

The Industrial Relations Commission

of

New South Wales

Annual Report

Year Ended 31 December 1995

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I have the honour to furnish to the Minister for presentation to Parliament the fourth Report of the Industrial Relations Commission of New South Wales made pursuant to section 344 of the Industrial Relations Act 1991 for the year ended 31 December 1995.

PRESIDENT

CONTENTS

INTRODUCTION	1
CO-LOCATION OF JUDGES AND CONCILIATION COMMISSIONERS	4
TRAINING	8
OCCUPATIONAL HEALTH AND SAFETY ACT 1983	8
ORGANISATION OF THE COMMISSION	10
THE JUDGES	10
CONCILIATION COMMISSIONERS	11
INDUSTRIAL REGISTRAR	12
VENUES	13
VOLUME OF WORK	14
THE ACT	15
ENGINEERING STANDARDS	15
ANNUAL CONFERENCE	16
MEMBERS SITTING ALONE	17
● Applications pursuant to s.246 of the <i>Industrial Relations Act, 1991</i>	19
● Notifications under sections 188 (1), 188(2), 204 and 698 of the <i>Industrial Relations Act, 1991</i>	19
● Notifications under ss.7 & 8 of the Employment Protection Act	19
● Industrial Agreements	20
● Conciliation Committees	20
FULL COMMISSION	21
REGIONAL AND COUNTRY SITTINGS	22
ANNEXURES	24

CONTENTS

INTRODUCTION	1
CO-LOCATION OF JUDGES AND CONCILIATION COMMISSIONERS	4
TRAINING	8
OCCUPATIONAL HEALTH AND SAFETY ACT 1983	8
ORGANISATION OF THE COMMISSION	10
THE JUDGES	10
CONCILIATION COMMISSIONERS	11
INDUSTRIAL REGISTRAR	12
VENUES	13
VOLUME OF WORK	14
THE ACT	15
ENGINEERING STANDARDS	15
ANNUAL CONFERENCE	16
MEMBERS SITTING ALONE	17
● Applications pursuant to s.246 of the <i>Industrial Relations Act, 1991</i>	19
● Notifications under sections 188 (1), 188(2), 204 and 698 of the <i>Industrial Relations Act, 1991</i>	19
● Notifications under ss.7 & 8 of the <i>Employment Protection Act</i>	19
● Industrial Agreements	20
● Conciliation Committees	20
FULL COMMISSION	21
REGIONAL AND COUNTRY SITTINGS	22
ANNEXURES	24

INTRODUCTION

The Industrial Relations Commission of New South Wales was established by the *Industrial Relations Act, 1991*. The Act also created the Industrial Court of New South Wales as a superior court of record.

In general the Industrial Relations Commission of New South Wales may be approached in 5 ways.

- ◆ By referral of a question, dispute or difficulty to the Commission or in the case of an individual a grievance pursuant to the terms of section 188 (1) and (2).
- ◆ By summons to a compulsory conference where there is a threatened, probable or contemplated industrial action or actual industrial action pursuant to the terms of section 204.
- ◆ By summons to compulsory conference where there is or may be a dispute as to a contract determination pursuant to section 698.
- ◆ By the filing of an application upon a Notice of Motion. In every case within 7 days of filing, these matters are assigned by the President to the appropriate Panel where the senior Member of the Panel refers the matter to an individual Member. The case would normally be listed for mention within a few days.
- ◆ Individuals or Unions on behalf of individuals may claim under section 246 of the *Industrial Relations Act*, the area of the Act relating to Unfair Dismissals. These matters are allocated by the President on a daily basis, usually the day after the claim is filed. The applicant will have been advised by Legal Officers at the time of filing the claim as to general procedure. The cases are listed for

preliminary hearing usually shortly after service of the application on the employer. Access by individuals under this section is a new avenue of approach to the Industrial Relations Commission, not possible under the former Industrial Arbitration Act 1940.

This area of litigation is substantial. About 70% of applicants appear in person, as do a number of employers. The shift to party and party litigation has imposed major professional burdens upon Conciliation Commissioners whose work had formerly been limited to representative and often familiar parties.

