**NSW Society of Labor Lawyers**

**Answers to Supplementary Questions**

**Question 1. Current functions of the Industrial Relations Commission and Commission in Court Session**

1. The current functions of the Industrial Relations Commission ('IRC') are outlined in detail at paragraphs 4.1.1 to 4.1.7 of the Society's original submission. These include: the creation and maintenance of awards for public sector and local council employees and employers, and approval of enterprise agreements for public sector and local council employees and employers; the conciliation and arbitration of industrial disputes in the relation to public sector and local council employees and employers as well as parties to federal enterprise agreements who nominate the IRC as a conciliator and arbitrator of disputes arising under such agreements; the conciliation and arbitration of unfair dismissal claims in the relation to public sector and local council employees; the conciliation and arbitration of relief from victimisation claims in relation to public sector and local council employees, and contract carriers; the creation and maintenance of contract determinations and approval of contract agreements; the conciliation and arbitration of disciplinary and promotional decisions made in relation to employees of State Rail Authority; the conciliation and arbitration of promotional decisions made in regards to police officers; and the conciliation and arbitration of disciplinary and promotional decisions made in respect of public servants.

2. The current function of the Commission in Court Session ('Industrial Court') are outlined in paragraphs 4.2.1-4.2.3 of the Society's original submission. These include: the enforcement of awards and enterprise agreements; proceedings on superannuation appeals under the *Superannuation Administration Act* 1996; relief from unfair contracts; a declaratory jurisdiction under s 154 of the *Industrial Relations Act*; occupational health and safety prosecutions; the conciliation and arbitration of disciplinary decision made in relation to police; the oversight of industrial organisation registered under the *Industrial Relations Act* 1996 (NSW); and appellate matters.[1]

**Question 2. Forecast workload of the IRC**

3. The workload IRC, which exercises *non-judicial* functions (the Industrial Court exercises judicial functions), will not be affected by recent legislative changes. The only legislative change the Society is aware of that will negatively impact on the IRC or the Industrial Court is the *Work Health and Safety Act* 2011 (NSW), which rips away the Industrial Court's jurisdiction in regards to occupational health and safety matters. The Society notes that amendments to the *Transport Appeals Act* 1980 and insertion of Part 7 into Chapter 2 of the *Industrial Relations Act* in 2010 significantly increased the IRC's non-judicial workload by adding transport appeals and public sector disciplinary and promotional appeals to the IRC's jurisdiction. This had the result, as the Issues Paper notes, of increasing the IRC's non-judicial workload to almost pre-*WorkChoices* level. It is the Society's submission that as a result of the near equivalence in workload between 2011 and 2006, that there is no reason to suppose that the IRC is under-worked in relation to non-judicial matters. For a summation of the extensive nature of the IRC's non-judicial functions, see paragraph 4.1.10 of the Society's original submission

[1] See generally *Industrial Relations Act* 1996 (NSW) s 153, (hereafter *IRA*).

**Question 3. Forecast workload of the Industrial Court**

4. The *Work Health and Safety Act,* which came into operation on 1 January of this year, removes the Industrial Court's jurisdiction over occupational health and safety matters, except in relation to the most minor offences. This will no doubt decrease the Industrial Court's workload to a significant extent. The Society reiterates its submission that the Parliament erred in vesting jurisdiction over the vast majority of occupational health and safety matters in the generalist Local and District Courts. The Society calls on the Government to amend the *Work Health and Safety Act* and re-vest such jurisdiction exclusively in the Industrial Court, to ensure that the specialised knowledge and expertise of Industrial Court judges may be brought to bear over such matters and that such matters, being of the utmost gravity, are dealt with by the Industrial Court – a superior court with equivalent status to the Supreme Court. The Society refers the Committee to its submissions at paragraph 4.2.3-4.2.4 of its original submission in regards to this matter. The Society also refers the Committee to its response (outlined below) to a question on notice in relation to reposing jurisdiction in the Industrial Court in general employment matters.

