

Summary

Refining Crude or Crude Refinements?

Workplace Industrial Relations at Shell Clyde Refinery, 1974-1994

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of the requirement for the degree

of Doctor of Philosophy.

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Summary

This thesis studies workplace industrial relations at the Shell Clyde refinery in the period between 1974 and 1994. It takes as its focus the manner in which labour is regulated, that is, the way in which work is organised, performed and rewarded. The changes in labour regulation at the refinery are described in detail in the thesis and explained by using a modified bargaining model. This model uses the traditional bargaining model as its core but expands the explanatory scope of the model by incorporating a broader range of independent variables. This approach means that labour regulation at Clyde is explained by studying not only the structure and strategies of the immediate workplace parties, namely management and unions, but also by analysing how product and labour markets, bargaining structure and state intervention have affected the strategies of the parties.

The structure of the thesis is informed by this model and is consequently divided between industry and workplace chapters. Industrial relations in the oil industry and at Clyde refinery are analysed over the two decades between 1974 and 1994, this time span being divided into three distinct historical periods. The first period, between 1974 and 1980, represented a time of industrial conflict in the industry as a whole and particularly at Clyde. Issues relating to the organisation of, performance of and reward for work were continually contested at the refinery. This workplace contest occurred in the context of centralisation of award negotiation in the industry. The second period, between 1980 and 1989, witnessed the stabilisation of dispute levels at Clyde and the reassertion of managerial prerogative, particularly over issues of staffing and organisation of the production process. Award negotiations had been successfully centralised in the oil industry, and this centralisation had been institutionalised by the Prices and Incomes Accord. The effect of this was to 'neutralise' trade union action at the workplace. The final period, notably the years between 1990 and 1994, involved a change in approach to labour regulation by the management at Clyde. While levels of conflict remained low, management attempted to renegotiate work organisation and performance at the refinery, as well as trying to change employee attitudes by way of a new employee relations strategy. This action by management was facilitated by a

return to decentralisation of award negotiations in the oil industry and the labour market generally.

The thesis explains the changes in the strategies of management and the responses of unions at the refinery, with reference to changes in market conditions in the petroleum products market, alterations in the level and scope of bargaining in the industry and the action of state agencies, particularly industrial tribunals, in either supporting or restricting these strategies and responses. It is argued in essence that focusing on the structure and strategies of the parties in isolation does not provide an adequate understanding of how labour is regulated at the workplace.

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Many people have contributed their time and expertise during the preparation, research and writing of this thesis and I extend my appreciation to everyone who has assisted me. However, there are a number of people without whom this thesis would never have been completed. First, I extend the deepest thanks to my supervisor Professor Mark Bray. This project owes much to his guidance, encouragement and academic rigour. His thoroughness in seeking to understand and explain complex social phenomena is an inspiration. I must also extend thanks to the other members of the Department of Industrial Relations at the University of Sydney who have supported me during my candidature and taken an active interest in my study.

Declaration:

I declare that the work contained in this thesis is the result of original research and has not been submitted for a higher degree at any other university or institution.

Feedback on drafts of the thesis was provided by several people. A'Court provided invaluable management, Helen Reid was extremely helpful at the end of the project David Brown also provided assistance in interviewing delegates. Special thanks must also go to Phil Jessep who left the Shell company midway through this project but provided me with an invaluable introduction to the refinery, its management and recent history.

Jack Cambourn, Commissioner Ron Jones, Justice Jim Macken, Sir John Moore, Chas Naylor, Dr Peter Saul and Jack Adams all gave freely of their time and knowledge of industrial relations at Clyde and the oil industry generally. This thesis has benefited greatly from their expertise and, in the case of Mr Cambourn, Mr Naylor and Commissioner Jones, their comments on draft chapters. Acknowledgment must also go to Dr Ian Watson, who provided census statistics for Chapter Two. I owe a great debt of gratitude to Warren Stooke, with whom I have spent many hours discussing industrial relations at Clyde and who diligently and

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I have had great assistance from a number of people at the Clyde refinery. All the delegates from both the ROG and AMWU were gracious with their time, however I am particularly indebted to Chris Church who went well out of his way to provide me with access to union documents and tolerated endless tedious questions about past events and current practices. In addition, he and Bob A'Court provided invaluable feedback on drafts of several chapters. Among Clyde management, Helen Reid was extremely helpful and giving of her time and toward the end of the project David Brown also provided assistance in interviewing delegates. Special thanks must also go to Phil Jessep who left the Shell company midway through this project but provided me with an invaluable introduction to the refinery, its management and recent history.

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thoroughly read the drafts of several chapters in the thesis and provided me with access to many valuable company documents.

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Of course any errors and omissions remain my sole responsibility.

ADSTE	Association of Draughtsmen, Supervisors and Technical Employees
AFRC	Australian Industrial Relations Commission
ALP	Australian Labor Party
AMSFUW	Amalgamated Metal, Shipwrights and Foundry Workers Union
AMWU	Amalgamated Metal Workers Union
AOR	Australian Oil Refineries
AROG	Australian Refinery Operators Group
ASE	Australian Society of Engineers
AWU	Australian Workers Union
BDA	Butane Deasphalting unit
BP	British Petroleum
CCR	Centralised Control Room
CCU	Catalytic Cracking Unit
CDU	Crude Distillation Unit
CFMEU	Construction, Forestry, Mining and Energy Union
CORT	Clyde Operators Ranking Technique
ETU	Electrical Trades Union
FCU	Federated Clerks Union
FEDFA	Federated Engine Drivers and Firemen's Association
FIA	Federated Iron Workers
FSPU	Federated Storemen & Packers Union

Abbreviations

ACAC	Australian Conciliation and Arbitration Commission
ACCC	Australian Competition and Consumer Commission
ACTU	Australian Council of Trade Unions
ADSTE	Association of Draughtsmen, Supervisors and Technical Employees
AEU	Amalgamated Engineering Union
AIRC	Australian Industrial Relations Commission
ALP	Australian Labor Party
AMSFWU	Amalgamated Metal, Shipwrights and Foundry Workers Union
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Table of Contents

Acknowledgments	i
Abbreviations	iii
Introduction: Workplace Industrial Relations at Shell Clyde Refinery, 1974-1994	xi
Introduction	xi
i) Levels of Analysis: The Industry and the Workplace	xi
ii) Focus of Analysis: Regulation of Labour	xiv
iii) Explaining the Regulation of Labour	xv
iv) Contribution of this Thesis to Workplace Industrial Relations	xvii
v) Methodology	xix
Chapter One: Labour Regulation and the Study of Industrial Relations	1
1.1 Introduction	2
1.2 What is Labour Regulation?	3
1.3 A Model of Workplace Regulation-The Bargaining Model	5
1.4 Challenges to the Bargaining Model-Labour Process Theory	17
1.5 Later Variations on the Bargaining Model	21
1.5.1 Management Strategy and Management Style	22
1.5.2 Management Strategy and Product Markets	25
1.5.3 Management Strategy and Organisational Structure	32
1.5.4 Bargaining Structures	33
1.6 A Modified Bargaining Model	40
1.7 Conclusions	45
Chapter Two: The Australian Petroleum Industry: Structure, Market Trends and State Regulation	48
2.1 Introduction	49
2.2 Nature and Structure of the Industry	50
2.2.1 Downstream Production	50
2.3 The Companies	57
2.4 The Labour Force	63
2.5 The Petroleum Product Market	67

2.5.1 Demand for Petroleum Products	67
2.5.2 Oil Supply	70
2.6 Government Regulation	72
2.6.1 Refining and Marketing	73
2.7 Conclusion	76
Chapter Three: Development and Growth of Industrial Relations in the Australian Oil Industry, 1950-1974	81
3.1 Introduction	82
3.2 The Parties to Bargaining	83
3.2.1 Employers	83
3.2.2 Unions	85
3.2.3 Industrial Tribunals	90
3.3 Decentralised and Fragmented Bargaining, 1950 - 1970	92
3.4 The Development of Coordinated Bargaining, 1970 - 1974	100
3.5 Conclusions	105
Chapter Four: Clyde Refinery, 1959-1974	108
4.1 Introduction	109
4.2 The Establishment of Clyde Refinery, 1926-1958	110
4.3 Large Scale Expansion of Clyde Refinery, 1959-1974	113
4.4 Union Representation and Award Coverage	115
4.5 Union Structure and Strategy	120
4.6 Management Structure and Strategy	125
4.7 Workplace Relations, 1965-1974	135
4.8 Conclusions	140
Chapter Five: Industry Coordination, 1974-1994	142
5.1 Introduction	143
5.2 The Evolution of Common Negotiations, 1974-1980	145
5.3 The National Integrated Wage Structure, 1980-1988	155
5.4 Toward Enterprise Bargaining, 1988-1994	166
5.5 Conclusions	170
Chapter Six: Clyde Refinery, 1974-1980	174
6.1 Introduction	175

6.2 The Nature of the Labour Process: Implications for Bargaining Tactics	176
6.3 Escalation of Conflict, 1974 - 1980	180
6.3.1 1974	181
6.3.2 1975	182
6.3.3 1976	187
6.3.4 1977	192
6.3.5 1978	203
6.3.6 1979	213
6.4 Conclusions	215
Chapter Seven: Clyde Refinery, 1980-1989	219
7.1 Introduction	220
7.2 Stabilisation of Relations, 1980-1987	221
7.2.1 1980-1982	224
7.2.2 1982-1984	231
7.2.3 1984-1986	240
7.3 Partial Decentralisation, 1987-1989	246
7.4 Conclusions	265
Chapter Eight: Strategies to Improve Workplace Relations, 1989-1994	269
8.1 Introduction	270
8.2 Enterprise Bargaining, 1989-1993	271
8.3 Securing the Future (STF), 1988-1993	274
8.4 Further Management Strategies, 1994	289
8.5 Conclusions	295
Chapter Nine: Conclusions	298
9.1 Introduction	299
9.2 Describing Patterns of Labour Regulation at Clyde Refinery	300
9.2.1 Wages	301
9.2.2 Task Allocation and Performance	303
9.2.3 Staffing	307
9.3 Explaining Patterns of Labour Regulation at Clyde Refinery	309
9.3.1 Product Markets	310
9.3.2 Labour Markets	314

9.3.3 Management and Union Strategy.....	315
9.3.4 Management and Union Structure.....	323
9.3.5 Bargaining Structures and State Regulation.....	330
9.4 Conclusion.....	336
Bibliography.....	339
Appendix 1: Award Coverage - Oil Industry Workers 1950-1972.	
Appendix 2: Award Coverage - Oil Industry Workers 1972-1990.	
Appendix 3: Clyde Shift Systems.	
Appendix 4: Employee Relations Survey: Questionnaire and Results.	
Appendix 5: The Road to Success.	
Appendix 6: Clyde Refinery - Annual Throughputs.	
Appendix 7: Transcript of ACTU Resolution.	
Table 2.4: Employment in the Oil Industry, Australia, 1971-1991.....	64
Table 2.5: Employment: BP, Caltex and Shell 1990 - 1993.....	65
Table 2.6: Occupational Employment in Oil Industry, Australia, 1991.....	66
Figure 2.2: Australia's Petroleum Product Consumption, 1981-1993.....	69
Figure 2.3: Australian Production, Exports, Imports and Consumption of Refined Petroleum Products, 1982-1993.....	71
Table 3.1: Union Representation of Employees in the Petroleum Industry.....	86
Table 3.2: Australian Refineries: Establishment and Years of Operation.....	93
Table 3.3: Jurisdictional Coverage of Oil Industry Workers.....	94
Table 3.4: Type of Award Coverage of Oil Industry Workers.....	95
Figure 4.1: Clyde Organisational Structure.....	127
Figure 4.2: Layers of Management.....	128
Table 6.1: Wage Category Structure for Operators at Clyde Refinery.....	177

Figures and Tables

Table 1.1: Levels of Industrial Relations.....	xii
Figure 1.1: The Bargaining Model.....	11
Table 1.1: AWIRS Workplace Typology.....	14
Figure 1.2: Sequence of Business Strategy Decisions Affected by Product Market Changes.....	27
Figure 1.3: Management, Employee Relations and Market Power.....	30
Figure 1.4: Modified Bargaining Model.....	42
Figure 2.1: Crude Oil Refining.....	52
Table 2.1: Australia's Refining Capacity.....	55
Table 2.2: Oil Industry Profitability.....	60
Table 2.3: Market Shares of the Major Oil Companies.....	62
Table 2.4: Employment in the Oil Industry, Australia, 1971-1991.....	64
Table 2.5: Employment: BP, Caltex and Shell 1990 - 1993.....	65
Table 2.6: Occupational Employment in Oil Industry, Australia, 1991.....	66
Figure 2.2: Australia's Petroleum Product Consumption, 1981-1993.....	69
Figure 2.3: Australian Production, Exports, Imports and Consumption of Refined Petroleum Products, 1982-1993.....	71
Table 3.1: Union Representation of Employees in the Petroleum Industry.....	86
Table 3.2: Australian Refineries: Establishment and Years of Operation.....	93
Table 3.3: Jurisdictional Coverage of Oil Industry Workers.....	94
Table 3.4: Type of Award Coverage of Oil Industry Workers.....	95
Figure 4.1: Clyde Organisational Structure.....	127
Figure 4.2: Layers of Management.....	128
Table 6.1: Wage Category Structure for Operators at Clyde Refinery.....	177

Table 6.2: Industrial Stoppages (Man days lost) at Shell Clyde and Geelong Refineries	181
Table 7.1: New Category Structure for Clyde Operators	254
Figure 7.1: Management Structure	259
Figure 7.2: Management Layers - Clyde Refinery	260
Table 8.1: Problems for Shell Refining at Clyde and Gore Bay	278
Figure 8.1: Improvement Management Process	281
Figure 9.1: Regulation of Work in the Australian Oil Industry	310

A longitudinal study provides a greater understanding of this issue, as it permits complex phenomena to be viewed over time. This allows the observer to distinguish between the short term and long term effects of certain events both within and outside the workplace. Such longitudinal studies are relatively rare in the field of industrial relations.

This introduction provides a brief overview of the main issues to be considered in the thesis proper and previews its major concepts, as well as outlining the rationale for the study. There are then five major sections. The first identifies the levels of analysis in the thesis, namely the industry and the workplace, and defines both in the context of this study. The second discusses the focus of the study itself. The concept of labour regulation is introduced and its application in the thesis outlined. The third builds upon this discussion, examining how labour regulation is to be explained. The fourth section provides an overview of where this study fits in the wider industrial relations literature, with particular reference to Australia and outlines the contribution of this thesis to that literature. The final section reviews the methodology used to collect the evidence for the study.

1) Levels of Analysis: The Industry and the Workplace

There are two primary levels of analysis in this thesis, the industry and the workplace. In an effort to distinguish between these different levels in terms of industrial relations analysis, Callus and Zappala developed the scheme set out in Table 1.1.

Introduction:

	Level of Aggregation	Principal Actors	Forms
	System		
Workplace Industrial Relations at Shell Clyde Refinery, 1974-1994			
	Macro		
	National	• Government	• Incomes Policy
Introduction		• Peak Bodies of Employers & Unions	• Labour Legislation

This thesis describes and explains how work is organised, performed and rewarded. The analysis is confined to a case study of the Shell Clyde refinery during the period between 1974 and 1994. By taking a specific site and studying changes in its workplace relations and terms of employment, this thesis draws out the relationship between various structural variables and how work is regulated within the workplace. A longitudinal study provides a greater understanding of this issue, as it permits complex phenomena to be viewed over time. This allows the observer to distinguish between the short term and long term effects of certain events both within and outside the workplace. Such longitudinal studies are relatively rare in the field of industrial relations.

This introduction provides a brief overview of the main issues to be considered in the thesis proper and previews its major concepts, as well as outlining the rationale for the study. There are then five major sections. The first identifies the levels of analysis in the thesis, namely the industry and the workplace, and defines both in the context of this study. The second discusses the focus of the study itself. The concept of labour regulation is introduced and its application in the thesis outlined. The third builds upon this discussion, examining how labour regulation is to be explained. The fourth section provides an overview of where this study fits in the wider industrial relations literature, with particular reference to Australia and outlines the contribution of this thesis to that literature. The final section reviews the methodology used to collect the evidence for the study.

i) Levels of Analysis: The Industry and the Workplace

The Australian petroleum industry can be defined by its principal activity of manufacturing and marketing petroleum products. However, within the Australian analysis, Callus and Zappala developed the scheme set out in Table 1.1.

Table 1.1: Levels of Industrial Relations

	Level of Aggregation in Industrial Relations System	Principal Actors	Forms
Macro	National	• Government • Peak Bodies of Employers & Unions • Arbitration System	• Incomes Policy • Labour Legislation • Arbitration System
Intermediate	Industry	• Unions • Employer associations at industry level	• Industry Agreements • Industry Negotiations
Micro	Workplace	• Management • Workers • Shop Stewards	• Workplace bargaining • Expression of workplace practices e.g. strikes

Source: R. Callus "Introduction" in J. Zappala, Workplace Industrial Relations in Australia (CIRRUS/BCA, 1988).

An "industry" is most generally defined by a common output, product or service. The Australian Bureau of Statistics (ABS) argues that "(a) fairly wide-spread usage of the term is to relate it to all units engaged in producing a particular commodity."¹ However, identifying this common output is not unproblematic, for instance the tourist industry is defined by its consumers rather than a common product or service. The ABS has developed an industry classification system for the purpose of classifying statistical units (establishments, enterprises or other types of business units) by industry. They define industry broadly but still rely upon output as the defining feature. To this end the ABS classifies statistical units into classes which are then grouped into industry categories. According to the ABS "(e)ach individual class is defined in terms of a specified range of activities, designated as primary to it."²

The Australian petroleum industry can be defined by its principal activity of manufacturing and marketing petroleum products. However, within the Australian

1. Australian Bureau of Statistics, Australian Standard Industrial Classification, 1978 Edition, pg 23.

4. Ibid, pg 1

Standard Industry Classification, developed by the ABS, there are several classes which comprise different sections of the petroleum industry, such as petroleum refining and petroleum and coal products. For industrial relations purposes the petroleum industry is defined by a distinct set of awards and agreements that apply only to workers employed in this industry. However, these awards and agreements include employees involved in the manufacture of petrochemical as well as petroleum products. Thus, even in an industry that has a relatively easily identifiable principal output there remains some ambiguity as to the boundaries of the industry. For the purposes of this thesis the petroleum industry will be defined broadly to refer to those activities associated with the manufacturing of petroleum and to a lesser degree petrochemical products, and the marketing of these products. Identifying the participants in this industry is straightforward, given the relatively small number of companies whose primary business activity is the manufacture and sale of petroleum products. The actual structure of this industry is considered in some detail in Chapter Two, while the industrial relations features of the industry are described in Chapters Three and Five.

This thesis describes and explains industrial relations not only at the industry level but also at the workplace level. As is the case with “industry”, it has not been clear in the literature about industrial relations exactly to what the term “workplace” refers. This has resulted in an explicit debate about the location of the workplace.³ Callus and Zappala argue that the workplace is broadly encapsulated by what they describe as “micro industrial relations”. By comparison Kelly has proposed a more detailed definition of the workplace, characterising it in terms of location and technological and social dimensions.⁴ In doing so she argues that the workplace does not necessarily correspond to the establishment or the enterprise. Callus, Morehead, Cully and Buchanan have used the Australian Bureau of Statistics definition of the dependent variable. This thesis describes how the regulation of labour has changed at Clyde refinery over two decades. Regulation of labour is defined in Chapter One as referring to the manner in which rules structure relations between individuals and

2. *ibid*, pg 22.

3. See D. Kelly, *Defining the 'Workplace' in Workplace Industrial Relations*, ACIRRT Working Paper No 4, July 1990, and R. Callus, A. Morehead, M. Cully and J. Buchanan, *Industrial Relations at Work. The Australian Workplace Industrial Relations Survey*, (Canberra: AGPS, 1991), pg8.

4. *ibid*, pg 1

workplace for their workplace survey.⁵ This definition, although largely derivative of the data that Callus, Morehead, Cully and Buchanan were using, describes the workplace in terms of location rather than social or technological dimensions.

The problem of defining the workplace is evident in the case of Clyde refinery. Clyde occupies two specific geographical locations, the refinery proper as well as a separate terminal, situated at Gore Bay, supplying the refinery. In addition the refinery is divided into a number of operating plants, each of which is defined in terms of technological process, organisational structure and certain cultural norms. There is also a distinction made on this site between oil refining and petrochemical production although both operate within the same area. Unlike in the ABS definition the refinery does not occupy a single physical area, yet adopting Kelly's definition would mean treating Clyde as a number of distinct workplaces.

Given these various features and the definitional problems, Clyde refinery and Gore Bay Terminal will for the purposes of this thesis be together defined as the workplace. Although operating on different sites, Gore Bay has been treated in the context of industrial relations as part of the refinery proper. Similarly the distinction between the oil refining operation and chemical production has proved artificial for the purposes of industrial relations, with employees involved in each process subject to the same management. Defining the workplace in these terms does not automatically presume an internal homogeneity in industrial relations. Important distinctions between plants will be noted and the effect that they have on industrial relations will be examined. The composition of the workplace is described in greater detail in Chapter Four.

ii) Focus of Analysis: Regulation of Labour

The focus of the study is labour regulation, that is, the regulation of labour is the dependent variable. This thesis describes how the regulation of labour has changed at Clyde refinery over two decades. Regulation of labour is defined in Chapter One as referring to the manner in which rules structure relations between individuals and groups at work, in order to control the actions of these individuals and groups. This

5. The ABS definition is "a single physical area occupied by the establishment from which it engages in productive activity on a relatively permanent basis" in Callus et al, op cit, pg 8.

concept of labour regulation is applied by describing features of work organisation, performance and reward at Clyde. Consequently, the study takes a number of issues relating to the organisation, performance and reward of work and studies how the determination of these issues has changed over time. The interaction between rules developed at an industry level and those developed at a workplace level is a major theme of this study. These rules can be both formal and informal, generated unilaterally or bilaterally, and can regulate substantive conditions of work as well as mechanisms for interaction between employers, employees and their representatives. These different types of rules correspond to the different dimensions of regulation. A more detailed discussion of how labour regulation is defined is contained in Chapter One. A systematic description of how labour has been regulated at an industry and workplace level and, an examination of the changes in the dimensions of regulation provides the basis for developing explanations for changes in the regulation of labour.

iii) Explaining the Regulation of Labour

The regulation of labour will be influenced by a number of independent variables. The explanatory nature of this analysis lies in identifying these independent variables and discerning their effect upon workplace regulation. The factors influencing workplace regulation will include structural factors both external to and within the workplace, as well as the strategies pursued by employees, employers and their respective representatives.

Chapter One will provide a detailed model of how these factors can influence the regulation of labour. The manner in which work is organised, performed and rewarded at the workplace will be subject to specific structural and attitudinal factors within the workplace. For instance, how the workforce is organised to represent its interests, how management is structured, the composition and location of the workforce, as well as the beliefs and attitudes of managers and employee representatives will all have an impact on workplace regulation. However, to interpret regulation purely in terms of these internal factors would result in a superficial explanation. Factors external to the workplace, such as the structure and policies of unions and management, the nature of product and labour markets, state

T. R. Fella, "Industrial Relations at the Plant Level: A Case Study" in Journal of Industrial Relations, 29 (3) Sept. 1987, pp 350-364.

regulation and institutions that regulate bargaining will each also have an effect upon the nature of workplace regulation.

iv) Contribution of this Thesis to Workplace Industrial Relations

The original contribution of this thesis lies in three areas. It is the first detailed study of industrial relations in the Australian oil industry. In the relevant British literature two works stand out: Flanders' study of productivity bargaining at the ESSO Fawley refinery in the mid 1960s and Bruce Ahlstrand's follow up to the Flanders study in the 1980s.⁶ However, Australian literature contains little research into the oil industry, the only example being a small case study of a redundancy exercise.⁷ This is surprising, given the importance of the industry in both economic and industrial relations terms. It is an industry upon which many other industrial processes depend in order to operate. This has allowed workers in the industry to exert a substantial amount of industrial power. In addition, oil companies have generally been willing to embrace new managerial techniques in order to create industrial harmony.

Second, the study is significant in terms of the period covered by the research. It is the first longitudinal account of industrial relations at the workplace level within an oil refinery and one of very few longitudinal studies of the workplace undertaken in Australia. The majority of workplace case studies, certainly in the Australian literature, are short-term or snapshot investigations, in that they have usually been conducted in a concentrated period focusing on a particular event (such as strike or redundancy) or process (for instance workplace change through award restructuring or enterprise bargaining). The aim of this thesis is to develop an understanding of workplace industrial relations over a long period, allowing analysis of the broader issues involved in labour regulation, rather than concentrating only on a limited range of issues or processes.

Third, in addition to presenting research findings from a longitudinal study of an industry historically neglected, this thesis contributes to a broader understanding of

6. A. Flanders, *The Fawley Productivity Agreements*, (London, Faber & Faber, 1966) and B. Ahlstrand, *The Quest for Productivity. A Case Study of Fawley after Flanders*. (Cambridge: Cambridge University Press, 1990).

7. R. Fells, "Industrial Relations at the Plant Level: A Case Study" in *Journal of Industrial Relations*, 29 (3) Sept 1987, pp 350-364.

Australian industrial relations. The nature and effect of relationships between markets, state regulation and bargaining structure and the workplace has been both implicitly assumed and explicitly stated in much of the Australian literature. Many Australian writers have presumed a particular relationship between the industrial relations institutions in the labour market, particularly unions, employer associations and most importantly industrial tribunals, and workplace regulation. Writers like Niland have assumed that the nature of industrial relations institutions in Australia has had an impact on workplace industrial relations,⁸ although these claims have been refuted by Isaac, who believes that arbitration has not had a universal effect on workplace industrial relations.⁹ Howard argues that the nature of arbitration has affected the role of unions in Australia, with the result that they have not had to be active at a workplace level.¹⁰ The work of Rimmer, Rimmer & Sutcliffe, Benson, Warburton and Gahan has shown that this assertion is not true for all unions and that many have been active performing a number of functions at a workplace level.¹¹ Arbitration has also been seen by some writers as producing rigidities in the determination of wages.¹² Mulvey provides evidence to the contrary, as does Dabscheck in his discussion of arbitration and wage determination since 1967.¹³ Finally, it has been argued that employer associations have been shaped by the

8 J. Niland, *Collective Bargaining and Compulsory Arbitration in Australia*, (New South Wales University Press, 1978), especially chapter 5.

9. J. Isaac, "Professor Niland on Collective Bargaining and Compulsory Arbitration in Australia", *Journal of Industrial Relations*, 21 (4) December 1979, pp 466-476.

10 W. A. Howard, "Australian Trade Unions in the Context of Theory", in Ford, Hearn and Lansbury (eds), *Australian Labour Relations Readings*, Third Edition, (Melbourne, Macmillan, 1980), pp 78-99.

