

# Present at the Creation: The Origins of the Australian System of Superannuation

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**Publication Date:**

2014

**DOI:**

<https://doi.org/10.26190/unsworks/17065>

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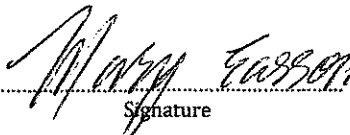
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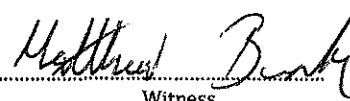
The thesis explores the origins and development of the Australian system of superannuation, from 1983 to the mid-1990s, during the terms of the Hawke and Keating Labor Governments, and the Accords between those governments and the Australian Council of Trade Unions (ACTU), on behalf of the Australian union movement. Prior to 1983, access to superannuation was largely confined to male managerial and professional employees and was further limited in terms of eligibility, vesting and portability. In the 1970s unions began to exploit limited power in particular enterprises and industries to pursue superannuation as deferred income. The three tier Australian system evolves from this start: (i) mandatory contributions under legislation; (ii) employee supplements to retirement savings; and, (iii) a social security safety net, the universal age pension entitlement. Relentlessly pursued by the unions, generalised by ACTU Secretary Bill Kelty, from Accord Mark I in 1983, and its subsequent iterations, superannuation became an industrial right. It may never have occurred but for the leadership of Prime Minister Bob Hawke and particularly his Treasurer, later Prime Minister, Paul Keating. The circumstances of the origin of Australia's system of compulsory superannuation were unique. A question explored and answered in the thesis is whether its origins and development were deliberate or largely accidental. The development of superannuation savings as a means of curtailing direct inflation through wages growth is also evaluated.

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**Present at the Creation:**

**The Origins of the Australian System of Superannuation**

– Mary Easson

A Thesis for a Master of Philosophy

For Michael, Louise and Amanda who, when the need was greatest, proved inspiring.

“Thoughts are but dreams till their effects are tried.”

- William Shakespeare - *The Rape of Lucrece*

## Abstract:

The thesis explores the origins and development of the Australian system of superannuation, from 1983 to the mid-1990s, during the terms of the Hawke and Keating Labor Governments, and the Accords between those governments and the Australian Council of Trade Unions (ACTU), on behalf of the Australian union movement. Prior to 1983, access to superannuation was largely confined to male managerial and professional employees and was further limited in terms of eligibility, vesting and portability. In the 1970s unions began to exploit limited power in particular enterprises and industries to pursue superannuation as deferred income. The three tier Australian system evolves from this start: (i) mandatory contributions under legislation; (ii) employee supplements to retirement savings; and, (iii) a social security safety net, the universal age pension entitlement. Relentlessly pursued by the unions, generalised by ACTU Secretary Bill Kelty, from Accord Mark I in 1983, and its subsequent iterations, superannuation became an industrial right. It may never have occurred but for the leadership of Prime Minister Bob Hawke and particularly his Treasurer, later Prime Minister, Paul Keating. The circumstances of the origin of Australia's system of compulsory superannuation were unique. A question explored and answered in the thesis is whether its origins and development were deliberate or largely accidental. The development of superannuation savings as a means of curtailing direct inflation through wages growth is also evaluated.



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## Abbreviations

ABLF	Australian Builders' Labourers' Federation
ABS	Australian Bureau of Statistics
AC	Companion of the Order of Australia
ACCI	Australian Confederation of Commerce and Industry
ACM	Australian Chamber of Manufacturers
ACSPA	Australian Council of Salaried and Professional Associations
ACTU	Australian Council of Trade Union
ADF	Approved Deposit Fund
AEU	Amalgamated Engineers Association
AFEI	Australian Federation of Employers and Industry
AFCC	Australian Federation of Construction Contractors
AFR	Australian Financial Review
AGEST	Australian Government Employees Superannuation Trust
AHA	Australian Hotels Association
AiG	Australian Industry Group
AIRC	Australian Industrial Relations Commission
ALLA	Australian Labour Law Association
ALP	Australian Labor Party
AM	Member of the Order of Australia
AMIEU	Australasian Meat Industry Employees' Union
AMWU	Amalgamated Metal Workers' Union
AMWU	Amalgamated Manufacturing Workers' Union.
AMWSU	Amalgamated Metal Workers' and Shipwrights' Union
ANU	Australian National University
AO	Officer of the Order of Australia
APRA	Australian Prudential Regulatory Authority
APS	Australian Public Service
ARF	Australian Retirement Fund
ASE	Australasian Society of Engineers
ASFA	Association of Superannuation Funds of Australia
ASIC	Australian Securities Investment Commission
ASSLH	Australian Society for the Study of Labour History
ASU	Australian Services Union
ATF	Australian Teachers' Federation
ATO	Australian Tax Office
AUST	Allied Unions Superannuation Trust
AWOTE	Average Weekly Ordinary Time Earnings
AWU	Australian Workers Union
BCA	Business Council of Australia
BIRP	Building Industry Recovery Procedures
BLs	builders' labourers
BLF	Builders' Labourers' Federation
BUSS	Building Unions' Superannuation Scheme
BWIU	Building Workers' Industrial Union of Australia
CAGEO	Council of Australian Government Employee Organisations
CAI	Confederation of Australian Industry
CATU	Clothing and Allied Trades Union
CBUS	Construction and Building Unions Superannuation
CEPU	Communication Electrical and Plumbing Union
CH	Companion of Honour
CLR	Commonwealth Law Reports
CPA	Communist Party of Australia
CPA (M-L)	Communist Party of Australia, Marxist Leninist
CPI	Consumer Price Index
DB	defined benefit
DC	defined contribution
DLP	Democratic Labor Party
EPAC	Economic Planning Advisory Commission
ETU	Electrical Trades Union
FACSIA	Family and Community Services and Indigenous Affairs
FCU	Federated Clerks Union

FEDFA	Federated Engine Drivers and Firemen's Association of Australia
FIA	Federated Ironworkers' Association
FLAIEU	Federated Liquor and Allied Industries Employees Union
FMWU	Federated Miscellaneous Workers' Union of Australia
FOFA	Future of Financial Advice
FSPU	Federated Storemen and Packers' Union
FSR	Financial Services Reform (Act)
GCL	Grand Companion of the Order of Logohu
GFC	Global Financial Crisis (since 2008)
HESTA	Health Employees Superannuation Trust of Australia
IAG	Insurance Australia Group
IFM	Industry Funds Management
IFS	Industry Funds Services
ILO	International Labour Organisation
IRC	Industrial Relations Commission
JUST	Journalist Union Super Fund
KG	Knight of the Order of the Garter
LHMU	Liquor, Hospitality and Miscellaneous Union
LSE	London School of Economics and Political Science
LUCRF	Labour Union Co-operative Retirement Fund
MBA	Master Builders' Association
MBE	Member of the British Empire
MBFA	Master Builders' Federation of Australia
ME	Members' Equity
MIES	Meat Industry Employees Superannuation
MOA	Municipal Officers' Association
MTAA	Motor Traders Association of Australia
MTIA	Metal Trades Industry Association
MUA	Maritime Union of Australia
MUST	Manufacturing Unions' Superannuation Trust
NATSEM	National Centre for Social and Economic Modelling
NCC	National Civic Council
NLA	National Library of Australia
NRMA	National Roads and Motorists Association
NSW	New South Wales
NUW	Nation Union of Workers
OECD	Organisation for Economic Co-operation and Development
OH&S	Occupational Health and Safety
PAYG	Pay As You Go
PC	Member of the Privy Council
PGEU	Plumbers and Gasfitters Employees Union of Australia
PPP	Private Public Partnership
PSA	Prices Surveillance Authority
RBL	Reasonable Benefits Level
REST	Retail Employees Superannuation Trust
RSE	Registrable Superannuation Entity
RTA	Retail Traders' Association
RTA	Retirement Trust of Australia
SDA & SDAEA	Shop, Distributive and Allied Employees Association
SEC	State Electricity Commission
SG	Superannuation Guarantee
SGL	Superannuation Guarantee Levy
SIS	Superannuation Industry Supervision (Act)
SMSF	Self-Managed Superannuation Fund
SPA	Socialist Party of Australia
STA	Superannuation Trust of Australia
SUA	Seamen's Union of Australia
TAFE	Technical and Further Education
TCF	Textile Clothing and Footwear
TDC	Trade Development Council
TDCS	Trade Development Council Secretariat
TWU	Transport Workers Union
UK	The United Kingdom
UNE	University of New England
UNSW	University of NSW
WWF	Waterside Workers' Federation

## Foreword

I was a member of Paul Keating's Government from 1993 to 1996. Thus I was elected a year after the historic Superannuation (SGC) legislation (1992) that ensured basic, legislative minimum standards for superannuation, including the 9 % minimum guarantee. It was an amazing, thrilling adventure to be part of Paul Keating's Government. I had known him since I became President of Victorian Young Labor in 1976. I saw that the development of superannuation, one of Labor's great achievements, was vitally due to his leadership and others I knew from the Victorian union movement, particularly Bill Kelty, Simon Crean and Greg Sword.

After I recovered from a serious illness a couple of years ago, I decided to write something permanent on the issue of superannuation. It seemed important to get the stories down before those present at the creation of the modern system passed on.

I am extremely grateful for the incredibly interesting insights yielded through interviews with the main protagonists. Most of them I've known for decades and they all shared ideas and insights which, so far as I can see, were mostly free of egotistic claims for 'my place in history'.

I've found out things I never knew. Kelty and Keating, from different directions, drove the Labor movement to excel in policy development like never before. The modern superannuation system was crafted through their combined efforts.

I came to realise how close in the early days all those reforms were to perishing. Indeed, Paul Keating's winning the 'unloseable election'<sup>1</sup> of 1993, consolidated the gains that had been freshly won in awards and in the SGC legislation. Had Labor lost in 1993, the system might never have evolved to what we see today. That victory was therefore more significant than many of us realised at the time.

My purpose has been to write a credible, academic study. In doing so, I wanted to understand a period and key events in the 1980s and early 1990s, when the Labor movement had a tremendous and positive impact that changed Australia.

I am very grateful for Professor Hazel Bateman for her exacting and helpful supervision; thanks are also due to other members of Faculty, including Associate Professor John Evans, who first encouraged me on this journey. My husband, Michael, has offered advice and suggestions here and there. My friend Catherine Harding read through the manuscript with an eager eye for grammatical and flow-of-argument slips, and occasionally saved the day, it seems. But I am entirely responsible for what follows. Disraeli was reputed to have said, "if you like sausages, avoid the kitchen." The recipe for the creation of superannuation had never been written down. But I've had to go to the untidy parts of the making of the Australian system to understand what really happened. Now we know, plate and kitchen.

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<sup>1</sup> It has now passed into folklore that in 1993, starting well ahead in the opinion polls, that the then Liberal Opposition Leader faced winning an unloseable election. But Labor won, including the seat of Lowe in Sydney, where I defeated Dr Bob Woods, the sitting member.

## 1. Introduction: Filling The Gap

### Background

There has not been a comprehensive, academic history of the trade union and industrial origins of Australia's superannuation system, in the early 1980s. This thesis fills the gap.

This thesis argues that the origins and development of the Australian superannuation system, though partly accidental, was brilliantly and vigorously pursued by the union movement seizing opportunities arising from the events and circumstances associated with industrial relations thirty years ago and the then Government's desire, through the Wages and Prices Accord with the unions, to curtail inflation by moderating wages growth. There is great pride in the achievement. Labor luminary Simon Crean says simply, "we have driven savings"<sup>2</sup> – pointing to the fact that Australia's huge superannuation savings pool was spurred by political and industrial labour working side by side.<sup>3</sup> He says that national, portable, superannuation, along with Medicare and the minimum wage were important "safety nets,"<sup>4</sup> that represent among the greatest contributions of the Australian labour movement to civilising capitalism.<sup>5</sup> To the extent that such reforms represent labourism,<sup>6</sup> they can be said to exemplify the Australian labour movement at its best.

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<sup>2</sup> Simon Crean Interview, May 2013.

<sup>3</sup> In the thesis, consistent with common usage in Australia, 'labour movement' is spelt with a 'u', and Labor party without.

<sup>4</sup> Simon Crean Interview, May 2013.

<sup>5</sup> This is to appropriate a phrase by Bede Nairn. See, Nairn, Bede (1973) *Civilising Capitalism, The Beginnings of the Australian Labor Party*, Australian National University Press, Canberra.

<sup>6</sup> For a discussion of the ideas and thinking characteristic of Labor parties, see, Irving, Terry (1994) 'Labourism: A Political Genealogy', *Labour History*, No. 66, May, pp. 1-13

The Australian system of superannuation provision uniquely emerged in the early-1980s and enabled Australia to develop a national, comprehensive superannuation model, with legislative effect in 1992.<sup>7</sup>

With superannuation savings currently approximately AUD 1.7 trillion and likely to reach a further 2 trillion dollars over the next decade,<sup>8</sup> there has been much celebration of the 'Australian model', and even discussion of its transferability to other nations. But there are doubts about the transferability - because the Australian experience emerged in peculiar circumstances and, as this thesis shows, perhaps in an unrepeatable environment. It might be said that, "Historians will be shocked to realise that universal superannuation had its origins in centralised wage fixation."<sup>9</sup> This thesis shows that it was more than that; the fight for superannuation justice, as the unions saw it, was intense, arduous and never certain. It was far from merely applying a terrific idea in some logical sequencing. There were bitter disputes before a series of hard-won victories. National, centralised wage tribunals were at once mid-wives to early change and potential destroyers of a fragile beginning. It is a myth to think that there was a simple process of applying ideas from a national wage bargain to diffusion across the board. There was nothing simple about what happened. Throughout the 1980s, the policy and strategic environment relevant to superannuation, and the range of potential outcomes, was dynamic, unpredictable and creative. As Garry Weaven put matters, "I

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<sup>7</sup> Cf. Bateman, Hazel, & Piggott, John (1998) 'Mandatory Retirement Saving in Australia', *Annals of Public and Cooperative Economics*, Vol. 69, No. 4, December, pp. 547-569; and, Bateman, H., & Piggott, J. (1999) 'Mandating Retirement Provision: the Australian Experience', *The Geneva Papers on Risk and Insurance*, Vol. 24, pp. 95-114.

<sup>8</sup> Rice Warner (2012) 'Superannuation Market Projections Report 2012', Sydney.

<sup>9</sup> Kelly, Paul (2011) *The March of Patriots, The Struggle for Modern Australia*, Melbourne University Press, Carlton (first published in 2009, updated in 2011), p. 145.

think that was just an accumulation of the learnings over the years that the labour movement had pieced together. Mainly though, it's about what your motivation is. What are you trying to do?"<sup>10</sup> That question is answered by this thesis.

## **Superannuation as a Major Industrial Issue**

Superannuation became a major industrial issue in the mid-1970s to early 1980s for seven main reasons.

First, with the end of full employment, complacency associated with superannuation eroded, as the lucky country's run was coming to an end. Demographic pressures meant that Australians were living for longer. As Paul Keating once stated: "Public policy has to keep up with changing demography, and changing preferences."<sup>11</sup> Fear of being left destitute in retirement was becoming a major community concern. The affordability of the public pension system was questioned. In the early 1970s, both in the United Kingdom, through UK Labour Politician Richard Crossman,<sup>12</sup> and in Australia, with the Whitlam Government's commissioning of the Hancock Review,<sup>13</sup> the need for supplementary savings, possibly through a national superannuation scheme, were on the political agenda. Gradually, the idea of union and industry schemes, as part of a national system, emerged such that, "For the Labor Party this involved an intellectual transition from retirement welfarism to a compulsory self-provision through the share-

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<sup>10</sup> Garry Weaven Interview, March 2013.

<sup>11</sup> Keating, Paul (1991) 'A Retirement Incomes Policy', Address to the Australian Graduate School of Management, July 25, typescript, p. 2.

<sup>12</sup> See biographical details in Appendix on Biographies of Key Persons Mentioned in the Thesis.

<sup>13</sup> *Ibid.* for details on Professor Keith Hancock whose mammoth review on retirement policy went from 1973 to 1976.



market.”<sup>14</sup> Actually there was the moving forward from narrow-cast welfarism, but not its abandonment, nor self-provision entirely through the share market. Simultaneously, as Clark suggests, “Those countries notionally affiliated with Anglo-American capitalism have provided rather meagre social security benefits, encouraging workplace pension arrangements and private savings to make up the difference.”<sup>15</sup>

Second, unions saw that the then existing system was rigged in favour of managerial workers and professionals, to the detriment of many, such as women, blue collar workers, and part-time workers in industries with high turnover. Bill Kelty comments, “[The system meant] superannuation was the subsidy from essentially lower paid workers with shorter service to higher-paid people with longer service. Consequently, in the status quo scenario, poorer people were basically worse off and women in particular, hardly had anything, even if they had access to it, hardly got any of it.”<sup>16</sup>

Generally, the unions argued that:

Existing superannuation schemes, which have grown up in the main on a company-by-company basis, contain many inequities and anomalies. The union movement has been concerned that many schemes do not provide adequate information and are insufficiently accountable to members. The *ad hoc* development of superannuation has meant a general lack of security of rights, poor financial returns, and costly and inadequate administration. In some cases companies have used superannuation funds in takeover fights or to provide loan-

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<sup>14</sup> Kelly, Paul (2011) *The March of Patriots, The Struggle for Modern Australia*, Loc. Cit., p. 144.

<sup>15</sup> Clark, Gordon L. (2012) ‘From Corporatism to Public Utilities: Workplace Pensions in the 21<sup>st</sup> Century’, *Geographical Research*, Vol. 50, No. 1, February, p. 32.

<sup>16</sup> Bill Kelty Interview, March 2013. The disadvantaged position of women workers was outlined in: Owen, Mary (1984) ‘Superannuation Was Not Meant For Women’, *The Australian Quarterly*, Vol. 56, No. 4, Summer, pp. 363-373. Owen was at that time ACTU Social Welfare Officer.

backs to the company. Of particular concern to the union movement are four dominant/features of existing superannuation provisions; the membership discrimination, the inadequate vesting rights, the lack of portability, and the scant regard given to the preservation of entitlements. Unions are also concerned to ensure that the enforced savings resulting from the expansion of superannuation entitlements provides a local source of investment funding.<sup>17</sup>

Particular campaigns, in stevedoring, the skin and hide industry, printers and meat workers in the 1970s, alerted the entire union movement of the need to address these issues of inequity. If no national scheme was immediately on offer, then campaigns in particular companies and industries were on the agenda. Even in the public sector, it was noted that some 70 per cent of federal public servants left their superannuation scheme with only their own contributions and the interest that had accrued on them.<sup>18</sup> For Bill Kelty, "An essential industrial catalyst was Charlie Fitzgibbon when he decided that among a range of things that he would seek to do for waterside workers was to establish for them industrially as part of a process of adjusting to changing containerisation - using their bargaining power and having a permanent workforce - was to establish superannuation."<sup>19</sup> The development of superannuation was an evolution. Weaven comments, "I don't think anyone has sat down and said 'What is the optimal design for the end game?' I don't think so."<sup>20</sup> But this viewpoint is to discount the very strong strategic focus of Kelty and Keating. They acted decisively at key moments. Their agenda was to pursue a fairer, well-funded, robust system. If not

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<sup>17</sup> Plowman, David & Weavan, Garry (1989) 'Unions and Superannuation', in Ford, Bill, and Plowman, David (1989), editors, *Australian Unions. An Industrial Relations Perspective*, Second Edition, Macmillan Company of Australia, Crows Nest [Sydney], pp. 253-254.

<sup>18</sup> Weavan, Garry (1985) 'Superannuation: The Great Leap Forward', mimeo, ACTU, Melbourne; cited in Plowman, David & Weavan, Garry (1989) 'Unions and Superannuation', *Loc. Cit.*, p. 255.

<sup>19</sup> Bill Kelty Interview, March 2013.

<sup>20</sup> Garry Weaven Interview, March 2013.

everything was clear from the start, as nearly all the main protagonists now recognise, it is still true to say, as Kelty comments: “To suggest superannuation started with no clear strategy does not make sense. For superannuation to work it had to reach [at least] 9% so why start on 3% if that was not the clear message.”<sup>21</sup> Kelty says that he saw the opportunity to create a significant union-inspired superannuation presence from the start.

Third, several strong unions, notably the Waterside Workers (WWF), the Pulp and Paper Workers’, the Storemen and Packers (FSPU) and others aggressively campaigned for ‘superannuation justice’, creating new schemes, which became potential models for other unions to emulate. The development by the FSPU of the Labour Union Cooperative Retirement Fund (LUCRF) scheme, in particular, was catalytic, causing unions to rethink their roles. Instead of amending and improving inadequate, existing schemes, the demand developed for an entirely new model. This was largely due to dissatisfaction with a system beyond easy amendment. Unions wanted to create a new system.

Fourth, within the union movement, political realignments and new personnel meant that the ACTU became more influential, as there were also major shifts in power relationships within the ACTU and unions generally. Although ACTU President Bob Hawke (ACTU President, 1969 to 1980) was known as a consensus leader,<sup>22</sup> the leadership of the major unions was divided along Cold War lines and other political schisms. As Kelty put matters, “First of all, Hawke goes [in 1980]. Second, Simon [Crean, national Secretary of the FSPU and then ACTU Senior Vice President] and I take a bolder decision than Bob did and said, ‘We will embrace the Left’ - the real left, the communist left and ‘We will embrace the real Right’ - the NCC right. That is, ‘we won’t keep them

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<sup>21</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013.

<sup>22</sup> Cf. D’Alpuget, Blanche (1982) *Robert J. Hawke. A Biography*, Schwartz in conjunction with Lansdowne Press, Sydney.

apart.' I've always got on well with [Laurie] Carmichael [a leader of the Metal Workers' Union] - a member of the Communist Party. I've always got on well with [Pat] Gerathy [Seamen's Union head] - a member of the Socialist Party. I've always got on well with Wally Curran [a left winger from the Meat Workers' Union]. I've always got on well with those old communists, but also got on very well with Jim Maher [head of the Shop Assistants' Union, whose ALP membership lapsed during the 1955 Split]. We've always got on reasonably well with John Maynes [head of the Federated Clerks' Union, and for a long time head of the industrial wing of the right-wing Labor, DLP-leaning, National Civic Council]. So we got on reasonably well with a whole group of people; so we said 'Why don't we try to harness all sides and actually cause people to work together for a change. So we are trying to bring them all together. When that happens, you can go straight to the Accord. During the Accord we couldn't get - Simon and I with Charlie [Fitzgibbon, head of the Waterside Workers' Union and Senior Vice President of the ACTU] - we couldn't get the level of commitment to have superannuation significantly on the agenda.'<sup>23</sup> That was true at first, subject to point seven, below.

Fifth, the personalities of the key players were crucial. Bill Kelty and Garry Weaven had studied economics together at La Trobe University;<sup>24</sup> Crean, Kelty and Sword had all been recruited into the FSPU, by Bill Landeryou. Sword did most of the heavy-duty work of developing and extending the LUCRF scheme across the industries that his union covered. Later Kelty developed the grand strategy and forced it through the unions. Weaven, whatever his differences with Kelty on the strategy and particular tactics, was a brilliant implementer of the industry super dream, particularly in the detailed work

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<sup>23</sup> Bill Kelty Interview, March 2013.

<sup>24</sup> They were in the same year, but not in every class. They were extremely close friends for a very long time.

associated with the creation of various industry funds. On Kelty's drive, Ian Silk says, "It wasn't just visionary, it was incredibly courageous of Kelty because there were so many people in the union movement that said 'This is a load of bullshit!' and he relentlessly pushed it through."<sup>25</sup>

Sixth, there was an intellectual context to what was unfolding. Kelty acknowledges that

[At] the same time I was at university, I'd been lectured by Professor Whitehead<sup>26</sup> and he and I had long discussions about superannuation in terms of wages systems. In fact he wrote a book about wages and he was an advisor to the Liberal Party, an advisor to Conservatives.<sup>27</sup> He had a view about superannuation which, I think, in part came from him and part came from me that was part of the industrial works [and] should be out there to be negotiated. He then put forward the view that what the country should do is to make sure that there was superannuation [coverage]. So, intellectually it [i.e., the idea of extending superannuation coverage] had a base and industrially it had a base.<sup>28</sup>

"So if you're looking for the two catalysts for modern superannuation ...the most important is Fitzgibbon [in] getting us started industrially. [The other is LaTrobe University's Economic Department.] The same university had Ian Court<sup>29</sup> and Garry Weaven and Whitehead."<sup>30</sup> Whitehead, hitherto unnoticed in any account of Australian

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<sup>25</sup> Ian Silk Interview, March 2013.

<sup>26</sup> For an assessment of his thinking and an obituary, see, Davidson, F.G. (1980) 'Donald Whitehead', *The Economic Record*, Vol. 56, Issue 154, September, pp. 281-284.

<sup>27</sup> See references to Whitehead in, D'Alpuget, Blanche (1977) *Mediator. A biography of Sir Richard Kirby*, Melbourne University Press, Carlton.

<sup>28</sup> Bill Kelty Interview, March 2013. See, Donald Henry Whitehead (1973) *Stagflation and Wages Policy in Australia*, Longman, Camberwell [Victoria].

<sup>29</sup> Later an ACTU Industrial Officer.

<sup>30</sup> Bill Kelty Interview, March 2013. And there was also Dr David Morgan, who went on to become Deputy Secretary of the Australian Treasury.

superannuation history, seems to have had a profound impact on Kelty, who went on to say,

We were looking at it because I was involved in doing 'industrial relations' and politics and economics and Professor Whitehead and I developed a very good relationship. He nurtured me and took me from being an ordinary student to a good student. He was a great teacher. So if you are looking at the role of the university nurturing ideas, I think La Trobe University is a catalyst for nurturing industrial superannuation.<sup>31</sup>

In 1977, commenting on a paper by Max Corden, Whitehead advocated:

...a trade-off between reduced direct taxation and a smaller or nil increase in nominal wages. On my estimates, the increased budget deficit would be not merely acceptable but positively beneficial *in such a context*... What is required is medicine that is appropriate rather than merely nasty...<sup>32</sup>

This particular remedy called attention to original ways and means of preventing stagflation. Ironically, Whitehead gave evidence for employers at National Wage Case hearings from the 1960s onwards. But he was also a dynamic, engaging and inspiring intellectual, who greatly influenced Kelty.

Also noteworthy in the development of fresh thinking was the publication of *Australia Reconstructed* (1987), a Report by the Mission Members of the ACTU and the Trade Development Council (TDC), to Western Europe.<sup>33</sup> Members of the 'mission' travelled in 1986 to Sweden, Germany and the United Kingdom, and most were then the leading lights of the union movement drawn from across the political and industrial spectrum.

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<sup>31</sup> Bill Kelty Interview, March 2013.

<sup>32</sup> Whitehead, N.H. (1977) 'Comment', *Economic Papers*, Vol. 56, pp. 37-38, emphasis in the original.

<sup>33</sup> ACTU/TDC Mission to Western Europe (1987) *Australia Reconstructed, A Report by the Mission Members to the ACTU and the TDC*, Australian Government Publishing Service, Canberra.

They looked at the development of what they called 'strategic unionism'. Their report dwelt on the topic of 'Linking Wage Adjustment Decisions to the Investment Decision', suggesting the idea of wage adjustment linked to decisions to invest in particular industries.<sup>34</sup> Although the language of the Report mainly had in mind Government-sponsored investment, the idea of wage restraint in exchange for policy initiatives was firmly planted in the minds of the Australian union leaders. The Report asserted that: "Superannuation, as a deferred wage, has played a central role in those Mission countries committed to collective capital formation. These funds are channeled into domestic productive activity which creates not only current economic stability but builds on infrastructure capable of supporting a socially adequate standard of living. Bringing superannuation funds back from overseas to Australia is crucial to an improvement in domestic investment..."<sup>35</sup> The significance of superannuation investment for nation-building was emphasised, even if somewhat naively. The point is that strategic unionism very much envisaged the development of a national system of superannuation. Although the authors of the Report still clung to the notion that this might mean one national superannuation scheme, alternatives were canvassed, including some of the western European, union-employer schemes. Events back home showed that the unions were impatient for reform. By the mid-1980s, individual industry schemes were beginning to proliferate.

Seventh, partly as a response to wage and price pressures, partly as evidence that a constructive relationship between the unions and a Labor government could be effective and transformative for Australia, the unions committed in February 1983 to a

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<sup>34</sup> In Chapter Two of *Australia Reconstructed*.

<sup>35</sup> *Ibid.*, p. 93. To state that funds would be brought 'back' from Australia could imply a worldview of a primitive autarky. But the thinking behind the document was fluid and the words represented a compromise between contesting views.

Prices and Incomes Accord, effectively a manifesto setting out how an array of policy issues would be developed between the unions and the government. This became a feature of the 1983 election campaign, as Bob Hawke pressed the line about 'Bringing Australia together' through national reconciliation, national recovery, and national reconstruction.<sup>36</sup> The main concerns of the unions were wage indexation, price regulation and the introduction of a national health scheme, Medicare. Superannuation did not feature prominently. As Kelty remembers, in the Accord Mark I, "it was an appendage at the end in which we said - Simon and I - 'We are pretty keen to act on superannuation so we need to put something in... we cannot not mention it'."<sup>37</sup> In Kelty's recollection, "Tom [McDonald] conceded, Laurie [Carmichael] conceded and even Ray Gietzelt [head of the Miscellaneous Workers' Union], who strangely said at the end 'If that's what you want.' So Simon and I, we were the ones that got it into that first Accord."<sup>38</sup>

### **Key Research Questions**

Questions explored in the thesis include: What system of retirement savings previously existed? What were the problems that needed changing that caused particular actors to campaign for superannuation reform? Why was there a break from past practice, rather than incremental change?

To assess this requires some understanding of the superannuation issues manifest in particular industries, particularly those that were pioneering in superannuation policy

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<sup>36</sup> See, Pemberton, Joanne, & Davis, Glyn (1986) 'The Rhetoric of Consensus', *Politics, The Australian Journal of Political Science*, Vol. 21, No. 2, pp. 55-62.

<sup>37</sup> Bill Kelty Interview, March 2013.

<sup>38</sup> *Ibid.* But see the elaboration of the significance of superannuation to the Accord in the next Chapter of this thesis.



development in the 1980s. This, in turn, merits consideration of Australia's unique industrial relations system in that period.

We will consider how particular industry funds came into being – and their precedent value. Not all employers were opposed. How some were won over is discussed, as well as the significance of the Business Council of Australia (BCA) and other employer bodies.

In terms of intellectual influences, the significance of the Australian Reconstructed visit in 1987 to Western Europe to developing union thinking on super will be considered, in the context of the phases of change. We particularly consider what the Accord signified and how it came into prominence on superannuation, as well as the characteristics of the Australian model, including the so-called industry funds.

Relevant to the course of superannuation policy change are points of influence, tension and some defining moments of change. We ask questions about what particular actors thought they and others were doing at the time the Australian system was created, as well as asking 'what was the role of experts (including actuaries and professional firms, including asset consultants)?' Addressed also is the question of who were the key 'decision makers' on superannuation between 1977 and the release of Accord Mark 2 (1985)? Looking backwards it is intriguing to consider whether the early supporters of broad-based superannuation foresaw the impact it would have on the financial sector - including layers of jobs for consultants, investment managers, financial advice, financial planners etc.? This also calls attention to unintended consequences. For example, an interesting topic is whether, as Vince Fitzgerald and others asserted in the late 1980s to early 1990s, that a consequence of compulsory superannuation would be a reduction in

personal savings and not much of an increase, if increase at all, of net savings.<sup>39</sup> The impact on the Australian markets, including the stock markets. Briefly, the potential future implications of the Australian model are considered.

## **Research Method**

In order to tackle the research questions considerable original research was obtained through interviews with key players such as Bill Kelty, Secretary of the Australian Council of Trade Unions (ACTU); Garry Weavan, Assistant Secretary of the ACTU and later a founder of Industry Fund Services (IFS) and the 'industry fund model'; Greg Sword, one time Secretary of the Storemen and Packers' Union (FSPU), later the National Union of Workers (NUW), founder and now Chairman of the Labor Unions' Co-operative Retirement Fund (LUCRF); former Prime Ministers Bob Hawke and Paul Keating; former national building and construction union leader Tom McDonald; and others.<sup>40</sup> The interviews explored a range of questions including:

- What did the main proponents think they were achieving? What were their motivations?
- What were the unintended consequences?
- How was policy adapted and changed? Why?
- Could decision-making have been improved?
- Were the circumstances of the Australian experience unique? In what way?
- The Australian system is sometimes described as three pillars comprising the Age Pension, superannuation and encouragement for private savings. How does superannuation fit within this nexus?

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<sup>39</sup> Events provided them wrong, as discussed at pp. 27f below.

<sup>40</sup> The full list is in Appendix One.

The aim was to find out what the decision-makers and stakeholders around the time of the development of superannuation thought they were doing in promoting or opposing it. A form of open-ended questioning was employed. This methodology is adopted with the intention of avoiding contamination of the subject's response with the researcher's own assumptions or concepts (hypotheses). This method is explained in Appendix 4.

The thesis has considered a vast literature on superannuation with an eye to elucidating the accuracy and adequacy of past accounts. In the context of the debate about the Australian system as unique and complex, the thesis discusses the concept of powerful organisations deciding public policy, over-riding other interests groups.

Choosing a policy direction begs consideration of why certain solutions are chosen? What problem is being 'solved'? What did decision-makers and opponents think they were doing? All such questions raise issues pertinent to political science, management processes, the licensing of particular solutions over others.

The thesis discusses the formation of superannuation policy and priorities, in the context of debates on choosing a particular model and the merits associated with that choice, including arguments about the sustainability of the model.

Therefore the key research questions of the thesis is: 'What were the main factors and characters who forged the modern Australian system of superannuation and retirement income provision, as it emerged in the 1980s onwards?' Does this Australian experience illuminate some of the theoretical issues associated with policy conception, development and implementation, as well as risk management, in superannuation? The significance of the reforms adopted in the 1980s and 1990s, and particularly how and

why the industry funds rose to such prominence, requires a context, i.e., an understanding of what existed previously.

A significant logistical issue was obtaining access to key individuals for interviews and, possibly, copyrighted material. As some 'answers' might be extremely sensitive and, perhaps, including (say, in personal reflections) even controversial and defamatory, with each interviewee, each was written to: (a) setting out the purpose of the research; (b) seeking permission to record; and, (c) sharing transcripts or notes of interviews with the interviewee or sharing quotes that would be attributed to them in the thesis. Every effort was taken to be accurate in any reference to an individual's opinions.

Through a combination of research methods, including historical research and a personal understanding of the Australian industrial relations system, the history of the formation and development of the Australian superannuation system can be comprehensively told for the first time.

### **A Summary of the Position Developed**

The logic of the position developed in this thesis can be summarised as follows: Essentially the modern Australian superannuation system was forged out of the creative opportunism of its founders, principally in the unions and the Labor Government.

The system of Australian industrial relations, as it then stood, was a vital factor. Superannuation was conservatively considered a non-industrial issue until the middle part of the 1980s. Unions were able to exploit a loophole that established the first 3 per cent superannuation schemes and, by 1986/1987, the 3 per cent 'minimums' in awards. Later this was converted into the basis of the Superannuation Guarantee under the

Keating Government in 1992. (Though, to be fair, it was announced by Prime Minister Bob Hawke, while he was still Prime Minister, in 1991).

The political and personal dynamics of a few key players was extremely important, especially in the 1980s. This is particularly true of Bill Kelty, Paul Keating and Bob Hawke, and the backdrop of the Accord. Although victory has a thousand fathers, it is those three - along with others, such as Garry Weaven, Iain Ross, Greg Sword and Simon Crean - who were the authors of the modern Australian system of superannuation. Significant too was the fact that the ACTU leadership was highly economically literate and trained and alert to the potential of what they were doing.

But no one saw how successful the campaign for superannuation justice and the creation of a dynamic part of the Australian savings regime through industry super would be. It is clear, in retrospect, that opponents of industry superannuation, especially in the established institutions, and among the employer advocates, were too complacent and flawed in their positioning on strategy and tactics. Their mistakes enabled the unions to establish the industry schemes and overcome reservations – both from industry generally, and even among their own members. After all, it was not obvious that the industry funds would succeed. Unions, particularly the Teamsters in the United States, did not have a brilliant record in investing money.<sup>41</sup>

A key feature of the Australian system as it emerged, was that the unions and the industry funds co-opted established players to support their initiatives. For example, actuaries, asset consultants, fund administrators, etc. The industry funds have been notably conservative in the exercise of their fiduciary responsibilities, though arguably

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<sup>41</sup> For a brief overview, Holley, William H., Jennings, Kenneth M., & Wolters Roger S. (2011) *The Labor Relations Process*, 10<sup>th</sup> edition, Cengage Learning, Mason [Ohio, United States] pp. 155f.

innovative in their approach to asset allocation. In this sense, as one of the founder administrators of industry super put matters, “The people that really initiated the system - Bill [Kelty] in particular but others like Garry [Weaven] who worked with him - weren’t just introducing a new form of super in the form of industry funds, but they were... I am not sure of the extent to which this was explicit in their minds but they were, in effect, changing the model of the super system that existed at that time.”<sup>42</sup> At that stage, in the early 1980s, superannuation was, by and large, run by vertically integrated financial institutions. So, for example, if a company or individual had their super with AMP, then AMP would usually use AMP investment managers to invest the money. They would use AMP insurance to provide insurance. They would have the money invested with AMP and so on. AMP was a vertical integrated provider. Whereas, with industry super, the view was taken by the union founders, that “...the organisations that have been involved in super for the last 50 or 60 years, or in AMP’s case longer, haven’t served our constituents well, our disposition was to not use them. In any event, whoever we use we will pick ‘best-of-breed’.”<sup>43</sup>

The prudent industry fund behaviour on investment strategy was in contrast with the more radical aims set out in, say, *Australia Reconstructed* (1987), which had grand ideas of super money ‘saving’ and expanding manufacturing industry. The development of the Australian system can be said to be the triumph of pragmatism over radical investment strategies. It is an interesting contrast - the fervour associated with the advocacy of a cause and its eventual, tamed outcome. This seems true in the investment strategies pursued by superannuation funds – prudence caused by a combination of regulatory and market factors. This acknowledges that many funds, despite award entrenchment,

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<sup>42</sup> Ian Silk Interview, March 2013.

<sup>43</sup> *Ibid.*

faced competition from rival offers. Competition led to calls for reduction in management and administration fees and greater transparency.<sup>44</sup> As for regulation, government oversight and standardised reporting added a spotlight, shone on all of the parties in the superannuation sector.

The Australian story is part of the labour movement's historic mission to civilise capitalism. As a result, from the mid-1980s, more liberal provision of portability, vesting and eligibility of benefits became important achievements - including extending the coverage of superannuation to a near universal right for employed Australians.<sup>45</sup>

Some interesting consequences include the consistent, exponential growth in savings through superannuation. This is in contrast to predictions at the time (such as by Vince Fitzgerald) that aggregate national savings would remain relatively constant and would merely in the long term be transferred from bank account savings to super savings.<sup>46</sup> It seems pretty clear that compound returns, and prudent management, have proven this prediction wrong. But the Fitzgerald critique, made in the early days of the development of the Australian system highlights that choices were being made in the development of public policy.

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<sup>44</sup> Cf. Bateman, Hazel (2001) 'Disclosure of Superannuation Fees and Charges', Discussion Paper for AIST, UNSW Centre for Pensions and Superannuation, August, 43 pp, <http://pension.kiev.ua/files/cpsdp200304.pdf>, accessed June 5, 2013; and, Rice, M., & McEwin, I. (2002), 'Superannuation Costs and Competition', Investment and Financial Services Association Limited Ltd, Sydney, at [www.ifs.com.au](http://www.ifs.com.au), accessed June 19, 2013.

<sup>45</sup> Cf. ACTU (2005) History of Super. Melbourne: Australian Council of Trade Unions, [http://www.actu.asn.au/super/about/super\\_history.html](http://www.actu.asn.au/super/about/super_history.html), accessed April 5, 2013; Dunnin, Alex (2008) *A History of Super in Australia*, Rainmaker Information, [http://www.selectingsuper.com.au/\\_2006\\_SSHB\\_History\\_of\\_Super\\_in\\_Australia.html](http://www.selectingsuper.com.au/_2006_SSHB_History_of_Super_in_Australia.html), accessed April 6, 2013; and, Borowski, Allan (2008) 'Back at the Crossroads: The Slippery Fish of Australian Retirement Income Policy', *Australian Journal of Social Issues*, Vol. 43, No. 2, Winter, pp. 311-334.