## Questions on Notice

**The IRC's jurisdiction under Chapter 6 of the *Industrial Relations Act***

1. Chapter 6 of the *Industrial Relations Act* applies to contracts of bailment and contracts of carriage.[2]

**Contracts of bailment**

2. 'Contracts of bailment' regulated by the IRC include: contracts relating to vehicles that are public and private taxi-cabs that are bailed to taxi-drivers; and cases where a person is engaged in transporting passengers in private hire vehicles.[3] The IRC's contract of bailment jurisdiction in essence regulates the terms and conditions of engagement of taxi drivers in New South Wales. A contract determination, which is similar to an award, made and administered by the IRC prescribes the terms and conditions of engagement of taxi drivers in New South Wales. The determination, known as the *Taxi Industry (Contract Drivers) Contract Determination* stipulates two methods of remuneration for taxi drivers. One such method provides that taxi drivers pay operators a percentage of takings (being 45% for first year drivers and 50% for other drivers) whilst the other determines that a flat fee is payable to an operator.[4] The IRC generally considers applications to adjust taxi driver fares annually. The IRC's functions in relation to contracts of bailment are a further example of a discrete and specialist jurisdiction exercised by the IRC, in which collective individual rights are at stake.

**Contracts of carriage**

3. 'Contracts of carriers' over which the IRC has jurisdiction are contracts between independent and principal contractors, where the contract carrier trades either as a sole trader, partnership or an incorporated entity, owns one truck, performs work for one principal contractor and generally performs this work themselves.[5] Contract carriers, commonly referred to as 'owner-drivers', are small business people. They are not common carriers, that is, workers who own

[2] *IRA*, s 306.
[3] *IRA*, s 307.
[4] *Taxi Industry (Contract Drivers) Contract Determination* [2011] NSWIRComm 1036 (at [1]-[9]) Connor C.
[5] *IRA*, above n 1 s309.

one vehicle but perform work for more than principal contractor,[6] or 'fleet owners', namely, workers who own multiple vehicles and employ employees to perform work with these vehicles. The IRC's contract of carriage jurisdiction extends from the regulation of the individual collective rights of bicycle couriers to drivers of B-double trucks.[7]

4. At common law, owner-drivers have been held to be independent contractors. However, various features of the owner-driver/principal contractor relationship are akin to that of a relationship of employment. Principal contractors exercise a significant degree of control over owner-drivers. Principals', for instance, require owner-drivers to paint and maintain their vehicles in a particular manner, dress in the principals' livery, buy specific trucks[8] and attend work and be available for work at certain times. For the purposes of the common law, however, the fact owner-drivers have to expend capital to purchase their vehicles and have the chance to derive profit from ownership of their vehicles, underpins the view that owner-drivers are independent contractors.[9]

5. Historically, categorisation of owner-drivers as independent contractors entailed that their terms and conditions of engagement escaped industrial regulation. Approximately 40 years ago, the Minister for Labour and Industry the Honourable E.A. Willis MP, in the Liberal Government of Sir Robert Askin, received a report from the Full Bench Industrial Relations Commission in Court Session (Beattie P, Sheehy and Sheldon JJ) – known as 'the Beattie Report' – into Drivers of Taxi-cabs, Private Hire Cars, Motor Omnibuses, Public Motor Vehicles and Lorry Owner Drivers. The report concluded that in practice, ownership of a vehicle rendered owner-drivers acutely dependent on their principal contractor and in a position more analogous to an employee than to an independent contractor. The conclusions of the Beattie Report, so far as they applied to owner-drivers, were as follows:

> 30.13 The distinction in law between owner-drivers who are truly employees and those who are independent contractors is often a fine one with the line difficult to draw. The "grey area" is in practice really significant.
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> 30.14 Many owner-drivers with one vehicle come under the direction and control of their principal in a way which in a practical sense is little different from the case of true employees.
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> 30.15 Owner-drivers are often used in addition to, interchangeably with or in lieu of employees driving company-owned vehicles. This means that frequently they work side by side with employees doing identical work and subject to very similar control.
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> 30.16 It is illogical in every practical sense that within the one section of industry and often within the one establishment work, which is virtually identical, should be done by employees subject to industrial regulation and owner-drivers outside its scope. This must lead to the dangers referred to in (c) above.

[6] James v Commonwealth (1939) 62 CLR 339.
[7] See for example the *Transport Industry – Courier and Taxi Truck Contract Determination* and the *Transport Industry – General Carriers Contract Determination.*
[8] *Transport Industry – Redundancy (State) Contract Determination* [2007] NSWIRComm 183 at 297 (hereafter *Redundancy Determination*).
[9] *Australian Air Express Pty Ltd v Langford* [2005] NSWCA 96 (at [44]).