11. M. Rimmer, "Unions Shop Floor Organisation" in Ford & Plowman (eds), *Australian Unions: An Industrial Relations Perspective*, (MacMillan, Melbourne, 1983), M. Rimmer & P. Sutcliffe, "The Origins of Australian Workshop Organisation, 1918 to 1950" in *Journal of Industrial Relations*, 23 (2) July 1981, pp. 216-239, J. Benson, *Unions at the Workplace. Shop Steward Leadership and Ideology*, (Melbourne, Oxford University Press, 1991), G. Warburton, "Shop Committees in the NSW Railways", *Journal of Industrial Relations*, 17 (3), September 1975, pp 255-264 and P. Gahan, "Did Arbitration Make for Dependent Unionism? Evidence from Historical Cases Studies", *Journal of Industrial Relations*, 38 (4), pp 648-698.

12. See Niland op cit, Chapter 7, as well as C. Mulvey, "Alternative to Arbitration: Overview of the Debate", in R. Blandy and J. Niland (eds), *Alternatives to Arbitration*, (Sydney: Allen & Unwin, 1986).

13. Mulvey, loc cit, pp.11-28 and B. Dabscheck, "The Arbitration System since 1967" in S. Bell & B. Head (eds), *State, Economy and Public Policy in Australia*, (Melbourne: OUP, 1994), pp. 142-68.

changing nature of the arbitration system in Australia.¹⁴ This contention too has drawn criticism in the recent past.¹⁵ In essence, it has historically been assumed that the arbitration system in Australia has had a pervasive effect on firstly, direct regulation of workplace issues; and secondly, the manner in which trade unions and employers operate, which in turn influences workplace regulation.¹⁶ This reflects both a theoretical and empirical weakness. Writers using a bargaining or regulationist model have only recently begun to explicitly address how markets, regulation and bargaining structure influence workplace industrial relations. The effect has been to draw out the uneven impact of the state on workplace industrial relations, undermining the generalisations made about the effect of arbitration. Most writers have also been content to either study the workplace in relative isolation or to address the regulation of labour at the level of industry or economy. This thesis explicitly focuses on two levels of analysis: workplace and industry.

Finally, the thesis make a modest theoretical contribution. It remedies some of the theoretical weaknesses associated with the bargaining model. A modified bargaining model is formulated in Chapter One. This model broadens the explanatory basis of the bargaining model while maintaining the concept of regulation as the nucleus of the model. The explanatory value of the model is strengthened by reference to a greater number of independent variables. Particular emphasis is given to the structure and strategies of employers, employees and their representative organisations as explanatory variables. In addition, the way in which these strategies are influenced by the bargaining structure and direct state intervention is considered to be important in explaining the form and content of labour regulation. By retaining the basis of the bargaining model and incorporating a wider variety of independent variables, the explanatory power of the model is enhanced.

14. D. Plowman, Holding the Line: Compulsory Arbitration and National Employer Co-Ordination in Australia, (Melbourne: CUP, 1989) and D. Plowman, "Employer Associations and Industrial Reactivity", Labour & Industry, 1(2), June 1988, pp.287-305.

15. M. Barry, "Employer Associations: Assessing Plowman's Reactivity Thesis", Journal of Industrial Relations, 37 (4) December 1995, pp 543-561.

16. See C. Littler, M. Quinlan and J. Kitay, 'Australian Workplace Industrial Relations: Toward a Conceptual Framework', Journal of Industrial Relations, 31 (4), 1989, pp 500-525.

v) Methodology

The case study method is the most appropriate for an investigation of how work is organised, performed and rewarded. Issues of work organisation, performance and reward can only be effectively examined at a workplace level. However, industry level analysis is necessary to explain these features of labour regulation with reference to factors outside the workplace. This thesis accommodates both, by studying two cases. The first is the case of a single workplace, the Clyde refinery. This is complemented by a wider case study of the petroleum industry in Australia.

The explanatory value of case study research has not always been recognised. Clyde Mitchell strongly argues that the lack of statistical inference in case studies does not mean that logical or scientific inferences cannot be drawn from them. He states in his conclusion that "(t)he rich detail (which) emerges from the intimate knowledge the analysts must require in a case study if it is well conducted provides the optimum conditions for the acquisition of ... illuminating insights which make formerly opaque connections suddenly pellucid."¹⁷ Indeed, he argues that one of the strengths of the case study lies in the context of the case, stating that "(i)t is only under specified conditions that a clear and simple formulation of the operative principle underlying a social process can be stated."¹⁸ That case studies provide a means for building explanations of social processes has been argued by other writers.¹⁹ Ragin argues (in the context of comparative study) that a case oriented research strategy attempts to approximate experimental rigour and thus enables "modest empirical generalizations concerning historically defined categories of social phenomena."²⁰ Case oriented research strategy allows the researcher an avenue to understand what Ragin describes as the causal complexity of social life. Comparative scholars have used case study analysis to develop explanations by comparing cases across countries or industries. In this thesis the comparisons are drawn not between cases, but in the same case(s)

17. J. Clyde Mitchell, "Case and Situation Analysis", *The Sociological Review*, 31 (2) May 1983, pg 207.

18. *ibid*, pg 206.

19. See C. Ragin, Introduction in C. Ragin and H. Becker, *What is a Case? Exploring the Foundations of Social Inquiry*, (Cambridge: Cambridge University Press, 1992).

20. C. Ragin, *The Comparative Method. Moving Beyond Qualitative and Quantitative Strategies*, (Berkeley: University of California Press, 1987), pg 27.

across time. This type of case study analysis retains the contextual strength that Mitchell identifies and provides for logical or scientific inferences to be made about the relationships between the multiple causal factors and their effect upon the dependent variable (regulation of labour). The 'rich detail' of the cases combined with the holism allowed by a case study analysis yields a cogent explanation of complex social reality.

In order to develop a thorough description and explanation of changes in labour regulation through the case study method, a number of data sources need to be used. Yin considers that case studies require multiple sources of evidence in order to properly triangulate the data. He argues that:

"The use of multiple sources of evidence in case studies allows an investigator to address a broader range of historical, attitudinal and behavioral issues. However, the most important advantage presented by using multiple sources of evidence is the development of converging lines of inquiry, [which is] a process of triangulation."²¹

Triangulation refers to a process whereby data dealing with the same phenomena but collected from different sources is compared to check the validity of the results or conclusions drawn from individual data sources. It is most commonly associated with quantitative analysis, whereby different statistical tests are run over the same data set in order to minimise errors; however, triangulation can also be applied to qualitative research in order to ensure that evidence from one source is complemented by evidence from a second source. In this way triangulation always requires more than one source of evidence.

Yin lists six data sources for case study research, namely documentation, archival records, interviews, direct observation, participant-observation and physical artefacts.²² Excepting participant observation and physical artefacts, these sources were used to gather evidence on industrial relations in the oil industry and workplace relations at Clyde refinery. The use of these data sources can best be established by taking the different levels of analysis individually. Investigation of the Australian oil

21. R. Yin, *Case Study Research. Design and Methods*, Second Edition, (Sage, 1994).

22. *ibid*, pp 79-90.

industry involved a combination of interviews and documentary and archival sources. Information about the structure, profitability and government regulation of the industry was gathered from government and industry sources. This included the results of government inquiries into the industry (including a Royal Commission, Prices Surveillance Authority reports and an Industry Commission Report) as well as material released by the oil companies individually and collectively through the Australian Institute of Petroleum. General data relating to industrial relations in the oil industry was initially collected through interviews with both current and retired industrial relations managers from ESSO and Shell, as well as public servants (within the federal Department of Industrial Relations) who had responsibility for monitoring industrial relations in the oil industry during the late 1970s and 1980s. These interviews provided a broad overview of the processes and parties involved in regulating labour at an industry level. The primary sources of evidence for the nature of industrial relations in the oil industry were, however documentary and archival sources. These included: correspondence from both management and unions, union minutes, company documents, industrial tribunal transcripts and the awards themselves. Following the collection and analysis of these documentary sources, further interviews were conducted with oil company managers from Shell, union officials from the Construction, Forestry, Mining and Energy Union and Amalgamated Manufacturing Workers Union and Commission members involved in the relevant negotiations, in order to understand and check the evidence from documentary and archival sources.

The research method employed to study how work was regulated at the workplace level was slightly different. In order to understand how work was organised and performed, it was necessary to directly observe the production process. This research method allows the researcher to develop an understanding of the production process and the interplay between workers and technology. Observation can also provide a better understanding of data collected from documents and through interviews. Accordingly a short but intensive period was spent observing the production process at Clyde on two different plants. This also provided an opportunity to informally interact with workers on the job. The changes in workplace regulation were investigated through both documentary sources and interviews. Both the major on-

site union and the company provided access to documentary sources including: correspondence, memoranda, reports, meeting minutes and transcript from Commission hearings. These sources were supplemented, qualified and elaborated upon by structured interviews with on site delegates, union officials, workplace management in both industrial relations and production positions, head office industrial relations management and a former NSW Industrial Commission member. The interviews were undertaken over an extended time frame, broadly corresponding to the analysis of the documentary sources and often involved follow up interviews. (Unfortunately, due to progression through management ranks and reductions in management positions within the company, it was not possible to interview managers present at the refinery in the late 1960s and early 1970s). Conducting various rounds of interviews allowed for evidence from documentary sources to be checked through interviews with the participants. Together these research methods conform to Yin's notion of a converging line of inquiry.

Notably, both Flanders, but more so Ahlstrand, have used case study analysis comprised of multiple data sources, in order to explore workplace bargaining in a British oil refinery.¹ Such an approach has allowed these authors to develop explanations for the success and failure of productivity bargaining by taking the case and fitting it into the broader institutional context. This study seeks to attain the same aim but taking a broad notion of labour regulation as the dependent variable rather than productivity bargaining.

1. See A. Flanders, The Fawley Productivity Agreements, op cit and B. Ahlstrand, op cit pg 69.

Chapter One

Labour Regulation and the Study of Industrial Relations

Labour Regulation and the Study of Industrial

1.1 Introduction

Relations.

The purpose of this chapter is to outline the conceptual framework that will be adopted in analysing the workplace in this study. The preceding introduction has established that the regulation of labour is the dependent variable in the following study. This chapter will begin by considering the concept of labour regulation in more detail. There have been two main theoretical approaches to the study of the workplace. The first is concerned with regulation of labour within the workplace, and can be seen in the work of a number of British academics who became concerned about the collective bargaining system in that country, particularly the development of 'informal' bargaining at the workplace level and the ramifications of this for job regulation. This bargaining model, in particular the work of Flanders and the 'Oxford school', will be reviewed in the second part of the chapter. The second approach is articulated through labour process theory, which developed in the second half of the 1970s and detailed control at the workplace rather than regulation. The labour process literature developed out of an interest in changing production

1.1 Introduction

1.2 What is Labour Regulation?

1.3 A Model of Workplace Regulation - The Bargaining Model

1.4 Challenges to the Bargaining Model - Labour Process Theory

1.5 Later Variations on the Bargaining Model

1.5.1 Management Strategy and Management Style

1.5.2 Management Strategy and Product Markets

1.5.3 Management Strategy and Organisational Structure

1.5.4 Bargaining Structures

1.6 A Modified Bargaining Model

1.7 Conclusions

Chapter One

Labour Regulation and the Study of Industrial Relations

1.1 Introduction

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The criticisms made of the bargaining model by the labour process writers informed in part a reevaluation of the role of management within industrial relations. Many of the shortcomings in the bargaining model were addressed by a variety of different writers,

1. See A. Flanders "Industrial Relations: What is wrong with the system", A. Flanders and A. Fox, "Collective Bargaining: From Donovan to Durkheim" both in A. Flanders, Management and Unions: The Theory and Reform of Industrial Relations, (London: Faber, 1975), H. Clegg, The System of Industrial Relations in Great Britain, (Oxford, Blackwell, 1979).
2. See H. Braverman, Labor and Monopoly Capital, (NY, Monthly Review Press, 1974), R. Edwards, Contested Terrain (NY, Basic Books, 1979), M. Burawoy, Manufacturing Consent, (Chicago, University of Chicago Press, 1979) and A. Friedman, Industry and Labour, (London, Macmillan, 1977).

who maintained a focus on regulation but incorporated a greater variety of factors which influence workplace relations. They began to highlight the importance of production as well as distributional issues in their work. The fourth section of this chapter describes the contributions made by different writers to the reevaluation of the bargaining model. Drawing on the work of these writers, the penultimate section of the chapter presents an alternative modified bargaining model. The chapter concludes with a discussion of how this bargaining model can be applied to this study.

1.2 What is Labour Regulation?

This study has two aims, to describe and to explain labour regulation at the workplace level in an Australian oil refinery. In order to describe labour regulation, it is first necessary to specify what this entails. The concept of labour regulation has been addressed by a number of different industrial relations theorists; indeed it underpins the “bargaining approach” to workplace industrial relations articulated by the ‘Oxford school’ in Britain, which used rules as the central concept of their model. The concept of rules regulating labour relations is also common elsewhere in industrial relations literature.³ Perhaps the most influential of the ‘Oxford school’ writers in the area of work or job regulation is Alan Flanders, who argues that regulation in industrial relations refers to the structuring of relationships “between the enterprise and its employees and among those employees themselves”.⁴ The product of this regulation is the creation and enforcement of rules, which Flanders classifies as procedural or substantive. A similar definition of regulation is developed by Bray, namely that regulation is “the creation and the enforcement of rules which are designed to control the actions of individuals and groups that are party to the production of goods and services”.⁵ The concept of regulation can be applied to a workplace, industry, market or economy.

The rules that regulate relationships are of different varieties, each contributing to the different dimensions of regulation. Various types of rules are postulated by different

3. Dunlop used rules as the basic element in his systems theory of industrial relations, see J. T. Dunlop, *Industrial Relations Systems*, (NY: Holt & Co, 1958).

4. A. Flanders, “Industrial Relations: What is wrong with the system” loc cit, pg 86.

5. M. Bray, *A Precarious Victory: The Regulation of Self-Employed Owner-Drivers in New South Wales Road Transport, 1940-1988*, Industrial Relations Research Centre, Monograph No 29 1990, University of New South Wales, pg 1.

writers. These can be broadly broken down into three areas: Flanders differentiates between the sources of the regulation (that is, whether the rules are generated internally or externally) and the content of rules (whether they are procedural or substantive), whilst Clegg recognises the differing status of regulation, (that is, whether the rules are formal or informal). In addition to these features there is a fourth, namely the subject of regulation. This refers to the scope of issues that are subject to regulation by employees and employers either jointly or individually.

This study focuses primarily on the creation and enforcement of the rules that determine the manner in which work is organised, performed and rewarded. Organisation of work refers to who performs certain work, when and where. Performance of work includes who determines how it is to be performed, and more specifically, issues of occupational demarcation, hours of work, staffing and control over the work process. Reward for work involves questions of the determination of pay and pay rates, overtime payments and wage classifications.

Dimensions of regulation are important to the understanding of the dynamic nature of the workplace. Clearly sources of regulation affect the extent to which issues are determined within or outside of the workplace. Rules which are developed outside the workplace will either inhibit or encourage the determination of outcomes at a workplace level. The status of regulation also has implications for the enforcement of rules. Formal rules usually have the backing of legitimate enforcement through either courts or tribunals. Informal rules are usually not subject to this enforcement and legitimization and thus are seen to be more flexible. The type of regulation will also have an impact on outcomes. Procedural rules will govern what are seen to be legitimate processes for settling issues and determining outcomes. Attempts by any party to subvert these procedures to achieve a certain outcome can render that outcome ineffective. Outcomes, or substantive rules, are viewed by parties in terms of not only their content or effect, but also in terms of how they have been determined.

These dimensions of regulation are subject to change over time. Changes in one dimension may have a significant effect on others. For instance, the determination of regulation externally will have repercussions for the scope of issues and in some cases

the authorship of rules internally; and may also have implications for compliance and enforcement. Together these dimensions constitute the broad boundaries in which parties at the workplace level can determine outcomes.

Describing how the dimensions of labour regulation change over time is an instructive exercise in itself. However, a greater understanding of workplace industrial relations can be developed by explaining why labour regulation has undergone the changes described. In order to explain changes in labour regulation it is necessary to develop a conceptual framework through which causes of change can be identified. The next section begins to develop such a framework by reviewing the bargaining model, which was developed explicitly to explain the development of job rules.

1.3 A Model of Workplace Regulation-The Bargaining Model

The bargaining approach is associated with the so-called 'Oxford school' and, in particular, the writing of Alan Flanders.⁶ Flanders remains an important influence in industrial relations theory and a major contributor to the 'Oxford school'. The context for the development of the bargaining model was a worsening of the British economy in the 1960s and a growing perception that this deterioration was caused by a change in the nature of the collective bargaining system at that time. In particular, the academics in question were concerned about the effect of this change on aggregate wage levels and productivity and ultimately the effect of workplace bargaining on distributional issues, particularly the growth of wage drift, which resulted from the development of an 'informal' workplace bargaining system.

The bargaining model is concerned with regulation, both of wages and work performance. This is particularly evident from a consideration of the work of Alan Flanders, who argued that the study of industrial relations could be described as "a study of the institutions of job regulation".⁷ Flanders postulated that job regulation is characterised by rules, both procedural and substantive, which regulate a number of different relationships between employers and employees. These relationships are:

6. See C. Littler, M. Quinlan and J. Kitay, 'Australian Workplace Industrial Relations: Toward a Conceptual Framework', *Journal of Industrial Relations*, 31 (4), 1989, pg 502.

7. Flanders, "Industrial Relations: What is wrong with the system" loc cit, pg 86.

- i) collective relations: those rules created by employers, employees and the state organised into groups for purposes such as representation and bargaining
- ii) market relations: rules which restrict or constrain freedom of contract
- iii) managerial relations: those rules that regulate work behaviour
- iv) human relations: those rules that regulate social group behaviour within organisations.⁸

Flanders went on to argue that a distinction can be made between internal and external sources of job regulation. Internal regulation consists of rules made by management and unions within the workplace, while external regulation encompasses rules made by an authority external to the immediate union-management relationship.⁹ Flanders argued that external regulation developed outside the workplace through uniform standards at an industry, occupational or national level, primarily to ensure equity for workers in response to the deprivations of laissez-faire capitalism. By contrast, internal regulation is concerned with control over the workplace.¹⁰ In distinguishing the two, Flanders recognised that the borderline between internal and external regulation "...may sometimes be difficult to determine. It is a moving frontier with rules passing out of one realm into the other".¹¹

Flanders saw collective bargaining as the central mechanism or process for developing rules. He went to some length to establish the precise nature of collective bargaining, seeing it not necessarily as purely an economic process (that is, replacing the market as the determinant of wages), but as a political process that involved a power relationship between the bargaining parties. Collective bargaining was seen as an instrument of regulation of work generally, not just the distribution of rewards from work.¹² In this way collective bargaining had a control function as well as a market function.¹³ Flanders recognised the value of collective bargaining to management as a means of controlling the effort bargain, although he primarily argued that collective

8. *ibid*, pp 86-89.

9. *ibid*, pg 90.

10. *ibid*, pp 91-92.

11. *ibid*, pg 92.

12. A. Flanders, "Collective Bargaining: A Theoretical Analysis", in Management and Unions, (London, Faber, 1975), pp 213-220.

13. Littler et al, *loc cit*, pg 503.

bargaining had reduced managerial discretion (or prerogative).¹⁴ In addition, he recognised that the regulatory process of collective bargaining was not confined merely to two parties (unions and employers), but often involved third party assistance. Consequently, he defined collective bargaining as the joint authorship of rules, since the procedures for rule making, the sanctions for their non-observance, and the interpretation, application and enforcement of rules could involve parties other than those who made the rules.¹⁵ A corollary of this is that neither unions nor employers enjoy complete autonomy in their rule making activities.¹⁶

It is quite clear that collective bargaining is central to the bargaining model. However, the contention by some critics that the bargaining model is concerned only with distributional bargaining is wrong.¹⁷ This historical focus perhaps owes more to the context of the model's development than the content of the model. Flanders' empirical work focused closely on control as well as distribution, as revealed in his account of productivity bargaining at the Fawley ESSO refinery.¹⁸

The bargaining model has further been criticized for failing to properly account for informal or 'non bargaining processes'.¹⁹ However, Zappala defends the 'Oxford school' against accusations of ignoring informal processes. He argues that "(t)he bargaining model was concerned with rule formation, yet it extended beyond formal collective rules primarily concerned with wage determination to more informal rules, such as custom and practice".²⁰ Citing the work of Brown, and more recently Armstrong and Goodman as well as Brewster and Richbell, Zappala makes a case that the bargaining model has been applied in wider terms than its critics recognise. For instance, the work of Brown focuses on informal arrangements at work, or custom and practice, that do not necessarily result from bargaining between parties, yet represent an important element of workplace regulation. Custom and practice refers

14. A. Flanders, "Collective Bargaining: A Theoretical Analysis", loc cit, pp 233-238.

15. *ibid*, pg 221.

16. *ibid*, pg 221.

17. Blain and Gennard argue that the Oxford Approach is "too narrow to provide a comprehensive framework for analysing industrial relations problems." See A. Blain and J. Gennard, "Industrial Relations Theory - A Critical Review", British Journal of Industrial Relations, 8 (3), 1970, pg 397.

18. A. Flanders, The Fawley Productivity Agreements, op cit.

19. Littler et al, op cit, pp 500-505.

20. A. Flanders, "Collective Bargaining: A Theoretical Analysis", loc cit, pg 237.

to informal transactional rules which "...do not arise from a process of explicit negotiation in which the recognised representatives of workers and management appreciate that they are establishing a transactional rule."²¹ Brown argues that custom and practice is implicit in a whole range of work practices and that the status of a specific practice may only be questioned when the practice is challenged.²² Accepted roles will create accepted methods for allocating and completing work tasks, which in turn become custom and practice. Brown argues:

"The form of legitimacy involved here is that of habit or pure custom. It appears to be empirically the case that if people act in a certain way for a period of time they come to accept their actions as legitimate."²³

The tacit acceptance of these practices by management and the defence of them by unions means that they are a legitimate aspect of workplace regulation. In overlooking the work of Brown and others who utilise a broad notion of regulation, the critics of the bargaining model do not fully recognise its complexity.

The complexity of the bargaining model extends beyond the nature of the rules, to the characteristics of the parties involved in collective bargaining. Flanders recognises that while job regulation is largely the product of collective bargaining, this does not imply that the parties undertaking collective bargaining are homogeneous. He argues:

"Viewed simply in 'bargaining' terms it was easy to slip into the assumption of homogeneity of interest on each side. Once collective bargaining penetrates into management, however, the multiplicity of diverse interests of separate work groups and the functional hierarchical conflicts of interest within management cannot possibly be disregarded".²⁴

Flanders considers this issue in the more practical context of how collective bargaining should be reformed in Britain. He states:

20. J. Zappala, "Australian Workplace Industrial Relations: Toward a Conceptual Framework - A Comment", *Journal of Industrial Relations*, 32 (4) 1990, pg 578.

21. W. Brown, *Piecework Bargaining*, (Heinemann, London, 1973), pp 85-86.

22. W. Brown, "A Consideration of 'Custom & Practice'", *British Journal of Industrial Relations*, 10 (1), 1972, pp 42-44.

23. W. Brown, *op cit*, (1973), pg 102.

24. A. Flanders, "Collective Bargaining: A Theoretical Analysis.", *loc cit*, pg 237.

"Admittedly it is an over-simplification to assume that there are only two sides to workplace relations. Many conflicts of interest have been resolved within management and amongst the managed. These complicate the reaching of agreement on the aims of joint regulation in workplace relations, especially on the union side".²⁵

It is clear that the proponents of the bargaining model recognise the intra-organisational and political nature of the collective bargaining process as a means of developing job regulation. In short, Flanders not only identifies the different functions of bargaining, but also the complexity of the process.

One of the strengths of Flanders' work, which is particularly important for this thesis, is his insight into the internal-external dichotomy evident in workplace regulation. His examination of this tension is based on the development of the 'informal' system of collective bargaining in Britain. He charts the increasing failure of industry level arrangements (external job regulation) to regulate actual wages and hours of workers within the enterprise (internal regulation). However, there is relatively little consideration of which rules remain regulated internally and which remain determined externally; nor is there an examination of different types of external regulation, apart from industry collective agreements. Thus, Flanders identifies the dynamic relationship between internal and external regulation, but does not elaborate on how it affects the different dimensions of labour regulation. His account of the relationship between internal and external sources of regulation therefore lacks comprehensiveness and presents an unbalanced description of that relationship, particularly with respect to lines of causation.

Flanders identifies the major imperative for the increase in internal regulation at the expense of external regulation as being the labour market. He finds that changed labour market conditions in the 1960s, namely full employment, had the consequence of changing the distribution of power, encouraging employees to use informal action at a workplace level to improve their employment conditions.²⁶ A change in the external condition ("the silent revolution initiated by the transition from mass

25. A. Flanders, "Collective Bargaining: Prescriptions for Change.", in Management and Unions, op cit, pg 197.

26. A. Flanders, "What is wrong with the system", loc cit, pp 92-112.

unemployment to full employment²⁷⁾ influenced the nature of internal regulation. While Flanders recognises that this is merely a starting point for any explanation of change, he does not expand upon other causative factors or mediating variables.