<sup>46</sup> Fitzgerald, V. and Harper, I. (1992) 'Banks, Super Funds and the Future of Financial Intermediation', in Davis, K. and Harper, I. (1992), editors, *Superannuation and the Australian Financial System*, Allen and Unwin, St Leonards [NSW].

Some of the current tensions in the system will be briefly explored – including the substantial tax breaks and equity considerations, as well as some unintended consequences.

### **Some Theoretical Ideas**

#### *Rational Policy v. Muddling Through*

In the development of public policy, it is interesting to see the contrast between those theories characterised by a ‘rational comprehensive’ model (Simon, 1957) and Lindblom’s ‘incremental or muddling’ through model (Lindblom, 1957). The former is often described as an ‘economic rational model’ and assumes or predicates that policy development proceeds logically and neatly, from problem, to research, then to solution. This theory is anecdotally described in Australia as the ‘Treasury model’<sup>47</sup> but, in fact in the emergence of the Australian system of superannuation, Treasury was on the margins. This is not to say, however, that the policy work and its development was not ‘rational’, but the process was not neat, tidy and predictable. It was dynamic.

Incremental policy making seems inadequate to describe what happened in the development of superannuation policy. Muddling through is often a better descriptor of actual policy making. In large measure policy development happened ‘on the run’. Widely-held grievances combined with the right circumstances, and the inter-action of policy actors led to the forging of new policy. The question is why it occurred in this instance.

In considering conflicting ideas of the development of public policy, Cohen, March and Olsen (1972) refer to the ‘garbage can model’ to explain government behaviour.

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<sup>47</sup> For an account of Treasury’s market-oriented views in the 1980s, see: Whitwell, Greg (1986) *The Treasury Line*, Allen & Unwin, Sydney, pp. 236-261.



Preferences are not clearly specified, the processes of organisation are not well understood, and people drift in and out of decision-making roles. This is described as “a collection of choices looking for problems, issues and feelings looking for decision situations in which they might be aired, solutions looking for issues to which they might be the answer, and decision-makers looking for work.”<sup>48</sup> But this puts matters a little confusingly; rather than the ‘garbage can’ model, the ‘reacting to events’ model might be more apposite.

In decision making, one can delineate four separate streams: problem, solutions, participants, and opportunities to decide (‘choice opportunities’). Shockingly realistic as is the analysis of Cohen *et. al.*, it is important to recognise that debate and confrontation are often essential to resolve issues and cannot be entirely subordinated to technical analysis: “People do not set out to solve problems here... People work on problems only when a particular combination of problem, solution and participants in a choice situation makes it possible. Nor do they go through a logical routine: defining the problem, canvassing the possible solutions... Rather, solutions and problems have equal status as separate streams in the system, and the popularity of a given solution at a given point of time often affects the problems that come up for implementation.”<sup>49</sup> This describes some of the development of superannuation policy and is highly relevant to any consideration of the enactment of the superannuation guarantee reforms in Australia.

Using evidence from the Australian experience, the thesis compares how policy actors construct contending narratives in order to make sense of, and deal with, major

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<sup>48</sup> Cohen, M.D., March, J.G., & and Olsen, J.P. (1972) ‘Garbage Can Model of Organisational Choice’, *Administrative Science Quarterly*, Vol. 17, March, pp. 1-25.

<sup>49</sup> *Ibid.*

challenges. The aim is to contribute to a more refined understanding of policy-making in the face of uncertainty and, most importantly, to provide practical methods for critical reflection on policy and to point to learning mechanisms for policy formulation. This analysis is fruitful and highly relevant to how decisions get made in superannuation and more generally.

The material presented is based on a 'systematic process analysis'<sup>50</sup> of the politics of superannuation reform in Australia, which was achieved through a mapping exercise of the retirement incomes policy process. This involved a content analysis of the coverage of policy developments by the main industrial relations journals between January 1983 and December 1996, when many of the major reforms were implemented. The content analysis provided for an assessment of the salience of the retirement incomes and superannuation policy development, which helped to inform the reasons why the Hawke-Keating governments pursued their reforms and to explain how they managed to gain political support to implement them.

## **Chapter Outline**

This first chapter has outlined why a superannuation revolution occurred in the mid-1980s in Australia. The industrial relations system was decisively significant. Issues at the time included: portability; different benefit levels to blue and white collar workers; transferability on termination; adequacy of benefit levels; defined versus defined benefit, whether offered at all to all workers, etc. A theoretical outline is put forward, showing what the evidence points to with respect to major policy change.

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<sup>50</sup> Cf. Hall, Peter A. (2008) 'Systematic Process Analysis: When and How to Use It', *European Political Science*, Vol. 7, No. 3, pp. 304-317.

Chapter 2, on the Accord, its background and development, discusses the emergence of the Australian system of superannuation as largely shaped and inspired by the Accord processes.

Chapter 3 discusses the significance of the building industry as the most significant union-inspired breakthrough in securing industry superannuation on a wide scale.

Chapter 4 highlights that until the legal questions were settled on superannuation coverage and entitlement, including the relevance of superannuation to the industrial relations system, then progress would have been severely limited. But decisions of the High Court and legislative changes secured opportunities for the unions to pursue extended superannuation coverage from 1986 onwards.

Chapter 5 discusses the significance of the superannuation guarantee legislation which provided a legal framework and platform for extending superannuation coverage beyond the award regulated workforce. As a consequence, industry superannuation schemes were extended beyond their award and industrial relations regulated base, across entire industries. Universality of coverage massively expanded the opportunities for unions to extend their initial, successful forays into industry superannuation. In retrospect, Prime Minister Keating's winning re-election in 1993 enabled the first phases of the superannuation guarantee to be phased in. Further consolidation occurred when in 1996, the incoming Howard government did not reverse the SGC legislation or seek to restrain the phasing-in of the 9 per cent.<sup>51</sup> One of the interesting questions of Australian political and financial history is what would have happened if Keating lost in 1993 and how, and if, superannuation policy might have rolled out in Australia.

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<sup>51</sup> A restraining factor, of course, was that the Howard government did not control the Senate at this time.

Chapter 6 outlines some of the implications and consequences, including those unintended, in the unfolding of industry superannuation and its competitive impact. Based on insights offered through the interviews, suggestions are made about future challenges. Reference is briefly made to the increase in the SGC from 9 per cent to 12 per cent announced under the first prime ministership of Kevin Rudd in 2010. The then relevant Minister, Chris Bowen, commented, "I became the Minister for Superannuation in 2009 and Kevin asked me to join the cabinet and gave me superannuation which obviously, I accepted. I remember when we had that chat - when he asked me to join the cabinet - I said 'I have got some pretty strong views about superannuation and some of it might be controversial and I am leaning towards the view that we should finish the Keating legacy and go to 12 per cent. So, if you ask me to do this job, this is where I'll be heading with it.'"<sup>52</sup> This reflects how powerful the Kelty-Keating legacy remains to modern Labor.

The final Chapter sums up what has emerged as the distinctive, Australian system of retirement savings, the significance of the Accord and the key persons involved. Comments are made on research findings of this thesis, which breaks new ground.

In sum, the thesis provides a significant contribution to our understanding of the development of the superannuation system, with unique information and insights hitherto hidden, or not available, in the existing literature. The major component of the research work has been the conduct of major interviews with the key founders of the modern Australian system. Such interviews, the resulting insights derived from them, and other research, enables the real history of industry superannuation in Australia to be told.

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<sup>52</sup> Chris Bowen Interview, May 2013.

## 2. The Significance of 'The Accord' for Superannuation

### The Union Campaign for Superannuation Justice

Hirschman's insight about a conceptual ultimatum that typically confronts consumers is relevant to the Australian superannuation story. With respect to the provision of a particular service, there are generally three reactions, either, satisfied 'loyalty'; or, in the face of deteriorating quality of services or perceived injustice about existing services, the 'voicing' of concerns without seeking drastic reform; or, more radically, the 'exit' to set up a competing or significantly different system.<sup>53</sup> In the Australian context, the unions were never satisfied with the status quo concerning superannuation. The only loyalists to the then existing system were those who benefitted. Working people were poorly served by superannuation, so there was no rational reason for unions to be supportive of a system of benefits and entitlements not available to most workers. Effectively, the reforms enacted in superannuation from 1983 onwards were an exit from the previous system and the entire recasting of superannuation policy at a national level.

Contrary to the interpretation that the unions had to persuade the government of the merits of superannuation, Keating defiantly says, "It fundamentally came even before the trade movement."<sup>54</sup> This is an argument that the thesis has carefully considered.

Keating's reasoning is this: In 1983 while the unions were still unsure what direction to

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<sup>53</sup> Hirschman, Albert O. (1970) *Exit, Voice, Loyalty: Responses to Decline in Firms, Organizations, and States*, Harvard University Press, Cambridge.

<sup>54</sup> Paul Keating interview, March 2013.

go, he initiated a series of reforms that lay the foundation for the ultimate reform package. The development of industry superannuation, with a series of industry funds, was a prospect only dimly perceived in the early 1980s. In his February 1983 election policy speech, the ALP leader, Bob Hawke, stated “we are committed to raising over a 3-year period the basic pension rate from 22 per cent of average male earnings to 25 per cent.”<sup>55</sup> Indexation of pensions was also promised. The 1984 federal ALP platform contained a number of references to national superannuation.<sup>56</sup> But this was thinking still rooted in the majority position of the Hancock report – national superannuation through taxation.

Early initiatives were the May 1983 statement by Treasurer Keating announcing changes to the tax treatment of lump sums, a joint media release on August 15, 1983 by the Treasurer, the Confederation of Australian Industry (CAI) and the ACTU on reform, and the commissioning by Keating of an Inter-Departmental Committee on ‘Issues and Broad Options Concerning National Superannuation’, which reported in October 1984.

Policy initiatives in May 1983 included: higher levels of taxation on lump sum superannuation and related payments; a non-retrospective tax increase on lump sums, excluding non-deductible contributions by individuals from a maximum effective rate of 3 per cent (i.e., 60 per cent on 5 per cent tax) to a maximum rate of 15 per cent for lump sums below \$50,000 for recipients aged 55 or over, and 30 per cent for any excess over \$50,000. For lump sums received by persons aged below 55 a maximum rate of 30 per

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<sup>55</sup> Cited in Australian Treasury (1984) ‘Issues and Broad Options Concerning National Superannuation’, An Internal Discussion Paper Prepared by the Inter-Departmental Committee on Retirement Incomes, October, typescript, p. 7.

<sup>56</sup> Paul Keating interview, March 2013. The ALP policy is cited in, Australian Treasury (1984) ‘Issues and Broad Options Concerning National Superannuation’, *Loc. Cit.*, p. 8.

cent applied. Lump sums, however, were to be exempt from this tax if 'rolled-over' into another superannuation fund, into an annuity or a superannuation pension or into an approved deposit fund – therefore “assisting portability.”<sup>57</sup>

Keating points out: “The pre-83 position was grandfathered so that all of the ‘concessionality’ people had up to then was preserved. But after ’83 - after that budgetary change in May we then went to a more rational taxation regime which was on a tax rate of 30 per cent. At the same time, I also brought in approved deposit funds (ADFs) and that would allow people, often women, who changed jobs and got a cheque from their employer to have some portable benefit. Remember that the funds were not vested in their name. They were simply money the employer owed you.”<sup>58</sup>

A person could leave the workforce and have a family and re-enter the workforce and pick up the ADF again. In the meantime the ADF could have been invested and continued to earn. That was done to achieve broader availability of the concessions for the workforce at large. “This was not done with the ACTU’s agreement. Bill [Kelty] and I had a - you wouldn’t call it a sharp falling out - but a bit of a falling out over it considering we needed the ACTU then in 1983 with the real wage overhang.”<sup>59</sup>

The tax on lump sums was initially controversial: “The unions, in April 1983 or March 1983, would never have agreed to start changing the tax treatment of lump sums.

Never... Putting tax up wasn’t part of their ‘go’ and it wasn’t one of their issues either.”<sup>60</sup>

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<sup>57</sup> This is Mr Keating’s holograph note on a section of Australian Treasury (1984) ‘Issues and Broad Options Concerning National Superannuation’, *Op. Cit.*, p. 5.

<sup>58</sup> Interview with Paul Keating, March 2013.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

Keating argues that he spent hours with Kelty discussing the logic and potential next steps associated with what he was pursuing: “I said to Bill: ‘Just think about what this thing offers you. By getting to a rational basis of taxation and superannuation, we have the possibility of extending this as a social thing in the workforce’.”<sup>61</sup>

In August, 1983 in a joint statement with ACTU on the change of the treatment of lump sums “...the Treasurer announced that the government had agreed to continue conferring with the ACTU and other interested parties with the objective of considering a national retirement package. Among other things to be canvassed will be the approved deposit funds, portability and vesting...”<sup>62</sup> This was because “at that stage you [i.e., an employee] didn’t own it. It was in a fund belonging to the employer. He might have been obliged to give it to you but it was never yours.”<sup>63</sup>

### **Case Study of LUCRF and Greg Sword**

Greg Sword started working for the Federated Storeman and Packers’ Union (FSPU) in 1974. Trained as an engineer, he came to the attention of the leadership of the Victorian union movement by impressing the then FSPU State Secretary Bill Landeryou at an ALP Conference. The latter had an eye for attracting able people; he also recruited Bill Kelty and Simon Crean, later ACTU Secretary and President respectively, to the union.

Although just shy of ten years’ service at the Victorian State Electricity Commission on resignation to join the FSPU, Sword received nothing in superannuation but his own contributions. That began a burning desire for superannuation justice. For the FSPU he

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<sup>61</sup> *Ibid.*

<sup>62</sup> Media Release, Treasurer’s Office, August 15, 1983. Copy from Mr Keating.

<sup>63</sup> Paul Keating Interview, March 2013.



developed the Labour Union Co-operative Retirement Fund (LUCRF), originally set up for the union's officials. In the 1970s, he extended coverage of the fund to workers in the skin and hide industries, retail distribution and then more generally. He was elected national General Secretary of FSPU (later, following amalgamations, the National Union of Workers or NUW). As a union official, he noted that his situation was typical: "People would be in the fund for many years, say 10-15 years or whatever, and they'd be terminated or leave or whatever and they would get a return of essentially their own money."<sup>64</sup>

Most of the private sector's individual company schemes were run by AMP or National Mutual, not by the companies themselves. "When you would ask for the trust deed", he notes, "they'd say no... it didn't take you long to appreciate that the way in which the system worked essentially was that it was zero vested and the only people that actually succeeded in getting something out were those who stayed for forty years and retired in their sixties."<sup>65</sup>

On the formation of LUCRF, Sword observed that because officials did not stay in the one job for forty years or so, "we put in place a superannuation fund for the officials and staff, which was an accumulation fund fully vested so that all of the money put in was yours when you left."<sup>66</sup> This prompted him to think of applying the model more generally:

From that experience, I thought well, in truth, this is the sort of fund that our members ought to be involved in. Not even a [defined benefit] promise scheme, which promises you the world if you stay in for forty years, because the people

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<sup>64</sup> Greg Sword Interview, June 2012.

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

we represent ...they don't have superannuation, so what we ought to be thinking about was an accumulation fund. And, not only that, the other thing, the other obnoxious thing, from our point of view, was that they had no say in how those funds were operated by the employer.<sup>67</sup>

He wanted the union movement to think in terms of superannuation as part of a person's wage package. Years later, he boiled in conversation, "...what on earth, what sort of thinking leads to saying: this is your pay but if you don't stay for forty years we take it off you."<sup>68</sup>

At first there was no explicit idea of building something huge. It was localised, aiming to fix the problems of the union members he represented. "The solution was this sort of really aggressive, radical point of view that this was members' money and they should control it, not the employer."<sup>69</sup> The difference in the approach behind LUCRF and other schemes "...was that we didn't want to just amend, we actually wanted to control it."<sup>70</sup> So, he asked Landeryou if he could negotiate in awards and agreements inclusion of the LUCRF fund. He wanted to use that vehicle because, in those days, an employee could not join a Superannuation Fund unless the employer made a contribution to it – "those were the tax rules."<sup>71</sup>

Of the skin and hide industry, where in 1978 a dispute broke out on superannuation, he observed, "I mean the union worked hard for them but most of them were migrants, most of them their English was their second language and because it was and because

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<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.* For a contemporary account of the superannuation rules, see: Knight, E.S. and others (1982) *Superannuation Planning in Australia*, Third Edition, CCH Australia Limited, North Ryde.

they weren't good at expressing themselves, I think people thought that they were silly. I didn't find that. I found that they paid much more attention to the detail than the [average] Aussie did."<sup>72</sup>

In response to the union claim, the employers countered with what they thought was an offer too good for the average employee to refuse. "What they did is that they said: we will give you, we will contribute the six bucks to the super fund or the union fund for anyone who chooses to go in it, however, they must make a \$2 contribution themselves. Anyone who doesn't want to go into the superfund, we will pay them a tax free travelling allowance of six bucks. So, I'd got my offer. So, I said we'd take it back to our members."<sup>73</sup> And from there he won votes of the members who overwhelmingly decided to join LUCRF, rather than taking the travelling allowance.

The union realised that this could become something big. The union leadership wanted Sword to hone his skills: "The other thing, probably in November, was that they sent me overseas to look at the co-operative sort of insurance industry around the world... I might have negotiated the agreement with them earlier in '78. I went overseas and I finalised the super fund and the trustee and rules when I came back."<sup>74</sup>

In thinking through the issues, Sword said that: "What really helped me was the Europeans, the Swedes in particular. I went there and talked to a company called Folksam, which was a co-operative insurance company,<sup>75</sup> and they gave me ideas about

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<sup>72</sup> Greg Sword Interview, June 2012; supplemented by an email exchange, Greg Sword to Mary Easson, October 29, 2013.

<sup>73</sup> Greg Sword Interview, June 2012.

<sup>74</sup> *Ibid.*

<sup>75</sup> Folksam is one of Sweden's largest investment managers. See, [www.folksam.se/english](http://www.folksam.se/english), accessed May 23, 2013.

the social partnership between unions and employers, and I brought that back too...how we would approach our trustee; and so we said if we are going to have a trustee company, we are going to have a board to be representative of the employers because we had the employees of unions on that board, whilst the union would own the company. It gave us a much deeper involvement with the employers and it was a lot more, much more legitimate. If we had only just union people on the board, and we were getting all this money, they could see that claims were going to be made.”<sup>76</sup>

“What I learnt from Sweden and from Europe was the idea of the social partnership between the employer and the unions and the history, and the good things that they could do co-operatively. So I applied that sort of model to our superannuation. So that’s the model we introduced and we got employers to be representatives on the board and so by December 1, 1978, contributions started coming in and we were away.”<sup>77</sup>

“It was something, that we wanted to solve the problem for our members because the superannuation system available to them was essentially not even a myth and we wanted to put that behind; that was also our view about ‘it’s your money’ and workers should control it; not representatives of capital.”<sup>78</sup>

At that time, the Chairman of the Board of the retailer Woolworths was on the board of AMP and there was a fear that what was going to happen: The unions seeking to take over super; threatening the AMP’s business model. So Woolworths decided to make a stand and fight... I somehow think, and I think it is important to say, that it probably

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<sup>76</sup> Greg Sword Interview, June 2012.

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

wasn't Woolworths, it was their industrial advice, which was an employer organisation who had a real fanatical political view."<sup>79</sup>

"That dispute was what created superannuation as an issue because what happened was because we had Woolworths - we were picketing the stores. It got the publicity and what was discussed was the polemics; that is, what Woolworths was saying and what the employer's side were saying is: this is socialism. What's going to happen is, they are going to control all the money, they'll have all the shares and then they will be able to start telling companies what to do and we have to stop it. And, not only that, what do these union people know about it; they are either going to lose the money, spend it, steal it."<sup>80</sup>

For the Storeman and Packers Union, their revolutionary idea was that superannuation belonged to the workers and, through LUCRF, should be controlled by them, fully vested, accumulated, but with joint employer representation on the board. "So that was the difference, it was totally different to what other people were arguing."<sup>81</sup> So, that was 1979. The next major breakthrough was with the building unions and in 1983, with the productivity improvement through superannuation campaigns.

There were some reservations on the left, fearing that union representation would suck the movement into the capitalised system and unions would be less capable of being independent in making decisions. "So they were not absolutely opposed but we were

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<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.* For a prescient article on the emergence of LUCRF, see, Phillips, P.S.M. (1979) 'Union Superannuation Funds', *Superfunds*, No. 69.

criticised as being right wingers.”<sup>82</sup> But change was afoot. Kelty says, “You’ve got others - significant unions like Ray Gietzelt’s and others saying that super is bad. And it was bad for the majority of his members because they got converted into payments only for people who stayed on a very long time. This was defined benefits in which you had thresholds of service, in order to get it.”<sup>83</sup> So an objection was to the form of superannuation. The unions were always wary of defined benefit schemes, partly because of the inherent risk of company failure, partly due to the administrative complexity of creating an industry model. Plus there was the need to freshly embrace new thinking. “Wally Curran was not confined by any policy, so he’s industrial - nor was Landeryou, and they are starting to think differently, from the box that society put them in - but not out of their box.”<sup>84</sup> The Pulp and Paper Workers’ Chris Northover was also a pioneer – whose documentation and experience was drawn on in the development of LUCRF.<sup>85</sup>

Sword summarises that, as radical and innovative as his unions efforts were, the wider extension of superannuation required leadership elsewhere:

...ours was the radical beginning of this radical change; there was no other union claiming what we had claimed that provided the underpinning philosophical, policy base. What then happened was if Bill Kelty had of done nothing, then all that would have happened is that we would have continued building it, bit by bit.

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<sup>82</sup> Greg Sword Interview, June 2012.

<sup>83</sup> Bill Kelty Interview, March 2013.

<sup>84</sup> *Ibid.*

<sup>85</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013. Confirmed in Greg Sword Interview, June 2012.

Bill took what we were doing; it was Bill who took what we were doing and turned it into a national cohesive approach to build this everywhere.<sup>86</sup>

He elsewhere commented that “Change did not occur through evolution, nor through a desire by either industry or the employer to provide a ‘better product’. At the forefront of this revolution was the trade union movement and its membership.”<sup>87</sup> Kelty thought that the LUCRF experience, and earlier wins in stevedoring, laid the basis for industrial superannuation, “...but you can’t get the big breakthroughs because the courts still say you can’t do it... You’ve still got major left-wing unions saying ‘we don’t want it’ like Carmichael. We actually do not want this. It’s an absorption into the system. It’s alright for others but we don’t want it.”<sup>88</sup> This thinking was to change, with Carmichael especially, re-evaluating his perspective. But in the late 1970s and the early 1980s, there were many reservations in the unions about the pursuit of industry super. Despite the seminal importance of LUCRF, it was slow to have a substantial impact. “Although it is true that the ACTU had followed along the experience of the Storemen and Packers from a decade earlier, that had very small numbers.”<sup>89</sup> In Tom McDonald’s summation, “I see this ocean. Then by the ’70s I see islands of industry superannuation schemes. I see the beginning of the future ...When I look at the ’70s, what happened was several unions, independent of one another decided to make superannuation union business...”<sup>90</sup>

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<sup>86</sup> Greg Sword Interview, June 2012.

<sup>87</sup> Sword, Greg (1992) ‘Superannuation as a Recruitment Tool’, in Crosby, Michael, & Easson, Michael (1992), editors, *What Should Unions Do?*, Pluto Press in conjunction with the Lloyd Ross Forum, Leichhardt, p. 225.

<sup>88</sup> Bill Kelty Interview, March 2013.

<sup>89</sup> Garry Weaven Interview, March 2013.

<sup>90</sup> Tom McDonald Interview, August, 2012.

Reflecting on this, Kelty says, “But then that’s how things have changed. Ideas - the catalyst. Simultaneously all those [breakthroughs] are occurring. You’ve got the Storemen and Packers – I’m in the Storemen and Packers by now and I’m a great supporter of them and superannuation. They’ve got Landeryou saying this is an industrial thing and it starts to spread, and the right to choose your superannuation.”<sup>91</sup> “Injustice was the big issue. Blue-collar workers were being discriminated against. You had company schemes in cases where it would apply in the salary area, but not to blue-collar [workers]... I’ve talked to Greg Sword and others and largely it was about injustice. It was largely about giving workers a decent income in retirement. I don’t think they saw it [at first] as part of the big picture, about increasing domestic savings.”<sup>92</sup>

### **The Industrial Relations System and the Emergence of the Australian System**

In early 1983, with the first Accord in draft form, then ACTU Vice President Simon Crean recalls “the [draft] version of the Accord didn’t have superannuation at all mentioned. And we added ‘...and superannuation’.”<sup>93</sup> Along with ACTU Secretary Kelty, Crean was thinking strategically about the perils and opportunities for a future Labor government in Australia. “At that stage we were looking for all sorts of avenues because we had just carried, at the [1982] Labor Party [Conference], automatic quarterly cost of living adjustments... This was the big fallout at the conference... The left was opposed to a prices incomes policy - a wages policy - because Callaghan had been defeated in the UK

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<sup>91</sup> Bill Kelty Interview, March 2013.

<sup>92</sup> Tom McDonald Interview, August, 2012.

<sup>93</sup> Simon Crean Interview, May 2013.



in 1979.”<sup>94</sup> The ALP called for a ‘catch up’ in wages, as the Fraser government had imposed a wages freeze.<sup>95</sup> The UK experience was of deep interest to Australian observers. Crean had gone over to study the British experience of wages and prices policy. Arising from the UK travails, conventional wisdom was that incomes policies were too inflexible a means by which to control the economy. Discussing the Accord, former Hawke Government Industrial Relations Minister Peter Cook commented on the UK experiment that “Denis Healey<sup>96</sup> once said that adopting an incomes policy was like jumping out of a second-storey window: nobody in their right mind would do it unless the stairs were on fire”.<sup>97</sup> Crean thought otherwise. “I looked at the Callaghan period<sup>98</sup> and I was part of the conference that really saw this is something the Labor Party should be evolving to, but it was blocked by the left. I went on this study tour... and I went up to Oxford. I met with the people that had been involved with the prices incomes policy in the UK. I saw how the thing had collapsed because there was this silly argument about wages - wages alone - and I came to the view that we couldn’t allow the focus to be so narrow. We really had to find ways in which we addressed aspirations or improved benefits for our members other than just through money wages.”<sup>99</sup>

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<sup>94</sup> The UK economy was in deep trouble in the late 1970s, with an IMF bailout and, from 1978 deep public spending cuts that led to a wave of strikes (the ‘winter of discontent’) and the defeat of the UK Labour government at the 1979 General Election. See, Artis, Michael John, & Cobham, David P. (1991), editors, *Labour’s Economic Policies 1974-1979*, Manchester University Press, Manchester, pp. 273-277; and Dorey, Peter (2001) *Wage Politics in Britain: The Rise and Fall of Incomes Policies Since 1945*, Sussex Academic Press, Brighton [UK], pp. 201-225.

<sup>95</sup> For background, see, Dabscheck, Braham (1989) *Australian Industrial Relations in the 1980s*, Oxford University Press, Oxford, pp. 26-41.

<sup>96</sup> Healey was Chancellor under the Callaghan government and responsible for economic policy.

<sup>97</sup> Cook, Peter (1991) ‘The Accord: An Economic and Social Success Story’, address given to the LSE in June 1991, reprinted in Crosby, Michael, & Easson, Michael (1992), editors, *What Should Unions Do?*, Pluto Press in conjunction with the Lloyd Ross Forum, Leichhardt, p. 152.

<sup>98</sup> Sunny “Jim” Callaghan’s disposition turned dark during the strikes of 1978-1979 which helped usher in the Thatcher government and 18 years of Conservative party rule in Great Britain.

<sup>99</sup> Simon Crean Interview, May 2013.

“That was a lasting consequence for me and that is why I came back and said ‘...and superannuation’. We had everything else in it.”<sup>100</sup> Bill Kelty had only become Secretary of the ACTU in January 1983, following the surprise resignation of Peter Nolan. ACTU President Cliff Dolan left much of the policy and strategic work to the two young, dynamic Storemen and Packers acolytes, Kelty and Crean. They were bold in seeking to effect industrial relations reform, within the context of responsible economic change, whilst striving for superannuation justice.

The first Prices and Incomes Accord was an agreement between the ACTU and the ALP in February 1983, on the eve of the March 1983 Federal elections. It set out an agenda for political and industrial change by a Labor government. Eight Accords were developed through the life of the Hawke and Keating governments, from 1983 to 1996. An understanding of the development of the Australian system of superannuation requires an understanding of those documents, because so much of the bargain on superannuation between political and industrial labour is encapsulated therein.

## **The Accords**

It is useful, therefore, to set out the key features and impact of each Accord.<sup>101</sup>

### Accord Mark I (February 1983)

The original Accord was a political document designed to demonstrate to the Australian public that the ALP was ‘ready’ to govern. In contrast to the Whitlam years, the

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<sup>100</sup> *Ibid.*

<sup>101</sup> The information here is based on ACTU documents on the Accord; personal understanding; Cook, Peter, *Loc. Cit.*; Dabscheck, Braham, *Loc. Cit.*; and, ACTU (2005) History of Super. Melbourne: Australian Council of Trade Unions, [http://www.actu.asn.au/super/about/super\\_history.html](http://www.actu.asn.au/super/about/super_history.html), accessed April 5, 2013.

agreement between political and industrial Labor was evidence of a coherent analysis of, and remedy for tackling, a stagnant economy, and to reduce the number of industrial disputes. It proposed half-yearly wage increases indexed to the Consumer Price Index (CPI), and supported the introduction of compulsory medical insurance, Medicare. Implicit with the latter was the possibility that if actual health insurance costs reduced because of a national, tax-levied national medical insurance scheme, then the CPI would fall, meaning that any wage claim would be discounted. In that respect, workers would pay for Medicare should they forego such wage increases.

Kelty was to later reflect, "It is because the healthcare costs implemented reduced the CPI. We had to accept the modified CPI. We effectively had to pay another 2 per cent so we accepted it - 4.5 per cent for a national healthcare system. We chose to accept it. People thought that might be hard for them. But that was easy because the entire union movement wanted a national healthcare system and they were prepared to pay for it. If it was 2.5 per cent or 3 per cent or 4 per cent, it didn't really matter."<sup>102</sup> He goes on to say, "It was important just to get it. It wasn't very hard to get at all because there was no bargain about it. You didn't have to go to Carmichael and say 'Look, please agree to it', because he wouldn't want to. So that wasn't hard."<sup>103</sup> That was because strategically, the key unions, across the political spectrum, saw Medicare as an essential reform, literally worth paying for.

Left unresolved was the promise of 'catch up' after the wage freezes of the last years of the Fraser government. This promise was enshrined in the 1982 ALP platform and reinforced in fiery speeches given at union rallies prior to the March 1983 election. The

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<sup>102</sup> Bill Kelty Interview, March 2013.

<sup>103</sup> *Ibid.*

new Prime Minister, Bob Hawke, described the Accord as a centralised system of wage fixation for the purpose of economic recovery. But he felt that he needed to share the Government's challenges and forge a wider consensus, by convening an economic summit of unions, employers, welfare and political leaders. He stated there:

As far as wages are concerned, the Government will participate in the conference on wage fixation scheduled to be held in the Conciliation and Arbitration Commission. We will base our approach to that Conference on the conclusions of the Summit and on the prices and incomes Accord. In that context, I would point out again that all at the Summit agreed that if a centralised system of wage fixing is to work, there must be an abstention from sectional claims except in special and extraordinary circumstances. Let me say that my Government's interpretation of what constitutes such circumstances is the common sense interpretation and leaves no room for selfish claims from maverick sections of the trade union movement. Participants at the Summit Conference recognised that if restraint in incomes is to be exercised, then it should be exercised universally. In that spirit of equitable sharing of the burdens of recovery the Summit also stressed the need for restraint in non-wage incomes such as dividends, professional fees and the like.<sup>104</sup>

Part of that restraint entailed trade-offs, such as agreeing to lesser wage demands in exchange for social wage benefits, such as extended medical cover. But Hawke and the unions wanted restraint all round, applying also to business. Thus the Prices Surveillance Authority was established.<sup>105</sup>

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<sup>104</sup> Hawke, Hon. R.J.L. (1983) 'Statement to the National Economic Summit', House of Representatives *Hansard* (Parliament of Australia) May 3.

<sup>105</sup> On the Summit, see, Kemp, D.A. (1983) 'The National Economic Summit: Authority, Persuasion and Exchange', *The Economic Record*, Vol. 59, Issue 3, September, pp. 209-219, which refers to the creation of

Hawke was to reflect that, “We started right off at the summit and it went on from there. One of my favourite sayings is ‘ignorance is the enemy of good policy’.”<sup>106</sup> Hawke wanted all stakeholders to think through the consequences of their actions and to constructively decide policy mindful of wider impacts. Kelty recalled, “We sit there and we then have an Accord and we have to then decide where it fits. It is essentially about a limited range of things. Essentially, about legitimacy of a co-operative approach which is ‘rhetorical’ but also real. Strategically, it’s about consolidating the concession made by the unions to pay for Medicare. We’ve got to pay for it in two ways. We’ve got to pay for it in a levy which we were prepared to do but we also had to concede a wage increase.”<sup>107</sup> Not everyone was enthusiastic. Employers were wary, thinking that the wage restraint under the Accord was just a lull before another industrial storm. Employers advocate Bert Evans said, “We opposed the first Accord but then people said to us ‘What are you bloody doing? This is too good to be true. We have got industrial stability, we know what our costs are going to be, we have got unions’ cooperation, we were restructuring the award, and we got rid of 380 classifications. It was restructured down to 14 so all the things enabled us to do all of that so while the Accord was developed.”<sup>108</sup> Such thinking marked a radical departure from the experience under the Fraser government and indicated a new found flexibility by the unions. One contemporary observer commented that “1984 will be remembered as the year that

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the PSA. More generally, see, Fallick, Leslie (1990) ‘The Accord: An Assessment’, *The Economic and Labour Relations Review*, Vol. 1, No. 1, June, pp. 93-106.

<sup>106</sup> Bob Hawke Interview, December 2012.

<sup>107</sup> Bill Kelty Interview, March 2013.

<sup>108</sup> Bert Evans Interview, May 2013. The last points reflected later iterations of the Accord, but Evans is recalling what for him was a new, surprising spirit in industrial relations.

wage increases almost went out of fashion. Into fashion instead came superannuation packages, tax reductions, shorter working hours and improved long service leave.”<sup>109</sup>

Crean remembers that in early 1983, “We then get to a position where we are going to the election with the Accord that says ‘we will revert to quarterly cost of living adjustments. There will be a claim for catch-up...’ and that’s what got into the Accord, and it was an Accord that had been re-written to include super. Then what happened with the economic summit - because they introduce Medicare initially - the effect of introducing the Medicare levy is to reduce the cost of health which had been a huge thing in the CPI. So, the CPI was negative. Negative!”<sup>110</sup> But not for only one quarter, “it carried over for two quarters. So, effectively we got into office and for another six months there was no wage increase but it was all consistent with our policy prescription. We still kept saying that there would be catch-up.”<sup>111</sup> But Kelty and Crean argued that catch up need not be entirely by wages. They were positioning the unions to be more strategic in pursuing their goals. Hence, “The other way you take pressure off wages is to do family payments, social wage... So, we started building a credibility of delivering that which kept giving wages relief.”<sup>112</sup>

Crean insists that superannuation was high on the agenda, because, as a means of catching up, “it would stop inflation. One of the biggest arguments... We said it would help with the inflation because if you got a 3 per cent wage increase then the on-costs would inflate that figure. The on-costs on a wage increase were another third. So 3 per cent becomes 4 per cent.” But working through this policy position was internally, among the unions, controversial and contested. The debate over securing increases in

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<sup>109</sup> Mulvey, Charles (1985) ‘Wage Policy and Wage Determination in 1984’, *The Journal of Industrial Relations*, Vol. 27, No. 1, March, p. 68.

<sup>110</sup> Simon Crean Interview, May 2013.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

minimum rates, without blowing apart the economy by unleashing inflation, was a case in point. Crean says, "With the partnership that Bill [Kelty] and I forged in the lead up to the 1983 election was that is when I run the big wages campaign for the Storemen and Packers we accepted the principle of absorption. The Metal Workers on the left would never accept it. Because I knew it was the legacy of that trip to the UK and how things can break down but I knew that what we had to do if indexation was to work, you had to lift the minimum rates. Our minimum rates were depressed. We ran the campaign for a \$30 increase in the minimum but a \$10 absorption, so if people were \$10 or more over the award they [i.e., employers] didn't have to pay the full \$30.

"The Metal Workers went berserk about that but I did it anyway. We won it in Victoria. I went up to New South Wales because [local FSPU Secretary] Frank Belan asked us to come up. Alan Jones was the head of the Employers' Federation and I had used the tactic in Victoria successfully that said 'We will exempt you from the dispute if you sign up'. But I had to get the approval of the members for that because this is, potentially, a breach in solidarity with the Metal Workers."<sup>113</sup>

The tactic worked in Victoria. Crean remembers Alan Jones storming in to one meeting with Garry Brack in tow. Crean recalls Jones saying in quivering tones: 'I will just tell you this Mr Crean. They are a weak pack of bastards in Victoria, but you won't find that here. There is no way that you are going to come up here and use those bully tactics in the same way without our employers.'<sup>114</sup> Crean recalls saying, "'Alan, if I can call you that, just come over and look out the window'. He said 'What is this for?' I said 'See all those cars down there?' I said 'They are all signing up'. I said 'There is the pile of letters'.

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<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*

I said 'Alan, I believe at this moment that I represent more of your members than you do'. And I said 'By the way, we are going to be pursuing superannuation as well'."<sup>115</sup>

Funnily enough Crean recalls Jones saying "I believe people should have superannuation.' He was actually an early advocate which is, in its own way, a reason why I was convinced that we had to push for superannuation..."<sup>116</sup>

"What I then got was the \$30 wage increase. This is wages breakout the Fraser government could not contain. In the oil industry along with the Metal Workers we got the 38-hour week. So, what we had was a solid foundation on which to go. What Fraser wanted to stop... He wanted to engineer a dispute in the oil industry. He did. But anyway (he) lost the election."<sup>117</sup>

At the economic summit of May 1983, Kelty and Crean privately canvassed superannuation options with employers. "[W]e had spoken to the employers as part of the business council discussions and EPAC, which came out of that economic summit. We said to them, there is merit in this. As a nation we have to come to grips with it. It is less of a cost to employers if we can get the trade-off. Let's have the Commission determine it."<sup>118</sup>

Crean says, "[I]t came back to the fairly fundamental precept that says 'Unions are about distribution but you can't influence distribution effectively unless you are growing the show', and you can't just keep indexing if there is not the capacity to pay, as much as we would fight the capacity to pay argument. So, we had to be part of the wealth creation thrust. That's what they needed us for and in the end because they had confidence in

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<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*



what we were trying to do on the remuneration or disposable income front and do the trade-offs in taxes..."<sup>119</sup>

Kelty recalls putting matters into the context of breaking the cycle of spiralling inflation. "...we said 'We've got an exit strategy in terms of this cycle and our exit strategy will make sure that the industrial system doesn't do the same damage it did in the past'. What happens is if metal workers or building workers seriously got a big wage increase, that would [then flow] to the transport workers and then would go to everybody. So we said 'What we are going to do this time is have a discussion with [Federal Treasurer] Keating before the summit.' And I said 'I would like to transfer the wages pressure into superannuation pressure'."<sup>120</sup> Kelty says, "...the only people who were prepared, at this point - who knew what we wanted to do, were Simon Crean, Laurie Carmichael and me. Only three people in a country who said that's what we intended to do."<sup>121</sup> They had to work it out intellectually. Carmichael had acknowledged that the last recession had really hurt. The recession induced a spectre of thousands of metal workers losing their jobs after 20 years' service. Kelty argued, "'Laurie, you can never let that happen again!' and he said 'Alright, but it's got to be our super.' We can't put money into defined benefits. He said 'I will think about it.' Intellectually he then became committed. Strategically this was very important. Because if he said 'No' you'd have lots of trouble because 1) his is a great intellect; 2) He did understand the significance. They were the only people that knew. That's what we had in mind to try to achieve."<sup>122</sup> In Crean's perspective, "I think it was because there was a level of trust and a genuine recognition on our part that we wanted to be active participants in the big

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<sup>119</sup> *Ibid.*

<sup>120</sup> Bill Kelty Interview, March 2013.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*

social change. Here was the opportunity to present the labour movement for the first time in its history as the two wings working in-sync with the economic advancement.”<sup>123</sup>

After 1983, occupational superannuation was extended to most workers through the industrial relations processes using the dispositional power flowing from the Accord between the ACTU and the federal Labor government. With the passing of the Superannuation Guarantee Charge legislation in 1992, superannuation moved more to the political rather than the industrial relations sphere. Though every inch of the journey had industrial relations implications. But that is to jump ahead of the narrative, because Accord Mark II is vital to the story.

