

**Unions and Arbitration:
A Dependent Relationship?
Evidence from
Historical Case Studies^p**

by

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Abstract

The analysis of Australian union behaviour, growth and structure has centred on the relationship between unions and arbitration. To varying degrees it has been assumed that Australian unions are, through their involvement and legal incorporation into the arbitral system of labour market regulation and dispute settlement, dependent on arbitration for the supply of resources critical to their functions. The nature and extent of this so called dependency relationship has, however, remained empirically unexplored. Yet, it is clear that if this dependency relationship was a valid description of the relationship between unions and arbitration, its implications for the survival of unions under a different labour law regime would be profound.

This paper, through the investigation of four representative historical case studies, questions the validity of the dependency hypothesis and its usefulness as a framework to understand how Australian unions behave. A number of concerns emerge from the case analysis. To begin with, the general interpretation of key historical moments, which the dependency hypothesis relies upon, does not capture the diversity of experience and behaviour evident in these four cases. While arbitration played an important role in influencing union behaviour through altering the costs and incentives of pursuing particular strategies, the evidence suggests that a range of other factors account for this diversity. Moreover, arbitration was not an immutable or unchangeable institutional structure which unions faced. Rather, part of their strategic interplay with it was concerned with shaping the system to further their own goals through the use of different 'bundles' of political and industrial resources at the disposal of individual unions. Most importantly, to the extent these unions were dependent organizations, they were dependent on a range of institutional and organizational mechanisms for the supply of critical resources. This then of course, makes the concept of dependence as it has been employed in this literature, a nonsense.

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'The Australian trade union can be regarded in general as an institution called into existence by a bureaucratic mechanism (the arbitration system) to enhance the functioning of that mechanism. Unions generally have not succeeded in carving out for themselves an industrial role that is independent of the arbitral system.' (Howard, 1977, 255).

'A statutory requirement that labour disputes be submitted to arbitration has a narcotic effect on private bargainers. They will turn to it as an easy and habit forming release from the ... obligation of hard responsible bargaining.' (Wirtz in Wheeler, 117).

'Compulsory arbitration means loss of freedom.' (US Secretary of Labor, Mitchell, in Phelps, 1964, 82)

Introduction

Industrial relations in Australia have long been seen as virtually synonymous with arbitration and trade unionism. The pervasive influence of the institution of arbitration and the organization of trade unions have both been most significant since the turn of this century. They have, not without coincidence, also experienced concurrent evolutions. Arbitration has both relied on the existence of unions performing their usual industrial functions, and has at the same time been a significant source of support for trade unionism in terms of their numerical growth and industrial legitimacy (Martin, 1960). The self-reinforcing nature of the relation between arbitration and unions has consequently created considerable debate on the extent of union (over)reliance on arbitration. Arbitration has been presumed to be a significant determinant of a range of union characteristics including: (i) the origins, or at least the regeneration of many unions after the great strikes of the 1890s (Childe, 1923; Deery and Plowman, 1989; Oxnam, 1956; and Sutcliffe, 1967); (ii) union growth (Bain and Elshiekh, 1976; Borland and Ourlaris, 1989; Howard, 1977; and Sharpe, 1971); (iii) union goals (Campbell, 1945; Holland, 1912; Hutson, 1966; Mann, 1923; and Sykes, 1976); and (iv) union structure (Howard, 1977; Isaac and Ford, 1971; Rawson, 1978, Rimmer, 1978; and Sutcliffe, 1967).

With only limited empirical investigation, Australian unions have typically been described as being *dependent* on arbitration (Griffin and Scarcebrook, 1990; and Martin, 1980). The most vocal of these protagonists have suggested this dependence on arbitration is all but complete. Howard, for example, has argued Australian unions have, in the presence of arbitration, responded to the needs of arbitration rather than the demands and needs of membership, and consequently have not been capable of 'carving out for themselves an industrial role that is independent of the arbitral system' (Howard, 1977, 255). More importantly, he contends that: 'the Australian labour movement of the twentieth century... needs to be seen as a labour movement *sui generis*; it is a labour movement in form and intention, rather than in *tactic and achievement*' (Howard, 1977, 269).¹ For Howard, Australian unions have become so incorporated into the Australian institutional edifice that to suppose they exhibit any independence or perform any functions comparable to other national union movements is untenable. Therefore, he concluded, Australian union behaviour will not be consistent with accepted theories of unions and

¹ Emphasis added. An indication of the enduring quality of this view is found in the republication of Howard's paper in Ford, G.W., Hearn, J.M. and Lansbury, R.D. (eds.) *Australian Labour Relations: Readings*, Macmillan, Melbourne, Head, B.W. (ed.) *State and Economy in Australia* Oxford University Press, Melbourne, 1983, pp. 238-251; and in Dabscheck, B., Griffin, G. and Teicher, J. (eds.) *Contemporary Australian Industrial Relations* Longman Cheshire, Melbourne, 1992, pp. 153-170. It also remains heavily cited in comparative work and by overseas academics. See for example, Bean, R. (1996) *Comparative Industrial Relations: An Introduction to Cross-National Perspectives*, Croom Helm, London.

union behaviour. Even more recently, this dependency hypothesis has been extended to explain behavioural patterns among New Zealand unions, where a national system of arbitration emerged at about the same time as it did in Australia (Hince, 1993).

A central problem with the dependency hypothesis, however, is the lack of empirical evidence to support its historical presumptions or its predictions concerning union behaviour. Arguably it requires validation or rejection by a historical analysis of Australian unions and their relationship with the arbitration system. Indeed, while the dependency theory is apparently widely accepted (Griffin and Scarcebrook, 1990, 24), little evidence of any attempt to test its central hypotheses can be found. As Macintyre and Mitchell point out, a group of questions:

that remain largely unanswered concerns the incorporation of trade unions into arbitration. What was the precise stimulus for trade unions to enter the system? Was the system principally a device for settling disputes; or for union recognition, preference in employment for union members, monopoly of organization and legal status? Were trade unions principally interested in collective bargaining - with a structure which guaranteed them recognition and bargaining rights? And how important were the views of full-time union officials, as opposed to the part - time activist or the inactive member?... [T]here is much scope for further research (Macintyre and Mitchell, 1989, 6).

Again, central to the questions posed by Macintyre and Mitchell's research is the nature of union strategies in the face of an institutional framework with arbitration as its foundation mechanism for regulating relations between employees, unions and firms. This paper reports on research which attempts to begin to answer some of the questions posed by Macintyre and Mitchell and other industrial relations researchers by placing the present understanding and preconceptions about the relationship between unions and arbitration on a much firmer empirical basis than has previously existed.

This paper will proceed in five further sections. The next section will review previous literature which forms the antecedents to the dependency hypothesis put forward by Howard. Then the work of Howard will be discussed, focusing on how arbitration has produced the conditions for dependency, and defining more precisely the nature of dependence. The methods and data used in this study will then be discussed. The last substantive section of this paper will discuss four individual case histories of unions and arbitration: iron moulders, clothing workers, municipal officers and tobacco workers. The final section will draw the analysis of cases together and make a number of conclusions.

Literature Review: The Antecedence of the Dependency Hypothesis

The idea that union involvement with arbitration will have a deleterious effect on unions has a long history. While its origins are radical, and was most vigorously asserted by Marxist writers who suggest that arbitration undermined the revolutionary goals of unions, it has curiously found its way into mainstream perspectives on Australian unions where such pretensions are shed for a more modest interpretation of how arbitration serves to 'leg iron' unions (Holland, 1912). This perspective is apparently so widely shared by industrial relations scholars that Griffin and Scarcebrook confidently contend that:

It is widely accepted in the industrial relations literature that Australian trade unions differ from their counterparts in other advanced capitalist societies... These differences centre around the issues of recognition and registration, structure, methods of operation and objectives, and are usually linked to the influence of the unique conciliation and arbitration system (Griffin and Scarcebrook, 1990, 21).

This section will review the key ideas associated with the view that arbitration made for dependent unions. It begins with an outline of the radical views put forward by Mann, Sharkey, Campbell and others, and then discusses how it has been adopted in more conventional theory which does not presume a revolutionary goal or potential for unionism. Here it will be seen that these ideas based on a Marxist interpretation of the early experiences of Australian unions with arbitration, have been integrated with theories which model the effect of arbitration on the incentive to bargain, based on the experiences of US public sector unions. This amalgam forms the basis for the dependency theory put forward by Howard. Three themes emerge from this literature review: first, arbitration is said to have altered union goals and preferences; second, arbitration changed the incentives to use various methods and strategies available to unions, in such a way that arbitration came to dominate; and third, as part of this process, arbitration altered the relationship with rank and file members by changing the locus of decision making within unions.

Radical Origins

Some of the earliest critics of the arbitral system were radical activists and intellectuals who objected to state intervention intended to regulate union behaviour on the grounds it imposed constraints on unions which enervated any revolutionary potential they may have provided the working class against capitalism. From this perspective, arbitration served as a mechanism to incorporate unions into the state in a way which subordinated labour, rather than providing unions with the means to articulate working class interests. The dependence of unions on arbitration was in this sense, complete. For instance, Tom Mann, a prominent British socialist, was convinced that the requirement for Australian unions to register under the *Commonwealth Conciliation and Arbitration Act* had weakened their capacity to act independently of the Court in pursuing the true interests of their members: the transformation of the existing capitalist order into a socialist society. Instead, unions had become 'virtually part of the civil service ... dominated by the plutocratic forces of the state' (Mann, 1923, 243-245; also see Mann, 1988).

The view that arbitration served to distort the revolutionary role of unions is more widely associated with two prominent Marxists, L. L. Sharkey and E. W. Campbell, who led the Australian Communist Party throughout its rise and fall as a revolutionary party attached to the Comintern (Gollan, 1975). Both of these writers argued the incorporation of unions into the arbitration system limited their role as class based organizations, and consequently, their ability to realise the revolutionary aspirations of their membership. Instead, they argued, unions under arbitration would be more concerned to maintain the capitalist state (Sharkey, 1960; and Campbell, 1945). Sharkey for instance, maintained arbitration was a 'pernicious, anti - working class institution, whose objective is to keep the workers shackled to the capitalist state' (Sharkey, 1960, 23). From a less dogmatic position, Fitzpatrick (1944b) took a similar line, particularly with respect to unions who had formed after arbitration had been introduced. These unions were, as organizations spawned by the arbitral system, 'children of the Court' whose outlook was more concerned with the maintenance of arbitration and awards than the needs of their rank and file members (Fitzpatrick, 1944a, 193-240).

Conventional Approaches

The view that unions are (potential) agents of revolution is not one shared by most writers, and is not borne out by empirical research. Indeed, Australian unions have been exceedingly pragmatic. Thus the majority of writers do not consider arbitration to have been such a pernicious agent of capitalism. These more conventional stories have, nonetheless, argued that arbitration had a deleterious effect on union activities. A reading of the literature suggests three key ways in which arbitration has influenced unions: first, by changing union goals and preferences; second, by altering the incentives to use various methods and tactics; and third, by changing the relationship between union leaders and members. Each of these will be considered in turn.

Where unions were concerned with the realisation of economic goals and work concerns of members, it has generally been contended that union involvement in arbitration created the conditions for unions to alter their goals in two respects. First, it is asserted that Australian unions have, under arbitration, adopted more conservative economic goals in return for the organizational security arbitration provided for them (Campbell, 1945, 39-53, Foenander, 1962, 7; Sharkey, 1942, 22). Indeed, Martin (1960, 229) has observed, in contrast to the experience of other countries, Australian union leaders have attached a degree of importance to the legal enforcement of union security which 'may seem a little curious to the outside observer'. Second, Australian unions are said to have also altered their concerns from the job centred goals of membership to broader political and social issues. For example, in case study analysis of Australian union activities in the first half of this century, Kuhn (1953a, 1953b, 1955, and 1957) suggests union political involvement and arbitration have inevitably led to a decreased emphasis on 'job-centred aims' primarily concerned with meeting the needs of worker interests in the workplace (which, he argued, had characterised Australian unions during the nineteenth century), and an increased concern with broader issues of distributive justice.

If arbitration created the incentives for unions to alter their goals or preferences with respect to membership and organizational interests, it also said to have created the conditions for unions to develop significantly different behavioural patterns. Again, most writers suggest union registration naturally reduced use of alternative methods. Tom Mann, for instance, lamented that while arbitration had enabled unions to 'gain in numerical strength', it had exacted a loss in 'fighting efficiency. The whole of industrial negotiation is in the hands of the legal fraternity' (Mann, 1923, 224). The predominance of arbitration, these writers suggested, had led to a decline in use of alternative methods; where Australian unionism has a 'proud struggle in the defence, and for the improvement of, the standard of living of the masses' prior to the introduction of arbitration, they had become reliant upon the arbitration court' (Sharkey, 1960, 22). Hutson (1966, 97) has advanced a similar view. He compared arbitration to 'a sleeping draught' that could transport even the most militant of union officials 'into an arbitration happy world away from the cold hard world of industrial reality. Some quaff the draught willingly, but others do so unaware of what it can do to them. This arbitration - happy frame of mind produces an unquestioning acceptance of the powers claimed by the system'. Similarly, Fitzpatrick contended that unlike the 'veterans of the struggles of the 'nineties', arbitration had created unions who were nothing more than 'troublesome wards of the court', and whose 'legal and political preoccupations displaced 'industrial' or 'direct' action in primacy in trade union affairs' (Fitzpatrick, 1944b; also see Scherer, 1983).

These themes have also been taken up mainstream researchers, and accepted as indicative of union experiences in Australia after the introduction of arbitration. Here, it is generally accepted that arbitration changed both union attitudes towards bargaining, and the method and tactics employed by unions to pursue their goals.

Niland, and others influenced by US literature, have suggested arbitration has changed attitudes towards bargaining. In contrasting the behaviour of unions and firms under collective bargaining and compulsory arbitration regimes, Niland (1978, 36) contended arbitration fostered an adversarial approach in which unions perceive their interests to be diametrically opposed to management; in contrast, collective bargaining engendered a co-operative or integrative approach to dispute resolution. Arbitration, he contended, encourages the parties to adopt and adhere to extreme positions. The extent to which bargaining is utilised prior to arbitration, this 'mind set' created by arbitration only serves to restrict bargaining to distributive rather than integrative bargaining, which in turn increases the likelihood of an impasse in bargaining and reliance on arbitration to settle disputes. He suggests the chilling and narcotic effects posited by Stevens (1966) and Farber and Katz (1979) would predominate. Similarly, Beale (1975) suggests that the nature of arbitration procedures in Australia had led to a greater level of arbitration usage than would otherwise be the case, a conclusion supported later by Galin (1980).