The Commission deals with such matters as:

- industrial disputes
- award applications
- applications for reductions in hours
- matters referred by the Minister
- industrial contract determinations
- reports and submissions by the Industrial Registrar
- matters relating to Conciliation Committees
- unfair dismissals
- appeals from Conciliation Commissioners and single Presidential Members

The operations of the Industrial Relations Commission Registry are funded by the Department of Industrial Relations, Education, Training and Further Education. The total operating expenses for the year 1993/1994 was \$7,063,038, (actual budget allocated for 1993/1994 was \$6,998,665) for the year 1994/1995 the same total for operating expenses was \$6,478,677, (actual budget allocation for

this period was \$6,463,906) a reduction of approximately \$584,361 in actual operating costs and a reduction of \$534,749 in actual budget allocation. The operating expenses for 1995/1996 were \$6,924,751 with an actual budget allocation of \$5,342,399. The actual budget allocation for 1996/1997 is \$6,150,000.

Attempts have been made to improve procedures and Commission practices so that the Commission may be able to give better service, especially in the area of Unfair Dismissals. In response to difficulties being experienced by applicants, the Unfair Dismissal application forms were re-designed. Also an additional Legal Officer was employed on a temporary basis to assist with Unfair Dismissals and the production of the Arbitration Reports.

Case management and case flow techniques were further refined during 1995, especially in the area of Unfair Dismissal applications, resulting in the majority of these applications being called on within 2 weeks of being filed and concluded either by conciliation or by arbitration within 8 weeks of filing. The President's Second Associate maintains a computer data base and case tracking system which enables ready review of the movement of case loads through both Commission and Court and permits forward case load examination so that the work of the Commission may be the more effectively distributed.

Towards the end of 1995 a proposed new Industrial Relations Bill was before Parliament. This report, while not entering the circumstances of the Bill does where appropriate offer some elements of continuity in discussing the circumstances of the Commission

CO-LOCATION OF JUDGES AND CONCILIATION COMMISSIONERS

For some years it has been apparent that the Industrial Court/Industrial Relations Commission has outgrown its available and convenient accommodation.

The President and Deputy Presidents and the Industrial Court Registry and Industrial Relations Commission Registry have been housed at 50 Phillip Street in premises that were last comprehensively reviewed about 30 years ago. Though there has been some improvements over the last 3-4 years, it has been on a piecemeal basis, leaving much more to be done.

Some seven years ago it became necessary to develop two Courts with accommodation and staff in the Chief Secretary's (formerly the Colonial Secretary's) Building. This was done with proper regard to the heritage qualities of the building. Similarly some 40 persons employed in the two registries occupied other parts of the Chief Secretary's Building, then indeterminably held by parties who came and went.

While the arrangements at least provided shelter and accommodation it left one major problem unsolved. Apart from the President and ten Deputy Presidents, the Industrial Relations Commission consists of 12 Conciliation Commissioners (including one Conciliation Commissioner at Newcastle).

The remaining eleven Conciliation Commissioners are housed in Xerox House at Railway Square as is the Chief Industrial Magistrate and a small sector of the Industrial Registry servicing their needs.

Some years ago amended legislation required that one Conciliation Commissioner at least was to sit on all Full Benches. Cases are frequently called on for Mention, directions hearing, adjournment application and judgments and Conciliation Commissioners are ordinarily required to travel from Railway Square to the Phillip and Bridge Street corner to sit in these cases. This has contributed both to inconvenience and a substantial waste of time. Additionally, the library is at 50 Phillip Street.

By the Industrial Relations Act 1991, Conciliation Commissioners became Members of the Commission, further emphasising the "one Commission" policy and the need to vindicate that policy by locating all Members under one roof.

Bearing in mind that the loosely held occupation of the Chief Secretary's Building was leaving behind abandoned space and that the Chief Secretary's Department itself was leaving, inquiries were put in train to see if the Industrial Relations Commission could be adequately accommodated in the former Colonial Secretary's Building, now empty but for two courts and about half the personnel of the two registries. Such occupation would have to be consistent with heritage values. The building itself primarily dates from about 1880 and with at least two

floors of classical Italianate style and quality not exceeded elsewhere within this City.

The Heritage view was that the use to which the building ought be put should be consistent with public service traditions going back to the 1820's. The Industrial Relations Commission's major need is for hearing rooms for the Conciliation Commissioners (not formal Courts) which could be accommodated on Level 5 substantially and part of Level 4, not classical areas but suitable for this use.

The Heritage Commission therefore considered a new heritage plan reflecting not only the desirability of refurbishing an absolutely irreplaceable heritage building (including the Governor-in-Councils Chamber and the untouched since 1880 Sir Henry Parkes room) but also to restoring it to reflect the tradition of public service presence in this State.

This of course contrasts with the fate of the Colonial Treasury building on the opposite side of Bridge Street. The stone and mortar, the facade, has been retained and a masterly architectural marriage made between the old and the new. However, what has been saved is the monumental heritage only, nothing relating to heritage values of the usage of the building.