30.17 The evidence in the Inquiry has established that in a number of sections owner-drives have been in the past exploited as to rates and subjected to oppressive and unreasonable working conditions.

30.18 There is no doubt that owner-drivers have generally fared best in the sections where in effect there has been a form of industrial regulation through standard agreements which have been largely achieved through their ability to present an organized front.

30.20 For many years a substantial amount of industrial regulation of owner-drivers has in fact taken place.

30.21 The public interest requires that disputes between owner-drivers with one vehicle and their principal contractors should be speedily settled as there is no difference in the public dislocation caused by these disputes compared with employer-employee disputes.

30.22 Industrial regulation of owner-drivers with one vehicle will put on a proper legal basis what has been for many years an industrial fact of life.

30.23 The presence of the TWU in this area, the large influence exercised by it and the practical impossibility of eradicating this influence even if it were theoretically desirable in themselves create a need for industrial regulation.

30.24 Industrial regulation, although certainly not a panacea for the bad practices of overloading and speeding which are prevalent in some sections, must assist in reducing them.

30.25 Although the owner-drivers are independent contractors, to attempt to solve industrial disputes affecting them though the ordinary processes of law would be cumbrous and futile.

30.26 We believe that industrial regulation would be far from one-way traffic. When an agreement is negotiated to regulate the rates and conditions of owner-drivers, the settlement has clear advantages not only for the owner-drivers concerned but often also for the prime contractors who engage them.

30.27 These then are our basic reasons for recommending some form of industrial regulation for owner-drivers with one vehicle who are not themselves employers or in the common carrier class. We think they outweigh the views which we have set out earlier (ch. 12 passim) by the employers' organizations based on the philosophy that an owner-driver is an independent businessman or co-adventurer who has chosen to take his chance in a sphere of independent contract and should not be mollycoddled through extraneous control by industrial tribunals unless his contract is so unfair, harsh or unconscionable as to attract the Commission's jurisdiction under s 88F.

...

In essence he has proved to be in section after section in the Inquiry more closely akin for industrial purposes to an employee than to an employer, entrepreneur or independent businessman.

> 30.29 Experience had shown many of them that the mantle of the independent businessman was ill-fitting and clearly they found their true parallel in the employee category. Owning a truck soon fades as a badge of independence where an industry uses it only to the extent necessary to meet its fluctuating needs and at the same time requires the owner to drive and obey instructions much like an employee.

6. These observations have been found to be as salient in a contemporary context as they were 40 years ago,[10] and owner-drivers' position of vulnerability and dependency has been found to still prevail in the New South Wales transport industry. The industry is characterised by a four-pronged contracting chain. At the head of the chain are head consignors – companies like Coles and Woolworths with extensive transport needs.[11] These companies then contract out their transport needs to consignors – large transport companies like Linfox, Toll and TNT – who use their own labour force to perform their contractual obligations or contract out their obligations to smaller transport operators, who in turn contract out work to owner-drivers.[12] This chain of sub-contracting allows and encourages head consignors and consignors to contract on a cost-competitive basis.[13] The chain has been found by the IRC to foster undercutting at each successive level as parties strive to win work, with the market power of actors in the chain decreasing at each step.[14] Owner-drivers, at the bottom of the chain, encumbered by a capital asset that requires constant servicing, have been found to have minimal bargaining power.[15]

7. Consequent upon their lack of market power, owner-drivers regularly endure inadequate pay rates,[16] which fail to compensate for labour costs, provide an adequate return on capital or cover costs associated with running a vehicle, such as fuel and repair and maintenance.[17] The National Transport Commission ('NTC'), in a recent report, concluded that the vulnerable situation of owner-drivers entailed that they had little scope to refuse un-remunerative jobs.[18] This in turn was been found to undermine the capacity of owner-drivers to perform work in a manner safe to themselves and other members of the road travelling public.[19] The NTC and IRC have found that owner-drivers regularly experience fatigue (being forced to work excessive hours to garner sufficient income to service their capital debt), use illicit drugs to combat such fatigue, breach of speeding laws to meet trip based payment systems and fail to comply with maximum driving hours and minimum rest laws.[20]

8. The vulnerable situation of owner-drivers impels a system of industrial regulation that is cognisant of and responsive to their vulnerable position in the labour market. Such a system is, in the Society's submission, provided by Chapter 6 of the *Industrial Relations Act.* It is thus the Society's submission that any legislative action that undermines, or detracts from such system is to be avoided at all costs. Such undermining and detraction would follow, in the Society's view, if the expertise of IRC Judges and Commissioners who have had extensive

