decision as a whole, it reinforces the position the Commission has taken on earlier occasions when it has been presented with a submission that the powers given to the Commission in s.23A of the Act allow an employee covered by a federal award to claim entitlements under that award under that section of the Act.

### **Workplace Agreements Act**

In *Chamber of Commerce & Industry of WA v. ALHMWU* (2002) 82 WAIG 405 the Industrial Appeal Court dealt with a decision of the Commission in Court Session which prescribed in an award a clause providing that where an offer of employment is made by an employer to a prospective employee and the offer is subject to the prospective employee entering into a workplace agreement the employer shall, if the prospective employee advises the employer that he or she wishes to have the terms of employment regulated by an award, make a further offer of employment to engage the prospective employee pursuant to the terms of the award. The Industrial Appeal Court held that provisions of the *Workplace Agreements Act 1993* clearly revealed that Parliament contemplated that the terms and conditions of employment pursuant to a workplace agreement would be distinct from those applicable pursuant to any award that would otherwise apply to employment in the relevant industry. The Court held that it is not open to the Commission to exercise its jurisdiction on a basis which ran counter to the effects of the *Workplace Agreements Act 1993* and to countermand the effect of legislative measures which Parliament expressly contemplated and authorised. The decision of the Commission in Court Session was set aside.

### **Compensation**

In *Q-Vis Ltd v. Gordon* (2002) 82 WAIG 210 the Industrial Appeal Court held that the obligation to assess compensation under s.23A(1)(ba) of the Act does not require the Commission to take into account the fact that the applicant may have other monetary remedies or that he does have other monetary remedies or that he may have begun proceedings to enforce those remedies. The circumstances arose where a claimant of unfair dismissal in this Commission had also commenced proceedings in the Supreme Court relating to his dismissal. The case before the Commission was heard and determined prior to the conclusion of the civil proceedings. The Commission had an obligation to make an assessment of the appropriate compensation in all of the circumstances of the case as they then appeared and it would have been improper for the Commission to take into account the fact that other

proceedings were then in existence unless those proceedings had been concluded and an award of damages in the civil proceedings had been made.

### **Implied Term of Redundancy**

In *Dellys v. Elderslie Finance Corporation Limited* (2002) 82 WAIG 1193 Anderson J. noted that the Industrial Appeal Court in that case was not being asked to consider the correctness of the proposition that there is to be implied into every contract of service as a matter of law a term that the employee would be paid an amount called “redundancy payment” should he become redundant. His Honour observed, however, that it is a proposition which is most unlikely to be accepted by the court. His Honour then considered general principles in relation to compensation for wrongful dismissal. He held that an employer who has wrongfully dismissed an employee but who has made payments to that employee in lieu of notice of for “severance” is entitled to have those payments credited in the quantification of his liability to the employee arising from the wrongful dismissal because in their essential character the payments are compensatory.

### **No Appearance**

A Full Bench of the Commission in *McConkey v. M & A's of Denmark* (2001) 81 WAIG 1561 dealt with circumstances where a person did not appear in the Commission after having been given due notice of the proceedings. A Full Bench held that the Commission has no duty to make further enquiries and can move in law to dismiss the matter. This decision addresses a problem of increasing significance in the Commission where applicants, in particular, file a claim but then take no further action in relation to it. The decision sets out that provided the Commission gives due notice to a person, the failure of that person to appear of itself will provide sufficient grounds for the Commission to dismiss the matter.

### **No Slip Rule**

A Full Bench in *Aussie Online Ltd v. Lane* (2001) 81 WAIG 2511 dealt with circumstances where the Commission issued an order revoking its earlier order which discontinued an application. On an appeal against the revocation order, the Full Bench held that the *Industrial Relations Act 1979* does not contain a provision for the Commission to correct errors or omissions in orders that it issues once that order has been perfected in accordance with the Act. While in courts of general jurisdiction there is a “slip rule” where such omissions or errors may be able to be addressed as a matter of jurisdiction, no such power is given to the Commission. The problem has significance in circumstances where parties reach an agreement before the Commission privately and inform the Commission that the matter has been settled. If however, after the Commission has issued an order discontinuing an application, the parties’ own agreement is not fully implemented, the parties are unable to return to the Commission in order to have the circumstance addressed. In such a circumstance, it is suggested that not only should the Commission have the ability to correct or revoke the order but the Commission should also have the power to issue an order reflecting the terms of the parties’ agreement.