The Heritage Commission in late 1994 produced a revised plan of use consistent with traditional values and acceptable, indeed welcomed by this Commission.

The architectural and heritage plans were initialled by the President in December 1994 and filed with the Sydney City Council.

In the meantime the Xerox House lease covering the occupancy of the Conciliation Commissioners expires in September 1996.

Towards the end of 1995 informal information suggested that the Chief Secretary's Building might not be available to the Industrial Relations Commission including that part where the Courts, Registry and Library are mostly to be found. This part was occupied by Courts, namely family, divorce and matrimonial causes courts before occupation by the then Industrial Relations Commission of New South Wales.

The proposal therefore involves deduction from the administration of the law in new South Wales of a major long standing court precinct.

The alternatives to continued and expanded occupation, as earlier discussed would appear to be two:-

1. The procurement of some suitably large existing building within the CBD for modification to accept a co-located Industrial Relations Commission, judges and commissioners and the industrial magistrate.
2. The construction of a purpose built building with similar accommodation.

Both alternatives will be considerably more expensive than the preferred course of expansion into the presently unused portion of the Chief Secretary's Building.

TRAINING

Commencing in 1994 and continuing into 1995 all Members of the Commission have participated in the Judicial Commission's computer training programmes, with the programmes still continuing and being well attended. The programmes are hampered however, by the lack of funding for the purchase of computers for Commissioners and Judges of the Commission and by inconsistent technology between Courts Administration and the Department of Industrial Relations.

OCCUPATIONAL HEALTH AND SAFETY ACT 1983

The Industrial Court of New South Wales administered the prosecutions under this Act in 1995. It is noted that the Industrial Relations Bill 1995 proposes that the newly defined Industrial Relations Commission will under the new Act take over the administration of prosecutions relating to health welfare and safety at work.

In 1995 some difficulties arose in the administration of this jurisdiction.

Sections 15 and 16 of the Act relate to duties cast upon employers to **ensure** safety of employees (section 15) and of persons not employees (section 16) while at work.

In *Boral Gas (NSW) Pty Ltd v Magill* (58 IR 363) issue was joined as to whether informations were bad because more than one offence had been charged in the information. Questions as to duplicity and uncertainty were also raised.

From 1983 when the Act was first passed these problems seemingly did not occur. At the present time a number of cases where the issue might have been raised are heard without apparent difficulty. However, in a limited but increasing number of cases the point is being taken. In *Boral* the Full Court of the Industrial Court of New South Wales delivered three separate judgments, each in different terms.

This matter needs authoritative determination. The present privative clause appears to preclude appeals to the Court of Criminal Appeal. The alternative lies in legislative amendment.

So far as I am aware, no case has been brought raising a plea in bar based upon the circumstances of a former conviction exhibiting duplicity or uncertainty.

ORGANISATION OF THE COMMISSION

THE JUDGES

Members of the Commission during the year were:

President:

The Honourable William Kenneth Fisher, A.O., appointed 18 November, 1981.

Members:

The Honourable John Joseph Cahill, appointed 25 March, 1971.
Appointed Vice President 19 February, 1987.

The Honourable Harold William Henry Bauer, appointed 14 April, 1980.

The Honourable Leone Carmel Glynn, appointed 14 April, 1980.

The Honourable Brian Eugene Hill, appointed 1 August, 1988.

The Honourable Gregory Ian Maidment, appointed 1 August, 1988.

The Honourable Barrie Clive Hungerford, appointed 13 July 1989.

The Honourable Charles Leslie Cullen, appointed 4 February, 1991

The Honourable Russell John Peterson, appointed 21 May 1992

The Honourable Francis Marks, appointed 15 February 1993

The Honourable Monika Schmidt, appointed 22 July 1993

CONCILIATION COMMISSIONERS

The Conciliation Commissioners in office pursuant to section 315 (2)(d) of the *Industrial Relations Act* 1991, during the year were:

Mr Raymond John Patterson, appointed 12 May ,1980.

Mr Peter John Connor, appointed 15 May, 1987.

Mr Brian William O'Neill, appointed 12 November, 1984.

Mr Michael Francis Sheils, appointed 3 February, 1986.

Mr James Neil Redman, appointed 3 February, 1986.

Mr Rodney William Harrison, appointed 6 August, 1987.

Mr Anthony Kevin Buckley, appointed 7 February, 1991.

Mr Paul Bennett Kelly, appointed 7 February, 1991.

Mr Barry William French, appointed 18 February 1991.

Miss Inaam Tabbaa, appointed 25 February 1991.