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[10] *Redundancy Determination,* above n 8, (at [280]).
[11] *Transport Industry – Mutual Responsibility for Road Safety (State) Award and Contract Determination (No. 2) Re* (2006) NSWIRComm 328 (at [11]), (hereafter *Mutual Responsibility Case*).
[12] Ibid., (at [11]).
[13] National Transport Commission, *Safe Payments: Addressing the Underlying Causes of Unsafe Practices in the Road Transport Industry* (Melbourne: NTC, 2008) at 24, (hereafter *NTC Report*).
[14] Ibid., at 23.
[15] Ibid., at 44.
[16] *R v Randall John Harm* (District Court of New South Wales, Graham J, 26 August 2005, unreported).
[17] Industrial Relations Victoria, *Report of Inquiry, Owner Drivers and Forestry Contractors,* (Melbourne: VICGP, 2005) at 27 (hereafter *Victorian Report*).
[18] *NTC Report,* above at n 13, at 17.
[19] *NTC Report,* above n 13, at 5.
[20] Ibid., at 14.

experience in this specialised jurisdiction are not retained to administer contract of carriage matters in any new or revamped tribunal structure.

9. The central features of Chapter 6 may be summarised as follows: Chapter 6 provides for the making of contract determinations, which law down minimum terms and conditions applicable to owner-drivers working in particular sub-industries of the NSW road transport industry.[21] Such determinations create enforceable minimum rates that take account of: owner-drivers' running costs (including fuel, repairs and maintenance and tyres), depreciation on their capital asset (their truck/car/utility/bicycle), servicing debt on their capital asset, registration and insurances, and the minimum award wage of an employee performing similar work.[22] Contract determinations operate to take owner-driver rates out of competition and forestall a race to the bottom in owner-drivers rates of pay. Importantly, Chapter 6 explicitly envisages determinations being dynamic. Determinations have been made by reference to categories of owner-drivers such as those who cart cars[23] and those who cart quarried materials.[24] Owner-drivers operating in discrete sectors of the industry often have different types of vehicles with different capital and running costs, which determinations reflect.[25]

10. Section 320 of the *Industrial Relations Act* also allows determinations to be varied or rescinded in line with changes in the industry that affect the relevance of current rates.[26] In 2008, for example, in the context of an exponentially increasing fuel price, due to a precipitous geo-political situation in the Middle East and a substantial increase in demand for fuel by countries such as China, the majority of industry contract determinations were varied, by consent, to allow parties to apply to adjust rates on a monthly basis to correspond with fuel prices.[27] Such a dynamic system is also advantageous for principal contractors, as it allows the regular adjustment of rates so that principals are not 'overcompensating' owner-drivers.

11. In addition to creating a minimum safety net, Chapter 6 also allows parties to negotiate collective contract agreements above the minimum rates established by determinations.[28] In this sense, Chapter 6 fosters and encourages collective, enterprise and business specific, bargaining. Determinations therefore operate as a base, like an award, upon which enterprise bargaining can occur.

12. Taking account of the vulnerable situation of owner-drivers, s 314 also allows for the NSWIRC to reinstate terminated contracts of carriage in circumstances analogous to statutory unfair dismissal for employees.[29]

13. Additionally, provisions inserted into Chapter 6 by the Greiner Liberal government in the early 1990's allow for owner-drivers who pay a premium (known in the industry as 'goodwill') to a former owner-driver to perform a particular contract to receive compensation if the contract is terminated by the principal contractor in circumstances of unfairness.[30] The