#### Accord Mark II (September 1985)

The Accord Mark II was a reaction to the falling Australian dollar and inflation caused by higher priced imports. The agreement, a wage-tax-superannuation deal, was forged in September 1985 with the ACTU committing to an effective 2 per cent wage cut, with government support for 3 per cent employer contributions to superannuation through industry funds. Dabscheck summarised that: “...in the 1986 national wage case, the ACTU and the Hawke government would agree to discount the six-monthly CPI adjustment for the price effects of the devaluation of the Australian dollar to a maximum of 2 per cent; wage and salary earners would be compensated for this loss by a reduction in the level of personal income tax, to take effect from 1 September 1986; and the productivity case would be converted into a claim for extending and improving

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<sup>123</sup> Simon Crean Interview, May 2013.

superannuation entitlements of Australian workers, to be based on a 3 per cent wage equivalent..."<sup>124</sup>

A contemporary observed: "The renegotiation of the Accord brought forth a new series of trade-offs between the ACTU and the federal government. The ACTU eventually retreated from its commitment to full wage indexation, in every instance, in the face of pressure over the inflationary effects of this in company with devaluation of the dollar. Instead, it accepted discounting for 1986 in return for an average \$5 a week tax cut."<sup>125</sup> The 1985 biennial ACTU Congress was marked by near unanimous acceptance of the new trade-offs, despite the initial reservations expressed by the AWU, FCU, SDA and Clothing unions about giving up the productivity claim and the problems for white-collar and public sector unions in ensuring that their members would benefit from the 3 per cent. Gardner noted that "This endorsement seems to have been achieved by using a broadly based negotiating team that ensured the commitment of factional and regional groups in the trade union movement."<sup>126</sup> But this is not to say that even with relative unity between the unions, and with government support, that the processing of the unions' claims was straight-forward. For "Developments in the Australian economy during 1986 pointed to the need for a dynamic and adaptable wages policy."<sup>127</sup>

The last three-quarters of fiscal 1985-86 had yielded declines in seasonally adjusted real Gross Domestic Product, accompanied by higher inflation, a marked slowdown in the growth of employment, and the first rises in unemployment for over two years. A

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<sup>124</sup> Dabscheck, Braham (1989), *Loc. Cit.*, pp. 98-99.

<sup>125</sup> Gardner, Margaret (1986) 'Australian Trade Unionism in 1985', *The Journal of Industrial Relations*, Vol. 28, No. 1, March, pp. 133-134.

<sup>126</sup> *Ibid.*, p. 134.

<sup>127</sup> Petridis, A. 'Wage Policy and Wage Determination 1986', *The Journal of Industrial Relations*, Vol. 29, No. 1, March, pp. 75-83.

continuation of the tight monetary and high interest rate policy, instituted in 1985, failed to prevent worsening terms of trade which were associated with then record deficits on the current account and record lows in the trade weighted index of the dollar against other major currencies.

The drawn-out nature of the first national wage case of 1983 played a major part in moderating wage pressures and also meant that the second national wage case was not finalised by the end of the year. The 'maintenance of real wages' as 'an objective over time' in the original Accord had already taken a beating. According to the Treasury, real earnings declined by 2.4 per cent in 1985-86, following negligible increases in the preceding two years.<sup>128</sup> The earnings data for public sector employees showed that their earnings increases had lagged behind those of private sector employees by up to 4.0 per cent in the year to August 1986. Postponed tax rate reductions, government expenditure cuts affecting the 'social wage' and very few productivity-funded superannuation agreements also pointed to intense pressures on the continued viability of the Accord.

Industrial disputes associated with productivity-linked superannuation claims in the transport industry and productivity-based extra claims in the coal industry threatened the national wage case even before it had begun. The Arbitration Commission began hearings on 11 February 1986, but adjourned sittings twice in the first few days and again in early March because of bans imposed by unions in the transport industry. Eventually the wage case was resumed as the bans were lifted under pressure from the ACTU, the government and the Commission, which had threatened that it would delay

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<sup>128</sup> Budget Statements 1986-87, p. 26.

the rest of the wage case and hear the transport union's superannuation case first. Recalling 1986, Kelty says, "There were two things happening in terms of superannuation. 1) The Treasury convinced Paul Keating the government should tax super, but he never talks to us. This is taxing the people who have got super - big benefits - he never talks to us. So, he produces, unexpectedly for us, this industrial campaign about super. I've got to be honest - it wasn't really on the cards for us looking after the high paid in super, but you never let an opportunity like that go. So now you've got a campaign called superannuation - industrially and politically. For those who were getting it, and those who were losing it."<sup>129</sup> In Keating's recollection, as Treasurer, the government had laid down rules on preservation, vesting, portability, and the security of superannuation funds, all tied to the incentive of compliance thereby earning the right to tax concessions. "We changed the tax concessions themselves to give greater preference to annuities over lump sums, and to genuine retirement provision as opposed to deferred pay schemes. A change that met stiff opposition including, and especially, by unions."<sup>130</sup>

Kelty saw a tactical opportunity for the unions: "So, you build up this very, very significant war starting to occur. Everything was falling into place for us. Nobody meant it, but you couldn't have done it better. To do something as a catalyst for all the other people not covered. So suddenly 'super' is on the agenda. Then what happens is that the terms of trade collapsed, so they have got to come to us and ask for a delay in the wage increase. They've got to delay the wage increase. Instead of getting a 4 per cent of wage increase, they want us to accept something else. So they see us and I say 'No. I've given

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<sup>129</sup> Bill Kelty Interview, March 2013.

<sup>130</sup> Keating, Paul (1991) 'A Retirement Incomes Policy', Address to the Australian Graduate School of Management, July 25, typescript, p. 3.

enough. No! Not interested’.”<sup>131</sup> This was an unnerving position for the government to hear.

He saw the window of opportunity: “I say: ‘You’ve got one chance. I’ll do one thing. Trade off the wage increase for superannuation’. Bob [Hawke] said ‘You’re mad’, he said ‘that’s a crazy idea’. The terms of trade collapsed and we’re deferring people’s income and trading off super. I said ‘I don’t care’. It was a very hostile meeting - not personally but tough.”<sup>132</sup> Hawke queried whether Kelty could actually deliver the unions. As a former ACTU President he was entitled to express questioning uncertainty as to the risk that a ‘deal’ between the ACTU and the government would unravel, leaving both weakened, the government potentially fatally so. On one occasion they went to the Lodge and sat there for two hours. Kelty said to Hawke: “There is one deal - just one. You are not getting me ever to agree to any further concession unless you can do the reverse. You’ve not even done the reverse. No more superannuation campaign. You give it to us.”<sup>133</sup> In Kelty’s recollection, Hawke appeared unhappy. “I walked out of the Lodge that night and Paul Keating comes up to me and said ‘Bill, I’ve been thinking about it.’ He said ‘I think you’ve got me’. He said ‘...we are in this. We actually are in this for Labor’.”<sup>134</sup> Keating recalls, “I always wished to extend the superannuation concessions to the great body of the workforce. What happened was this. It was such a glaring anomaly. In those days superannuation was a preserve of people in public sector schemes or at the top end of industry. It was not for ordinary working people. They had no access to it, effectively. It was so generous and what’s more, there was nothing to

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<sup>131</sup> Bill Kelty Interview, March 2013.

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

produce a retirement income. It was just a tax concession, accumulated a lump, paid no tax on it and left.”<sup>135</sup>

There was considerable concern whether a deal could be delivered. In Kelty’s words, “I said ‘Fine. I’ll get the unions together - the key unions - the bargaining unions’. And I said ‘I’m not going to hurt you. I’m not going to close on your position, where you go out and accept something that we can’t sell because that would be too much to ask’. We got the unions at the ACTU Wages negotiating committee, and we said ‘We’ve got the chance in history. This is your great chance. This is a night I think you’ll remember. This is the night that we are going to create national superannuation for everybody’. And a couple said ‘No’. And all the really tough unions, that Carmichael set the course for, every real bargaining union, said ‘Of course’.”<sup>136</sup>

The 1986 national wage case reviewed the wage-fixing guidelines, determined the merits of a national 3 per cent productivity claim as well the flow-on consequences of any consumer price index (CPI) increases. The ACTU regarded the three matters now as a single package that had been agreed to between the government and the ACTU as part of Accord Mark II. Despite this, the employers argued before the Commission about the various elements of the package, employing legalistic and protracted arguments to slow the case. The ACTU opened proceedings before the national wage bench with a claim for a 3 per cent productivity increase in the form of superannuation and a 2.5 per cent CPI increase, which included discounting by 1.7 per cent for the effects of the depreciating dollar in the September and December quarters of 1985. The employers, through the

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<sup>135</sup> Interview with Paul Keating, March 2013.

<sup>136</sup> Bill Kelty Interview, March 2013.

Confederation of Australian Industry advocate, immediately challenged the jurisdiction of the Commission over productivity-financed superannuation on the grounds that superannuation was not an industrial matter, that payments by employers to third parties for superannuation were not an industrial matter, and that the Commission could not use its jurisdiction over wages to influence the matter of superannuation, which was outside its jurisdiction. The employers' discontent on superannuation reflected their belief that the agreement between the ACTU and the government was an unconstitutional method of obtaining *fait accompli* Commission approval. The bench, however, decided to continue hearing submissions to the national wage case while it deliberated on the jurisdictional challenge.

On 27 March 1986 the full bench of the Commission made a ruling to continue hearing all aspects of the unions' claims. This was an invitation to the employers to take the matter to the High Court, which they promptly did, as discussed in Chapter 4 of this thesis. In May the High Court ruled that superannuation payments and benefits constituted one of the conditions of employment over which it was possible to have an industrial dispute and so the matter fell under the jurisdiction of section 4 of the Conciliation and Arbitration Act.

With the national wage case lasting for an unusually long time of fifty sitting days, economic events began to overtake the positions of the government and the ACTU. The delays were a godsend to the employers. From their viewpoint, fresh adverse economic data might unnerve the national wage bench, while each delay of one month was variously estimated as keeping the annual wage bill down by \$250 to \$400 million. Some unions called on the bench to backdate any increases. On May 28, 1986, a day of



protest at the delays in the case was organised by the ACTU wages committee. The national wage bench responded by not sitting on the case for one day. Before the national wage bench had concluded hearing submissions, a string of unfavourable statistics indicated that the balance on current account was still deteriorating and Australia's relative inflation rate was running at more than double the OECD average. The dollar further depreciated. There were some signs of alarm in the government's response to the data, as a proposed mini-summit was converted into an address to the nation by the prime minister.

The government had therefore begun to talk about further discounting of CPI increases. At first the ACTU held firm, responding by claiming that, despite high profit shares and declines in real unit labour costs, the major problem in the economy was the failure of business to invest more. This perspective was reaffirmed by the ACTU in a special statement on the economy a few days before the Prime Minister's address to the nation on June 11. Essentially that speech heralded another major adaptation of wages policy, as the government called for a real wage cut to match the 3 per cent reduction in GDP, as a result of the deterioration in the terms of trade: the only wage increase in 1986 should be the one then under consideration by the national wage bench; there should be discounting of up to 3 per cent in the next wage case; further cuts in government expenditure; probable postponement of the Accord II tax rate reductions to December and the gradual implementation of any productivity/superannuation decision over two years. Opposition by the ACTU to the government's proposals was muted and appeared to be deliberately ambivalent. It became clear that the ACTU was prepared to accept further wage discounting, as part of a package deal. The ACTU leadership saw a chance to contribute to the forging of a new policy. Superannuation was at the forefront of their

thinking. Clearly, they accepted the reality of the economic circumstances and were anxious to preserve the Accord and the centralised nature of wage determination in which they were influential.

The prime minister's address to the nation and accompanying documents were sent to the national wage bench, which then invited all represented parties to make written responses, further delaying the case. Employer bodies emphasised the stark contrast on the state of the economy presented by the prime minister and the government's more optimistic earlier submissions in the wage case. The Confederation of Australian Industry asked the bench to reject the claim for any wage increase as well as the principle of wage indexation; to further delay national wage cases until September 1987; and to reject the principle of separate productivity adjustments and superannuation. In contrast to the other employers, the Australian Chamber of Commerce indicated that it was prepared to accept a suitably discounted indexation wage increase as long as it was judged within an employer's capacity to pay on a company by company basis.

In the end, the national wage bench granted a 2 per cent discounted wage increase of 2.3 per cent to be paid on or after July 1 1986, and ensured it was the only increase in 1986 by stating that the next wage adjustment would take effect on or after January 1 1987. Payment of the increase would be subject to a 'no further claims' undertaking by the unions. The way was cleared for employer-union bargaining for occupational superannuation, subject to a number of conditions, the most important of which was that superannuation payments should not exceed the equivalent of 3 per cent of ordinary time earnings and that agreements would usually be phased in on or after 1

January 1987.<sup>137</sup> Regulation and implementation of agreements and consent awards left a role for the Commission, which stated that it had made only minor amendments to the principles of the previous package of wage fixation, but two amendments stood out. First, wage indexation adjustments would be much more explicitly subject to review because of economic conditions and second, a new principle which would allow opposition to wage increases 'on the grounds of very serious or extreme economic adversity'.

When the national wage case re-opened in November, the ACTU advocate presented a claim for a 6.7 per cent wage increase based on the CPI increases for the March, June and September quarters of 1986. As this was an unlikely outcome, the proposal for a new two tiered wage system was presented. The first tier was to deliver two flat wage increases for all workers in 1987, with bargaining up to a maximum amount being allowed under the second tier. Negotiations between the parties would determine the size of the first tier wage increase. By contrast, the government submission argued for a single wage increase of \$10 to be paid in March 1987, a ceiling of 3 per cent to be placed on the second tier, and an end to the superannuation campaign. The major employer bodies were substantially in agreement in their submissions, which also called for a modified two tier system. They argued that only one wage rise should be granted in 1987 based on capacity to pay and not on movements in the CPI. The total movements in wages should be determined by the national wage bench on the basis of capacity to pay, and enterprise bargaining would then determine actual increases in the second tier. In order to prevent flow-ons and leapfrogging, the principle of comparative wage

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<sup>137</sup> Petridis, A. 'Wage Policy and Wage Determination 1986', *The Journal of Industrial Relations*, Vol. 29, No. 1, March, p. 79.

justice should be explicitly expunged from the wage system.<sup>138</sup>

On December 23, the Commission's full bench brought down a judgment effectively ending three years of a wage indexation regime and moving in principle to a two tiered system with an emphasis on low-income earners in the first tier. The way was left open for further negotiations over superannuation. Similarly, the size and timing of wage rises in the first tier and the criteria for the second tier were also to be resolved in conferences between all parties in January.

A contemporary posited that: "There is no doubt that the new two tier system is a sincere attempt to protect the living standards of low-wage earners, and to make the system more flexible, while still preserving a role for the Arbitration Commission through the national wage cases. Nevertheless, these wage cases will now take on a diminished significance. From the employers' point of view there is an initial promise of lower wage outcomes and flexibility in enterprise or industry bargaining. Of course, the extent to which wage outcomes are now more consistent with efficiency criteria will largely depend on whether the distribution and exercise of bargaining power in enterprises corresponds with efficiency in the same enterprises. Whether the ACTU can avoid a rank and file revolt in the face of further falls in real wages is crucial."<sup>139</sup>

The wider agenda was understood by other union leaders. Anna Booth, then of the Clothing and Allied Trades Union, says,

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<sup>138</sup> Cf. Green, Roy (1996) 'The "Death" of Comparative Wage Justice in Australia', Research Paper Issue 27, Employment Studies Centre, University of Newcastle [Australia], 27pp.

<sup>139</sup> Petridis, A. (1987) 'Wage Policy and Wage Determination 1986', *The Journal of Industrial Relations*, Vol. 29, No. 1, March, p. 83.

I seem to recall that our thinking around the 3 per cent in the second Accord was also about, understanding of course that the 3 per cent would come from employers, but understanding how you could try to minimise the transmission of the impact into the macro-economy and how you could harness it to build the national savings nation. So, as much as it was about dignity in retirement for ordinary working people and the inequity of the employers and public sector workers getting a retirement benefit and others not getting it, there was also this bigger agenda.<sup>140</sup>

This bigger agenda is further explored in subsequent Chapters of this thesis.

In summary, by the end of 1986, the Australian Industrial Relations Commission arbitrated on an ACTU claim that all workers covered by an Award should be provided with 3 per cent superannuation - that is, 3 per cent of their ordinary times earnings.

This led to the establishment of multi-employer industry funds covering most industries, as well as some state-based funds. But, as not all workers were covered by awards, not all employers complied.

In the course of the consideration of this matter, as outlined in Chapter 4, the High Court ruled that the Commonwealth and its industrial tribunals had the power to make awards and determinations on superannuation. Previously, it had been widely assumed that superannuation was a non-industrial matter and therefore could not be arbitrated.

#### Accord Mark III (March 1987)

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<sup>140</sup> Anna Booth Interview, August 2012.

Accord Mark III marked the end of formal indexation and facilitated a move from formally indexed wage rises to a two tier system of wage fixation requiring efficiency offsets in exchange for wage increases. Cook notes, "It became generally accepted that productivity promotion was a vital element in the recovery of Australian living standards and this led involved parties to look for ways of securing the necessary degree of labour market flexibility in the wage fixing system, in order to obtain improved productivity, and thus international competitiveness."<sup>141</sup> Through the Restructure and Efficiency Principle of the AIRC wage guidelines this involved an indexed, minimum tier, wage increase to a set level of income and, above this limit, increases according to productivity and other circumstances.

#### Accord Mark IV (1988)

Accord Mark IV stressed the structural-efficiency principle. It encouraged employers to adopt new ideas like the establishment of career paths, broad banding, multi-skilling and work patterns and other arrangements aimed at 'modernising awards' and otherwise a productivity focus in award adjustments and commensurate wage increases. Under the wage system established by the AIRC, increases were available to unions which gave a commitment to a fundamental review of their industrial awards with a view to implementing measures to improve efficiency and provide workers with access to more varied jobs. "The aim was to reform the highly specialised award regulation of the work process to encourage multi-skilling and to try to minimise demarcation disputes. This became known as award restructuring."<sup>142</sup>

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<sup>141</sup> Cook, Peter, *Loc. Cit.*, p. 164.

<sup>142</sup> *Ibid.*

### Accord Mark V (1989)

Accord Mark V built on the previous Accord with wage increases based on implementation of changed Award wages. Cook comments, “The Accord Mark V agreement in 1989 was intended to secure wage restraint while providing improvements in real disposable income. It was based on a combination of moderate wage increases, substantial cuts in personal income tax and improvements in the social wage (including increases in the Dependent Spouse Rebate, Family Allowance and Family Allowance Supplements).”<sup>143</sup>

### Accord Mark VI (February 1990, revised November 1990)

As the Australian economy retracted due to a recession, it was agreed that during 1990-91, the parties, by a combination of wage increases, tax reductions and improvements in the social wage, would provide for an increase in disposable incomes and living conditions while achieving a sustainable reduction in inflation and interest rates. Accord VI incorporated a wage-tax-superannuation trade-off, a claim for a \$12 wage increase to apply from May 1991 and further improvements in employer-funded Superannuation.”<sup>144</sup> Point 12 of the agreement stated:

Additional superannuation equivalent to 3 per cent of ordinary time earnings shall be available from May 1<sup>st</sup> 1991 and shall be paid no later than May 1<sup>st</sup> 1993. The superannuation increases shall be phased, in aggregate, over a three year period in a manner negotiated by the Award parties. Failing agreement, Industrial Tribunals

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<sup>143</sup> *Ibid.*, p. 165.

<sup>144</sup> *Ibid.*

may determine the dates of implementation provided the first increase shall be no later than the 1<sup>st</sup> May 1992 and the balance be implemented no later than 1<sup>st</sup> May 1993.

In Keating's summation, "Accord Mark VI provided for the second 3 per cent of superannuation to be paid on a phased basis flowing from the wage restraint of the past few years."<sup>145</sup> But, as we shall see, this proved controversial and the Commission rejected this proposal. In April 1991, the Australian Industrial Relations Commission (AIRC), instead of agreeing to lift superannuation from 3 per cent to 6 per cent as part of the next National Wage Case, agreed with employer organisation representations, in rejecting the claim as 'premature', due to economic circumstances. Australia was then in the midst of a recession. This triggered the Government's consideration of legislation to achieve similar ends. On the eve of the 1991 Federal Budget Hawke as Prime Minister, under intense pressure from the ACTU leadership and former Treasurer Paul Keating,<sup>146</sup> agreed to the Superannuation Guarantee. One contemporary historian of this event was to write: "Employers would be required to make contributions on behalf of their employees, making the system near universal. It was a political fix. There was no policy analysis, no Treasury White Paper that might be expected of such a sweeping compulsory measure."<sup>147</sup>

### Accord Mark VII (October 1991)

In order to promote greater levels of flexibility and wage adjustment, this Accord

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<sup>145</sup> Keating, Paul (1991) 'A Retirement Incomes Policy', Address to the Australian Graduate School of Management, July 25, typescript, p. 9.

<sup>146</sup> Keating had challenged Hawke in an internal Caucus ballot in June 1991 and retired to the backbenches, only to successfully challenge Hawke again for the leadership in December 1991.

<sup>147</sup> Kelly, Paul (2011) *The March of Patriots, The Struggle for Modern Australia*, Melbourne University Press, Carlton (first published in 2009, updated in 2011), p. 146.



brought forward the concept of Enterprise Bargaining. In 1992 the government introduced the Superannuation Guarantee (SG), following a refusal by the AIRC to increase the level of contributions under awards. All workers had to receive a level of super during their employment, as long as they earned more than \$450 a month. Super contributions were to be increased progressively, between 1992 and 2002 from 3 per cent to 9 per cent.

#### Accord Mark VIII (June 1995)

Though never implemented, Accord Mark VIII was an agreement reached on June 21, 1995. It aimed to support and strengthen the government's Budget strategy, recognising the need to address retirement income imperatives and the national savings shortfall. Section 6 of the document stated:

6.1 Under the Accord, occupational superannuation has moved from being a benefit enjoyed by a privileged few to being a central plank in providing all Australians with a better retirement income, and increasing national savings.

6.2 The Governments' Superannuation Guarantee legislation made provision for the phased implementation of a minimum employer-funded superannuation contribution for all employees. The further initiatives announced in the recent Budget will facilitate the introduction of employee contributions. These measures will mean a significant improvement in retirement incomes for workers - lifting the superannuation savings of a worker around average earnings to a minimum of 15 per cent of their wage, and up to 19 per cent for very low earners.

6.3 There are other benefits to Australia from the superannuation changes. It is understood that to maintain healthy growth in production and employment, Australia's businesses need additional investment in up to-date plant and equipment for their enterprises.

6.4 The capacity of the Australian economy to support investment growth is enhanced through the existence of an increased flow of domestic savings generated by superannuation and from a decreased reliance on the international financial community and foreign debt.

6.5 Consistent with the Budget Statement, the Accord parties support the phased introduction through industrial agreements and awards, where benefits are improved, of a requirement for employees to contribute 3 per cent of their

earnings to superannuation by the year 2000. In recognition of the need to improve the retirement savings for working people, and specifically the low paid, the Government will make means-tested superannuation contributions matched to those made by employees.

6.6 The Accord parties support an approach whereby the introduction of employee contributions through awards is timed to coincide with the Safety Net Adjustments. This is to avoid any decrease in employees' existing disposable incomes.

6.7 Under this plan, awards will require employee contributions of 1 per cent, 2 per cent and 3 per cent from 1 July 1997, 1 July 1998 and 1 July 1999 respectively, with the matched Government contributions being provided on the same basis in the year following.

6.8 The introduction of total superannuation contemplated by these arrangements will be in accordance with the following table:

SUPERANNUATION GUARANTEE Employer Contributions (per cent)

Financial Year	Payroll - up to \$1 million	Payroll - \$1 million or more	Employee Contrib	Govt Contrib*	Total
1992-93	3	4/5	-	-	3-4-5
1993-94	3	5	-	-	3-5
1994-95	4	5	-	-	4-5
1995-96	5	6	-	-	5-6
1995-96	6	6	-	-	6
1996-97	6	6	1	-	7
1997-98	7	7	2	1	10
1998-99	7	7	3	2	12
2000-01	8	8	3	3	14
2001-02	8	8	3	3	14
2002-03	9	9	3	3	15

\*Minimum Government Contribution capped at prescribed percentage of AWOTE and phased out at twice AWOTE.<sup>148</sup>

Circumstances worked against the Government implementing the superannuation features of Accord VIII. In 1996, the Keating government was defeated. The Howard government declined to extend superannuation beyond the 9 per cent minimum (then due to be phased in by 2002).

<sup>148</sup> A footnote to the table read: "The Government has taken substantial steps and will continue the process of consolidation of superannuation funds in low balance accounts to ensure that these funds are not eroded by fees, in recognition of the special needs of casual, part-time and women workers." This idea was part of the origin of the AGEST scheme.

Some industries had started superannuation campaigns, some successfully. Kelty saw that from the Maritime Workers and the Meat Workers, a lot of the left-wing unions, the 'comm' unions for want of a better expression, had won benefits for their members through particular industry schemes. These agreements were typically a bargain in exchange for industrial reform – containerisation in stevedoring, for example. On a wider scale, in the latter part of the 1970s, the Storemen and Packers union started to secure superannuation coverage in certain parts of industry. They drove hard the idea that superannuation was not just a special bonus, but an integral part of an employee's wages package, part of their income.

When the Hawke Labor Government came to office in 1983 it adopted an Accord with the trade union movement, where wage increases were to be restricted to movements in the CPI. When the Accord was renegotiated in 1985, superannuation was identified as a key issue. In 1984 'CBUSS' Superannuation for the Building Industry was created with the funds controlled by a board comprising equal numbers of employer and employee or union representatives. As Gardner noted, "The other issue to be resolved concerning superannuation - the composition of boards of trustees for the schemes - seems to have been settled with ACTU agreement to equal employer and union representation."<sup>149</sup> In Sword's summation, "...they used our model. In all the accumulation funds, they all have 50/50 employer/union representatives on the board."<sup>150</sup> Similar funds to the building industry scheme were established in the following years and these were called 'Industry Funds'.

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<sup>149</sup> Gardner, Margaret (1986) 'Australian Trade Unionism in 1985', *The Journal of Industrial Relations*, Vol. 28, No. 1, March, p. 136.

<sup>150</sup> Greg Sword Interview, June 2012.

The unique nature of the superannuation scheme that was finally adopted by the Hawke government was that it was paid for by employers rather than the government. It was totally portable. As people changed jobs, they did not lose their savings. Also the benefit was defined contribution (DC) and not defined benefit (DB).

Universal and compulsory super – where every worker has the right to their own superannuation account – would not exist had it not been for the campaigns fought by union members in the 1960s onwards. In 1985 only 39 per cent of the workforce had super. Access to super depended on age, gender, occupation, occupational status, whether you were full or part time, permanent or casual, or a contractor. Access to super was deeply inequitable: only 24 per cent of women had super, while 50 per cent of men had access to super.

Higher income earners such as permanent public servants and full-time white collar private sector employees were more likely to have access to super. Women and blue-collar workers were the least likely.

The regulation and structure of superannuation became controversial. Some companies treated the super fund as a company asset and using it as a means to make loans to companies was not uncommon.

In the early 1980s, most funds were under ‘defined benefit’ terms which disadvantaged people who changed jobs throughout their working lives, but advantaged those who stay in one job for 20 or more years, especially those who retired on high salaries.

In the early 1980s the ACTU developed strategies that would address Australia’s

ageing population. Research demonstrated that there would be insufficient tax payers to sustainably meet the cost of pensions for retiring baby-boomers.

The first 'industry funds' of the type we see today were established in the late 1970s.

The pioneer funds were developed for storemen and packers (LUCRF), building workers (BUSS) and meatworkers (MISEF). These funds developed from industrial demands placed by unions on employers and in some cases, vigorous campaigning including strike action was required to persuade employers to agree to contribute.

The main objective of the ACTU and the unions was to achieve a universal system of compulsory super, which had the following characteristics:

- Superannuation for all workers, irrespective of age, gender, occupation, industry or work pattern.
- Vesting: Superannuation would belong to workers rather than employers, so that workers kept their entitlement even if they left their job before retirement.
- Portability: When workers changed jobs they took their super benefits with them – assuming they worked within the same industry, it would be with the same super fund, thus 'industry funds'. (Most industry funds are now 'public offer' meaning that workers can join any industry fund regardless of the industry they work in.)
- Preservation: The purpose of super is to provide an income for retirement. Unless there are special circumstances (financial hardship and/or permanent disability) employer contributions should be preserved until retirement.
- Equal representation: Unions wanted employee as well as employer representatives to act as trustees of super funds – not just employers.
- Insurance: Unions sought insurance provisions, including death and disability

cover, for workers through their super fund.

The provision of super came about through union-employer negotiations and was provided by employers in place of pay rises. Super was therefore regarded as 'deferred pay' and a right for workers.

The Liberal and National parties opposed compulsory super until 1996, when they changed their position for the election.

By 2008, industry funds, covering more than 4.7 million members, began to aggressively campaign on their not-for-profit orientation, relatively strong investment performance, and low fees. Nineteen of the industry funds combined to promote the 'Compare the Pair' advertising campaign – that compared two members in different super funds and their performance.<sup>151</sup> As Weaven explained, "We put in the first index for super ratings and first drew attention that there is only one true measure which is net benefit to the member over a proper period of time."<sup>152</sup> Since 2008, the ACTU has campaigned for better retirement incomes through a lift in employer superannuation contributions from the minimum of 9 per cent - where it had remained since 2002, to 12 per cent, and then a further lift to 15 per cent.

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<sup>151</sup> Cf. Taylor, Mike 'Industry Super Funds Stumble on the Secret of Success', *Money Management*, October 18, 2010, <http://www.moneymanagement.com.au/opinion/superannuation/archive/industry-super-funds-stumble-on-to-the-secret-of-s>, accessed, September 2013.

<sup>152</sup> Garry Weaven Interview, March 2013.

### 3. The Building Industry Breakthrough

This Chapter explains why the breakthrough in superannuation in the building industry in 1983/84 was a key moment in the development of mass superannuation coverage across Australian industries.

By late 1983 the arbitration system had set down new wage indexation guidelines. The employers' advocate Colin Polites summarised the National Wage case of 1983: "In substance, the full bench has returned to a structured, centralised form of wage indexation, adjustments for productivity improvement, and severe constraints on labour cost increases outside those areas."<sup>153</sup> Within the building industry, however, there was tension caused by a tradition of militancy in the industry and a keen desire to 'catch up' on previous wage restraint outcomes. Just prior to the Accord's adoption by unions in February 1983, the building unions had reached an in-principle wage agreement with several of the major employers. This had not quite finalised but the unions expected a Labor government to allow its eventual ratification.

Weaven recalls that "One of the jobs I had picked up when I came into the ACTU was to try and get some collective position out of the building unions. Not in respect of super but in respect to their industrial arrangements because there were many, many separate unions, lots of demarcation fights between them ... and one fairly rogue union called the BLF... when Labor came to power in 1983, really they wanted to find a way to

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<sup>153</sup> Polites, Colin G. (1984) 'Major Tribunal Decisions 1983', *The Journal of Industrial Relations*, Vol. 26, No. 1, p. 109.

get peace in the building industry so they could stop the de-registration proceedings.<sup>154</sup>

I was assigned that industry and assigned the job of convening the building unions together - to try and get a peace agreement.”<sup>155</sup>

Retired former Commissioner Alan Vosti was appointed to chair a series of conferences (the first of which was held on 26 April 1983) involving the ABLF, the BWIU, the ACTU, other building unions and the Master Builders Association, as well as the Industrial Secretariat the MBFA had established in conjunction with AFCC.

Weaven said, “Just getting them in the same room was often a bit of a task, which led ultimately to a somewhat artificially forced industry-wide agreement. On one hand you are threatening to de-register the BLs, and we came to an industry-wide agreement that [retired Commissioner] Alan Vosti had put some sort of a seal on and ... it was all subject to it being approved by the bench of the Commission.”<sup>156</sup> The building unions did not seem greatly excited by superannuation in those negotiations: “It had superannuation as claim number 25 which didn’t get addressed ...but it did include a special allowance in [the agreement] which was the amount that was to keep the peace. In particular, the BLs and the plumbers were pushing to break outside of what was being negotiated in the metal industry and so on.”<sup>157</sup> For the ACTU, Weaven negotiated a new protocol, with the unions and the employers in the industry, that proposed that employers pay a \$9.00 allowance, called the Building Industry Recovery Procedures (BIRP) allowance in exchange for adherence to the new dispute resolution arrangements. The Memorandum of Understanding that resulted from those conferences addressed various award claims,

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<sup>154</sup> Such deregistration proceedings against the BLF had already commenced by the Fraser government.

<sup>155</sup> Garry Weaven Interview, March 2013.

<sup>156</sup> *Ibid.*

<sup>157</sup> *Ibid.*



provided a process for resolving disputes with the ABLF and its state branches, and enabled the Hawke Government to withdraw the application to de-register the BLF.

Rejection of the building industry agreement in November 1983 by the Commission on the grounds that it involved increases in pay in excess of the 4.3 per cent provided for in the national wage case left all parties dissatisfied. One observer noted, "Justice Ludeke made it plain that the Commission's first priority was to safeguard the new wage indexation principles..."<sup>158</sup> This was to emphasise that there was fear by other employers, and the Federal Government, that other industries would also demand similar allowances and, with spiralling increases across industries, that this would break down the principle of orderly wage indexation. But building employers, unions and the Commonwealth had all supported the deal and were anxious to find ways in which it could be reincarnated in a form acceptable to the Commission.

Oblivious to the developing implications, Mulvey, in a review of major tribunal decisions for 1983, asserted: "Rejection of the building industry agreement signalled the determination of the Commission to protect the national wage case decision ...the Commission asserted its independence and also assumed the role of guardian of the wages side of the prices and incomes policy. It was business as usual."<sup>159</sup> A factor in the building industry was as one observer put matters, with the BLF "the union's propensity for squabbling with every other building union"<sup>160</sup> could not be under-estimated. The Builders Labourers' Federation, in its own inimitable way, set the ball rolling with a

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<sup>158</sup> *Ibid.*, p. 92.

<sup>159</sup> Mulvey, Charles (1984) 'Wage Policy and Wage Determination in 1983', *The Journal of Industrial Relations*, Vol. 26, No. 1, August, pp. 118-119.

<sup>160</sup> Burgmann, Meredith (1984) 'Australian Trade Unionism in 1983', *The Journal of Industrial Relations*, Vol. 26, No. 1, August, p. 93.

straightforward claim for a \$9 wage increase in February 1984. This approach lacked subtlety, since it involved a blatant 'extra claim' in terms of the wage fixing principles. But their tactic had the merit of concentrating the minds of everybody else. This led to a minor crisis amongst the building unions, particularly as the BLF and BWIU tended to compete with each other on who was the most militant.

With the BLF's renewal of its campaign to fight for a flat \$9.00 wage increase, some of the unions were not sanguine about the chances of success: "...the Labor Government would oppose us because they were worried that we were going to bust open the Accord and wage restraint. The ACTU was opposed to us. Every bastard is opposed to us, so the ACTU came forward with the view 'Why don't we put it into a superannuation fund?'"<sup>161</sup>

Indeed, Kelty proposed that the demand be converted into a claim for a superannuation allowance. Initially, he said, "I talked to Norm Gallagher [head of the BLF]. He's got out of jail.<sup>162</sup> I've gone to the footy with him, set him aside. I am actually close to Norm Gallagher. I've got to be honest. That's closer to Norm Gallagher than I was with Pat Clancy [head of the BWIU]. I said 'Norm, I think it's actually a great thing to do with super and I would like you to support it.' And he said 'I am thinking about it, and thinking about it'."<sup>163</sup> Kelty remembers: "At *no* stage did I ever let Garry Weaven or Tom McDonald believe that BIRP could be taken as wages. It was always to be

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<sup>161</sup> Tom McDonald Interview, August, 2012.

<sup>162</sup> Gallagher had been released on appeal by a Court that had set aside a conviction for allegedly taking secret commissions.

<sup>163</sup> Bill Kelty Interview, March 2013.

superannuation, hence their phone calls to tell me that it could not be delivered.”<sup>164</sup> A problem was that the BLF came to believe and argued for the position that superannuation, rather than cash in hand, would be too hard to sell to its membership. Gallagher addressed his members at building sites saying ‘We don’t want it. We don’t want it in super, we want the money!’ That was his rhetoric. He rejected Kelty’s proposed solution. “The builders’ labourers are saying ‘Stuff that!’ They say ‘Superannuation is ...a pie in the sky’,”<sup>165</sup> Tom McDonald recalled.

This unsettled the other unions, with the BWIU considering whether to cave in, rather than appearing weak in comparison to its arch rival. McDonald, then the national Assistant Secretary of the BWIU, went to the ACTU to discuss the alternatives. In Kelty’s recollection, McDonald said ‘We want the money too.’ To which he received a roaring response:

And I said ‘Stuff you! You’re not getting the money’. And I said ‘I will do my utmost to make sure you are not getting the money’. And I went to Ludeke and said ‘In no way is the BIRP allowance going to flow through the industrial system’s wages. I will just tell you that. I will tell you that plainly and honestly’. And I said ‘I don’t want you to give it. I want you to reject it. I don’t give a care what you say but you’ve got to reject it because it is just impossible. We will transfer this into superannuation’.”<sup>166</sup>

In Weaven’s recollection, “Bill said to me ‘Look, this is not really going to fly’. He didn’t tell me that he made sure it didn’t fly, but it didn’t get approved by the bench. It was Terry Ludeke [who] was the Deputy President of the bench and they approved the

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<sup>164</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013. Emphasis in the original.

<sup>165</sup> Tom McDonald Interview, August, 2012.

<sup>166</sup> Bill Kelty Interview, March 2013.

package other than that allowance. The BLs immediately seized on that as a reason to go out and campaign for an extra wage payment, but Bill convinced me and also Tom McDonald and Pat Clancy that it could be converted to a superannuation claim and pursued as a super claim.”<sup>167</sup>

In Kelty’s recollection, McDonald appeared mellow in his reaction to the game-plan. Kelty pressed his point, saying, “We’ve got one chance in history - and not letting it go.”<sup>168</sup> The interesting person that Kelty never got on particularly well with was Clancy, the crusty leader of the BWIU, who was by the middle 1980s nearly completely blind, but still astonishingly authoritative within his union, still its undisputed master strategist. He saw an opportunity for his members and simultaneously a way to weaken his arch rival in the building unions. Kelty argued with him about the historic opportunity, reasoning that the Commission would reject the allowance anyway. So,

If they reject the decision on Wednesday morning, if you say on Wednesday afternoon that we have negotiated an entire agreement that has to be met in another way then we will look at other ways to meet an entitlement, but we will not give up your entitlements... If that happens to be superannuation, that claim will be pressed [strongly by the ACTU].<sup>169</sup>

To his surprise, Kelty remembers that McDonald, with Clancy’s support, said “‘Well, we’re in if that happens’. They did it and they did it precisely in those steps. They got it right and from that moment on - once they said that, then that didn’t mean you were going to have a fight, because that only came with Gallagher.”<sup>170</sup> Weaven says that, “So, Tommy came back to me and said ‘Look, He’s been very persuasive and I think we can

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<sup>167</sup> Garry Weaven Interview, March 2013.

<sup>168</sup> Bill Kelty Interview, March 2013.