This change in union attitudes towards bargaining is reflected in a change in their propensity to employ various methods and tactics at their disposal. As well as asserting that Australian unions were more likely to pursue arbitration rather than collective bargaining, many critics suggested unions had become more willing to pursue political action. As union aims were more closely identified with broader political goals, Kuhn (1957, 40) argued '[t]he widespread concept of a union as an organization which provides services for members grouped about the ballot box replaced the original concept of a union as a body protecting the rights and privileges of workmen as they are grouped about their jobs'. These effects were reinforced by arbitration procedures which encouraged 'a legalistic approach to the problems of labor relations' (Kuhn, 1957, 42).

The transformation of union goals and methods under arbitration is also said to be reflected in two further aspects of union activity: first, the shift from reliance on strikes and direct action to legal representation, political lobbying, and award enforcement; and second, the use of registration and union security clauses in awards for the purpose of organizational protection. Indeed, the debilitation of union militancy has been a central proposition of radical critiques of arbitration. Mann (1988, 144), among others, maintained the strike weapon was the 'natural' tactic employed by unions in pursuance of their goals. The limitations on union strike tactics dictated by arbitration weakened any capacity to undertake collective action.

Legal scholars have also noted the consequences of registration and union security provisions for union tactics, particularly as a result of legal limitations placed on their right to strike, and as a consequence of the legal regulation of their internal affairs, which were required of unions registered under the federal legislation (Foenander, 1947, 202-4). Portus suggests the modified status of unions operating within the arbitration system had important consequences for their tactics as well (Portus, 1958). As a consequence of arbitral regulations he noted, the status of unions has been transformed from 'being associations tolerated by the state [to] become semi-official associations which are given a part in the making and administration of law'. This process of union incorporation into the arbitral system had provided unions with alternative tactics with which to pursue their membership and organizational goals, most notably through 'increased legal power over their members', and protection in the form of union security provisions such as union preference in employment (Portus, 1958, 115; also see Portus, 1971, 101-3). The increased status gained from registration, however, also imposed restrictions on union activities. In particular, Portus points to the regulation of the internal affairs of unions, and the

restrictions on unions to take industrial action (Portus, 1958; also see Sykes and Glasbeek, 1972, 719-40; and Martin, 1960, 230-1).

In a vein similar to writings within the radical tradition, these legal analyses imply that Australian unions have, through their incorporation into the arbitral framework, become voluntarily dependent upon the arbitration system. The benefits of registration are gained through guaranteed coverage, higher membership and organizational stability. Greater certainty in outcomes have been seen to be crucial in this process; while the costs associated with registration are reflected in limits on unions' tactical choices in the form of restrictions on strikes. While strikes are subsequently less important, other activities, such as advocacy, legal argument and so forth, become central tactical concerns. In contrast to the radical tradition, however, there is no presumption that pre-arbitral unions were in any sense revolutionary in orientation.

Along with the new found importance of tactics which centre on legal recognition and arbitration, other writers have suggested a concomitant decline in the traditional tactics used by unions. Kuhn (1957), who found that involvement in political action and arbitration had altered the goals of Australian unions, likewise contended a transformation of union tactics from those which centred on the pursuit of the job concerns of members to tactics associated with political action, was the *outcome* of political involvement and arbitration. He maintained that this shift was the result of an explicit decision made by Australian unions to replace job centred union activity with political action:

Union tactics ... were changed. Ballots instead of strikes, legislation instead of negotiated agreements, and appeals to parliament instead of grievance procedures were to become union business and the means whereby injustices would be righted. Some union leaders indicated that they believed that not only general worker demands but also individual grievances would be handled through the Labor Party (Kuhn, 1957, 36).

Again, Kuhn suggests this is reinforced by arbitration, its focus on industry level bargaining, and the prominence given to uniform minimum wage and maximum hours standards enforced through arbitration. Moreover, this shift in tactical orientation of Australian unions has modified the role of strikes. Whereas strikes were an important means of inducing attitudinal change and compromise in collective bargaining, Kuhn (1955, 173-6) and others suggest strikes in the Australian system had become a means whereby 'unattended grievances' not dealt with through political action or arbitration were voiced at the workplace; or alternatively, as Niland (1976, 374-8) has noted, the pattern of relatively short strikes emerged to meet the institutional needs of arbitration as a tactical device aimed at expediting a tribunal hearing.

In transforming the strategic orientation of Australian unions from 'job centred' bargaining and industrial strategies, to legal and political strategies, arbitration is likewise said to have changed the level at which strategies are formulated and implemented, and by so doing, the structure of decision making within unions. In particular, this is said to be most obvious in a transformation of the role of rank and file (or workplace) involvement in the formulation and implementation of strategy. In the absence of the need for collective action which is reliant on membership solidarity in strike action, the need for workplace organization had likewise become minimal.

This proposition is common to a number of writers from contrasting theoretical perspectives. Campbell for instance asserted that as arbitration became the primary means through which unions pursued their goals, rather

than rank and file involvement in union activities as: 'It ... seemed to the mass of workers newly entering the movement that the Court, rather than their own combination in unions, was responsible for their improved conditions' (Campbell, 1945, 47). Hutson (1966, 100) likewise claimed that arbitration destroyed the strong and active workplace union organization that was essential to a union's industrial campaign. Rather than fostering this level of union organization, union officials were more concerned with enforcing and policing the very awards that limited the prospect of unions achieving the full extent of their industrial and political potential. By developing a reliance on arbitration, unions had removed the very source of their own power: independent direct action through strong workplace involvement. Consistent with the view of Marx and Engels who viewed strikes and industrial campaigns as 'contribut[ing] substantially towards inflaming the bitterness and hatred of the working class against capitalist class' and was 'an ideal preparation for social war' (Engels, 1973, 249 & 272), these radical writers suggest arbitration had, by removing the need and wherewithal to develop rank and file involvement, removed the ability of unions to develop their revolutionary goals and potentialities.² In this sense, arbitration removed both the incentives and means for unions to utilise strategies other than arbitration itself.

Writing from a non-Marxist perspective, a number of other labour scholars have advanced propositions concerning the effects of arbitration on the level at which strategy is formulated and implemented consistent with this perspective. These writers suggest arbitration has altered the relationship between leadership and rank and file members in three ways: first, through the effects of arbitration on the quality of union leadership; second, by the very nature of the process of arbitration *vis-à-vis* collective bargaining; and third, as a consequence of union security provisions and other protections afforded to unions by arbitration.

Laffer (1958, 422), among others, has criticised arbitration for its deleterious effect on the quality of union leadership. He maintained the skills required of a union leader were limited as the 'scope for reasoned economic arguments is usually very limited, and special ability and knowledge on the part of [the] trade union official, though they do count, are much less important for the results than they are in the case of their negotiating counterparts under collective bargaining'. Thus union officials of only limited capacities are able to get by 'as a result of the extent to which the arbitration system ... does his work for him' (Laffer, 1958, 422). This problem of leadership has been said to be an outcome of over reliance on arbitration and politics in two further ways. First, Isaac (1976, 337) noted the long term use of arbitration has created leaders who were inadequately 'staffed, schooled and organized to undertake high level negotiations [or to attend to] grievances procedures at the plant level'. Second, Kuhn (1953a, 33) claims the quality of union leadership is also clearly diminished through high turnover rates which result from the movement of union leaders into politics where 'the best of the union leaders [are] offered the challenge of larger work as well as greater honor and prestige that mere union work alone could not give'.

The second way in which arbitration is said to have altered leadership and membership relations with respect to strategy results from the very nature of the arbitration process itself. Niland (1978, 76) for instance, claims that the excessive legalism which has been part of arbitral processes in Australia and its excessively centralised procedures, diminish the strategic importance of the workplace in the process of dispute resolution. As a consequence, 'the industrial relations centre of gravity, so to speak ... is cast in the direction of the tribunal, away from the shopfloor'. This in turn is reflected in an inability to resolve plant level disputes at that level; these disputes either remain unresolved or are dealt with by informal procedures. The neglect of grievances at their

² This view is analogous to the those of Hyman (1972) and Miliband (1972 and 1973) who argue that a primary goal and achievement of state intervention into industrial relations has been to incorporate unions into the

point of manifestation in turn contributes to a strike outcome worse than would otherwise be the case in the absence of arbitration (Niland, 1978, 49-50).³ Similarly, Kuhn (1955, 173) found both arbitration and political involvement had gradually shifted unions' strategic orientation from the workplace level to the national level as 'unions slowly subordinated local activities, bargaining and services to centralized, politically directed work of the union officers'.

Arbitration is also said to have contributed to a shift in the strategy level by removing the incentives for a strong union presence at the workplace. The comfort and protection provided to unions and union officials through registration and security provisions under arbitration both facilitated exclusive jurisdiction and membership recruitment. As a secondary consequence of the security provided by the system, Kuhn (1955, 173) maintained, the need to actively seek out membership and attend to their workplace or job oriented needs, was removed.

Howard and the Dependency Hypothesis

The importance of these studies in contributing to the accepted wisdom concerning the relationship between union strategy and arbitration in the Australian context cannot be underestimated, as the quote from Griffin and Scarcebrook at the beginning of the previous section suggested. This view, Griffin and Scarcebrook add, is mainly associated with the work of Howard, who has cast Australian unions as *dependent* on arbitration. This *dependency hypothesis* can be viewed as perhaps the most complete statement of the relationship between union behaviour and arbitration. Attention will, therefore, consider Howard's argument more closely, and advance a number of propositions concerning the relationship between the various aspects of union behaviour and arbitration which are to be investigated in case studies of individual unions.

The Nature and Consequences of Dependency

In order to appreciate the relationship between arbitration and Australian unions hypothesised by Howard, a consideration of the exact nature of dependency is warranted. While of limited usefulness, a dictionary definition is instructive. Dependence is defined as: 'The relation of having existence conditioned on the existence of something else... That which is subordinate to, connected with, or belonging to, something else'.⁴ In organizational behaviour and strategy literature, the notion of dependency has been employed to understand strategic decision making processes. Pfeffer and Salancik (1978) argue that an organizations choices will be a function of, among other things, political processes and resource constraints faced by firms. To this extent, Pfeffer and Salancik hypothesise that organizations can be viewed as *resource dependent*. Dependency in this context is defined as the extent to which an organization is exclusively reliant on a given source for the supply of a critical resource. In a study by Lawler (1990) which operationalizes the resource dependency framework to understand the process of unionization and deunionization, dependency is defined in the following terms:

A is said to be dependent upon B to the extent B is capable of supplying a critical resource to A, A has few or no alternatives to obtaining the resource from B, and A cannot force B to supply the resource through the use of sanctions (Lawler, 1990, 42).

apparatus of the state. I am indebted to Ross Martin for bringing my attention to this point.

³ For a view to the contrary see Creigh (1986); Beggs and Chapman (1987); and Dabscheck, B. (1991).

⁴ Onions, C.T. (1992) *The Shorter Oxford English Dictionary on Historical Principles* Third edition, Clarendon Press, Oxford, (first published 1933), p. 521.

These uses of the resource dependency approach is consistent with how the notion of dependency has been used by Howard. His central contention in regard to the relationship between union behaviour and arbitration, rests on the view that 'Australia's unions do not exist apart from the state, and many could not endure apart from it' (Howard, 1983, 238). In terms of Lawler's definition, this implies that Australian unions are dependent on the state for the supply of critical resources required for their continued existence and operation. These critical resources include membership, recognition, and coercive capacity against firms and management.

The dependent relationship between unions and the state, Howard contends, derives from two essential sources: first, union dependence on political action; and second, union dependence on arbitration. Howard maintains that Australian unions have only been effective in attaining their goals through political action given their historical weakness and lack of industrial experience. Australian unions, he argued, 'came into being as fast-growing and powerless organizations' during the period of the long boom, and were all but obliterated through concerted employer campaigns during the drought and depression affected 1890s (Howard, 1983, 249). In the face of these severe industrial defeats, he suggests, Australian unions dispensed with industrial action and 'turned *at once* to political action not because they had developed political consciousness, but because they had found the economic benefits of industrial action to be elusive rather than illusory' (Howard, 1977, 260-261, emphasis added; and 1983, 239). Australian unions have subsequently, through their affiliation with the Australian Labor Party (ALP) and strong political programs, remained dependent on political involvement for achieving goals which other labour movements have pursued independently through direct industrial strategies (Howard, 1983, 244).

The use of political action by unions was said to be the means to established compulsory arbitration, which has, in turn, reinforced union dependence upon both arbitration and political action. The essence of Howard's argument lies in the hypothesised effects of arbitration on the availability of alternative strategies. Once arbitration was established, and the use of coercive force dependent on rank and file involvement was no longer necessary to force recognition and bargaining on employers, unions no longer maintained the means to do so independently of arbitration. In this sense then, unions were dependent on the ability and willingness of the tribunal to supply resources necessary to engage in coercive activities against employers. In other words, the choices made by unions to rely on the supply of critical resources from tribunals and the state as a means to overcome their industrial weaknesses, has made Australian unions captives of the state. This captivity or dependence resulted from their inability to access these critical resources through means associated with rank and file involvement.⁵

In an effort to establish a series of research propositions concerning the nature and consequences of union dependence on arbitration, this notion of dependency is best considered in relation to the three key themes which emerged from the literature review: union goals and preferences, methods and tactics, and decision making structures and membership involvement.

Howard suggests an inevitable outcome of Australian unions' entanglement in the arbitral framework has been a significant modification of their aims. On this basis, Howard argues that Australian unions cannot 'be judged by the standards which apply to the unions of the US or of Western Europe. *They have a different essential function*'

(Howard, 1977, 273, emphasis added). Unions elsewhere, he assumes, have focused their energies and resources on responding to 'rank and file pressure for improved wages, hours and working conditions' (Howard, 1983, 247). Rather than pursuing membership demands and interests, he maintains that Australian unions have, on the whole, tended to serve three alternative functions: first, the institutional needs of the arbitral system; second, the organizational goals of unions; and third, political goals of union leaders.

Rather than functioning to meet membership demands, Howard concluded, Australian unions were (re)called into existence by the arbitration system as necessary to its operation, and existed to serve the needs of the system. Australian unions, he argued, are as if 'cogs in a bureaucratic machine' - the arbitration system (Howard, 1977, 273). While the system required unions to exist to perform administrative functions of the tribunal, it did not require a broad industrial role for them. Indeed, he posits that once unions gained an award, their tribunal function was simply to enforce it, while being 'prevented from interfering with wage determination' (Howard, 1977, 269). 'Perhaps then', Howard concluded, 'unions themselves, in general, are industrial cosmetics' (Howard, 1977, 270).