[21] *IRA*, above n 1, s313 and s317.
[22] See for example *Transport Industry – General Carriers Contract Determination* [286 IG 400] and *Transport Industry – Car Carriers (NSW) Contract Determination* [321 IG 264].
[23] *Transport Industry – Car Carriers (NSW) Contract Determination* [321 IG 264] .
[24] *Transport Industry – Quarried Materials Carriers Contract Determination* [271 IG 78].
[25] *NTC Report*, above n 13, at 49.
[26] *Industrial Relations Act*, above n3, s320.
[27] *Transport Industry – Concrete Haulage Contract Determination* [367 IG 417], *Transport Industry – Concrete Haulage – Mini Trucks Contract Determination* [367 IG 415], *Transport Industry – Courier and Taxi Truck Contract Determination* [367 IG 1883], *Transport Industry – Excavated Materials Contract Determination* [367 IG 419], *Transport Industry – General Carriers Contract Determination* [367 IG 422], *Transport Industry – Quarried Materials Carriers Contract Determination* [367 IG 433].
[28] *IRA*, above n 1, Part 3 of Chapter 6.
[29] Ibid., s314. See for example *K-Dan Pty Ltd v Downer EDI Works Pty Ltd* [2009] NSWIRComm 1020.
[30] *IRA*, above n 1, ss 345-355.

Contract of Carriage Tribunal, which is a tribunal within the IRC, is established to oversee this particular jurisdiction.[31]

14. Chapter 6 thus facilitates the creation of a floor of industry wide minimum standards that take owner-driver remuneration out of competition, allows collective bargaining above such minima and provides for the reinstatement of terminated owner-drivers in circumstances of unfairness. Suchlike provisions directly address the structural imbalance in bargaining power between owner-drivers and principal contractors. Contract determinations operate to ensure that owner-drivers receive rates commensurate to the cost of servicing their vehicle and are not compelled to undertake unsafe driving practices merely to make ends meet.

**The Society's view on option 2A**

15. The Society notes the Law Society's embrace of option 2A. The Society rejects option 2A as the most apposite option. The option includes establishing an employment list in the Supreme Court. This aspect of the option is dealt with in the below supplementary submissions about general employment matters being vested in the Industrial Court. The Society fears that option 2A may result in the parring back the IRC's functions or for the dilution of these functions and is of the opinion that the specialist jurisdictions exercised by the IRC and the specialised knowledge and expertise of its members would be best retained and utilised by reposing disciplinary jurisdictions in a 'beefed-up' IRC or Industrial Court and vesting a general employment jurisdiction in the Industrial Court. The Society does not share the Law Society's ostensible view that the disciplinary jurisdiction ought to be kept separate from the industrial jurisdiction. As noted in the Society's initial submissions, the IRC and Industrial Court have a wealth of experience dealing with qualitatively similar 'public policy' and 'professional supervisory' issues in the exercise of their unfair dismissal and disciplinary jurisdictions over public sector employees such as teachers, police officers and state rail authority employees. The Society's preferred option is for the IRC's jurisdiction to be expanded to encompass such matters, as outlined in its original submission. Failing that, the Society believes option 1 to be preferable.

**The Society's view of the operation of the Workers Compensation Commission**

16. The Society is of the view that the Workers Compensation Commission is operating efficiently and effectively. The process adopted by the Commission in regards to applications is expeditious and the focus on conciliation by a Commission arbitrator is an efficacious means by which disputes are resolved without the resort to arbitration.

17. The Society is however concerned as to the costs regime that operates in respect of lawyers who appear on behalf of applicants. The prevailing costs regime, in the Society's view, discourages more competent practitioners from representing applicants, by substantially limiting the amount of costs recoverable by applicant lawyers in the event an applicant's claim is successful. The Society believes that this regime often entails that an equality of arms is not present in such disputes, given the financial disincentives for lawyers to represent applicants.

18. The Society is also of the view that given the medical nature of disputes in the Commission, it may be a useful reform to enable qualified medical practitioners to adjudicate such disputes with legal practitioners.

**General employment law matters being vested in the Commission in Court Session**

[31] Ibid.

19. As outlined in the Society's original written submissions and elaborated on in oral submissions, a means to increase the workload of the Commissioner in Court Session ('Industrial Court') would be to repose exclusive jurisdiction in the Industrial Court over general employment law matters. The Industrial Court currently has expertise in dealing with determining individual private rights in an employment context, in the exercise of its unfair contracts and enforcement jurisdictions and in administering disciplinary type matters under the *Police Act 1990.*

20. Such a reform would, in the Society's submission have manifold benefits. It would increase the workload of the Industrial Court, and, more importantly, vest all employment and industrial type matters in a single body. This would ensure that the expertise of Industrial Court members in such matters is able to be brought to bear, instead of leaving such matters to be dealt with in generalist jurisdictions such as the Local and District Courts. A further benefit of filtering general employment matters through the Industrial Court would be that the conciliation process, mandated by the *Industrial Relations Act*, would be applied to such disputes. This process, conducted by judges with specialised knowledge of employment and industrial matters, encourages parties to settle matters, potentially obviating the need for resort to expensive litigation. Currently, only claims filed in the small claims division of the Local Court are subject to a mandatory requirement that they be first dealt with conciliation/mediation.