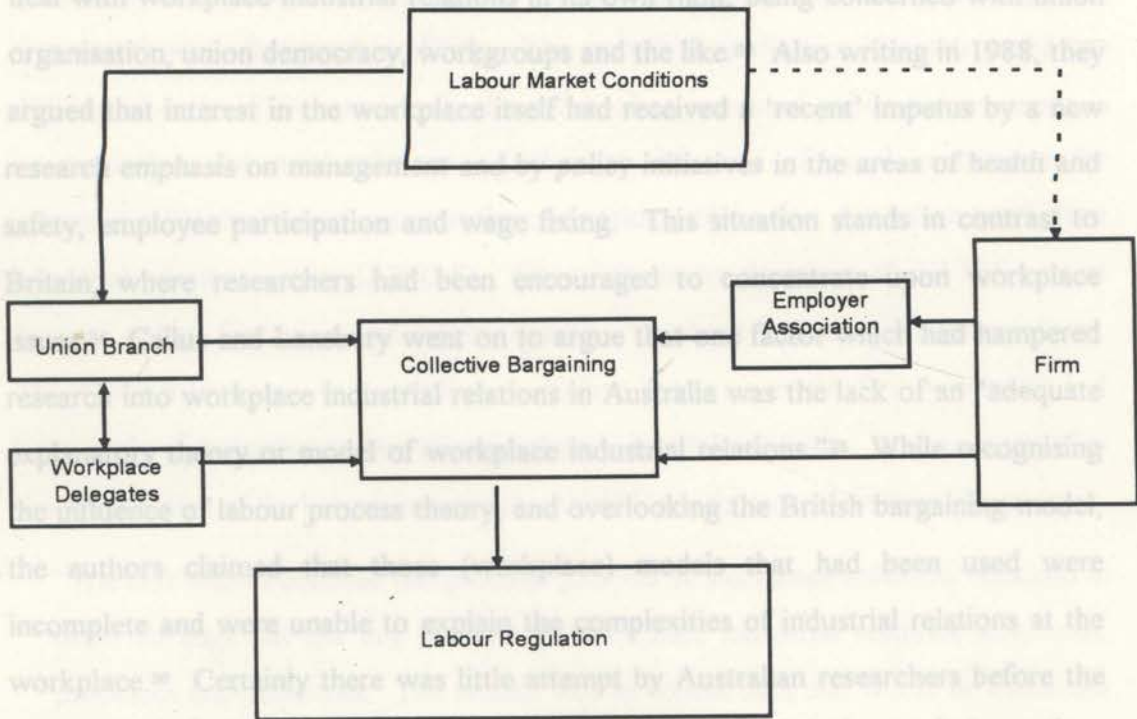
The bargaining model developed by the 'Oxford school' became extremely influential in British industrial relations, affecting both public policy (as illustrated by the findings of the Donovan Commission) and academic research in the 1970s and 1980s. Many empirical studies subsequently used the general propositions of the model to explore workplace industrial relations, but they rarely demonstrated the complexity of analysis evident in Flanders' work. It is this later application of the bargaining model, rather than Flanders' initial work, which explains the many criticisms which have been levelled at it. The major element at the core of the model is bargaining between (primarily) unions and management at the workplace level. The work of Flanders argues that this bargaining governs most aspects of the workplace, not just wage determination; and that the purpose of the bargain is to establish rules that regulate relations between the parties. The rules are not necessarily formal and the interaction is by its nature complex, given the heterogeneity of the parties.²⁸ Regulation can be characterised as internal or external, with an arbitrary dividing line between the two spheres. Internal regulation is primarily concerned with *control of the workplace*. Workplace or job regulation is often modified in response to external circumstances. The criticisms of the bargaining model result from its application, as it is usually applied in a limited fashion, concentrating on formal regulation between legally identifiable parties and mostly concerning the determination of wages.

A representation of the bargaining model is set out in Figure 1.1. In focusing on the interaction between unions and companies, the model provides little exposition of the relationship between firms and the market context, nor the responses of management to this context. Although the model acknowledges that there will be a relationship between the market context, the parties and rules, it really only develops one side of this, namely the union side.

27. *ibid*, pg 113.

28. A. Flanders, "Collective Bargaining: A Theoretical Analysis", *loc cit*, pg 237.

Figure 1.1: The Bargaining Model



The bargaining model was also influential in Australian industrial relations. A review of workplace models in Australia noted that “(m)ost studies of wage determination and industrial conflict in Australia implicitly accept the theoretical assumptions of a bargaining model.”²⁹ Australia has a long history of research into workplace industrial relations. A bibliography of Australian workplace industrial relations research released in 1988 contained over 200 references from the preceding twenty years.³⁰ This would seem to be in stark contrast to the claim that “one distinguishing feature of the (Australian industrial relations) literature is that a major gap exists in the area of shop floor relations.”³¹ In considering this apparent contradiction, Callus noted that the workplace literature presented in the bibliography was extremely diverse and that this diversity could be the reason for the lament of some writers about the lack of workplace research.³² A similar argument was framed by Callus and

29. Littler et al, loc cit, pg 502.

30. See for example J. Zappala, Workplace Industrial Relations in Australia. An Annotated and Selected Bibliography, (Centre for Industrial Relations Research, University of Sydney/Business Council of Australia, 1988).

31. N. Blain and D. Plowman, “The Australian Industrial Relations Literature, 1970-86, Journal of Industrial Relations, 27 (4) 1987, pg 310.

32. Callus in Zappala (1988) *ibid*, pg 3.

Lansbury, who contended that much of the Australian workplace literature did not deal with workplace industrial relations in its own right, being concerned with union organisation, union democracy, workgroups and the like.³³ Also writing in 1988, they argued that interest in the workplace itself had received a 'recent' impetus by a new research emphasis on management and by policy initiatives in the areas of health and safety, employee participation and wage fixing. This situation stands in contrast to Britain, where researchers had been encouraged to concentrate upon workplace issues.³⁴ Callus and Lansbury went on to argue that one factor which had hampered research into workplace industrial relations in Australia was the lack of an "adequate explanatory theory or model of workplace industrial relations."³⁵ While recognising the influence of labour process theory, and overlooking the British bargaining model, the authors claimed that those (workplace) models that had been used were incomplete and were unable to explain the complexities of industrial relations at the workplace.³⁶ Certainly there was little attempt by Australian researchers before the late 1980s to develop any theoretical framework for studying the workplace. In a selective bibliography of theoretical literature on workplace industrial relations, Littler, Quinlan, Kitay and Cockfield could name only three Australian authors in a list of seventy six references.³⁷

Therefore, while there was literature on workplace industrial relations in Australia before the late 1980s, it was fragmented and largely atheoretical. Those writers who did focus on workplace relations concentrated upon the institutions, processes and outcomes of bargaining at a workplace level. Informal arrangements, custom and practice, management at the workplace and the regulation of the effort bargain (what work is actually done, by whom and how) were generally overlooked by industrial relations writers in Australia before the late 1980s. However, debate about workplace research in Australia took on a new vigour in the late 1980s and early 1990s.

33. R. Callus and R. Lansbury, "Conference Report: Workplace Industrial Relations", *Labour and Industry*, 1 (2) June 1988, pg 364.

34. *ibid*, pg 365.

35. *ibid*, pg 365.

36. *ibid*, pg 366.

37. C. Littler, M. Quinlan and J. Kitay with bibliographic assistance from S. Cockfield, *Australian Workplace Industrial Relations. Toward a Conceptual Framework*, CIRBUS and LSP Working Paper No 8, June 1989.

The theoretical basis of many of the new initiatives that were related to this resurgence in interest in the workplace remained the bargaining model, although this framework was often used implicitly. The growth in workplace research in the late 1980s and early 1990s was largely the result of an increased public policy emphasis on workplace industrial relations. Linked to this, and of equal importance for industrial relations researchers, was the undertaking of the first Australian workplace industrial relations survey (AWIRS). One of the major functions of AWIRS was to “..assist policy formation and inform debate...”³⁸ about industrial relations reform. The AWIRS is unique in Australian workplace literature as the first systematic and large scale quantitative survey of workplace industrial relations. It also exemplifies the prominence of the bargaining model. AWIRS sought to achieve two objectives:

“The first was to describe the different patterns of workplace industrial relations in order to map out the key features of workplace industrial relations structures, processes and outcomes. The second was to collect data that would be useful for secondary analysis of why efficiency and equity outcomes differ at workplaces.”³⁹

It is the first of these objectives which has proved to be the most significant. Callus et al provide a detailed description of workplace industrial relations based upon the survey data. Their major contribution is the development of a typology of Australian workplaces. They identify five major types of workplaces in Australia, based upon the extent (or presence) of union representatives, organisation (or structure) of management and the level of interaction between them. The following diagram shows the different workplace types and their characteristics.

38 R. Callus, The Australian Workplace Industrial Relations Survey and the Prospects for Enterprise Bargaining, The Economic and Labour Relations Review, 2 (1), June 1991, pg 43.

39. R. Callus, A. Morehead, M. Cully and J. Buchanan, Industrial Relations at Work, (AGPS, Canberra, 1991), pg xviii.

Table 1.1: AWIRS Workplace Typology

	Union	Management	Bargaining
Informal	No Union	Unstructured	None
Unstructured Inactive	Inactive	Unstructured	None
Structured Inactive	Inactive	Structured	None
Reactive Bargainer	Inactive	Structured	Bargaining
Active Bargainer	Active	Structured	Bargaining

Source: Callus et al, Industrial Relations at Work, (Canberra, AGPS, 1991), pg 160.

The authors attempt to further an understanding of workplace industrial relations by classifying workplaces. However, the typology they have developed has been criticised for being determined by the bargaining model of industrial relations. Kitay argues that:

“(t)he theoretical framework used by Callus et al can broadly be termed a ‘bargaining model’. This perspective views collective bargaining as the key mechanism of management-employee interaction. It either defines other means of regulation in terms of their relationship to collective bargaining, or overlooks or downplays them”.⁴⁰

By concentrating on structures for bargaining and bargaining itself, the survey has neglected many non-bargaining features of workplace industrial relations. The breadth of the survey does not allow it to deal with processes and behaviour at the workplace that involve direct interaction between employers and employees. Rather, it concentrates on interaction mediated by formal mechanisms or institutions. Kitay argues that this becomes increasingly problematic when the centre of ‘conventional’ industrial relations, namely bargaining through formal mechanisms, is being replaced

40. J. Kitay, “Analyzing Workplace Industrial Relations: The Australian Workplace Industrial Relations Survey Typology, Journal of Industrial Relations, 33 (4), December 1991, pg 556.

by individual interaction sponsored by management.⁴¹ This critique echoes many of the criticisms leveled at the bargaining model in Britain. However, the bargaining model is not necessarily as limited as Kitay argues, nor as restrictive as its application by Callus et al would suggest. The discussion of Flanders' work and that of others associated with the 'Oxford school' has shown that the bargaining model has been used to study informal rule making at the workplace level. In addition the basis of the bargaining model, that is, collective bargaining to formulate rules that regulate relationships at work, can be applied to a broader range of workplaces than those quantifiable through a survey.

Gardner voices different concerns about the theoretical basis of the AWIRS results. Her concern is with two main issues: the measurement of union activity and the effect of the state on the workplace. It is the second of these concerns that relates specifically to the efficacy of the bargaining model. The essence of her argument is that the reporting of AWIRS and the development of the workplace typology do not adequately address the role of the state, particularly industrial tribunals, in workplace industrial relations. She cites comments by Callus and Zappala as evidence of their awareness of the importance of the state in workplace industrial relations.⁴² However, this recognition has been overlooked, with the AWIRS authors focusing on the interaction of employers and unions. The state is seen as playing a role in influencing workplace industrial relations, but this is by establishing the framework within which workplace industrial relations operates.⁴³ The underlying problem with this 'orthodox' approach to industrial relations, derived from British literature, is its arbitrary categorisation of the levels of analysis. For example, using this approach tribunals are deemed to be outside the workplace, whereas they can in fact have a direct effect on workplace industrial relations. This problem arises because the British bargaining model focuses on unions and management as the primary actors. Gardner states:

"Confining the framework to two actors, management and unions, and their interaction is more restrictive than that in the conventional Dunlopian system. In

41. *ibid*, pp 557-558.

42. See Introduction in J. Zappala, *op cit*, 1988.

43. M. Gardner, "The Workplace and New Institutionalism: Industrial Relations at Work", *Journal of Industrial Relations*, 33 (4), December 1991, pp 474-475.

particular, it treats that state as external to workplace industrial relations, and the relation of the state or state agencies to the workplace is largely unspecified.”⁴⁴

By relegating industrial tribunals to a role outside the workplace, the unique dynamics of Australian workplaces may not be gauged. More importantly, the role played by the state (through industrial tribunals) in workplace regulation, by actively structuring workplace relations, is not revealed. Gardner recognises that the effect of the state will vary between workplaces, but the AWIRS categorisation leaves it as the ‘ghost at the bargaining table’. In making this criticism she recognises the antecedents of the bargaining model in Australia, stating:

“To attribute difference to unions and management in the workplace, however, assumes that state involvement and regulation occur outside this site. Implicitly, the distinction between internal and external regulation made by Flanders seems to be operating. Workplace rules derived from arbitral tribunals or awards are treated as a source of external regulation, and therefore as constraints on bargaining in the workplace. As Howard has argued, the simple dichotomy of internal and external regulation is liable to be problematic in Australia, where the external regulation of arbitral tribunals helps determine workplace rules”.⁴⁵

Gardner thus identifies a substantial problem in applying the bargaining model in the Australian context. However, unlike Kitay, she argues for the adoption of a ‘new institutionalism’ rather than a search for a means of capturing more micro individual relationships. This highlights a dilemma for workplace industrial relations in Australia. In order to understand industrial relations within the workplace, it is necessary to accommodate the role of industrial tribunals, particularly as they intervene directly into workplace relations. However, there is a need to balance this ‘new institutionalism’ with the increasingly important non-bargaining process, such as employee participation, at the workplace.

The AWIRS and secondary analysis of its data represent a continuation of the prevalence of the bargaining model in Australian studies of workplace industrial relations. The bargaining model has usually been applied narrowly by many writers in

44. *ibid.*, pg 475.

45. *ibid.*, pg 477.

Australia, resulting in a focus upon formal institutions of bargaining, namely unions. The recent past has seen a reduction in the emphasis placed on unions in workplace analysis and a greater recognition of the role played by management at the workplace level. This change reflects both developments in industrial relations theory and public policy initiatives in Australian industrial relations. However, it appears clear from the preceding review that few writers have attempted to systematically study workplace regulation, nor to explain the changes in workplace relations using an integrated framework.

1.4 Challenges to the Bargaining Model - Labour Process Theory

During the 1970s the foundations of the bargaining model, with its emphasis on regulation, were challenged by the growth of labour process theory. Labour process writers argued that workplace relations were founded on inherently exploitative relationships caused by the nature of the capitalist production process. Unlike the 'Oxford school', who were describing regulation of the workplace, labour process writers were intent on describing control over the labour process at work. This focus was particularly influenced by changing technology at work and a perceived de-skilling of workers. In adopting a different focus of analysis than did the 'Oxford school', labour process writers developed different explanations for the phenomena they observed. The analytical and explanatory frameworks of the labour process writers in turn highlighted many of the shortcomings of the bargaining model. It can be argued that the identification of these shortcomings resulted in a reevaluation and modification of regulation-based models of workplace industrial relations. The limitations of the bargaining model were exacerbated by the changing industrial relations climate in a number of industrialised countries. This section provides an overview of the deficiencies of the bargaining model that were highlighted by the labour process literature relating to workplace relations.

Unlike the bargaining model, in labour process models the connection between the workplace and external changes is theoretically constructed rather than contextually imposed. Whereas the original bargaining model posed a link between labour markets and union bargaining power, the labour process analysis shifts the emphasis to management attempting to assert authority over the production process in response to

capitalist imperatives for surplus. The workplace is a contested terrain where management is required to control labour, rather than an arena where trade unions and employers bargain in order to regulate managerial and market relations. The labour process model replaces the notion of workplace regulation with a moving frontier of control "which shifts in response to changing power relations both within and outside the workplace".⁴⁶ This approach is indicative of earlier labour process work, including that of Braverman and Edwards.⁴⁷

P. K. Edwards and Burawoy provide examples of the more sophisticated labour process approach to workplace relations. Both are concerned with the generation of conflict at work through the relations of management and labour. However, both argue that an understanding of the labour process, conflict and control is only gained by an analysis which considers factors outside the immediate workplace. Burawoy explains the generation of conflict as an outcome of the processes of securing and obscuring surplus value.⁴⁸ Edwards in turn postulates his own theory of conflict based on a presumption that there is 'structured antagonism' between management and employees. He argues that there are three distinct levels within society where conflict and accommodation are generated: namely, the mode of production, the broad organisation of the labour process, and the concrete operation of the labour process.⁴⁹ He also makes the distinction between general and detailed control. General control refers to the securing of employee commitment to the aims of the enterprise, while detailed control concerns decisions over immediate work tasks and the operation of the specific labour process.⁵⁰

Clearly both these writers distinguish themselves from the bargaining model by arguing that the structuring of work relations cannot be understood solely with reference to bargaining. Edwards believes however that it is nevertheless important

46. Littler et al, loc cit, pg 503.

47. See H. Braverman, Labor and Monopoly Capital. The Degradation of Work in the Twentieth Century, (NY: Monthly Review Press, 1974) and R. Edwards, Contested Terrain: The Transformation of the Workplace in the Twentieth Century, (New York, Basic Books, 1979).

48. M. Burawoy, The Politics of Production. Factory Regimes Under Capitalism and Socialism, (Verso, London, 1985), pp 26-35.

49. P. K. Edwards, Conflict at Work: A Materialist Analysis of Workplace Relations, (Basil Blackwell, 1986) pg 60.

50. *ibid*, pg 79-80.

to study the effort bargain at the workplace as the basic element of an analysis of conflict:

"Workplace behaviour involves social relations around the effort bargain, that is continuous negotiation that occurs in the workplace over how much effort, of what quality, shall be expended for a given reward".⁵¹

This statement is reminiscent of Flanders' internal regulation (concerning control of the workplace) of human relations (social relations), managerial relations (amount and quality of effort) and market relations (determination of a given reward). The differing focus of the two writers (control versus regulation) sees Edwards place much more emphasis on production issues than on distribution issues. A corollary of this focus is a more rigorous study of the role of management and a view that negotiation is more than a process between organised parties. Whilst the bargaining model is concerned with management relations, its main focus is the collective bargaining of rules, which in turn leads to an emphasis on the bargaining parties and a neglect of management at the workplace.

The treatment of the state is another significant point of departure between the two approaches. Burawoy and Edwards, but particularly the latter, attempt to address the role of the state in affecting workplace relations, the generation of conflict and its accommodation. Burawoy argues that the state affects the labour process at two levels. The first is a macro level, through the provision of welfare and by ensuring minimum socio-economic conditions. Second, at a micro level the state places limits on managerial discretion or prerogative through legislation relating to trade unions and certain minimum employment conditions. Different patterns of state intervention contribute to the development of specific factory regimes over time.⁵² Edwards argues that the state has a relatively autonomous position within capitalist society, and thus it will not automatically protect the interests of capital over those of labour. Different fractions of capital as well as labour struggle over favourable state action.⁵³ Both Edwards and Burawoy recognise the importance of the state in affecting the nature of the labour process, yet both are unable to adequately show the character of

51. *ibid*, pg 74.

52. M. Bray and C. Littler, "The Labour Process and Industrial Relations: Review of the Literature", *Labour and Industry*, 1 (3), October 1988, pg 576.

this intervention at both a macro and micro level. The role of the state is featured more significantly in these models than in bargaining models, however the treatment of the relationships between the state, unions, management and employees at different levels is underdeveloped.

In summary, the labour process literature draws out three broad shortcomings of the traditional bargaining model. First, the primary focus of the bargaining model upon institutionalised interaction, usually between unions and employers, has often resulted in workplace regulation being seen in narrow terms of regulating wage arrangements. As a consequence, questions of control at work, organisation of the production process and how work is performed have been overlooked.

The focus on institutionalised interaction has been the result of the application of the model rather than a fault with the model itself. It has been shown earlier that writers have applied a bargaining model to instances of informal bargaining and the creation of informal work rules or custom and practice. However, the bargaining model has traditionally displayed a weakness in its lack of discussion of managerial strategy. Management is treated monolithically with respect to the strategies that it pursues. While the labour process models do not fully distinguish between different fractions of management, they recognise the different strategies pursued and how these impact on the nature of the labour process. The importance of management strategies in labour process models has contributed to management becoming the focus of greater investigation among industrial relations researchers. Recent work by industrial relations writers has sought to develop the role of management in workplace models.

Secondly, there is a recognition in the bargaining model of the importance of external regulation and market forces upon the nature and conduct of workplace industrial relations, but the causal relationship between these conditions and the workplace remains undeveloped. Both labour process literature and bargaining models identify what can crudely be termed an internal and external dichotomy. For Flanders it is largely a differentiation between the rules developed inside the workplace as opposed to the regulation that is developed by institutions outside the workplace. For labour process writers such as Edwards, the distinction is between how institutions (political

53. *ibid*, pg 577.

and economic) and ideology, or accepted norms that generate general control, set the parameters for legitimate workplace behaviour. This idea of external influences is more abstract than that of Flanders. Edwards' idea of general control appears to refer not only to institutions but ideology. He is quite emphatic that the workplace is a product of the wider social relations governing work. Burawoy too argues that the securing and obscuring of surplus value, which is a major function of work, can only be understood "with reference to the ideological and political as well as the economic realms of work".⁵⁴ However in recognising this internal-external dichotomy, neither model has been particularly successful in studying the dynamic relationship between the two spheres. As is the case with the treatment of management, more recent writers have attempted to draw out the complex nature of internal and external links. Finally, the discussion of the role of the state by labour process writers has highlighted the absence of a consideration of the state in the bargaining model. Labour process writers have argued that the state influences both the context of the labour process and the labour process directly. In the bargaining model the state occupies a position outside of the immediate relationship between employers and unions and if it influences labour regulation, it does so by generating external regulation. Surprisingly, the weakness in the bargaining model with respect to the role of the state is an area that has not been redressed in more recent literature dealing with workplace industrial relations.

1.5 Later Variations on the Bargaining Model

The challenges to the bargaining model posed by the development of labour process theory, as well as the institutional decline of unionism and collective bargaining in some industrialised countries, prompted writers to explore in more detail the role of management in workplace regulation and evaluate the factors that influence management strategy. Just as the context of 1960s Britain had informed Flanders' original model and his focus on the labour market as the primary motivator for workplace change, the changed context of the late 1980s and early 1990s has produced a greater focus on management and product markets as instrumental instigators of change. The theoretical link between the internal and the external has

54. Burawoy, (1985), op cit, pg 35.

remained and been developed by the increasing awareness of the role of markets in influencing labour regulation and questions concerning how market forces are mediated. Many recent writers have argued that market forces are interceded by management strategy. The next section examines the concept of management strategy in some detail.

1.5.1 Management Strategy and Management Style

Management strategy is referred to by an increasing number of writers. The concept is used as a mediating variable between markets and labour regulation. The idea of 'management strategy' was adapted from Chandler's work on the relationship between strategy and structure. Its application to industrial relations has been explored by authors such as Storey, Purcell and Thurley and Wood.⁵⁵ However, the term management strategy remains ambiguous. Kochan, Katz and Capelli have attempted to advance the concept of strategy in industrial relations by developing the notion of strategic choice. They argue that strategic choice is characterised by two conditions: first, the parties must have some discretion over decisions; and second, strategic decisions are those that alter the relationship or role of one party with reference to the other actors in the industrial relations system.⁵⁶ Purcell and Ahlstrand build upon this notion, suggesting that strategic choice:

"... contrasts with the deterministic model of organizations in which actors are so severely constrained (by environmental factors such as organizational size, technology, product markets etc.) that there is little or no choice open to management. When applied to employee relations, the notion of strategic choice highlights the distinction between traditional personnel management, concerned with 'firefighting' and mere reaction to union and employee pressures, and

55. J. Purcell, "Management Control through Collective Bargaining: A Future Strategy" in Thurley and Wood (eds), Industrial Relations and Management Strategy, (Cambridge: Cambridge University Press, 1983) and K. Thurley and S. Wood, "Business strategy and industrial relations strategy", in Thurley and Wood (eds), Industrial Relations and Management Strategy, (Cambridge: Cambridge University Press, 1983).

56. T. Kochan, H. Katz and P. Cappelli, "Strategic Choice and Industrial Relations Theory", Industrial Relations, 23 (1) Winter 1984, pp 21-22.

personnel management concerned with influencing employee relations outcomes through strategic decision making.”⁵⁷

The underlying presumption in strategic choice is that management makes decisions that involve longer term planning for labour regulation, rather than merely responding to prevailing circumstances. Purcell and Ahlstrand recognise that these strategic decisions will be in some way tempered by constraints imposed by external factors.

Management strategy will not be exercised by all levels of management. As Flanders recognised, management is not necessarily a homogeneous group, but has differing constraints at different levels in the management hierarchy. Purcell and Ahlstrand accept that this diversity will affect the ability of some managers to make strategic decisions. They cite Marchington et al’s argument that senior managers have greater opportunities to engage in strategic decision making:

“On the one hand managerial choice remains constrained by the environment within which the company operates, especially in the short run and at lower levels in the managerial hierarchy. On the other hand, however, senior managers are treated as having considerable room to maneuver, and their decisions also to some extent shape the environment within which the organisation operates; for example its markets, products, location, technology, size of establishment and the type of employee recruited”.⁵⁸

Having recognised the complexity of strategy and the limitations of managerial autonomy, Purcell and Ahlstrand characterize strategic activity as occurring:

“... when managers step back from taken-for-granted structures and systems and think about the possibility for change”.⁵⁹

The degree to which management can make and implement strategies is clearly a point of contention between some writers. Radical writers have argued that the notion of strategy will be limited, as the precondition of parties exercising discretion to make choices is questionable. Hyman argues that: “(s)trategic choice exists, not because of the absence or weakness of structural determinations, but because these

57. J. Purcell and B. Ahlstrand, Human Resource Management in the Multi-Divisional Company, (Oxford University Press, 1994), pg 38.

58. *ibid.*

determinations are themselves contradictory".⁶⁰ He defines managerial strategy accordingly as "(t)he programmatic choice among alternatives, none of which can prove satisfactory".⁶¹ Structural constraints and the diversity of management will mitigate against management exercising discretion. Lewin also questions the veracity of strategy as an explanation for industrial relations phenomena, although primarily in terms of its theoretical and empirical rigour.⁶² Nevertheless, there is a consensus that management does make choices, the major difference among writers being the range of choices. In this sense, management employs strategy in some form which needs to be accorded proper recognition, as these choices will affect labour regulation.

In contrast to the emphasis on strategy, other writers employ the concept of management style. Purcell, for example, uses managerial style as an indicator of how management attempts to structure labour management within an organisation. However, his notion of style has much in common with the concept of management strategy. He argues that:

"within the constraints of these (structural) factors,, senior managers in companies (or more likely large companies), can exercise a degree of choice in the way that they treat their employees. The choices made and the underlying rationale is often described as management style".⁶³

The distinction between the two concepts is not clear cut, especially given the broad definitions of strategy discussed earlier. However, there seems to be some divergence between the two. Managerial style is a narrower concept than managerial strategy. Strategy relates to choices made about structuring relationships, whereas style refers to explicit philosophies or policies for labour management. Identifying the two concepts empirically results in some circularity in argument, particularly in the case of management style. The philosophies of management toward employees (which constitute style) cannot necessarily be gleaned from labour management practices.

59. *ibid.*, pg 39.

60. R. Hyman, "Strategy or Structure? Capital, Labour and Control", *Work, Employment and Society*, 1 (1), March 1987, pg 30.

61. *ibid.*

62. D. Lewin, 'Industrial Relations as a Strategic Variable', in M. Kleiner, R. Block, M. Roomkin and S. Salsburg (eds), *Human Resource and the Performance of the Firm*, (Industrial Relations Research Association Series, 1987), pp 1-41.

64. *Ibid.*, pp 335-40.

However, if management does not have expressed philosophies, which is often the case, how is style determined except by reference to management practice?