The second objective or function which gained priority over membership demands are those of the organization itself. While organizational concerns are integral to a unions activities, Howard argues that these will be ordinarily subordinate to their 'industrial responsibilities'. The focus of unions elsewhere, he contends, requires union leaders to be undertake 'a careful examination of prospective areas for organization, and the expenditure of large proportions of available resources in the process of organization and consolidation of strength' (Howard, 1976, 22). However, Australian unions are not encumbered by a need to devote time and resources to organize, as this aim was ensured by the intervention of the Court. Once a union gained registration, and therefore rights of recognition to represent a given group of workers, then 'issues of coercive power became negligible, the absence of any need for funds to prosecute protracted strikes made for low cost unionism' (Howard, 1977, 266). With 'complete security against rival unions or employer onslaught', Howard thus argues, 'union officers had a greater opportunity than most of their contemporaries to devote themselves to the interest of the union as an institution; the welfare of the members could be entrusted to the impartial Court' (Howard, 1977, 267).

The third source of change in union goals is with respect to the overt political aims of Australian unions. Indeed, Howard contends that : 'The only direction in which the advance of the Australian union is not impeded is the political... [T]he Australian labour movement is one which tends to sacrifice industrial to political ends' (Howard, 1983, 249). Having dispensed with meeting the industrial goals of membership, and with organizational goals of coverage and recognition, both of which were ensured by the arbitral system, unions have maintained relevance to workers through pursuing political goals via affiliation to the Labor Party (Howard, 1977, 268). Without such involvement, Howard contends, Australian 'unions might well have withered away, given their industrial relevance was minimal (Howard, 1977, 268). Consequently, while unions' initial recourse to political action had been in response to their disadvantageous industrial position, unions continued to depend on political involvement despite growth and organizational strength, as a means to justify their existence and relevance to members.

This fundamental change in the essential functions of Australian unions has, Howard suggests, resulted in a shift in union methods and tactics as well. The relatively low priority given to the realisation of job centred demands of

⁵ This inability to access critical resources (coercive power) through rank and file solidarity stems from either (i) the non existence of a strong rank and file base due to the 1890s depression, or (ii) a decision by unions to

rank and file membership had, it was noted, been seen to result in the emergence of a political unionism, whose goals were linked to the realisation of political ends through the Labor Party. As a consequence, Howard posits that Australian unions have shown a greater propensity to utilise political action and arbitration to realise their goals. The political focus, and the role of the arbitration tribunals in performing the industrial functions of unionism, has similarly lead to a decreased propensity to utilise the industrial methods of collective bargaining or unilateral regulation, which are historical associated with union action. This decline in the use of traditional methods is reflective of the shift away from the job centred concerns of unionism.

With Australian unions primarily reliant on arbitration to realise their goals, the tactics used to enforce methods are similarly transformed. To begin with, under arbitration tactics are viewed as directed towards meeting the administrative requirements of the tribunal. Thus, Howard asserts, unions rely less on rank and file involvement and workplace organization to be effective. Instead, arbitration has (indirectly) drawn union activity away from the workplace towards more centralised structures. In the absence of arbitration, Howard suggests:

The task of ... unions would surely have been to build strength in particular worksites, to organize the workers with critical skills, to determine points of maximum vulnerability of the employer and to evolve plans of attack for pressing demands. The organizational objectives of an Australian union officer were likely to be very different. Howard (1977, 266)

Howard asserted that this shift influenced union tactics in three specific ways. First, as the focus has shifted away from workplace and rank and file action, so too have the tactical role of strikes changed. Rather than representing a source of coercive power in collective bargaining and unilateral regulation, the tactical importance of strikes (as was suggested by Niland) now lay in their capacity to ensure unions gained efficacious access to arbitral intervention. Thus, strikes become secondary, and were not primarily used for the purpose of improving wages and conditions. The second tactical shift relates to union organizing activities. The protection arbitration afforded to unions, Howard hypothesised, meant: 'Organization would be a less pressing matter, for, once registration was obtained, issues of coercive power became negligible, the absence of any need for funds to prosecute protracted strikes made for low cost unionism'. Thus strikes and strategic industrial campaigns were replaced by the 'orderly and manageable' arbitration hearings, which did not require unions to resort to strikes (Howard, 1977). Third, in line with the increased emphasis on political action, affiliation with the ALP and involvement in political campaigns become of increasing importance.

As union strategies shifted away from the workplace concerns of workers, Howard suggests that the structure of internal decision making and the level at which strategies were implemented also shifted. This is implied by a number of the propositions stated above. The central shift in the level at which strategies were pursued has been away from the workplace to higher levels of union organization not reliant on the involvement of rank and file action as 'the provision of detailed awards by the Court meant that a high degree of shop organization was unnecessary' (Howard, 1977, 244). Furthermore, the protection of union coverage and recognition were provided primary through registration and the use of legal union security provisions.

dispense with eliciting or cultivating such solidarity.

If Howard is correct, then the behaviour of twentieth century Australian unions can only be rationalised as a product of the arbitration system. In this sense, he suggests Australian unions cannot be compared with other union movements, and cannot be viewed as a continuation of those unions in existence before the introduction of arbitration. He also contended that where Australian unions have operated outside of the arbitral system, they exhibited quite different strategic orientations in comparison to arbitration dependent unions (Howard, 1977, 268). Despite his assertions about Australian unions, and the apparent acceptance of the dependency theory as an adequate explanation of Australian union behaviour, no attempt has been made to test the hypotheses implied by the theory.⁶ The remainder of this paper reports research on individual union cases to test the above hypothesis. Before these can be outlined, however, research methods and the data used will be discussed.

Methods and Data

In order to explore these questions, this paper examines four historical case studies of individual unions and their relationship with arbitration. Case study method has been identified by Capelli (1985) as the primary method traditionally utilised in industrial relations research to analyse and generate theoretical propositions concerning phenomena surrounding the employment relationship, or as a useful way of exploring a range of related but distinct 'labor problems' (Commons, 1905, x). It is also used in diverse areas such as anthropology, history, sociology, and psychology. It is worth noting at the outset that these *historical* case studies of union strategy are not union histories. With few exceptions, union histories have as their focus the study of the union organization themselves with little interest in the contribution of such analysis to understand broader issues of relationships between complex social and economic phenomena, or for use in theory building (Patmore, 1990, 8; and Harrison, 1992). It is this which is the fundamental purpose of undertaking comparative historical case studies. For good examples of this use of historical case studies see Haydu (1991) and Frances (1994).

Case Studies Analysis

A case study is by definition a population sample of one (Stake, 1994). A case is identified as a bounded system relating an object of observation to a given set of behavioural or phenomenological postulates, operating within a set of identified contextual variables (Stake, 1994, 236-7; King, Keohane and Verba, 1994, 52-3; and Yin, 1984, 23). A case study may be selected as being typical or representative of a population of cases; or alternatively, as being a deviant case from a population of cases for the purpose of testing (rejecting) accepted generalisations that have previously been put forward as universally characteristic of that population (Miles and Huberman, 1994).

In any given research project, depending on the nature of the questions asked, case study analysis will present the researcher with a number of advantages and disadvantages. A recognition of these require two things to be made explicit: those factors that have been taken into account in the decision to utilise case study analysis; and the shortcomings of the study and the limits of any inferences or conclusions drawn from it.

The *comparative case method* is used in this study to construct and test theoretical propositions because of the substantial perceived advantages of this method to address the research questions to be asked. An initial

⁶ In a study of construction labourers in the period 1910 to 1919, Sheldon (1993) does consider the effects of arbitration on a number of small unions. However, he does not consider all aspects of union behaviour and structure central to the dependency hypothesis. His study supports the conclusions drawn here.

rationale for the use of comparative cases studies allow for the utilisation of a number of control mechanisms or conditions which have been established in previous literature as important determinants of union behaviour (Bradshaw and Wallace, 1991, 162-2; and King et al., 51-3). Such controls include industry and product market conditions (monopoly, competitive, public sector), basis of union organization (occupational, enterprise, industry), and the nature of work. These controls allows for the distillation of the relative importance of arbitration in influencing union strategy *vis-à-vis* other factors.

Case study method was also utilised because of the advantages associated with its inherent inductivist methodology. Inductive methodology in the process of theory construction has already been identified a central to industrial research (see Dubin, 1978; and Strauss and Corbin (1990). The inductivist approach, while often deficient in its ability to generate predictive statements or hypothesis, is recognised as being a superior methodology for the generation of an understanding of complex social situations, particularly where such situations involve strategic interaction (Dubin, 1978, 26-30; King et al., 1994, 44-5; Fisher, 1989; Seth and Thomas, 1994, 182). Further, as King et al. (1994, 44) point out: 'One of the most often overlooked advantages of in-depth case-study method is that the development of good causal hypotheses is *complementary* to good description rather than competitive with it'. This complementarity derives from the capacity of the researcher to focus on naturally occurring or 'ordinary events' derived from real life rather than synthetically constructed experiments. This proximity to the real objects of research, Miles and Huberman (1994, 10) suggest, allows for the creation of a more integrated, holistic approach where complexity can be transformed into an explanatory framework without reduction and simplification of these relationships due to the dictates of data categories determined completely, or in part, prior to the research being undertaken.

A third advantage lies in its contribution to theory building. The use of detailed case study analysis, where appropriate measures have been taken to ensure comparability between cases is valid, has the advantage of allowing for the identification of significant or important casual relationships not discernible with more aggregated forms of analysis (King et al., 1994, 44). Macro or aggregate analysis of union strategy may fail to reveal those factors other than arbitration which potentially determine the strategic options of individual unions. Such factors may include idiosyncratic or 'once-off' factors whereby a pattern of path dependent strategic evolution becomes apparent (Arthur, 1988). Macro-level analysis would not necessarily reveal these factors thereby creating biases in the conclusions and causal relationships drawn. This issue is especially significant given the micro nature of the research questions to be addressed in this thesis. (Arguably, this has been a problem with previous attempts to analyse union behaviour in the Australian context by past researchers.)

Notwithstanding these advantages, two disadvantages in particular are worth noting. First, a criticism which is often made of case study analysis relates to the limited basis for scientific generalisation given the small number of sample cases typically used. In this respect, choosing cases on grounds established as defining a particular sample or ideal type of case in comparative case analysis is one attempt to limit the significance of this problem (Yin, 1984, 21). In other words, while the sample size may not be defined as statistically significant, it has through the process of case selection, a theoretical significance (Mitchell, 1983, 189). This is the basis of case selection used in this study.

Even where these problems are addressed, however, case selection generally rests on an assumption that the variation between cases *within* a given class or ideal type is less significant than any differences that may be identifiable in cases from *different* categories of cases. This raises the second disadvantage, and perhaps the

most important shortcoming of case study analysis: the problem of the typicality or representativeness of cases studies chosen for analysis. In the process of selecting a sample of cases (individual unions) from the population of all possible cases it is assumed that sample cases are able to reflect relevant attributes of the population. If assumptions about the representativeness of individual cases are not robust then this problem will create obvious bias problems in the data used for subsequent theory construction and hypothesis testing (Mitchell, 1983, 197-99). However, this problem is counter balanced by a key advantage of case analysis raised previously. Specifically, the ability of cases studies analysis to explain and investigate complex social phenomena where the boundaries between the behaviour of social actors and the context within which they function is difficult to identify given the array of possible 'feedback' mechanisms that can be identified in individual cases. This is particularly so where, as we have mentioned, such social processes involve path dependent explanations. As Mitchell (1983, 190) points out 'the extrapolation is in fact based on the validity of the analysis rather than the representativeness of the events'.

Selection of Cases

The cases studies included in this thesis have been chosen on both theoretical grounds and by taking into account more pragmatic considerations. The latter include: what records are available for particular unions? If so, are these records readily available? And, have these unions been studied previously? The more theoretically grounded criteria, however, have dominated the final selection of cases included in this study. The cases have been selected to reflect a number of criteria which have been employed elsewhere. First, the nature of membership and the basis for organization has been found in number of studies to be important determinants of union organization and behaviour. For example, in their classic studies of unionism and collective bargaining, the Webbs (1902) found the basis of union membership or external union structure determined the methods utilised by that union. Similarly, in his classic study of cotton industry unions in the England, Turner (1962) found the basis union membership recruitment adopted by unions (open and closed) significantly influenced their attitude towards collective bargaining and strikes and the type of union policy adopted. These considerations could broadly be defined as occupational and labour market determinants of union organization and behaviour. More recent research points to the different behavioural orientation between white and blue collar unions, as well as the role of gender composition (see Gardner, 1983). Guille (1984) also points to the influence of other factors which influence that will inevitably affect union strategy, such as employment status of members and membership turnover.

A second criteria utilised are industry and product market considerations. Other studies suggest the nature and degree of product market competition will affect the scope for both management and unions to have discretionary power over their own actions: the less competitive are product market conditions, the greater will be the scope and power of unions and firms in labour markets and industrial relations (Marshall, 1921; Kochan, Katz and Capelli, 1984). Similarly the nature of industry demand, changing industry structure of employment, and the organization of work and use of technology within industry have similarly been identified as important determinants to which unions are able to influence management and the types of strategies which will be viable. Therefore, these factors have also informed the choice of unions.

The first two factors, taken in unison have been the basis upon which the two core cases have been chosen: The Federated (Metal) Moulders' Union of Australia (FMMUA), and the Federated Clothing Trades' Union of Australia

(FCTUA).⁷ The FMMUA represents a classic craft union where, as we shall see, it was able to close its membership to cover a small group of highly skilled workers. While the industry and product market context was uncertain and variable during the 19th century, by the twentieth century these factors had, for various reasons, clearly stabilised. The FCTUA, in contrast, represents an industry union in which membership was drawn from all types of workers irrespective of skill or occupation within the industry. Further, industry and product market conditions were highly competitive and remained unstable. These conditions clearly did not favour strong and stable union organization or successful bargaining with firms.

The third major criteria, which was used to select the Municipal Officers' Association of Australia (MOA), relates to whether the union formed in response to the arbitration system. As will become evident in the next section, the MOA formed to take advantage of arbitration. This union represents what Fitzpatrick (1944b, 233) referred to as a 'child of the Court'. These union might reasonably be expected to exhibit characteristics consistent with the dependency hypothesis in its most extreme form.

The fourth criteria, which was used to justify the inclusion of the Federated Tobacco Workers' Union of Australia (FTWUA), relates to the ability of a union to remain outside of arbitration. The FTWUA was selected as a union which remained unregistered until 1978. In this respect, the FTWUA can be viewed as a control case, to test for significant differences in strategy and its determinants which are due to remaining outside of arbitration.