## **7. PUBLIC SERVICE ARBITRATOR AND PUBLIC SERVICE APPEAL BOARD**

In the last year there has been a range of significant issues dealt with in respect of the public sector. One such issue has been the conversion of fixed term contract officers to permanency. A number of disputes arose as to the criteria to be applied to such conversion both in terms of the interpretation of the criteria established by the Premier’s Circular issued on 18 March 2001 for The Conversion of Entry Level Contract Officers, and in terms of the application of those criteria. There have also been ongoing discussions between the industrial parties both as part of the conciliation process, and privately, as to criteria applicable to non-entry level contract officers.

In a particular matter dealt with by the Public Service Arbitrator regarding conversion to permanency, the issue of conflict between the Industrial Relations Act 1979 and the Public Sector Management Act 1994, commented on in last years Annual Report, came to light again. That conflict often means that while the Arbitrator has power and jurisdiction to deal with certain matters related to Government officers, that power is often confused by the terms of the two pieces of legislation. Further, because of the terms of the Public Sector Management Act 1994, the Arbitrator is often left without power to resolve some matters which were traditionally industrial matters.

Both the Public Service Arbitrator and the Public Service Appeal Board have dealt with an increased number of matters relating to the disciplinary processes applied to officers pursuant to the Public Sector Management Act 1994. The process set out in that legislation appears to require no less than three enquiry or investigation processes to be undertaken; firstly, to establish whether the employer might have cause to suspect that an employee may have committed a breach of discipline; secondly, if such breach is suspected, to investigate the alleged breach; thirdly, should a breach be found, and should the employee deny or object to the finding or the penalty imposed, then an enquiry is undertaken. At the end of this process, should the employee object to the decision of the employer, the employee has the right of appeal to the Public Service Appeal Board.

The Public Service Appeal Board and the Public Service Arbitrator have noted in a number of cases the lengthy delays which arise in such a process, and the opportunity for technical breaches of the statutory process due to the many, complex and detailed requirements for each stage of the process. Further, the length of time taken and the number of occasions an alleged breach is examined, investigated and reviewed provides opportunities for delays and for further disputation. These issues create real difficulties for the employee concerned and for the employer and any witnesses. The delay can unfairly and unduly affect the employee and his or her career, even if the alleged breach of discipline is not sustained.

There has also been comment by the Full Bench of the Commission and by the Industrial Appeal Court about applications being made to the Arbitrator and appeals to the Public Service Appeal Board for disciplinary processes to be stayed at various points within the process. Such matters ought, in the normal course, await the final outcome of the process, when a right of appeal against a decision is provided by the Industrial Relations Act 1979. This would prevent further delays in the process at each stage due to challenges as to each aspect of the process.

However, if the process itself were simplified and timeframes established for the various stages of the process, there would be less likelihood of these difficulties arising, and employees would be dealt with in a more expeditious manner, with less likelihood of their suffering unnecessarily as a consequence, particularly if the outcome is that no breach of discipline is found.

Further, the complexity in the process and scheme of the legislation opens the way for unnecessarily and inappropriately complex and convoluted arguments often involving issues of administrative law, to be put to the Arbitrator and the Public Service Appeal Board. The Arbitrator, the Full Bench and the Industrial Appeal Court have all noted such matters in recent decisions.

In *Commissioner of Police v. The CSA* (2002) 82 WAIG 207 the Industrial Appeal Court was asked to determine an appeal on a point of jurisdiction before a Public Service Arbitrator prior to the merits of the matter being dealt with. Scott J., in agreeing with the Reasons of the presiding judge for dismissing the appeal, stated also that it is in many respects regrettable for a case of preliminary jurisdictional issue to progress all the way through the industrial appeal process without evidence being called or any substratum or fact having been established. His Honour expressed the view that that is not what the *Industrial Relations Act 1979* is all about, it being an Act designed to bring to an end speedily and effectively "these sorts of disputes".

The Public Service Arbitrator continues to deal with a significant number of disputes involving police officers and prison officers, resolving the great bulk of those issues by conciliation.