<sup>169</sup> *Ibid.*

<sup>170</sup> *Ibid.*

do that'; and so that was momentous. Then we set about, first of all, the politics of how we out-do the BLF. We decided to take the claim of \$9 and to add a couple of more dollars to it so that it was more than \$9. Present it to the workers as a more militant position. At that point, I drew up the [superannuation] scheme, how it should look and so on, and we tendered it out and we got the unions on board."<sup>171</sup>

Tragically for the BLF, the superannuation campaign was part of the ultimate divorce between itself and the wider union movement. It could have been a great victory for Gallagher but then he saw it as a chance to separate out for political purposes. He lost. In October 30, 1984, the NSW Parliament passed the *NSW Industrial Arbitration (Special Provisions), 1984* which enabled the cancellation of the registration of the NSW BLF as an industrial union under the *NSW Industrial Arbitration Act, 1940*. The NSW BLF de-registration was gazetted on January 11, 1985. The Victorian Government cancelled the Victorian State registration of the Victorian Branch of the ABLF with the *Builders Labourers' Federation (Derecognition) Act, 1985* which received Royal Assent on July 30, 1985. On April 14, 1986, Royal Assent was received for the Federal Parliament's *Builders Labourers' Federation (Cancellation of Registration) Act, 1986*. The Federal Government also successfully introduced the *Builders Labourers' Federation (Cancellation of Registration - Consequential Provisions) Act, 1986* which allocated the work formerly covered by the ABLF to The Building Workers' Industrial Union of Australia (BWIU), the Federated Engine Drivers & Firemen's Association of Australia (FEDFA), and to the Plumbers and Gasfitters Employees Union of Australia (PGEU).<sup>172</sup>

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<sup>171</sup> Garry Weaven Interview, March 2013.

<sup>172</sup> See: Elder, John Richard (1994) 'The Australian Building Construction Employees & Builders Labourers Federation and the NSW Building Industry', Thesis for Master of Industrial Relations, University of Sydney, pp. 151f.

Kelty recalled that, “Now once the decision was made Garry Weaven was superb and Tom McDonald were just superb... You could not have questioned their capacity or their ability. They were superb in putting it together”<sup>173</sup> - meaning in the creation and development of the building industry fund.

Effectively, a union official had several choices, to try to negotiate, say, an \$8 wage increase and fail, because it would breach the National Wage guidelines imposed by the Commission, or to pursue the opportunity to negotiate a \$8 superannuation claim.

“Well, what do you go for? You’d go for superannuation because you will get it,”<sup>174</sup> Kelty mused.

The building superannuation claim provided the very precedent that the Commission and employers had wanted to avoid – the extension of a claim in one industry to the rest of the economy. The ACTU argued several counter points. First, by awarding money for superannuation, this added to the capital base of the nation. It was not immediately inflationary, as it added to overall investment capacity. Perhaps more relevantly, whereas wage increases were typically linked to award and industry allowances, they went up proportionately. A 3 per cent increase, when also applied to such allowances would increase wage inflation more. An increase limited to the base award rate reduced the inflationary impact. The main justification was that the unions saw this as responsible catch up, given that wages had significantly fallen in real terms over the late 1970s to the early 1980s.

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<sup>173</sup> Bill Kelty Interview, March 2013.

<sup>174</sup> *Ibid.*

A question the parties were required to address was ‘when is an extra claim not an extra claim?’ One answer was when it concerned an issue that was not an ‘industrial matter’. A superannuation scheme appeared to fit this bill. Although not a new idea, it became the central theme of negotiations in the building industry in March 1984. The negotiations were troubled from the outset. The \$9 per week wage claim translated first into a superannuation claim worth \$10 (including an extra \$1 for administration costs), and later \$11 a week (including an extra \$1 for death and disability insurance cover). The employers resisted and intervened in the national wage case arguing that the union’s claim was an extra claim and therefore inconsistent with the wage fixing principles. The Commission declined to abandon the wage fixing principles as a result of the situation in the building industry and suggested instead that the employers pursue the matter in the appropriate industry panel. In the meantime, however, the National Industrial Construction Council, representing large contractors and the states’ Master Builders Associations, reopened negotiations with the unions on the superannuation scheme, and agreement in principle was reached when, in late April 1984, Justice Alley delayed payment of the 4.1 per cent wage increase to building workers covered by federal awards. This raised major anomalies, since the 4.1 per cent had already flowed-on to building workers covered by state awards in all states except Victoria. The case revealed that the employers were hopelessly split on the issue with the Confederation of Australian Industry, the Metal Trades Industry Association, some state employers’ associations, and several contractors’ organisations opposing the superannuation scheme, while the National Industrial Construction Council supported the deal with the unions.

One contemporary account summarised the drama: “It was sometime – and some

trouble – before the building industry superannuation scheme was in operation.

Although an agreement between the National Industrial Construction Council and a number of building unions was signed in July, some employers continued to resist the scheme, and two unions refused to sign the agreement. The Plumbers and Gasfitters Employees Union declined to sign the agreement and engaged in industrial action in pursuit of a revised agreement and a 36-hour week, nine-day fortnight. The Builders Labourers Federation also declined to sign the agreement, but for reasons that were never made clear. Great pressure was brought to bear on these two unions. The Plumbers and Gasfitters had a penal clause inserted in its awards in Victoria and New South Wales, and the Builders Labourers Federation was threatened with draconian legislation from the federal and Victorian governments and with expulsion from the ACTU. In early October, the pressure bore fruit, and the building industry agreement was finally signed by all concerned, to the great relief of the federal government.”<sup>175</sup>

On 11 May 1984, before a full bench, the Commonwealth joined the ACTU, the building unions and the National Industrial Construction Council to support the extension of the national wage case pay rise to federal building awards. The application was opposed by the Confederation of Australian Industry, the Metal Trades Industry Association, and other employer groups. In the building industry, “...the employers started being beaten up - site by site - and falling in one at a time.”<sup>176</sup> With some reluctance, in mid-June the Commission handed down a decision in favour of the unions and implicitly gave the nod to the superannuation deal. In declining to prevent the wage increase flowing on into federal building awards, the Commission was critical of the parties to the

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<sup>175</sup> Mulvey, Charles (1985) ‘Wage Policy and Wage Determination in 1984’, *The Journal of Industrial Relations*, Vol. 27, No. 1, March, p. 71.

<sup>176</sup> Garry Weaven Interview, March 2013.



superannuation agreement, though warned against a general flow-on of such a scheme to other industries.

The finalising of the building industry agreement was of significance in two main respects. First, it brought to an end a potential threat to the Accord. The importance of the agreement to the Federal Government in the run up to an election,<sup>177</sup> with its entire economic strategy dependent on the survival of the Accord, was hard to overstate. To have survived a storm from the building industry was an indication that the Accord was robust enough. Second, the building industry agreement signalled that although wage increases outside national wage cases were disallowable, the scope for agreements involving non-award matters was considerable. This promised to be of even greater significance in the future, as wage policies continued to constrain union activity for higher wages.

For the union leaders in the building sector, ‘winning’ superannuation was just the beginning of a challenge for which they had little preparation: how to run a big, complicated, new scheme. In Weaven’s summation, “What it mainly took was not being too steeped in the super industry. You start with a blank sheet of paper ...a lot of it was making up the rules as you go, and ignoring a lot of the additional rubbish that went into superannuation.”<sup>178</sup>

The casualisation of the industry, and the multiplicity of small employers, posed significant administrative hurdles. As McDonald declaimed, “In the building industry, all that some of the employers offer is the glove box of their ute. How do you make it work

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<sup>177</sup> Won by the ALP on December 1, 1984.

<sup>178</sup> Garry Weaven Interview, March 2013.

in a casual industry like the building industry?”<sup>179</sup> Indeed, there was not only fierce opposition to union superannuation, but also suspicion that it would all unravel because the unions would be incapable of implementing the very schemes that they had proposed.

Some of McDonald’s colleagues asked, “How the bloody hell do you do it?”<sup>180</sup> McDonald noted that all the pieces of the puzzle were there. One was that the technology existed for sophisticated record keeping and tracking of members in the system. The second was the model similar to what finished up being the BUS scheme, in respect of long-service leave. This had been created legislatively in NSW a few years earlier.<sup>181</sup> “I strongly pressed this was not just a challenge to set up a scheme, this was a challenge to make a scheme work. It would be a disaster if we had set up a scheme and it collapsed. For the building unions, it would be a great disaster. The key to it being successful was simplicity of design and this was our secret,”<sup>182</sup> McDonald claimed.

He said, “We designed the scheme so that it was not based, like other schemes, on the hours worked. It was not based on salary or a percentage of salary. It was a flat amount. Everyone, the employer paid the same. It was based on time employed, not time worked. This we had learnt from the [complexities of the] building industry long-service leave scheme.”<sup>183</sup>

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<sup>179</sup> Tom McDonald Interview, August, 2012.

<sup>180</sup> *Ibid.*

<sup>181</sup> Arising from the NSW *Building & Construction Industry Long Service Payments Act*, 1986.

<sup>182</sup> Tom McDonald Interview, August, 2012.

<sup>183</sup> *Ibid.*

Thus, “When it came to ensuring that proper payments were made by employers, it went like this. The scheme finished up being \$11: \$9 super, \$1 for life insurance and \$1 for administration. We said to the employer ‘We want you to pay the administration’, therefore deliberately so that the employers would want to have an efficiently administered scheme because if it was inefficient, they would be paying extra. We wanted it to be efficient, so workers wouldn’t get all confused with division and uncertainty. It was \$11 per week employed, not days worked.”<sup>184</sup>

As for the argument that unions were ‘giving away’ wages for superannuation, there was a contrary explanation: “In ’85 we are still recovering from the crisis of stagflation. If we had gone to the commission with a 3 per cent increase in wages, we would have got bugger all. We wouldn’t have got it in the economic circumstances. The reason why we got it in super was because we were able to prove that it is non-inflationary. We could not prove that a wage increase was non-inflationary... We sacrificed the right to seek it. We never sacrificed 3 per cent because we would never have got the bloody thing.”<sup>185</sup>

The ACTU had decided that universal superannuation was going to be pursued through the award system generally. The ACTU made the application. It got the Federal Government to support it. In the documentation, the ACTU argued that it was not inflationary because the 3 per cent would not feed into wages, and into demand. It would go into investment capital and therefore would stimulate the economy and would not have comparable inflationary effects to a wage increase, because it would not be

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<sup>184</sup> *Ibid.* This meant that, for example, if a casual worker worked for, say, three days in the week, he got \$11, rather than a percentage.

<sup>185</sup> Tom McDonald Interview, August, 2012.

changing consumption demands. Whether such economic analysis is strictly correct (any cost increase is surely a pressure to increase prices), this thinking characterised the arguments of the time, and filled the union leaders with righteous vigour in pursuit of their objective. Kelty and others saw the outcome as less inflationary than the possible alternatives, and enabled the pursuit of an important political and social objective, with overwhelmingly long-term positive economic benefits, through a national system of superannuation via a proliferation of industry schemes.

The achievement of the building scheme, created a potent precedent for others to follow. As Weaven put matters, "The way that it took off in the building industry was a big wakeup call because the building industry is very 'casualised'. There were very few long-term, employer-employee relationships. The point being, if you could run it there - and mind you, there were tremendous stuff-ups - the belief was that you could run it anywhere."<sup>186</sup>

In McDonald's words, "We decided that it had to be started quickly and therefore... we developed a plan... I remember going to the secretary - I was the assistant national secretary - going to the [national] secretary [Clancy] and saying 'they can't very well renege on the position they have made, particularly if we put it in super, we have got the support of the Federal Labor Government and if we are ever going to get super, it's now. This is our moment'."<sup>187</sup>

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<sup>186</sup> Garry Weaven Interview, March 2013.

<sup>187</sup> Tom McDonald Interview, August, 2012.

Implementation meant moving extraordinarily quickly, with McDonald and Weaven driving the process. “Garry was very clear and had a massive input into it. It couldn’t have been done without him and the ACTU. We called on the employers to join the scheme.”<sup>188</sup> But they were divided and the big builders wanted two things. One was clarity and administrative simplicity on employees’ payments. Second, was equal representation on the board. Even so, the employers were all over the place: “There was an appeal for employer class solidarity. They were under enormous pressure. The workers had them under pressure. The ACTU had them under pressure, so they were all over the place. Some of them, however, saw superannuation as inevitable so they thought ‘we might as well support and get our foot in the door and have some say about how it’s run’,”<sup>189</sup> McDonald recalls.

Fearing a loss of momentum, the unions set up a union board of trustees as an interim-board, and from there they designed the scheme. The unions tendered out the management of the scheme, seeking tenders from AMP and others. But, the AMP declined because of the concern about upsetting some of their clients, who were in the company schemes that they managed. National Mutual and Colonial Mutual were the two main applicants, and Colonial won the bid through its subsidiary, Jacques Martin,<sup>190</sup> the CEO of which, Sandy Grant, came to play an extremely important role. Beginning as the head of an administrative service provider to the industry funds, he played a major strategic role for them. McDonald remembers that “The thing about Jacques Martin is

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<sup>188</sup> *Ibid.*

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*

they listened to us. They didn't come along as the experts and tell us 'This is how it should be'."<sup>191</sup>

Getting the systems and administrative details right meant a delay in implementation. Partly as a way of mollifying employer resistance, the building unions agreed not to pursue 'retrospectivity',<sup>192</sup> but with a proviso: employers needed to put \$11 up. As part of that deal, the unions agreed that the scheme would start in two stages. Stage one, from July 1<sup>st</sup> 1984, would only be the direct employees of the principal contractors - not the employees of all their sub-contractors. "They thought people like I were going soft, but there was a method in the madness. We realised it was going to be a tremendous job to get it right, and we had to get it right from day one. We couldn't stuff up and then six months later say 'Let's correct it'. It would be too late."<sup>193</sup>

The aim was that the first group would be 4 or 5 thousand workers. These were employees from the big contractors who had sophisticated computerised record systems. Any bugs, in the sense of enrolment and processing, would be identified there. There would be the opportunity to correct them, so that when all the sub-contractors' employees come in from January 1<sup>st</sup> 1985, there would have been a trial run, and the administration better equipped to manage things.

The fundamental difference between BUSS and the 'island' schemes of the 1970s was in scale and depth of coverage. Whereas, for example, LUCRF had over a period of the 1970s and early 1980s recruited three or four thousand members, by the end of 1985,

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<sup>191</sup> *Ibid.*

<sup>192</sup> Meaning, pursuing a claim retrospectively.

<sup>193</sup> *Ibid.*

one year after the big bulk started to come in, the building scheme had enrolled 54,969 members. “Who has ever set up a business with 500 customers to 55 or 56 thousand in a year? Grace Brothers grew from a little store. Here we were going from nothing to a giant within a year,”<sup>194</sup> McDonald stated.

As a start-up scheme, the simplicity of the system and getting it right in the first place was an administrative achievement of quite significance. The scheme had to be capable of reaching 57,000 employers in the industry, scattered all over the place. Within a year it had doubled - to over 108,000 member accounts at the end of 1986. Today it is 661,000.

The building scheme represented a crucial stage of the break-through and other industry funds adapted the BUSS model. BUSS covered not only the building industry, but the bigger construction industry and became the model for all the schemes. The ACTU was critical in designing the fundamentals of the model at all points. It was never a case of just the building unions inventing their scheme.

Almost overnight, widespread industry superannuation emerged from nothing to an behemoth - the corporate model being replaced by the union model, with all the flow-on effects.

An amused, McDonald notes:

We’re about 1985. There is the Hilton. There is this big board room - a big conference room in there where it holds 300 or 400 or whatever. ‘Big-shots’ in

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<sup>194</sup> *Ibid.*

the area of retail superannuation. They have this global world authority doing an analysis of the building industry's superannuation scheme. But the person doing the analysis didn't know that there was one person from the union that was sitting in that meeting - and it was me. He went off about 'this is the back door to socialism',<sup>195</sup> and I thought, 'I can claim some of the credit. As far as I can recall Lenin never thought about super-socialism. He only thought about scientific socialism', just as a joke. Anyway, he goes off and he criticised it and I got up and asked a question. My question was a tactic of saying something provocative. And the reporter from the *Financial Review* was there, and when the report came out on the conference it's about this episode... I was a delegate of Jacques Martin who was our administrative manager.<sup>196</sup>

With BUSS, after the \$11 scheme was up and running, the unions eventually sought another 3 per cent, so it became \$24.50. At the time of writing, it is approximately \$80 a week.

Weaven, reflecting on the events and arguments of his time, leading to industry superannuation, stated: "I think we were a bit ambivalent, almost two-faced. One face was saying to the employers, the government and the world at large 'This is in lieu of wages'. We've forgone this and we are entitled to this in lieu of wages, because what happened once the building industry campaign got under way the ACTU then took the position that we could spread this out from the building industry and so we started

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<sup>195</sup> Perhaps the visiting speaker was responding alarmingly to the provocative, though benign prognostications expressed by Peter Drucker about 'superannuation socialism'. See, Drucker, Peter (1976) *The Unseen Revolution: How Pension Fund Socialism Came to America*, Harper & Row, New York.

<sup>196</sup> Tom McDonald Interview, August, 2012. See, Munton, Joel Len (1985) "'Intruder" Upsets ASFA Talk on Builders' Scheme', *Australian Financial Review*, February 20.



encouraging similar funds to be set up. We had two funds in the building industry. BUSS and AUST, at first which came together, but there were two at the start.”<sup>197</sup>

By 1985, Gardner noted that:

Superannuation seems to be the issue proving the exception to the restrictions imposed by the Accord on direct negotiation and industrial action. ACTU support for industrial action on this issue suggests that it is prepared to graft the decentralised strategy of hours’ struggles and pre-Accord days onto the present centralised negotiating framework. This seems to be, to some extent, a response to the superannuation push already under way in many industries, with BUSS in building, MUST in metals and the TWU well under way with a 4 per cent superannuation claim before the deal. Laurie Carmichael is credited with developing the notion of the trade-off with the productivity increase, which breathed renewed life into action over this issue in the latter months of the year. Although superannuation deals were supposed to wait for the July 1986 deadline, the TWU concluded negotiations with major employers, such as Brambles, making themselves the main exemption to the deal. The paint industry dispute in November exemplified union preference for industry-based schemes. Action by FSPU members in this industry and intervention by the ACTU and federal government after the resulting stand-downs in the vehicle industry moved the issue from choice of superannuation scheme to an agreement that the employers would contribute to the industry-based scheme. In December, an agreement was

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<sup>197</sup> Garry Weaven Interview, March 2013.

signed between the ACTU and the ACM for a joint superannuation scheme to cover manufacturing.<sup>198</sup>

Weaven recalls that, “We used to hold those meetings simultaneously. We would have all the ETU and the plumbers and iron workers down one side and the BLF, BWIU and the carpenters were joined down the other side and 99 per cent of the agenda was identical and when there was an issue of difference we would minute that and it was nice to chair both at the same time. It was pretty good fun, but then we set up a similar thing in the metal (industry) or manufacturing called MUST - Metal Unions Super Trust which then became Manufacturing Unions Super Trust which then, considerably later when the employer group came in later in the '80s, became Superannuation Trust of Australia and later it amalgamated with Australian Retirement Fund which was the other employer group to become now the biggest fund in Australian superannuation.”<sup>199</sup>

Weaven notes, “That was the genesis. The early success in the building industry - site by site - and taking the employer-by-employer thing out, the TWU launched a campaign at the same time with some success, the metal unions co-ordinated by the ACTU under this MUST scheme had quite a lot of success and we then emulated it everywhere that we could. Sometimes, the unions just did it off their own bat, sometimes with the ACTU cajoling.”<sup>200</sup>

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<sup>198</sup> Gardner, Margaret (1986) ‘Australian Trade Unionism in 1985’, *The Journal of Industrial Relations*, Vol. 28, No. 1, March, p. 135. The latter scheme, the manufacturing scheme, became ARF.

<sup>199</sup> Garry Weaven Interview, March 2013. Weaven is referring to Australian Super, formed from the merger of ARF with STA.

<sup>200</sup> Garry Weaven Interview, March 2013.

The immediate opportunity resided on the exploitation of a myth. As argued in Chapter 4 of this thesis, conventional wisdom was that superannuation was a non-industrial matter that could not be considered by an industrial tribunal. Therefore the industrial tribunal was powerless to consider a dispute at the federal level over a superannuation claim. This matter was only conclusively resolved when, in 1986, the High Court clarified that superannuation could be considered by a federal industrial relations tribunal.

Gardner noted that there were difficulties in maintaining discipline and yet retaining the capacity to mobilise so that the ACTU could have a strong, credible bargaining position. “These have been resolved in 1985 by a skilful mixture of cajolery and balancing of factions, isolation of ‘mavericks’, and nurturing of the campaign for industry-based superannuation schemes.”<sup>201</sup>

In 1983, there was the aspirational vision, hesitatingly expressed for widespread superannuation coverage. In 1985, the strategy unfolded to a campaign for industry by industry superannuation. In between, a unique situation developed in the building industry. Later, even with such a significant outcome, and the eventual rolling out of superannuation across the award system following the 1986 wage case, the ACTU went to the government and said that ‘superannuation is going to wither on the vine if it stays at 3 per cent because it can’t deliver anyone a retirement income’. So, why have a scheme that cannot deliver? “It has to blossom or die.”<sup>202</sup> All these issues came to a head and were at stake, so there was a crisis. Keating said, on the basis of an ACTU proposal,

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<sup>201</sup> Gardner, Margaret (1986) ‘Australian Trade Unionism in 1985’, *Loc. Cit.*, p. 134.

<sup>202</sup> Tom McDonald Interview, August, 2012.

to support 9 per cent, phased in. On the union side, the architect of that idea was the ACTU's then legal officer, Iain Ross.

In the 1993 so-called un-losable election, the Opposition Leader Dr John Hewson agreed with his industrial relations spokesman, John Howard, to freeze the phasing in of the 9 per cent. Had the Liberals won, it could have been the downfall of industry superannuation. Keating's surprising win in 1993 ensured by the time the Coalition won the next election in 1996, industry superannuation was irreversible.

## 4. Industry Super on a National Footing

A critical issue in the development of the Australian superannuation system was the changing definition of an 'industrial dispute' under employment and industrial law. Until the middle 1980s, "...employers tended to argue that superannuation was not an 'industrial' matter for the purpose of the Conciliation and Arbitration Act and the Conciliation and Arbitration Commission (the Commission) and unions themselves were afraid to risk a High Court challenge."<sup>203</sup>

When the building industry superannuation campaign emerged in 1983/84, ACTU Secretary Kelty's position was simple: "...we do not accept the narrow-constrained argument that it's not part of the 'industrial relations' [system]."<sup>204</sup> As the unions sought in the 1986 national wage case a 3 per cent wage increase, allocated to superannuation, Kelty's position became strident: "The High Court can't tell us it's not part of an industrial [dispute]. It's a right. They can say whatever they like, but we want it."<sup>205</sup>

On the surface, it might seem obvious that disputes over superannuation are matters pertaining to the employer-employee relationship, but the law, as it had been interpreted to the mid-1980s, suggested otherwise. A brief excursion explaining the significance of this interpretation is crucial to appreciate how the unions exploited a loophole and, having created some momentum for industry superannuation, with the

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<sup>203</sup> Plowman, David & Weavan, Garry (1989) 'Unions and Superannuation', in Ford, Bill, and Plowman, David (1989), editors, *Australian Unions. An Industrial Relations Perspective*, Second Edition, Macmillan Company of Australia, Crows Nest [Sydney], p. 251.

<sup>204</sup> Bill Kelty Interview, March 2013.

<sup>205</sup> *Ibid.*

ALP government, changed the law and decisively influenced the interpretation of the law, to suit their purposes.

The prevailing, conservative interpretation of the limits of Commonwealth power highlighted that the Australian Constitution, under s.51(xxxv) conferred powers to the Commonwealth in the conciliation and arbitration of industrial disputes. Read in conjunction with s.51(i) of the Constitution, which conferred powers to the Commonwealth to regulate trade and commerce with other countries and among the States, suggested a narrow scope. Much turned on the interpretation of 'industrial', and whether a dispute that did not extend beyond the borders of one State could obtain sufficient standing to be considered a federal dispute. These issues were explicated in the 'Engineers Case' of 1920.<sup>206</sup> In this matter, the Amalgamated Society of Engineers had served a log of claims on the Adelaide Steamship Company and over 800 other Australian employers. On August 23, 1920 a compulsory conference was held before Higgins J. in the Commonwealth Court of Conciliation and Arbitration, but no agreement was reached. The Western Australian Minister for Trading Concerns, representing one of the employers served with the log of claims, claimed the Court had no jurisdiction over the State Government employers as there could be no inter-State industrial dispute within governmental concerns. The Court, however, held that:

...the Parliament of the Commonwealth has power, under s.51(xxxv) of the Constitution, to make laws binding on the States with respect to conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of one State; that a dispute between an organisation of

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<sup>206</sup> *Amalgamated Society of Engineers v Adelaide Steamship Company Limited and Ors.*, (the "Engineers' Case") CLR (1920-21), Vol. 28, pp. 129f. See also, *Federal Clothing Trades of the Commonwealth of Australia v Archer and Ors.*, (1919-20) CLR, Vol. 27, pp. 207f.; *R v Portus and Ors; Ex parte Transport Workers' Union*, (1978-79), CLR, Vol. 141, p. 1.

employees and a Minister of the Crown for a State acting under the authority of a statute of that State as an employer... is such an 'industrial dispute'.

Even so, in this case, the High Court recognised still implied limitations on the power of the Commonwealth over certain State employees. Under this doctrine, the general powers of the Commonwealth in s.51 of the Constitution could not be used to regulate governmental functions of the States, or the activities of state instrumentalities and statutory authorities. Therefore the power in s.51(xxxv) did not allow the Commonwealth Court of Conciliation and Arbitration to make an award to settle disputes between state instrumentalities and departments and their employees. In addition, and more significantly, the High Court read 'industrial' as a dispute in an industry; this was narrowly read to mean a business in commerce, which excluded ordinary government enterprise. This had the effect of excluding significant groups of State Government employees from the jurisdiction of the federal tribunal, including railway employees, school teachers, academics, administrative employees and fire fighters.

Without exhaustively canvassing the constitutional merits of Australian industrial laws, such background is relevant to a prominent, defining (for 30 years) decision on superannuation jurisdiction, namely the 'Hamilton Knight Case'.<sup>207</sup> In this 1952 decision, a claim that pensions be paid by employers to retired employees was held not to be about an 'industrial matter' and therefore could not be dealt with by the industrial tribunal.

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<sup>207</sup> *R v Hamilton Knight and Ors; Ex parte the Commonwealth Steamship Owners Association*, (1952-53), *CLR*, Vol. 86, pp. 283f.

But as we have already noted, in 1986, in the *Manufacturing Grocers' Case*,<sup>208</sup> the High Court permitted the federal industrial tribunal to make any award dealing with superannuation, when it found that a dispute about whether an employer should pay contributions to a superannuation fund for its current employees as part of their remuneration came within the statutory and constitutional sense of an 'industrial dispute'.<sup>209</sup>

Weaven recalls that, "One of the fascinating things in the lead up to that High Court case was that there had been an earlier High Court case called the *Hamilton Knight* case which was a case that rejected the handling of a dispute about super involving the Seamen's Union in the arbitration Commission on the grounds that super wasn't an industrial matter. Every time, up until '86, each time an actual dispute had occurred and the union tried to use the conciliation and arbitration Commission, the matter went nowhere or was avoided."<sup>210</sup>

Frustratingly, Weaven said, "The commissioners would say 'The *Hamilton and Knight* Case was not an industrial matter'. I honestly think I was the only person in the labour movement who had actually read the *Hamilton Knight* case. It never said that. What it said was that a dispute about a pension payment can't be an industrial matter because this person is no longer employed. The person in that case was on a pension. There is no employee-employer relationship; therefore there was the rejection of the union's claim... It became a matter of convenience to say that super is not an industrial matter.

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<sup>208</sup> Named after the union (eventually absorbed into the NUW) in whose name the ACTU conducted the case.

<sup>209</sup> *In Re Manufacturing Grocers' Employees Federation of Australia; ex parte Australian Chamber of Manufactures* (1986) 160 CLR 341 (hereafter the '*Manufacturing Grocers Case*').

<sup>210</sup> Garry Weaven Interview, March 2013.



To such an extent, that [in the 1986 national wage case] the CAI said 'We will win this. Super is not an industrial matter'!"<sup>211</sup>

The issue was finally clarified in a series of decisions by the High Court. During the 1986 national wage case the ACTU had to overcome a challenge to the jurisdiction of the Commission in relation to superannuation, mounted by certain employers groups. The High Court in its decision, in May 1986, upheld the jurisdiction of the Commission to deal with disputes concerning superannuation. In doing so it distinguished the 1952 High Court decision of *Hamilton Knight*, which had decided that a claim for employers to pay regular pensions to ex-employees, who had retired, was not within jurisdiction.

In 1986, the employers argued that the union claim for award superannuation did not have a sufficient connection with the employer-employee relationship, as payments were required to be made to a third party, namely, the trustees of superannuation funds. The High Court, however, held that these payments were still for the benefit of employees and directly arose out of the employment relationship. Thus it could be written: "Superannuation has finally come into its own in 1986 as a major industrial relations issue. Although the ACTU did not succeed in their claim for a productivity increase in the April 1986 national wage case, the commission did leave the way open for ratification of agreements on superannuation. As a result, it has been high on the bargaining agenda throughout the year."<sup>212</sup>

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<sup>211</sup> *Ibid.*

<sup>212</sup> Harbord, Graham (1987) 'Major Tribunal Decisions in 1986', *The Journal of Industrial Relations*, Vol. 29, No. 1, March, pp. 67-68.

*In Re Amalgamated Metal Workers Union of Australia; ex parte The Shell Company of Australia Ltd*, the High Court was asked to further consider the scope of the jurisdiction of the Australian Industrial Relations Commission (AIRC) over disputes about superannuation. The Shell Case gave the High Court the opportunity to consider the effect of the redrafting of the industrial legislation in 1988. The *Industrial Relations Act 1988* had replaced the then 84-year-old *Conciliation and Arbitration Act 1904*. The 1988 legislation relied on the constitutional validity of the Commonwealth ratifying ILO Conventions and then applying such conventions to Australian law.<sup>213</sup>

The Shell group of companies had arranged for the establishment of a pension fund in 1947. Employees made compulsory contributions to the fund and employer companies made further contributions sufficient to meet the fund's obligation to pay defined benefits to the employees on retirement. A considerable surplus accumulated in the fund but the trust deed made no provisions for its disposition. It did, however, contain a prohibition on any amendment to the trust deed that resulted in payment out of the fund to any of the member companies. Motivated in part by a desire to gain access to the surplus in the pension fund, Shell arranged for the establishment of a new superannuation fund in 1990, and for the amendment of the trust deed of the pension fund to allow transfer of employee entitlements (including a pro rata share of the surplus) to the new fund. The superannuation fund trust deed, in contrast with that of the pension fund, made provision for dealing with any surplus, and expressly permitted distribution to the Shell group of companies.

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<sup>213</sup> Cf. Landau, C.E. (1987) 'The Influence of ILO Standards on Australian Labour Law and Practice', *International Labour Review*, Vol. 126, No. 6, November -December, pp. 669-690; Easson, Michael (1995) 'ILO to the Rescue?', *Economic and Labour Relations Review*, Vol. 6, No. 1 June, pp. 149-157.

Trade unions covering Shell employees initiated a dispute by demanding that the companies appoint actuaries to ascertain the extent of any surplus and if there were a surplus, that the companies use their best endeavours to procure amendments to the trust deed so as to give the employees a 50 per cent share and that the Shell trustees not act unilaterally in favour of Shell in the distribution of any surplus in the fund. The Shell companies refused to accede to the claims, and the question for the AIRC and the High Court was whether there was an industrial dispute which could be arbitrated by the Commission. A 4-3 majority in the High Court confirmed the view of the 2-1 majority in the full bench of the AIRC that the Commission did have jurisdiction over the dispute, at least as to key aspects.

The majority confronted two substantial arguments against jurisdiction. The first was that in essence the unions were demanding amendment of the trust deed of the pension fund and payment of the surplus to the employees - matters that were beyond the power of the employer companies, and that lay within the control of the trustees, who were governed by the terms of the trust deed. This argument invoked High Court authority that a demand 'which ... employers themselves ... have no power to grant' could not 'give rise to an industrial dispute within the [Conciliation and Arbitration] Act or within s 51(xxxv) of the Constitution', because 'assent or dissent ... [was] completely irrelevant to the thing demanded'. The second and related argument against jurisdiction, drawing on the authority of *Manufacturing Grocers* and other precedents, was that to be 'industrial' the dispute 'must be connected with the relationship between an employer in his capacity as an employer and an employee in his capacity as an

employee in a way which is direct and not merely consequential'.<sup>214</sup>

With regard to the characterisation of the subject matter of the dispute, the High Court endorsed a broad approach to the tribunal's jurisdiction over superannuation entitlements, on the basis of both the decision in *Manufacturing Grocers* and in principle. Noting that in 1986 the court had held that 'entitlement to participate in a superannuation scheme and the means by which that scheme is to be funded' were 'industrial matters' as defined in the Conciliation and Arbitration Act, and that entitlement to participate in a superannuation scheme lacked substance unless viewed in the context of the nature and level of the superannuation benefits and the circumstances in which the benefits would be paid, the majority concluded that a dispute as to the form of a superannuation scheme was within the tribunal's jurisdiction.<sup>215</sup>

Further, the majority relied on the recasting of the statutory concept of 'industrial dispute' in the *Industrial Relations Act 1988*. Whereas the *Conciliation and Arbitration Act 1904* had defined 'industrial dispute' in terms of a 'dispute as to industrial matters' (and in turn defined 'industrial matters' as 'matters pertaining to the relations of employers and employees'), the 1988 Act defined 'industrial dispute' as 'a dispute ... about matters pertaining to the relationship between employers and employees'. According to the majority, the formulation of *about* was satisfied by 'a less direct relationship than might be necessary in the case of a requirement that a dispute be as to an industrial matter'. Therefore, a dispute between unions and employers as to whether

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<sup>214</sup> 'Manufacturing Grocers' (1986) *CLR*, Vol. 160, p. 353.

<sup>215</sup> Colvin, J. and McCarry, G. (1986) 'Superannuation and Industrial Law', *Australian Law Journal*, Vol. 60, p. 503.

the employers should endeavour to influence third parties who have the power to provide the desired superannuation benefits 'can fairly be described as a dispute about superannuation benefits.'<sup>216</sup>

The Shell decision confirmed that the AIRC could deal with aspects of superannuation beyond the employer's obligation to make contributions to a fund. The majority found that the change of statutory language in 1988 displayed a parliamentary intention to broaden the concept of 'industrial dispute', and specifically to allow for a less 'direct' connection between a dispute and the relationship of employees and employers.<sup>217</sup> That settled, the unions embarked on an ambitious campaign to extend industry superannuation coverage.

Crean recalls, "[W]e made a conscious decision with the 3 per cent that it all had to be accumulated. That was what the trade union movement was united on. That it had to be an accumulation account because the defined benefits' schemes were just too hard."<sup>218</sup> Besides, there was concern about the long term viability of defined benefit schemes: "...every single trustee that I have looked at they usually say these are the benefits we promise provided the employer has the economic capacity to deliver these agreements. So, you can say they are promised but they are not because there's a good chance the company won't be there in forty years."<sup>219</sup>

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<sup>216</sup> Weeks, Phillipa (1993) 'Major Tribunal Decisions in 1992', *The Journal of Industrial Relations*, Vol. 35, No. 1, pp. 97-109.

<sup>217</sup> Weeks, Phillipa *Ibid.*

<sup>218</sup> Simon Crean Interview, May 2013.

<sup>219</sup> Greg Sword Interview, June 2012.

Sword says that there was audacity in Kelty's positioning of the unions in support of superannuation. "He thought that it would make it easier for the government to agree to as well. When we came back to the ACTU executive – Bill was brought into the ACTU executive – so Bill said, great news, the government is going to support the 3 per cent wage increase, however, they will only agree to it if we agree that it goes into super."<sup>220</sup>

"Now, there was going to be arguments because employers said: we'll just put the extra 3 per cent into our funds, and unions said 'no, we want the 3 per cent to go into this fund that we are setting up'. So, essentially, the argument was over which fund. The other thing that happened is that clauses went into Awards and State Awards and stated what fund, the 3 per cent, would go into. For example with LUCRF, we had Common Rule Awards in Victoria and New South Wales, and their clause was that 3 per cent had to go into LUCRF. That spread religiously and then SG came along and that increased it. That's why it was really significant and important to have your fund in the Award; it's no longer in the Award."<sup>221</sup> ...What I would say about our role is that it was a very localised role, and it was very radical and we backed it up with industrial muscle."<sup>222</sup>

Kelty recalls that there was a lot of resistance to superannuation. But he wanted to tame opposition by galvanising the unions in an industrial campaign, the \$8 campaign and the 3 per cent super claim added to it. "We've got two campaigns going in the universe and we do know they are going to morph into one and we had to accelerate that plan and

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<sup>220</sup> *Ibid.*

<sup>221</sup> The Howard government in its 'simplification' of matters that could be included in an industrial award, excluded superannuation entitlements. But by then, the union-backed industry funds had sufficient ballast and momentum to remain strong and to grow.

<sup>222</sup> Greg Sword Interview, June 2012.

bring it to a head to get the 3 per cent for everybody.”<sup>223</sup> Some unions only wanted a wage increase; superannuation was a low priority. But the ACTU Wages Committee backed the campaign. Kelty went to see Keating at Treasury Place, Melbourne,<sup>224</sup> and told him that he was confident of unanimous support. “Keating said, ‘Just as a matter of historical interest, here’s the advice of the Treasury. It said that there had been many silly ideas the officer has seen in 6 years; this is one of the silliest’. He said ‘Here is the advice from the Department of Industrial Relations. Even if you wanted to do it, you can’t do it because it is unconstitutional. I said ‘That’s one hurdle’.”<sup>225</sup> Kelty asked Keating what his response would be to such sage advice. He recalls the reaction: “Keating said ‘Don’t worry about it. I’m supporting you’. He said ‘Bill, we’ll learn. Once I go into bat for you, I don’t care what these people say.’”<sup>226</sup> As for the matter needing to qualify as an industrial issue, Kelty insisted, “But it was. It was already an industrial campaign for it.”<sup>227</sup>

There was protracted opposition. The BCA opposed the superannuation campaign, but the unions signed up twenty eight big BCA-member companies. It was decided, “We’ll target them and see whether they agree. It only takes two weeks. Everyone’s agreed and they say ‘Don’t pick on us’. They all agree. “You sit here and everything that you planned for - because you do plan strategically and try to say, If you do that, what’s the likely outcome?’, and nearly every occasion they did the thing we really wanted them to do.”<sup>228</sup> So it was becoming clearer, the beginning of the measure of the achievement: “So, we’re established now as the universally industrial benefit, but on our terms - but in

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<sup>223</sup> Bill Kelty Interview, March 2013.

<sup>224</sup> Where the Federal Ministerial offices are located in Melbourne.

<sup>225</sup> Bill Kelty Interview, March 2013.

<sup>226</sup> *Ibid.*

<sup>227</sup> *Ibid.*

<sup>228</sup> *Ibid*

their wages. It was wages, had to be wages forgone. Because once it's wages forgone - which it is... We are not inventing this. We actually got real wage reduction in all of this. This is not some story. Once it becomes their wages, then you are at least entitled to have a say in the control."<sup>229</sup>

### **Case Study: The Metal Industry**

An interesting case study is the metal industry which had long been characterised by 'warfare by other means'. The emergence of industry superannuation reflected a structural and cultural shift in the organisation of industrial relations in that sector.

From the 1950s onwards, industrial relations in the metal industry were conducted through strikes, secondary boycotts and bitter disputes, though usually of short duration. Employers advocate Bert Evans recalls, "When I joined [the Metal Trades Industry Association, the MTIA] in 1958 there was a 6-month strike at Metters - a big bath plant - 6 months long. This is what I was introduced to... It was mad. Beer strikes every Christmas, transport strikes, petrol strikes."<sup>230</sup>

In the 1960s, Australia had one of the worst industrial relations systems in the world marked by frequent factory strikes, and enterprise bargaining styled as over-award payment claims.<sup>231</sup> The over-award payment claim was made factory by factory, and the

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<sup>229</sup> *Ibid.*

<sup>230</sup> Bert Evans Interview, May 2013.