For a number of reasons the time period over which each of the unions were studied varied considerable. The two core studies were investigated from the formation of each unions respectively until to 1939, a cut off point which has been identified elsewhere as an important turning point in tribunal regulation and restrictions on union activities given the imposition of war time regulations (Bennett, 1994; and Patmore, 1991). In the remaining two case studies, however, a different time frame has been adopted. The MOA case covers the period from the union's formation in 1920 through to its first strike action in 1968. This extension was warranted given the otherwise short period that would have resulted if the 1939 cut off date had been imposed. Further, a clearer picture of the *evolution* of the MOA's strategy and the role played by arbitration in influencing its behaviour were apparent over the longer time frame. The FTWUA case is investigated for the period beginning with the unions formation in the 1880s to 1978 when the union was first registered under the Commonwealth legislation. This inconsistency was considered necessary to provide a more complete understanding of those factors which determined union strategy in each of the case studies. To this extent, the flexible time period over which unions were observed contributes to the validity of the conclusions drawn from the cases.

The Data Used in This Study

This thesis utilises data from a number of primary and secondary sources. Three primary data sources have been relied upon: union records, government reports and investigations, and arbitration reports and cases. Union records include minutes of union meetings, correspondence, financial records, membership records and union journals. Government records include parliamentary Hansard, parliamentary reports on relevant Acts, Royal Commissions and inquiries into the operation of various Acts and government measures. Arbitration records include State and Commonwealth Arbitration Reports on individual cases, Commonwealth Registrar's records on individual unions, and miscellaneous reports. Other sources of data have also been utilised. These include

⁷ The names adopted by these organizations changed through the period covered in this study. Where these changes were reflective of important changes they will be referred to; otherwise, for simplicity, the names

newspaper reports and Australian Bureau of Statistics collected data on various aspects of the economy and unionism. Extensive use is also made of secondary data sources, including books and articles relating to union histories, the Australian economy, specific industries, and unofficial data series.

A number of problems associated with the data sources used, however, need to be noted. To begin with, the usual problems associated with historical data sources will obviously apply. These include problems of accuracy, particularly with historical data series; selective survival of documents; reliability and bias associated with official records that are public in nature; discontinuity or incompleteness in data due to missing records and changed methods of data collection and recording; and the lack of standardized format of information associated with different but related sources of information (for a discussion of these problems see Webb, Campbell, Schwarz and Sechrest, 1984; and Baily, 1978). These problems are, nevertheless, endemic and universally associated with research of this nature. However, validation of observations can be strengthened with the use of multiple data sources that confirm observations or linkages between variables (Yin, 1984, 35-410. These measures, in the absence of replication studies, rely of course on the ethical orientation of the researcher.

Case Discussion

It has already been foreshadowed that each case studied revealed a pattern which does not accord with the dependency hypothesis set out above. This is not to say, however, that arbitration did not influence union behaviour. Rather, the inter-relationship between unions and arbitration was mediated by a range of other factors and was historically more complex than proposed by Howard and others. In this section, a brief outline of each case will be given. The key themes which emerge from this analysis will then be discussed.

'Moulding Arbitration': The FMMUA

The FMMUA formed out of an amalgamation with a number of state based moulders unions. Metal moulders were said to be 'the wildest, the most grimy, the most independent, and unfortunately, the most drunken and troublesome of any ... workman who have claimed the title of 'skilled' (Ure in Samuels, 1977, 39). The position of moulders within the ranks of the labour aristocracy was, as this quote suggests, somewhat ambiguous. Their work was characteristically highly skilled and artisan in nature. They were required to undertake a long period of apprenticeship and were able to control their work methods and command relatively high wages. Within foundries and metal shops they stood alongside the engineers as being more successful than most workers in establishing unions and imposing their demands on employers. Their ability to maintain tight control over their work and skills was considerable, as was their general ability (with a few exceptions) to resist the introduction of machines, both of which were enhanced by the somewhat difficult nature of the production processes involved in moulding. Yet they did not achieve the status of other skilled workers for the same reasons. The work was heavy and severe, and did not entail the variety of skills characteristic of the other skilled metal trades, such as engineering (Samuels, 1977, 39).

For the whole of the nineteenth century the work of the moulder had changed little. As Samuels (1977, 39) observes of moulders in Britain, colonial moulders were virtually untouched by technological change and mechanisation, and 'for the most part worked with the very simplest of tools'. This was in part due to the capital constraints faced by firms; but as research in Britain and the US suggests, this was a universal trend (Walkowitz, 1978; McGuffie, 1986; and Berg, 1985). Other explanations have also been put forward. For example, a characteristic shared with British iron foundries was the uncertainty in demand and, therefore, production needs. Under these conditions, investment in new equipment and the development of new technologies was not financially viable (Walkowitz, 1978, 144). Technological advancements occurred in metal smelting and refining rather than manufacturing as these had wider application in industry, and reflected a shift from charcoal to coke smelting of iron (Berg, 1985, 36-7). While some moulding machines were introduced in Great Britain from the 1850s (even these were limited in their impact), similar machines were not introduced in colonial foundries until the 1880s, and then only in certain sections of the trade or on a piecemeal basis. Pipe moulding was one of the few branches of the trade in which machine processes were introduced to any significant extent before 1900, although some larger foundries had produced machines for ramming simple moulds, such as cast iron baths and piano frames. Pipe moulding was usually undertaken outside and multiple moulds could be poured simultaneously. The mechanisation which occurred meant that these sections of the trade attracted lower wages and could often be done without apprenticed moulders. Here, 'improvers' or semiskilled labourers were able to make a considerable inroad into the trade. These developments tended to undermine the established methods of moulders' unions. However, in the case of pipe moulding some accuracy in thickness was crucial, and as a result, the skills of the moulder remained important to the work process. The piecemeal nature of the mechanisation of moulding also created incentives for employers to fragment the moulding process into sub tasks

in such a way that moulders themselves no longer controlled the pace of work. However, in line with technological changes, this was restricted to certain segments of the trade and was a limited option for most foundries.

Thus, it was in this context that the first moulders' unions formed in Victoria in 1858 and later in other colonies. They formed within an industry context which, until the 1880s, was not conducive to their existence. Even after this date, a number of characteristics of the trade, not least of which was the introduction of machine moulding from the 1880s, continued to undermine their position.

During the nineteenth century, moulders' union activity accorded with the traditional model of a craft union: it was centred at the workplace level and was principally aimed at the maintenance of standards established in union rules. These standards were concerned with (i) establishing a common rate of pay among all moulders; (ii) the control of labour supply through attempts to regulate hours of work (including overtime), and the ratio of apprentices to qualified tradesmen; (iii) controlling job and work methods through job demarcations; (iv) control of work intensity through output standards; and (v) discipline of membership through mutual benefits incentives and rules concerning working with non unionists. The maintenance of these standards was not wholly successful given the uncertain and fluctuating nature of economic activity and employment which characterised nineteenth century labour markets.

While political action was secondary within this strategy, it played a crucial role and was increasingly important over time. The principal purpose of political action, in contrast to industrial activities aimed at controlling labour supply, was to control labour demand. By lobbying for tariff protection to domestic industry and preference to colonial producers in government contracts, colonial moulding unions sought to increase and stabilise employment - a condition necessary for the maintenance of industrial goals. This problem was most evident during the 1890s in the face of depression and drought: the declining fortunes of domestic producers and its attendant influence on employment saw most moulding unions become all but inactive. By the late 1890s, however, their position had begun to improve, and the traditional craft strategy was revived through controls on labour supply, and workplace actions centred around specific shops with strong rank and file involvement. However, some changes had begun to emerge. Most importantly, was the growing co-ordination of their actions with other unions, and in 1899 the formation of a federal union in an effort to limit the ability of firms to move production between states, and in response to the growing co-ordination among firms.

Nineteenth century moulders unions had experimented relatively early with arbitration to resolve disputes, although intermittently. The 1891 *Royal Commission into Strikes* reveals that the NSW moulders' union was one of a minority of union that had incorporated arbitration into their rules. However, the passage of colonial arbitration statutes (and the establishment of wages boards in Victoria), and federal legislation, did not lead to a dramatic change in the FMMUA's strategy suggested by dependency theory.

In NSW, where the FMMUA was strongest, the FMMUA had registered under the 1901 Act almost immediately. However, expectations of arbitration were not realised, and it proved to be both expensive and inefficient; despite its early registration it was not until 1911 that an award for moulders was finally delivered (under the 1908 Act). These delays were principally caused by delays in hearings (due to lack of personnel to process disputes) and employer attempts to thwart the delivery of an award through legal challenges. Despite these dissatisfactions, registration was maintained as a means to protect coverage. This became increasingly problematic with the

reorganization of work and the substitution of semiskilled for skilled labour, and the emergence of competing unions. Furthermore, amendments to the 1901 Act saw the creation and proliferation of wages boards. A number of industry based boards covered moulders, and employers had successfully applied for a variety of moulders rates - directly against the single standards which the FMMUA attempted to maintain. Indeed, the whole rationale for relying on arbitration was to provide a legal basis for the enforcement of union rules and agreements made with employer associations. However, continual dissatisfaction eventually led to the use of more direct action, which in turn saw the FMMUA deregistered in NSW in 1916. By this time, the FMMUA had begun proceedings for federal registration. Again, it is clear that the intention was not to rely on it to enforce standards, but to counter similar moves by like unions. By 1920, no federal award had been applied for, and the NSW branch had sought and gained registration. This again was in response to employer attempts to use arbitration to break down craft standards.

The inferior wages board system which prevailed in Victoria and South Australia saw those branches develop a decided preference for federal registration and a federal award much earlier than their NSW counterpart. Under these conditions, and in the absence of a federal award, these branches continued to rely on traditional methods, and faced a more difficult and hostile political environment. Indeed in the period prior to federal registration, wages board determinations were increasingly unsatisfactory, and became the primary impetus for moves towards a first federal award in 1923.

Not only was the FMMUA's involvement with arbitration a slow and evolutionary process, it did not have an immediate impact on the unions aims, methods and organizational structure. Until the late 1920s, the focus of union organization remained decentralised to the branch level, and organization at the workplace level remained strong. This is hardly surprising given the increasing tendency for firms to reorganize production and machines, along with introduce new management practices. Management attempts to intensify and routinize work, introduce payments by results, and substitute semiskilled and female labour for skilled moulders, required this focus be maintained. Indeed arbitration was largely employed as an adjunct to traditional methods of unilateral regulation based on union rules. Any support for arbitration or wages boards was contingent on its capacity to replicate union rules. Furthermore, arbitration did not regulate all aspects which had been the province of a traditional craft strategy. However, at the same time, employers showed an increasing preparedness to redistribute production and employment between states, placing one jurisdiction in direct competition with others. This was particularly evident among the growing number of engineering firms and foundries which had locations in more than one state. This required, and resulted in, a growing tendency to both centralised union activities to the federal level, and to establish stronger alliances with other unions, formalised in the Iron Trades Council, and other peak union bodies at the state level. Other issues, too, had emerged which were of broader interest to unions than simply moulders, particularly standard hours cases. Such issues formed the basis for a change in the FMMUA's approach to industrial issues: rather than prosecuting all issues at the workplace level, the nature of methods and tactics used to pursue a particular issue dependent on its nature. While some were suited to workplace actions and a continuance of traditional strategies, some were more effectively dealt with at a national level where inter-union co-ordination could be implemented.

As well, the use of political action was in the process of being transformed. The FMMUA reversed its long-standing objection to political affiliation or donations to political causes. It increasingly employed political action for the purpose of regulating those factors which influenced labour supply, particularly the increasing propensity for governments to undertake the social welfare functions which they had traditionally performed, to regulate

employment and training of apprentices, and other key issues central to the moulders traditional strategy. In this respect, political action was not linked to arbitration. However, political action intended to influence amendments to arbitration statutes is also evident.

The strong workplace organization and activity which had characterised the FMMUA's strategy was contingent on continued employment, and the capacity of the FMMUA to support members involved in industrial action. This in turn required stable production and employment levels. With the decline in production and employment after 1929, then so too did the moulders capacity to maintain strong workplace organization. Indeed between 1930 and 1935, workplace organization and union activity was all but completely wiped out. By 1937, however, workplace actions were again regular occurrences and union organization at that level had, in many workplaces, been substantially revived.

The experiences of the 1920s and 1930s, however, wrought a considerable change in the FMMUA's activities and structures. It had developed a three tiered process of decision making and policy implementation, which involved: first, shop floor campaigns, co-ordinated by shop steward and workplace committees responsible for regulating 'job centred' concerns of membership; second, industry campaigns where industry wide issues were being pursued or where actions needed to be co-ordinated between unions with the metal trades; and third, national campaigns where issues were associated with national union interest. The use of political action was now integral to their achievement of industrial goals. At the same time, the FMMUA had shed pretensions to being apolitical or unconcerned about issues which were not job centred. It campaigned for broader political issues which were public good in nature, and had begun to lobby governments for specific fiscal and social welfare measures, as well as traditional concerns with tariff protection. Political action had gone well beyond regulating labour demand or supply.

A Dependent Union? The FCTUA

The FCTUA provides a contrast to the FMMUA. Unlike the FMMUA, the FCTUA did not have craft pretensions, although some of its predecessors - the Tailors, Pressers and Cutters' unions - were craft based. The labour and product market conditions faced by clothing unions were also very different. To begin with, product markets were highly competitive: while a number of large firms dominated factory work, the manufacture of clothes in smaller 'sweat shops' located in private residences, and the widespread practice of taking work home, represented a large proportion of total output. While the extent of this cannot be estimated with any accuracy, it represented between one half and two thirds of total output. The dominance of smaller establishments was the consequence of several factors. Most important was the low barriers to entry given the low costs of acquiring a sewing machine. These sweat shops operated on a low cost, low margins basis, more often acting as suppliers to larger factories. These firms also exhibited a high rate of turnover. Clothing labour markets were likewise highly competitive, highly segmented along gender lines, and dominated by outworkers in sweat shops. Production and employment within the industry showed a higher level of uncertainty, fluctuating between extremes. Seasonality and a turnover of fashions were also important features which contributed to volatility in output and employment.

Again, in contrast to the static nature of the labour process and technology faced by the FMMUA, new technology, changing divisions of labour, and changing labour management practices were a feature of the industry. From the 1860s the Singer treadle machine had become widespread, and by the 1890s, steam

powered machines were increasingly used in factory work. Changing demand (from tailored to ready made garments) also influenced work processes, and led to a increasing fragmentation of the traditional crafts. These trends continued for the whole period of this study, such that many tasks which had traditionally been claimed by particular crafts were undertaken by unskilled labour which did not rely on extensive apprenticeships (see Frances, 1994).

Labour market segmentation, gender divisions, and the competitive nature of product markets mitigated against strong union organization: employers (particularly subcontractors) were hostile to union activities, and actively sought to avoid wage and other workplace regulations. The ability of individual clothing workers to establish themselves as independent traders (sub contractor) also made for large membership turnover, or union avoidance by clothing workers themselves as they sought to undercut each other in order to win work from larger factories and retail outlets. Labour market segmentation translated directly into divisions between groups of workers, which also mitigated against strong and continuous organization.