The Public Service Arbitrator, together with the Registrar, has put in place a case management process to ensure that applications and appeals to the Public Service Arbitrator and the Public Service Appeal Board respectively are dealt with expeditiously. Under the previous process an application or appeal would not be referred to the Arbitrator or the Board until the applicant or appellant requested to proceed. The matter was brought to a head when a particular Public Service Appeal Board appeal had not been progressed by the appellant in the 7 years since it was lodged. Such delays in matters of this nature, particularly appeals against the decision of an employer to dismiss, have the real potential to make their proper consideration almost impossible given the necessity for the availability of witnesses and questions arising as to their memories of events such a long time ago. Accordingly all matters lodged with the Registrar requiring consideration by the Public Service Arbitrator or the Public Service Appeal Board will automatically be referred to the Public Service Arbitrator or the Public Service Appeal Board no later than 3 months after the lodgement.

## 8. SECTION 80ZE - INQUIRIES

Under an arrangement endorsed by the Minister for Police and the Police Union of Workers, Western Australia, the Minister for Consumer and Employment Protection referred to the Commission claims under a process for reviewing appeals of police officers facing dismissal under section 8 of the *Police Act 1892*. In the year under review five applications were dealt with by the Commission under this arrangement.

In the absence of a specific statutory appeal system the process under s.80ZE of the *Industrial Relations Act* was fraught with difficulties for all concerned. The legal implications were made clear by McKechnie J. in *Re Michelle Roberts, Honourable Minister for Police and Emergency Services and Ors; Ex Parte Reilly and Anor* [2002] WASC 139.

Any future role for the Commission in these matters will need to be addressed by particular statutory prescription.

## 9. PUBLICATION OF THE WESTERN AUSTRALIAN INDUSTRIAL GAZETTE

The Commission, with support from the State Law Publisher, continues to reduce the cost of publishing the Western Australian Industrial Gazette as shown in the table below.

The necessity for reformatting of the Commission's decisions and orders by the State Law Publisher has been significantly reduced through changes made within the Registry. Further savings will be achieved under initiatives to maximize desk top publishing within the Registry.

### Cost of Producing Western Australian Industrial Gazette

Fin Year begin 1 Jul	Cost per page (inc GST)	Annual cost	Subparts	Cost per subpart
1995	\$40.50	\$133,072 (not incl Jan edition)	11 (excluding Jan Edition)	\$12 097
1996	\$31.00	\$171,746	15	\$11 450
1997	\$31.00	\$123,381	15	\$8 225
1998	\$31.00	\$169,457	20	\$8 473
1999	\$31.00	\$123,354	13	\$9 489
2000	\$18.77	\$86,594	16	\$5 412
2001	\$18.02	\$60,260	16 (including 2 Appendices)	\$3,766

## 10. INTERNET WEBSITE ([www.wairc.wa.gov.au](http://www.wairc.wa.gov.au))

The 2001 Annual Report noted initiatives taken by the Commission to make available information through the internet. Decisions, orders, awards and agreements are now available in a searchable form on the Commission's website.

Information for parties appearing before the Commission, on processes, procedures and forms is also available.

Early in 2003 a facility will be available for parties involved in claims relating to alleged unfair dismissal and/or denied contractual benefits to access the progress of their matter through the website.



The Honourable President's practice directions and the Commission's regulations, together with general information on fees, library information and discussion papers will continue to be published.

The Commission's objective is to provide information electronically where possible.

## **11. USE OF COURTS AND CONFERENCE ROOMS**

The Commission continues to monitor the use of courts and conference rooms, and, as last year, the pattern of usage has not shown a need to reconfigure conference rooms or courts to accommodate any general shift in demand.

Chambers continue to make every effort to ensure there are minimal delays in the parties filing Notice of Cancellations, which with notifications on the computer listing system, continue to contribute to better usage of facilities.

## **12. COUNTRY CIRCUITS**

Last year's Annual Report provided information on arrangements for more frequent circuit visits to Bunbury, Kalgoorlie and Geraldton. Commissioners have listed conferences and hearings in these centres on a three week rotation. Albany is visited each month.

With additional demands from claims for alleged unfair dismissals from country areas in 2002 – 2003 the Commission will, in addition to the circuit visits, arrange additional hearing dates on a needs basis. On present indications this will mean an additional visit to Bunbury, Kalgoorlie and Geraldton each month.

The north of the State continues to be served by the Deputy Registrar in Karratha under the direction of the Commission. Commissioners are required to conduct proceedings and hearings at Port Hedland and Karratha on a regular basis.

Matters arising in remote areas are dealt with in the first instance by telephone and video conferences.

## **13. VIDEOCONFERENCING**

The increased use of videoconferencing was noted in the 2001 Annual Report. The Commission has now installed videoconferencing facilities in Perth and in the Karratha Court.