Purcell identifies two dimensions of management style. The first is individualism, which refers to how employers treat individual employees. Purcell sees this as being a continuum, ranging from, at one end, policies of labour control, moving through paternalist approaches, to the other extreme, which emphasises individual employee development. The second dimension is collectivism, which equates to the legitimacy granted by management to collective or joint structures of negotiation.⁶⁴ Similar to the idea of management strategy, the concept of management style assumes that management has the capacity to develop an approach to labour management within the broad constraints of the firm's business strategy; however it allows for divergent policies of labour management between otherwise similar firms. For instance, firms facing similar market contexts and with similar business strategies may adopt different approaches to managing labour (choosing different combinations of individualism and/or collectivism). Purcell also identifies issues that remain unresolved in his model of managerial style: for example, the consistency of a management style across different employee groups and across different company operations. The utility of the notion of style, in as much as management can make choices, is that it can account for diversity in management's approach to labour. This is useful in explaining why companies with a similar business strategy adopt different philosophies regarding employee relations. Notwithstanding this benefit, the concepts of management strategy and management style remain closely related and in practice difficult to distinguish. It is for this reason that the broad concept of management strategy will be used throughout the rest of this thesis to describe the choices made by management in structuring its employment relations and style is considered a product of this strategy.

1.5.2 Management Strategy and Product Markets

The concept of management strategy has been used by some writers to formalise the link between economic conditions and labour regulation. One of the most influential

63. J. Purcell, "Mapping Management Styles in Employee Relations", *Journal of Management Studies*, 24 (5) 1987, pg 533.

64. *ibid*, pp 535-40.

revisions in recent times has been the development of the strategic choice model by Kochan, Katz and Cappelli. The essence of this model is that management makes strategic choices concerning the operation of the business organisation, which then impact upon the nature of industrial relations within the organisation. Broadly, they argue that the product market environment influences management business strategies, which in turn affect labour management policies. They believe that management in particular has discretion over labour management decisions; that is, the environment does not completely constrain the policy alternatives open to management and labour.⁶⁵ The strategic choice model, which has been labeled a 'modified systems model', is relevant to this discussion, as it suggests a relationship between industrial relations within the firm and product market changes. This relationship is mediated by management's strategic choices.⁶⁶ The process is depicted in Figure 1.2.

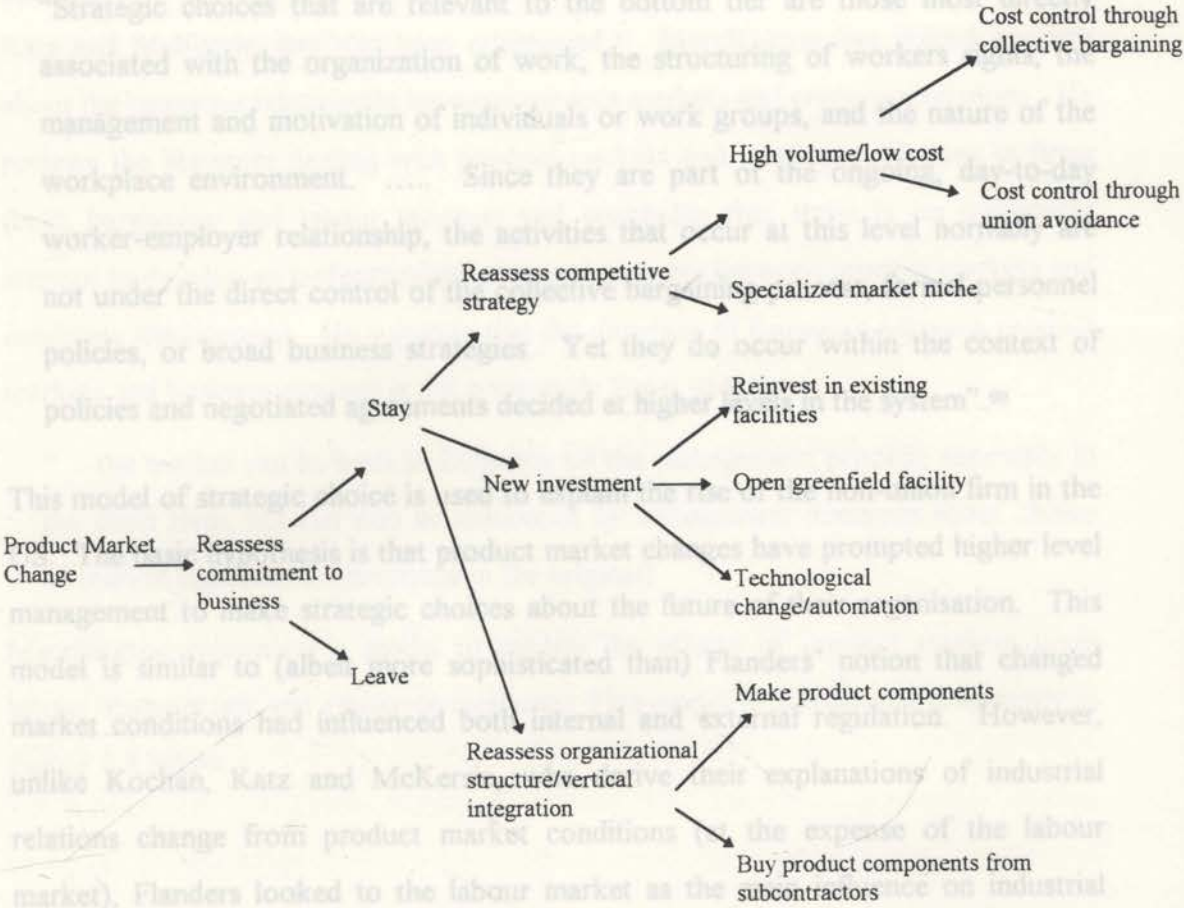


Source: Kochan, Katz and Cappelli, "Strategic Choice and Industrial Relations Theory", *Industrial Relations*, 23 (1) Winter 1984, pg 25.

This model has been applied to interpret the transformation of industrial relations in the US. Using a number of different case studies to illustrate their argument, Kochan, Katz and McKersie suggest a three tier institutional model, where the workplace represents the third tier in the model. The three tiered model is seen by the writers to "... develop a broader conception of the institutional structure within which industrial relations activities occur".⁶⁷ Essentially, the nature of employment relations at the

65. T. Kochan, H. Katz and P. Cappelli, "Strategic Choice and Industrial Relations Theory", *Industrial Relations*, 23 (1) Winter 1984, pg 21.
 66. *ibid*, pp 24-26.
 67. Kochan and McKersie, *The Transformation of American Industrial Relations* (New York, Basic Books, 1986), pg 16

Figure 1.2: Sequence of Business Strategy Decisions Affected by Product Market Changes.



Source: Kochan, Katz and Cappelli, "Strategic Choice and Industrial Relations Theory", *Industrial Relations*, 23 (1) Winter 1984, pg 25.

This model has been applied to interpret the transformation of industrial relations in the US. Using a number of different case studies to illustrate their argument, Kochan, Katz and McKersie suggest a three tier institutional model, where the workplace represents the third tier in the model. The three tiered model is seen by the writers to "... develop a broader conception of the institutional structure within which industrial relations activities occur".⁶⁷ Essentially, the nature of employment relations at the

67. T. Kochan, H. Katz and R. McKersie, *The Transformation of American Industrial Relations*, (New York, Basic Books, 1986), pg 16

workplace is determined by decisions made at the upper two levels.⁶⁸ The authors argue that:

“Strategic choices that are relevant to the bottom tier are those most directly associated with the organization of work, the structuring of workers rights, the management and motivation of individuals or work groups, and the nature of the workplace environment. Since they are part of the ongoing, day-to-day worker-employer relationship, the activities that occur at this level normally are not under the direct control of the collective bargaining process, formal personnel policies, or broad business strategies. Yet they do occur within the context of policies and negotiated agreements decided at higher levels in the system”.⁶⁹

This model of strategic choice is used to explain the rise of the non-union firm in the US. The basic hypothesis is that product market changes have prompted higher level management to make strategic choices about the future of their organisation. This model is similar to (albeit more sophisticated than) Flanders’ notion that changed market conditions had influenced both internal and external regulation. However, unlike Kochan, Katz and McKersie, who derive their explanations of industrial relations change from product market conditions (at the expense of the labour market), Flanders looked to the labour market as the main influence on industrial relations in Britain. The strategic choice model overstates the importance of product market influences, but introduces a mediating variable in the relationship between external markets and internal workplace relations, in the form of management choice.

This represents an addition to the traditional bargaining model, which overlooked the role of management and assumed (rather than stated explicitly) the relationship between economic conditions and workplace relations. However, management strategy in response to product markets, and the effect that it has on workplace relations (particularly control over the labour process) is an underlying theme in the labour process literature. Indeed, radical writers have repudiated the strategic choice model, arguing that the nature of capitalism and the drive for accumulation means

68. *ibid*, pp 15-18. The authors make passing reference to situations where decisions made at the workplace may influence decisions reached at higher levels, but these are clearly exceptional cases.

69. *ibid*, pg 18.

that management has relatively little discretion over the choices it makes.⁷⁰ In addition, the linear and seemingly unproblematic relationship between product markets, management and industrial relations, articulated by writers such as Kochan, Katz and McKersie, has also been questioned.⁷¹ Marchington has voiced concern about the causative relationship between product markets and employee relations. He reviews the literature dealing with product markets and employee relations in firms (both bargaining and labour process) and concludes that there is no systematic attempt to develop an understanding of the relationship between product markets and employee management. He suggests that the direction of causation between product markets and business strategy is not necessarily linear, that is:

"... the market can be both an influence *on* the management process, especially in the short term, but can also be influenced *by* management decisions about choice of market segment."⁷² (emphasis in the original)

Marchington constructs a model to explain the effects of product markets upon labour management and employee relations. This model is represented graphically in Figure 1.3 below.

Marchington argues that under conditions where the company is a market follower and there are few barriers to entry, management is likely to feel its discretion constrained by market pressures. The second feature is customer pressure or the degree of monopsony power. This corresponds to the nature of demand for goods or services: in particular, whether it fluctuates or is relatively stable. In a stable market environment, management is likely to feel less pressure from the market.⁷³

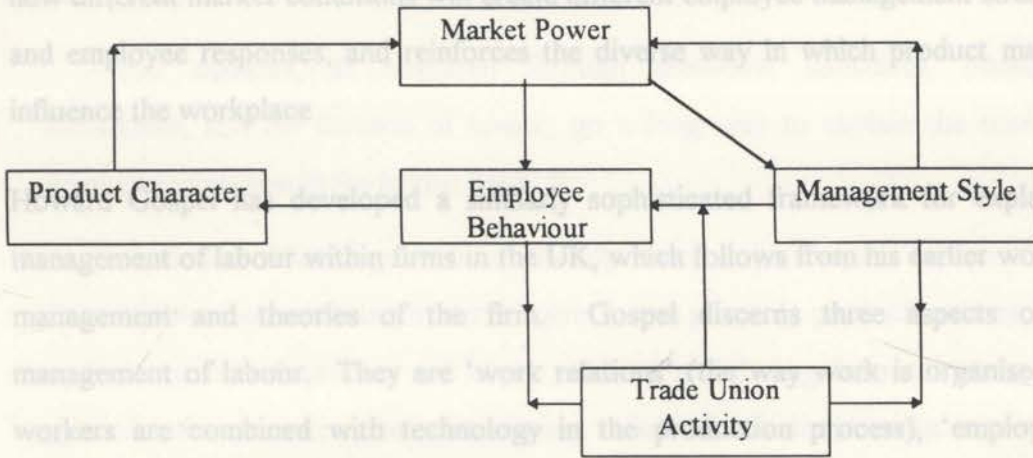
Marchington goes on to argue that management is not the only party influenced by market forces, and postulates that employee and union perceptions of product market conditions will also be important in influencing how they respond to management action. Moreover, the character of the product itself will be significant. This will affect the extent to which management can influence the production process and

70. For a discussion see R. Hyman, (1987) loc cit.

71. See Lewin, loc cit, pg 8.

72. M. Marchington, "Analysing the Links between Product Markets and Management or Employee Relations" in Journal of Management Studies, 27 (2) March 1990, pg 116.

Figure 1.3: Management, Employee Relations and Market Power



Source: M. Marchington, "Analysing the Links between Product Markets and the Management of Employee Relations", *Journal of Management Studies*, 27 (2), 1990, pg 119.

Marchington uses two market features to assess market power. The first of these is competitive pressure or the degree of monopoly power, which corresponds to a company's capacity to dictate terms of sale to its customers, that is, largely, whether it is a price setter or a price taker. Associated with this are the barriers to market entry, which will either allow or restrict the entrance of companies into the product market. Marchington argues that under conditions where the company is a market follower and there are few barriers to entry, management is likely to feel its discretion constrained by market pressures. The second feature is customer pressure or the degree of monopsony power. This corresponds to the nature of demand for goods or services: in particular, whether it fluctuates or is relatively stable. In a stable market environment, management is likely to feel less pressure from the market.⁷³

Marchington goes on to argue that management is not the only party influenced by market forces, and postulates that employee and union perceptions of product market conditions will also be important in influencing how they respond to management action. Moreover, the character of the product itself will be significant. This will affect the extent to which management can influence the production process and whether employees will use their skills and discretion to thwart management

73. *ibid*, pp. 120-123.

objectives.⁷⁴ The identification of these dimensions contributes to an explanation of how different market conditions will create different employee management strategies and employee responses; and reinforces the diverse way in which product markets influence the workplace.

Howard Gospel has developed a similarly sophisticated framework for explaining management of labour within firms in the UK, which follows from his earlier work on management and theories of the firm. Gospel discerns three aspects of the management of labour. They are 'work relations' (the way work is organised and workers are combined with technology in the production process), 'employment relations' (areas of employment such as recruiting, training, job tenure, promotion and reward) and 'industrial relations' (the representational systems that exist within enterprises).⁷⁵ Gospel focuses on a broader range of issues than do Kochan, Katz and McKersie, who essentially focus on employment and industrial relations. Gospel attempts to place firms in the context of both product and labour markets, arguing that these contexts provide threats or incentives for particular labour strategies. However, unlike Kochan, Katz and McKersie, Gospel argues that management strategy will be affected by firm structure.⁷⁶ He has five key contentions. First, that the nature of the market will play a role in shaping labour decisions. The features of the product market (size, boundaries, homogeneity or fragmentation, stability or instability, degree of competition) and the labour market (supply of skilled labour) will be important variables. Second, market forces are mediated by firm structure or the organisation of the firm (for example, size and integration between different parts of the corporation will shape the choices open to employers). Third, the nature of the managerial hierarchy (both vertical and horizontal) is an important variable that influences labour decisions. Fourth, the nature of production technologies and the division of labour within an organisation will also mould management labour decisions. Finally, he states that there are only a limited number of choices open to

74. *ibid.*, pp. 123-129.

75. H. Gospel, *Markets, Firms and the Management of Labour in Modern Britain*, (London: Cambridge University Press, 1992), pp 1-6.

76. *ibid.*, pp 1-6.

employers in making labour decisions.⁷⁷ Gospel summarises his approach in the following way:

“... that markets, as mediated through firm-level structures, managerial hierarchies, and the division of labour, go a long way to explain the choice of employer strategies in the labour field”.⁷⁸

Both Gospel and Marchington thus develop more sophisticated models of the relationship between markets (in Marchington's case primarily product markets, while Gospel considers both product and labour markets) and the regulation of work. Both suggest that there are a number of mediating variables, including but not restricted to management strategy. This is an improvement upon the somewhat deterministic relationship between industrial relations and markets that is postulated by Kochan, Katz and McKersie. All these models expand upon the basic relationship between internal and external factors that was identified by Flanders. They incorporate the insights of the radical writers by attempting to develop, in a more systematic fashion, the way in which product markets will affect various aspects of industrial relations.

1.5.3. Management Strategy and Organisational Structure.

Management strategy will be influenced by organisational structure. As Gospel has argued, both the structure of the firm and the management hierarchy will impose certain constraints on the choices that management can make and how these are implemented. Gospel makes reference to the work of Chandler to argue that there will be a link between strategy and structure.⁷⁹ He proposes that the structure of the firm - whether, for example, it is family owned and managed or a loosely organised holding company - will shape the choices open to management. He concludes:

“... choices of strategy and structure at the broader level of the firm both constrain and facilitate the choice of strategy and structure in the area of labour management.”⁸⁰

According to Gospel, a second feature of organisational structure that will impact upon management strategy will be the nature of the management hierarchy. As

77. *ibid*, pp 6-9.

78. *ibid*, pg 10.

79. *ibid*, pg 5.

already shown, Purcell and Ahlstrand draw attention to how the different levels within the management structure relate to management strategy. However, Gospel goes further, to argue that the different functions of management will also have a bearing on labour decisions. He argues that:

"The effectiveness of managerial hierarchies depends on various characteristics. It depends on the technical training and professional competence of managers. It also depends on the degree of integration or segmentation within the management hierarchy between levels and functions."⁸¹

In this way, just as strategy is seen by some writers to be a response to product market changes, the decisions or choices made by management with respect to labour management will be shaped by structural variables within the firm. Arguably, the recognition of these structural variables will further constrain the choices that are available to management.

1.5.4 Bargaining Structures.

The previous sections have argued that labour management policies will be influenced by product market conditions. However, the strategies pursued by companies, both for labour management but more particularly broader business strategies, will in turn contribute to the shape of both product and labour markets. However, the effectiveness of management strategies will be affected by structural factors such as organisation structure. One factor that will have important repercussions for a company's labour management strategies will be the prevailing bargaining structure and union organisation. Like the relationship between product markets and business strategy, labour management strategies will both restrict as well as influence bargaining structures.

Bargaining structure and how it affects labour management has been considered by Sisson. He offers an interpretation of the effect of markets on bargaining structure rather than firm level labour management. In doing so, he voices consternation that the renewed interest in management among industrial relations researchers has not

80. *ibid*, pg 7. Blackwell, 1987, pp 4-5.

81. *ibid*, pg 7.

resulted in an increased interest in management and collective bargaining. He contends that:

“Surprising as it may seem, the bulk of the recent literature concerned with management’s role in industrial relations has little to say about collective bargaining. Most of it is more or less exclusively preoccupied with management-worker relations rather than management-trade union relations. Collective bargaining if considered at all, is largely seen as peripheral or as an example of a strategy of ‘responsible autonomy’ as opposed to ‘direct control’”.⁸²

Sisson goes back to Flanders’ work about the functions of collective bargaining. Drawing on Flanders, he argues that collective bargaining serves two purposes: market control and managerial control. Sisson argues that although Flanders may have plotted the function of collective bargaining in terms of the creation of rules to regulate labour-management relations and institutionalise conflict, this is of little value in attempting to explain bargaining structure; and particularly why multi-employer bargaining is predominant in some environments and not in others.⁸³ Consequently, Sisson turns to other writers, who have attempted to explain why single and multiple employer bargaining emerges by looking at the structure of industry. Writers such as Pierson and Ulman have suggested that the size and fragmentation of product markets will be important determinants in the level of bargaining. So too will levels of product competition and capital to labour ratios. Alternatively, there are explanations of collective bargaining couched in terms of the attitudes and opinions of industrializing elites. Having reviewed these accounts, Sisson concludes that structural explanations as well as those relying on the choices of industrializing elites are restricted in their capacity to explain bargaining structure. He argues that rather than being set by market structure, bargaining levels are a result of historical compromises between the parties. Thus he maintains that:

“For the most part, the recognition of trade unions for the purposes of collective bargaining has not occurred in a piecemeal and ad hoc fashion, with individual employers weighing up the advantages and disadvantages of such a decision. Nor

82. K. Sisson, *The Management of Collective Bargaining. An International Comparison*, (Basil Blackwell, 1987), pp 4-5.

83. *ibid*, pp 6-10.

is the structure of collective bargaining the result of individual employers and trade unions or, for that matter, governments making rational choices from a range of possible options. Instead, both recognition and the structure of collective bargaining are rooted in very specific compromises - in most cases struck relatively early in the process of industrialisation - involving large numbers of employers and more or less regardless of their individual view".⁸⁴

Of more direct relevance to this thesis, Sisson argues that the recognition of unions and the establishment of bargaining processes allowed management to maintain its prerogative or control over the workplace. He states that:

"Here lies the significance of the structure of collective bargaining that is a major focus of the present study. The structure of collective bargaining defines the nature and extent of trade union involvement in rule making processes and so offers employers an instrument with which to control the activities of trade unions and their members".⁸⁵

In particular, the level of collective bargaining, although not necessarily set through a process of rational employer choice, is instrumental in affecting the degree to which trade unions impede managerial prerogative or the scope of bargaining. This is particularly true of multi-employer bargaining. Sisson points out that:

"The irony is that the institution of multi-employer bargaining, that trade unions helped to bring about and continue to support, is primarily valued by employers because it helps to neutralise the workplace from trade union activity. It also enhances the discretion that the individual employer is able to exercise in the workplace; the role that the trade union is able to play there is very restricted and, in many cases, the trade union is excluded altogether".⁸⁶

Ironically, in the countries that Sisson studied where single employer bargaining prevailed, this largely played the same role as multi-employer bargaining, namely limiting trade union action. The emergence of single employer bargaining in these countries (in Sisson's study, the USA and Japan) occurred as a result of different

84. *ibid*, pg 10.

85. *ibid*, pg 12.

86. *ibid*, pg 13.

material conditions than those that prevailed in countries with multi-employer bargaining. Sisson argues that:

“(in Japan and the USA) employers and governments did not come under strong pressure to introduce multi-employer bargaining. Moreover, single employer-bargaining meant employers could continue to deal directly with their own employees, albeit they were now organized in independent trade unions, rather than the external organizations they had struggled so long to avoid. Paradoxical as it may seem, then, it is single-employer bargaining that serves to limit the activities of trade unions in the USA and Japan.”⁸⁷

While both bargaining regimes served to limit trade union action, the development of multi or single-employer bargaining depended heavily on the prevailing material conditions (such as industry structure, employer organisation and union strength and militancy) that shaped the historical compromises between unions, employers and governments.

Sisson's observations of the impact of bargaining structure are in some ways reminiscent of Flanders' argument that collective bargaining has both reduced and reinforced managerial authority.⁸⁸ In fact, it would appear that the major difference between Flanders and Sisson lies not in their explanation of the function of collective bargaining, but in Sisson's explanation of the development of bargaining structure. The notion that bargaining structure is a result of historical compromises recognises that bargaining structure is a function of both union and employer initiatives and not the creation of one party. The level of bargaining has not remained static, suggesting that unions and employers, in different combinations, reach different compromises over time. These compromises will be shaped by policies or strategies pursued by unions (individually or collectively) and employers (individually or collectively), which in turn will be affected by how these parties view the utility of collective bargaining and the prevailing legal framework supporting bargaining.

The argument that multi-employer bargaining produces positive effects for management by preserving its prerogative at the workplace remains important. While

87. *ibid*, pp 173-174.

the previous models of employment and industrial relations within the firm have emphasized the importance of management strategy in response to market forces, the level and scope of bargaining is also clearly an important element in the regulation of labour at the workplace. These features of bargaining are affected not only by management, but also by unions and to some extent the state. Sisson's argument remains much more institutionally centred than that of Gospel, yet it nevertheless draws out the importance of management's interaction, both as individuals and as organised groups, with other actors at a macro level in order to produce certain bargaining arrangements. Moreover, it acknowledges that employers may act collectively, or they may favour acting collectively, in order to retain authority within their organisations.

Sisson's explanation of the development of bargaining structures is largely based on the experience of Western European countries. As a result, there is little consideration of the role of the state in the development of these bargaining structures. Hince's observation that "... in none of the European and American theories of the labour movement is there an explicit basic, central, or even ancillary role for the state"⁸⁹ could also apply to Sisson's account of bargaining structures. Plowman has questioned the application of this explanation to Australia, as the state was instrumental in this country in setting up the processes of bargaining through the establishment of conciliation and arbitration tribunals. Employers and their associations then played a limited and essentially reactive role in the bargaining process, responding to the threats posed by industrial tribunals.⁹⁰ Plowman's thesis has in turn recently been challenged by Barry, who argues that Australian employers responded to crisis in much the same way as employer groups in other industrialised countries.⁹¹ The orthodoxy in Australian industrial relations is that industrial tribunals have been largely responsible for setting the structure and scope of formalised

88. A. Flanders, "Collective Bargaining: A Theoretical Analysis", loc cit, pp 233-238

89. K. Hince, "Is Euro-American Union Theory Universally Applicable?: An Australasian Perspective", in R. Adams and N. Meltz (eds), Industrial Relations Theory. Its Nature, Scope and Pedagogy, (IMLR Press/Rutgers University and The Scarecrow Press, Inc, 1993), pg 85.

90. See D. Plowman, "Employer Associations and Industrial Reactivity", Labour & Industry, 1(2), June 1988, pp.287-305.

91. M. Barry, "Employer Associations: Assessing Plowman's Reactivity Thesis", Journal of Industrial Relations, 37 (4) December 1995, pp 543-561.

bargaining in Australia. In addition, industrial tribunals have been seen to enforce a doctrine of managerial prerogative.⁹² This seems to run counter to Sisson's argument that employers have recognised unions, under certain conditions, in order to maintain managerial prerogative at a workplace level. Nevertheless, while industrial tribunals played an important role in supporting management and union rights, they did not determine bargaining structure.

Unions in Australia have been seen as more active than employer groups in influencing bargaining, although essentially relying upon the mechanisms of arbitration to achieve their bargaining aims.⁹³ The prominence of trade unions in the Australian context, due in part to the bargaining rights they have historically enjoyed under the compulsory arbitration system, has allowed them to influence the nature of bargaining. Turner provides an alternative to Sisson by focusing on the scope of bargaining rather than its level, through a discussion of the role and effectiveness of trade unions in influencing workplace decisions. Turner has developed an hypothesis, like Sisson in the context of comparative analysis, to explain the relative success of trade unions in responding to market and general economic change. He draws attention to the level at which unions are integrated into bargaining, but places equal emphasis on their ability to influence the scope of bargaining in terms of the legal regulation of trade unions (and therefore their effect on labour regulation).⁹⁴ In particular, Turner identifies two critical variables which impact upon union effectiveness:

"first, the extent to which unions, as a broad national pattern, are integrated into processes of managerial decision making, especially concerning work reorganisation; and second, the existence of laws or corporatist bargaining arrangements that regulate firm-level union participation from outside the firm."⁹⁵

92. See for example, J. T. Ludeke, "What Ever Happened to the Prerogatives of Management", *Journal of Industrial Relations*, 33:3, September 1991, 395-411 and E. Stern, "'Industrial Disputes' and the Jurisdiction of the Federal Industrial Tribunal", *Australian Journal of Labour Law*, 3:2, 1990.

93. W. Howard, "Australian Trade Unions in the Context of Union Theory", in Ford, Hearn & Lansbury (eds), *Australian Labour Relations*, 3rd Edition, 1980, op cit, pp.78-99.