<sup>231</sup> Cf. Foenander, Orwell de R. (1959) *Industrial Conciliation and Arbitration in Australia*, Law Book Company, Sydney.



unions would stake a claim and the MTIA had a team of strike settlers. "That was all we did - settle strikes. We would always sign an agreement for twelve months. Then they made a claim and this just went on and on."<sup>232</sup> The Australian industrial relations system, the new province of law and order in Higgins' phrase, was supposed to minimise industrial action through comprehensive conciliation and arbitration, with legal remedies for breaches of awards or agreements, including for employers to seek fines of unions for illegal strike activity. Reality in militant industries bore little resemblance to the paradise of Higgins' imagination.<sup>233</sup>

Expostulating on the Australian industrial relations system, Whitehead stated of the Australian system of industrial relations bargaining, that "there seems no solution which is institutionally practicable... in the near future."<sup>234</sup> There was a bans clause in the Metal Industry award which said there should be no strikes during the agreement. Regularly the employer organisations applied to the Commonwealth Industrial Court for an order to terminate the strike and the Court would regularly order cessation of industrial action because the evidence presented on the strike. The unions would sometimes argue that the action had been spontaneous, that they had not coerced or encouraged it. The Court would make an order for the strike to cease. Unions were often fined, not for the strike but for contempt of Court. Evans recalls, "There was something

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<sup>232</sup> Bert Evans Interview, May 2013.

<sup>233</sup> Cf. Higgins, H.B. (1922) *A New Province for Law and Order*, Contable, London (originally published in the *Harvard Law Review* in 1915); & Callaghan, P.S. (1983) 'Idealism and Arbitration in H.B. Higgins' *New Province for Law and Order*', *Journal of Australian Studies*, Vol. 7, No. 13, pp. 55-66; and, Dabscheck, Braham (1990) 'Enterprise Bargaining: A New Province for Law and Order?', *The Australian Quarterly*, Vol. 62, No. 3, Spring, pp. 240-255.

<sup>234</sup> Donald Henry Whitehead (1973) *Stagflation and Wages Policy in Australia*, Longman, Camberwell [Melbourne, Victoria], p. 105.

like 400 to 500 strikes in the metal industry in New South Wales a year.”<sup>235</sup> Sometimes the unions would say ‘We are not going to pay the fines’. Evans had a stock response: “That’s fine. I hope you enjoy walking to work and writing your stuff out in long-hand because you will have no type-writers and you will have no cars. We will be over tomorrow with the Sherriff and we will collect your goods.”<sup>236</sup> The MTIA became specialists in collecting every penny of costs. It was hard-ball.

Evans remembers that in the 1970s the metal industry was the battleground for over-award payments and ‘the going rate’. There was a going rate in Parramatta, Springvale, in every pocket of industry. Whatever was the going rate flowed. Until the 1970s, labour was in short supply. The going rate would go up and everybody paid the going rate. If the unions got a breakthrough, then they sought to get it everywhere else. “It got so bad that in the end we stopped doing surveys because everybody wanted to know what the going rate was. Without being asked they were going up. We had the Sheet Metal section and a Foundry section and the Bankstown section, the Springvale section and all over Australia, there were different sections. About eight in New South Wales and about seven in Melbourne, four in Queensland and three in South Australia,” he said.

Evans claimed that the MTIA eventually supported automatic indexation in Accord Mark I because it was better than the over-award payment chaos; because with the unions, in Evans’ view, the idea of honouring an agreement meant nothing. With the AMWU and its predecessors, “They would just sit down. Nearly all ‘comms’ - nearly every ‘comm’ I met

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<sup>235</sup> Bert Evans Interview, May 2013.

<sup>236</sup> *Ibid.*

was a good bloke, a really good bloke, but they had all these strikes. Not only that but they had these over-award payments which were the norm. That was it. "We had these over-award payments. We had no way of settling it. A real smarty, a good mate of mine, Wally Buckley, a member of the Communist Party, a great bloke, I used to ring him up and I would say 'Listen Wally. I am trying to settle some strike at ABC Engineering'. And he said to me one day 'Don't waste your time, mate. The Party has got a hold of that'."<sup>237</sup>

"From then on, I would ring up and he would say 'It's fine', or 'It's wet', or 'The dogs are on tonight. Do you want to come to the dogs?' He wouldn't ever talk about the strike. If the Party had hold of it, he would talk about something else. If he wanted to settle it, if he could settle it, he would talk about it. That was our code."<sup>238</sup>

In 1981 there were numerous disputes about the 35 hour week. "These were bitter strikes - really long 6-month, 5-month strikes. Never overtime bans, guerrilla tactics. We did all sorts of things during that time but in the end we were still opposing it. Everybody else had given in, so I decided that I would take a case to the full bench. I will never forget this. I had to create a dispute. I said to my solicitor bloke 'I think that if I file a claim that hours should remain at 40 for five years that will create a dispute', which is what he did."<sup>239</sup>

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<sup>237</sup> Bert Evans Interview, May 2013. Meaning, the CPA had a hold of the dispute.

<sup>238</sup> Bert Evans Interview, May 2013.

<sup>239</sup> *Ibid.*

The MTIA went through the latter period of the Fraser government embracing automatic indexation which was an anathema before, but the members said 'It was better than what we've got now. At least we all know what is going to happen'. That functioned well for a time but then it fell apart. One day Evans remembers that he was on the ABC radio with Carmichael. "I said 'I am prepared to talk to you but I can't really in good faith talk to you because you have never honoured an agreement. Your mob has never honoured one agreement ever'. I have been there 23 years now and I am a strike settler. I have handled more strikes in Australia than everybody else put together. That is my record. I said 'I can't do it. You would have to give me a 'no strike' clause."

A surprising response arrived: "He [Carmichael] said 'I can't give you a 'no strike' clause but I can give you a 'no extra claims' clause.' He said, 'If we can't make claims, we can't go on strike'. So, I said 'ok'. We have all our discussions. It was me and Carmichael only, and I go back to the meetings of MTIA member company representatives, and I say 'This is the position'. They say 'How can you trust Carmichael?' I say 'I don't have to trust him. I have never been able to trust any of the others, but he has given me his word that he will do it. He has given it to the Commission that he will do it'. They said 'We have got no bloody choice, have we?'"<sup>240</sup>

By then the building industry employers had conceded a 35 hour week. The MTIA fought to get it back to 38 and resist flow-on to the metal industry. "I get the mandate and it was near Christmas Eve and I remember going to the American Club and I got a

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<sup>240</sup> Bert Evans Interview, May 2013.

big clap. I settled these strikes. I waited about three days and there hadn't been a strike and about another ten days and there hadn't been any strikes. Of course, we had this national disputes procedure to set up, if ever there was a dispute to go through.

"I got back to work after about 10-12 days, maybe 14 days and there were three claims or four claims. I rang Carmichael and I said 'You had better convene this disputes panel because we have got three or four claims'. He said, 'No, I am not going to just do that mate'. He said, 'You can forget it.' I never had a strike. He stuck to his word. "He went out. He said 'You bastards voted for this. You are going to do it. Drop it. That then became the basis of the Accord. Hawke told me that he wouldn't have entertained the idea of the Accord if the Metal Unions hadn't proved they could be trusted.'"<sup>241</sup>

By the time of Accord Mark VIII, the MTIA was not party to it, but was openly supportive. Evans remembers saying to Keating and Kelty, "We have got to put here something about exports. We've have got to put in R&D. We got to be into innovation. We have got to put all these things in. Kelty said 'we can't put these things in an Accord. We are a union'. Keating said 'Give him what he wants. Whatever he wants is going in.' But then, of course, they lost the election and the Accord fell over."<sup>242</sup>

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<sup>241</sup> *Ibid.*

<sup>242</sup> *Ibid.*

For fifteen months, however, in 1984/85, there were protracted superannuation disputes and strikes. "In every state - fifteen months."<sup>243</sup> "...the superannuation [campaign] had this real bitterness and I just wouldn't budge."<sup>244</sup> "It was called MUST - Metal Unions' Superannuation Trust<sup>245</sup> - run by Greg Harrison... In the middle of one heated phone debate, it was over the phone, I said 'Nobody in their right mind would invest money controlled by unions'. Two days later I get a defamation writ. I said, 'Harrison! You little shit'. He had issued it. You didn't need to be a ruddy Rhodes Scholar to work out who was the driving force behind it. I thought 'You bastards! You bastards!'"<sup>246</sup>

Evans saw Tom Hughes QC, whose opinion was 'If you have said it, you have said it. You are indemnified'. Then the national wage case came back on. The writ was hanging over Evans' head: "The union suddenly panicked because they thought I was going to turn up and argue that the case couldn't proceed because I had a defamation action against me."<sup>247</sup> All of a sudden then there was a new window opening.

Around 1988 Weaven thought that "I think the next thing was some of the employer associations actually came on board and negotiated - the key one being the Metal Trades Industry Association."<sup>248</sup> They had a long negotiation with us. Instead of being a big, negative, wet blanket on their members, they became mildly positive. A lot of 'un-

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<sup>243</sup> *Ibid.*

<sup>244</sup> *Ibid.*

<sup>245</sup> MUST ultimately became the Superannuation Trust of Australia (STA), which in turn following a merger with the retirement trust of Australia became Australian Super.

<sup>246</sup> Bert Evans Interview, May 2013.

<sup>247</sup> *Ibid.*

<sup>248</sup> now the AiG.

unionised' sites then began to come in."<sup>249</sup> Kelty saw Barry Watchorn, of the MTIA as "a *key* figure in superannuation, supporting the strategy from the employer's viewpoint and being a person who would take an independent and supporting view in supporting independent asset allocation strategy and establishment of organisations such as Member's Equity, IFS, ISPT etc."<sup>250</sup>

The MTIA decided, 'OK, we're joining in.' The AMWU presented the MTIA with the trust deed. Part of the solution was to extinguish the defamation case. The MTIA insisted on rewriting the trust deed, with a reformed board of 5-a-side. "We had myself and Roger Boland<sup>251</sup> was one of the Directors. Then we had Grahame Willis our pedantic little financial secretary, who was invaluable because unions had no idea and the secretary had no idea and Willis would go over the agenda and go over the minutes and the signatures. He is still there. He is still working for Australian Super after all these years. He played no role in policy but a huge role in policing the corporate governance of it. Then we had the Managing Director of General Motors and the Managing Director of one of the big component companies. We were the five," Evans recalls. This was how MUST became STA.

This story is also part of the radical transformation of industrial relations in the traditionally militant metal industry. And an example of a wider campaign. As Weaven was to reflect, "the industrial campaign, company by company, sector by sector, from

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<sup>249</sup> Garry Weaven Interview, March 2013.

<sup>250</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013.

<sup>251</sup> Later Judge Boland, the President of the NSW Industrial Commission.

1984... established the basis for sweeping reform and the success of the industry fund model in disarming opponents.”<sup>252</sup>

The spread of industry super proceeded apace even in weakly-organised industries, such as retail – to which we shall now turn.

### **Case Study: The Retail Industry**

Industry superannuation in the retail sector took shape with the employers taking the lead on the creation of the main superannuation fund, and with the key retail union as reluctant converts to the idea of deferred pay through superannuation, rather than cash in hand. Secretary of the key retail union, Joe de Bruyn frankly states, “I can say ‘I was not an architect of superannuation’ because when the proposition was put to the union movement, sometime in the ’80s, there was a 3 per cent productivity increase that was going to be available to working people, and the proposition was ‘Should we take this as superannuation or as a wage increase?’... Jim Maher [then national President of the SDA] and I preferred the wage increase.”<sup>253</sup> This was primarily because retail workers are typically low-income workers. “We thought that the superannuation was very nice, but at this time we preferred to get the money in our pockets. We also felt if we went out and asked people ‘Would you like this as superannuation which you get at retirement or do you want it now?’ they would take it now.”<sup>254</sup>

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<sup>252</sup> Email correspondence, Garry Weaven to Mary Easson, November 7, 2013.

<sup>253</sup> Joe de Bruyn Interview, March 2013.

<sup>254</sup> *Ibid.*



The union, however, saw merit in the government's actions in cutting taxes for lower paid workers, support for a wages system geared to helping lower paid workers, and boosts to family allowances (a long time policy goal of the SDA). So they went along with the ACTU superannuation campaign. "That was our view. I remember I had discussed it with Jim Maher and I had said to him, 'Look, the money is better for our members'. And Jim agreed. But anyway Kelty had a different plan and so we had to fall in line."<sup>255</sup>

Then there was the challenge of creating a fund that would cover the whole, or as much as possible, of the retail industry. The Retail Employees' Superannuation Trust (REST) became the retail industry fund, but despite the initial view of the retail union. The SDA had agreed with John Maynes of the Clerks Union, which then covered administrative and clerical workers in the retail sector, that both would be in CARE, a joint fund between the two unions. John Maynes' idea was to have two right-wing unions form a joint superannuation scheme. At the time both unions shared the ownership of the head office building of the two unions in Queen Street, Melbourne.<sup>256</sup> "The big fight for us around Australia in every jurisdiction was to get an industry fund up. John Maynes' proposal to the SDA was 'Let us set up a fund for both clerical and retail employees' - which is CARE, which is still there, and at that time was supposed to stand for Clerical Administrative and Retail Employees. Jim [Maher] and I became two of the four Directors on there and John Maynes was there and somebody else from the Clerks Union, and so what we conceived was that this would be the fund for the retail industry. However, Kelty didn't agree. I don't know why, but he didn't. The retailers didn't agree.

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<sup>255</sup> *Ibid.*

<sup>256</sup> *Ibid.* Politically the unions were closely aligned, with the Victorian leadership and national officers having just been reconciled to the ALP. The FCU & the SDA rejoined the Victorian Branch of the ALP in 1986.

They said 'There should be a fund for the retail industry only and not for the clerical people', which goes wider across a whole diversity of industries."<sup>257</sup>

De Bruyn recalls that "The definitive argument took place in the Victorian State Industrial Commission where you had Keith Marshall who was the previous industrial registrar and who had become the President of the Victorian Industrial Relations Commission presiding and we argued that for Victoria - because our awards at that time were all state-by-state - we said 'In Victoria the fund should be CARE' and the retailers said 'No, we want a different fund. We have a fund that we call REST. This was a shelf company that the retailers in Sydney had and they used that to become the trustee of a potential fund.'"<sup>258</sup>

The retailers put up the argument that it should be a fund for the retail industry only. De Bruyn speculates, "I don't know if Kelty was directly involved in making any submissions, but his view was very clear to us and he probably made that view known to Keith Marshall. When Marshall made his decision he said 'There should be a fund for the retail industry. It should not be CARE. It should be REST'."<sup>259</sup> Once that decision was given the SDA had to revisit its entire strategy, including in Western Australia where the industrial tribunal there had decided that CARE should be the fund. Mark Bishop was the WA secretary. The case was re-opened, arguments were put forward, and REST became the approved fund. That became the pattern around Australia. "The retailers

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<sup>257</sup> Joe de Bruyn Interview, March 2013.

<sup>258</sup> *Ibid.*

<sup>259</sup> *Ibid.*

then invited us on and we had four of the eight Directors. Jim Maher, myself and I can't remember who else, but in about December of 1988, that is when we went on."<sup>260</sup>

Some of the companies wanted their own individual company funds. At that time Coles and Myer were in one company called Coles Myer and they set up a Coles Myer fund. In contrast, Woolworths was happy to be in REST. Franklins, which was a big NSW company was also happy to be in REST. David Jones wanted its own fund, and so on. Each company made up its own mind.

In Tasmania the local SDA branch secretary was persuasive in proposing allowing Tasplan in as well. It became the fund that Woolworths went into there because the State Manager of Woolworths was one of the Directors of Tasplan. The thinking was that all the Tasmanian money should be in one Tasmanian fund so that much of it could be invested in Tasmania.

In Queensland, the State Commission said that among the funds appropriate for the 3 per cent superannuation, should be REST, some other industry funds like SUN SUPER, and another set up by the Queensland Retail Traders and Shopkeepers Association (although that fund never went anywhere subsequently). The Queensland Commission allowed any company fund which, at the time of its decision, had already been established, but refused to recognise any new company funds. Coles Myer was already in existence at the time and Coles Myer became a fund for Queensland. Eventually when they found that throughout the rest of the country everybody had to be in REST, Coles

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<sup>260</sup> *Ibid.*

Myer ultimately shut down its Queensland fund down and put all its employees into REST.

The SDA, with around 215,000 members,<sup>261</sup> continues to be influential in the identity and continuation of the REST scheme. Because the retail industry is so large and REST today has 1.2 million members, who are receiving employer contributions, and another 750,000 who have been in the retail industry who have an account with REST. The fund is now one of the big ones, with over \$25 billion in assets. De Bruyn insists that merger is not a realistic option because, "Merger would mean that you would lose one of your unique marketing opportunities which is that we are the fund for the retail industry. If we merge with somebody else you can no longer say that we are the fund for the retail industry because you will be the fund for other things as well."<sup>262</sup>

In this instance, the union leadership was driven by its admiration for Kelty and its support for social wage improvements (tax cuts for the lower paid, family allowances) and for the wages system, including safeguarding and improvement of minimum award standards, to ultimately support retail industry super. Kelty supported the merits of the retail-focused scheme, REST, rather than something more political in its origin, which is how he first saw CARE in its first manifestation.<sup>263</sup> His role was decisive in the retail sector.

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<sup>261</sup> *Ibid.*

<sup>262</sup> *Ibid.*

<sup>263</sup> The clerks industry was a dying sector of the economy. And the union was besieged with political challenges and contests. In the middle and latter part of the 1980s, the FCU Victorian leadership fell to the left, led by Lindsay Tanner. The SDA, in retrospect, was glad not to be tied to their boat. For an account of the internecine warfare within the FCU, told from the side of the new leadership, see, Tanner, Lindsay (1996) *The Last Battle*, Kokkinos Press, Carlton.

## 5. Legislating for Permanency

There were two main phases of the Australian labour movement's consideration of legislative provisions for superannuation. First, was the Hancock Review under the Whitlam government in the 1970s; second was giving legislative effect to support award superannuation in the early 1990s. This Chapter examines both phases.

In the early 1970s, when Gough Whitlam was Leader of the Opposition, his chief of staff, Race Mathews, was attracted to the writings of Richard Crossman, the UK Labour politician, including his advocacy of a national system of superannuation.<sup>264</sup> Whitlam wanted his staff and the party to draw on overseas experience as potentially relevant to Australia. Mathews recalls, "...we looked at what was going on in England and we thought 'Oh that sounds good. Let's consider that'."<sup>265</sup> This was the formation of the thinking that led to the Whitlam Government's commissioning of the Hancock Inquiry into retirement savings in Australia. Crossman had in turn been influenced by the social theorist and public policy academic Richard Titmuss. When asked 'Where did the policy originally come from to look at retirement incomes?' Mathews responded, "To be honest, the Opposition Leader's – Whitlam's - staff came up with it. Not because we were brilliant. The party was comatose. It couldn't come up with any ideas. So we had to."<sup>266</sup> Without anything in the party platform and little evidence of any deep thinking within the labour movement on the area of retirement policy, Mathews explained,

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<sup>264</sup> Cf. Crossman, R.H.S. (1972) 'The Politics of Pensions', *The Eleanor Rathbone Memorial Lecture*, Liverpool.

<sup>265</sup> Race Mathews Interview, June 2012.

<sup>266</sup> *Ibid.*

“When we wanted to come up with policy we thought ‘If we can’t figure it out, we would investigate what are they doing overseas.’”<sup>267</sup> They looked at developments in the United States and in the United Kingdom and settled on an idea of conducting, in government, a wide ranging inquiry on retirement and social security policy. What they did not know was what form superannuation would take.

Noel Whitehead notes that “A scheme developed by Professor Richard Titmuss (London School of Economics) advocated the introduction of inflation-proofed, universal, state-run, earnings-related pensions based on funded principles. This was first adopted as official [UK] Labour Party policy in 1957.”<sup>268</sup>

The pension system prepared by Titmuss proposed a new form of ‘national superannuation’ linked to earnings and accumulated contributions rather than on the payment of a single flat-rate.<sup>269</sup> This idea struggled to win support in political and bureaucratic circles: “The only support for a comprehensive, universal, state-run scheme of earnings-related superannuation along the lines proposed by Titmuss was found in the Ministry of Social Security. Here, the division of social security and the investment of a national superannuation fund in equities found its fullest endorsement.”<sup>270</sup> It was not enough. There were strong countervailing pressures, such that there was the “re-conceptualisation of pension solidarity from the workplace to

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<sup>267</sup> *Ibid.*

<sup>268</sup> Whitehead, Noel (2002), ‘Constructing the Public-Private Divide. Historical Perspectives and the Politics of Pension Reform’, Working Paper No. WP102, Oxford Institute of Ageing Working Papers, August, [www.ageing.ox.ac.uk/files/workingpaper\\_102.pdf](http://www.ageing.ox.ac.uk/files/workingpaper_102.pdf), accessed May 26, 2013, p. 9.

<sup>269</sup> Burchell, Andrew (2012) ‘Crossman and Social Security’, Warwick University, August, <http://www2.warwick.ac.uk/services/library/mrc/explorefurther/digital/crossman/urss/socialsecurity>, accessed May 26, 2013.

<sup>270</sup> Whitehead, Noel (2002), *Loc. Cit.*, p. 15.

some abstract notion of shared (financial) citizenship.”<sup>271</sup> Clark posits that at least some employers saw it as a rational process to de-risk DB scheme obligations by limiting, eliminating or phasing out schemes. Clark summarises that as capitalism progressed and DB schemes were phased out, “...workplace pensions became increasingly remote from the circumstances of companies and industries.”<sup>272</sup> This was to become clearer as the 1980s progressed and pension fund liabilities became an increasingly potent issue.

This is why there was strong merit in evaluating the options, risks, and opportunities in recasting public policy in this field. In 1973, the Whitlam government established the National Superannuation Committee of Inquiry chaired by labour market economist and academic Professor Keith Hancock, who was sympathetic to the ALP. His report was handed down in 1976, after the change of government to that of Malcolm Fraser (Prime Minister, December 1975 to March 1983).

The Hancock Inquiry recommended a partially contributory, universal pension system with an earnings-related supplement. A minority recommendation suggested a non – contributory flat-rate universal pension, a means tested supplement, and encouragement of voluntary savings through expanding occupational superannuation.

The Hancock Review came up with a majority and a minority positions. The majority report recommended superannuation as a government scheme paid from taxation,

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<sup>271</sup> Clark, Gordon L. (2012) ‘From Corporatism to Public Utilities: Workplace Pensions in the 21<sup>st</sup> Century’, *Geographical Research*, Vol. 50, No. 1, February, p. 32.

<sup>272</sup> *Ibid.*, p. 34.

invested by government and organised along the lines of the then existing public service funds.

The minority report proposed improvements and extensions in the existing system of superannuation, through a multiplicity of providers, but with new rules to universalise coverage and entitlements. Because of the divergence of views, the Fraser government initially prevaricated, but ultimately rejected the majority recommendations and ignored the minority's. For a long time, however, the unions hoped that the Hancock national superannuation reforms would be implemented. As Greg Sword recalls, "Hancock was a speaker at some of those conferences I went to because he was talking about his report. In the early years, we did not give up hope that there would be a chance/opportunity for a national scheme, so most of the agreements we, in fact all of the earlier agreements that we negotiated with the employers, all said: in the event of their being a national scheme, then this money will go into the national scheme."<sup>273</sup>

The second phase of considering legislative change came through the development of award-based superannuation in the 1980s and then in 1992, legislative enactment for compulsory super. In the 1980s, Kelty claims that the unions were determined to think strategically and on a national scale. "We made up our mind to get national superannuation. We had to do it in steps. The 3 per cent was always just a step."<sup>274</sup> The first 3 per cent was secured in strategic industries, the building and construction

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<sup>273</sup> Greg Sword Interview, June 2012.

<sup>274</sup> Bill Kelty Interview, March 2013.



industry, transport, oil, the metal industry. Established industrially, the challenge was how to set up industry funds on a secure basis. Kelty comments, “Whatever I say about Garry [Weaven], he was wonderful in terms of establishing the industry funds. The funds then become vibrant and alive themselves. The funds exist, the fibre is alive, the money is growing, we are getting a reasonable rate of return, doing a steady job, organisations and the people involved are getting credibility, they are working with employers. They started from being strongly opposed to them, compelled to be in them, to strong supporters of them.”<sup>275</sup> Getting there was far from sweetness and light. The employers saw superannuation as just another cost impost. In Bert Evans’ words, “I kept saying to Kelty, ‘it’s the greatest load of bullshit I have ever heard. You said ‘this was 3 per cent productivity’. I said if it was productivity it would have been distributed ten times over. It was a load of crap. ‘You were saying that there was 3 per cent. It is just bullshit. You and Keating have conned everybody!’ And I still tell them that.”<sup>276</sup> Evans came to be a great supporter of industry super, but he thought the impetus for the idea rested on a myth. Such comments regarding the trade-off should be weighed against the facts – including the decline in real wages, even with increases in superannuation – at that time.<sup>277</sup>

### **The Wage-Superannuation Trade Off**

One of the features of the Accord experience was that real unit labour cost continued to decline while the SG was phased in. The Charts below, by Don Russell, on

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<sup>275</sup> *Ibid.* Kelty saw Barry Watchorn as one of the first employer catalysts to propose the employers join with the unions in creating joint, well run schemes.

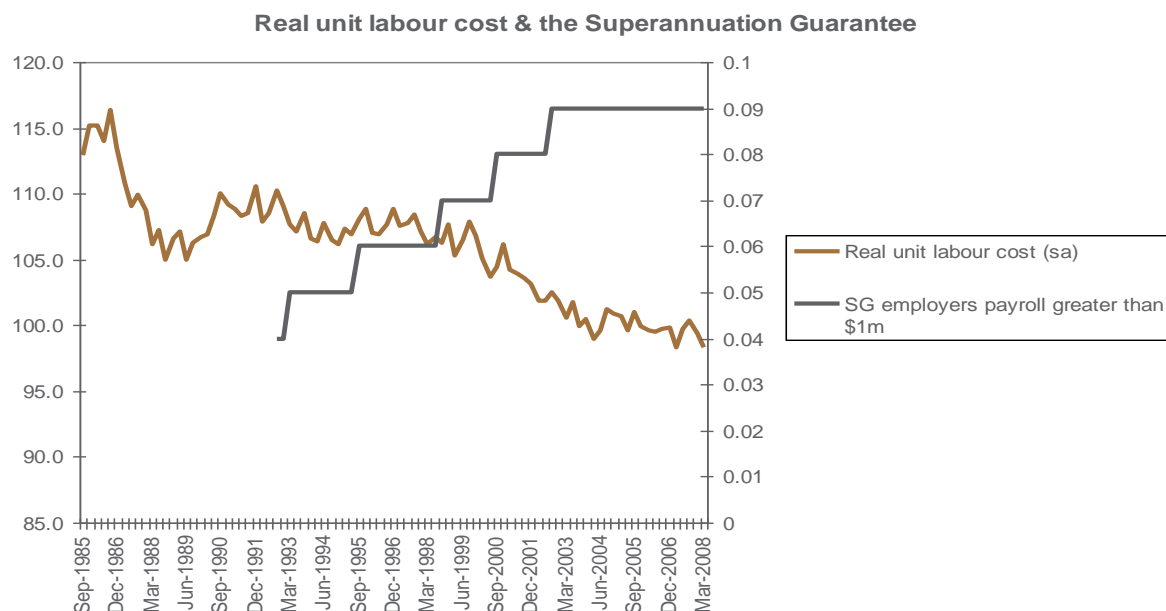
<sup>276</sup> Bert Evans Interview, May 2013.

<sup>277</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013.

Superannuation, Wages, and Real Unit Labor Costs, make the point that at the time, “employees pa[id] the SG not employers.”<sup>278</sup>

Real unit labour cost continued to decline while the SG was phased in. The decline in real unit labour costs 1998 to 2003 was particularly pronounced; at the same time the SG rose from 6% to 9%.

**Chart 1**

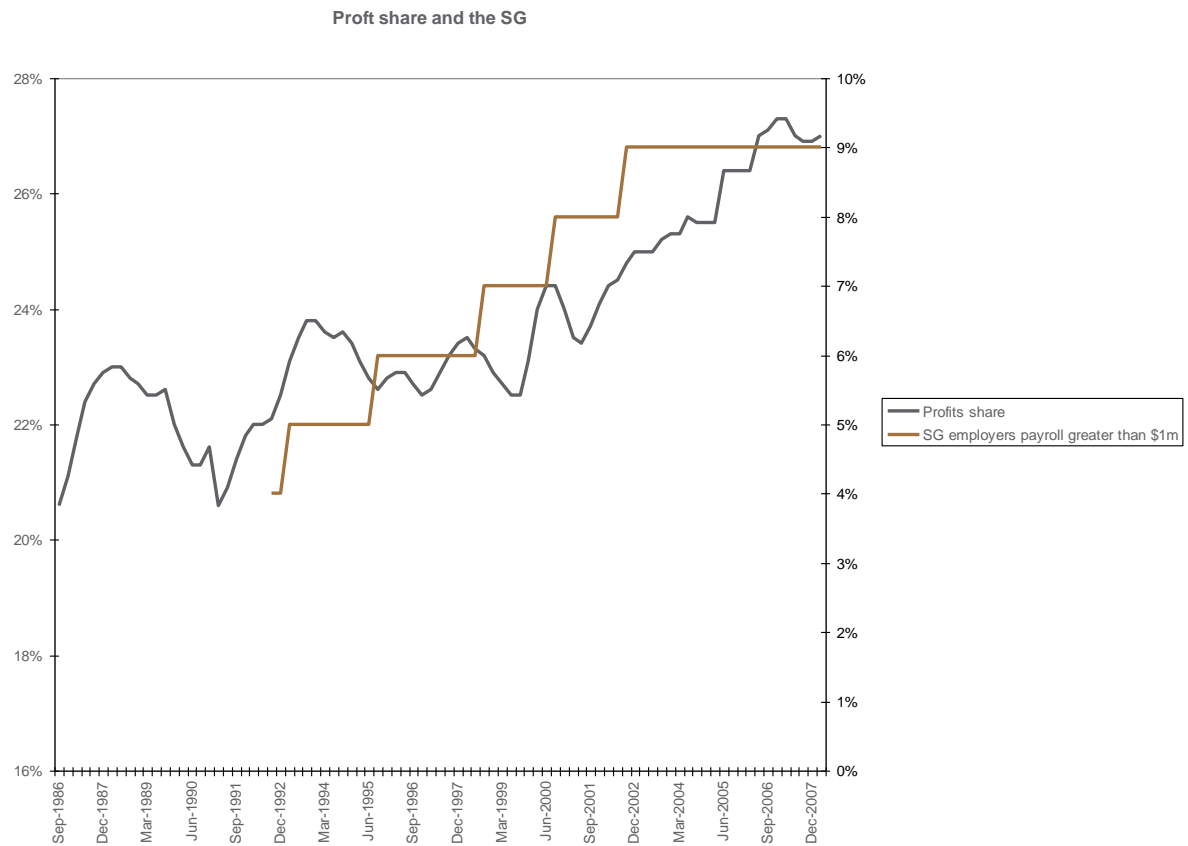


Source: Don Russell, 2008; ABS 5206.0 Australian National Accounts, Table 38. Unit Labour Costs, Mar 2008; Drew & Stanford Mar 2003

The profit share was on the rise well before the surge in the terms of trade, as the following charts show.

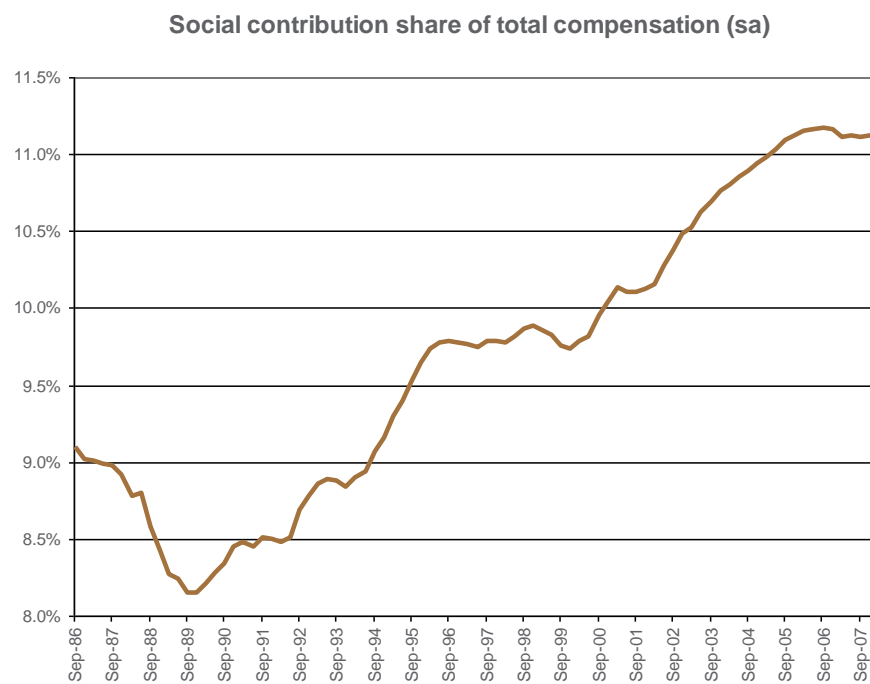
<sup>278</sup> Email exchange, Don Russell to Mary Easson, December 2, 2013. I am grateful to Dr Russell for providing these charts.

**Chart 2**



Source: Don Russell, 2008; ABS 5206.0 Australian National Accounts, Table 20, Selected Analytical Series Mar 08; Drew & Stanford Mar 2003

**Chart 3**



Source: Don Russell, 2008; ABS 5206.0 Australian National Accounts, Table 7, Income from GDP, current prices Mar 08

The wage share of total compensation adjusts quite quickly to offset the initial impact of a higher social share

- CORRELATION (change in wage share; change in social share lagged 1 quarter) -0.6271
- CORRELATION (change in wage share; change in social share lagged 2 quarters) -0.5434
- CORRELATION (change in wage share, change in social share lagged 3 quarters) -0.3096
- CORRELATION (change in wage share, change in social share lagged 4 quarters) -0.2248<sup>279</sup>

What seems incontrovertible at this time is that the trade-off of decline in real wages, increase in superannuation – [was] unprecedented and verified.”<sup>280</sup>

## **The Superannuation Guarantee**

For the unions, the challenge was how to convert the creation of a series of small savings funds into to a proper retirement system. With the early 3 per cent schemes, “...that is all it is - a small retirement fund and it is aided and abetted by some better industrial schemes but it is very vulnerable because if someone comes to the government and says ‘You can have your \$3000 back’, people will take the money. You have got to then go to the next step. We know ...we are always going to get there to 9 per cent so every one of these things is a step.”<sup>281</sup> The next negotiation was the Accord Mark II to raise contributions from 3 per cent to 6 per cent. Hawke and Keating agree. But the Commission rejected the proposition. At the time, a well-informed report stated:

Mr Keating pioneered the Accord-based approach to the introduction of privately funded national superannuation and sees it as the key to giving all workers

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<sup>279</sup> Estimates provided by Dr Don Russell.

<sup>280</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013. Mr Kelty suggested that I contact Dr Russell for the above-mentioned information.

<sup>281</sup> Bill Kelty Interview, March 2013.

income security in retirement and to lifting national savings. But the Federal government's strategy for using the Accord to spread superannuation to cover all workers - a 3 per cent award-based payment was part of the September 1985 Accord and a second phased 3 per cent was agreed last year - has fallen far short of its objectives.

Although the first 3 per cent is now included in 85 per cent of awards, it is estimated that only slightly more than half the workforce has superannuation cover.

This is because a significant part of the workforce is not covered by awards and because many employers have not complied with awards on superannuation.

...The Commission's refusal to endorse the 3 per cent second phase of award-based superannuation is a major blow to what the government regards as arguably its most important single social and economic reform.<sup>282</sup>

Kelty recalls,

I had sensed it in advance, and sat down at the India House restaurant [in Melbourne] - Don Russell, Paul Keating, Iain Ross and me. Paul said 'What do you think the Commission is going to do?' and I said 'The Commission will reject it, so we will defer, I think, superannuation and they will reject the movement of enterprise bargaining and they will give us some wage increase to keep us happy'. I said, 'That's what they'll do'. And he said 'Why would they do that?' I said, 'For a range of reasons but that's what I think they'll do'. So he said 'What are we going to do?' I said 'We will then legislate for super and we will increase it from 6 per cent to 9 per cent but we will establish our legislative super

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<sup>282</sup> Kitney, Geoff (1991) 'Government may Legislate to Implement Super', *The Australian Financial Review*, April 26, p. 1. This article was both copied and underlined for me and this quote read into the transcript of my interview with Mr Keating. Paul Keating Interview, March 2013.

framework when we have got this tiny window of opportunity'. I said 'We should legislate for 6 per cent'. Keating says, 'No, we won't legislate for 6 per cent. We will legislate for 9 per cent over a period of time'.<sup>283</sup>

And he changes it from 6 per cent to 9 per cent and he says to Don Russell [his private secretary], 'That's right. That's what we are going to do'. Don Russell says 'There's no reason we can't legislate', and Iain Ross said, 'There is nothing you can't legislate'; he said 'We'll put it under the corporations' power and not industrial relation's power'.<sup>284</sup>

Keating says to Don Russell 'Your job is to get it' and to Iain Ross 'Your job is to get it' – 'We are going to legislate super if they reject it. If they don't reject, then superannuation will go from 3 per cent to 4 per cent'. Now what did they do? They rejected it. They deferred the super and said we were immature in handling the industrial relations system. We said, 'History is short, mate. We won't ever get this again. We are going to legislate for super or we are going to change the wages system right now'. So we accelerated the changes in the industrial system. We accelerated the legislation. Now, Iain Ross did all the hard work. Ross, from the time he came into the ACTU, was both the intellectual catalyst and he was working with us. He would say 'The High Court would reverse their view'. And they did. 'The High Court would reverse their view and allow superannuation to be legislated - they will'. He was the one that worked that out."<sup>285</sup>

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<sup>283</sup> Bill Kelty Interview, March 2013.

<sup>284</sup> *Ibid.*

<sup>285</sup> *Ibid.*

The Government, however, was facing difficult economic times, complicated by growing tensions concerning the leadership.<sup>286</sup>

To Kelty's surprise, he recalls that "Bob [Hawke] says 'I am not sure of any commitment about the 6 per cent'."<sup>287</sup> This was a potentially explosive position to canvass, potentially testing the Accord. "Paul was on the backbench. I said, 'Paul, we've got a few problems here. They want to walk away from the 6 per cent. He said, 'There's no problem. I'll help you out'. So, he made a speech about superannuation going from 12 per cent."<sup>288</sup> He's out there putting public pressure, raising the ante all the time."<sup>289</sup> As Keating recalls, "I go to Graduate School of Management and I say 'It has got to be 12 per cent because we can't get to a 70 per cent replacement rate in retirement off 6 per cent.' The Treasury resisted. Hawke was going to knock it over with [Treasurer John] Kerin and the compromise, under pressure from me and Bill [Kelty], was 9 per cent. That was where the 9 per cent came from. Otherwise it would have been 12 per cent."<sup>290</sup> This was aimed at cementing the alliance with Kelty,<sup>291</sup> who recalls, "Bob sees me, yells at me, he said 'I've knocked him off'. I said, 'Bob, you made a commitment to us. You've delivered all you ever said. We are getting the damn 6 per cent, we are getting the 9 per cent now and we are not going backwards. I don't care whether you are the leader or not. If it means and I walk away from you, it means that we are out there doing you over, then so

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<sup>286</sup> Keating challenged Hawke in June 1991, resigned as Treasurer, and then beat Hawke in a second ballot of the ALP Parliamentary Caucus in December 1991.

<sup>287</sup> Bill Kelty Interview, March 2013.

<sup>288</sup> Keating, Paul (1991) 'A Retirement Incomes Policy', Address to the Australian Graduate School of Management, July 25, typescript, 17pp..

<sup>289</sup> Bill Kelty Interview, March 2013. Cf. Oakes, Laurie (1991) 'The Super Champ', August 6<sup>th</sup> column in *The Bulletin*, reproduced in Oakes, Laurie (2011) *Power Plays: The Real Stories of Australian Politics* [a collection of published articles], updated edition, Hachette, Sydney.

<sup>290</sup> Paul Keating Interview, March 2013.