Ms Donna Sarah McKenna, appointed 16 April 1992.

Mr John Patrick Murphy, appointed 21 September 1993.

INDUSTRIAL REGISTRAR

The Industrial Registrar, Mr Gregory Keith Robertson was appointed on 31 March 1992 as Industrial Registrar and Chief Executive Officer of the Industrial Relations Commission of New South Wales.

The Industrial Registrar is responsible to the President of the Industrial Relations Commission of New South Wales and in relation to functions under the *Public Sector Management Act 1988* is responsible to the Director General, Department of Industrial Relations.

The duties of the Industrial Registrar include:

1. To act as Registrar and Chief Executive Officer of the Industrial Relations Commission of New South Wales, including statutory duties of, or related to, that role, and other duties as directed by the President of the Commission as head of jurisdiction.
2. To ensure that orders and awards of the Commission are correctly and promptly settled and promulgated, through publication in the Industrial Gazette and as may otherwise be appropriate.
3. To perform statutory duties required under Chapter 5 of the Act in relation to industrial and other organisations, including duties in relation to:
 - registration and deregistration of organisations
 - the rules of organisations
 - union accounts
 - ballots for positions of officer within organisations
 - right of entry permits for union officials
4. To perform other statutory duties under the Act, including the registration of enterprise agreements.

5. To perform statutory obligations under other legislation, including Annual Holidays Act, Long Service Leave Act and Employment Protection Act.
6. To exercise overall responsibility for editing the Industrial Arbitration Reports.

The Commission Registry has a staff of 64 including 5 legally qualified staff, the Industrial Registrar, the Deputy Registrar, the Manager of Industrial Organisations and 2 legal officers.

VENUES

The Commission has two regional centres - Newcastle and Wollongong, and sits regularly at country venues throughout New South Wales.

In order to expedite the resolution of Unfair Dismissal claims and to help reduce the burden of costs for the applicants Conciliation Commissioners frequently sit in country venues throughout the State, with certain Commissioners having the equivalent of informal "circuits". This system has been found to be very cost effective.

Total number of country sitting days for 1995 was 289, total number of regional sitting days were 287.

VOLUME OF WORK

Pursuant to section 338 of the *Industrial Relations Act* 1991, in order to exercise its functions, the Commission may be constituted by a member sitting alone, or the Full Commission. The Full Commission consists of not fewer than 3 members of whom at least one must be a Presidential Member as defined in section 317 of the Act, and at least one member must be a Conciliation Commissioner. The Full Commission constituted to hear an appeal from a decision of the Commission is not to include a member of the Commission as constituted when it made the decision (section 338(3)).

By section 339 of the Act, the President is to assign industries, and where appropriate enterprises. Presently there are 5 panels of members of the Commission, each panel consisting of 2 Presidential members and 2 Conciliation Commissioners. There are 3 regional members, one for Wollongong and two for Newcastle.

Pursuant to section 342 of the Act, the President of the Commission directs the business of the Commission (subject to the Act and the rules of the Commission).

As outlined in the 1994 Annual Report, the Commission does not operate upon a "back log" of cases. Every case filed is physically conveyed to a Member within six days of filing and is usually mentioned in court shortly after, with a view to fixing dates for hearing if required. Every case is heard as a special fixture.

When the number of cases exceeds available resources, as is sometimes the case, the effect is to build forward a "front log", *i.e.* in order to arrive at days that are available for hearing, dates have to be set further and further into the future. On some occasions during 1995, this period ahead amounted to several months and therefore these matters are statistically noted as having not been completed (see Tables A & B).

THE ACT

The *Industrial Relations Act* 1991 contains 752 sections.

The substantial accretion of Statutory provisions has led to increases in litigation before the Commission and the Industrial Court for some years, as new provisions progressively came under consideration and doctrine was developed.

The new Act is much more legalistic than the former Act.

Some 3403 matters were filed before the Commission and Court in 1995. This compares with a total of 3729 matters filed for the year ending 31 December 1994, 3218 matters filed for the year ending 31 December 1993, 2685 matters for the year ended 31 December 1992 and 1715 for the year ending 31 December 1991.

During 1995 the level of industrial disputation involving stoppages of work within jurisdiction remained at a very low level. Intractable industrial disputation was not encountered.

This very satisfactory result was predominantly due to the reasonableness of industrial parties to which the Commission's well known prompt interception of burgeoning disputes also played a beneficial part.

ENGINEERING STANDARDS

On 3 May 1994, the Minister for Industrial Relations, in accordance with section 345 of the *Industrial Relations Act* 1991, referred three questions to the Full Commission of the Industrial Relations Commission.