21. As noted in the Society's original submission, Industrial Court judges are judges of a superior court of record and if the Industrial Court is abolished, they must be appointed to a court of equivalent status, namely the Land and Environment Court or the Supreme Court. The Society notes submissions and an options for reform proffered that propose appointing Industrial Court judges to the Supreme Court to administer an 'employment list'. Such a proposal is misconceived to the extent that the Supreme Court does not deal with a great many employment related matters, being limited generally to restraint of trade cases, breach of fiduciary duty by employee matters, and breach of employment matters where substantial damages are at stake. It would seem to follow from the fact that there has been no outcry by the Supreme Court of an under-resourcing of judicial members to deal with such matters that appointment of Industrial Court judges to the Supreme Court for the purposes of administering any 'employment list', would most probably result in their under-utilisation. In the Society's view, reposing jurisdiction in the Industrial Court to deal with all manner of employment matters (including those dealt with the Local, District and Supreme Courts) would significantly increase the workload of the Industrial Court, thus achieving efficiencies and cost savings for taxpayers.

22. Under the umbrella of 'general employment matters' could fall: breach of employment contract cases, restraint of trade matters, industrial tort and employment related tortious matters (such as conspiracy to induce breach of contract), and breach of fiduciary duties by employees cases. A specific amendment to the *Industrial Relations Act* would be required to vest jurisdiction over such matters in the Industrial Court. Currently, the Industrial Court's jurisdiction is limited to matters delineated by section 153 of that Act. Corresponding amendments to the *Civil Procedure Act* 2005 (NSW) and/or the Uniform Civil Procedure Rules 2005 (NSW) would be required to determine that such matters were dealt with by the Industrial Court. An amendment providing the Industrial Court with power to grant interim and interlocutory injunctions would also be required to ensure the Industrial Court could grant injunctory relief in such matters where necessary. An amendment providing that the Industrial Court was a court of law and equity would probably also be sufficient to allow the Court to grant appropriate relief in such cases.

23. During the Society's oral submissions to the Committee, an inquiry was made by a member of the Committee as to whether such jurisdiction could arise as a result of the associated or accrued jurisdiction of the Industrial Court with respect to unfair contracts or the enforcement of moneys owing under industrial instruments. Use of the concepts of 'associated' and 'accrued' jurisdiction is not usually embraced in a state jurisdictional contexts. These concepts pertain to the jurisdiction of federal courts, specifically courts of general jurisdiction like the Federal Court and Federal Magistrates Courts. These courts are able to resolve disputes, arising from matters conducted in their original jurisdiction, in what is called their 'accrued jurisdiction', arising out of a common set of transactions and facts which amount, in effect, to a single justiciable controversy. The 'associated jurisdiction' of these courts is created by specific legislative provisions, which give federal courts jurisdiction with respect to 'federal matters' not otherwise within their jurisdiction that are 'associated' with their original jurisdiction. If legislation was passed allowing the Industrial Court power to deal with all matters arising from a common substratum of fact in regards to its current limited jurisdiction, this could allow the Industrial Court to, for instance, deal with the breach of contract claim whilst adjudicating a relief from victimisation claim under sections 210 and 213. Such a provision would, however, be of limited utility in beefing up the workload of the Industrial Court and would not have the effect of turning the Industrial Court into a general employment law Court. A breach of contract claim could only arise, for example, if it arose out of a breach of industrial instrument claim. It would be preferable and simpler to explicitly invest the Industrial Court with jurisdiction in relation to general employment law matters than to rely on some sort of associated type jurisdiction being given to the Court.

**Disputes under s 146B of the *Industrial Relations Act***

24. The Society regrets to inform the Committee that Fair Work Australia does not have readily available statistics as to the number of parties to federal enterprise agreements that have elected to utilise the IRC as a conciliator and arbitrator of disputes arising under such agreements. The Society reiterates its former submission that this is an increasing prevalent jurisdiction and important source of work for the IRC. The fact that industrial parties have elected to choose the IRC to resolve such disputes is reflective of the high esteem in which the IRC is held by industrial parties.