<sup>291</sup> . Edwards, John (1996) *Keating. The Inside Story*, Viking, Ringwood [Victoria, Australia], p. 440.

be it'. So Bob wasn't happy. He said 'Alright. No mate, it's no problem'. He was good like that."<sup>292</sup>

Weaven acknowledges, "Then the really big next step... was getting that legislation to insert a scale from 3 per cent to 9 per cent over ten years. That, because the 3 per cent on its own, in legislation was basically going to get most people in Australia, who were already in agreements, ultimately would have been covered by awards - state and federal. A bit of a lag with some of the States but ultimately would have been covered. That was a big, big chunk of the workforce, but we would never have got to 9 per cent [without legislation]."<sup>293</sup>

At the May 1991 ACTU Executive meeting a decision was taken:

That the Executive establish a small negotiation sub-committee to examine the option of legislating to provide for all employees to have a minimum superannuation entitlement equivalent to 6 per cent of ordinary time earnings. The sub-committee would enter into preliminary discussions with the Treasurer and Minister for Industrial Relations. The negotiation sub-committee to comprise: Iain Ross (ACTU), Mike McKay (ACTU), Greg Sword (NUW), Jim Maher (SDAEA), Brian Daley (FMWU) and Anna Booth (CATU).<sup>294</sup>

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<sup>292</sup> Bill Kelty Interview, March 2013.

<sup>293</sup> Garry Weaven Interview, March 2013.

<sup>294</sup> ACTU records, [www.actu.org.au/Images/Dynamic/oldsite/public/papers/1991may/1991may.rtf](http://www.actu.org.au/Images/Dynamic/oldsite/public/papers/1991may/1991may.rtf), accessed May 28, 2013.



This committee negotiated the format of the SGC legislation. The Superannuation Guarantee was announced by the then Treasurer, John Kerin, as part of the 1991-92 Budget speech. He noted that:

Over the past eight years, major progress has been made in extending the superannuation system in Australia. In 1986, 3 per cent superannuation was awarded by the then Conciliation and Arbitration Commission as part of a productivity and wage package. This award requirement has not been complied with in full.

The Government will therefore introduce a superannuation guarantee levy, starting from July next year [1992].

... This new superannuation guarantee levy will underpin the Government's retirement incomes policy. Superannuation will be extended to many Australians for the first time. In addition, an efficient mechanism for the orderly increase in the level of superannuation support over time will be put in place.<sup>295</sup>

Hawke had been replaced by Keating as prime minister at the end of 1991. The Superannuation Guarantee legislation was introduced into the Parliament in April 1992.<sup>296</sup>

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<sup>295</sup> John Kerin (1991), Treasurer, 'Second reading speech: Appropriation Bill (No. 1) 1991-92', House of Representatives, *Debates*, 20 August 1991, p. 13, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F1991-08-20%2F0024%22>, accessed May 28, 2013.

<sup>296</sup> Australia, House of Representatives, *Votes and proceedings*, no. 120, 2 April 1992, p. 1424, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fvotes%2F1992-04-02%2F0028%22>, accessed May 28, 2013.

After considerable debate, the Bills passed both houses and were given Royal Assent in August 1992.<sup>297</sup> Before the Bill was passed there was some doubt it would get through. The Australian Democrats were uncertain, with elements of the party calling for national superannuation along the lines proposed in the Hancock Review. In the end, Senator Cheryl Kernot comments that, “The staged thing was fine. ACCI convinced me at one level - it was Ian Spicer, Australian Chamber of Commerce and Industry, not to go further.”<sup>298</sup> But the ACTU’s lobbying was effective, particularly that by Iain Ross.<sup>299</sup> In Keating’s summary, “In 1991 the commission rejected the government’s support for the second 3 per cent. In August, 1991 then as a back-bencher, I then do the Graduate School of Management speech. The speech forms the basis of the SGC which I introduce as Prime Minister in July, 1992 and then the superannuation guarantee regime ensures virtually all workers would be subject to the scheme. Employer contribution would rise from 4 per cent of ordinary time wages in 1992-93 to 9 per cent by 2002-03.”<sup>300</sup>

Over the period 1992–2002 the Superannuation Guarantee charge rate increased according to the timetable established in 1992, increasing incrementally from 3 per cent in July 1992 to 9 per cent in July 2002.

Crucial to the legislation succeeding was Kernot, who was to later observe, “I knew nothing about the technicalities of superannuation. It was mind-boggling for the first few months but, you know what it’s like on committees, bigger themes emerge. It’s an

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<sup>297</sup> Australia, Senate, *Journals*, no. 183, 8 September 1992, pp. 1364-1365, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fvotes%2F1992-08-18%2F0013%22>, accessed May 28, 2013.

<sup>298</sup> Cheryl Kernot Interview, February 2013; supplemented by email correspondence, Cheryl Kernot to Mary Easson, October 30, 2013.

<sup>299</sup> *Ibid.*

<sup>300</sup> Paul Keating Interview, March 2013.

immersion course.”<sup>301</sup> Kelty says, “We’ve got another trade-off. We got another system. We’ve got the 9 per cent legislated. The Democrats were fantastic. Cheryl Kernot was actually fantastic. Iain Ross was superb.”<sup>302</sup> Kernot reflected that “The other thing that influenced my thinking was an innate... I suppose, just my own experience with Australians. When I would talk to them about ‘Would you compulsorily save this over a lifetime or would you prefer to be made to save it?’, 99 per cent would say ‘Make me save it! Make me save it! I won’t do it otherwise’. And I think we’re like that about a lot of things.”<sup>303</sup>

On the minds of all the participants debating superannuation reform in 1991-92, was the agenda staked out by Keating at the AGSM, a position that, for the labour movement, set out the strategy for future reform. Keating stated, “Today I wish to propose a creation of a comprehensive National Retirement Income Scheme. Such a scheme should be based on the age pension and be augmented by a privately funded and employment related national super fuelled by a fully mature level of contributions.”<sup>304</sup> He explained, “Such a scheme would maintain the Age and Service Pensions as the foundation of equity and adequacy in retirement income arrangements, but be complemented by the income of private superannuation with the dual systems integrated through to tax and social security systems.”<sup>305</sup>

“For an adequate and mature level of contribution to be established I suggest that by the year 2000 that we reach a national benchmark where each and every employee has a

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<sup>301</sup> Cheryl Kernot Interview, February 2013.

<sup>302</sup> Bill Kelty Interview, March 2013.

<sup>303</sup> Cheryl Kernot Interview, February 2013.

<sup>304</sup> Keating, Paul (1991) ‘A Retirement Incomes Policy’, Address to the Australian Graduate School of Management, July 25, typescript, p. 7.

<sup>305</sup> *Ibid.*, p. 8.

contribution to superannuation equal to 12 per cent of wage and salary income paid into his or her superannuation account.”<sup>306</sup> The proposal was “to fill out the half of the second 6 per cent with tax cuts paid by the commonwealth on behalf of the employees of the superannuation fund.”<sup>307</sup> And he speculated that the move to 15 per cent would be the next set of reforms.

The funds did not grow to 15 per cent, still less to 12 per cent, until enacted by a Labor government in 2010. Kernot now regretfully muses, “...I know why it didn’t get to 15 per cent. It was because I didn’t let them, sadly.”<sup>308</sup> But Accord Mark VIII was an agreement to go there. But it was never implemented. Partly this was because the political judgement was made that it might be too big a leap. Partly, Keating thought that the electorate should make a decision between him and the Opposition on the issue. In Kelty’s recollection, “We sat there and Paul says ‘I don’t know whether we should legislate.’ I said ‘You are going to lose, mate. Why don’t you legislate?’ He said ‘No, no. People have got to know what the loss has done.’ So he doesn’t legislate to the 15 per cent. He goes to the election campaign. We lose. The [Liberals] immediately walked away.”<sup>309</sup>

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<sup>306</sup> *Ibid.*

<sup>307</sup> Paul Keating Interview, March 2013.

<sup>308</sup> *Ibid.*

<sup>309</sup> Bill Kelty Interview, March 2013.

## **6. Implications and Areas for Future Research**

This Chapter explores some of the main challenges facing the superannuation industry funds. Many of the insights are either prompted or drawn from an extensive interview with Ian Silk, industry fund veteran and CEO of AustralianSuper.

Key issues include the place of industry funds in the Australian network of superannuation providers. Competition between models of superannuation provision, and between funds, is likely to grow in intensity. Consolidation (amalgamation) of funds is an existing trend that is likely to continue.

Performance and fees are likely to be key differentiators and provide comparative advantage (or otherwise) between funds and competing investment models. The industry funds stole a march on their competitors by their asset allocation bias towards infrastructure, property and private equity, compared to the retail and corporate funds. This advantage for the industry funds could diminish as others mimic the industry fund asset allocation preference. Arguably, the industry funds have an advantage, however, due to their structure and the relatively benign intent of members to 'let the experts run the thing' compared to the more liquid, member demanding, financial adviser chopping and changing, asset allocation approach of the retail funds in particular. Long-term investing is less encouraged by the latter compared to the former.

Fees and fee models are an on-going issue, as the industry funds distribute their profits to their members, rather than to external shareholders. So, over time, with two equally performing fund managers, a member ends up with less in a retail fund compared to an industry fund. As true performance is the lifetime return to the member, the industry funds have a compounding comparative advantage over their competitors.

Securing the phase-in from 9 per cent to 12 per cent is affected by the political risk that, until the phasing is implemented, the government might renege. Perhaps the greatest risk is to the member rather than the funds. Having more funds under management is a priority for fund managers, but for the member, extra funds flowing into their personal superannuation account is crucial to a decent retirement.

Moving to 15 per cent is the long term aim of the funds. As Garry Weaven put matters, “People would say ‘How much is enough?’ and I would say ‘More’. What should it be? More. It should be more. How much should it be? More!”<sup>310</sup> To the extent that the industry funds are campaigners for more, for the next shift to 15 per cent, as well as defending the phase-in to 12 per cent, then this assists in their credibility and favourable market presence.

More significant is the question of retaining the character of the industry fund model. All organisations begin inspired by the ideals and ethics of their founders. But in time, as they necessarily become more bureaucratic, those defining principles are diluted. So ensuring that the mutual-like character of the funds is maintained will be an enduring challenge. As Tom McDonald remarked, “In the big picture sense, from a left-wing point

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<sup>310</sup> Garry Weaven Interview, March 2013.

of view, what we have done with industry funds is to create the biggest worker's co-operative in Australia's history."<sup>311</sup> Expanding on the point, he argued: "What is a co-operative? A co-operative is a body, an organisation where the total benefits and assets belongs to the members on an equitable basis and they, the co-operative, are their own managers; so, in the area of management, you've got the greatest co-operative movement in history."<sup>312</sup> In the long term, history suggests that there will one day be pressures by management to demutualise.

Let's now turn to more detail on those observations.

The industry is structured into five sectors. The self-managed sector, the corporate superannuation fund sector (with funds only open to the employees of the particular corporation), public sector funds (only available to public servants), and retail funds (run by big banks, big fund managers and big insurance companies), and finally, the industry funds. The largest by asset-wealth is the self-managed fund sector, having experienced an explosion in growth in the past decade. The hardest competition is between retail funds and industry funds, but the industry funds sector is very fragmented. In the banking industry, the big four banks dominate. The biggest four super funds have less than 20 per cent per cent market share. Silk says, "It is an incredible number, a huge number of small funds. People look at Australia Super and see this behemoth of a fund. Well, we have got about 4 per cent of market share, so actually a minnow in the context of the industry."<sup>313</sup> It is small within the industry as a whole but a giant when measured against tens of thousands of small players. If scale is

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<sup>311</sup> Tom McDonald Interview, August, 2012.

<sup>312</sup> *Ibid.*

<sup>313</sup> Ian Silk Interview, March 2013; supplemented by email correspondence, Ian Silk to Mary Easson, November 4, 2013.

an important element in superannuation, then there is likely to be greater consolidation in the future. A counter argument, however, is that “It would seem that management entrenchment combined with board member entrenchment has dampened the rate of consolidation among industry funds...”<sup>314</sup> But, in fact, “Industry funds, retail funds and public sector funds have all halved in number in the last twelve years. The number of corporate funds has fallen by about 95 per cent as corporates say we will stick to our knitting and make our widgets and we will outsource our superannuation to the so-called experts. There has been a doubling in the number of self-managed funds.”<sup>315</sup>

The Australian Taxation Office has the job of consolidating accounts for people with multiple accounts who wish to consolidate. There are about 11 million people in the Australian workforce. There about 33 million superannuation accounts. Therefore, the average person has got three. Quite rightly, they should be consolidated because members are paying fees in each one. Opinion is divided about the future trajectory of self-managed funds. Will they continue to grow at the rate of increase that has been occurring or will the number of regulatory changes, including the amount of money people can voluntarily put into super, constrain their growth? Most of the consolidation is likely to occur in the other three sectors.

Corporate funds seem set to fall over the decade, as fewer companies have individual fund. IBM’s decision in 2012 to merge with Australian Super is illustrative of this trend and is particularly noteworthy given the level of unionisation at IBM is negligible. IBM’s

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<sup>314</sup> Clark, Gordon L. (2012) ‘From Corporatism to Public Utilities: Workplace Pensions in the 21st Century’, *Geographical Research*, Vol. 50, No. 1, February, p. 38.

<sup>315</sup> Ian Silk Interview, March 2013.



decision was based on what management considered in their members best interest.<sup>316</sup>

So, it is with the public sector, retail and industry funds where consolidation is most likely. The merger of Health Super and First State Super is a case in point.<sup>317</sup>

Turning to investment performance, Silk says: “[What] distinguished industry funds from the other sectors was that back 15 to 20 years ago Bill [Kelty], but also Garry [Weaven], pushed industry funds to invest in infrastructure. [That was] just part of the visionary thinking of Bill in particular, but also Garry.”<sup>318</sup> In part, this was a responsible response to the clamour, in *Australia Reconstructed* and elsewhere, for the industry funds to help ‘develop Australia’. Silk argues that it was a logical investment for those funds because if a fund manager is investing in a big infrastructure asset, a toll-road or a PPP with a hospital for example, the ability to do that is enhanced if liquidity is not an issue, where there is little to no pressure to sell the toll-road tomorrow having bought it yesterday, whereas that is more readily done with shares.

“For a fund like this to have a third of its assets outside the share market, outside government bonds and outside cash but in infrastructure, private equity and unlisted property now that is not unexceptional. But 20 to 25 years ago that was an allocation that nobody had heard of. Bill [Kelty] dreamed it up, basically.”<sup>319</sup>

This was not a conservative allocation for its time. But the rest of the portfolio usually followed cautious instincts. The reasons why is to recall the fevered atmosphere that

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<sup>316</sup> See, [http:// http://forms.australiansuper.com/WelcomeIBM](http://forms.australiansuper.com/WelcomeIBM), accessed June 22, 2013.

<sup>317</sup> First State Super merged with Health Super on June 30, 2011 with the full integration of the Funds completed in mid-2012. It is an interesting hybrid, a public sector scheme merging with a significant private sector presence in health. See, [www.firststatesuper.com.au/healthsuper](http://www.firststatesuper.com.au/healthsuper), accessed July 9, 2013.

<sup>318</sup> Ian Silk Interview, March 2013.

<sup>319</sup> *Ibid.*

compulsory super was introduced in, “...if it had not been a conservative approach and things had gone wrong... We were incredibly lucky.”<sup>320</sup>

The most extreme example of conservatism is to invest in capital guaranteed products. When the industry funds were established there was no appetite for loss, so the trustees put their money into capital guaranteed products. With the 1987 crash, most of the industry funds through that period produced double digit positive returns because they were in those capital guaranteed products: “I don’t think they have been excessively conservative, but if I was one of the warriors who had fought for it and I had grand visions I might have thought the funds might be more prepared to be more aggressive or ambitious in their investment arrangements.”<sup>321</sup>

The fiduciary responsibility is heavy.

In debates on asset allocation and member choice, it is interesting that according to Silk “industry fund members, almost universally, were not engaged with super...”<sup>322</sup> He says that the industry funds had a great luxury of very strong cash flow and members who were not engaged “so that the trustee could do, frankly, whatever they liked with the money knowing they weren’t going to be put under pressure by members saying ‘I want my money out.’ Whereas, generally, the retail funds did not have unlisted assets, like infrastructure, on their radar screens. It wasn’t even a conscious thing, but as they have

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<sup>320</sup> *Ibid.*

<sup>321</sup> *Ibid.*

<sup>322</sup> *Ibid.*

over the time realised that the industry funds stole a march over them, they've tried to get it back and they have moved more into unlisted assets."<sup>323</sup>

They have not been able to do so to the same extent because most members of retail funds are either of themselves more engaged and more likely to move their money around, so liquidity becomes an issue, or they are advised by a financial advisor.

Generally, the latter is keen to demonstrate their value by saying 'We should move from here to there'. 'Set and forget' is not typically the business model of financial advisers.

So, the liquidity requirements for retail funds are much higher than the liquidity requirements of the industry funds. In Silk's assessment, "This has been the single most important investment performance differentiator between the industry and commercial funds. So, those 'compare the pair' advertisements go to fees<sup>324</sup> but if you add in investment performance it is mainly because we have had a big exposure to infrastructure and unlisted assets and they have had a much smaller exposure."<sup>325</sup> Silk notes, "We have an investment committee that meets at least once a month and its most important decision is to decide the asset allocation of the fund. How much we will be investing in Australia, in shares international shares, property, infrastructure, bonds, cash and so on."<sup>326</sup> In Australian Super's case, the fund has about 32 per cent allocated in infrastructure, unlisted property and private equity - approximately 13-14 per cent in each of the first two and around 4 per cent in private equity. Investment performance is a differentiator between funds.

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<sup>323</sup> *Ibid.*

<sup>324</sup> Through advertisements and general marketing, the industry funds encourage direct fund to fund comparisons. See, [http://industrysuper.com/tools-forms\\_superfund-comparator.aspx](http://industrysuper.com/tools-forms_superfund-comparator.aspx), accessed July 9, 2013.

<sup>325</sup> Ian Silk Interview, March 2013.

<sup>326</sup> *Ibid.*

Fees are also a differentiator. The key difference of the business model between the industry funds and the retail funds, in terms of their organisational model, is that the latter are owned by shareholders. They exist to service those shareholders and the way they do that is to acquire customers and put a profit-margin on their interactions. The industry funds, however, do not have shareholders. There is only one stakeholder - that is, the members. A retail fund, however, has two stakeholders - their clients and their shareholders.

Industry funds are often referred to as 'not-for-profit' funds. But Silk says, "I hate that term because who wants to be in a super fund that is not really interested in profit? Well, I don't."<sup>327</sup> The point being that the legal structure - the trustee - is not for profit, but the fund itself is unashamedly profit oriented.

Although many of the industry funds, in their early days, were not the sharpest and most commercially oriented organisations, most of the larger funds have become very commercial. The approach is to balance a member's orientation with commercial rigour. "Every time we do something because it is a nice thing to do, if that is at the expense of the commercial orientation of the fund, and what we are going to put into your account, then that is actually not a 'members-first' position at all."<sup>328</sup> Bert Evans recalls putting matters more bluntly. "Very early in the piece there was suggestion to buy an apple packing factory at Batlow to save 40 jobs ... and I said 'Pig's arse!'"<sup>329</sup> He could not see how such a decision could be in the interest of STA members. "Could you imagine it, if we owned every darn factory in Australia. This is my monument to super. One of my

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<sup>327</sup> *Ibid.*

<sup>328</sup> *Ibid.*

<sup>329</sup> Bert Evans Interview, May 2013.

mates in the metal unions said to me 'Listen Bert, we owe it to you to tell you, we are going to use this money for social purposes'. I said 'No you are not'. He was on the board and he took me aside in North Sydney in the office and I said, 'no you're not. Just write on the back of your hand 'My House' because it is my house. There is not going to be one decision taken that puts my house at risk'."<sup>330</sup>

The industry funds in the early days were determined to pick proven managers they could work with. For example, with investment managers, the question to ask is: 'who is the best investment manager?' And 'the best insurance manager?', and so on. "From the start it was very much this 'best-of-breed' approach."<sup>331</sup> In other words, the industry funds each decided to piece together their structure, effectively, "...to construct our own organisation, rather than just going to a one-stop shop."<sup>332</sup>

Weaven comments that in conceiving the building industry fund, "The standard trustee deed I was presented with by Colonial, which won the tender to do the administration, the standard trustee was unbelievable. Things like, you have to have a member of the Institute of Actuaries and they had to approve everything you did."<sup>333</sup> The picking of established, brand-name advisers and service providers followed the pattern begun in the formation of the LUCRF scheme: picking accomplished professional firms to work with in developing a credible, robust fund structure. Sword recalls going to the Ryan Carlisle law firm and speaking to John Ryan to work on developing a set of rules for what was needed. He needed potential models: "I needed – I went around and talked to the Paper Workers Union who had a similar scheme but theirs was not fully vested and

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<sup>330</sup> *Ibid.*

<sup>331</sup> Ian Silk Interview, March 2013.

<sup>332</sup> *Ibid.*

<sup>333</sup> Garry Weaven Interview, March 2013.

it was only for a couple of plants in their industry..."<sup>334</sup> Even so, the rudimentary structure of their scheme was something to go by. "I got one of their application forms and you know, you'll remember the thing called Letraset; this sort of sheet of plastic letters. Yes, so it was a plastic sheet and if that was a 'P', you sort of go like that and peeled. So I got their application form, I whited out Pulp and Paper Workers and I put in 'LUCRF' because I didn't have a name to put in Storeman and Packers Super Fund and then printed those all up. So, I went out and I had to go shed by shed and 87 per cent of them signed up for the super."<sup>335</sup> He mused, "...it was the error that the employers made because they misjudged the capacity to get those working people to understand what would be beneficial to them."<sup>336</sup>

John Ryan took Sword to Arthur Andersen to prepare a trustee and a trustee company structure: "We wanted Arthur Andersen to be really good. Mind you, once we started, the union was going to run this, so we had to have pretty solid protection, gold plated, sort of audited; not acme auditing, but Arthur Andersen."<sup>337</sup>

For Silk, there is a clear, appropriate rationale for investment decisions: Leave it to the professionals. "I liken it a bit to a motor vehicle. Speaking for myself, if my car breaks down there is no point in me lifting up the bonnet, because I will be confronted with a problem not for me. I know my limitations. Clint Eastwood said 'A man has got to know his limitations'. And that is one of my many limitations. I reckon super is a bit like that. At its most fundamental level, my employer puts money into super. I can put some

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<sup>334</sup> Greg Sword Interview, June 2012.

<sup>335</sup> *Ibid.* Sword is referring to workers in the skin and hide industry in 1978.

<sup>336</sup> Greg Sword Interview, June 2012.

<sup>337</sup> *Ibid.*

money in if I like. As long as I am in a decent fund it will look after me. I might want to choose this or that investment option and I might want to increase my insurance. I could do either of those, certainly the latter, pretty straightforwardly, but do I need to know all the rules? Actually, I don't."<sup>338</sup>

On complexity, Silk says, "The industry beats itself up a bit about being so complex. We are complex for those who want to know the innards of it..."<sup>339</sup> The issue is more about the constancy and the frequency of changes and the extent to which they are negative changes. "I am not saying that super system has served everybody very well, but people speak about its complexity which is a different issue. It is complex but does it matter to most people? I would say it doesn't."<sup>340</sup>

Ironically, the industry is always saying to government 'stop making changes!' but it also frequently proposes changes to make the system better. A lot of the changes have clearly been seeking to tap savings for tax revenue. For example, before the '96 election the Liberal party opposed industry super right up until December 1995. They were opposed to compulsory super. They knew then that was a losing position and then Shadow Treasurer Peter Costello abandoned that opposition in December 1995. But equally they went into that election promising no increased taxes. "Once they were in, he [Costello] introduced a surcharge on super so he could say it wasn't tax. It was clearly a tax."<sup>341</sup>

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<sup>338</sup> Ian Silk Interview, March 2013.

<sup>339</sup> *Ibid.*

<sup>340</sup> *Ibid.*

<sup>341</sup> Garry Weaven Interview, March 2013.

The changes that arouse the greatest controversy are those that negatively impact on particular entitlements. The most vexed are typically about taxation imposition and sometimes access to money itself. But principally it is about tax. There is an issue with the more changes that occur - and the more negative changes that occur, obviously, the less public confidence there is in super and that is manifest in two ways. The first is discretionary payments into the system reduce; and secondly, the public support for the whole system wains a little; as in the lament that 'I have been saving for 35 years and now you are going to whack a tax on me! That is not what I signed up for!'

Silk sees tax as an issue that will never dissipate. It will always be a threat. He comments, "This is sort of a heresy in some circles but I don't think there is a particular magical figure. 12 per cent might be quite OK for you depending on what your income has been and what you have built up over time and what you expect your standard of living expectations are in retirement. Whereas, I might need 15 per cent, I have had broken work patterns, I've raised my kids and all those sorts of things."<sup>342</sup>

Minimum contributions are likely to be 12 per cent for quite some time because there is no indication from the Coalition that they would seek increases anytime in the foreseeable future. On the shift from 9 per cent to 12 per cent, there was little controversy. Under Prime Minister Rudd, a decision was taken to increase the SGC from 9 to 12 per cent. Rudd said, "As Prime Minister I remember a conversation with Paul Keating on the importance of climbing to 15 per cent with the SGL from 9 per cent to 12 per cent in order to provide long-term superannuation adequacy for working

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<sup>342</sup> Ian Silk Interview, March 2013.



people.”<sup>343</sup> On the Henry Review, the then relevant Minister, Chris Bowen, said, “I couldn’t see why he wouldn’t just do the simpler thing and go from 9 per cent to 12 per cent and, as I say, finish the legacy. I put that argument to both Wayne Swan and Kevin Rudd and I thought it was a big call, but we should reject the Henry recommendation and go from 9 per cent to 12 per cent.”<sup>344</sup> Rudd states,

When I discussed with colleagues Treasurer Swan’s proposal for the mining tax, the position I took was there had to be a return to the Australian people in two respects: One, in terms of a national investment in infrastructure where people could see the physical dividend from the actual tax which [would] then [have been] collected - a long-term mechanism for funding the needs of the Building Australia Fund and Infrastructure Australia. Two, we needed to deliver something back to working people across the country as well. I said to the Treasury at the time that it was important that they now framed a proposal on how we could implement the 9 per cent to 12 per cent. I then said that there were no circumstances under which, as Prime Minister, I would support proceeding with the mining tax unless that was contained within the same proposal.”<sup>345</sup>

The economic circumstances were difficult, however; hence Senator Nick Sherry’s reservations about the timing of any major changes.<sup>346</sup> Bowen recalls, “There were all the arguments about impact on small business and wage costs and all that sort of stuff and I made the point that the same arguments were put against the 9 per cent to start with but jobs grew, real wages absorbed the increase, etc... I had the view that if we

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<sup>343</sup> Kevin Rudd Interview, May 2013.

<sup>344</sup> Chris Bowen Interview, May 2013. Cf. Bateman, H. and Kingston, G. (2010) ‘The Henry Review and Super and Saving’, *The Australian Economic Review*, Vol. 43, pp. 437-48.

<sup>345</sup> Kevin Rudd Interview, May 2013.

<sup>346</sup> Nick Sherry Interview, March 2013.

didn't do it now - I think this was the clincher for Kevin - if we didn't do it now it was never going to happen."<sup>347</sup> In Rudd's words, "I wanted to complete the task - based on long conversations with Keating about it over a long period of time."<sup>348</sup> Treasury were opposed.<sup>349</sup> Perhaps one reason the government's proposals were relatively uncontroversial is because they were announced as a package. "[T]he other thing we tied it to - my argument - was 'let's not just make it from 9 per cent to 12 per cent but let's rejuvenate the whole thing'. If the sector is getting 9 per cent to 12 per cent which they really want, then they have also got to lift their game. We did FOFA - Future of Financial Advice - and abolished and banned commissions for financial advisers which was distorting where superannuation investments were going. We did Cooper - the response to the Cooper Review. I said 'If they are going to get from 9 per cent to 12 per cent they need to improve their efficiency' ...we announced FOFA the weekend before we announced the 9 per cent to 12 per cent."<sup>350</sup>

Keating notes, "You may know I have encouraged Kevin Rudd and Chris Bowen and Wayne Swan to go from 9 per cent to 12 per cent in the period of this government. So, when we get to 12 per cent in 2019, this would assume both parties supported it, we will be at the 12 per cent that I spoke of in 1991 - many years too late, but better late than never."<sup>351</sup> Bowen argues that the context was all-important to promoting the change. "When I announced FOFA - I said 'This is the biggest change to superannuation in 20 years', and then the next week I said 'Last week I said 'that was the biggest change

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<sup>347</sup> Chris Bowen Interview, May 2013.

<sup>348</sup> Kevin Rudd Interview, May 2013.

<sup>349</sup> *Ibid.*

<sup>350</sup> Chris Bowen Interview, May 2013.

<sup>351</sup> Paul Keating Interview, March 2013. Keating is alluding to the speech he gave in 1991. See, Keating, Paul (1991) 'A Retirement Incomes Policy', Address to the Australian Graduate School of Management, July 25, typescript, 17pp.

but now we have got a bigger one', but it was a package. I said to the sector, 'This is a package. 9 per cent to 12 per cent doesn't come for free. You are going to have to work with us on these things'."<sup>352</sup>

Although incredibly influential, the Cooper reforms<sup>353</sup> are not without dissent. De Bruyn, for example, comments about the compliance cost of MySuper. At one level one might say, "...the federal government's introduction of a generic pension product represents a profound critique of the costs and consequences of the super industry."<sup>354</sup> De Bruyn's point is different: because the industry superannuation funds do not make profits, the only way to cover expenses is out of the fees that members pay. So, the reforms that the government has introduced means, for example, funds over about five or six years will have to pay compliance costs to Federal Government. For example, it is \$335 million in order to allow the Australian Taxation Office to upgrade its computer systems. "One of the administrators - who do the administration for REST - say to us that collectively around Australia, superannuation funds are spending around \$800 million in getting their administration systems upgraded to comply with the new requirements. If you add \$800 million with the \$360 million levy from the government over several years for ATO computer upgrades, there is well over \$1 billion in costs to set up a system which is largely no different to what the industry funds today are already providing, which is a simple low cost, vanilla superannuation product,"<sup>355</sup> de

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<sup>352</sup> Chris Bowen Interview, May 2013; supplemented by email correspondence, Chris Bowen to Mary Easson, October 29, 2013.

<sup>353</sup> Cooper, J. (2010a) 'Super System Review, Final Report Part One: Overview and Recommendations', [www.supersystemreview.gov.au](http://www.supersystemreview.gov.au), accessed June 1, 2013; & Cooper, J. (2010b) 'Super System Review, Final Report Part Two: Recommendation Packages', [www.supersystemreview.gov.au](http://www.supersystemreview.gov.au), accessed June 1, 2013.

<sup>354</sup> Clark, Gordon L. (2012) 'From Corporatism to Public Utilities: Workplace Pensions in the 21st Century', *Geographical Research*, Vol. 50, No. 1, February, p. 32.

<sup>355</sup> Joe de Bruyn Interview, March 2013. Cf. SDA (2012) 'Submission to the Productivity Commission concerning Default Superannuation Funds in Modern Awards',

Bruyn says. Perhaps, also, an unintended consequence of attempting to stamp out rorts in the wider industry is to weaken identity with the very schemes that have excelled in governance. Clark queries if this has been thought through: "It would seem that with the advent of MySuper and the development of so-called generic default products, the process of discounting workers' company and industry identities will be complete."<sup>356</sup>

In some industrially weak industries where the unions are poorly organised, the superannuation surcharge was entirely traded off, but in others employers just added it on to the total salary/wages package. A similar outcome is likely with the leap from the 9 per cent to 12 per cent. Some employers are saying 'discount your wages'. From July 1, 2013, the SGC went from 9 per cent to 9.25 per cent. But in pockets of industry there are disputes where an employer was going to give a 3 per cent wage increase, but is now proposing 'on economic grounds' 2.75 per cent with another 0.25 per cent going to superannuation.

"The Competition in the market place currently is between industry funds, where there is a democratic management system, and it's not for profit, and then there are the banks. There is an AMP Group on the sidelines but it's not a player. Every other product is owned by banks. So, all the noise that you hear about super funds that are not performing, or they have bad performances or whatever, it may be it all about that competition between the banks. The really important governance model governs the foundation for the industry fund; that is, it remains that social partnership; independent directors can play a role here and there but they are not the solution and they are not

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[http://www.pc.gov.au/data/assets/pdf\\_file/0013/116302/sub024-default-super.pdf](http://www.pc.gov.au/data/assets/pdf_file/0013/116302/sub024-default-super.pdf), accessed May 28, 2013.

<sup>356</sup> Clark, Gordon L. (2012) 'From Corporatism to Public Utilities: Workplace Pensions in the 21st Century', *Loc. Cit.*, p. 42.

the most important element of effective governance. It's the competition that matters most; banks are losing the competition,"<sup>357</sup> according to Sword.

From what has been outlined in the thesis overall and this Chapter in particular, some points are clear. The industry funds have had profound impacts on the Australian superannuation model over the past thirty years. This is so in five main respects.

First, the extension of superannuation as a near universal employment right was won by the industry funds, by their initial union leadership in combination with their political allies, and by no-one else. One of the things to realise is that superannuation did not come out of modelling by Treasury. It did not really come out of Labor Party policy either. It came from the unions. They fought for it as a major right and they entrenched it in different industries and the growth started from there. This provides a legacy of huge credibility in the on-going competition between superannuation fund models, especially with the retail funds.

Second, the industry funds broke the virtual, integrated financial services model of the AMPs, National Mutuals and the rest. In the selection of 'best of breed' fund administrators, investment fund managers and all the other service providers, the industry funds created their own, distinctive management model.

Third, the industry funds inspired greater transparency on fees and performance and drove fees down and thereby contributed to a more performance driven, accountable

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<sup>357</sup> Greg Sword Interview, June 2012.

system across the whole industry.

Fourth, the lively competition between the industry funds and their competitors has changed the mix of offerings in the market. The gradual, diminishing presence of corporate funds is one such manifestation.

Interesting research questions that arise from this thesis include i) to what extent has the asset allocation strategy and resulting performance of the industry funds been superior to their competition (or otherwise)? ii) to the extent that this is so, how does this provide scope for exploitable, sustainable advantages to the industry funds? iii) whether this strategy's success is actually realised in real performance in changing markets over time; in other words, is it a consistent advantage? iv) how has the asset allocation model, or at least the theme of greater weighting to indirect investments, including infrastructure, property and private equity, across the industry funds affected the rest of the industry – such as influencing competitors and inspiring alternate models; v) why did the industry fund model survive despite the change of government in 1996 and various steps taken to weaken their position (including legislation for 'freedom of choice' and removing the link between industrial awards and particular superannuation schemes); vi) how the development of the Australian system of superannuation fits in the context of a plethora of financial innovation in the 1980s in Australia; and, vii) whether the case for a national superannuation scheme is forever off the national agenda. As, "Ultimately, the 'final' value of such schemes is not the responsibility of the employer,"<sup>358</sup> is this burden ever likely to be government's

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<sup>358</sup> Clark Gordon L. (2012) 'From Corporatism to Public Utilities: Workplace Pensions in the 21<sup>st</sup> Century', *Loc. Cit.*, p. 34.

responsibility or what Clark calls 'public utilities', regulated entities, like superannuation funds, compelled to provide low fee benefits to fund members.

The overall impact of the industry funds on the fees payable in the industry, both in absolute quantum, the scope of coverage for such fees, and the impact on service providers is another interesting question. Mapping the changes over time, from the 1980s, including the impact of technology, is a task worth doing. To cite just one instance, the industry funds in the development of their own administration delivery vehicles have utterly transformed that industry, with industry funds management, Australian Administrative Services and Pillar, dominating the sector, ousting traditionally significant players and causing competitors to adapt to survive. Some of the collective, or mutual, shared activities by funds has been extremely important: "...a lot of that collective action between the funds which probably won't be a force so much in the future as they all get very big in their own right but it has been very, very important, for example, in setting up industry super property trust as a collective."<sup>359</sup>

Weaven argues that, "Doing it our own way and saying this is for our members' benefits and not for the benefits of the fund manager but the way we need it - setting up IFM and IRFS, setting up the Australian Council of Super Investors for the corporate governance and voting and the proxy voting role, setting up the Australian Institute of Super Trustees for advocacy for the representative trustee system and industry super network for the same reason, the collective ad campaign to really pull the rug out of the

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<sup>359</sup> Garry Weaven Interview, March 2013. Weaven is alluding to ISPT. Originally founded in June 1994 as an unlisted property trust by four leading industry superannuation funds, industry Super Property trust (ISPT) has grown to be co-owned by 21 prominent industry super funds and other 'like-minded' organisations. See, [www.ispt.net.au](http://www.ispt.net.au), accessed July 9, 2013.

nay-sayers and make it hard for politicians to develop an anti-industry fund position.

They still can but it is much harder for them when the numbers are up there.”<sup>360</sup>

He goes on to observe, “All of those things were tremendously important parts of developing the actual representative trustee system sector and measurement. We really pioneered measurement. There was no proper measurement of super - of group performance. There was no proper measurement. The fund managers who ran super used to publish any numbers they liked and no-one could gainsay them.”<sup>361</sup>

The success of the industry funds and the overall, exponential growth of funds under management, pose challenges of success. Various organisations - Rice Warner and Deloitte - see it as exponential growth. One consequent issue is the taxation policy that should apply and the impacts of current and future policy. The Henry Review’s analysis and prescriptions, notwithstanding the Review’s limited terms of reference, provide guidance on alternative approaches.

Emerging issues include the question about the available evidence suggesting that the current taxation expenditures associated with private occupational superannuation represent a substantial and regressive distribution of resources.

The Henry Tax Review identified the need to encourage private savings as part of the policies required to manage Australia’s ageing demographic profile. However, private

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<sup>360</sup> Garry Weaven Interview, March 2013.

<sup>361</sup> *Ibid.*



savings can be made through a range of devices. Those with higher incomes are well-placed to undertake their own savings, without concessional taxation arrangements. In terms of equity, there are few arguments to suggest that there should be further reliance on regressive, superannuation-taxation concessions.

The other elephant in the room is the long term viability of Australia's three pronged retirement incomes policy. What are the implications for the Aged Pension – as a default safety net or as a continuing right?

Compulsory superannuation in combination with buoyant economic growth has turned Australia into a 'shareholder society', where most workers are now indirect investors in the listed and unlisted markets. One consequence is a lively personal investment marketplace has developed, and many Australians take an interest in investment topics. Occupational superannuation is based on individual ownership of contributions made into private funds, with entitlements directly related to labour market success.

As a consequence, the aged pension is being constructed as a safety net for those who have failed in the market, not as a right of citizenship. Low income earners, and employees with broken service, particularly women, are likely to struggle in retirement. Mandated superannuation helps, while high income earners benefit the most. The optimum level of savings required, 12 per cent, 15 per cent or more is obviously an important on-going issue, especially as longevity increases. Modelling for the future is always going to be a dynamic area for research, and very much related to economic

performance. Whether increases to the age of eligibility, including to the old age pension, is working equitably is an important question. On the question of whether, in those early days of the creation of a new system, whether superannuation would supersede a national pension, the old-age pension, Keating is explicit: "Everything the Labor Party ever spoke of, retirement income always had the [Aged] Pension as the building block... That was the anti-destitution payment and as you grew your pensions sums, your lump sums and you're earning in retirement there would be a withdrawal rate from the full pension."<sup>362</sup> One research question is the gender impact of changes over the past and likely future consequences.<sup>363</sup> Another is who falls between the cracks of opportunity and the role of government and the overall design of the system to assist low paid workers. Another is whether certain types of jobs need retirement tailored to the needs of cohorts of that industry, rather than rules rigidly applied to all. In building, for example, someone hitting sixty is typically in a tougher position than a desk worker. They physically may be unable to keep going. Do increasing age limits hurt them disproportionately? How should public policy adapt? Weaven suggests, "...for many people, you can't work. If you are a bricklayer, you can't. Even if you are a production-line worker you are very unlikely to be able to go on until your 70s because your body won't do it. As long as the system is sufficiently accommodating for that there is nothing wrong with edging the preservation age up as life expectancy increases."<sup>364</sup>

Maintaining the cultural traditions and ethic of the industry funds is a challenge for the longer term. Silk states on this point, "People say 'What is the biggest challenge for

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<sup>362</sup> Interview with Paul Keating, March 2013.

<sup>363</sup> This point was particularly emphasised in interviews with Anna Booth, August 2012, and Susan Ryan, March 2013.

<sup>364</sup> Garry Weaven Interview, March 2013.