Thus, despite previous attempts to form an industry union, the FCTUA did not emerge until 1907 with the expressed intention of gaining federal registration. However, whether registration would lead to the union seeking an award was the source of some conflict. The Victorian and South Australian branches who had been operating under the wages boards system had intended amalgamation to be complete in that it would create a federal body with some power over the activities of branches and be responsible for initiating a federal claim and maintaining a federal award. This reflected their dissatisfaction with wages boards. The NSW branch, the other major branch, had only intended that amalgamation should facilitate federal registration, and a federal award be pursued only if required. This reflected the relative success of NSW clothing unions under the state system of compulsory arbitration. Federal registration, like the FMMUA, was sought by the FCTUA as a means to head off encroachment by other newly registering unions. With the FCTUA's federal office located in Sydney and staffed by NSW branch officials, long delays were experienced in preparing a federal log and serving on employers. In the face of persistent pressures from other state branches, notably Victoria and SA, the NSW branch finally broke away in September 1913. However, by 1916, a federation which included NSW was re-established, and the preparation of a federal log of claims proceeded. The first federal award for clothing workers was determined in 1919 - over ten years since the FCTUA was first formed and federal registration gained.

The benefits to the realisation of the FCTUA's aims were considerable. Hours were regulated, wage rates (usually a piece rate variant) were improved, apprenticeship ratios were established, the practice of observing 'turn' in slack periods, and permits for outdoor work were included. Union officials were provided with the right to enter work premises to ensure awards were enforced. The existence of a federal award, and the rights it gave to unions, also provided the catalyst for negotiations between employers and the FCTUA.

The first federal awards gained by the FCTUA provided them with considerable leverage at the shop floor level. The capacity to enter and undertake union activities during the lunch break, and powers of inspection proved to be important rights for the FCTUA to engage in workplace activity. The clothing awards also included two further provisions that were successfully utilised by the FCTUA against employment actions. First, the award provided that: 'Employers shall provide on each factory, workshop, or place where work is carried on for him (sic), a time book or sheet or record'.⁸ Second, it was further provided that:

⁸ (1923) 18 CAR 1032 at 1077.

Any person authorised by the Registrar or Deputy-Registrar in writing ... shall have power to inspect any part of a factory, workshop, or place where it is believed that a breach of the award is occurring, or has occurred, but no person shall be entitled to inspect ... unless a report in writing of the breach or suspected breach of the award shall have been previously lodged with the secretary of the State branch of the union.⁹

The use of these powers had attracted considerable response from employers, many of whom resisted and refused union officials right of entry to undertake union officials, or upon written consent from the Registrar inspect a factory or a workroom.¹⁰ The strong reaction from employers to the rights granted to unions can perhaps be explained by its coincidence with an increase in employer evasions and breaches of the award, which continued throughout the 1920s. Not only were some employers engaging in action to avoid paying award wage rates, but actions such as dismissal of union members, use of apprentices contrary to the award, dismissal without notice or on the day preceding a public holidays were also increasing and monopolising greater amounts of union time.¹¹

For employers the problem of fierce product market competition remained. Wages remained a major source of production costs, and thus a potential basis upon which to compete. This was even more so for employers in smaller states such as South Australia and Queensland who, facing greater production costs and smaller home markets, initiated action in this same period to bring about reductions in award wages.¹² The constraints which award regulation placed on the capacity of employers to vary wages led directly to actions by employers to adjust by increasing task rates and the intensity of work.¹³ Indeed, the increase in efficiency through the introduction of new methods of work was countenanced by Justice Higgins in the 1919 *Archer Award*. He stated that the Court was 'not likely to obstruct subdivision of labour so far as it tends, generally, to greater output and greater cheapness', so long as 'greater cheapness' was not achieved through 'prescribing for the employee a lower rate than is her due'.¹⁴ This tendency to increase the intensity of work by demanding greater output was most evident after award initiated wage increases.¹⁵ By 1925, the problem of 'speeding up' had become so problematic for the FCTUA that it resolved to establish a rule to set task rates which were to be enforced at individual shops.¹⁶ Award provisions which gave unions right of entry to undertake union business and with the capacity to inspect factories on written permission of the registrar were obvious means through which this was undertaken.

⁹ (1923) 18 CAR 1032 at 1076-7.

¹⁰ Clothing Trades Gazette (CTG), September 15, 1922.

¹¹ FCTUA (Vic) September 20, 1920 (apprentices), April 30, 1923 (dismissal without notice, dismissal preceding public holiday); FCTUA (Fed) November 24, 1921 (below wages); and *Federated Clothing Trades of the Commonwealth of Australia and Don and Harding Re. Susanna Jollie and ors.* (1921) 15 CAR 882, 1018 and 1042; FCTUA (Vic) November 29 and December 13, 1920; and CTG, May 15, 1922 (dismissal of union members).

¹² CTG, July 15, 1922 and September 15, 1922.

¹³ FCTUA (Vic) August 9 and 23, 1920 and July 10, 1922; FCTUA (NSW) April 16, 1923; and FCTUA (Fed) March 10 and 11, 1925

¹⁴ (1919) 13 CAR 647 at 697.

¹⁵ FCTUA (Vic) February 4, 1924.

¹⁶ FCTUA (Fed) March 11, 1925; and FCTUA (NSW) April 23, 1923.

These actions were not the only way in which unions were able to regulate the decisions and actions of employers in setting task rates and the intensity of work. To begin with, strike action remained a tactical response, which could be organized at workplace level or through co-ordinated action between workplaces. Both of these actions were undertaken. Strike action at individual workplaces were more likely to occur in larger workplaces or amongst those clothing workers, such as the pressers, who still sought to enforce traditional job demarcations.¹⁷ However, some small shops did initiate strike action in responses to management decisions, particularly when they involved decreases in task and piece rates or demands for greater output.¹⁸ Co-ordinated strike action was also undertaken in response to co-ordinated action by employers. For example, during 1922 in response to a decrease in the Commonwealth consumer price index, employers in most states had resolved to reduce wages in line with the fall in prices. In Victoria, while some groups accepted wage decreases in February 1922, tailors had resisted wage reductions through an organized boycott of wage cutting firms.¹⁹ In response to moves by employers to again cut wages after a fall in the August price index figures, at a series of rank and file meetings Victorian members decided to resist any decreases initiated by firms.²⁰ The success of strike actions during the early 1920s, and the membership allegiance that it appeared to engender represented somewhat of a revival in the union under arbitration. Prior to arbitration the FCTUA had struggled to initiate any major campaign; the national focus of a federal award provided the union with a growing capacity to do so. Indeed, given the predominance of small shops, and the constant pressures of product market competition, the prosecution of industrial campaigns at a workplace level, or by strategically 'picking off' individual establishments was unlikely to succeed. This was especially true given the constant turnover of firms within the industry.²¹

For the FCTUA, however, the national revival of the union was reinforced, during the early 1920s at least, with a growing interest in workplace organization. To begin with, the growing incidence of strikes had brought forth a number of workplace strike committees, which were constituted in accordance with union rules.²² Union rules also provided for the election of shop floor delegates or stewards whose primary function was to see to the unions affairs at the shop level and collect union dues. Again, in the early 1920s when a number of workplace strike actions were initiated in response to decisions by individual firms to reduce piece rates or increase work standards, stewards had taken on an active role in co-ordinating such actions and reporting to branch executives. Rank and file meetings of sections of the trade were also instituted for the purpose of keeping in touch with the craft and sectional demands which had been met through craft unionism prior to amalgamation.²³

Notwithstanding moves by union officials to extend workplace organization 'to reawaken the shop floor',²⁴ from the mid 1920s onwards little evidence can be found of a strong workplace movement (also see Frances, 1993, 138; and Ellem, 1989, 133-4). To the extent which arbitration was responsible for this, it occurred indirectly through the growing importance of employer organizations. It has already been noted the campaigns of the early

¹⁷ FCTUA (Fed) November 14, 1921 and FCTUA (Vic) July 11, 1921 (pressers strike); FCTUA (Vic) September 5, 1921 and May 14, 1923 (large workplace

¹⁸ FCTUA (Vic) April 30 and May 14, 1923 and February 4, 1924; and CTG June 15, 1923.

¹⁹ CTG June 15, 1922; and Frances, R. (1993, p. 137).

²⁰ FCTUA (Vic) August 7, 1922; and CTG, August 15, 1922.

²¹ (1923) 18 CAR 1032 at 1046.

²² CTG October 16, 1922; and FCTUA Rules (1916, 1918, and 1935).

²³ CTG, June 15, 1922.

²⁴ FCTUA (Fed) February 23, 1925

1920s proved to be a new catalyst for joint employer action, with the Victorian Chamber of Manufactures actively seeking to organize the industry.²⁵ In the aftermath of a failure to do so, employers had likewise sought to implement joint campaigns through such actions as the creation of a 'blacklist' of employees who resigned from wage cutting firms.²⁶ While employers were largely unsuccessful in their combined efforts, they represented a growing resistance to awards and union strategy, and a growing sense of joint interests between manufacturers. This was most evident in employer applications to vary awards with respect to issues that were of vital interest to the union: right of entry to workplaces for union officials, wage rates, the regulation of short time and observing turns in slack period.²⁷

The use of arbitration for these purposes and the co-ordinated nature of such action required the FCTUA to employ similar tactics at the same level - away from the workplace. One such tactic was the use of provisions for prosecuting disputes through the Board of Reference established in the various clothing trades awards to deal with disputes and breaches as they arose. Boards of Reference quickly became the predominant means by which the FCTUA was able to enforce their awards and effectively maintain any job regulation over piece work and the division of labour. As early as 1923, the Victorian State secretary reported that that most union time was spent in interviewing members about award breaches for the purpose of prosecuting employers through the established board of reference. Despite the time consuming nature of these boards of reference, their use increased and was the principal means by which the FCTUA became 'more entangled with arbitration'.²⁸ The relative success of such boards, however came the expense of workplace organization and activity.

As well as concentration on arbitral activities, the focus of the union itself was increasingly political in outlook and activity. From its inception, and despite craft pretensions to the contrary, political action had been central to the clothing trades unions activities. Of immediate concern had been factory legislation and tariff protection as a means to protect employment (and as relief from product competition). Tariff protection, from the unions' point of view then, was intended as a positive inducement for employers to refrain from sweating and accepting award regulation.²⁹ Factory legislation and tariffs remained the focal points of the FCTUA's political activities throughout the period in question. This reflected the perceived importance of these goals, and the relative success of the FCTUA (and other unions) in initiating favourable legislative changes. There were some important changes, however, in the political methods of the FCTUA by the early 1920s. To begin with, the frequency of political action increased. This is hardly surprising, given the importance of favourable federal legislation to their success. In line with the importance of federal legislation to their methods, a shift in the focus of the union's political activities from state to federal governments is also apparent. Again, this is clearly associated with the importance of the *Commonwealth Conciliation and Arbitration Act* and tariff legislation, and the declining importance of wages boards and state legislation to the union's industrial successes.

²⁵ CTG, March 15, 1922.

²⁶ FCTUA (Fed) February 20, 1922.

²⁷ FCTUA (Vic) February 18, 1924 (wage reductions and right of entry), *Amalgamated Clothing and Allied Trades Union of Australia and J. G. Armstrong and ors.* (1925) 21 CAR 918; *Amalgamated Clothing and Allied Trades Union of Australia and A. Bloom and ors.* (1925) 21 CAR 920; and *Amalgamated Clothing and Allied Trades Union of Australia and Alley Brothers and ors.* (1925) 21 CAR 924.

²⁸ FCTUA (Fed) February 23, 1925.

²⁹ FCTUA (Fed) April 22, 1924.

Less obvious changes are also apparent. While earlier political actions were designed to enforce limits on employer behaviour, political action from the 1920s onwards were also designed to extend union rights and create a more conducive legal framework for union actions. For example, throughout the first half of the 1920s, the FCTUA had been concerned to amend state and federal legislation to give union officials greater access to work premises to ensure that employers were conforming with factory legislation and award conditions.³⁰ Political action was also concerned with goals beyond the workplace. To begin with political action was increasing organized and co-ordinated with other unions and employers. For example, the FCTUA was increasingly involved in joint action with employers to lobby government and the tariff board for increased tariffs on imported clothing and garments.³¹ Along with the boards of reference, preparation and making of submissions to the tariff board for new or increased tariffs occupied substantial amounts of time of union organizers and officials as it usually involved 'a lot of detailed clerical work'.³² Again, however, the success of the union in gaining tariff coverage for domestically produced clothing ensured that such activities remained dominant.

This decline of workplace organization was not aided by the economic problems within the industry. As the level of production declining through the late 1920s, competitive pressures again forced firms to turn to outwork and award evasion. Unemployment and the use of short time were increasingly prevalent. By the end of 1929 the Victorian branch reported all but a few factories were working short time. Under depression conditions the FCTUA had become ineffective in most workplaces. However, it provided the basis for the regeneration of workplace organization, particularly through the 'OK card' system, whereby members were required to secure an OK card from the union office before taking a particular job. By the early 1930s, this system had allowed the FCTUA to regain control of larger shops and factories, and saw the re-emergence of shop committees as a means to prosecute union demands in individual shops. While initially a defensive action, by 1935, shop committees were being used by some groups to successfully prosecute wage claims and reassert control over work rates and sub-contracting

This period of workplace revival did not, however, result in a decline in other activities. Arbitration and political action were continually employed in union attempts to respond to the sweating. Like the FMMUA, the 1930s saw the emergence of a range of issues which the FCTUA shared in common with other unions, and which became the basis for joint action.

'A Child of the Court': The MOA

The MOA provide a useful case for investigating the influence of arbitration on unions because it formed *in response to* federal arbitration. Unlike the two previous cases, the MOA had no nineteenth century forebears, and in forming in response to arbitration the MOA was expected to best fit the description of dependent union hypothesised by Howard. The MOA is of additional interest because of its white collar, professionally oriented membership, which had traditionally avoided the use of strikes and other, more direct, industrial activities (Hughes and Rawson, 1960; Lansbury, 1977).

³⁰ FCTUA (NSW) June 6, 1925 and FCTUA (Fed) July 29, 1926.

³¹ FCTUA (NSW) July 9, 1923; FCTUA (Fed) June 16, 1925 and FCTUA (Vic) July 13, 1925.