94. L. Turner, *Democracy at Work. Changing World Markets and the Future of Labor Unions*, (NY, Cornell University Press, 1991), pg 12.

95. *ibid*, pg 12.

He sees these variables as being instrumental in determining the future of labour organisations. He views union effectiveness as being closely related to their integration into managerial decision making (through bargaining mechanisms) and the state support for corporatist arrangements that maintain bargaining rights. Sisson argues that employers seek compromises with unions in order to restrict their influence at the workplace, however according to Turner, union effectiveness is increased by being integrated into management decision making, either through negotiated or legislated arrangements. These competing aims illustrate the tension in the 'historical compromises' between unions and employers. Turner's analysis recognises the importance of state-sponsored trade union rights to bargain. State regulations for collective bargaining will influence both the level and scope of bargaining. In this sense there is a symbiotic relationship between that level and the scope of bargaining. If unions are effective in gaining state sanctioned rights for firm level participation, employers may seek to centralise negotiations in order to limit the extent of this intervention. By contrast, if union bargaining rights at the firm level are few and they have been ineffective in incorporating themselves into management decision making, employers may seek to decentralise negotiations to limit external intervention from union officials. In this sense, the bargaining structure and consequently the scope for bargaining at a workplace level will be dependent on the compromises of the bargaining parties, which in turn reflect not only the structure and strategies of both parties, but the legal rights to bargaining possessed in particular by unions.

In Australia, the historical compromise between employers and unions was influenced by the establishment of trade unions' legal right to bargain through the conciliation and arbitration system. While the development of arbitration was important in influencing the scope of bargaining, it did not set the level at which bargaining occurred. However, the prominence of occupational unions in Australia, combined with their capacity to force employers to bargain with them (through at the very least the threat of compulsory arbitration), resulted in the development of multi-employer bargaining.

Turner's recognition of the influence of state-sponsored bargaining rights for unions, and the importance of these rights in influencing bargaining arrangements, suggests that the state will also play a role in shaping the choices and discretion of both employers and unions in regulating labour. The state's influence over labour regulation will be both direct and indirect. The state indirectly affects how labour is regulated by establishing the basis for collective bargaining. As has already been argued, state influence has been considerable in Australia, through the compulsory arbitration system which provided unions with both recognition and bargaining rights and placed restrictions on the scope of bargaining. The state also directly affects the regulation of labour by legislating for employment conditions. This can influence rates of pay, hours worked, leave and dismissal. In the Australian context industrial tribunals have also played a role by in some cases directly regulating labour through the arbitration of union and management claims. Most of the models referred to thus far share a lack of recognition of the role that the state plays in encouraging or constraining certain strategies and labour management decisions. The state, through both direct and indirect intervention, constrains and encourages certain management and union strategies.

1.6 A Modified Bargaining Model

The literature reviewed in the preceding sections provides a selective survey of the attempts by different writers to explain how employment relations are determined within the firm or at the workplace. The bargaining model, outlined in Section 1.3, which focused on the development of rules at the workplace, explained the creation of rules as an outcome of collective bargaining between the parties. These rules regulated most aspects of the relationship between employers and employees at work. While this model was applied to unionised workplaces where collective bargaining was prevalent, its utility in explaining workplace relations in non-unionised firms was seen as limited. The explanatory value of the model was also limited in that it did not explore the factors that influenced employer and union approaches to regulating labour at the workplace. The shortcomings of the bargaining model were further revealed with the development of labour process theory. Section 1.4 argued that the centre of analysis for labour process writers was control of the production process

rather than the development of rules, however they did focus on broadly similar phenomena. Unlike the bargaining model, the labour process literature highlighted factors such as changing product markets, technology and management responses to these conditions as explaining the contest between employers and employees for control over the workplace. While the labour process writers were describing workplace relations using a different concept than that of the bargaining model, their explanatory framework provided more rigour than the bargaining model. The critique of the bargaining model which grew out of the development of the labour process literature, combined with the growing influence of management literature in industrial relations and the decline in trade union density and authority in many industrialised countries, contributed to variations in models seeking to describe the regulation of labour. Section 1.5 has reviewed some of the major recent contributions to industrial relations literature which attempt to broaden explanations of the regulation of labour. The explanations suggest that the context in which employers, employees and unions interact, as well as the policies or strategies pursued by these parties, will influence the rules that regulate their relationships at work. This section synthesizes these ideas into a modified bargaining model.

The modified bargaining model essentially broadens the scope of analysis from the earlier work of Flanders and the 'Oxford school'. It takes the same 'dependent variable', this being labour regulation, but develops a more rigorous explanation by making reference to a larger group of 'independent variables'. The 'independent variables' are a combination of factors both inside the workplace (as evident in the traditional bargaining model) as well as outside the workplace. While the strategies of management and the responses of labour are the primary determinants of labour regulation at the workplace, these can only be understood with reference to structural factors, often external to the workplace, such as product and labour market conditions, bargaining structures, state regulation and organisational structure. The interaction between these variables is illustrated diagrammatically in figure 1.4 below.

Figure 1.4: Modified Bargaining Model

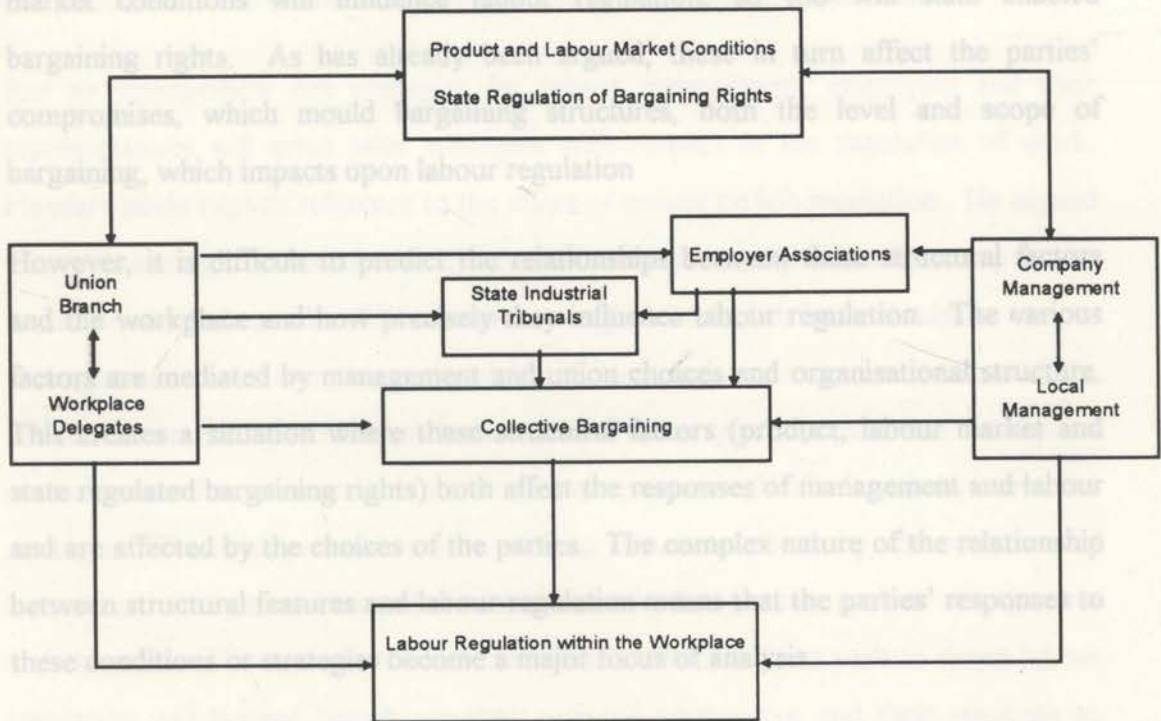


Figure 1.4 depicts the connections between the variables. Those variables referred to as the external conditions (market conditions, state regulation) impact upon all of the parties. The strategies of the parties determine how these conditions affect labour regulation, while the interaction between the parties (the focus of the original bargaining model) determines the actual outcomes or how labour is regulated. The different sections of the model are developed in more detail below.

Section 1.5.2 reviewed contributions by writers who argued that the prevailing conditions of the product market and labour market are important factors in influencing employment relations in the firm. While the labour market was identified in the original bargaining model as an indirect influence upon job regulation, these writers have made explicit what was assumed or ignored in the original bargaining model: namely, the significance of markets to labour regulation. Product markets establish certain imperatives for the firm or organisation, to which management must respond. The response by management to the prevailing market context will inevitably involve policies with respect to labour management. However, the business decisions made by firms will also impact back on the product market. The labour market, particularly the demand for certain types of labour, will influence the capacity

of employees and their representatives to respond to management initiatives. Just as market conditions will influence labour regulation, so too will state enacted bargaining rights. As has already been argued, these in turn affect the parties' compromises, which mould bargaining structures, both the level and scope of bargaining, which impacts upon labour regulation

However, it is difficult to predict the relationships between these structural factors and the workplace and how precisely they influence labour regulation. The various factors are mediated by management and union choices and organisational structure. This creates a situation where these structural factors (product, labour market and state regulated bargaining rights) both affect the responses of management and labour and are affected by the choices of the parties. The complex nature of the relationship between structural features and labour regulation means that the parties' responses to these conditions or strategies become a major focus of analysis.

The manner in which the parties respond to these external conditions is in part expressed through the development of strategies. Strategy is a term used to describe how the parties frame policies in response to external conditions. For instance, certain market movements will encourage management to adopt specific strategies toward bargaining arrangements, which will in turn provide both opportunities and constraints for management and unions. However, the relationship between external conditions and labour regulation is not necessarily a direct and linear one. The parties have some discretion in shaping their policies toward labour regulation and are not necessarily restricted to a certain course of action due to prevailing market and government regulatory conditions. This is particularly true of management: management actively attempts to influence labour regulation and does not merely respond to market conditions and trade union action. The notion that management exercises discretion and develops strategy with respect to its business and labour management policies has become increasingly prevalent in industrial relations literature (as shown in Section 1.5.1). The addition of management strategy as an independent variable ascribes to management an active role in shaping labour regulation. However, this strategy will be constrained by structural features of the

90. A. Flanders, "What is wrong with the system", *loc cit*, pg 90.

91. See Lattier, et al, *loc cit*.

firm and by the heterogeneity of the management group. In addition, the presence and policies of trade unions will influence and restrain management action.

Just as management has strategies for labour management, employees and their representatives will often have strategies with respect to the regulation of work. Flanders made explicit reference to the effect of unions on job regulation. He argued that unions sought to establish external rules to ensure equity and consistency across trades or occupations. In addition, unions sought to establish internal rules to temper management control over the workplace.⁹⁶ The strategies of unions, at various levels, will influence the relative importance of both these goals (equity and workplace control) as well as the manner in which they are pursued. Similar to management, the strategies of employees and unions will be influenced both by the structure of representative organisations and the initiatives of other parties, such as management and the state. The manner in which unions and their members seek to shape labour regulation will depend heavily on their political perspective and their response to management initiatives.

A major criticism of the bargaining model, especially when applied in a context such as Australia, is that it does not accommodate the role of the state. It has been argued that by focusing only on bargaining, the impact of state institutions is ignored or dismissed.⁹⁷ This criticism has often arisen as a result of critics concentrating on the primary mechanism of the model, namely collective bargaining, rather than the true focus of the model, which is job regulation. As has already been noted, in Australia the state affects the workplace both directly and indirectly. The direct intervention can take the form of setting substantive conditions via arbitration tribunal decisions. However, the extent of intervention will vary between workplaces. Management or unions (or in some cases both) may attempt to involve a state agency in the regulation process in order to reinforce their position. In this sense, the involvement of state industrial tribunals may be a direct result of the strategies or policies of both unions and management, as well as a reflection of the conflict between these strategies.

96. A. Flanders, "What is wrong with the system", loc cit, pg 90.

97. See Littler, et al, loc cit.

This revised bargaining model, rather than producing predictive hypotheses, allows for the development of more complex explanations. The model retains the strengths inherent in the original bargaining model, that is, the broad analysis of labour regulation, but incorporates a more comprehensive array of explanatory variables to understand the changing nature of labour regulation.

1.7 Conclusions

By reviewing how writers have sought to understand the regulation of workplace relations, this chapter has developed a framework for analysing labour regulation at the workplace level. The aim of the study is to describe and analyse the way in which work is organised, performed and rewarded, broadly categorised as the regulation of labour.

The bargaining model was examined as a means of explaining the regulation of labour, as this model uses regulation as its focal point. The discussion of the bargaining model showed that many of the criticisms associated with it were either unfounded or overstated. Nevertheless, there are shortcomings in the model, particularly as a framework for explaining some aspects of labour regulation. Notwithstanding its limitations, the model has been extensively used as a framework for the analysis of the workplace in Australia.

The development of labour process theory had the dual effect of highlighting inadequacies in the bargaining model and providing an alternative analysis of similar phenomena. The insights of labour process theory, combined with a changed economic climate in most industrialized countries, have seen a reevaluation of the bargaining/regulation model. Contemporary writers have sought to refine the study of labour management, particularly accounting for the behaviour of management and looking beyond the workplace for explanations of workplace relations. The effect of these refinements has been to strengthen the basic framework of the bargaining model, allowing it to account for different dimensions of workplace regulation. Particularly important amongst these refinements was the linking of workplace industrial relations to the nature of product markets, bargaining institutions and state

regulation of these bargaining arrangements. For these reasons, a broad regulation model is most useful for understanding labour regulation in Australian workplaces.

The last section of the chapter synthesised the diverse contributions by recent writers in the bargaining tradition into a modified bargaining model. This model does not represent an integrated theory as such, however it is a legitimate approach to analyze labour regulation. Gospel uses a similar approach, setting out a series of propositions that are then explored in his empirical analysis. He argues that:

“(s)uch a presentation of generalisations risks oversimplifying a set of complex economic and organisational interactions and understating certain factors. However, this framework is set out as a pre-statement of the general thesis to be developed in the course of the book and to help make sense of the detailed material which follows”.⁹⁸

In this sense, the model is developed to explain observed phenomena, rather than to postulate a specific hypothesis. This promises not only a better understanding of workplace industrial relations, but also allows for a more rigorous investigation of the factors influencing the nature of workplace industrial relations.

This thesis, then, explicitly adopts a broader bargaining approach in the modified bargaining model and applies this model more comprehensively, by considering a number of dimensions of workplace regulation. The modified bargaining model allows for a more holistic analysis of the determinants of labour regulation. The application of this model shapes both the direction of the research and the analysis of the evidence. It establishes that certain combinations of factors will influence labour regulation in a particular way.

The theoretical framework influences the structure of the thesis. The next chapter introduces the external context surrounding the Clyde refinery, commencing with a discussion of the product and labour markets in the Australian petroleum industry. Chapter Three is one of two chapters devoted to the institutional context of industrial relations in the industry. It provides an overview of the parties within the industry and examines the nature of their interaction between 1950 and 1974. Chapter Four is

98. H. Gospel, op cit, pg 6.

the first empirical chapter devoted to workplace industrial relations at Clyde refinery. It explores the development of the refinery and specifically describes workplace industrial relations from the mid 1960s until 1974. Chapter Five continues the industry level analysis begun in Chapter Three by discussing the changing nature of bargaining between 1974 and 1994. Chapters Six, Seven and Eight deal with the same historical period at Clyde refinery, analysing changes in workplace regulation and how these were influenced by movements in industry level bargaining, product and labour markets. Chapter Nine concludes the thesis by re-examining the workplace and drawing together explanations for workplace regulation.

2.1 Introduction

2.2 Nature and Structure of the Industry

2.2.1 Downstream Production

2.3 The Companies

2.4 The Labour Force

2.5 The Petroleum Product Market

2.5.1 Demand for Petroleum Products

2.5.2 Oil Supply

2.6 Government Regulation

2.6.1 Refining and Marketing

2.7 Conclusion

The Australian Petroleum Industry: Structure, Market Trends and State Regulation.

The Australian Petroleum Industry: Structure, Market Trends and State Regulation.

2.1 Introduction

This chapter introduces the external environment in which the regulation of labour takes place. In particular, the chapter addresses the product market for petroleum products and the labour market in the oil industry. These features influence management and union strategy, which in turn impact upon the way in which work is organised, performed and rewarded. Marchington has argued that the degree of market concentration (the extent to which companies can dictate prices to consumers) and the extent of consumer pressure (the ability of consumers to influence prices) both affect the nature of employment relations. This chapter specifically addresses the issues of industry competitiveness and examines the position of labour in industry.

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The chapter begins with a discussion of the development and structure of the Australian petroleum industry. This is followed by an analysis of the companies in the industry, their profitability and market concentration. Together these features provide some insight into the competitive pressures in the industry. The chapter then discusses market movements in both the labour market (particularly demand for labour in the industry) and the product market for manufactured petroleum goods. The character of the labour market is important in understanding the relative position of labour within the industry. The demand for finished products and the supply of primary feedstock provide some indication of the pressure that consumers of petroleum products can exert on the manufacturers. The broad employment trends in the industry are then examined, as well as the movements in the petroleum product market over the last two decades. Finally, the role of government in regulating the supply of crude oil and the manufacturing and marketing of finished product is considered. This regulation has important implications not only for shaping the market but also for encouraging or constraining certain business strategies. The chapter concludes by developing the links between the structure of the industry, the

nature of product and labour markets and labour regulation. Using the framework developed by Marchington (discussed in Chapter One) some general conclusions can be drawn about the way in which these factors will shape labour management initiatives and labour responses in the Australian petroleum industry.

2.2 Nature and Structure of the Industry

The operations of the oil industry can be classified into two broad sectors: upstream production, which constitutes the exploration and recovery of crude oil supplies; and downstream production, which refers to the refining of crude feedstocks and distribution of finished petroleum products. This chapter focuses largely upon downstream production, as this is the sector addressed in later chapters of the thesis. Upstream production is limited to a small number of sites in and around Australia. There is little vertical integration between the upstream and downstream sectors in Australia. The Australian Institute of Petroleum argued in its submission to the Industry Commission in 1993 that:

“There is little integration between crude oil producers and refiners in Australia since Esso sold its refining and marketing interests to Mobil in 1991. BP and Shell usually export some condensate/oil produced offshore North-West Australia. Ampol, Caltex and Mobil produce no oil in Australia.”¹

However, there is substantial vertical integration in the Australian downstream industry, primarily between the refining and marketing of petroleum products.

2.2.1 Downstream Production

The petroleum products industry is an extremely important sector of the Australian manufacturing industry and the Australian economy generally. The Industry Commission report on petroleum products noted in 1994 that:

“The petroleum products industry accounts for more than 1 per cent of Australia’s GDP, 1.5 per cent of business investment and around 40 per cent of total domestic energy supplies”.²

1. Australian Institute of Petroleum (AIP), Submission to the Industry Commission Inquiry into the Petroleum Industry in Australia, July 1993, pg 9.

2. Industry Commission, Petroleum Products, Report No 40, July 1994, pg 7.

The significance of the industry to the Australian economy is further heightened because petroleum products are used by both industry and households.

The downstream industry in Australia is made up of both the refining sector and the distribution and marketing sector, however the primary focus of this thesis is on refining.

Refining crude oil into finished petroleum products has been referred to as a process of 'boiling oil'.³ A diagrammatic representation of this process is set out in Figure 2.1. The first step in the process usually involves the crude oil being distilled until it separates into heavy and light fractions. These fractions are then siphoned off separately (due to their different weights), the lighter fractions being 'finished' into products like motor fuel, while the heavier fractions must be subjected to catalytic cracking, which breaks down the larger hydrocarbon molecules, in order to produce lighter products such as petrol. Other processes involved in refining include: catalytic reforming, which produces high octane petrol from the distilled light fractions; alkylation, which produces high octane petrol by combining gases produced in the distillation and cracking processes; treating, which removes sulphur from different products; and blending, which combines products from different processing units to create other petroleum products.⁴

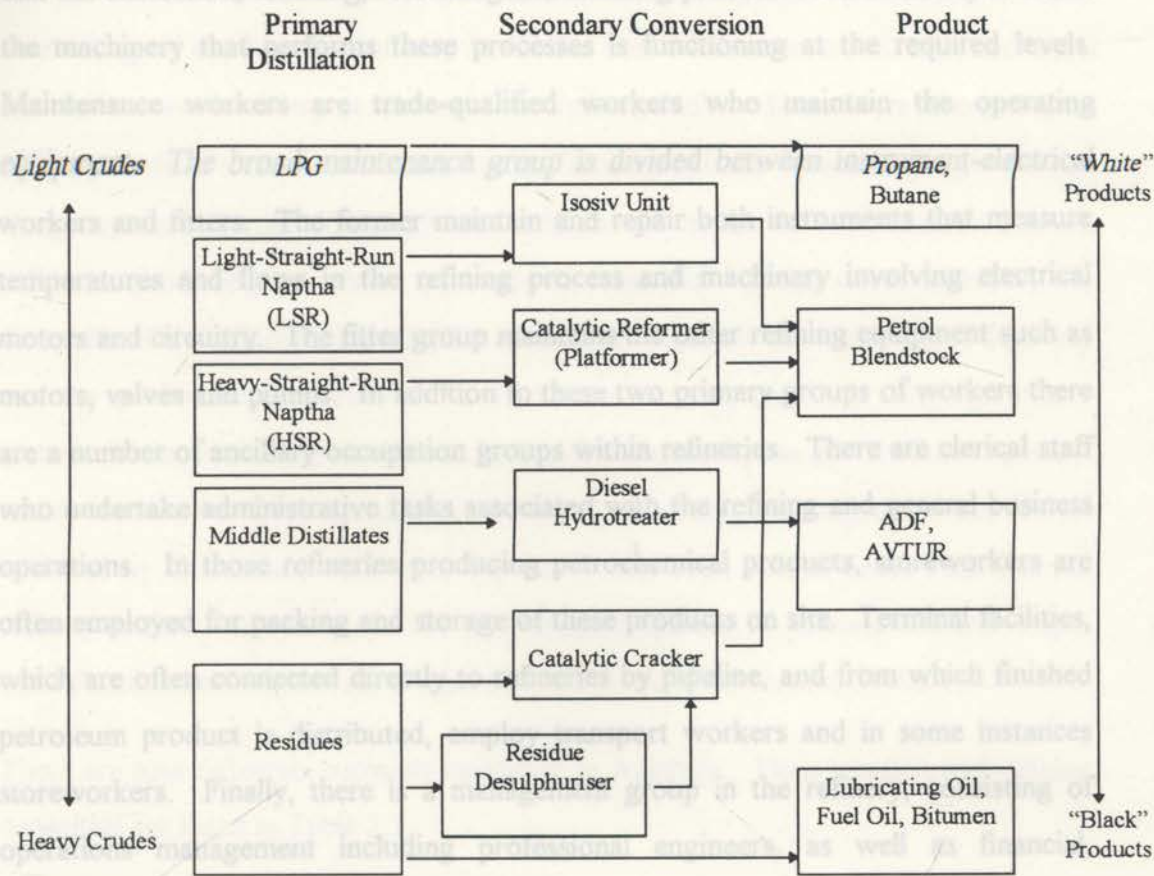
Source: Australian Petroleum Refining Industry, (McIntosh & Company, 1992), pg 11.

The ability of a refiner to produce a wide range of products (both 'white' and 'black' products) as well as a given quantity of a certain product will depend, first, on the qualities of the feedstocks used (that is, whether they are light or heavy crudes) and second, on the technology and equipment present in the refinery. If there is limited secondary conversion capability at a refinery (that is, an absence of catalytic crackers or reformers) then the refiner will be limited to processing higher grade (or lighter) crude. Conversely, the presence of secondary processing equipment allows the refiner a large choice of feedstocks, as both light and heavy crudes can be treated to produce 'white' products.

3. B. Ahlstrand, The Quest for Productivity. A Case Study of Fawley after Flanders. (Cambridge: Cambridge University Press, 1990), pg 75.

4. AIP, Australia's Oil Industry, (1992), op cit, pp. 8-9.

Figure 2.1: Crude Oil Refining



Source: Australian Petroleum Refining Industry, (McIntosh & Company, 1992), pg 11.

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The actual production of crude oil is primarily managed by two occupational groups, refinery operators and refinery maintenance workers. Operators are responsible for

operating the equipment that refines crude oil into petroleum products. They ensure that the distillation, cracking, reforming and blending processes run smoothly and that the machinery that performs these processes is functioning at the required levels. Maintenance workers are trade-qualified workers who maintain the operating equipment. The broad maintenance group is divided between instrument-electrical workers and fitters. The former maintain and repair both instruments that measure temperatures and flows in the refining process and machinery involving electrical motors and circuitry. The fitter group maintains the other refining equipment such as motors, valves and pumps. In addition to these two primary groups of workers there are a number of ancillary occupation groups within refineries. There are clerical staff who undertake administrative tasks associated with the refining and general business operations. In those refineries producing petrochemical products, storeworkers are often employed for packing and storage of these products on site. Terminal facilities, which are often connected directly to refineries by pipeline, and from which finished petroleum product is distributed, employ transport workers and in some instances storeworkers. Finally, there is a management group in the refinery, consisting of operations management including professional engineers, as well as financial, employee, sales and marketing management.

The Australian oil industry, in particular the refining sector, is relatively young. Prior to the Second World War, only two refineries operated in Australia. In 1931, the year that the first Tariff Board report into the oil industry was published, the two refineries producing motor spirit were the Shell Clyde refinery in NSW and one at Laverton in Victoria, which was jointly owned by the Commonwealth Oil Refineries and the Anglo-Persian Company (which became British Petroleum (BP)). The Laverton refinery had commenced operation in 1924, while Shell had taken over the site at Clyde in 1928 from John Fell, who had established the refinery in 1926 to produce motor spirit from shale oil.⁵

The majority of Australian refineries were built over a twenty year period between the end of the Second World War and the mid 1960s. By 1953, in addition to the Shell Clyde refinery (which had been substantially expanded in 1938 and again in 1946) and

(Canberra: AGPS, 1976), pg 51.

6. *Ibid.*, pp 56-57.

7. *Ibid.*, pp 58-62.

the Laverton refinery (which was nearing the end of its productive life - it closed in 1954), the Vacuum company (which became Mobil) had established a small lubricating oil and bitumen refinery at Altona, near Melbourne in Victoria; and Boral had built a small refinery at Matraville in Sydney, NSW. There were also refineries either proposed or under construction at Geelong (Shell), Kwinana (Anglo-Persian Company) and Kurnell (Caltex).⁶ A Tariff Board review in 1961 identified seven refineries producing petroleum products in Australia. These were: in NSW, the Australian Oil Refinery Limited (Caltex) Kurnell refinery, the Shell Clyde Refinery and the smaller Boral refinery at Matraville; in Victoria, the Shell Geelong refinery and the Vacuum refinery at Altona; in Western Australia, the BP Kwinana refinery; and at Hamilton in Queensland, a small refinery producing bitumen, diesel and fuel oil operated by Queensland Refineries Pty Ltd.⁷ The PRA (Mobil-Esso) Port Stanvac refinery in South Australia, the BP Westernport refinery in Victoria and the Ampol and BP refineries in Queensland were not operational until the mid 1960s.