The three questions were:-

- What, if any, measures should be implemented to secure the health, safety and welfare of employees when introducing the materials handling system known as “engineered standards” in the warehouse operations and distribution industry;
- Whether the introduction or implementation of the manual handling system known as “engineered standards” in this industry complies with State and national occupational health, safety and welfare legislation (including associated regulations), and codes on manual handling established by relevant occupational, health and safety authorities; and
- Whether the introduction or implementation of the manual handling system known as “engineered standards” in this industry is consistent with the objects of the New South Wales *Industrial Relations Act 1991*.

The report was finalised and published in 1996.

ANNUAL CONFERENCE

The Annual Conference of the Industrial Relations Commission was held from 20 - 22 September 1995 at *Lilianfels*, Blue Mounttains. The conference was well attended. Overall, the discussions at the conference were topical and practical, due at least in part to the current state of legislative change, and was assessed by the participants very positively.

The development of the Annual Conference, substantially assisted by the Judicial Commission of New South Wales exercising its mandate to advance judicial education, has proved to be a most successful initiative with the potential to add to the professionalism which the Commission seeks to advance in all its work.

MEMBERS SITTING ALONE

Figures relating to the period 1 January to 31 December 1994 appear in brackets after the 1995 figures.

- For the period 1 January to 31 December 1995, 2948 (3438) matters were filed in the Industrial Relations Commission of New South Wales, 3232 (3359) matters were concluded and 981 (1263) were continuing as at 31 December 1995 (*Table A*).
- There were 493 (637) award applications under the *Industrial Relations Act* 1991 (*Table A*), 264 (270) notifications of disputes (s.188) in respect of awards and agreements, 294 (224) being concluded by 31 December 1995; 435 (498) dispute notifications - applications for Compulsory Conferences under section 204 with 473 (521) being concluded (*Appendix A*).
- With respect to matters requiring Members sitting alone and the Full Commission it is to be noted that Presidential Members are concurrently Judges of the Industrial Court. The Act provides by s.344 that this *Annual Report* on the Industrial Relations Commission is to be furnished but there is no corresponding requirement that an *Annual Report* be compiled in relation to the Industrial Court.

- The work of the Court has relevance to the work of the Commission because the 11 Deputy Presidents are all legally qualified and have been drawn from other Courts, or drawn from the ranks of practising barristers and solicitors.

During the year 392 (291) matters were filed in the Court (*Table B*), 260 (236) were concluded during the year and as at 31 December 1995 402 (301) were continuing (*Table B*).

- The Full Court is composed of three judges. Unlike the Industrial Relations Commission there is no power in the Court to delegate issues to a single member, a power which the Industrial Relations Commission uses from time to time and in suitable cases (s.346 (3) of the 1991 Act) to reduce the demands on appellate benches. The Court is also limited in that it cannot sit more than three judges on appellate benches.

- **Applications pursuant to s.246 of the *Industrial Relations Act, 1991***

A large and increasing volume of work lies in the area of Unfair Dismissals, applications under section 246 of the *Industrial Relations Act, 1991*. These matters are allocated to Conciliation Commissioners by the President on a daily basis. Most helpfully 2 legal officers were appointed in 1993, with an additional temporary position in 1995 to interview and assist in the many problems encountered by individual litigants (who comprise 76% of all applicants) in relation to the preparation of applications and the course that conciliation and arbitration may take. A total of 1497 (1823) such matters were filed during 1995, with 1618 (1824) being concluded (*Table A*). Measures were implemented to decrease delays in bringing the matters to hearing and resolution, and a case flow tracking system has been designed to assist the President in monitoring workloads and case management. The average length of time for conclusion of an Unfair Dismissal Claim from time of filing, by either conciliation or arbitration, remained at approximately 8 weeks as in 1994.

- **Notifications under sections 188 (1), 188(2), 204 and 698 of the *Industrial Relations Act, 1991***

During the year 719 (789) notifications were lodged with the Registrar, 259 (267) under s.188(1), 437 (498) under s.204 and 23 (22) under s.698. Attached as *Appendix A* is an analysis of the reasons given.

- **Notifications under ss.7 & 8 of the *Employment Protection Act***

Some 14 (321) Notices were lodged under the *Employment Protection Act 1982* under s.7 of the Act (*Notice of intention to terminate employment to be given to Registrar*) (*Table A*) (230 being lodged in July 1994 from one large abattoir), a further 100 (199) Notices under s.8 of the Act (*Notice of reasons for termination of*

employment to be given to Registrar in certain cases) were also lodged during 1995. Under section 11 of the *Employment Protection Act 61 (49)* matters were filed in the Commission, 34 (46) were concluded and 2 (20) were continuing as at 31 December 1995.

