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Continuity and Change in Australian Labour Regulation: WorkChoices, Fair Work and the Role of the 'Independent Umpire'

Andrew Stewart

> *The direction in which [the industrial tribunal system] moves and the speed with which it moves depend ultimately on the attitudes, policies, capacities and the will of the other main players – the employers and their organisations, the employees and their unions, and governments, especially the Commonwealth. It does not have a magic wand to reduce inflation, increase productivity and reduce industrial actions, independently of tangible and appropriate support of the other players. It does not serve the public interest – its raison d'etre – by prescribing principles or taking actions which, however admirable in the abstract, do not work in practice, generating an unacceptable degree of industrial unrest or adverse economic consequences. Although referred to as a* ***compulsory*** *arbitration system, its capacity to achieve favourable economic and industrial outcomes depends on broad consensus on the principles and procedures it formulates, and on its ability to apply these consistently in individual cases. It must be thought of essentially as a facilitator rather than a prime mover, reactive rather than proactive, in a complex interrelationship between labour, capital and governments.*
>
> (Isaac, 1990: 13, emphasis in original)

When that characteristically insightful observation was written, Joe Isaac had not long retired as a deputy president of the Australian Conciliation and Arbitration Commission. The Commission itself had just been abolished and replaced by the Australian Industrial Relations Commission (AIRC). But the AIRC was recognisably the same institution, with many powers and processes that could be traced all the way back to the *Conciliation and Arbitration Act 1904* (Cth).

by minor parties and independents. All of which suggests that the relative stability that has descended on the federal system since 2009 may be set to continue for another few years at least.

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