Shell Refining (Aust) Pty Ltd.	Geelong, Vic (1954)	5,343,000
	Clyde, NSW (1928)	3,713,000
Inland Oil Refiners (Qld) Pty Ltd.	Fromanga, SW Qld	6,900

Source: AIP, *Oil and Australia. Statistical Review 1995*, (Melbourne: AIP, 1995), pp 6-7

Table 2.1 demonstrates that the major oil companies dominate the refining of crude oil, combining to produce almost all of the refined product in Australia. The total capacity of Australia's oil refineries was 34,513,270 tonnes per year in 1995; but the proportion of this capacity that was owned by a non-marketing company amounted to only 6,900 tonnes per year. The major oil companies have access to virtually all the refined product produced in Australia.

The timing of the development of Australia's refining industry and its associated distribution network for refined product had important repercussions for industrial

5. Royal Commission on Petroleum, *Towards a National Refining Policy*, Fifth Report, (Canberra: AGPS, 1976), pg 51.
 6. *ibid*, pp 56-57.
 7. *ibid*, pp 58-62.

Table 2.1: Australia's Refining Capacity

Company	Location (Date of Commission)	Capacity (tonnes/year)
Ampol Refineries Ltd	Lytton, Qld (1965)	3,945,700
BP Refinery (Kwinana) Pty. Ltd.	Kwinana, WA (1955)	5,820,000
BP Refinery (Bulwer Is) Pty. Ltd.	Bulwer Island, Qld (1965)	2,730,000
Caltex Refining Co. Pty. Ltd.	Kurnell, NSW (1956)	5,106,000
Mobil Refining Australia Pty. Ltd.	Altona, Vic (1949)	5,013,000
	Port Stanvac, SA (1963)	3,342,000
Shell Refining (Aust) Pty. Ltd.	Geelong, Vic (1954)	5,343,000
	Clyde, NSW (1928)	3,713,000
Inland Oil Refiners (Qld) Pty. Ltd.	Eromanga, SW Qld	6,900

Source: AIP, Oil and Australia. Statistical Review 1995, (Melbourne: AIP, 1995), pp

6-7

Table 2.1 demonstrates that the major oil companies dominate the refining of crude oil, combining to produce almost all of the refined product in Australia. The total capacity of Australia's oil refineries was 34,513,270 tonnes per year in 1995; but the proportion of this capacity that was owned by a non-marketing company amounted to only 6,900 tonnes per year. The major oil companies have access to virtually all the refined product produced in Australia.

The timing of the development of Australia's refining industry and its associated distribution network for refined product had important repercussions for industrial relations in the industry (as will be discussed in Chapter Three). The comment made in 1976 by the Royal Commission into the Australian petroleum industry about the

development and organisation of Australia's refining capacity can be equally applied to the development of industrial relations in the industry. The Commission stated:

"... at no time has any government sought by policy to regulate or co-ordinate the refining industry to ensure that refineries were located on the most suitable sites and were so designed to manufacture the most suitable products at least cost from a national point of view. There is in fact no resulting national refining pattern. What passes for a national industry is merely the agglomeration of refining capacities designed to serve local State by State markets and limited to that horizon."⁸

It was in this environment of piecemeal growth and an absence of national coordination that the Australian oil industry developed.

There is a large degree of integration between the refining and marketing sectors in the Australian petroleum industry, which has implications for market concentration.

There are three main types of dealers that retail petroleum products:

- a) The independent dealer - who independently owns the outlet and buys product from the oil companies;
- b) The lessee - who operates an outlet that is owned by the oil company and leased to the operator; and
- c) The commission agent, who operates a company-owned and operated outlet.

However, the major oil companies control the bulk of petroleum product sold in the retail market, through commission agents.⁹ A recent analysis of the structure of the retail market estimated that:

- * Approximately 3 percent of sites are commission agent or company-owned and operated sites (this corresponds to the 426 sites allowed under the Petroleum Marketing Sites Act), and sell around 6 percent of petrol;

8. *ibid*, pp 87-88.

9. In 1975 the proportions of retail petroleum outlets were: 57 per cent independent dealers, 41 per cent lessee dealers and 2 per cent commission agents. However, the 57 per cent of independent dealers only supplied 28 per cent of the total market: Royal Commission on Petroleum, Towards a National Refining Policy, Fifth Report, (Canberra: AGPS, 1976), pg 58.

- * Approximately 39 percent of sites are operated by lessees or franchisees;
- * Approximately 37 percent of sites are owned by an operator who sells the brand of a specific company for a specified time; and
- * Approximately 20 percent of sites are owned by independents who market petrol under an independent brand.¹⁰

Despite there being no reliable evidence in relation to the actual market share of petroleum product, it would appear that although the independent operators remain an important part of the retail industry, the major companies still supply the vast majority of retail sites. Indeed the Industry Commission stated that:

“Shell’s data shows that it owns around 30 percent of the sites supplied by distributors of Shell products. If all the other oil majors owned 30 percent of distributor supplied sites, then the proportion of all sites owned or headleased by the oil major would be 75 to 80 per cent. The proportion carrying an oil major brand would be even higher if dealer-owned sites carrying an oil brand were included.”¹¹

The integration between the manufacture and marketing of petroleum products, and the dominance of the major oil companies in both these areas, suggests that the companies exercise a degree of market control. This would allow the companies more discretion in planning business and labour management strategies. The following section considers the degree of market control in the Australian petroleum industry more closely.

2.3. The Companies

The Australian petroleum industry has experienced continued rationalisation in several spheres of operation since the 1970s, one of which has been the number of companies in the industry. In 1980 the industry comprised eight of the nine largest international oil companies. The 1980s then witnessed a substantial reduction in the number of companies operating in the industry. Golden Fleece was taken over by Caltex with its purchase of H. C. Sleight in 1981. Total was taken over by Ampol in

10. AIP, Submission to the Industry Commission Inquiry into the Petroleum Industry in Australia, op cit, pp 15-16.

1982, which itself then became a wholly owned subsidiary of Pioneer International in the early 1990s; and the British Petroleum company (BP) took over Amoco in 1984.¹² This process continued into the 1990s, with Mobil acquiring Esso's downstream and marketing operations from the beginning of 1991¹³. This left five oil companies operating in Australia in 1994: Shell, BP, Standard Oil of California and Texaco (joint owners of Caltex), Mobil and Ampol. In December 1994 Caltex and Ampol announced that they would merge their refining and marketing operations and the merger was approved by the Trade Practices Commission in March 1995. Ampol petrol outlets still however operate under the Ampol name, in order to retain customers who identify with the Australian-owned Ampol. The Australian-owned content of the integrated company stands at 62 percent.¹⁴

With the exception of the merged Caltex-Ampol group, the Australian oil industry is characterised by wholly owned subsidiary companies. Most have distinct refining and marketing operations, which are usually accorded different corporate status. However, in such instances both refining and marketing companies are administered by an Australian parent company.

The rationalisation of companies operating in the industry would appear to have concentrated the market for petroleum products, arguably allowing the remaining companies increased market power as a result of limited competition. The Industry Commission has refuted this contention (although, notably, before the merger between Caltex and Ampol). The Commission argues that the nature of the Australian market, namely its small demographic size but large geographic character, is uneconomical for a large number of industry operators. In addition, it maintains that factors such as the potential competition from imports, the possibility of product substitution, the concentration of industrial users of products like AVTUR (aviation turbine fuel) and bitumen, and the ready availability of imported refined products will

11. Industry Commission, *op cit*, 1994 pg 14

12. *Business Review Weekly*, 14-20 April 1984, pg 25

13. Prices Surveillance Authority, *Inquiry into Petroleum Product Prices - Final Report*, November 1990, (Report No 33, PSA), pg 12.

14. "\$3bn merger saves \$500 m", *Sydney Morning Herald*, 15 December 1994, pg 33 and "\$3bn oil merger gets nod", *Sydney Morning Herald*, 29 March 1994, pg 41.

keep the market for petroleum products competitive.¹⁵ In addition, there are a number of independent operators in the retail market, with relatively small overhead costs, which according to the Industry Commission will inhibit collusion between the major companies.

The Bureau of Industry Economics has calculated that petrol refining has the seventeenth highest industry concentration ratio of Australian industries, with the four major operators holding 76 percent of trade adjusted turnover. Petroleum refining is less concentrated than the industries that manufacture beer, tobacco products, iron and steel products and cement.¹⁶ This concentration ratio would certainly have increased since the merger of Caltex and Ampol, there now being only four major operators.

The conclusions of the Industry Commission seem to stand in contrast to the near monopoly on refined product and the degree of vertical integration between manufacture and distribution enjoyed by the major oil companies. Nevertheless, the Commission and the companies argue that the barriers to entry into the petroleum products market are not insurmountable; and that if the companies were able to extract large profits because of low competition, this would encourage other companies to enter the market.¹⁷

Evidence of industry profitability indicates that the major companies have not consistently been earning large profits. In fact, the profitability of the industry has varied markedly over the course of the 1980s and early 1990s. The early 1980s were particularly bad, with BP and Mobil both experiencing operating losses in 1983 and Caltex also suffering sustained losses.¹⁸ Table 2.2 shows that the profitability of the industry as a whole was variable during this period, although it has been argued that this was primarily due to the increasing costs of crude oil and product excise, rather than increasing refining and marketing costs.¹⁹

15. Industry Commission, *op cit*, pp 48-52.

16. AIP, Submission to the Industry Commission Inquiry into the Petroleum industry in Australia, *op cit*, pg 9.

17. Industry Commission, *op cit*, pg 52-59.

18. Business Review Weekly, April 14-20, 1984, pg 25.

19. McIntosh & Company, Australian Petroleum Refining Industry, McIntosh, 1992, pg 46.

Table 2.2: Oil Industry Profitability

Profitability	1988	1989	1990	1991	1992	1993
Profit (\$M) (Before Interest & Tax)	642	716	1 291	407	758	710
Total Assets (\$M)	6 444	7 639	9 815	9 533	9 657	9,583
Investment (\$M)	613	707	1 115	874	708	595
Debt-to-Equity ratio (%)	67	67	61	80	74	66

Source: Industry Commission, Report on Petroleum Products, 1994, pg 25 and AIP, Downstream Oil Industry Financial Survey, January 1989 - December 1993, (August 1994).

The figures in Table 2.2 show that the 1980s, particularly their later half, also witnessed a large increase in investment by the oil companies in refining equipment, particularly secondary processing technology. The reason for this will be discussed further in section 2.5; but this investment contributed to an increase in the industry's debt to equity ratio, especially for 1991.²⁰ The companies involved in the industry argue that the (downstream) oil industry is characterised by competition between the companies as well as being internationally competitive as a whole.²¹ The companies also contend that the return on funds invested in the industry, particularly for refining, is insufficient and consistently lower than the average for Australian industry²². Caltex maintains that the low return on investment reflects both the intense competition within the industry and its complex regulation. The Prices Surveillance Authority (as it then was) has added that low returns were consistent with the historical over capacity in the industry²³. The changes in the product market, accompanied by the quitting of the industry by several companies, have resulted in an

20. *ibid*, pg 47.

21. *ibid*, pp. 46-48.

22. Prices Surveillance Authority, Inquiry into Petroleum Product Prices, December 1989, (Report No 26, PSA), pg 14.

23. *Ibid*, pg 14.

improvement in the utilisation of refining capacity. According to the Industry Commission Report:

“In 1983, throughput totalled around 80 per cent of capacity, with total national refining capacity around 830,000 barrels a day. Since then some refining companies have left the industry and refining capacity has been shutdown or mothballed. This reduced national capacity to around 730, 000 barrels a day in 1993, and helped increase average utilisation to its current level at around 92 percent”.²⁴

Shutting down refining capacity has improved industry efficiency. In response to market pressures, companies have little choice but to adjust production levels. To run plant on low or minimum throughputs is generally costly. This constrains companies’ choices in essence to deciding whether to run plant or not, rather than running plant on lower throughputs.

The low returns available to companies have historically produced intense competition to expand and maintain market share within the industry. With the recent decline in market growth, competition in the Australian petroleum industry has revolved around maintenance of market share.²⁵ Market share between companies has not changed markedly over the past decade, as indicated by Table 2.3; however, it is vulnerable to fluctuation in the short term, depending upon price. This has seen some companies pursuing aggressive pricing policies. The Industry Commission reported that:

“(p)rotecting market share and volume are important to competitors within the industry. A decline in sales volume can have a substantial impact on unit costs and profitability”.²⁶

24. Industry Commission, op cit, pg 8.
25. Transcript of Proceedings, Australian Conciliation and Arbitration Commission, Caltex (Aust) Pty Ltd and TWU of Aust. Notification pursuant to s25 of the Act, of dispute re conditions, 18 March 1987, pg 18
26. Industry Commission, op cit, pg 68.

Table 2.3: Market Shares of the Major Oil Companies

Company	1981	1984	1988	1992
Shell	25.3%	25%	25.8%	25.4%
BP	16.9%	17.5%	21.6% ²	20.7% ²
Caltex/Golden Fleece	18.4%	17.5%	17.8%	17.2%
Mobil	14.9%	14%	13.4%	21.4% ³
Ampol	8.5%	12% ¹	12.9% ¹	15.3% ¹
Esso	6.8%	7%	8.5%	N/A
Amoco	5.5%	6%	N/A	N/A
Total	3.7%	N/A	N/A	N/A

¹ Denotes acquisition of Total by Ampol

² Denotes acquisition of Amoco by BP

³ Denotes acquisition of Esso by Mobil

Sources: Caltex Annual Report 1981, pg 14; PSA Reports June 1984, pg 7; December 1989, pg 14; McIntosh 1992, pg 43.

The relative market shares set out above give some indication of the performance of the individual companies. Shell is regarded as the industry leader. It has been consistently profitable over the 1980s. However, the contribution of refining to this profitability is unknown and its overall performance may be the result of its substantial interests in other areas of operation, such as mining and chemicals. The other large players in the industry are BP and Mobil. Esso elected to cease its operations in refining and marketing in 1992, but retains substantial offshore interests. Caltex views its main area of operation as NSW; and Ampol, although improving market share and profitability over the course of the 1980s, still remains a relatively small but significant participant. The merger of Caltex and Ampol in 1995 threatened the market share of the other industry participants.

In summary, the structure of the industry displays two seemingly contradictory trends. The first is toward greater concentration in ownership and by implication greater market power for the remaining companies. This market power arguably allows the major oil companies greater discretion in planning labour management strategy. However, the second trend is more efficient utilisation of refining equipment and competition to maintain market share, which would require companies to organise and manage their labour force so as to reduce labour costs and sustain productivity. The capacity of companies to enact labour management strategies will be affected by the structure and trends in the labour market supplying the oil industry. These features are considered in the following section.

2.4. The Labour Force

Changes in the structure of the companies in the industry have had an effect on the industry's labour market. The Australian Institute of Petroleum has estimated industry employment, including all aspects of downstream operations, to be at 60,000, or around 1 per cent of Australia's total employment. The largest proportion of this employment is in the retailing of petroleum products. The level of employment in the refining sector was estimated at around 7000 in 1993;²⁷ however this represents a figure substantially higher than that of census data on employment levels in the industry category of 'oil refining'. The census data for employment levels in petroleum refining and related industry sub-sectors is presented in Table 2.4.

27. AIP, Submission to the Industry Commission Inquiry into the Petroleum Industry in Australia, op cit, pg 6.

Table 2.4: Employment in the Oil Industry, Australia, 1971-1991.

	1971			1981			1991		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Oil and Gas	448	28	476	1,458	163	1,621	2,880	503	3,383
Petroleum Refining	4,199	239	4,438	4,884	295	5,179	4,521	568	5,089
Petroleum, Coal Products	1,078	144	1,222	606	83	689	695	142	837

Source: ABS Unpublished Census Data.

The apparent increase in employment in the 'oil and gas' industry classification relates primarily to the growth in the market for natural gas over the last two decades. The census data shows that employment levels for 'petroleum refining' have remained relatively stable over the last twenty years, while there has been a reduction in the number of employees in the 'petroleum and coal products' industry classification. However, other sources provide evidence of declining employee numbers in the industry overall. The Australian Institute of Petroleum reports that between 1989 and 1993 the number of employees directly employed by the industry decreased by 19.3 percent.²⁸ Some of this reduction in employee numbers may be offset, however, by increasing use of contractors who remain engaged in the industry.

There has been a similar decline in the number of employees employed by the major oil companies, particularly award workers. With the declining number of service stations, there has also been a fall in the level of retail employment in the industry.²⁹ In December 1980 the number of award workers in the oil industry was estimated to be 12,366, one quarter of whom were clerical workers. By 1992 this figure had been reduced to just under 5,700 workers³⁰. The employment figures in Table 2.5,

28. AIP, *Downstream Oil Industry Financial Survey*. January 1989-December 1993. (August 1994), pg 12.

29. *ibid*, pg 6.

30. Oil Industry Industrial Committee, *Number of Employees - By Awards* as at 31 December 1980 and Oil Industry Industrial Secretariat information.

provided to the Industry Commission by BP, Caltex and Shell, show that these companies reduced their workforce by just under one quarter between 1990 and 1993.

Table 2.5: Employment: BP, Caltex and Shell 1990 - 1993

	1990	1991	1992	1993
Employment	7, 652	7, 277	6, 526	5, 788

Source: Industry Commission, Petroleum Products, Report No 40, 1994, pg 54.

The takeover of Esso by Mobil resulted in substantial rationalisation of employee numbers, and the merger between Ampol and Caltex was forecast in 1994 to have similar results.³¹ The trend toward reduced employment numbers that is reported by BP, Caltex and Shell is likely to be exhibited by the other major oil companies, reflecting a substantial rationalisation in employee numbers in a relatively short period of time. This rationalisation has occurred in the context of broader labour market deterioration. In 1970, unemployment stood at just over 3 percent, but by 1983 it had gradually and constantly increased to over 10 percent. For the decade of the 1980s the rate of unemployment fluctuated between 7 percent and 10 percent. In the manufacturing industry generally there has been a steady decline in employment since 1975. The proportion of employees in manufacturing, as a percentage of the labour force, dropped from around 24 percent in 1973 to around 13 percent in 1991.³²

The largest occupational group across the three industry classifications listed in table 2.4 was that of ‘plant and machine operator’. Table 2.6 shows the breakdown of each of these industry classifications into occupational groups for the year 1991.³³

Total	3383	100.0	5089	100.0	837	100.0
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Source: ABS Unpublished Census Data.

31. “\$3bn merger saves \$500 m”, Sydney Morning Herald, 15 December 1994, pg 33
 32. Australian Bureau of Statistics, The Labour Force, Australia (6203.0) - Various.
 33 The occupational classifications used by the Australian Bureau of Statistics changed in the early 1980s. This means that comparisons between the 1991 census data for occupations and the census data from 1981 and 1971 are not possible without substantial disaggregation of the statistics.

Table 2.6: Occupational Employment in Oil Industry, Australia, 1991.

Australian Standard Classification of Occupations (ASCO)	Oil and Gas		Petroleum Refining		Petroleum, Coal Products	
	Number	Percent	Number	Percent	Number	Percent
Managers & Administrators	302	8.9	349	6.9	134	16
Professionals	655	19.4	788	15.5	45	5.4
Para-professionals	305	9.0	430	8.4	28	3.3
Tradespersons	628	18.6	777	15.3	76	9.1
Clerks	476	14.1	468	9.2	123	14.7
Salespersons	14	0.4	52	1.0	18	2.2
Plant and Machine Operators	697	20.6	1713	33.7	276	33.0
Labourers	195	5.8	380	7.5	96	11.5
Inadequate Description	99	2.9	115	2.3	41	4.9
Not stated	12	0.4	17	0.3		0.0
Total	3383	100.0	5089	100.0	837	100.0

Source: ABS Unpublished Census Data.

2.5.1 Demand for Petroleum Products

These figures provide some insight as to why levels of employment in the industry classifications of 'oil and gas', 'petroleum refining' and 'petroleum, coal products' have remained relatively stable while the company figures show a substantial drop in employment numbers. The classifications do not include transport workers or

storemen who work in the industry, nor do they include clerical workers employed by the companies who may fall into other industry classifications. The figures do however show the numerical importance of the operators' group and the trades group (maintenance workers), particularly in the petroleum refining sector, as they together comprise just on half (49 percent) of all workers in this industry classification.

One result of the changes in the labour force has been that labour productivity has increased substantially in the manufacturing of petroleum products. The Industry Commission Report provides evidence that, compared to refineries in Canada, Singapore and the USA, Australian refineries exhibit the highest rate of value added per employee; and as a share of value added, Australian wages are comparatively low. However, surveys conducted by Soloman Associates rank Australian refineries unfavourably in comparison to refineries in South East Asia, with respect to labour costs. The Industry Commission argues that the higher labour cost in Australian refineries may be offset by the large degree of value added by labour.³⁴ The high productivity of the industry is a combination of the capital intensive nature of petroleum product manufacturing, reductions in labour force numbers and changes in operations sponsored by industrial relations reforms. The last of these factors will be discussed in detail in the following chapters.

The preceding sections have established the changing structure of the downstream oil industry, both in terms of the companies operating in it and the labour force. It is apparent that the last two decades have seen substantial changes in the structure of the industry in Australia, which have implications for the way in which labour is regulated in the industry and at the workplace. The following sections identify the causes of this change, by discussing the nature of the product market and examining the impact that state regulation has had upon the industry.

2.5 The Petroleum Product Market

2.5.1 Demand for Petroleum Products

Until the late 1970s the demand for petroleum products worldwide, especially motor spirit, experienced a steady growth. In Australia between 1960 and 1975 the total

34. Industry Commission, *op cit*, pp 49-51.

Figure 2.2: Australia's Petroleum Product Consumption, 1981-1993

demand for petroleum products more than doubled, rising from 235 to 609 million barrels per calendar day.³⁵ By 1975 the total demand for petroleum products had far exceeded supply.³⁶ The Organisation of Petroleum Exporting Countries (OPEC) engineered a sharp rise in oil prices between 1973 and 1974, followed by another large increase in 1979. Although the price of oil subsequently dropped in 1983, the earlier increases in price had a major effect upon the demand for petroleum products, both worldwide and in Australia.³⁷ In the short term the demand for petroleum products, motor spirit in particular, remained relatively inelastic. However, in the longer term the growth in overall demand for petroleum products slowed from the levels experienced before the late 1970s.³⁸ This trend was exacerbated by the introduction of the import parity pricing policy by the federal government of Australia in 1978, which had the effect of raising the wholesale price of crude oil and hence petroleum products through the imposition of an excise.

Source: Australian Institute of Petroleum, *Australia's Oil Industry*, (AIP, Melbourne, 1992), pg 15.

The changing demand for individual petroleum products has, however, been more important than the slowdown in demand for petroleum products as a whole. This changing demand is depicted (for selected products) in Figure 2.2. While there continues to be increased consumption of all petroleum products, the demand for 'whiter' products has increased at the expense of 'black' products. Petroleum products that are expected to be in greater demand include automotive distillate, with a forecast demand increase of 2.3 percent to the year 2000, as well as AVTUR with an anticipated annual growth in demand of 2.8 percent over the same period.³⁹ This can be contrasted to the decline in demand for fuel products in stationary applications such as industrial machinery. The 1980s have seen a marked reduction in the use of kerosene, heating oil and industrial diesel fuel for home heating and industrial production.⁴⁰ In New South Wales the market share of fuel oil and industrial diesel oil has dropped from 27 percent and 9 percent, to approximately 3 percent and 2

³⁵ Royal Commission on Petroleum, *Fifth Report*, op cit, pg 5.

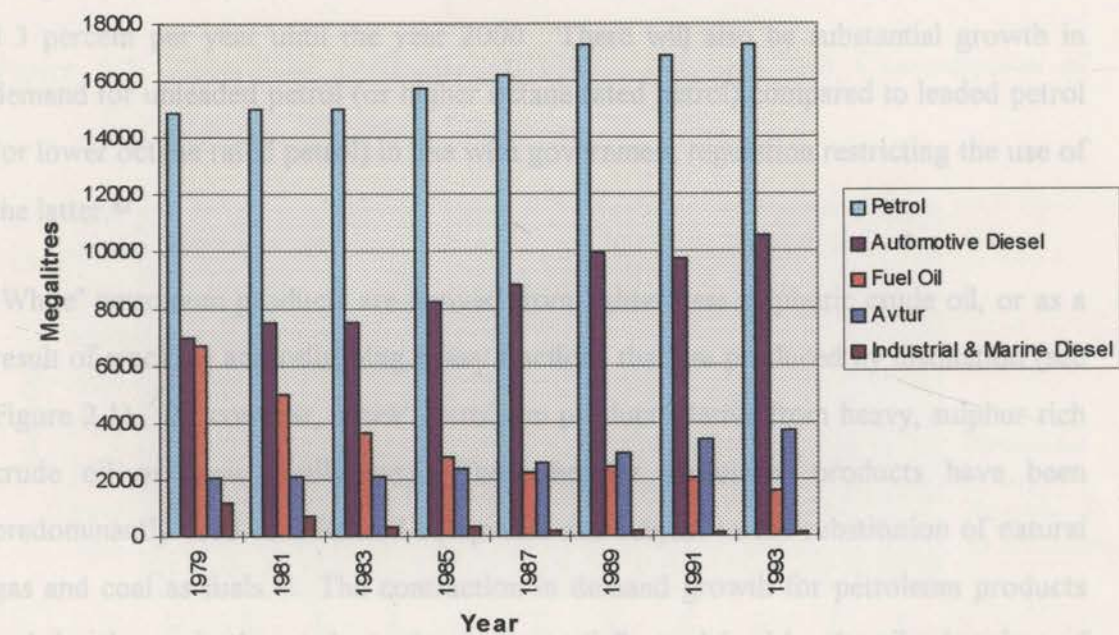
³⁶ Royal Commission on Petroleum, *Fifth Report*, op cit, pg 141.

³⁷ *ibid*, pg 180.

³⁸ Prices Surveillance Authority, *Inquiry in Relation to the Supply of Petroleum Products*, June 1984, pg 2.

³⁹ AIP, *Australia's Oil Industry*, August 1992, pg 14.

Figure 2.2: Australia's Petroleum Product Consumption, 1981-1993



Source: Australian Institute of Petroleum, *Australia's Oil Industry*, (AIP, Melbourne, 1992), pg 15.