- **Industrial Agreements**

The *Industrial Relations Act 1991* does not make provisions for industrial agreements similar to the former s.11 agreements but allows filing of enterprise agreements, which do not come before the Commission. However, s.147 of the 1991 Act allows for limited *variation* of former s.11 agreements, and *Appendix B* also sets out the number of such variations filed. There were no such variations filed in 1995, as for the previous year.

From 1 January 1995 to 31 December 1995 549 (612) Enterprise Agreements were filed and 441 (527) were Registered.

A continuing development in 1995 was the increase in the filing of consent enterprise awards, which reflect the settlement of industrial differences by negotiation and agreement assisted by the Commission.

- **Conciliation Committees**

As at 31 December 1995 there were 212 (238) extant conciliation committees and 1 contract regulation committee. Under the provisions of the *Industrial Relations Act 1991* these committees are given a life of 12 months unless established by the

Commission. During the year the Commission established 53 (5) new committees, dissolved 79 (1).

Appendix C contains particulars of application made to committees during the year.

Appendix D contains particulars of the activities of the committees during 1995.

FULL COMMISSION

For the period 1 January 1995 to 31 December 1995 24 (51) appeals were lodged under the *Industrial Relations Act* 1991 against a decision of a Member of the Commission, 19 (46) of which were appeals against a decision of a Conciliation Commissioner and 4 (5) were against a decision of a Presidential Member (*Table A*). During 1995 47 (60) appeals were concluded and as at 31 December 1995, 15 (40) appeals remained active.

A total of 14 (33) appeals were lodged in the Industrial Court for the same period against a decision of the Commission, 13 (18) appeals were lodged against a decision of the Industrial Court, 30 (18) appeals were lodged against a decision of the Chief Industrial Magistrate to the Industrial Court. Appeals remaining active as at 31 December 1994 were respectively a total of 12 (8) against a decision of the Commission, 15 (12) against a decision of the Industrial Court and 13 (19) against a decision of the Chief Industrial Magistrate (*Table B*).

REGIONAL AND COUNTRY SITTINGS

There is a substantial workload in Newcastle and Wollongong in the areas of steel and heavy industry, serviced by both Commissioners and Presidential Members, and a considerable workload in the area of Unfair Dismissals for Commissioners in country sittings.

The general policy of the Commission in relation to dismissals (section 246) and rural industries has been to sit in the county centre where the events have occurred. This does require substantial travel but the Commission's assessment is that it has a beneficial and moderating effect on parties to the industrial disputation who can often attend the proceedings and the better understand decisions or recommendations made.

An increase in matters filed for reinstatement under section 246 of the Act in country areas has been noted.

There were a total of 289 (252) sitting days in a wide range of Country Courts and other country locations during 1995, the majority of which were s.246 matters, with 287 (326) regional sittings in Newcastle and Wollongong for Unfair Dismissals and dispute matters, with one regional member sitting permanently in Newcastle (Conciliation Commissioner Harrison).

The Steel Industry (BHP) is centred in Newcastle and Wollongong. The regional Member for Wollongong, The Honourable Mr Justice Hungerford, handles all Port Kembla steel matters and sits on average 2 - 3 days *per* fortnight (83 (79) sitting days for 1995).

The regional Member for Newcastle, The Honourable Mr Justice Hill, sits on average one day *per* fortnight to attend to steel matters in Newcastle.

Mr Conciliation Commissioner Harrison deals with a wide range of industrial matters mostly of a regional nature in Newcastle and the Hunter district.

The present regional arrangements are working well.

ANNEXURES

Table A is an abbreviated numerical breakdown of all matters filed in the Industrial Relations Commission under the Industrial Relations Act 1991, from 1 January 1995 to 31 December 1995.

Table B is an abbreviated numerical breakdown of all matters filed in the Industrial Court under the Industrial Relations Act 1991, from 1 January 1995 to 31 December 1995.

Appendix A contains breakdowns of dispute notifications filed during 1995.

Appendix B contains a breakdown for applications to vary Industrial Agreements during 1995.

Appendix C contains figures for Applications to Conciliation Committees for 1995.

Appendix D contains figures for the activity of Conciliation Committees during 1995.