Australian superannuation? Is it change of government, is it the investment market?' For me, it is none of those things because they are just issues that you have to manage. Some hurdles are put in front of you - you had better deal with it some way... AMP started life 150 years ago as a mutual organisation established for, and working diligently on behalf of, its policy holders. It legally demutualised in the mid-80s, but it ceased to be a genuine mutual before that. It was captured by other stakeholders, in particular management. Then, when they were demutualised, there was this huge transfer of wealth to management. Now whilst we don't have that model yet, I reckon at some point there will be pressure on these funds to demutualise in some way. Even if that legal change isn't proposed, it is not hard to see the funds saying 'We have got 2 million members. In four years' time we are going to have \$100 billion. King of the universe... Just the way we treat our members, the way we treat service providers and the relationship with unions. We must never forget that we wouldn't be here were it not for the unions.'<sup>365</sup>

He personally invests time conveying and retaining the culture built up over many years. "Here we are on the top floor of a building in the CBD. I meet with every new staff member that starts here and I take them through the history of the fund, and so I say 'Never forget the real stakeholders here. It is a welder out in Footscray or a cleaner out in Narre Warren' and it is an issue, because these funds are employing more and more professionals that come from the professional services industry."<sup>366</sup>

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<sup>365</sup> Ian Silk Interview, March 2013.

<sup>366</sup> *Ibid.*

All organisations evolve. “...it is a function of time, I think, because Bill [Kelty] is entirely out of the industry. He was on our board for 20 years and it was a really sad day when he left because he was such a remarkable contributor, not just to our fund, much less his broader views, but Garry [Weaven] will have gone in a few years’ time... It is a great institutional challenge to maintain the faith and the passion.”<sup>367</sup>

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<sup>367</sup> *Ibid.*

## 7. Conclusion

Economic historian Max Corden once said that “Australian economists have probably made their most original contributions in writing on wages policy and the arbitration system.”<sup>368</sup> Professor Donald Whitehead was one such economist whose greatest, lasting influence was on the intellectual development and strategic thinking of his former student, Bill Kelty, himself an economist.

Whitehead speculated in the early 1970s that the rigidity of the Australian industrial relations system meant that “the most likely outcome for Australia seems to be a rate of inflation that is high by international standards and which is likely to continuously accelerate.”<sup>369</sup> This was before the oil shocks of 1973/74 which made his projections gain even greater velocity. He recommended stronger central union organisation “necessary to implement a wages policy”,<sup>370</sup> recommending involvement of unions in economic planning. He saw progress as only possible through a ‘package deal’. Whitehead’s politics might have been conservative-leaning, but he was not anti-union. He suggested an attractive set of programmes for training and re-equipping workers to better participate in the workforce. He urged something more that “would involve

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<sup>368</sup> Corden, M.W. (1968) *Australian Economic Policy Discussion: A Survey*, Melbourne University Press, Parkville, p. 2.

<sup>369</sup> Whitehead, Donald Henry (1973) *Stagflation and Wages Policy in Australia*, Longman, Camberwell [Melbourne, Victoria], p. 123.

<sup>370</sup> The amalgamation of ACSPA and CAGEO into the ACTU in large part achieved this objective. Blue and white collar workers were united under the aegis of ACTU with the merger of the Australian Council of Salaried and Professional associations in 1979 and the Council of Australian Government Employees in 1981. See, Griffin, G., & Giuca, V. (1986) ‘One Peak Council: The Merger of ACSPA and CAGEO with the ACTU’, *Journal of Industrial Relations*, Vol. 28, No. 4, pp. 483-503.

comprehensive superannuation arrangements geared to the earnings of the employee during his working life. Unions should be involved in the operation of the superannuation scheme.”<sup>371</sup> He saw merit in unions becoming more deeply involved in solving economic problems, participating in the task of growing the pie, not just cutting it. He wanted the unions to consider themselves as more than just ‘wage-bargaining institutions’. He thought some control of profits would be necessary as part of the package. He paused to note at the end of his book on stagflation, that what he was recommending “underlies the complexity of a viable wages policy.”<sup>372</sup> He thought nothing less ambitious could meet the task.

In large measure, as we have seen, much of this agenda informed Kelty’s approach to the challenge of wage policy, economic adjustment associated with the opening of the Australian economy with the floating of the Australian dollar in late 1983 and financial deregulation thereafter. Real wages declined with ‘catch up’ in the form of superannuation. Eventually, the back of inflation was broken and, as a result of the reforms under the Hawke and Keating governments, the foundation for robust economic growth was laid.

Prior to the 1970s, occupational superannuation existed as a fringe benefit among relatively well-paid ‘white-collar’ and public-sector workers. During the 1970s, the private, occupationally-based system of superannuation was significantly expanded to cover a broader range of employees in response to the trade unions’ growing campaigns to increase access to this form of employment-related benefit. The Hancock Review

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<sup>371</sup> See Whitehead, Donald Henry, *Stagflation and Wages Policy in Australia*, *Loc. Cit.*, p. 124.

<sup>372</sup> *Ibid.*, p. 128.

under Whitlam sketched the problem that needed to be addressed. In reaction to campaigns in stevedoring, the storemen and packers, sections of the pulp and paper industry, and other pockets of industry, superannuation was on the agenda. In 1979 the ACTU Congress voted to make superannuation a major policy issue.<sup>373</sup> “Bill Kelty attributes much of the vision of creating an industry-based superannuation scheme to Charlie Fitzgibbon where the wharfies were one of the first to ‘go off’. They had to engage in a significant industrial action to achieve superannuation. The price the employers wanted them to pay was to agree to the workers being permanent and initially the union was opposed to this..<sup>374</sup>

The late 1970s in Australia were characterised by policies aimed at achieving wage restraint through a process of wage indexation: wage increases were tied to measured changes in prices. Campaigning for occupational superannuation, as a form of deferred wages, had the advantage of providing one way of circumventing the wage-indexation process.

The political environment played a crucial role. As Simon Crean recalled, “my recollection that it [the Hancock reforms] were blocked and [so we thought] ‘if we can’t do it politically then let’s do it industrially’.”<sup>375</sup> The expansion of occupational superannuation arrangements continued throughout the 1980s and 1990s and may be attributed to wage-fixing arrangements, legislative provisions, and a range of political imperatives. The building unions created the first major, mass membership industry

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<sup>373</sup> Plowman, David & Weavan, Garry (1989) ‘Unions and Superannuation’, in Ford, Bill, and Plowman, David (1989), editors, *Australian Unions. An Industrial Relations Perspective*, Second Edition, Macmillan Company of Australia, Crows Nest [Sydney], p. 251.

<sup>374</sup> Tom McDonald Interview, August, 2012. The reason wharfies resisted becoming permanent was because under the roster scheme they never had a permanent employer, so they regarded themselves as being free.

<sup>375</sup> Simon Crean Interview, May 2013. The proposed reforms were discarded under the Fraser government. Under the Whitlam government certain public sector superannuation reforms were blocked in the Senate, but not the Hancock Report’s recommendations themselves.

fund. It was a model of creative opportunism, due to all the factors enunciated in Chapter 3 of this thesis. In 1985, the ACTU agreed to limit a national productivity claim in return for an extension of occupational superannuation entitlements from the Federal Government. From the government's perspective, the agreement provided a mechanism to grant wage increases (albeit deferred), while not deeply adding to rising inflationary pressures. Employer groups were, however, opposed. In 1986 they appealed to the High Court of Australia, challenging the definition of superannuation as an industrial issue. In May of that year, the High Court handed down a landmark decision stating that superannuation was a workplace matter and could be included in the pay and conditions specified under particular awards. This decision facilitated the incorporation of superannuation provisions into awards and led to further rapid growth in superannuation coverage. At the same time, occupational superannuation also appeared to relate to policy concerns about relatively low savings levels in Australia and the ageing of Australia's population.

The expansion of occupational superannuation culminated in the introduction of the SGC Act in 1992, which made occupational superannuation a form of savings that received favourable taxation treatment. In terms of dealing with the retirement needs of employees and considering macroeconomic policy, the expansion of occupational superannuation was envisaged as a 'win-win' situation.

The use of industrial power, extended and amplified through the use of the corporation's power, expanded occupational superannuation as the effective creation of property rights to superannuation.<sup>376</sup> This description emphasises that access to

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<sup>376</sup> Cf. Kelly, Paul (2011) *The March of Patriots, The Struggle for Modern Australia*, Melbourne University Press, Carlton (first published in 2009, updated in 2011), p. 59.



mandatory employer contributions and employment-related, above-minimum provisions, was associated with an employee's relative status in the labour market. Those in favourable labour market positions, with higher wages and greater employment stability, have relatively high levels of superannuation coverage, which is more likely to be at above-minimum rates.

Despite the considerable rhetoric about superannuation being one the 'three pillars' of Australia's retirement-income system, it is not an entirely settled position. The taxation arrangements have important implications for the Commonwealth budget and for retirement-income equity.

The development of the modern system of superannuation in Australia can be simply summed up. As Bob Hawke put matters, "...to use the language of our Chinese friends, it was win-win."<sup>377</sup> Even so, there was no magical, logical, easy progression to that outcome. Kelty and Keating in particular were the main authors of this creation story. As Sword said on Keating "...you have to give credit to Keating to make the right decision at the right time, when he was confronted with it."<sup>378</sup> In Keating's words, "Oh, it is a piece of social science, the whole thing."<sup>379</sup>

Keating argues that from the start of the Hawke government, superannuation was on the agenda: "I wanted to see superannuation be equitably and generally available in public. How precisely we would do that, we were not sure. But one thing we had to do

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<sup>377</sup> Bob Hawke Interview, December 2012.

<sup>378</sup> Greg Sword Interview, June 2012.

<sup>379</sup> Paul Keating Interview, March 2013.

was change the preferential tax treatment of lump sums. I did that two months after getting the job. The marginal rate on 5 per cent of the sum - effectively 3 per cent - then became a rate of tax of 15 per cent up to \$50,000 and then 30 per cent over \$50,000 when you took the lump sum out, but we were not taxing the funds themselves.”<sup>380</sup> He explains, “We had to stop people taking the money out and getting paid and leaving. Even men who changed jobs got their lump and they thought ‘What will we do? We will have a cruise or pay the loan off’. None of it was about retirement income. I wanted a vested 55 and have portability. These reforms were all done in 1983 to 1984.”<sup>381</sup>

Then the government and the ACTU supported the first 3 per cent industrially. Keating became instrumental to the unions’ superannuation aims. In the words of an informed observer at the time, “Mr Keltz acknowledged as much yesterday, saying privately that it was Mr Keating who first articulated national superannuation as a politically achievable end – and a desirable priority – when Labor first came to power.”<sup>382</sup> In 1989 the second 3 per cent in superannuation was pursued industrially, but the IRC knocked that back. This was the genesis of the SGC legislation.

In the meantime, superannuation funds were growing, with portability and vesting reforms. In 1987, the Occupational Standards Act was introduced into parliament. It was the first legislation setting out prudential standards for the management of superannuation benefits. “In 1988 changing the tax treatment on the way in the fund and in the fund, streaming imputed credits of the fund and now I have got the system up and ready to rumble.”<sup>383</sup> But the stumbling block was how to get the second 3 per cent

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<sup>380</sup> *Ibid.*

<sup>381</sup> *Ibid.*

<sup>382</sup> Noonan, Gerard (1985) ‘The Significance of the Super Deal’, *The Australian Financial Review*, September 13, p. 1. This section is highlighted in the copy of this clipping received from Mr. Keating.

<sup>383</sup> Paul Keating Interview, March 2013.

through. “The [Industrial Relations] Commission knocks us back so I said to Bill ‘Not only will I legislate for the two lots of 3 per cent, I will pick up all the ones that didn’t get it’.”<sup>384</sup>

Keating believed that the government should legislate. “They all thought I would legislate this going to 6 per cent but I had other thoughts. First of all, 50 per cent of the workforce hadn’t got the first 3 per cent. They certainly wouldn’t have got the second 3 per cent. We wanted a national scheme because somehow if you give people no bargaining power and no awards, you can pick them up under the corporations’ power by legislating for them. Then I wanted to go to 12.5 per cent because you can’t have a retirement income policy stuck at 6 per cent. So I made this speech<sup>385</sup> because Kerin - the new Treasurer - and Hawke were backsliding on this.”<sup>386</sup>

Keating acknowledges that both wings of the labour movement combined for a common purpose: “I don’t claim sole credit, by any means. The building and transport industries led the way, the ACTU pushed for it, many employers saw the wisdom of it, my cabinet colleagues supported and of course, the IRC – a braver show then - implemented it.”<sup>387</sup>

In his summation, “These reforms have changed superannuation from an income tax avoidance scheme for the affluent to an equitable and attractive retirement income

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<sup>384</sup> *Ibid.*

<sup>385</sup> Keating, Paul (1991) ‘A Retirement Incomes Policy’, Address to the Australian Graduate School of Management, July 25, typescript, 17pp.

<sup>386</sup> Paul Keating Interview, March 2013. From the public record, it is not clear that Hawke and Kerin were actually ‘backsliding’, but there was concern in the ACTU and elsewhere that they might be. Hence Keating’s intervention.

<sup>387</sup> Keating, Paul (1991) ‘A Retirement Incomes Policy’, Address to the Australian Graduate School of Management, *Loc. Cit.*, p. 3.

arrangement for ordinary Australians.”<sup>388</sup> In Keating’s view, he did not need to be prodded by the unions to enact superannuation reform. He had a coherent perspective. He was active from the start of the government in enacting reforms. Ultimately, however, the unions and the government were driven to pursue a common agenda. They influenced each other. In Kelty’s words, “The philosophical framework [might seem] a bit oblique but in reality it was clear. Open up to the rest of the world, increase productivity, promote competition but part of the distribution would be powerful safety nets in national health care, superannuation and wages. In turn these super safety nets would promote adaption and change, thus increasing productivity.”<sup>389</sup> This was the Australian social democratic agenda of the 1980s and 1990s.

Compulsory superannuation savings have helped Australia weather the storms of the global financial crisis, along with other factors such as China’s growth and its demand for Australian raw materials and services.

The past is never a certain guide to the future. As Weaven says, “If we can get decent long-term returns with the effective compounding interest then it will continue to be popular and won’t be that easy for future governments to adversely meddle, but I think there is a real, genuine danger to the system.”<sup>390</sup> The future success of the system depends on the continuing success of investment returns, structure and governance, the alignment of interest between beneficiaries and the system. Knowing where the journey started is a useful platform for looking ahead. The findings of this thesis, uncovering the

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<sup>388</sup> *Ibid.*, p. 3.

<sup>389</sup> Email exchange, Bill Kelty to Mary Easson, November 28, 2013.

<sup>390</sup> Garry Weaven Interview, March 2013.

creative innovation associated with the invention of mass superannuation in Australia, provide a firm vantage point from which to view where the story began. And to look ahead, mindful of the battles, scars and dynamics that forged Australia's superannuation system.

## **Appendix 1: Interviews**

Anna Booth, August 29, 2012

Chris Bowen, May 16, 2013

Simon Crean, May 14, 2013

Joe de Bruyn, March 8, 2013

Bert Evans, May 22, 2013

Bob Hawke, December 13, 2012

Paul Keating, March 11, 2013

Bill Kelty, March 6, 2013

Cheryl Kernot, February 14, 2013

Race Mathews, June 20, 2012

Tom McDonald, August 30, 2012

Kevin Rudd, May 15, 2013

Susan Ryan, March 11, 2013

Nick Sherry, March 21, 2012

Ian Silk, March 6, 2013

Greg Sword, June 6, 2012

Garry Weaven, March 5, 2013

## Appendix 2: Major Industry and Public Sector Superannuation Funds

This information is contemporary at the time it is written and drawn from published information, including APRA's 'Superannuation Statistics 2012', websites and personal knowledge.

AustralianSuper, with around \$60 billion in funds under management and over 2,000,000 member accounts, is Australia's largest industry fund. It was formed from the merger of STA and RTA and absorbed AGEST (2013), IBM Super (2012) and WestScheme (2011). See, <http://www.australiansuper.com>, accessed June 16, 2013.

Auscoal Superannuation Fund, was formed AUSCOAL Super was established from a merger between the Coalsuper Retirement Income Fund (COALSUPER) and the Queensland Coal and Oil Shale Mining Industry Superannuation Fund (QCOS). COALSUPER had been formed in 1941 under the NSW McKell Labor Government. Auscoal presently has around \$6 billion in funds under management. See, [www.auscoalsuper.com.au](http://www.auscoalsuper.com.au), accessed June 18, 2013.

Australia Post Superannuation Scheme (APSS) has around 46,000 members and over \$6 billion in funds under management. See, <https://www.apss.com.au>, accessed June 17, 2013.

### Australian Catholic Superannuation and Retirement Fund

Australian Government Employees Superannuation Trust (AGEST), founded in 1991, is the default federal public sector scheme, that merged with Australian Super in 2013.

Australian Meat Industry Superannuation Trust (AMIST), has around \$1 billion in funds under management. See, [www.amist.com.au](http://www.amist.com.au), accessed June 17, 2013.

Building Unions Superannuation Scheme, Queensland, (BUSS(Q)), with approximately 92,000 members from over 8,400 employers, has around \$2 billion in funds under management. See, [www.bussq.com.au](http://www.bussq.com.au), accessed June 16, 2013.

CareSuper, originally called the Clerical and Retail Employees' Super fund, founded in 1986, describes itself as the largest industry fund specialising in super for people engaged in professional, managerial, administrative and service occupations. As at December 2012, over \$7 billion in funds under management, with over 267,000 members Australia-wide and over 70,000 employers. In late 2012, CareSuper merged with AssetSuper, which was established in NSW 1987 by the Employers Federation of NSW, The NSW Chamber of Manufacturers and the Labor Council of NSW. As at November 2011, more than \$1.6 billion for almost 85,000 members throughout Australia with more than 12,000 employers. See [www.caresuper.com.au](http://www.caresuper.com.au), accessed May 26, 2013.

Catholic Superannuation, Australian Catholic Superannuation is the largest Catholic superannuation fund in Australia, with over 90,000 members and 8,000 participating employers, with around \$4.2b under management, covering Church institutions, including schools. Headquarters are in Melbourne. See, <http://www.catholicsuper.com.au>, accessed May 26, 2013.

Club Plus Superannuation Scheme, formed in 1987, covering the Club industry, initially mainly in NSW, with around \$1.5b under management, has 103,000 members and over 11,000 employers. See, <http://www.clubplussuper.com.au>, accessed June 16, 2013.

CBUSS Construction & Building Unions Superannuation Scheme (CBUSS), the first major funds, BUS and AUST, amalgamated and became known as C+BUS (Construction and Building Unions Superannuation) in 1984 with initial membership from the building and construction unions. The fund has around \$17.5b in funds under management. See, <http://www.cbussuper.com.au>, accessed June 16, 2013.

#### Energy Industries Superannuation Scheme

##### Energy Super

Equip Super was formed from energy sector funds in the Victorian public sector, the Victorian Energy Industry Superannuation Fund changed its name to EquipSuper in 1998. See, [www.equipsuper.com.au](http://www.equipsuper.com.au), accessed July 2, 2013.

First State Super was established in 1992 as a not-for-profit superannuation fund. A 'not-for-profit' fund uses profits for the benefit of members rather than distributing them as dividends to shareholders. First State Super is now one of Australia's largest public offer super funds open to anyone eligible to join a superannuation fund. In 2011, First State Super merged with Health Super to create one of Australia's largest super funds. See, [www.firststatesuper.com.au](http://www.firststatesuper.com.au), accessed July 2, 2013

#### Government Employees Superannuation Board (GESB)

##### Health Employees Superannuation Trust Australia (HESTA)

HOSTPLUS was established by the AHA and the LHMU (now United Voice) in 1987. As at May 2013, it has over 984,000 members, more than 75,000 employers, close to \$12 billion in funds under management and is one of Australia's largest super funds. See <http://hostplusexecutive.com.au/about-us/our-history>, accessed May 26 2013.

##### Legal Super

##### Local Government Superannuation Scheme (LGSS)

LUCRF Super now has more than \$1.2 billion under management and is consistently rated as one of the highest returning and most efficient funds in the industry.

##### Maritime Super

##### Military Superannuation & Benefits Fund

##### Motor Traders Association of Australia (MTAA) Fund

##### Non-Government Schools (NGS)

##### Queensland Independent Education & Care Superannuation Trust

##### Queensland Local Government Super Board

##### QSuper

Retail Employees Superannuation Trust (REST) was established by the RTA

##### Retirement Benefit Fund



State Super Financial Services (SSFS)

Statewide Superannuation Trust, merged with South Australian Local Government Superannuation in 2012.

Sunsuper Superannuation Fund

Tasplan Superannuation Fund

Telstra Superannuation Scheme

TWU Superannuation Fund

UniSuper

Victorian Superannuation Fund

Vision Super, has approximately 21,000 members and around \$4.8b under management. See,

WA Local Government Superannuation Plan, has approximately 45,500 members and \$1.6b under management.

### Appendix 3: Biographies of Key Persons Mentioned in the Thesis

Mark Bishop (1954- ), unionist and politician, was a Senator representing the ALP from Western Australia, from 1996 to 2013. Earlier, he was an industrial officer and then secretary of the WA Branch of the SDA. He was educated in Law at the University of South Australia and in Public Policy at Harvard University, where he also completed the Trade Union Program. He played a role in securing CARE as the default super fund in WA, then reversing the position in favour of REST in 2005.

Anna Booth (1956- ), unionist, company director and arbitration official, after graduating in 1977 in industrial relations with a Bachelor of Economics (Hons.) from the University of Sydney, she immediately worked as a Research Officer for the Clothing and Allied Trades Union, in the national office, eventually becoming national secretary and thereafter National Secretary of the Textile, Clothing and Footwear Union of Australia (a merger of various other unions in the fabrics industry) and a Vice President of the ACTU. She resigned from her union positions in 1996 to take up a position in the private sector with Star Casino. As a union official, she played an important role in the foundation of the Australian Retirement Fund (ARF), as a general manufacturing industries superannuation trust. She was an inaugural member of the board of ARF (now merged into Australian Super). She has served on the boards of the Commonwealth Bank of Australia, the National Road Motorists Association (NRMA), the Centre for Policy Development and the Commission for Children and Young People. She was a member of the Sydney Organising Committee for the Olympic Games (SOCOG) and was the Chair of the Torch Relay Committee. Since February 2012, she has been a Deputy President of Fair Work Australia. Immediately prior to this appointment she was a director of the workplace relations consulting firm CoSolve Pty Ltd, chair of listed consumer law firm Slater & Gordon Ltd and a non-executive director of retail and wholesale financial services companies, Members Equity Bank and Industry Funds Management (owned by the industry superannuation funds).

Christopher Eyles ("Chris") Bowen (1973- ), politician, graduated with a B.Ec. from the University of Sydney and began his political career as a research officer to the Hon. Janice Crosio, whom he eventually was to replace in 2004 as the Federal MP. In between time he worked in various roles as a Ministerial adviser to the NSW Labor Government. Several years after entering parliament, in 2006, Bowen was appointed to the Labor front bench as Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy. In December 2007 Prime Minister Kevin Rudd appointed him Assistant Treasurer and Minister for Competition Policy and Consumer Affairs. In June 2009 Bowen was promoted to cabinet as Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services. In April 2010 Bowen announced significant reforms to the financial services sector including banning of commissions for financial planners giving advice on retail investment products including superannuation, managed investments and margin loans; instituting a statutory fiduciary duty so that financial advisers must act in the best interests of their clients, and increasing the powers of the corporate regulator, ASIC. His reforms were partially a response to the high profile collapse of Storm Financial, Westpoint and Opes Prime and the resultant losses for retail investors, but also reflected global concerns with financial governance following the GFC. The reforms were implemented on 1 July 2012. In September 2010, Bowen was appointed Minister for Immigration and Citizenship, and then in February 2013 as Minister for Tertiary Education, Skills, Science and Research. Evans was also Minister for Small Business. But he resigned all Ministerial positions in March 2013 over concerns about the leadership of the Parliamentary Labor Party. He returned to Ministerial office as Treasurer when Kevin Rudd

returned to the Prime Ministership in June 2013. After Labor's defeat in September 2013, he was briefly Acting Leader, then Shadow Treasurer after Bill Shorten was elected Labor Leader in October 2013. Whilst in between Ministries, Bowen wrote *Hearts and Minds. A Blueprint for Modern Labor*.

Garry Brack (1950- ), lawyer and employers' advocate, in the middle 1980s succeeded Alan Jones (q.v.) as head of the Employers' Federation of NSW, later renamed Employers' First, now the AFEI. He vigorously opposed industry superannuation in the 1980s, but eventually agreed in 1987 to co-found the Asset Superannuation scheme as a 3 per cent industry fund for NSW employers. He now, following the merger of Asset with CARE serves on the board of trustees of CARE Super.

Wal Buckley ( -2004), unionist, was an active job delegate in the then Amalgamated Engineering Union [AEU]. He was instrumental in the AEU's independence from the United Kingdom, and went on to assist in the early union amalgamations with the Boilermakers and Blacksmiths, the Sheet Metal Works and later with the Shipwrights. These were the formative years of the Amalgamated Metal Workers Union, now the Australian Manufacturing Workers Union. He was on the left of the union movement, but respected by employers like Bert Evans (q.v.).

Tasnor Ivan ("Tas") Bull (1932-2003), union official, was head of the Waterside Workers Federation (WWF), succeeding Charlie Fitzgibbon (q.v.) as national leader. Early in his working life, Bull became a waterside worker (stevedore) in Hobart and was soon a WWF job delegate. Later he worked in Melbourne and Sydney. In 1967 he was elected a Vigilance Officer for the WWF; in 1971 he was elected Federal Organiser, and later Assistant General Secretary. In 1984 he became national General Secretary, a post he held until 1992. He was prominent in the ACTU, becoming a Vice President in 1987, and Senior Vice President in 1991. His leadership occurred during a period of radical change on the waterfront due to technological change and massive freight changes, colloquially called containerisation. Such changes reduced the size of the workforce. Under the Hawke Government, Bull co-operated with the waterfront and industrial relations reforms, while defending his members' interests. In 1993 the WWF amalgamated with the SUA to form the Maritime Union of Australia (MUA) and, in eventual consequence, Maritime Super. Bull joined the CPA in 1951, but eventually left in the late 1950s, disillusioned following the Soviet crushing of the Hungarian revolution. He supported the Left, though from a critical spirit, in keeping with Fitzgibbon's political outlook. Following his retirement in 1993 Bull remained active in various left-wing and union causes, and published his autobiography *Life on the Waterfront* in 1998. One of his protégés was Greg Combet (1958- ), the ACTU president from 2000-2007, and Minister in the Rudd and Gillard governments from 2007-2013.

Leonard James ("Jim") Callaghan (1912-2005), Baron Callaghan of Cardiff, KG PC, politician, was Chancellor of the Exchequer, 1964 to 1967, Home Secretary, 1967 to 1970, Foreign Secretary, 1974 to 1976, and then Prime Minister of Great Britain from 1976 to 1979. His nickname was "Sunny Jim". See, Kenneth Morgan's biography.

Laurie Carmichael (1925- ), union leader, was one of the most impressive and inspiring union leaders from the left in the post-war era. A metal worker by trade, Carmichael rose to become Secretary of the Victorian Branch of the Amalgamated Engineering Union. A vigorous member of the CPA, he was portrayed as a strident militant, particularly by Senator James Robert "Diamond Jim" McClelland (1915-1999), when he was Minister for Labour and Immigration at the end of the Whitlam Government. Political considerations kept him away from national leadership (his colleagues feared he could lose an election for the ticket), though he was easily the dominant intellectual force in what became the AMWU. As National Research Officer, AMWU, he was a Member of the 'Australia Reconstructed Mission' visit to Europe in 1986. He became close to Bill

Kelty (q.v.) and Keating (q.v.), with whom he shared a love of Mahler's music. Kelty brought him into the ACTU as Assistant Secretary where he argued strongly for the Accord and thereby the suite of policies and campaigns that underpinned the union superannuation campaigns. Years later in his 2009 John Button Oration, Kelty claimed that "... the Accord could not have been achieved without Laurie Carmichael; the ALP could not so easily have won government in 1983, and it could not have governed so effectively without him." See, Stutchbury's profile in the *AFR* in August 1984 and his interview in the Reeves and Dettmer book on his old union.

Patrick Martin ("Pat") Clancy (1919-1987), trade unionist, union strategist, leader of the Building Workers Industrial Union and pro-Moscow communist, cautiously backed the Accord and saw the significance of industry super, encouraging his successor, Tom McDonald to support its development, including the formation of BUSS. Clancy was assistant secretary (1947) and secretary (1953) of the NSW branch of the BWIU, then acting federal secretary (1971), and federal secretary (1973) to retirement in 1985. See the biographical entry on Clancy by Suzanne Jamieson in the *Australian Dictionary of Biography*, 2007.

Peter Francis Salmon "Peter" Cook (1947-2005) AM, unionist and politician, was the WA Trades and Labour Council Secretary from 1975 to 1983, and from 1981 to 1983 an ACTU Vice President; he was a Senator for Western Australia from 1983 to 2005. He served as a Minister under the Hawke and Keating governments including as Minister for Resources, 1988 to 1991, Minister for Industrial Relations, 1990 to 1993, Minister for Trade, 1993 to 1994. As Minister for Industrial Relations he had carriage of the SGC legislation.

Colin Cooper (19...- ), Federal President, Australian Telecommunications Employees' Association, was a leading figure on the Left, from a pro-Marxist perspective, although from within the ALP. He was a member of the 'Australia Reconstructed Mission' to Europe in 1986.

Jeremy Cooper (1960- ), lawyer and financial services practitioner, was deputy chairman of the Australian Securities and Investments Commission from 2004 to 2009. He was appointed by Minister Nick Sherry (q.v.) to chair a wide-ranging review of Australia's superannuation system, now known as the 'Cooper Review'. Since 2010, he has been Chairman, Retirement Income at Challenger Limited: a full-time executive role involving aspects of thought leadership, research, policy development and public advocacy of Challenger's philosophies in a range of areas.

Terry Counihan ( ), Director, Consultation and Research Section, TDCS, Mission Manager, Member of the 'Australia Reconstructed Mission'. He was the son of Melbourne radical Noel Counihan (1913-1986)

Simon Crean (1949- ), unionist and politician was a son of former Treasurer and Deputy Prime Minister Frank Crean (1916-2008). After graduating with commerce and law degrees from Monash University, at the end of 1970 he started work with the Victorian Branch of the Storemen and Packers (FSPU), eventually transferring to the national office where he became assistant general secretary and general secretary from 1976-1985. He joined the ACTU Executive in 1981 and became Senior Vice-President in 1983 and ACTU President in 1985, succeeding Cliff Dolan (q.v.). During the late 1980s held memberships on the boards of Qantas and the Australian Industry Development Corporation. With Bill Kelty (q.v.) he played a major role in the development of superannuation policy from the early 1980s. Elected Federal Member for the Hotham in 1990, from then to 2013, he held ministerial positions on the front bench in both government and opposition. In the Hawke and Keating Governments, he served as Minister for Science and Technology, Minister assisting the Treasurer, Minister for Primary Industries and Energy and Minister for Employment, Education and Training. In Opposition he held various roles, including Deputy Leader of the Opposition and Shadow Treasurer from 1998 until 2001, Leader of the Opposition between 2001 and 2003, Shadow Treasurer for the period

2003-2004. He held senior portfolios in the Rudd and Gillard Governments until March 2013, when he resigned over leadership issues. He did not contest the September 2013 elections.

Richard Howard Stafford Crossman OBE (1907-1974), British Labour politician, intellectual and former editor of *The New Statesman* journal 1970-1972, was a Cabinet Minister under Prime Minister Harold Wilson, and was the Secretary of State for Social Services, 1968-1970. An speech he gave in 1972 on superannuation and pension policy in the UK, 'The Politics of Pensions', was read by Whitlam staffer Race Mathews (q.v.) and, together with the writings of Richard Titmuss (q.v.) constituted key sources of inspiration that led to the commissioning of the superannuation inquiry by Keith Hancock (q.v.) under the Whitlam Government. Andrew Burchell's essay, 'Crossman and Social Security', 2012, is instructive in discussing the issues that concerned Crossman.

Wally Curran (1932- ), unionist, joined the meat workers union, the AMIEU, in 1954, and was Assistant Secretary for 16 years and then Secretary from 1973 to 1997. In the 1970s, the union set up and loaned money to establish the Meat Industry Employees Superannuation (MIES) fund. A member of the CPA, then the ALP Socialist Left in Victoria, he was interviewed by Wendy Lowenstein (1927-2005) for the NLA Oral History Program on 'Communists and the Left in the arts and community oral history project', 1995.

Brian John Daley (1955- ), actuary, union leader and superannuation administrator, graduated with a Bachelor of Mathematics Degree from the University of Newcastle, and became active in the AMP Staff Officers' Association, and joined the FMWU as a Research Officer in the National Office and thereafter played an important role in the policy development of industry super. He was a representative of the ACTU to the Federal Government summit, which developed the Superannuation Guarantee contribution in the early 1990s. He became national Assistant Secretary, then Victorian Secretary of the LHMU, a position he held for more than a decade. He is now National President of United Voice. He is a Director of AustralianSuper, Host Plus Pty Ltd, and Industry Super Property Trust. Previously he served on the boards of HESTA and AGEST. He is also a member of the Australian Institute of Superannuation Trustees' Governance and Professional Standards Committee.

John Sydney ("Joe") Dawkins (1947- ) AO, politician and businessman, was Federal Treasurer under Paul Keating (q.v.) from 1991 to 1993.

Joseph ("Joe") de Bruyn (1949- ), union leader, was born in Roosendaal in Holland in 1949. Abandoning in 1973 an agricultural economics PhD, he felt the calling for involvement in the labour movement and began working for the Shop Distributive & Allied Employees' Association (SDA), as a research officer; always close to Jim Maher (q.v.), he succeeded him in 1978 as Secretary/Treasurer. As a member of the 'Australia Reconstructed Mission' to Europe in 1986, he participated in discussions on the evolution of the modern trade union movement. Although he felt his members more wanted direct wage increases rather than superannuation, he supported the position reached by Maher and Kelty (q.v.) in support of industry super. At first, Maher, de Bruyn and John Maynes (q.v.) became inaugural members of the CARE Super board of trustees, hoping that this fund would apply to the retail and clerical industries. But the retailers, led by the NSW Retailers' Association, and probably quietly supported by the ACTU, favoured a discrete retail industry scheme. This ultimately led the SDA to support the REST scheme, and to abandon to the FCU, and other unions, the CARE fund.

Cliff Dolan (1920-2000), union leader, was President of the ACTU from 1980 to 1985, during the period that the Prices and Incomes Accord was negotiated – first, in 1982 between the ACTU and the Federal ALP, and second in 1983 with the confirmation of the Hawke Government in 1983. Starting his working life as an electrical apprentice, Dolan joined the Electrical Trades Union and became a full-time officer in the NSW branch in 1949; he was elected Federal Secretary in 1964. Although nominally on the right of the ALP, in 1969 Dolan supported Bob

Hawke as ACTU President against the right's candidate, Harold Souter, as he believed Hawke was the man to lead the modern trade union movement. Dour and cautious he nonetheless conveyed great personal dignity and an unfailing desire to help people. He served on the ACTU Executive, becoming Vice-President and then, after Bob Hawke moved into Federal politics, becoming ACTU President. See, Jenni Hewett's profile 'Cliff Dolan: Sure Footed as he Plods Across the Industrial Centre Stage', *Sydney Morning Herald*, December 26, 1981, and [anonymous] 'Vale Cliff Dolan: A Lifelong Commitment', *Workers Online*, No. 81, December 8, 2000.

Albert Coulston ("Bert") Evans (1931- ) AO D.Sc.Ec. (Hon), retired in October 1996 after 38 years' service with the Metal Trades Industry Association (MTIA), now the Australian Industry Group (AiG), the last 15 as Chief Executive. At one time an implacable opponent of the AMWU, he saw them mellow during the Accord period and with Bill Kelty (q.v.) and Laurie Carmichael (q.v.), though initially with many reservations, saw the merit of creating the Superannuation Trust of Australia (STA), which was formed as a joint venture between the employer associations and the unions, thereby dislodging the manufacturing unions scheme (MUST), which was exclusively owned by the unions. Evans was made a Member of the Order of Australia and further honoured in 1996 when he was made an Officer. In 1993 the Senate of the University of Sydney conferred upon him a Doctorate of Science in Economics (*Honoris Causa*). He served as Executive Chairman of STA for many years.

Martin Ferguson (1953- ), union leader and politician, after obtaining a degree in economics at the University of Sydney, joined the FMWU, under Ray Gietzelt (q.v.) as Research Officer; he later became Assistant General Secretary and General Secretary of the union, Vice-President of the ACTU from 1985 to 1990, and President of the ACTU from 1990 to 1996, succeeding Simon Crean (q.v.). He was a Member of the 'Australia Reconstructed Mission' to Europe in 1986. He recruited Brian Daley (q.v.) both to assist his union and the ACTU in the forging of national superannuation policy. Elected Federal MP for Batman in 1996, he immediately was appointed to Labor's frontbench and, with Labor's election to office in 2007, served as Minister for Resources and as Minister for Tourism; he resigned all Ministerial positions in March 2013 over concerns about the leadership of the Parliamentary Labor Party and did not contest the September 2013 elections.

Charles Henry ("Charlie") Fitzgibbon (1922-2001) AM, union leader, undertook the various roles of President and Vigilance Officer of the Newcastle Branch of the Waterside Workers' Federation (WWF), and served as national General Secretary, WWF, from 1961 to 1983 and Senior Vice-President of the ACTU during the period 1980 to 1983. He was made a Member of the Order of Australia in 1984. Bill Kelty (q.v.) credits him with setting up an important precedent for industrial superannuation through the stevedores' schemes created in the early 1970s in the aftermath of industrial disputes concerning containerisation. Tas Bull (q.v.) worked closely with Fitzgibbon in these matters. Fitzgibbon's papers, the C.H. Fitzgibbon Papers, 1929-1989, P102, are deposited with the Noel Butlin Archives Centre, ANU Archives. As part of the NLA/Labor Council of NSW Oral History Program, he was interviewed by Richard Raxworthy in 1986. See, National Library of Australia Oral History Collection, ORAL TRC 1948/19.

Bernard William ("Bernie") Fraser (1941- ), economist, was born in Junee and educated at the UNE and the ANU. He joined the public service in 1961 and the Treasury Department in 1963. He was Secretary to the Australian Treasury, from 1984 to 1989, then Governor of the Reserve Bank from 1989 to 1996. He worked closely with Keating (q.v.) and the economic reforms and initiatives of the Hawke and Keating Governments. Post the public sector, played a major role with the industry funds, serving as an independent director or Chair of a number, including CBUS and AustralianSuper, and also as a director of Members' Equity. From the late 1990s, he

became the reassuring face of the industry funds, in publicity and television and radio advertisements. See Lucinda Schmidt's profile in *The Melbourne Age*, 2008.

Norm Gallagher (1931-1999) unionist and Marxist-Leninist, led the militant Builders' Labourers Federation (BLF) as federal Secretary and as Victorian State Secretary. Raised in Melbourne, he joined the BLF in 1951. By 1970, he was elected as the BLF's Victorian State Secretary and sought to radically improved pay and conditions on building sites. His ideas were influenced through his membership and leadership of the pro-Maoist Communist Party of Australia (Marxist-Leninist) (CPA M-L), a breakaway from the CPA in the 1960s. Partly influenced by the NSW BLF but also acting independently, as Secretary of the union, he acted to preserve distinct Melbourne boulevards such as Royal Parade from development and many historic buildings from destruction including the Regent Theatre and the City Baths. Such positions, defensible in themselves, also widen public support for the union. A BLF black ban protected the historic Bakery Hill site in Ballarat, where huge mass meetings were held in 1854 during the Eureka rebellion, from development. The distinctive Eureka flag became the emblem of the BLF. Gallagher embraced controversy when he directed the Federal branch to sack the pro-CPA NSW leadership and take over that branch of the union in the mid-1970s. Gallagher was criticised for lifting some of the NSW branch's Green Bans. Gallagher fought both industrially and ideologically the pro-SPA leadership of the BWIU. Larger than life, he was brought down by hubris, corruption allegations and legal action. He contested the development of the BUSS fund, partly because he believed that the BWIU were too dominant in the fund and rejected the bosses' involvement. Following a Royal Commission into the BLF's business affairs, it was deregistered. Gallagher was convicted of obtaining building materials from construction companies while he himself was building a holiday house in Gippsland. But on appeal, a retrial was ordered but not before Gallagher had spent four months in gaol. By 1992-93 the officials, staff and members of the BLF were exhausted, with Gallagher himself in ill-health. Bereft of funds, the BLF was forcibly amalgamated into the CFMEU. Gallagher died in Melbourne in retirement. A sympathetic tribute was written by the former NSW BLF head: Steve Black 'Norm Gallagher – A Tribute', 2000.