Moreover, its own product market context was the growth in public sector resources and employment throughout much of the period. Local government in Australia had been characterized by a slow and uneven expansion beyond major metropolitan areas, although a large number of *ad hoc* bodies and trusts were established to perform many of the basic functions of local governments (water, sewerage, roads, weed and marsupial control, etc.) (Power, Wettenhall and Halligan, 1981). However, from the 1920s local governments were increasingly responsible for a large range of physical and service based public goods, and in the post war period, the provision of social and welfare services and recreational facilities as well as the traditional local government functions associated with provision of infrastructure and essential services (Task Force of the Joint Officers Committee, 1987, 24-5). This is clearly reflected in employment growth in local government. While local government employed a relatively small fraction of public sector employment, by 1939 it represented just over fifteen percent of public sector employment. Between 1939 and 1969, local government employment had increased by approximately seventy percent.³³ This growth was, however, matched by an emerging fiscal crisis for local governments and instrumentalities. Thus while some local governments enjoyed fiscal surpluses during the 1920s, the onset of depression undermined their fiscal position, and as the growth in local government revenues were outstripped by expenditures associated with the increased responsibilities of local governments. While such fiscal problems were initially associated with declining revenues during depression and then war time expenditures, by the early 1960s the effect of the general increase in local government responsibilities on had become apparent, even though local government sources of revenue had remained dependent on land rates and largely inelastic (Spooner, 1939; Sheppard, 1940; Mainfred, 1950; Davies, 1951; and Mitheny, 1964, Larcombe, 1978). The labour intensive nature of new local government activities - services and social welfare provision - further exacerbated this fiscal crisis through to the end of the period under review. By 1965, wage and other labour costs represented up to seventy percent of total expenditures by local governments in many municipalities.³⁴

This fiscal crisis initiated changes in management strategies. Mayors, town clerks and town engineers had historically been the key managerial staff in local government. Many town clerks and engineers were appointed on a part time basis and had little or no formal training. Few local governments (with the exception of a number of large instrumentalities) employed qualified senior staff responsible for management of industrial relations (Power et al., 1981, 40-3). In the post WWII period, however, managerial decision making was increasingly delegated to specialised managers. In most states industrial relations was also increasingly handled by an employer association as opposed to elected or appointed council officials. In local authorities, such as the Melbourne Metropolitan Board of Works (MMBW) and the various electricity providers, managerial strategies had also changed considerably by the 1950s. The activities of these bodies, like local councils, had grown considerably, and the role of management more formalised (Dingle and Rasmussen, 1991, 225). Management was increasingly autocratic, hostile towards unionism, and sought to introduce substantial changes to work practices (scientific management) and technology to cut labour costs (Patmore, 1991, 151-55).³⁵ Similarly,

³² FCTUA (Vic) July 13, 1925.

³³ Figures taken from *Labour Reports*, Commonwealth Bureau of Census and Statistics, Canberra, various years.

³⁴ See Board of Review of the Role, Structure and Administration of Local Government in Victoria (1979) *Final Report*, p. 187.

³⁵ Also see Municipal Officers Journal (MOAJ), 1962, 'Automation: Friend or Foe?', March-April, pp. 10-11; MOAJ (1963) 'The Changing World of the White Collar Worker', May-June, p. 5; MOAJ (1965) 'Man Loses His

strong internal labour market traditions which dominated employment were undermined (Dingle and Rasmussen, 1991, 227). Inevitably, these changes created new pressures on established industrial relations, and diminished the strong trust relationship that characterised the employment of supervisory and technical employees.³⁶

These industry developments are crucial to understanding the behaviour of the MOA, and how it related to arbitration. When first formed in 1920, the MOA did so with the explicit intention of gaining federal registration. Its membership consisted of white collar occupations within local government in supervisory or technical positions.³⁷ It had also formed in direct opposition to the Municipal Employees Union (MEU) whose membership and leadership was dominated by blue collar employees in local government. While white collar (unionised) employees in local government were members of the MEU (in most states), their concerns over the MEU's industrial tactics and affiliation with the ALP and state union bodies, provided the incentives to form their own union.³⁸ Despite initial objections,³⁹ the MOA was federally registered union in April 1921, and covered local government employees 'having some supervision over other employees and/or Officers employed in administrative work'.⁴⁰

While the MOA's rules of coverage did not alter significantly from this, by the end of the period covered by this study, its membership composition had changed considerably, and in such a way that use of strike action was far more likely. Important for the composition of membership were a continuous stream of amalgamations that occurred between the MOA and other related unions. The most important being its amalgamation with the Victorian State Electricity Commission Officers' Association (SECOA), which formed a sub branch in January 1962.⁴¹ From 1962 onwards membership composition continued to shift from its traditional managerial orientation due to amalgamations with other local government associations, as well as a result of the general expansion of non managerial, white collar local government employment. The changing pattern of membership was in turn reflected in a gradual change in the orientation of the MOA. While it had traditionally been viewed as conservative, and exhibiting low levels of 'unionateness' due to its managerial orientation (Juddery, 1980; Martin, 1965; Hughes and Rawson, 1960; Riach and Howard, 1971), newly formed sub-branches were more willing to adopt traditional union tactics guided by a more militant ideologies. These sub branches tended to be concerned

Job to Computer: M.O.A. Acts', February, 1965, p. 2; and MOAJ (1966) 'White Collar Shift Work', August, p. 2.

³⁶ MOAJ (1961), 'Discrimination Against White Collar Workers in Local Government', July-August, p. 4; and MOAJ (1963) 'The Changing World of the White Collar Worker', May-June, p. 5.

³⁷ It formed in Melbourne on February 21, with an initial membership of 119 see MOA (1970, 8), and the *Argus* November 20, 1920. It is noteworthy that prior to 1920, federal registration for unions covering employees in local government and government instrumentalities was limited the courts. See the decision in *The Federated Municipal and Shire Employees Union of Australia v. The Lord Mayor, Aldermen, Councillors and Citizens of Melbourne and Others* (1919) 26 CLR 508

³⁸ The attitude of white collar and professional employees did not, in the first instance make their unionization likely, let alone within the mould of a traditional union (see Fairbrother, 1970, 23-4; and Lansbury, 1977)

³⁹ See MOA, Federal Council minutes (hereafter MOAF) March 31, 1955, the 'Secretary's Report to Council.'

⁴⁰ MOA file, Commonwealth Industrial Registry, Melbourne; *The Municipal Officers Association v. The Federated Municipal and Shire Council Employees' Union and others* [No. 1] (1920) 14 CAR 374; and *The Municipal Officers Association v. The Federated Municipal and Shire Council Employees' Union and others* [No. 2] (1921) 15 CAR 236.

⁴¹ MOAF, August 22, September 15, October 9 and 20, and November 17, 1961; also see the MOAJ (1962) November/December; and MOAJ (1963) 'The State Electricity of Victoria Officers' Association: An Historical Outline', January - February, pp. 21-24.

with a wider range of issues beyond those traditionally adopted by the MOA.⁴² Even within its traditional membership base, local government, the shift in membership composition was reflected in new concerns about technological redundancies and organizational restructuring in response to fiscal crisis.⁴³ The threats to professionalism, work loads and job security which these changes posed became the catalyst for a review to the MOA's no strike policy, and growing support for more rank and file involvement in union strategy execution during the 1960s.

A typical pattern of bargaining with employers had emerged by the mid 1920s, and remained largely unaltered until the mid 1960s when dramatic changes were introduced. This dominant strategy consisted of a combination of reliance on arbitration and collective negotiations without strikes or other related industrial tactics, and political action. Arbitration and political action were used to support and reinforce a strategy of collective negotiations directly with local councils and authorities employing MOA membership, or as was more likely the case, negotiations with a (state based) employer association representing councils and local authorities.⁴⁴ The viability of negotiations was dependent on the threat of arbitration in the absence of stronger industrial tactics.⁴⁵ To initiate a bargaining round, a log of claims was determined and served on employers. This was undertaken in such a way to ensure, for the purposes of the arbitration system, an interstate dispute was created. Once a log of claims was served, a dispute would be notified with the arbitration tribunal and employer associations. Conferences were held with the employer association, or at times with individual councils and authorities. These agreements were usually registered as consent awards. Where it was the MOA's preference that a council be joined to negotiations with a state based employer association, or where a council refused to be joined to such a

⁴² See MOAJ (1963) 'The State Electricity Commission of Victoria Officers' Association: An Historical Outline', January - February, pp. 21-24. Also see MOA, SEC Branch Minutes (hereafter MOAS), various dates 1963-1969.

⁴³ See various articles in the MOAJ, particular after 1960. For example: 'Australia Takes the Path to Automation' (May-June, 1961, pp. 27-8); 'Automation: Friend or Foe?' (March-April, 1962, pp. 10-11); 'The Changing World of the White Collar Worker' May-June 1963, p. 5); and 'Man Loses His Job To Computer: M.O.A. Acts' (January-February, 1965, p. 2. Also see MOAF April 8, 1957 (automation); May 8, 1959; and MOAV September 19, 1964 (automation and speeding up); MOAV September 19 and October 23, 1964, August 18 and November 17, 1967; and MOAF February 5, 1965 and May 5 and 15, 1967 (work organization and deskilling); and MOAF October 6, 1967 and MOAS, October 20, 1967 (automation and work organization in the power industry)

⁴⁴ In Victoria, this was the Municipal Association of Victoria (MAV), in Queensland the Local Authorities Association of Queensland (LAAQ), in NSW the Local Government Association of NSW (LGANSW). In South Australia and Tasmania negotiations tended to be directly with local councils due to their relatively small number. Individual negotiations with local councils were also undertaken where there were over award wage and conditions (MOAV, September 16, 1960; and October 21, 1960), or where local councils controlled substantial utilities themselves, as was the case in Victoria until the 1950s (MOAV, July 1, 1932; and December 8, 1939). In the case in New South Wales, due to the inability of the MOA to gain state registration, there were a large number of agreements with individual councils (MOAF, May 22, 1951 and December 6, 1963). Local Authorities also tended to have their own employer organizations. For example, in Victoria water and sewerage authorities were covered by the Provincial Water and Sewerage Authorities Association of Victoria (PWSAAV). In the case of large authorities, such as electricity utilities or harbour trusts, negotiations were undertaken directly with the authority (MOAV, February 1, 1929 and MOAF, March 15, 1929).

⁴⁵ This position was not unique to the MOA, but applied more broadly to other white collar and public sector unions. See Hughes and Rawson (1960, 87). In the specific case of public sector workers Riach and Howard argue that the conditions for successful bargaining 'are not met in the majority of organizations operating in the Australian public sector, in part due to their social orientation, rather than a pragmatic approach to industrial matters'. See Howard and Riach (1971, 126). However, a number of examples where white collar unions have successfully used more direct industrial tactics, even before the general increase in white collar worker militancy, can be found. For examples of less than risk neutral behaviour by white collar employees see Yerbury, D. (1972, and 1983) and Isaac, J. E. and Yerbury, D. (1971).

negotiation, then an arbitration order would be sought to bind that council to the consent award. The tribunal was usually forthcoming in such matters. This pattern of strategy was employed successfully until the 1960s.⁴⁶ The majority of matters in dispute (if not all) were settled by negotiations.

In this context, arbitration provided an incentive to bargaining by acting as a substitute for strike action. To the extent that local governments were willing to engage in collective bargaining,⁴⁷ there were likewise strong incentives for this particular pattern to be maintained. To begin with, it provided local governments with a means to counter the system of pattern bargaining which the MOA had developed from the mid 1920s.⁴⁸ The arbitration tribunal's preference for uniformity also meant that the consent matter would become a strong indication of the likely arbitrated outcome.⁴⁹ There were incentives other than arbitration for employers to engage in direct negotiations. Most important was the managerial composition of the MOA's membership. If wage and employment demands made on local councils by senior officers were not able to be resolved in a peaceful manner the consequences for local council functioning were potential adverse and significant. Furthermore, many senior decision makers within local councils and personnel in advisory positions to councils, such as town clerks and engineers, were beneficiaries to agreements made between the MOA and councils and their employer associations.⁵⁰ For employers this system of multi-employer bargaining provided an important device for reducing some costs associated with bargaining, particularly where bargaining rounds threatened to be disproportionately protracted by outstanding matters.

This case suggests a very particular pattern of arbitration usage which is very different from the two case studies discussed above. To begin with, it was more dependent on arbitration in the sense that it was a monopoly source of critical resources which allowed for the enforcement of their claims on employers. However, it did not imply a dependent relationship of the nature and to the extent suggested by Howard. Usage of arbitration served the purpose of facilitating bargaining, rather than a substitute for it.

By 1960, however, this strategy was clearly less effective and more difficult to maintain. A major problem was the growing cost of servicing and renegotiating an expanding number of awards and agreements.⁵¹ By 1926 there were, in Victoria alone, seven awards covering a total membership of just 1300.⁵² This grew at an almost exponential rate. For example, in a two year period from 1949 the federal office negotiated 67 award variations

⁴⁶ MOAF, May 30, 1924; and MOAJ, July 1960, p. 11.

⁴⁷ It is clear from the available evidence that, without arbitration (or other mechanisms of enforcement), local governments would not have been willing to deal with the MOA at all.

⁴⁸ MOAF, August 7, 1925; and September 1, 1925.

⁴⁹ MOAF, April 4, 1957. Expectations of an arbitrated outcome were also guided by standards in public service awards, which the MOA had successfully established as a benchmark in collective bargaining and arbitration. As long as this comparison was satisfactory to members, this strategy was viable. As will be seen, this changed during the 1960s.

⁵⁰ This conflicting and ambiguous position of many local government officers acted as a constraint on their willingness to utilise strike action or even lesser industrial actions such as work bans. See MOAF, August 18, 1947; January 23, 1948; and also see report in *The Age* January 16, 1948.

⁵¹ MOAF, March 31, 1955; and May 8, 1959.

⁵² MOA History File 'Total Membership by Branches' Attachments A, B, E-1, E-2, and F. By 1927 there were federal awards operating in five states. See MOAV, August 12, 1927. This does not include a number of private agreements. See MOAF, June 19, 1925; December 6, 1963; and MOAV September 8, 1939.

and new awards for a membership of just 5238.⁵³ As arbitration usage increased, procedural problems associated with arbitration became a central concern for collective bargaining. Moreover, established (wage) comparisons - with public service awards and award rates in technical and engineering awards in particular - proved less satisfactory, and often led to a situation where supervisory employees covered by MOA awards received a lower rate than their subordinates.⁵⁴

A range of other factors began to impinge on the effectiveness and legitimacy of the dominant strategy: First, the need to take the activities and strategic decisions of other unions which organized workers in the same industry or occupations into account.⁵⁵ This reflected the changing composition of employment within the local government sector, particularly where stoppages and work bans affected the work of MOA members.⁵⁶ Second, the existence of multiple unions also undermined the MOA's traditional bargaining position where they had historically maintained exclusive coverage. By the mid 1950s the MOA competed directly with other unions, who were willing to pursue alternative tactics which undermined the MOA's own position.⁵⁷ Third, a clear commonality of interests between the MOA and other white collar unions had emerged, and is reflected in the formation in Melbourne of the Council of White Collar Associations in March 1954, and in NSW, the Salaried Consultative Council of NSW, which amalgamated in 1956 to form the Australian Council of Salaried and Professional Associations.⁵⁸

Perhaps most importantly, the changing composition of membership and management strategies (both discussed above) created problems for the established pattern of bargaining in a number of ways. To begin with, changes in the composition of membership led to a shift in membership attitude towards strike action. By the mid 1960s the overwhelming majority of members favoured the use of strike action to force their demands.⁵⁹ This call for a tougher approach to bargaining and arbitration was reinforced by changing employer strategies which also undermined the traditional pattern of bargaining. By 1960 employer support for bargaining had all but dissipated.⁶⁰ The end of the relatively high trust relationship which marked the relationship between the MOA and various state based employer groups was felt in a number of ways. First, employer groups showed an increasing resistance to accelerating wage claims, and demonstrated a willingness to forgo direct negotiations in

⁵³ These were distributed between the states as follows: 23 in Victoria, 25 in Queensland, 6 in Tasmania and 6 in South Australia. See MOA (1970) *Fifty Years of the MOA*, p. 20.