TABLE A

*Matters filed and completed during period 1 January 1995 to 31 December 1995
and all matters continuing (including those filed in other years) as at 31
December 1995 under the Industrial Relations Act 1991*

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

ABBREVIATION	USAGE	FILED 1 JAN - 31 DEC 1995	COMPLETED 1 JAN - 31 DEC 1995	CONTINUING AS AT 31 DEC 1995 (INCL THOSE MATTER FILED IN PREVIOUS YEARS)
AW	Application for an award variation/new award	493	584	192
BH	Disputes in Broken Hill	2	3	3
CC	Application re: establishing/dissolving/re-establishing/ removal of matters before conciliation committees	64	81	5
CD	Application re: variation/recission/new contract determination	17	17	8
EA	Application for registration of an enterprise agreement	0	0	0
EPA	Report under s.11 of the Employment Protection Act	61	34	2
IR	Appeal against decision of Industrial Registrar	0	1	0
Part 7	Application for an order of reinstatement of injured employee under Part 7.	5	3	2
REGN	Application for registration pursuant to clause 27A of the Clothing Trades (State) Award	13	12	1
VTBAP	Appeal against a decision of Vocational Training Board	1	1	0
s210	Dispute orders	1	1	1
s14	Commission to consider & give effect to national wage decisions	1	0	2
s188(1)	Reference of question, dispute or difficulty under s.188(1)	259	292	122
s188(2)	Application for reference of grievance by individual employee under section 188(2)	5	2	4
s204	Notification under s.204 (dispute)	437	473	190
s219(1)	Application for payment of wages under section 219(1)	1	0	0
s220 & s221	Application for an order of demarcation under ss.220 & 221	4	11	4
s246	Unfair dismissal	1497	1618	353
s345(4)	Reference by the Minister for Industrial Relations and Employment pursuant to section 345(4)	1	0	2
s385	Reference by Industrial Registrar to the Commission	0	1	0
s386	Application for order by President re: removal of matter before Industrial Registrar	0	1	0
s466	Application for permission for a Secret Ballot	0	0	0
s698	Notification under s.698 (dispute)	23	23	8
IRCAP1	Appeal against decision of Conciliation Commissioner	19	40	11
IRCAP2	Appeal against decision of Presidential Member	4	6	4
IRCAP3	Other Appeals	1	1	0
IAA 1940	Matters continuing under the Industrial Arbitration Act 1940	N/A	16	26
T	Application for compensation before the Contract of Carriage Tribunal	36	5	39
C	Matters referred from the Australian Industrial Relations Commission under s.174 of the Industrial Relations Act 1988 (Cth)	5	6	2
TOTAL	(Includes T & C matters)	2946	3232	981

TABLE B

Matters filed and completed during period 1 January 1995 to 31 December 1995
and all matters continuing (including those filed in other years) as at 31
December 1995 under the Industrial Relations Act 1991

INDUSTRIAL COURT OF NEW SOUTH WALES

ABBREVIATION	USAGE	FILED 1 JAN - 31 DEC 1995	COMPLETED 1 JAN - 31 DEC 1995	CONTINUING AS AT 31 DEC 1995 (INCL. THOSE MATTERS FILED IN PREVIOUS YEARS)
AHA	Application for recovery of monies pursuant to the <i>Annual Holidays Act 1944</i>	0	2	0
CSA	Prosecution under the <i>Construction Safety Act 1912</i>	0	0	0
FSIA	Prosecution under the <i>Factories, Shops and Industries Act 1962</i>	5	0	5
LSLA	Application for recovery of monies pursuant to the <i>Long Service Leave Act 1955</i>	1	1	1
OHS s15	Prosecution of employer for failure to ensure health & safety of employees under s.15 of the <i>Occupational Health & Safety Act 1983</i>	66	22	75
OHS s16	Prosecution of employer/self employed person for failure to ensure health & safety of persons other than employees	39	13	40
OHS s17	Prosecution of person in control of workplaces etc for failure to ensure health & safety of non employees	6	4	9
OHS s18	Prosecution of manufacturer/supplier for failure to ensure health & safety re: plant & substances for use at work	2	0	2
OHS s19	Prosecution of employee for failure to take care of others and cooperate with employer at work	5	3	6
OHS s50	Prosecution of directors/management of corporation for offences by the corporation	10	1	15
s40	Return to work after Maternity Leave	1	0	1
ss151,153&156	Application for recovery of monies under ss.151, 153 & 156	8	11	5
s166	Prosecution for breach of an award under s.166	0	1	0
s167	Injunction, Breach of awards or agreements	1	0	1
s194	Application for injunction under s.194	17	21	2
s195	Breach of injunction	1	1	0
s198	Referral of question re: interpretation of award/agreement	5	2	11
s202	Application for certification of "new matter" under s.202	0	1	0
s211	Summons to show cause re: contravention of dispute order	1	0	2
s262	Application for an injunction	0	1	0
s275	Application under s.275 (making a contract void)	129	88	158
s367	Prosecution for contempt/disturbance of the Commission	0	0	0
s384	Reference to Industrial Court by the Commission	0	1	0
s440	Rules contravening general requirements for rules etc.	1	0	1
s454	Inquiries into elections - Action by Industrial Registrar	1	0	1
s465 & 497	Membership of organisations - Rationalising union coverage	5	3	3
ss481 & 482	Application re: victimisation	5	5	3
s488	Recovery of compensation from officer of organisation	0	1	0
s497	Application for order to vary rules of organisation considered oppressive	5	3	3
s578	Orders in relation to consequences of invalidity	0	1	0
s674C	Victimisation in Associations of Contract Drivers and Contract Carriers	1	1	0
s686	Application for the recovery of monies under s.686	1	3	1
CTAP1	Appeal against decision of a Judge in an IRC matter	1	2	2
CTAP1a	Appeal against decision of a Judge in a CT matter	25	19	21
CTAP2	Appeal against decision of a Commissioner	3	4	2
CTAP3	Appeal against decision of Full Commission	3	5	3
CTAP4	Appeal against decision of District Court Judge	0	0	1
CIM	Appeal against decision of Chief Industrial Magistrate	37	33	19
COSMWST	Appeal against decision of Coal & Oil Shale Mine Workers Superannuation Tribunal	0	0	0
LOCAL CT	Appeal against decision of Local Court Magistrate	1	0	2