Patrick Geraghty (1928- ), seamen and union leader, was raised in Balmain, shipped out as a deckboy in 1947, and like many seamen in the post-war years was employed on British and Scandinavian ships, seeing much of the world in the process, and became an active unionist and communist. Trusted by the union's leadership, in 1961-1962 he acted as federal returning officer in the union elections. In 1967 he ceased being bosun on the Calla Liverpool (sometimes referred to as Calta Moscow) and took office as Assistant Federal Secretary of the SUA, to work closely with the maritime legend, Federal Secretary E.V. Elliott (1902-1984). Geraghty represented the SUA in the 1969 Work Value Inquiry before Judge Gallagher which helped create the historic aggregate wage for seafarers. He was also the driving force behind the creation of the Seafarers' Retirement Fund. Following Elliott's retirement, in 1979, Geraghty took over as Federal Secretary, a position he held to retirement in 1991. See Rowan Cahill's profile in *The Hummer*, 1992.

Raymond ("Ray") Gietzelt (1922-2012) was General Secretary of the Federated Miscellaneous Workers Union (FMWU), popularly called the "missos", from 1955 to 1984. Originally sympathetic to the pro-communist Left, Gietzelt moved to a strong left position in the ALP, expunging communist influences, particularly after anti-communist campaigns in his union, by his opponents in the early 1970s. He was very close to Neville Wran (1926- ), the NSW lawyer, QC, and Premier of NSW from 1976 to 1986, Lionel Murphy (1922-1986), the controversial Whitlam Government Attorney General and High Court Judge, and Bob Hawke (q.v.), whom he backed as ACTU President in 1969 against ACTU Secretary Harold Souter (1911-1994), the right wing candidate. Gietzelt ran a highly efficient, professional union, an exemplar for many others. He recruited Martin Ferguson (q.v.) whom he groomed as his successor. United Voice is the union formed from the merger of the LHMU and FMWU. See: Gietzelt's memoirs, *The Memoirs of*

*Ray Gietzelt: General Secretary of the Federated Miscellaneous Workers Union of Australia 1955-1984, 2004 and Harriett Veitch's obituary in the Sydney Morning Herald in 2012.*

Graeme Alexander "Sandy" Grant () superannuation administrator, as CEO of Jacques Martin, owned by Colonial Mutual, in the early 1980s worked closely with Bill Kelty (q.v.), and Garry Weaven (q.v.) in the provision of administration services to industry superannuation funds, and then came to play a major role in the development of such funds as an avid supporter of the industry fund model. He has been formally involved in the industry fund sector since 1997. He worked for Industry Fund Services as a managing director and was chief executive of Cbus, from 2004 to 2008. He is also a director of Members Equity and the Australian Institute of Superannuation Trustees. He retired as CEO of CBUS in early 2008 and thereafter became Chair of CARE Super.

Keith Jackson Hancock (1935- ), academic economist and labour relations expert, was the foundation Professor of Economics at Flinders University and subsequently became Vice-Chancellor of the University. Barry Jones recalls Hancock and he conceiving the idea of Chifley Memorial Lectures, sponsored by the Melbourne University Labour Club, from the early 1950s. See Jones' Light on the Hill Speech, *circa* 2000. Hancock was commissioned by the Whitlam Government to chair an inquiry into the merits of a review of a national system of superannuation; he reported in 1977, under the Fraser Government, which rejected his main recommendations. Under the Hawke Government, he was commissioned to do a review of the industrial relations system and reported in 1985. By the time legislation was introduced, at first in 1987, then again in 1988, after elections the previous year, the Government had become more emboldened to look at ILO treaties as providing more certain and diverse 'heads of power' to extend the jurisdiction of industrial law, significantly so in the field of superannuation. From 1987 Hancock served for ten years as a Deputy President and Senior Deputy President of the Australian Conciliation and Arbitration Commission and the Australian Industrial Relations Commission. On retirement, he became a Professorial Fellow in the National Institute of Labour Studies at Flinders University and an Honorary Visiting Fellow in the School of Economics at the University of Adelaide; he is now an Emeritus Professor there. His publications include with S. Richardson *Conciliation & Arbitration?: the Economic & Social Effects* (2003), and his essay 'Wage Determination in the Twentieth Century Australian Economy' (2005). A *festschrift* was published, edited by Joe Isaac and Russell Lansbury, *Rewriting the Rules: Essays in Honour of Keith Hancock*, 2005. This Keith Hancock is not to be confused with Sir Keith Hancock (1898-1988), the Australian historian.

Greg Harrison (1947- ), unionist and tribunal member, was an official in the State, then national office of the AMWU, and the pioneer of the MUST scheme in the metal industry, which eventually folded into STA. From 1984 to 1989 he was Assistant National Secretary of the AMWU. He resigned from union roles to become a Commissioner of the AIRC, then Fair Work Australia, from 1989 to 2012.

Robert James Lee ("Bob") Hawke AC GCL (1929- ), former Australian politician and trade unionist, was the 23<sup>rd</sup> Prime Minister of Australia and the parliamentary leader of the ALP from 1983 to 1991. Educated at the University of Western Australia, he was a Rhodes Scholar at Oxford University and started as a Research Officer at the ACTU in 1958. He was then elected as President in 1969 taking over from Albert Monk (1900-1975), who had been President for 20 years. Through Hawke, the ACTU got more publicity, the relationship between the ACTU and the ALP became stronger, there was more support of strike action than in the past and stronger links were formed with white collar unions and organisations. He served as ACTU President to 1980, when he entered the federal parliament. From 1983 to 1991, he was Prime Minister, until he lost a leadership vote to Paul Keating (q.v.).



Denis Winston Healey (1917- ), Baron Healey of Riddlesden, CH, MBE, PC, politician, was Chancellor of the Exchequer from 1974 to 1979 and therefore in charge of economic policy under the Callaghan government. His memoirs, *The Time of My Life*, are amongst the best ever written by a former politician.

Dr. Kenneth Ross ("Ken") Henry (1957- ) AC, economist and public servant, from 1986 to June 1991 worked as a senior adviser to the then Treasurer, Paul Keating (q.v.) and went on, from 2001 to retirement in 2011, to become Secretary (head) of the Treasury Department. He conducted the Henry review of tax, for Federal Treasurer Wayne Swan from 2009 to 2010. In all his roles he played an important role in fashioning tax and superannuation policy.

Henry Bournes Higgins (1851-1929), lawyer, arbitration advocate and politician, was elected a Protectionist candidate for a working class seat in Melbourne. In the John Christian Watson Labor Government of 1904, he was made Attorney General. Deakin appointed him a justice of the High Court of Australia from 1906 to his death. In 1907, he was also appointed President of the newly created the Commonwealth Court of Conciliation and Arbitration, created to arbitrate disputes between unions and employers. See, Rickard, John (1984) *H.B. Higgins. The Rebel as Judge*, George Allen and Unwin, Sydney.

Terry Johnson (1942-2010), unionist, was National Secretary, ETU, and a Member of the 'Australia Reconstructed Mission' to Europe in 1986. He had been a full-time ETU official for 19 years from 1972-1991, starting as an organiser in the NSW Branch before being appointed in 1976 to the union's National Office as national research and industrial officer. He became Assistant National Secretary in 1979 before rising to ETU National Secretary in 1986, a position he held for five years until 1991. In 1962, prior to becoming an ETU official, he completed his apprenticeship as an electrical fitter mechanic and from 1963 to 1972 he worked at publisher John Fairfax & Sons, where he was shop steward. He supported industry super in a variety of industry funds. See, [anonymous] (2010) 'Vale Terry Johnson', *Livewire*, Quarterly Journal of the ETU, NSW Branch, Autumn, p. 16.

Alan Belford Jones (1941- ) AO, teacher, coach, employer advocate, speech writer and radio personality, in a varied career was Executive Director of the Employers Federation of NSW from the late 1970s to 1985, when he started his radio career. Both Simon Crean (q.v.) and Greg Sword (q.v.) remembered memorable clashes with Jones on industrial relations, but found him surprisingly sympathetic to the principle of widespread superannuation coverage. At the Employers Federation he was succeeded by Gary Brack (q.v.). A detailed - though unfriendly - profile is Chris Masters' biography.

Paul John Keating (1944- ), politician and businessman, was elected Federal MP for Blaxland in 1969 and went on to become the 24<sup>th</sup> Prime Minister of Australia and the parliamentary leader of the ALP from 1991 to 1996. He served as Treasurer from 1983 to 1991, resigning in June 1991 and becoming Prime Minister in December 1991, defeating Bob Hawke (q.v.) in a ballot of members of the parliamentary Labor party. Defeated at the 1996 elections, he actively pursued business interests, becoming Chair of the Australian operations of the investment bank Lazard.

William John ("Bill") Kelty (1948- ) AC, trade unionist, was Secretary of the ACTU from 1983 to 2000. He studied economics at La Trobe University, along with Garry Weaven (q.v.) and David Morgan (q.v.), graduating with a Bachelor of in 1969. He was particularly impressed with Professor Don Whitehead (q.v.), who inspired him to lift his grades and to think more about macro-economic issues, including superannuation, inflation and, especially, industrial relations. His professional union activity began as an industrial officer, Federated Storeman and Packers Union, 1970, a research officer for Workers' Education Association, Adelaide, 1974, and a research officer/advocate for the ACTU in 1974. From 1977 to 1983, he was assistant secretary of the ACTU, and succeeded Peter Nolan (1934-2012) as ACTU secretary from 1983-2000, stating his new role in January 1983, on the eve of the Accord. At the ACTU he worked closely

with Harold Souter, the Secretary, whom he succeeded in 1983. His impact was immediate, as he was one of the authors of The Accord between the unions and the Labor Government. He played an astonishing role in reaching out across the political spectrum, including CPA leaders like Laurie Carmichael (q.v.) and, to the right, Jim Maher (q.v.), who had been close to the NCC. Such alliances were built on personal rapport and respect and were essential in his ability to carry with him the union movement on major reform questions, including industrial relations, union amalgamation, award modernisation and, especially, the development of the modern Australian system of superannuation. He was a member of the 'Australia Reconstructed Mission' to Europe in 1986, which was both an opportunity to explore what European unions were doing in a multitude of fields, including retirement savings, but also to deepen friendships with a diverse mix of union leaders. Close to both Hawke (q.v.) and Keating (q.v.), the partnership he forged with the latter invigorated and sustained the government, especially in taking the initiative in superannuation. Retiring from the ACTU in 2000, he served on superannuation boards and joined Linfox Group and various boards. Past appointments include: Reserve Bank director, Superannuation Trust of Australia chairman, Australian Retirement Fund director, Industry Funds' Investments director. He was made an AC in 2008 for service to the trade union movement, particularly through the establishment of the universal system of superannuation, through improvements to productivity and conditions in the workplace and the development of youth training schemes.

John Charles Kerin (1937- ) AM, economist, farmer and politician, worked at the Australian Bureau of Agricultural and Resource Economics (ABARE), before being elected for the ALP as Federal MP for Macarthur in 1972, which he lost in the 1975, and returned to the ABARE, before being re-elected as member for Werriwa in 1978, following the retirement of Gough Whitlam. He served as Minister for Primary Industries (1983-1987), Minister for Primary Industries and Energy (1987-1991), Minister for Transport and Communications (1991), Minister for Trade and Overseas Development (1991-1993) and Treasurer (1991) in the Labor government of Bob Hawke. Since leaving politics, Mr Kerin has served with bodies including the Australian Meat and Livestock Corporation, the CSIRO, The Poultry Cooperative Research Centre, The Australian Weed Research Centre; The CRC for Tropical Savannas Management; UNICEF Australia and the National Ovine Johne's Disease Programme Advisory Committee. In 2001, Mr Kerin was appointed as a Member of the Order of Australia for service to the Australian Parliament. In the same year, he was awarded the Centenary Medal for services to Australian society in technological science and engineering. He has a long association with The Crawford Fund - after serving on the Crawford Fund Board and as chair of the Crawford Fund NSW and ACT Committees for some years, he was elected as Chair of the Crawford Fund Board in October 2010.

Cheryl Kernot (1958- ), née Paton, politician, academic, and political activist, was a member of the Australian Senate, representing Queensland and the Australian Democrats, from 1990 to 1997, and led the Australian Democrats from 1993 to 1997. She supported the amendments to legislation that led to the Superannuation Guarantee legislation under Paul Keating. As the Democrats held the balance of power in the Senate, her support for such legislation was crucial. In 1997 she resigned from the Democrats, joined the ALP and won a seat, Dickson, in Queensland, for a single term, to 2001. Thereafter, despite standing as an independent in NSW for the Senate in 2010, Kernot has worked as a researcher and academic in the field of social policy, including at UNSW.

William Albert ("Bill") Landeryou (1944- ), unionist and politician, became an organiser of the Federated Storemen and Packers' Union (FSPU) in 1966, Victorian State Secretary in 1969, federal secretary in 1974 and federal president in 1979. He recruited Greg Sword (q.v.), Bill Kelty (q.v.) and Simon Crean (q.v.), amongst others to the union which played a major role in the development of industry super through the creation of the LUCRF scheme in the 1970s. Elected to the Victorian Legislative Council in 1976 he continued until resignation as an MP in 1992.

After the formation of the Cain Labor Government in 1982, he became Victorian Minister for Economic Development and Tourism and later that year he became Minister for Industrial Affairs and he was also made Minister for Labour and Industry. Since retirement from politics, he has pursued private business interests.

John Terrence ("Terry") Ludeke (1921- ), lawyer and judge, was a controversial figure amongst unionists. Although he started active political life as an industrial officer for the Industrial Groups in the early 1950s, he moved away from such NCC sympathies. He worked as industrial advocate for the AHA and went on to serve as a barrister for all sides, though mostly the employers. Appointed to the Commission as a Judge, Ludeke was seen as prickly and opinionated. Others saw a man of independent mind who began to have doubts about the economic efficacy of compulsory conciliation and arbitration. In late 1983, he successfully persuaded his fellow Justices to reject the proposed building industry agreement, including its BIRP allowance. This spurred the unions to seek the allowance through superannuation, then deemed, through a quirk of the then law, as a non-industrial matter. He dismissed the second 3 per cent superannuation claim in 1986 on 'economic grounds', which provoked Keating (q.v.) and Kelty (q.v.) to call for legislation, by way of superannuation guarantee, to provide minimum standards for superannuation. Thus, inadvertently, he played an important role in fathering the modern Australian superannuation system. In retirement, he wrote a short polemical book extolling the argument that in certain industries, such as parts of the mining industry, unions were either out of place or had to earn their place. See his *Line in the Sand: The Long Road to Staff Employment in Comalco*, 1996.

James ("Jim") Maher (1927-2009), joined the shop assistants union SDA in 1946 and when he retired as National President in 1995, the union was Australia's largest with more than 230,000 members. He was State Secretary from 1973-1991 and National President from 1970-1995. He was also an ACTU Vice-President for more than 10 years, retiring as Senior Vice-President. After the election of the Hawke Government in 1983, he led the old Grouper, ex-NCC unions, the Ironworkers, Clerks, Carpenters and Joiners and the SDA back into the Victorian Branch of the ALP in 1985. He received the Order of Australia (AO) in 1988 for his contribution to Australian and international trade unionism. Along with his deputy and protégé, Joe de Bruyn (q.v.), Maher was initially unsympathetic to the development of industry super – preferring 'money in the pocket' for his low paid workforce. He unsuccessfully tried to forge an alliance with the Federated Clerks Union (FCU) in forming the Clerical and Retail Employees (CARE) scheme. Although CARE was established, opposition from retailers and probably, discretely, the ACTU, led to the establishment of the REST scheme as the dominant super scheme for the retail industry. Maher became close to Bill Kelty (q.v.) and supported the ACTU Secretary's strategic initiatives in superannuation and industrial relations more generally. See the obituary by Michael Easson 'Maher Created a Powerful Force' published in the *Sydney Morning Herald*, January 4, 2010.

John William MacBean (1935- ), unionist and industrial tribunal member, was Secretary of the Labor Council of NSW, 1984-1988, and Senior Vice President, ACTU, 1985 to 1987. He was Deputy Head of the Australia Reconstructed Mission to Europe in 1986. He played an important role in forging a broad consensus for the Accord and, in NSW, in consolidating the public sector schemes and improving eligibility and vesting benefits for blue collar workers. See Marilyn Dodkin's chapter on MacBean as 'The Consensus Secretary' in her book *Brothers: Eight leaders of the Labor Council of New South Wales*, 2001.

Tom McDonald (1926- ), Secretary, BWIU, Member of the 'Australia Reconstructed Mission' to Europe in 1986. In retirement, with his wife Audrey, they published a memoir, *Intimate Union*, 1998. As part of the NLA/Labor Council of NSW Oral History Program, he was interviewed by Richard Raxworthy in 1994. See, National Library of Australia Oral History Collection, ORAL TRC 3128/8.

Mike McKay (), unionist and superannuation administrator, worked in superannuation as an Industrial Officer at the ACTU. He was instrumental in the establishment of many of the Industry Funds and involved in the original Superannuation Guarantee Legislation. He subsequently held a series of senior roles within industry super (including as Chair of C+Bus) and funds management (including HSBC Asset Management). He presently serves as the Chair of Advisory Board at McCloud Pty Ltd.

William ("Bill") Mansfield (1942-2011), union leader and industrial tribunal member, spent a lifetime in industrial relations and was one of the most underrated, if extremely professionally competent, union leaders of his time. Raised in Yarrawonga in northern Victoria, he left Wangaratta Technical College in year 10 at 15 years of age, subsequently qualified as a communications technician, studied years 11 and 12 at night school. Active with the telecommunications employees union, in 1963 he was appointed Assistant secretary of the Victorian Branch of the Australian Telecommunications Employees Association. In 1966 he moved to the federal office of the union, where he held various senior positions. He studied law part-time at the University of Melbourne, graduating in 1972 at the age of 30. In 1977 he was elected federal secretary of the union, a position he held until in 1985 he was elected ACTU Assistant Secretary, a position he held to 2002 when he was appointed a Commissioner of the Australian Industrial Relations Commission. He provided powerful backup to Bill Kelty (q.v.), Garry Weaven (q.v.) and Iain Ross (q.v.), and other union leaders and played important roles with union campaigns, including in the areas of training, education and OH&S. He was active representing the ACTU at the ILO and other fora.

Keith Douglas Marshall (1924- ) AM, industrial relations expert and tribunal member, was the Registrar, and later President of the Victorian Industrial Relations Commission to 1982.

Charles Race Thorson ("Race") Mathews (1935- ), politician, author and co-operative economist, trained as a teacher and speech therapist before joining the staff of the Leader of the Opposition, the Hon. E.G. Whitlam, as Principal Private Secretary from 1967-1972. He played a major role in developing ALP policies prior to the ALP's victory in 1972 (and his own as Federal MP for Casey, which he held to 1975). In the early 1970s Mathews was attracted to the writings of Richard Crossman, the UK Labour politician and the advocacy of a national system of superannuation. This was the genesis of the thinking that led to the commissioning of the Hancock Inquiry on superannuation. After federal politics, Mathews served in the Victorian Parliament as a MP from 1979 to 1992, including as a Minister from 1982 to 1988. Subsequently he wrote a PhD and published a number of books on the Fabian, co-operative and Christian socialist traditions which are amongst the finest ever written in Australia. Note in particular, his co-edit of *Whitlam Re-visited: Policy Development, Policies and Outcomes* (1992), and his own works, *Australia's First Fabians: Middle-Class Radicals, Labour Activists and the Early Labour Movement* (1993), and *Jobs of Our Own: Building a Stakeholder Society* (1999).

John Peter Maynes (1923-2009) AM, union leader, after the ALP split in Victoria in 1955, became the most prominent member of the NCC block in the union movement and the leader of the Federated Clerks Union. He was a founder trustee director of CARE in 1986. See several tributes: Gerard Mercer 'John Maynes and the Movement', *Quadrant*, 2009, and John Lee 'Grouper Who Defined an Era' [obituary to John Maynes], *The Melbourne Age*, August 22, 2009.

Dr David Raymond Morgan (1947- ) AO, economist and business leader, worked at the International Monetary Fund in Washington in the 1970s and the Federal Treasury in the 1980s. He headed all major areas of the Treasury before being appointed the Senior Deputy Secretary during the Hawke-Keating federal government, contributing to government policy for the financial sector including the floating of the Australian dollar, financial deregulation more

generally, and the development of superannuation policy. He knew Bill Kelty (q.v.) and Garry Weaven (q.v.) at La Trobe, where they studied economics, with Morgan top of the class. He also received a Master of Science in Economics (Distinction) and a Doctor of Philosophy (Economics) from the London School of Economics, and completed the Advanced Management Program at Harvard Business School. After a career in the public service in 1990 he became a banker, becoming CEO of Wespac Banking Corporation from 1999 to 2008. Presently, he is a non-executive director of BHP Billiton Ltd, and a partner and Chairman Australian operations of the US-based specialist investment firm JC Flowers. He is married to Roslyn Joan ("Ros") Kelly (1948- ) AO, a former Minister in the Hawke and Keating Governments.

Peter Ian Nolan (1934-2012), unionist and tribunal member, started working life as an apprentice printer in Tasmania, rising to elected positions with the union. Later he departed for a role as Industrial Officer with the Victorian Trades Hall Council. He became the ACTU's assistant secretary in 1971, and then the first assistant secretary from 1975, then Secretary from 1977 to 1983, succeeding Harold Souter (1911-1994), who was ACTU Secretary from 1956 to 1977. He left for an appointment as a Commissioner of the AIRC, from where he eventually retired. Nolan was succeeded by Bill Kelty (q.v.). See Malcolm Brown's obituary in the *Sydney Morning Herald*, August 22, 2012.

Christopher "Chris" Northover (), union leader and superannuation pioneer, was national Secretary of The Pulp and Paper Workers', which eventually merged with the CFMEU. He was widely influential and his experience was drawn on in the establishment of LUCRF, CBUS, Print Super, and other industry schemes.

Cassandra Parkinson (), teacher, was National Secretary, TAFE Teachers' Association, ATF, Member of the 'Australia Reconstructed Mission' to Europe in 1986, and became Executive Director at Australian TCF Industry Training Board, 1989 to 1996. In this role she helped to develop the first national competency standards for the TCF and allied industry sectors, and Australia's first accredited qualifications for clothing machine operators.

Mavis June Robertson (1930- ) AM, feminist, CPA activist and superannuation administrator, became involved in the superannuation movement in 1984 when the building and construction unions, with the support of the ACTU, campaigned successfully for a retirement benefit to be paid by employers into one of two industry funds, BUSS (Building Unions Superannuation Scheme) or AUST (Allied Unions Superannuation Trust). She was appointed a trustee director of AUST by the pro-CPA FEDFA (Federated Engine Drivers and Firemen's Association), which later became part of the CFMEU (Construction, Forestry, Mining and Energy Union). She worked full time first in Sydney in the then newly formed Superannuation Unit and later transferred to Melbourne where she became National Coordinator for Industry Superannuation at the ACTU. As Fund Secretary of BUSS and AUST, she steered the merger of these two funds to create Cbus, the first billion dollar industry fund. As the CEO of Cbus and later Chair of Cbus, she became a Vice President of ASFA (Association of Superannuation Funds of Australia). Other initiatives of which she has been integral, include a range of initiatives designed to enhance the work of industry funds and more generally the not for profit sector and the representative trustee system, such as in the founding of the Conference of Major Superannuation Funds, the Australian Institute of Superannuation Trustees, Industry Funds Super, Australian Council of Superannuation Investors and Women in Super. She was awarded membership in the Order of Australia in 1994, and is a life member of AIST, ASFA, Women in Super and CFMEU. Note the comprehensive interview with Mavis Robertson and interviewer Sara Dowse in 2003, National Library of Australia Oral History Collection, ORAL TRC 5030.

Dr Iain Ross (1959- ) AO, unionist, lawyer and judge, studied law at the University of Sydney, joining the ETU as Research Officer, prior to joining the Labor Council of NSW as Occupational Health and Safety Officer in the 1980s. He later moved to the ACTU as Legal Officer, becoming a

key support to ACTU Secretary Bill Kelty (q.v.). Shy and reserved, he had a determined, formidable intellect, and an uncanny ability to simplify, explain and persuade. Indeed, in interviews for this thesis with Kelty (q.v.), Keating (q.v.), McDonald (q.v.), Weaven (q.v.) and Kernot (q.v.) they all praised his expertise in marshalling arguments and legal acumen in pursuing the ACTU's objectives in superannuation, particularly with the superannuation guarantee legislation. Ross was elected ACTU Assistant Secretary, in 1992, and, from 1994-2006, he was Vice President of the Australian Industrial Relations Commission. He became an Adjunct Associate Professor of Law at the University of Sydney, 2004. After a period in private practice with the law firm Corrs Chambers Westgarth, he was appointed first to the [County Court](#), then to the [Victorian Supreme Court](#) in 2009, and in 2010 became President of the Victorian Civil and Administrative Tribunal. He became Chair of the Council of Australian Tribunals and, from February 2012, President of Fair Work Australia.

Kevin Michael Rudd (1957- ), politician and professional bureaucrat, was the 26<sup>th</sup> Prime Minister for Australia from 2007 to 2010, and the 28<sup>th</sup> Prime Minister from June to September 2013, and ALP leader from 2006 to 2010 and from 2013. Majoring in Chinese language and history with first class honours from the ANU, after a period in the Australian diplomatic service, he became Chief of Staff to Queensland ALP leader and Premier of Queensland, Wayne Goss, from 1981 to 1988. He won election to the House of Representatives in 1998 (having lost on his first attempt, in the Keating landslide defeat of 1996). One of Prime Minister Rudd's last major decisions, before losing his position to his Deputy in June 2010, was to announce support for the superannuation guarantee gradually being phased in from 9 per cent to 12 per cent, a policy position championed by Minister Chris Bowen (q.v.).

Dr Don Russell (), economist, diplomat, public servant and investment banker, was adviser to Paul Keating from 1985 to 1993, Australian Ambassador to Washington from 1993 to 1995, then Principal Adviser to Prime Minister Keating from 1995 to 1996. He went on to have several careers in investment banking and the public service. He spoke on some of his experiences in a paper: 'The Role of Executive Government in Australia' (2003).

Hon. Susan Ryan (1942- ) AO, politician, feminist and administrator, was a Senator for the ACT representing the ALP from 1975 to 1988. Under Bob Hawke, in 1983 she became the first woman to hold a Cabinet post in a federal Labor Government. She served as Minister for Education and Youth Affairs, Minister Assisting the Prime Minister on the Status of Women and Special Minister of State. She became the CEO of the Association of Superannuation Funds of Australia from 1993 to 1997, President of the Australian Institute of Superannuation Trustees from 2000 to 2007, a member of the Australian Council of Superannuation Investors from 2001 to 2007, a member of the ASX Corporate Governance Council from 2003 to 2007, and the Independent Chair of the IAG and NRMA Superannuation Plan to 2011. She became Australia's first Age Discrimination Commissioner on 30 July 2011.

Nicholas John ("Nick") Sherry (1955- ), union leader and politician, was Senator for Tasmania from 1990 to 2012. He was influential with Cheryl Kernot (q.v.) in winning support for the SGL. Starting his working life while at university as a night cashier and auditor at the Wrest Point Hotel and Casino in Hobart, he joined the FLAIEU, becoming its State Secretary between 1979 and 1990. In 1992, the FLAIEU amalgamated with the FMWU to form the present day Liquor Hospitality and Miscellaneous Union (LHMU). As State Secretary he helped establish the HostPlus Superannuation Fund, an industry superannuation fund then only for hospitality industry workers, but now a full public offer fund. He was a trustee of HostPlus from 1987-1990 and was also a trustee, manager, and company secretary of the Tasmanian ClubPlus Superannuation fund. Although he rose rapidly in the parliamentary Labor Party, depression required him to take a break. In 2001 he was appointed Shadow Minister for Retirement Incomes and Savings, a position he held until 2004. In 2004 Sherry was appointed as the Shadow Minister for Finance and Superannuation and in 2005 he was appointed as the Shadow

Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services, positions he held until the 2007 election. Following the election of the Rudd Government, he was appointed Minister for Superannuation and Corporate Law, 2007-2009, then Assistant Treasurer, 2009-2010, then, under Prime Minister Julia Gillard, Minister for Small Business, 2010-2012. He retired from the Senate and public office in 2012. As Australia's first Minister for Superannuation, he set up the Review into the Governance, Efficiency and Structure and Operation of Australia's Superannuation System, also known as the Cooper Review, after its head Jeremy Cooper. The Gillard Government released the Cooper Review on July 5, 2010. Subsequent to relinquishing political office, he secured a number of roles including Senior Advisor, Superannuation and Pensions to Ernst and Young and Citigroup, Chair of FNZ Australia and a range of other advisory roles in the pensions area in Australia and globally.

Ian Silk (1958- ), superannuation manager, after graduating with an economics degree tried his luck at forklift driving and cut his professional teeth working in industrial relations at what is now Melbourne Water, then home to about 5000 blue-collar workers. After a period as an apolitical senior adviser in industrial relations on the staff of several Ministers in the Victorian government, he started in the superannuation industry, initially as a Senior Manager for Australian Administration Services, then as CEO of ARF which in 2006, following its merger with STA, became AustralianSuper Pty. Ltd. He has been a Director of the Association of Superannuation Funds of Australia since 2001 and a Member of the Conference of Major Superannuation Funds Steering Committee. Mr. Silk is a Member of the Financial Services Advisory Council to the Federal Treasurer; a Member of the Australian Government's Financial Literacy Board; a Member of ASIC's External Advisory Board; a member of the Board of the Australian Council of Superannuation Investors (ACSI); and a Director on the Yooralla Board. He has the ASFA Certificate of Superannuation Management. For a profile, see: 'Back to School with Ian Silk', InTheBlack online, March 2013, <http://www.itbdigital.com/people/2013/03/04/back-to-school-with-ian-silk-ceo-of-australiansuper/>, accessed May 28, 2013

Ian Spicer (1938- ) AM, was Secretary, Victorian Employers Federation Australian Chamber of Commerce and Industry

Wayne Maxwell Swan (1954- ), academic, ALP official and politician, was Treasurer from 2007 to 2013, under the first Rudd, then Gillard administrations. With the latter, he was Deputy Prime Minister from 2010 to June 2013, when Rudd again became Prime Minister. He returned to the backbench and was re-elected at the 2013 elections. He was the Federal MP for Lilley, from 1993 to 1996; and again since 1998. From 1978 to 1980, he was an advisor to Labor Leader Bill Hayden, then from 1983 to 1984 with Mick Young and Kim Beazley. He was also the State Secretary of the Queensland Labor Party from 1991 to 1993. As federal Treasurer he commissioned the Henry (q.v.) review into taxation, which *inter alia* covered superannuation issues. In Opposition, he wrote a book on economic disparity in Australia, *Postcode: The Splintering of a Nation* (2005).

Gregory Brian ("Greg") Sword (1948- ) AM, union leader, superannuation pioneer and administrator, came to the attention of Bill Landeryou (q.v.) after speaking at an ALP Conference in Victoria, where in his capacity as National President of Young Labor from 1972 to 1974 he was defending some local controversy. He had studied engineering and had worked at the Victorian SEC; but he quit that job in 1974 to work with Landeryou at the Victorian Branch of the FSPU. Although he was just shy of ten years' service, he received nothing in superannuation but for his own contributions. That began a burning desire for superannuation justice. He founded for the union the Labour Union Co-operative Retirement Fund (LUCRF), originally set up for the union officials. In the 1970s, he extended coverage of the fund to workers in the skin and hide industries, retail distribution and then more generally. He was elected national General Secretary of FSPU (later, following amalgamations, the National Union



of Workers or NUW). As a member of the 'Australia Reconstructed Mission' to Europe in 1986, which set the scene for the modernisation of the union movement, including an approach to wage fixation based on productivity increases and efficiencies in the workplace. He has served as the National and the Victorian Branch President of the ALP. Since 2006, he has served as the CEO of LUCRF Super and a member of the Melbourne Foundation. Other interests include serving as a Trustee of the Caulfield Racecourse Reserve and a Trustee of the National Jockeys Trust. He has served as Chairman of St Vincent's Public Hospital, Melbourne.

Lindsay James Tanner (1956- ), lawyer, union leader, environmentalist, politician and investment banker, after graduating with Arts and Law degrees from the University of Melbourne, worked for a Labor politician and law firm Holding Redlich Lawyers. He was unexpectedly elected Assistant State Secretary of the Federated Clerks' Union from 1987, then State Secretary from 1988 until 1993, when he left to successfully contest the federal seat of Melbourne, which he held to 2010, when, after serving as Minister for Finance, 2007 to 2010, he decided to quit politics for personal reasons. He is active in the private sector, and an adviser to the investment bank Lazard. On his union experiences, he wrote *The Last Battle* (1996).

Richard Morris Titmuss (1907-1973) was a pioneering British social researcher and teacher in the academic discipline of social theory and administration. He was the founding chair of Social Administration at the LSE from 1950 until his death in 1973. His thinking on superannuation and the development of a National superannuation scheme in the UK influenced UK politician Richard Crossman (q.v.) who in turn, through Race Mathews (q.v.) influenced the ALP's thinking in the early 1970s.

Allan Raymond Vosti (1915- ), industrial relations expert, served in the Australian Armed Forces during the Second World War. He progressed to the Department of Defence in the field of Industrial Relations. He was appointed as a Commissioner to the Australian Conciliation and Arbitration Commission and served the building and construction industry from 1972 to 1980. He became the inaugural Chairman of the Victorian Building Industry Disputes Board from 1981 to 1988. From 1989 he was involved in private arbitrations working with the Australian Conciliation and Arbitration Commission. His papers are held in the Melbourne University Archives; see: <http://gallery.its.unimelb.edu.au/imu/imu.php?request=multimedia&irn=4995>, accessed May 26, 2013.

Barry John Watchorn (1938- ), employer organisation leader, was known for his roles as a barrister, diplomat, senior public servant, and superannuation expert. He began his career in the public service, rising through the ranks to a senior officer position with the Federal Department of Industrial Relations. He was posted to Nigeria between 1966 and 1968 and also to Geneva as the Australian Government's representative to the International Labour Organisation and the OECD's Manpower and Social Affairs Committee between 1980 and 1983. He first became involved with superannuation when working for the Australian Chamber of Manufacturers (ACM), which later merged with the Metal Trades Industry Association (MTIA) to form the Australian Industry Group (AiG). Responsible for industrial relations activities at the ACM, he became involved in the employer campaign against award super in the early 1980s. Seeing the writing on the wall, Watchorn offered a settlement to the ACTU and the manufacturing unions – namely, the establishment of a fund which could be operated on a co-operative basis. As a result, the Australian Retirement Fund (ARF) was born. Barry became a trustee of the ACM Training Centre Superannuation Funds in 1989 and of ARF in 1993. He was ARF Chairman at the time of its merger with the Superannuation Trust of Australia (STA) in 2006 to form AustralianSuper. He retired from there to then become the Chair of CARE Super in 2008. See the anonymous article on Watchorn in *Industry*, 2008.

Garry Weaven (1948- ), union leader, economist, superannuation pioneer and administrator, grew up in Northcote, in Melbourne's inner-north, was a member of the Socialist Club during his



time at La Trobe University in the early 1970s. At university he befriended Bill Kelty (q.v.) and joined the MOA as a researcher, and later was elected Victorian State Secretary. He joined the ACTU in 1981, becoming Assistant Secretary in 1986. Within the ACTU he became a key architect and a major driving force behind the ACTU's success in reforming the nature of superannuation and spreading it throughout the workforce during the 1980s. He left the ACTU to join Westpac as a financial consultant in 1990, before setting up Industry Funds Services in 1994. IFS provided funds management, banking and legal support to the industry super funds that grew out of the union movement. IFS eventually became Industry Funds Management, then IFM Investors, owned by 30 super funds, including giants Australian Super, CBUS, HESTA and HostPlus, and invests almost \$50 billion on behalf of some 120 Australian and international investors (mainly superannuation funds), with a focus on 'nation building' infrastructure assets like airports, toll ways and energy companies. He is also Chairman of Pacific Hydro, a renewable energy company in Australia, Brazil and Chile, owned by IFM Australian Infrastructure Fund; and Director of ME Bank, which is owned by the same group of Australian Superannuation funds. See profile: 'Money Movers No. 6, Garry Weaven,' <http://www.thepowerindex.com.au/money-movers/garry-weaven>, accessed May 26, 2013.

Donald Henry Whitehead (1931-1980), economist and economic historian, BA (Oxon.) lectured in economic development at the University of Adelaide from 1958 to 1963, then Senior Lecturer in 1964, then moved to New England in 1965 and then to La Trobe in 1967. He gave evidence in National Wage Cases for the employers and was considered an expert on stagflation. One of his students was Bill Kelty, whom he credits with inspiring him to become a good student. Despite their differing politics, Kelty greatly admired Whitehead's stimulating discussion on contemporary industrial issues and the development of tax wage trade-offs, in order to curb the wage-prices inflation cycle. Jordon notes that in 1965 Whitehead was appointed to New England to teach Economic History but soon after went to a Chair at La Trobe University, though not before that the University introduce a Bachelor of Economics degree. As a foundation Professor of Economics at La Trobe, Whitehead insisted on the Faculty teaching the history of economic thought. Named in his honour, the Donald Whitehead Building now houses the School of Law and Management at the Bundoora campus of La Trobe University. For biographical references, see: Anderson and O'Neil, 2009, p. 65; Jordon, 2004, p. 118; Schneider, 2007. See his Whitehead's book, *Stagflation and Wages Policy in Australia*, 1973. See Davidson's memoir in *The Economic Record*, 1980.

Ralph Willis (1938- ) AO, economist, unionist and politician, was ACTU Research Officer to 1972 when he was elected Federal MP for Gellibrand from 1972 to 1998. He was Shadow Minister for Industrial Relations, Economic Affairs and Treasury from 1976 to 1983, though dropped from the last post for Paul Keating (q.v.) in January 1983, as then Labor Leader Bill Hayden (1933- ) tried to shore up his support against Bob Hawke (q.v.), who was to depose him in February 1983. A Minister in the Hawke and Keating governments, he was briefly Treasurer in 1991, under Hawke, and again under Keating from 1993 to 1996. He served as Chair of CBUS to 2012.

Ted Wilshire (1943- ), unionist, economist and trade bureaucrat, after studying Political Economy at the University of Sydney and becoming close to the CPA, though apparently never a member, he worked for the AWWU as National Research Officer. At heart a radical industry protectionist, he modified his views and sought to learn from European and other union experiences, including the development of national pension schemes. With the election of the Hawke Government in 1983 he joined the Department of Trade becoming Executive Director of the Trade Development Council. In that position, he was a member of the 'Australia Reconstructed Mission' to Europe in 1986 which produced a highly influential report *Australia Reconstructed* in 1987. Wilshire played an important role on the Australian Left, on both sides of the dividing line of the ALP, in creating and sustaining a pro-Accord viewpoint. After an attack by unknown assailants in 1989, he was left with brain damage and dropped out of any

significant role in the labour movement. Some of his co-authored works include, with Bill Mountford, a pamphlet on *Australia on the Rack*, 1982, and, as joint editor with Greg Crough and Ted Wheelwright, *Australia and World Capitalism*, 1980.

## Appendix 4: Questions of Interviewees

Potential prompting questions:

By asking an indirect question which places people in a context they can understand and which allows them to tell a story about themselves or someone they knew.

Eliciting Anecdotes:

A real account of someone's experience, told from a particular perspective of the teller, refers to an historical event fixed in time.

Prompting sentences, such as:

Tell me about a time when someone had a major influence on the proposal.

If you were asked to give an address about the development of superannuation to a public meeting what would you tell your audience?

Imagine you are chatting to a friend about your experience, what would you talk about?

Pressing for Answers

Although the intention of the interview technique is for the interviewee to state their case as they see it, in this instance some questions were asked to prompt answers as to how decisions were taken. The intention here was to enable informed consideration of the hypothesis that the ultimate determining factor of the decision-making process in superannuation policy delivery was political power - not the power (or the rationality) of technocrats.

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