The changing demand for individual petroleum products has, however, been more important than the slowdown in demand for petroleum products as a whole. This changing demand is depicted (for selected products) in Figure 2.2. While there continues to be increased consumption of all petroleum products, the demand for 'whiter' products has increased at the expense of 'black' products. Petroleum products that are expected to be in greater demand include automotive distillate, with a forecast demand increase of 2.3 percent to the year 2000, as well as AVTUR with an anticipated annual growth in demand of 2.8 percent over the same period.³⁹ This can be contrasted to the decline in demand for fuel products in stationary applications such as industrial machinery. The 1980s have seen a marked reduction in the use of kerosene, heating oil and industrial diesel fuel for home heating and industrial production.⁴⁰ In New South Wales the market share of fuel oil and industrial diesel oil has dropped from 27 percent and 9 percent, to approximately 8 percent and 2

39. Prices Surveillance Authority, Report 26, op cit, pg 5.

40. McIntosh, (1992), op cit, pg 20.

41. AIP, *Australia's Oil Industry*, op cit, August 1992, pg 3.

42. I. Storey, 'The Australian Oil Industry Two Years of Flood Relief the Permanent Drought', *The Australian Petroleum Exploration Association (APEA) Journal*, 1992, pg 106.

supply and that the supply of domestic crude will continue to fall toward the end of percent respectively.⁴¹ The demand for motor spirit is predicted to grow at a rate of 1.3 percent per year until the year 2000. There will also be substantial growth in demand for unleaded petrol (or higher octane rated petrol) compared to leaded petrol (or lower octane rated petrol) in line with government regulation restricting the use of the latter.⁴²

'White' petroleum products are derived from lighter, less sulphuric crude oil, or as a result of cracking and reforming heavy fractions that are produced by distillation (see Figure 2.1). By contrast, 'black' petroleum products derive from heavy, sulphur rich crude oil or basic distillation. These heavier petroleum products have been predominantly used in industrial equipment and subject to the substitution of natural gas and coal as fuels.⁴³ The contraction in demand growth for petroleum products and the change in the product mix can be partially explained by the oil price rises of the 1970s and the discovery of large quantities of indigenous natural gas reserves. These changes in demand have had a significant impact on refiners, particularly in that many required new equipment to produce 'white' products and as a result needed to alter the way in which labour was organised and jobs performed at the workplace level.

2.5.2 Oil Supply

Australia has maintained relative self-sufficiency in the supply of oil since the discovery of oil reserves in the 1960s, particularly the fields in Bass Strait.⁴⁴ However, its present supplies of indigenous crude oil are decreasing and greater reliance upon crude oil imports is forecast. Australia attained one hundred percent self sufficiency in the supply of crude during the mid 1980s,⁴⁵ but since that time supplies of domestic crude have begun to decrease, while demand has continued to grow. Predictions by the Australian Bureau of Agricultural and Resource Economics (ABARE) show that the demand for petroleum products will continue to exceed

41. *ibid*, pg 15.

42. Prices Surveillance Authority, Report 26, *op cit*, pg 5.

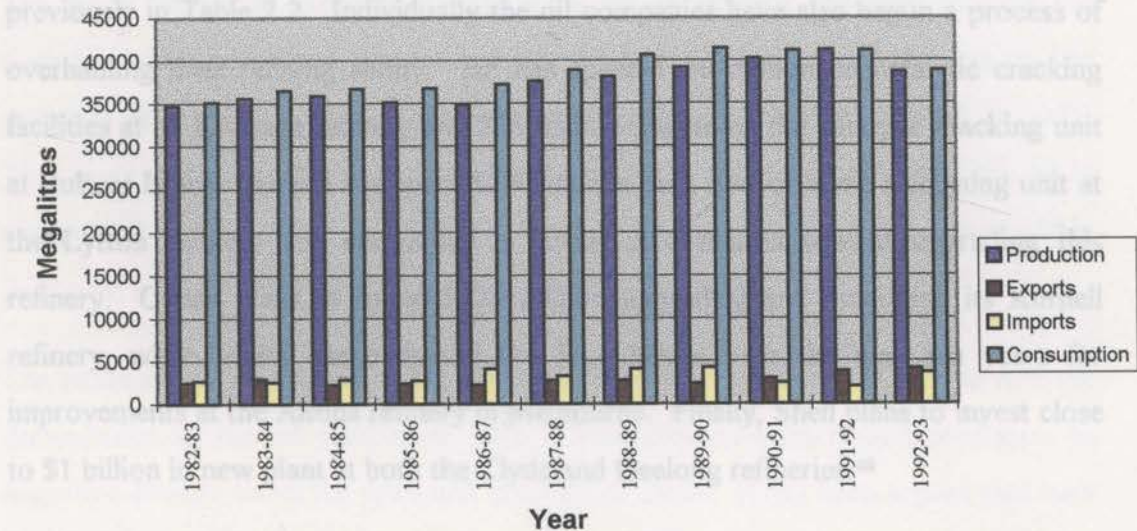
43. McIntosh, (1992), *op cit*, pg 12.

44. AIP, Australia's Oil Industry, *op cit*, August 1992, pg 3.

45. I. Storey, "The Australian Oil Industry-Two Years of Flood Before the Permanent Drought", The Australian Petroleum Exploration Association (APEA) Journal, 1986, pg 106.

supply and that the supply of domestic crude will continue to fall toward the end of the century.⁴⁶

Figure 2.3: Australian Production, Exports, Imports and Consumption of Refined Petroleum Products, 1982-1993



Source: Industry Commission, Petroleum Products, Report No. 40, July 1994, pg 11.

Figure 2.3 illustrates the growth in crude oil imports since 1982. The yield from the Bass Strait oil fields peaked in 1985, with an average production of 500,000 barrels per day. In 1991 this average had fallen to 310, 000. Production of crude oil from the Gippsland basin has also declined from a peak in 1985.⁴⁷ It thus appears that Australia's dependence upon imported crude will increase, unless substantial oil deposits are discovered.

This expected increase has an impact upon the oil companies in Australia and their refineries. Domestic crude is generally of a lighter grade than crude from the Middle East, which means less processing is required in order to produce 'light' petroleum products, such as motor spirit, AVTUR and automotive diesel. Heavier imported crudes require secondary processing to produce the same products, so refiners will require secondary processing equipment in order to be able to use imported (particularly Middle Eastern) crude as a manufacturing feedstock.

46. AIP, Australia's Oil Industry, op cit, August 1992, pg 5.
47. *ibid*, pg 5 and AIP, Oil and Australia, Statistical Review 1992, pg 2.

Refiners are thus faced with the option of making large capital investments in new technology in order to have secondary treatment capacity, or importing refined product directly. Australian refiners have opted for the former alternative; and since the late 1980s have committed large amounts to investment in refineries, as shown previously in Table 2.2. Individually the oil companies have also begun a process of overhauling their refining ability. BP has spent \$150 million on catalytic cracking facilities at its Kwinana refinery and \$28 million upgrading the catalytic cracking unit at Bulwer Island. Ampol has spent \$100 million on a new catalytic reforming unit at the Lytton refinery and committed a further \$20 million toward upgrading this refinery. Caltex plans to spend \$120 million upgrading and modifying its Kurnell refinery, while Mobil has budgeted for \$1.1 billion over the next ten years for improvements at the Altona refinery in Melbourne. Finally, Shell plans to invest close to \$1 billion in new plant at both the Clyde and Geelong refineries.⁴⁸

All the major companies have thus committed themselves to extensive investment in new capital equipment, illustrating their intention to increase their flexibility under conditions of deregulation rather than reducing refining capacity and importing refined product. In order to maximise the return from their investment in new refining technology, the companies would wish that the machinery was used to its highest capacity, particularly minimising downtime, and that the way in which work was organised in the refineries provided for this situation. The companies' reliance on receiving greater returns on their capital investment will thus have direct implications on how work is organised and performed at the workplace.

2.6 Government Regulation

Governments at both a state and federal level have been and continue to be involved in the regulation of the Australian petroleum industry, reflecting the importance of that industry to the Australian economy. Petroleum has become an important source of export revenue, and more importantly, remains an important input for many areas of production and the operation of most transport industries. Government regulation occurs at all levels in the oil industry: exploration, manufacture and distribution. As

⁴⁸ G. E. Hart, "Deregulation of the Australian Oil Market", *The Australian Petroleum Journal*, 1986, pp 54.

48. AIP, *Petroleum Gazette*, 1992/3, pg 24.

the latter two are the subject of this study, this section will concentrate on how the government has regulated these parts of the industry.

2.6.1 Refining and Marketing

The major impact of government regulation on oil refining has been through the domestic crude allocation scheme, which required all Australian refineries to use domestic feedstocks. The requirements on refiners were relaxed slightly in 1985. They were still required to use a specified amount of domestic crude, but any oil in excess of the specified level could be sold by the producers to any other refiner within Australia, or exported.⁴⁹

The crude allocation scheme, along with import parity pricing, was abolished with the deregulation of the oil market in 1988. This allowed refiners and producers to negotiate directly about the price and quantity of crude. It has been argued that such direct negotiation gives the refiner greater flexibility to buy feedstocks that more closely match the configuration of its refinery, or to buy crude from fields closer to its operations, thus reducing transport costs. The producer can sell its product to any purchaser either within or outside Australia, depending upon the price being offered.⁵⁰

The deregulation of the marketing of crude has not revealed any significant trends toward increasing or decreasing the price of petroleum products. The benefits of deregulation do not accrue evenly to all refiners, as the location of refineries and the type of technology they possess each play an important role in determining what feedstocks refiners use. Those refineries that are connected by pipeline to oil fields in Gippsland, Bass Strait and Queensland are restricted in their choices of feedstocks; and similarly refineries in Western Australia find that access to Indonesian crude is less costly than from the east coast of Australia. Refineries with a capacity to refine only indigenous or lighter crudes will also be unable to take advantage of cheaper Middle Eastern crude. These factors have led some to suggest that it would be more profitable for some companies to import refined product than to invest in the capital

49. G. E. Hart, "Deregulation of the Australian Oil Market", The Australian Petroleum Exploration Association (APEA) Journal, 1986, pg 54.

50. PSA, Report No 26 (1989), op cit, pg 21.

needed to refine different types of crude in Australia.⁵¹ However, as already shown, all Australian refiners have invested heavily in new capital equipment over the past five years in order to expand their refining capability.

Government regulation of the oil industry has been most obvious in the marketing and pricing of petroleum products. The marketing of petroleum products was regulated by the Commonwealth firstly through the Petroleum Retail Marketing Franchise Act (1980), which set out the basis under which oil companies could contract with a lessor and conferred rights on the lessor in relation to matters such as security of tenure, grounds for termination, re-assignment and price discrimination. In 1989 this Act was complemented by the establishment of a voluntary dispute resolution scheme known as 'Oilcode'. Secondly, the Petroleum Retail Marketing Sites Act (1980) limited the number of sites that an oil company could operate directly or through a commission agent.⁵² The Industry Commission recommended the repeal of both these Acts on the basis that they were less than effective in achieving their stated aims. This recommendation contradicted the arguments of some industry players, most notably the Motor Trades Association of Australia, which represents many service station operators.⁵³ The Commission report, citing the success of the Oilcode, endorsed a stronger system of self regulation in the distribution sector.

The Commonwealth has historically played a crucial role in the regulation of petroleum prices, which are currently regulated under the Prices Surveillance Act (1983) and the Trade Practices Act (1974). Since November 1995 both these Acts have been administered by the Australian Competition and Consumer Commission (ACCC) which was established under the Competition Policy Reform Act (1995). There has been some type of government regulation over petrol prices in Australia since the beginning of the Second World War. The Commonwealth regulated prices during the war, whereas from 1948 its role was superseded by individual state governments. The South Australian Prices Commissioner became the de-facto price setting authority for Australia from the mid 1950s, when other individual states withdrew their regulation. This situation prevailed until the establishment of the

51. Hart, loc cit, pp 59-60.

52. McIntosh and Company, op cit, pp 28-29 and AIP, Australia's Oil Industry, op cit, pg 28.

Prices Justification Tribunal (PJT) in 1973. The PJT was abolished in 1981, with responsibility for regulating petrol prices vesting in a new Petroleum Products Pricing Authority (PPPA), which was subsumed into the Prices Surveillance Authority (PSA) upon its establishment in 1984.⁵⁴

Intervention in the setting of petroleum prices has been perceived as necessary, given the appearance of price collusion in the market and public concern about companies' market power. The early 1990s saw the PSA set maximum daily wholesale prices for petrol and diesel sold by the major oil companies, and determine maximum charges for freight on wholesale product sold. The Industry Commission has argued that competition in urban markets meant that actual prices were consistently well under the PSA wholesale price and as a result, price controls were not necessary in the market.⁵⁵ The volatility of retail prices is indicative of competition among oil companies to maintain market share. Companies can legally discriminate in respect of the prices charged to different customers, as long as this activity does not lessen competition.⁵⁶

The philosophy embodied in the Industry Commission report and the recent changes to regulation of retailing of petroleum products has been one of less overt government regulation of this sector. There is however evidence of anti-competitive practices among oil companies, in the form of retail price maintenance. Between the proclamation of the Trades Practices Act in 1974 and July 1994 there were six proven breaches of sections 45, 47 and 48 of the Act by participants in the petroleum products industry, from a total of twelve cases initiated by the Trade Practices Commission.⁵⁷ Notwithstanding these proceedings, the Industry Commission was satisfied that price control in the petroleum industry was ineffective and unnecessary. Amendments were made to the Trade Practices Act in the early 1990s, which increased the scope of its coverage and the penalties for breaches. The current role of the ACCC is to maintain surveillance of prices in the petroleum industry and ensure that it remains competitive. These roles were formerly undertaken separately by the

53. Industry Commission, op cit, pp xxxi-xxxiii.

54. PSA, Report 26, op cit, pg 16.

55. Industry Commission, op cit, pp xix-xxi.

56. *ibid*, pp xxiii-xxv.

57. *ibid*, pg 64

Prices Surveillance Authority and the Trade Practices Commission. The decreased emphasis on price fixing has changed the regulatory focus toward maintaining competition. To this end, the ACCC has undertaken to litigate all cases of price fixing in the industry. In accordance with this policy, it took action against Ampol under the Trade Practices Act for price fixing in 1996.⁵⁸ Ampol was ordered to pay \$2.5 million dollars for engaging in price fixing and retail price maintenance.⁵⁹ During the same year the ACCC had several other actions pending against other companies in the industry.

The changes to government regulation of the Australian petroleum industry are designed to allow for greater price competition in the petroleum products market. There is no clear evidence that the price for petroleum products will be lower under the deregulated regime. Nevertheless, there are implications for workplace industrial relations in Australian refineries arising from these legislative changes. As has already been argued, the end of the crude allocation scheme has prompted the remaining refiners to invest in new equipment. The potential for increased price competition in conjunction with this large investment expenditure will encourage refining companies to become more efficient in their refining operations to ensure competitiveness. This will in turn raise company interest in reforming workplace industrial relations, both in terms of work organisation and workplace relations, especially in the context of new technology being implemented. Thus, market movements and government regulatory changes have created an environment where companies are seeking to make operations more flexible (which has implications for the skills of workers) and more efficient (which has implications for workforce size, hours of work and remuneration).

2.7 Conclusion

This chapter has provided an overview of the nature of the petroleum industry and market in Australia. The preceding discussion has identified a number of structural factors which influence the nature of workplace relations through managerial and (to a lesser extent) employee responses. In accordance with Marchington's framework,

58. ACCC Media Release, "Ampol penalised \$3.5 million for petrol price-fix, resale price maintenance" 12 March 1996.

discussed in Chapter One, several market dimensions are important. There are apparent contradictions in the product market in terms of market power. The industry is highly concentrated and has become more so over the last decade. There is a high degree of vertical integration between the manufacture and marketing of petroleum products, with the oil majors owning or controlling around 80 percent of retail sites. These two factors together would seem to mitigate the competitive pressures in the industry and provide the companies with a large degree of market power. However, the companies have shown that they are extremely sensitive to market trends. The changing demand for petroleum products, in particular the increased demand for 'light' products, is a combination of the substitution of alternative (cheaper) energy sources in some market sectors, external prices shock and government regulation. The companies themselves are not in a position to determine the nature of demand for petroleum products and the market is heavily influenced by external forces.

This market sensitivity is reflected in the profitability of the industry. The figures presented earlier in Table 2.2 indicate the volatility of industry profitability, which has in the past decade been influenced by forces outside the control of the companies, such as the supply of crude from both domestic and overseas sources, as well as government regulation of these supplies. The deregulation of the industry should ensure that the companies have greater discretion in controlling their fortunes. Nevertheless, the Industry Commission has argued that there is little evidence of the companies making large profits through the exercise of market power. Support for this argument is demonstrated by the decision by several companies to quit the Australian petroleum industry altogether, or curtail their manufacturing and marketing operations. The Industry Commission has also argued that if companies were exploiting market power to achieve larger profits, then new operators would be entering the industry. However, the costs of entering the manufacturing market are extremely high. The asset value of the downstream sector in Australia was \$9.6 billion in 1993.⁶⁰ A prospective entrant into the industry would have to possess

59. *ibid.*

60. AIP, Downstream Oil Industry Financial Survey, January 1989-December 1993, (August 1994), pg 4.

extremely large amounts of capital if they were to invest in new or existing refining and marketing operations.

An examination of the customers in the industry provides another perspective of the companies' market power. The Industry Commission claims that the concentration of customers for certain petroleum products creates a situation whereby the oil companies cannot restrict competition (see Section 2.3). One of the largest markets for petroleum products is that for motor vehicle petrol. This market is characterised by high degrees of vertical integration between manufacturing and retail and a large number of customers. Customer organisation in this market sector is not nearly as strong as in the aviation and bitumen sectors, thus producing an environment that would enable the companies to exploit their market power. The companies argue that the current industry structure results in fierce competition between them in order to maintain market share, and the Industry Commission maintains that there is no collusive behaviour between the major oil companies.⁶¹ Notwithstanding these arguments, there have been examples of price fixing or retail price maintenance in the industry, as detailed in Section 2.6. Moreover there is a general perception, although largely unproven, that major companies have the ability and incentive to enter into systematic price fixing.

Marchington argues that not only are the structures of product markets important, but equally important are employee and management perceptions of the market. These features are extremely difficult to assess. Management from the major companies, at least publicly, states that the petroleum products market is highly competitive. Changes in the labour market over the last decade have arguably contributed to an employee perception that market competition in the petroleum industry is fierce. This is reinforced by 'objective' changes such as the reduction in the number of companies within the industry and, more importantly, the reduction in employee numbers in the larger companies. These trends, in conjunction with a general deterioration in the external labour market and rising unemployment levels, may shape employees' attitudes toward the regulation of work and, in particular, workplace change.

61. *ibid*, pp 64-67.

The structure of the industry and the nature of both the product and labour markets indicate several possible scenarios for labour management within the industry. The nature of the market and, certainly, the perception of intense competition seemingly constrains management strategy, which appears to be shaped by imperatives to meet changing market demand and maintain existing market share. However, the nature of the production processes, the costs associated with new capital equipment and the lag time in constructing and commissioning such equipment mean that management in the major companies (particularly upper management) has the discretion to make and enact long term business plans. The product market affects upper level management differently to middle and lower level management, with higher level management having greater discretion over decisions regarding investment and planning.

In the Australian petroleum industry the major oil companies have responded to the changes in both the product market and state regulation of the industry in two ways. The first has been to increase investment in capital equipment and upgrade existing manufacturing operations in order to respond to market demands. All of the major companies operating in the industry have invested in new refining equipment, while Ampol and Caltex have merged in order to increase assets and revenue. The alternative, so far overlooked by the major companies, would have been to downgrade existing manufacturing operations and import already refined product from South East Asia. The companies' decisions to increase investment in local production were no doubt influenced by the existing infrastructure and particularly the supply of indigenous crude. A second quite different strategy to meet the changing market conditions, which was adopted by some companies, was to quit the market altogether or withdraw from manufacturing and/or distribution.

The choice between these strategies has very different implications for how labour is managed. The first entails considerable technological change, changes to existing work practices, re-skilling the existing workforce and encouraging more flexible work organisation. As a consequence companies would have to invest in their existing workforce and develop labour management policies designed to retain this skilled labour and extract maximum effort from these workers. The second by its very nature is a cost cutting strategy which relies on reducing workforce numbers, closing

down unprofitable operations and contracting out for labour or buying already manufactured product. The type of strategy and the success of the approach will not be determined by the product market, however it will influence the decisions made by management and the responses of unions and employees. It is conceivable for both of these strategies to be pursued simultaneously within an organisation.

Employee responses to product and labour market changes will also influence the success or failure of managerial strategies. In an environment of high rates of unemployment at an aggregate level and declining employment in the industry, the bargaining power of employees would appear to be low. However, within the downstream sector, resistance to technological change and under-utilisation of capital equipment by employees can be extremely costly to companies. The degree to which employees respond to or resist managerial strategies, as well as the support that they receive from their representative organisations, will be affected by both employees' perceptions of the product market (that is, the degree to which the company's success depends upon modifying work rules in order to remain competitive) and the state of the labour market generally (which affects the availability of alternative employment for employees and alternative employees for the companies). The second of these factors is easier to measure than the first. These market forces influence explicit union and employer association policies, which in turn are reflected in bargaining structures and the strategies of employers and unions. The structure of the organisation and the strategies of management play an important part in determining the effect of market changes. The issues of bargaining structures and organisational structure and strategy are dealt with in the following chapters.

3.2.3 Industrial Tribunals

3.3 Decentralised and Fragmented Bargaining, 1950 - 1970

3.4 The Development of Coordinated Bargaining, 1970 - 1974

3.5 Conclusions

Development and Growth of Industrial Relations in the Australian Oil Industry, 1950-1974.

the Australian Oil Industry, 1950-1974.

3.1 Introduction

The labour management strategies of oil companies in Australia have been shaped by a combination of product and labour market conditions. Market conditions are important for creating an incentive or imperative for change. However, the particular type of change and the ability of management to enact its preferred change, as well as the capacity of unions to resist it, will be directly influenced by both the structure and the scope of formalised bargaining. The level at which formal recognition and bargaining with unions occurs, and the scope of issues determined by this process, has a direct impact on both formal and informal labour regulation in the workplace.

This chapter begins to establish the effect of institutionalised bargaining on labour regulation at the workplace level. It details how the parties are organised for bargaining in the Australian petroleum industry and outlines the bargaining structures they developed between 1950 and 1974. This time frame reflects the development of

3.1 Introduction

3.2 The Parties to Bargaining

3.2.1 Employers

3.2.2 Unions

3.2.3 Industrial Tribunals

3.3 Decentralised and Fragmented Bargaining, 1950 - 1970

3.4 The Development of Coordinated Bargaining, 1970 - 1974

3.5 Conclusions

Chapter Three:

Development and Growth of Industrial Relations in the Australian Oil Industry, 1950-1974.

3.1 Introduction

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This chapter begins to establish the effect of institutionalised bargaining on labour regulation at the workplace level. It details how the parties are organised for bargaining in the Australian petroleum industry and outlines the bargaining structures they developed between 1950 and 1974. This time frame reflects the development of the manufacturing infrastructure in Australia, the majority of which was built in the 1950s and 1960s. Union representation and formal award coverage were each influenced by the timing and location of that development.

The chapter is thus divided into two sections. The first describes how employees and oil companies have organised themselves for the purposes of bargaining, and discusses the structure of the major tribunals involved in the formal award making process. The second deals with how bargaining structures were developed by these institutions and how those structures evolved between 1950 and 1974. The structures of bargaining, in this case manifest in the negotiation of awards, intrinsically influence the discretion of management and employees at a workplace level.

Chapter Two illustrated the changed market conditions in the industry, which created an imperative to modify the manner in which work is organised, performed and rewarded. Established bargaining structures, supported by industrial tribunals, alter the effects of market changes by constraining certain company strategies. It will be argued in the following chapters that employers in the Australian petroleum industry have played an active role in setting the level and scope of formalised bargaining in the industry. The unions operating in the industry have also played a significant role in this process, largely to try to improve their own effectiveness. There has been a clear shift in both the level and scope of bargaining, orchestrated by the companies and unions through the federal industrial tribunal. The result has been a substantial change in the way in which issues related to labour regulation have been determined at the workplace.

3.2. The Parties to Bargaining

There are three main participants involved in collective bargaining in the Australian petroleum industry: employers, unions and industrial tribunals. Companies operating in the industry were introduced in Chapter Two. They have bargained individually and have also organised themselves into a representative association for the purposes of bargaining. Like the companies, the unions representing workers in the industry have elected to bargain both as separate entities and in a combined forum, in their case under the auspices of the Australian Council of Trade Unions (ACTU). Industrial tribunals have played a dual role by setting the environment in which the parties have bargained, as well as actively influencing the substantive terms of agreements. The structure of each category or party is considered in turn below.

3.2.1 Employers

Oil companies have bargained with unions both individually and through an associations formed solely for the purposes of bargaining. This organisation, the Oil Industry Industrial Committee (OIIC), was established comparatively early in the development of the industry. It was formed in 1945 and represented the eleven companies then operating in the industry, namely Altona Petrochemical Corporation

(APC), Amoco, Ampol, British Petroleum (BP), Caltex, Castrol, Esso, Mobil, Shell, H.C. Sleight and Total.

The role of the OIIC has changed over time, contributing to and reflecting changes in the level and nature of bargaining in the industry. Despite these changes, its role can still be broadly categorised as a representative one. It was originally formed to coordinate industrial relations in the industry and represent the companies' views on industrial relations issues.¹ It was never, however, formally an employer association and was never registered under federal or state arbitration legislation. Consequently it did not possess internal mechanisms for the disciplining of member companies. Reflecting this lack of independent status, the OIIC was initially not an autonomous organisation. The committee comprised representatives from each member company, with one elected as chair. The chair of the OIIC was appointed for a fixed time period, with the position rotating between the companies. Before 1972 secretarial support for the OIIC was provided by Shell, while meetings were held on a rotating basis at different company offices.² This structure allowed the companies to retain autonomy over industrial relations while also providing them with a means to present a cohesive stance on industry-wide issues. The loose organisation of the committee reflected its relatively limited role in bargaining with unions. Indeed, between the end of the Second World War and the 1970s, award negotiations largely occurred on a company by company basis.

In 1972 several important changes occurred. First, the Oil Industry Policy Committee (OIPC) was formed, which in combination with the OIIC was referred to as the Industrial Relations Group (IRG)³. This group was to become influential in formulating and implementing the policy of coordinating bargaining across the industry during the 1970s. The members of both the OIIC and OIPC were primarily industrial relations or employment relations managers from the individual companies: that is, managers employed by the companies rather than autonomous staff employed

1. Report of the Joint Commonwealth / New South Wales Working Party to examine the Nature and Feasibility of a Tribunal to regulate Conditions of Employment in the Oil industry in New South Wales, August 1979, pg 56.

2. W. Chesterman, History and Development of Industrial Relations Negotiations in the Oil Industry from 1974-1992, Oil Industry Industrial Secretariat Inc, December 1992, pg 5.