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⁵⁵ There were, however, some examples of inter union action between the MOA and other white collar unions before 1950. These related to political actions and deputations to government ministers. For example see MOAF February 17, 1933; and October 31, 1941.

⁵⁶ This was due in part to the changing nature of MOA work and, in some cases a convergence of work environment. This was particularly so in some local authorities such as electricity undertaking where the MOA covered some technical and supervisory staff who worked with manual workers in electrical generation plants or undertaking outdoor work. It was also in part due to the increasing number of unions covering some of these same occupations.

⁵⁷ MOAF, August 16, 1957 and November 18, 1960; and MOAV, August 21, 1957 (MEU poaching); February 21, 1958 (FCU encroachment in local government); April 23, 1958 and November 20, 1959 (AAESD).

⁵⁸ The Council of White Collar Associations formed out of the Council of Professional and Commercial Employees Associations (CPCEA), which was formed in 1948. See Griffin, G. (1985, 134), Jadeja, R. (1994, 33), and MOAF July 23 and December 2, 1948

⁵⁹ An SEC branch survey found over two thirds of members favoured strike action. Similar resolutions were passed at other local authority sub branches. See MOAS, April 24, 1965; and MOAF, July 2, 1965.

⁶⁰ MOA (1970) *Fifty Years of the MOA*, p. 22.

favour of arbitration hearings.⁶¹ The largest employer of MOA members, the Victorian State Electricity Commission (SEC), had taken a particularly hardened stance in bargaining. In negotiating the first award for the SEC Branch, negotiations and arbitration spanned almost three years, involved work bans and stop work meetings, and was seen by that branch and (more so) by most of its sub-branches as unsatisfactory.⁶² By the mid 1960s, discontent with the outcomes of both negotiations and arbitration had begun to elicit stronger action at the sub branch level in the form of protest meeting, and in some cases work bans.⁶³ The second SEC award, the benchmark for all other wage claims to be initiated by the MOA, took even longer and culminated in the MOA's first strike action as an alternative to arbitration.⁶⁴

These changes in the role of rank and file members proved to be a counterbalance to the centralist tendencies evident in union structure which had developed in the period before 1960. Amalgamations proved to be an important challenge to the central authority vested in the Federal Council. Before 1960 there is little evidence that the MOA had encouraged or allowed a workplace level organization to develop. Shop stewards were virtually non-existent, and where they did exist performed a narrow and minor set of functions. From 1960, however, the appointment of shop stewards was actively encouraged as a resistance mechanism against managerial attempts to introduce technological change and new work organization and working arrangements.⁶⁵

The case of the MOA reveals a complex picture in which union behaviour, arbitration and a host of factors interact to produce a union which behaved very differently from the two unions discussed above, and from the ideal picture suggested by the dependency hypothesis. The MOA was a union that formed in response to arbitration, and relied upon it to implement a no strike policy. However, arbitration was not relied on as an administrative mechanism suggested by Howard, but as a means to pursue direct negotiations. Arbitration functioned as a substitute for strikes. As long as the MOA did not see strikes and other industrial actions as a set of tactical options, arbitration provided the MOA with the ability to force employers to the bargaining table. However, by the end of the 1960s a curious transformation had occurred: the MOA's traditional pattern of behaviour had been undermined, and its use of arbitration increased significantly. At the same time, however, it had begun to pursue more aggressive industrial campaigns and develop a stronger pattern of workplace unionism. Nor can it be said that the MOA was dependent on arbitration in the sense defined by Howard. To the extent that the MOA did exhibit a reliance on arbitration, it was not reflective of an inability to access critical resources from alternative supplies (such as rank and file action). In the end, where arbitration did not yield the outcomes sought by the MOA, the union proved capable of imposing sanctions against employers through the use of direct action and the activation of membership involvement.

⁶¹ MOAJ (1968) 'Talks Sought...Tramways Board Replies With a Threat', March, pp. 8-9; and 'SEC Insist: Go to Arbitration', p. 1.

⁶² MOAS, January 11, and July 18, 1963 and March 20, 1964; MOAF, May 3, and June 7, 1963 (unsatisfactory progress and outcome); MOAS, July 19, 1964 (work bans) and July 28, 1965 (overtime bans); MOAV, November 20, 1964 (protest meeting). A possible strike action after a resolution was passed by the SEC Branch was averted through federal branch intervention in April 1964. See MOAS, April 24, 1964 and August 20, 1965.

⁶³ MOAV, November 20, 1964 (MMBW); MOAF, July 2 and August 6, 1965 (Brisbane City Council); MOAS, October 22, 1965 (Morwell); MOAV, February 18, 1966 (MMTB).

⁶⁴ MOAJ

⁶⁵ See MOAV June 21, 1957, November 21, 1958, and MOAV September 21, 1962. This was even more evident in the SEC sub branch where an active rank and file movement was established by SECOA (see Sub Branch reports, MOAS, various years).

'The Rent Seekers': The FTWUA

Unlike the previous three cases, the FTWUA did not become a federally registered union until 1978. While its predecessors, the various colonial cigar makers' societies and tobacco operatives' unions, had utilised state based systems of arbitration and wages boards, collective bargaining formed the central industrial strategy employed by tobacco workers unions. In this respect, the FTWUA is one of a small number of Australian unions to do so.⁶⁶ Importantly for this study, it provides a key case for understanding the relationship between union behaviour and arbitration: Why did the FTWUA choose to remain outside of the arbitral system? What did this preference imply for union behaviour, strategies and decision making processes? Were they significantly different from arbitral unions? This analysis shows that the key differences between the FTWUA and other unions have not emanated from its decision to remain outside of arbitration. Other factors, particularly those relating to the industry context, were far important. Of all the cases examined, the FTWUA was in fact the most dependent of unions: rather than being dependent on arbitration, the FTWUA had become dependent on a monopoly firm which dominated the manufacture of tobacco products in Australia from 1907 to 1955.

The formation of a tobacco industry in Australia owes much to government intervention and the intention of creating a domestic tobacco manufacturing industry during the nineteenth century (Industries' Assistance Commission, 1982, 3). In Europe, tobacco growing and manufacture was, during the nineteenth century, concentrated in nationalised monopolies as a source of government revenue, a feature which elicited considerable interest from colonial governments (Best, 1988; and Walker, 1984). Both the Victorian and NSW governments had established experimental farms to improve methods of cultivation and production, and established tariffs on the importation of tobacco leaf and manufactured products, and subsidies to local producers and manufacturers (Walker, 1984). During the late nineteenth century these policies had led to the formation of a large number of small tobacco manufacturers in most colonies, particularly in NSW and Victoria.⁶⁷ By 1904, however, the Australian tobacco industry had become dominated by a single manufacturer - The British Australian Tobacco Company (hereafter BAT; see Hopkins, 1978, Walker, 1984; and Wilkinson, 1914), which had formed in response to similar developments in the US and Britain (see Johnson, 1984; Alford, 1973, Corina, 1975, Macrosty, 1907).⁶⁸ This firm maintained a monopoly position until the mid 1950s. The monopoly position

⁶⁶ The FTWUA was not the only union to remain outside of arbitration. For example, Fitzgerald (1967) discusses the case of Melbourne printers; Yerbury (1972), Burgess (1977), Brooks (1981) and Blain (1981) all consider the failed attempt of Air Pilots to move outside of arbitration; Cubbon, Gardner, Oeser and Trahair (1966), Blainey (1968) and Howard (nd) analyse the unique position of the Barrier Industrial Council. At various times, unions have been deregistered and relied primarily on collective bargaining, or employed collective bargaining as a substitute for arbitration. For example see De Vyver's (1959 and 1970) studies of the building industry.

⁶⁷ Nineteenth century Australian tobacco was notoriously poor. Coghlan notes that: 'The growth of the plant was mainly in the hands of the Chinese, by whom the curing of tobacco was not properly understood. At its first introduction it was used almost entirely as sheep-wash ... [I]t might well be imagined that the colonial tobacco was not exactly suited to a palate which was in any way delicate or refined' (Coghlan, 1969[1918], 1108).

⁶⁸ The American Tobacco Company (ATC), which was established in 1890, and controlled approximately ninety percent of the cigarette production in the United States by 1900. In response to an attempt by the ATC to merge with English manufacturers, the Imperial Tobacco Company was established by W.D. and H.O. Wills. In 1902 the two monopoly trusts had agreed to establish the British American Tobacco Company (BAT). In Australia, the two largest manufacturers, Dixson and Sons' and Cameron's formed the British Australasian Tobacco Company, which merged with BAT in 1904 to form the British Tobacco Company (Australia) in 1904 (Wilkinson, 1914; and Walker, 1984). This firm maintained a virtual monopoly position until the mid 1950s.

of BAT is crucial to understanding the position of the FTWUA and why it remained outside of arbitration. Most importantly, monopoly profits allowed for the creation of wages and conditions far in excess of that provided for similar workers through arbitration. By 1914, Wilkinson observed that:

the conditions of the employees in the various factories controlled by the trust are far superior to those obtained in practically any other employment . Generally speaking the wages are considerably higher; the hours and conditions easier and better than the Wages Boards' awards; the factories have the best ventilation and lighting; and rooms are provided for meals for the employees; female hands have every consideration, should there be any illness or distress, whilst male hands will be given full pay during the period they are attending compulsory drills, schemes for the employees are designed for their betterment and are generally subsidised. The result is that the Tobacco Trust has become an almost ideal employer as long as every man or woman is content to remain an employee of the Trust, and in the position allotted to him or her.⁶⁹

These developments within the structure of ownership also influenced work and production processes, which in turn were reflected within other aspects of the labour market. Most important were the implications for the introduction of new technology. During the nineteenth century, the production of plugs and twists (smoked in pipes or chewed) and cigars, not custom rolled cigarettes, were the most important components of total output. The manufacture of ready cut tobacco and custom rolled cigarettes began in the late 1880s, and by 1903 accounted for just ten percent of total manufactures. However, by 1913, this category accounted for over twenty percent of total output; increasing to around thirty percent by 1920 (Walker, 1984, 54). The rise of ready cut and custom rolled cigarettes is paralleled by the introduction of machines for their production. Mechanisation had important implications for the nature and level of skills required by tobacco workers. The production of twists, plugs and cigars was primarily completed by hand (as were custom rolled cigarettes before the introduction of machines), and was considered to be highly skilled work. These tasks were controlled by skilled craftsmen who, like moulders, completed a relatively long period of apprenticeship. Other tasks in the manufacture of tobacco products, such as stripping of tobacco leaves and rolling cigarettes was classed as relatively unskilled and were undertaken by labourers', the vast majority of whom were female.

The growing importance of machined tobacco products created a number of important changes by 1905. To begin with, the vast majority of workers in the industry were semiskilled, and more than half of all workers in the industry were women. Moreover, the craft control of the tasks and the predominance of apprenticeship arrangements were in decline. The segmentation of skilled and unskilled work also implied a labour market segmented along gender lines, which continued to provide a source of division within and between union organizations. This segmentation was further reflected in differences in payment systems and managerial practices. While skilled craftsmen who made twists, plugs and cigars were paid by piece rates and left to regulate work practices, unskilled workers were paid by time, and the segmented tasks and work intensity were more heavily monitored by management.⁷⁰

These differences were reflected in the nature of union organization which had formed in the later half of the nineteenth century. The first group to form a union (during the 1870s) were the highly skilled cigar makers, who it has already been noted, employed traditional craft strategies (Best, 1988). In 1884, with the help of the Cigar

⁶⁹ Wilkinson, *The Trust...*, pp. 44-5.

⁷⁰ CCP, Volume 2, 1907-8, pp. 1919-21; and CPP, 1906, Volume 4, p. 446.

Makers' Society (CMS), the Victorian Operative Tobacconists' Union (OTU) was formed;⁷¹ a similar organization, the Tobacco Operatives' Society (TOS) was formed in Sydney in 1891 (Best, 1988). While the OTU organized all male trades, the Sydney society excluded a number of key trades, who formed their own unions. A number of smaller tobacco unions, such as the United Tobacco Operatives, also formed during this period. In 1903, the NSW unions formed a Tobacco Trades Council (TTC) to co-ordinate the industrial campaigns between these unions.⁷² By 1905, this strategic alliance had formed the basis of an amalgamated Tobacco Workers Union (TWU) in NSW; and the formation of closer links with the Victorian and Queensland unions,⁷³ and the Federated Tobacco Workers' Union of Australia in 1908 in response to the formation of BAT.⁷⁴

The impact of the 1890s recession also influenced the attitude of tobacco firms employers towards unions: primarily in their increasing propensity to refuse to recognise the union as representing the tobacco operatives in wage and other grievance settlement negotiations. The failure to successfully organize skilled workers was reinforced by counter actions by employers to limit the organizational effectiveness of the tobacco unions. A strategy often used by employers was to recognize the union for certain classes of work only; usually where the capacity of the union to control work processes was minimal. Employers were also likely to reverse their decision to recognize the union when faced with increasing economic problems. Attempts by colonial tobacco unions to organize and regulate women workers within the industry were also unsuccessful, and reflected conflicts between male and female workers over wages differences, employment in slack times (unskilled female workers were replaced by skilled males), and the employment of married females.⁷⁵ By 1901 female operatives in NSW had established their own union and had become active in peak union bodies, such as Trades Hall and the Sydney Labour Council. However, by 1904, this attempt to do so had folded and female operatives were admitted to TOS.

The period in which the colonial tobacco unions formed - the mid 1880s and early 1890s - created difficulties for their operation. Most importantly, most firms refused to recognize them as representative of employees. The status of these unions was not helped by the formation of the tobacco monopoly after 1900.⁷⁶ This resistance to their presence in the workplace was an incentive to utilize arbitration and wages boards. The Victorian CMS had gained a Wages Board in 1900, and TOS registered under the NSW legislation in 1902. The Victorian OTU, however, never gained a wages board, despite passing a resolution to do so in September, 1904. The OTU had also passed a motion to seek federal registration. Again, however, this motion was never acted upon.