Whilst there are limitations on the use of videoconferencing, particularly in dispute resolution, this facility is a valuable adjunct in the Commission's work.

Videoconferencing in most areas of the State is now possible through facilities in courts, colleges of advanced education, larger regional companies and the Government's Telecentre Network. The availability of this facility will be promoted for the convenience of parties.

## **14. CENTENARY SITTING**

On 2 April 2002 the Commission convened a special sitting of all members to celebrate 100 years since the first sitting of the predecessor to the Commission, the Arbitration Court, first sat on 2 April 1902.

The Honourable President welcomed special guests invited to the proceedings, including, at the bar table, the Minister for Employment and Consumer Protection, the Honourable John Kobelke; the President of the Law Society of Western Australia, Ms Clare Thompson; the President of the Bar Association of Western Australia, Mr Ian Viner QC, Mr John Flood on behalf of Australian Mines and Metals and Mr Bruce Williams on behalf of the Chamber of Commerce and Industry of Western Australia.

The President also recognised in the court and welcomed the Honourable Justice Robert Anderson, President of the Industrial Appeal Court; the Honourable Justice Kevin Parker of the Industrial Appeal Court; the Honourable Geoffrey Kennedy QC, a former President of the Industrial Appeal Court and Sir John Lavan, a former member of the Industrial Appeal Court. He also welcomed the Honourable Justice Robert Nicholson, a judge of the Federal Court of Australia and a former member of the



Industrial Appeal Court. Further, the President noted that the Honourable Terry Franklyn, also a former member of the Industrial Appeal Court apologised for his inability to attend.

Also welcomed were former members of the Commission; a former President, the Honourable Gresley Clarkson QC; the immediate predecessor as President of this Commission, the Honourable Daniel O'Day; and other former members of this Commission including the former Chief Commissioners, Eric Kelly and Bruce Collier; the former Senior Commissioners, Garry Halliwell, Gavin Fielding and Don Cort and the former Commissioners Rodney Gifford, Grant Johnson, John Negus and Owen Salmon. The President acknowledged that former Commissioner Sally Cawley was unable to attend.

The President then welcomed the Honourable Clive Brown MLA, Minister for State Development, Tourism and Small Business, and a former secretary of the TLC, his Worship, the Mayor of Fremantle, Mr Peter Tagliaferri, former Ministers for Industrial Relations or Labour, namely the Honourable Peter Dowding, also a former Premier of this state; the Honourable Yvonne Henderson; the Honourable Raymond O'Connor, and the Honourable Gavan Troy.

Also present and welcomed by the President were the Anglican Archbishop of Perth and Primate of Australia, Archbishop Peter Carnley; Bishop Donald Sproxton representing the Catholic Archbishop of Perth, the Most Reverend Barry Hickey; and Ms Rosemary Miller representing the Uniting Church in Australia encompassing the Methodist, Presbyterian and Congregational Churches; His Worship, the Chief Stipendiary Magistrate, Mr Stephen Heath and Their Worships, Mr Joe Cicchini and Mr Wayne Tarr, the present industrial magistrates, and a former public service arbitrator and industrial magistrate, Mr Norman Malley. A broad welcome was also extended to former Registrars, former directors, secretaries, and officers of Australian Mines and Metals, of the Chamber of Commerce and Industry and its predecessors and of Unions WA and its predecessors.

The President extended a particular welcome to Mrs Molly Walsh and Mrs Pauline Seward, the daughters of Sir Walter Dwyer who was the first full-time president of the Arbitration Court, serving from 1926 to 1945, whom the President described as a "giant in industrial conciliation and arbitration in this state."

A full report of these proceedings, including all addresses, can be found at (2002) 82 WAIG 777.

## **15. OTHER MATTERS**

During the period under review members of the Commission and Chambers staff have reviewed the policy on prevention of sexual harassment in the workplace and diversity awareness. New members of staff undergo induction training in these policies.

The security of courts, conference rooms, the Registry and work areas is monitored.

In March 2002 the Commission welcomed Commissioner Jennifer Harrison as a member and Commissioner Beech's appointment as Senior Commissioner. Commissioner Kenner was appointed to chair the Coal Industry Tribunal for the period 15 October 2001 to 31 December 2002.

I express my appreciation to my colleagues, chambers staff, the Registrar and his staff and to the court recording personnel for their efforts and dedication throughout the year.

Chief Commissioner W.S. Coleman

20 September 2002