SASB	Appeal against decision of State Authorities Superannuation Board	4	7	4
SSMIC	Appeal against a decision of State Superannuation Investment and Management Corporation	0	0	0
s88F	s88F of Industrial Arbitration Act 1940	0	0	1
DGA	Dangerous Goods Act	1	0	1
PT 7 Rule 1(3)		1	0	1
TOTAL		392	260	402

APPENDIX A

Reasons given for notification made pursuant to sections 188(1), 188(2), 204 and 698 of the Industrial Relations Act, 1991 from 1 January 1995 to 31 December 1995

NATURE	S.188(1)	S.188(2)	S.204	S.698
CONDITIONS OF EMPLOYMENT				
(i) Allowances	8	-	11	-
(ii) Wage rates/conditions of employment	94	-	123	13
(iii) Overtime	8	-	9	-
(iv) Hours of Work (eg. rosters, shiftwork)	30	-	24	-
(v) Leave entitlements	13	-	18	-
(vi) Superannuation	3	-	1	-
(vii) Restructuring	13	-	26	1
PHYSICAL WORKING CONDITIONS				
(i) Safety	4	1	11	-
(ii) Amenities	9	-	4	-
DISMISSAL				
(i) Neglect of duties/absenteeism	-	-	1	-
(ii) Rentrenchment	3	-	8	1
(iii) Unspecified	3	-	23	-
MANAGEMENT CONTROL				
(i) Suspension/demotion	6	-	7	1
(ii) Contract labour	22	-	13	1
(iii) Interpretation	-	-	-	-
(iv) Breach	6	-	2	2
(v) Appointments	18	1	18	-
(vi) Transfers	12	-	13	-
(vii) Manning	7	-	12	-
UNION MATTERS				
(i) Employment of non-unionists	-	-	1	-
(ii) Demarcation	-	-	4	-
(iii) Sympathy with other unions	1	-	1	-
MISCELLANEOUS - OTHER				
	30	4	70	3
STOPPAGES				
	63	-	121	8
TOTAL no. of disputes				
	259	5	435	23

APPENDIX B

Variations lodged during 1995

MONTH	VARIATION
January	-
February	-
March	-
April	-
May	-
June	-
July	-
August	-
September	-
October	-
November	-
December	-
TOTAL	Nil

APPENDIX C

Application to Conciliation Committees

Applications to Committee on behalf of	Conciliation	Contract Regulation
(a) employees for an order or award s.347(2)(c)(i)	24	-
(b) employers for an order or award s.347(2)(c)(ii)	7	-
(c) employees for variation or interpretation of awards s.347(2)(c)(i)	13	-
(d) employers for variation or interpretation of awards s.347(2)(c)(ii)	-	-
Miscellaneous	-	-
Application pursuant to Clothing Trades (State) Award	15	N/A
TOTAL	59	Nil

APPENDIX D

Activity of Conciliation Committees during 1994

ESTABLISHED	5
DISSOLVED	1
ALTERED	N/A
TOTAL	6