This suggests an ambiguous attitude towards arbitration, despite the early difficulties experienced by these unions to gain recognition by tobacco firms. Both the NSW and Victorian unions reported dissatisfactory experiences with both arbitration and wages boards when they were utilized. The President of the Victorian CMS

⁷¹ *The Age*, May 1, 8 and 14, 1884.

⁷² OTS, minutes July 14, 1903.

⁷³ OTS, October 17, December 13, 1904; and October 10, 1905.

⁷⁴ Cigarette workers on machines were initially excluded from the FTWUA. A separate Cigarette Workers Union was formed in 1909; but amalgamated with the FTWUA in 1916, the same year in which a separate women's branch was integrated into the FTWUA. See FTWUA minutes, various dates throughout 1916.

⁷⁵ OTS, July 29, 1891 and January 13, 1902.

for instance warned the OTU against a wages board as members were 'very little, if any, better off during that period than ... any three years prior to it' (quoted in Carter, 1904, 14). This, however, under estimates the value of the *threat* of arbitration which the tobacco unions had their disposal. By 1905, the tobacco unions were, jointly, engaged in negotiations with BAT (called conferences), which was largely the result of the company's aversion to arbitration. The continuation of these conferences was, from BAT's view, predicated on the willingness of the tobacco unions to refrain from taking disputes to arbitration, which they were willing to do so in return for wage levels which were higher than their counterparts in other industries. This aversion to arbitration or any public scrutiny of company practices was also due to the political sensitivity of its monopoly position and the large profits which it earned. This sensitivity was particularly acute in relation to tariff protection provided to the industry. The maintenance (or increase) of tariffs was subject to periodic hearings in which such information was disclosed to tariff inquiries.⁷⁷ Differences in the position of the tobacco unions and BAT on appropriate level of tariffs during a *Royal Commission into Tariffs* in 1905-6, had brought attention to the monopoly position of BAT. As a result of differences over submissions to a subsequent inquiry undertaken in 1907, the company and tobacco unions were able, through the annual conference negotiations, to reach a common position on tariffs in return for a wage increase.⁷⁸

This linkage between tariff protection and wage claims provided the basis for a regular series of conferences which became the sole basis upon which industrial matters were regulated between the tobacco unions (and subsequently the FTWUA from 1908) and BAT. This faith in direct negotiation was further reinforced over the following decades by paternalistic management style adopted by the company, their encouragement of unionism amongst its employees (by 1920 their workplaces were closed shops), and the provision of company resources for union work.⁷⁹ The paternalistic approach (sophisticated HRM?) also extended to the provision of non-wage benefits that were found in few, if any blue collar workplaces. These benefits covered extended annual leave, profit sharing schemes, low interest loans, pension and superannuation funds, as well as sponsorship of sporting clubs used by employees. Most importantly, tobacco unions were given assurances of their member's job security if disputes were not taken to arbitration. Again, following the tariff agreement of 1907, the FTWUA was assured in Conference that 'no man should be put off owing to the slackness of trade, but that the factories should work short time, so that the loss is distributed over all'.⁸⁰ This employment security provision was again given in 1914, and honoured throughout the depression years.⁸¹

⁷⁶ In the United States, Kaufman (1987) also found that anti union activity had increased significantly after the formation of the American Tobacco Company.

⁷⁷ See for example, the Royal Commission into Customs and Tariffs (1905-6).

⁷⁸ *Conference on the Tariff Between Representatives of the Australian Tobacco Manufacturers and Representatives of the Tobacco Operatives Union, NSW, Victoria, and South Australia* (Transcript, Melbourne University Archives, August 21, 1907).

⁷⁹ In terms of Howard's theory, which hypothesised that arbitration would alleviate the need for unions to devote resources to organizing, company policy in this case performed this function. Closed shop arrangements, the provision of union offices and other resources were augmented through the maintenance of long service leave entitlement and other allowances for full time union officials. In this respect, the FTWUA was dependent on, or captured by, the company.

⁸⁰ Conference Proceedings (hereafter BAT), August 10, 1921, p. 55. Transcripts of annual conference proceedings between the FTWUA and the British Australian tobacco Company are held in the FTWUA records, Melbourne University Archives.

⁸¹ While the basic wage was reduced during the depression period tobacco workers were not subject to such fluctuations in their wages (Conference Notes, August 25-6, 1937, p. 12)

In such an environment, the incentive to gain registration under arbitral legislation was non-existent.⁸² The union's limited experience with arbitration had been less than satisfactory, and the annual conferences had provided an inexpensive way of gaining benefits in excess of standards set in arbitration and ensured union security. The FTWUA had considerable access to management to air grievances as they arose, and a bargaining structure which proved to be robust, despite its informal and non legal nature.

The viability of this arrangement was dependent, however, on a number of conditions. First, the conference proceedings were to remain informal and confidential.⁸³ Second, the acquiescence of the FTWUA to company decisions concerning the introduction of new technology and the alteration of work practices (particularly scientific management techniques from the 1930s). Third, the FTWUA was required to remain an unregistered union. Fourth and finally, the ability to pay above standard wages and conditions was contingent on the ability of BAT to maintain its monopoly position and the high levels of profitability associated with that market structure.

By 1945 the monopoly position of BAT was under challenge. Initially, the threat came from a number of small domestic producers who had gradually gained in market share. More damaging, however, was the decline in the British and American monopolies after anti-trust reforms in the US, which required a dismantling of the American Tobacco Company into a number of separate producers. This culminated with the entrance into the Australian market of both Rothmans and Philip Morris as tobacco manufacturers in 1955 (Walker, 1984; and Johnson, 1984), which quickly undermined the profitability of the British Australian Tobacco Company. As a consequence, conferences between the FTWUA and the company became more discordant and a source of dissatisfaction, with BAT resisting union demands. By the early 1960s, BAT had begun to use arbitration outcomes as the benchmark for wage increases and as a basis to reject wage claims.⁸⁴ As well, the resources and status provided to the FTWUA was gradually withdrawn in light of the union's servicing of members in workplaces established by BAT's competitors, and eventually BAT refused to enforce its closed shop arrangement with the FTWUA.⁸⁵ The continual decline of wage and employment standards and a challenge to the FTWUA's coverage by the Storemen and Packer's Union led, in 1977, to an application for federal registration for the purpose of gaining an award.

The FTWUA's experiences with collective bargaining provided a basis for comparison with the three case studies discussed above. Central questions concerning differences in goals and preferences, methods and tactics (for example, what role for political action and strikes?), and decision making processes within the union were addressed. The remainder of this section therefore discusses these issues.

⁸² There were, however, periodic calls from membership to gain registration, particularly from specific trades who claimed to have been disadvantaged by annual agreements. For example see FTWUA (NSW), September 6, 1916.

⁸³ This was largely due to the secrecy of many work processes. See for example, BAT, February, 9, 1938; June 1, 1939; and June 30, 1939. In 1937, BAT warned the FTWUA that it would end its co-operative arrangements if it continued to print information relating to their conferences in the *Tobacco Worker*, the union journal. The FTWUA agreed to stop its publication for this purpose. See BAT, August 25 and 26, 1937.

⁸⁴ BAT, September 24, 1962. As early as 1948, BA had foreshadowed the possibility of arbitration, and the creation of an industry award. See BAT, June 10, 1948.

⁸⁵ FTWUA (Vic) September 19, 1955 and October 12, 1955. Later, where the exclusive jurisdiction was challenged by the Storemen and Packers Union at both BAT and Philip Morris in 1977, registration became important for legally determining and protecting the unions jurisdiction. See Transcript C. No. 238 of 1977 (April 29, 1977).

The decision by the FTWUA to remain outside of arbitration and an unregistered union did not, the evidence suggests, lead to a significantly different set of goals and preferences to any of the unions which did register included in this study. Job centred issues, which were central to the concerns of the three cases discussed above, remained central. Union security was also a key priority. The dependency of the FTWUA on a single employer until the mid 1950s did however limit its capacity to pursue broader social goals, which it was noted above had become key concerns for other unions. However, the FTWUA did contribute to union campaigns and strike funds for other unions over these same issues, and recognised bans and boycotts instituted through peak union bodies. The FTWUA was affiliated to the Australian Labor Party and publicly supported its platform. Union goals were, like the FMMUA and the FCTUA, directed at issues relating to protectionism; the centrality of these activities has already been noted.

A clear and obvious difference in preferred methods is evident in the fact that the FTWUA remained outside of arbitration - this was the basis on their inclusion in this study. More important for the dependency hypothesis was their attitude toward political action. As noted, the centrality of tariff protection meant that political action, including political affiliation, was crucial to the realisation of their aims. However, the indirect method by which the FTWUA pursued broader social goals - under the auspices of peak union bodies and through the ALP - made broader, more direct political involvement, unnecessary. This is perhaps the major difference between the FTWUA and other cases discussed here. (This, however, can perhaps be explained by the affiliation of the FTWUA'S leadership with the anti - Communist grouper movement during the 1950s and 1960s).

Of critical importance to the dependency hypothesis was the suggestion that arbitration would lead to a decline in workplace union activity, and by corollary, a movement of decision making power away from the workplace to leadership. The inverse of this argument would be expected to hold in the case of the FTWUA: workplace union organization and activity would be strong and the locus of union decision making at the workplace. In the case of the tobacco unions - both the FTWUA and its predecessors - a changing pattern of workplace organization and union decision making is evident over time. The early craft unions formed by cigar makers and twisters adopted a traditional craft strategy with varying degrees of success, which was the consequence of economic fluctuations, as well as the industry structure in which smaller firms were important. After the formation of BAT, and the successful linkage of tariff protection and political action to collective bargaining, union security provided the union with relief from the difficult process which it had to undertake with firms to maintain and extend its presence. Thus the issue for the union in terms of workplace activity was not one of organizing. Collective bargaining and the locus of union strategy was beyond the workplace. While shop stewards and shop committees were established in all factories and were responsible for dealing with grievances as they arose, the powers of workplace delegates was constrained in what they could undertake without executive approval. More often union officials intervened and took up such matter independently of shop stewards.⁸⁶ Such constraints were reinforced by the over representation of union officials on workplace committees.⁸⁷ The scope given to stewards to deal with grievances was also significantly constrained by the need for executive control over the channels of communication and bargaining between the union and management. To do so, the executive sought to limit the role of workplace representatives. This was facilitated through rule changes which meant traditional activities of

⁸⁶ See, for an example, FTWUA (Vic), March 8, 1910, July 12, 1910.

⁸⁷ FTWU (NSW) minutes, October 20, 1915.

workplace representatives were limited to the collection of dues⁸⁸ and settlement of minor grievance;⁸⁹ along with removal of the capacity of shop stewards to call stop work meetings⁹⁰ or initiate strike activity.⁹¹ (Strikes were virtually non-existent until the late 1940s). These limits were paralleled by changes which provided the executive with extended discretionary powers in their dealings with management and in conference,⁹² along with the removal of rules which restricted the capacity of individuals outside the trade to work as union officials.⁹³ This exertion of control over rank and file activities was, in part, at the behest of management, who were prepared to deal with the union, but only through the structure that they had established.

The provision of union security through a closed shop arrangement combined with the FTWUA'S desire and need to preserve strict control over channels of negotiation to maintain a relationship with the BAT directors, therefore, led to a situation where workplace activity was limited, and the traditional modes of union action were restricted. Indeed, the outcome was a union whose structure and function resembled those attributed by Howard to unions operating under the auspices of arbitration.

Conclusions

The case study evidence described above reveals a complex set of relationships between unions and arbitration. Certainly the introduction of arbitration changed union behaviour. Moreover, it may very well be the case that arbitration altered to some extent union goals or at least the priorities given to each (particularly organizational vis-à-vis membership oriented goals); but this will be the product of any institutional structure: it moulds the incentives and returns to particular objectives and actions. This proposition is, however, something very different from the view that arbitration has made for *dependent* unions.

It will be remembered from the literature review that the idea of dependency was nested within a set of assumptions or the assertion of a set of 'stylized' facts about Australian unions:

1. It is assumed that, in the face of almost complete obliteration after the strikes and depression of the 1890s, Australian unions turned immediately to the state for protection. Thus political action and arbitration (when enacted) were the primary means by which unions forced recognition and dealt with employers.
2. It is assumed that the arbitration system was able to supply unions with all the key resources required to function, and that awards adequately regulated all the outcomes which unions were concerned about.
3. It is contended that, once registered, unions abandoned extensive workplace organization and activities, and relied on more centralized decision making and action. Extensive workplace activity was rendered unnecessary.
4. Strikes were an unimportant tactic (except as a signalling device) due to the (2) and (3) above.

⁸⁸ FTWUA (NSW), July 6, 1908

⁸⁹ Moves by sections of the trade to make deals with management through shop committees was banned. See FTWUA (NSW), November 17, 1915.

⁹⁰ FTWUA (NSW), October 11, 1916

⁹¹ FTWUA (NSW), April 18, 1917. Rules were also amended to allow executive members to handle correspondence as they saw fit rather than give notice of correspondence through regular branch meetings. See FTWUA (NSW) July 14, 1913.

⁹² FTWUA (NSW), April 8, 1916

5. Organizational and political concerns replaced 'job centred' grievances as a result of arbitration.

These case studies suggests that these stylised facts do not sit comfortably with the experiences of individual unions. Here, four cases were discussed: the FMMUA, the FCTUA, the MOA and the FTWUA. Each operated in very different industrial environments.

None of these unions could have been described as dependent in the sense used by Howard or suggested by other writers. While the FCTUA was far more reliant on arbitration than the FMMUA, it was still capable of gaining access to critical resources from means other than arbitration, particularly through workplace actions. In the three cases which registered under both federal and state arbitration statutes, these unions were also able to mould arbitration for their own purposes, and were active in seeking amendments to various statutes. In the cases of the MOA and the FTWUA, arbitration provided an incentive to bargain through a threat effect.

None of these unions can be described by the stylized historical narrative suggested by Howard (and others). In the case of those unions with nineteenth century predecessors (FMMUA, FCTUA and the FTWUA), none rushed to arbitration after the 1890s defeats and depression; all took some time before a federal award was first gained, or in the case of the FTWUA, a federal award was never sought until 1978. Different reasons - relating to the structure of labour and product markets, and other contextual factors - were important in each case. Each union possessed a different bundle of industrial and political resources which made the potential costs and benefits of pursuing specific actions very different. Each union was dependent, not just on arbitration, but a range of other organizational and institutional sources of critical resources. This notion of multiple dependencies, of course, makes the notion of dependency as it has been employed Howard and others, a nonsense.

⁹³ FTWUA (Fed) February 14, 1909.

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