3. *Ibid* 5.

by the OIIC. The second important change was the establishment of the Oil Industry Industrial Secretariat (OIIS) which supported the IRG. The secretariat was funded by contributions from the companies and was operated by a single individual, who acted as secretary to both the OIIC and OIPC and maintained records and other information pertaining to industrial relations in the industry.

Both the OIIC and the OIPC represented mechanisms by which the oil companies sought to coordinate and develop broad industrial relations policy and, in particular, strategies for bargaining. However, the individual companies maintained the independence to pursue their own specific industrial relations strategies within each organisation. The importance of the OIIC lay in its function of allowing the companies to present a united stance for the purpose of negotiating awards.

3.2.2 Unions

Employee representation in the oil industry has historically been more fragmented than employer representation. Table 3.1 lists the organisations that have represented workers in the industry.

Source: Commonwealth Department of Employment and Industrial Relations, *Submission to the Joint Commonwealth/State Oil Industry Working Party*, 1979.

Union coverage in the oil industry has been determined by historical accident. There has been uniform national coverage of clerical, maintenance, store and the majority of transport workers in the industry, however operators may belong to one of three different unions, depending upon the refinery in which they work. In Western Australia and Queensland, coverage is exclusive to the AWU; while in South Australia the FSPU holds exclusive coverage. In NSW representation is split between the AWU and the FEDFA, as is the case in Victoria, where the AWU and the FSPU split coverage of operators at different refineries. The FEDFA also represents a small number of employees who work as boiler attendants in some refineries (for example Shell Geelong and BP Kwinana), and in the period until 1970 there were disputes

3. *ibid* 5.

Table 3.1: Union Representation of Employees in the Petroleum Industry.

Occupational Category	Union Representation (Before 1974)
Operator	Australian Workers Union (AWU) Federated Storemen & Packers Union (FSPU) Federated Engine Drivers and Firemens' Association (FEDFA)
Maintenance	Amalgamated Engineering Union (AEU) later Amalgamated Metal, Shipwrights and Foundry Workers Union (AMSFWU) (post 1972). Federated Iron Workers (FIA) Australian Society of Engineers (ASE) Electrical Trades Union (ETU)
Professional Engineers	Association of Professional Engineers, Australia (APEA)
Clerical	Federated Clerks Union (FCU)
Transport	Transport Workers Union (TWU) Australian Workers Union (AWU) - Northern Queensland
Stores	Federated Storemen and Packers Union (FSPU) Australian Workers Union (AWU) - Northern Queensland

Source: Commonwealth Department of Employment and Industrial Relations, Submission to the Joint Commonwealth/State Oil Industry Working Party, 1979.

Union coverage in the oil industry has been determined by historical accident. There has been uniform national coverage of clerical, maintenance, store and the majority of transport workers in the industry; however operators may belong to one of three different unions, depending upon the refinery in which they work. In Western Australia and Queensland, coverage is exclusive to the AWU; while in South Australia the FSPU holds exclusive coverage. In NSW representation is split between the AWU and the FEDFA, as is the case in Victoria, where the AWU and the FSPU split coverage of operators at different refineries. The FEDFA also represents a small number of employees who work as boiler attendants in some refineries (for example Shell Geelong and BP Kwinana); and in the period until 1970 there were disputes between the AWU, FEDFA and FSPU over the representation of operators. In the

1950s and 1960s the AWU attempted to gain representation of the operators at the Shell Clyde refinery from the FEDFA, and the FSPU sought to exclude the AWU from representing operators at the Shell Geelong refinery.⁴ Union coverage in the industry was also complicated by the existence of separate unions for small numbers of workers who worked in the manufacturing sector, namely boiler makers, laboratory technicians, supervisory staff, professional engineers, scientists and firemen.

The structure of the unions has been important in influencing the nature and level of negotiations. Most unions are federal unions; however operators at the Clyde refinery belong to the NSW (also called the Coast) Branch of the FEDFA rather than the federal body, due to constitutional limitations in the federal branch rules. There is no such limitation in the AWU, where both the state and federal branches are entitled to recruit oil refinery operators.

It is important to understand how these unions are structured, and particularly how bargaining is carried out through the unions in the industry, as this provides an insight into where the locus of power lies in the bargaining process, which in turn has important implications for the extent to which workplace issues are addressed through formal bargaining. As this study is primarily concerned with operators and to a lesser extent maintenance staff, unions representing these types of workers will be considered in more detail.

The AWU represents the largest number of operators employed in the industry. Prior to 1970, operators joined through separate state branches in NSW, Queensland and Western Australia. The branches in Queensland and Western Australia were closely aligned to the federal executive, but this was not the case in NSW, where the operators were fiercely independent. In the late 1960s operators at the Kurnell and Matraville refineries sought state registration for a new union, to be called the Petroleum Refiners' Operators Association (PROA), which evoked strong objections from the NSW branch of the AWU. A compromise was agreed to by the operators and the AWU whereby the refinery workers remained in the union but established

4. See 1969 NSW Arbitration Report 45, 1969 NSW Arbitration Report 108, 170 NSW Industrial Gazette 759 and 78 Commonwealth Arbitration Report 308.

their own branch within the union structure, called the Oil Industry Branch (OIB).⁵ The jurisdictional distinction between the state and federal body of the same union in this case created a situation which allowed the operators in NSW to remain autonomous in their activities.

A similar situation, although on a smaller scale, existed within the FEDFA, which has sole coverage of operators at the Shell Clyde refinery in NSW. These workers organised themselves as an independent branch within the Coast branch of the FEDFA. The union also covered a handful of workers in other refineries, who were represented by the federal council. The internal structure of the union meant that the federal branch had little control over the Coast branch, and the Coast branch distinguished itself from the federal branch by following a policy of encouraging rank and file autonomy. The situation was explained by a representative of the federal council in de-registration proceedings before the Commonwealth Arbitration Court in 1955 as follows:

“.... (W)e have some difficulty with the branch in New South Wales. They do not see eye to eye with us on matters of industrial policy and disputes. They carry on a policy that the men concerned are entitled to make their own decisions and they believe in that policy, and although they would advise the men that they should carry out decisions of the branch, it would be contrary to the policy which they had followed for many years of allowing the men themselves to make their own decisions in these matters.”⁶

The FSPU did not suffer the same jurisdictional split between state and federal branches. The same section of the federal branch of the FSPU covered operators at two refineries as well as storemen in most refineries.

Of the maintenance unions, perhaps the most important was the AEU, which represented fitters and riggers, as well as boilermakers and sheetmetal workers after 1972. Like the FEDFA, the AEU had an explicit policy of encouraging rank and file

5. M. R. Cockburn and D. Yerbury, 'The Federal/State Framework of Australian Industrial Relations', in K. Cole (ed). Power, Conflict and Control in Australian Trade Unions, (Ringwood: Penguin, 1982), pg 72.

6. Quoted in G. Teagle, The Consequences of De-Registration on the Occupational Survival of a Trade Union: Three Case Studies, B.Ec (Hons) thesis, Department of Industrial Relations, University of Sydney, 1979, pg 30.

participation in union management. Sheridan's analysis of member participation in the AEU argues that the constitution governing the Australian branch of the AEU was "ultra democratic".⁷ In accordance with this policy, fitters and riggers employed by the oil companies were organised into an autonomous section within the federal branch of the AEU. This ensured that delegates from different refineries remained in contact with one another and that all award wage claims were consistent across the industry. However, the workplace AEU delegates were empowered to deal with most workplace issues.

Toward the end of the 1960s the ACTU became an increasingly important party in award negotiation in the oil industry. The role of the ACTU will be referred to explicitly in the following sections, however, at this stage it is the structure of the ACTU that is relevant. It has long been held that the ACTU carried little authority and no power to influence its affiliate organisations.⁸ This lack of formal authority over affiliate members, the inability to discipline members, the absence of several large and influential trade unions, and the existence of alternative union peak bodies were all taken to indicate weakness in the ACTU. Such deficiencies were only redressed in the late 1970s and early 1980s.⁹ Martin argued in the late 1950s, however, that the authority of the ACTU was exercised through its coordination of union activities, rather than the actual imposition of decisions or policies on members:

"The trend toward greater centralisation of trade union activity, is also beginning to be reflected in the organisational structure of the trade union movement. The establishment, usually on an industry basis, of more or less closely organised groups of unions operating outside the central union organisations has been common - though seldom greeted with any great enthusiasm by the leaders and supporters of the central organisations."¹⁰

7. T. Sheridan, "Democracy Among Aristocrats: Participation of Members in the Affairs of the AEU (Australian Section) 1900-1972, Journal of Industrial Relations, 21 (2) June 1979, pg 163.

8. See R. M. Martin, "The Rise of the Australian Council of Trade Unions", The Australian Quarterly, March 1958, pg 30 and G. Griffin, "The Authority of the ACTU", Economic and Labour Relations Review, 5 (1) June 1994, pp. 81-103.

9. For a discussion of these arguments see G. Griffin, loc cit and M. Bray, "Unions, the Accord and Economic Restructuring" in J. Brett, J. Gillespie & M. Goot (eds), Developments in Australian Politics, (Melbourne: Macmillan, 1994).

10. R. M. Martin, loc cit, pg 38.

While the internal structure and decision making processes of the ACTU before the 1970s appeared to have placed little authority and discretion with the peak organisation, the ACTU could influence its affiliate members by providing the forum for inter-union coordination. This mechanism became an avenue through which the ACTU came to exercise considerable influence in the direction and form of industrial regulation in the oil industry.

3.2.3 Industrial Tribunals

While the federal Commission has had the greatest impact on labour regulation in the oil industry, state tribunals, in particular the NSW Industrial Commission, have had a significant effect on bargaining in the industry. They have done so particularly through the maintenance of wage relativities between different occupations and through the maintenance of principles such as comparative wage justice.

The role played by each of these tribunals will be explored in detail in subsequent sections, however in order to understand that role it is necessary to identify the structure of each one in relation to the industry. The major differences in the powers of state and federal tribunals derive from the constitutional limitation on the latter, which has also resulted in structural differences between the tribunals. The members of the federal Commission have historically undertaken both conciliation and arbitration roles, meaning that a Commission member may conciliate a matter and, if this process fails, subsequently arbitrate the same matter. With the establishment of the panel system within the federal Commission in 1972, members were assigned to a specific industry panel, which allowed them to develop specialised knowledge of industrial relations in certain industries.¹¹ Issues of national importance and matters in nationally significant industries are often handled by the Full Bench of the Commission. A full bench is comprised of at least three Commission members, two of whom must be of Presidential status. The Commission's dealings with the oil industry as a whole became more systematic in the 1970s. The federal Commission came to take a uniform view of the oil industry, rather than dealing with regulation on a case by case basis. Aided by the policies of both the unions and companies,

Human Resource Management in Australia (Melbourne: Macmillan, 1991), pp 162.

12 P. Punch, *Guidebook to Australian Industrial Laws*, 3rd Edition. (Sydney: CCH, 1983), pp 461-463.

industrial issues in the oil industry were handled by Commission members with an understanding and knowledge of the industry; and issues of national significance (particularly wages) were increasingly processed through full bench hearings.

In the NSW jurisdiction the structure differs, particularly in terms of the distinction between conciliation and arbitration. Conciliation Committees have been established within the NSW Commission to deal with minor matters arising from particular callings or industries. These committees are chaired by Conciliation Commissioners, with the power to make orders and recommendations and to call compulsory conferences, which usually deal with the day to day industrial issues associated with an industry or occupation.¹² However, for matters requiring arbitration, disputes are referred to the Industrial Commission proper, where a Justice appointed to the Commission bench hears the case in full court session. As is the case in the federal tribunal, appeals from a single Commission member are heard by the full bench. Although there is no formal panel system in the NSW Commission, Commission members are appointed to oversee certain industries. These procedural differences, combined with the fact that the NSW tribunal has jurisdiction over a smaller number of enterprise awards and agreements, mean there is less emphasis on uniformity and more concern with case by case solutions. However in both cases, the discretion of the Commission members is clearly tempered by consistent principles developed in major Commission hearings, such as wage fixing principles.

The manner in which these three parties (employers, unions and tribunals) have interacted has changed over time, in accordance with a changing external structure and the evolution of the strategies of the parties themselves. The processes of bargaining, as well as the outcomes of this bargaining (in terms of both procedural and substantive regulation) have had implications for the scope of labour issues to be determined at a workplace level. The changes in the product market outlined in the previous chapter, combined with the changing bargaining structure in the oil industry, have had repercussions for labour regulation at the workplace level. In order to

11. M. Gardner and G. Palmer, Employment Relations. Industrial Relations and Human Resource Management in Australia, (Melbourne: Macmillan, 1991), pg 162.

12. P. Punch, Guidebook to Australian Industrial Laws, 3rd Edition, (Sydney: CCH, 1983), pp 461-463.

understand the effect of the changing bargaining structure on regulation of labour at the workplace it is necessary to understand the nature of formal bargaining in the industry.

3.3 Decentralised and Fragmented Bargaining, 1950 - 1970

Formalised industrial relations developed in the oil industry generally, and in the refining sector in particular, after 1950. It was in the period from 1950 to 1970 that types of awards (that is, enterprise, industry or occupational) were determined by the companies and unions, and the legal jurisdiction in which these awards were ratified was defined. The level of bargaining and the jurisdiction in which it occurred had an overwhelming influence upon industrial relations in the industry, causing fragmentation in award coverage across the industry. The fragmentation produced by differing jurisdictional and award coverage was exacerbated by the diverse union representation of workers in the industry (as outlined earlier in Section 3.2.2). This fragmentation of union representation meant that in order to be successful, any attempt to develop industry uniformity would require a large degree of cooperation between the respective unions. Moreover, an important ramification of both the union coverage and the level of bargaining was that operators had a long history of local level bargaining and, as a result, some developed workplace union organisation and representation. Award coverage thus clearly gave rise to both forces for consistent employment conditions across the industry, as well as the opportunity for disparity in these conditions and employment regulation. By the early 1970s the companies, through the OIIC, had developed a strategy to coordinate award making and wage determination across the industry. The companies' strategy was actively supported by some industry unions and resulted in the creation of a national industry forum for oil industry award negotiation.

Before considering the development of award coverage and bargaining during the post war boom, it is important to understand the timing of industry development, particularly that of the refining infrastructure. Table 3.2 provides a graphical outline of the life span of the refineries owned and operated by the major oil companies in Australia. It illustrates that most refining capacity was established in Australia in the decade between the mid 1950s and the mid 1960s.

Table 3.2: Australian Refineries: Establishment and Years of Operation

						Y	E	A	R	S	1	9	2	4	-	1	9	9	3					
REFINERY	24	27	30	33	36	39	42	45	48	51	54	57	60	63	66	69	72	75	78	81	84	87	90	93
ALTONA (1949)																								
BULWER ISLAND (1965)																								
CLYDE (1926)																								
GEELONG (1954)																								
KURNELL (1956)																								
KWINANA (1955)																								
LAVERTON (1924-1954)																								
LYTTON (1965)																								
MATRAVILLE (1949 - 1984)																								
PORT STANVAC (1963)																								
WESTERNPORT (1966 - 1985)																								

Source: Royal Commission on Petroleum, Towards a National Refining Policy, Fifth Report, (Canberra: AGPS, 1976) and Industry Commission, Petroleum Products, Report No 40, July 1994.

Just as there was no coordination or planning of the timing, size and location of Australia's oil refineries, there was no coordination of award development in the industry. Two factors in particular inhibited greater industry coordination. Firstly, all occupations in the industry did not fall within the same jurisdiction. Secondly, award coverage varied between occupational groups, with some covered by industry awards, others by occupational and enterprise awards. This fragmentation was exacerbated by the lack of uniform union coverage of occupational groups, in particular operators and maintenance workers. An examination of each of these factors in turn will highlight the ad hoc development of award coverage and bargaining in the industry.

Table 3.3: Jurisdictional Coverage of Oil Industry Workers

Occupation	Refinery									
	Altona	Bulwer Island	Clyde	Geelong	Kurnell & Matraville	Kwinana	Laverton	Lytton	Port Stanvac	Westernport
Operators	Federal	Federal	NSW	Federal	NSW	WA	Federal	Federal	Federal	Federal
Maintenance	Federal	Qld	Federal	Federal	NSW	WA	Federal	Federal	Federal	Federal
Clerical	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal
Stores	Federal	Federal	Federal	Federal	NSW	Federal	Federal	Federal	Federal	Federal
Transport	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal	Federal

Source: Federal Department of Employment and Industrial Relations Submission to Joint Commonwealth/State Oil Industry Working Party and various awards.

As Table 3.3 illustrates, the majority of oil industry workers were covered by federal awards, however coverage of operators and maintenance workers has been split between several jurisdictions. Refinery operators in NSW and WA had their employment conditions set by state awards or agreements, while the employment of operators in Victoria, Queensland, and South Australia was subject to federal awards or agreements. All clerical workers in the industry were covered by a federal award, as were storemen working in the refineries and terminals after 1965. Transport workers, who were usually employed at distribution terminals attached to refineries,

were covered by a federal award from 1948. Maintenance workers were primarily covered by federal awards, in particular the Metal Trades Award, however in Queensland (until 1963), Western Australia (until 1967) and at the Kurnell refinery they were subject to a state registered award or agreement. Thus, while the majority of workers employed in the oil industry made awards or agreements through the federal tribunal, that tribunal did not have jurisdiction over the entire industry and in particular over all refinery operators. The lack of a uniform jurisdiction resulted in inconsistencies in the regulation of employment across the industry.

Jurisdictional differences were but one impediment to greater coordination of bargaining. The type of award was an additional source of fragmentation. A detailed outline of award coverage in the industry up to 1972 is provided in Appendix 1; but Table 3.4 below provides a summary of the types of coverage for the major occupational groups in the industry.

Table 3.4: Type of Award Coverage of Oil Industry Workers.

Occupational Group	Award Coverage
Operators	Enterprise and Occupational
Maintenance	Occupational
Clerical	Industry
Stores	Industry
Transport	Industry

Source: Federal Department of Employment and Industrial Relations Submission to Joint Commonwealth/State Oil Industry Working Party and various awards.

Clerical workers at all refineries had their conditions set by the Clerks (Oil Companies) Award. Storemen (excepting those at Kurnell) had their conditions set originally by the Storemen and Packers (Oil Stores) Award, which was later superseded for all storeworkers employed by the major oil companies, by the Storemen and Packers (Oil Companies) Award. Refinery operators who were

represented by the FSPU were subsequently covered by the Storemen and Packers (Oil Refinery) Award, which was created in the early 1970s.¹³

Transport workers were initially covered by the Transport Workers (Oil Stores) Award, first established in 1949, and supplemented by agreements covering transport workers employed by Shell in Victoria and Queensland Refineries Pty Ltd in Queensland. In northern Queensland, the transport workers were covered by the AWU and were subject to a state award. The Transport Workers (Oil Stores) Award was replaced by the Transport Workers (Oil Companies) Award in 1961.

Maintenance workers were predominantly covered by a single federal award, the Engineering (Oil Companies) Award, created in 1959, which originally covered workers in New South Wales, Victoria, South Australia, Tasmania and the Australian Capital Territory and was extended to Queensland in 1963 and to Western Australia in 1967.¹⁴ The only employees exempted from this award were maintenance workers at Kwinana (until 1977), and those at the Kurnell refinery. Their employment conditions were governed by company awards and industrial agreements respectively.¹⁵

While three of the five major occupational groups were covered by industry awards, the other two were subject to enterprise and occupational awards. Refinery operators are the most prominent example of this second group. Each refinery was subject to an individual award covering the working conditions of operators, meaning that they negotiated their employment conditions at a local level. However, among the operators there was a growing awareness of relativities between refineries, particularly given that one union covered operators in most refineries.

Refineries that were organised by the AWU began to coordinate their claims by the late 1960s, resulting in a situation whereby several enterprise awards would be varied either on the same day, or during the same month, due to the union serving joint logs of claims. This exacerbated a trend toward wage leapfrogging and wage flow-ons,

13. 105 Commonwealth Arbitration Report 812 and 142 Commonwealth Arbitration Report 378.

14. Federal Department of Employment and Industrial Relations Submission to Joint Commonwealth/State Oil Industry Working Party, pg 10.

which had begun to emerge within the industry. They were made possible by a unique situation whereby several of the awards in the industry contained the same occupational classification, but with different rates of pay. Such classifications included: operators, storemen, fork lift drivers and laboratory assistants. While this was not unusual in separate establishment or enterprise awards in other industries, the oil industry awards were multi-employer, multi-establishment, inter-state awards which covered workers belonging to different unions.¹⁶ Unions were prompted to make claims to retain relativities between occupational groups (leapfrogging) or between refineries (flow-ons). Leapfrogging occurred when an occupational group (usually the metal or maintenance workers) obtained a wage increase or improved award allowance which upset the wage relativities between the occupational groups in the industry, prompting other groups in the industry to seek to obtain the same increase in order to retain their earnings relative to the first group. Wage flow-ons resulted when the operators at a particular refinery won an increase in either wage or allowance, and operators at other refineries also sought an increase to maintain the relativities between the different refineries.

Greater organisation of wage bargaining across occupational groups in the industry, which was increasingly coordinated by the ACTU, contributed to the growth of a pattern of industry wide bargaining. It also created some consistency in the working conditions of employees in the same occupations at different sites. The move toward greater formal coordination began in the late 1950s. In 1959, the companies approached the maintenance unions, through the ACTU, proposing the creation of an industry award to replace the federal metal trades award.¹⁷ The unions involved, namely the Amalgamated Engineering Unions, the Australasian Society of Engineers, The Boilermakers Society, the Electrical Trades Union, the Federated Ironworkers Association and the Sheetmetal Working Agricultural Implement and Stovemaking Industrial Union, agreed to the suggestion. The result was that maintenance workers in the industry were brought together under a single award, the Engineering (Oil

15. *ibid.*

16. 213 Commonwealth Arbitration Report 487.

17. Oil Industry Industrial Committee - Report of conference between Oil Companies and Federal Representatives of the Metal Trades Unions held in conference room, Shell House, corner Carrington St and Margaret St, Sydney, Wednesday 30th April 1958. (Noel Butlin Archives, ACTU Holding, N21/1491).

Companies) Award, which was negotiated as a consent award. The Engineering (Oil Companies) Award incorporated the pace-setting classification of 'fitter' and established relativities between this classification and the other maintenance groups. The foundation for the Engineering (Oil Companies) Award was the Metal Trades Award, but the industry award included higher margins and provisions for special rates and shift work.¹⁸

This development, combined with the coordination of claims across AWU refineries under federal awards, contributed to greater stabilisation of inter-refinery relativities. In the years immediately following the creation of this award, the ACTU held little formal authority over the unions respondent to the award, as was illustrated in 1962 when some of the maintenance unions took industrial action in a campaign to extend annual leave to three weeks. The campaign brought condemnation from the oil companies and mild rebuke from the ACTU. It is clear that the OIIC considered that the ACTU should adopt the role of controlling its affiliates and ensuring that the unions fulfilled their obligations under the award.¹⁹ The Engineering (Oil Companies) Award became the pacesetter for the industry as a whole (particularly as it contained the classification of 'fitter'). The pattern emerged whereby this award would be varied and other industry awards would follow. A clear informal coordination of wage bargaining emerged, with all industry awards attempting to keep pace with the Engineering (Oil Companies) Award.

Despite the growing informal patterns of industry bargaining, prior to the 1970s there was little formal coordination of the award renewal and variation process. Re-negotiation of the Engineering (Oil Companies) Award saw the maintenance unions form a negotiating committee, made up of representatives from the various unions and administered under the auspices of the ACTU, although officers of the ACTU played no role in the award bargaining process itself. In contrast, the remaining unions in the industry all negotiated awards and agreements independently of each other. The increasing influence of the Engineering (Oil Companies) Award helped to facilitate greater cooperation between unions in the industry, particularly with its

18. 105 Commonwealth Arbitration Report 335. and see also Electrical Trades Union of Australia and others v Altona Petrochemical Company Pty Ltd and others, 16 October 1970, Print No B5642.

19. This is shown in the correspondence from the Chairman of the OIIC to the Secretary of the ACTU. During 1962 the OIIC sent several letters of protest concerning industrial action taking place at the Altona and Geelong refineries. (Noel Butlin Archives N21/1491 and N21/1492).

extension into Queensland and Western Australia. For example, during 1967 the FSPU began negotiations with the oil companies over the renewal of their award. This prompted the Metal Trades Federation of Unions to suggest that meetings should be held between unions in the industry, particularly the Metal Trades Federation, FSPU and TWU, to avoid the terms of one award having an adverse impact on the whole industry. This development, combined with the coordination of claims across AWU refineries under federal awards, contributed to greater stabilisation of inter-refinery relativities.

However, this stabilisation was inhibited by the flow-on of supposedly local allowances from one refinery to the others.²⁰ This point was reinforced in a decision by Commissioner Neil of the federal Commission in the 1978 Oil Industry case, where he said, with reference to wage setting in the industry:

"The most cursory examination of the history of the oil industry establishes beyond doubt that, notwithstanding an ad hoc approach, the past practice..... has been for virtually every new movement in wages and conditions at any one point within the industry to inevitably spread across the industry as a whole."²¹

This 'past practice' in the industry and the pressure it placed on the companies provided an impetus for them to attempt to coordinate wage bargaining across the industry. Wage costs as a proportion of total costs in the industry are relatively small. However, the potential stability in wage movements which would be provided by coordination of award renewals would allow the companies to concentrate on production, distribution and marketing activities.²² It would also reduce the prospect of industrial action in one company threatening the maintenance of its market share. As shown in Chapter Two, the maintenance of market share is an important priority for the major oil companies. It was the preoccupation by the employers with coordinating wage movements through creating a formal industry bargaining

20. See 213 Commonwealth Arbitration Report 500; also Federal Department of Employment and Industrial Relations Submission to Joint Commonwealth/State Oil Industry Working Party and Report of the Joint Commonwealth / New South Wales Working Party, pg 59.

21. 213 Commonwealth Arbitration Report 499.

22. These sentiments were expressed by a former Industrial Relations Manager of Esso who had also worked for AMOCO and taken part in the Common Negotiations (Interview 25 November 1992).

structure, and the resistance by some groups of employees and state tribunals to this coordination, which characterised industrial relations in the oil industry from the 1970s to the 1980s.

In summary, this section has shown that the development of formal bargaining in the oil industry occurred in an ad hoc manner, reflecting the actual establishment of Australia's refining infrastructure. The result was fragmented union coverage and jurisdictional coverage and a combination of different awards across the industry: in short, no uniform industry bargaining structure. With the steady growth of the industry during the decade between 1955 and 1965, this fragmented bargaining structure began to be problematic for the unions, but more particularly for the companies. Both sides made attempts to systematize award regulation, the metal industry unions through developing a cohesive bargaining unit and the employers through agitating for industry wide outcomes. This trend reflected the desire by both parties to regulate certain issues outside the workplace, especially wages. These attempts to move the level of wage negotiation, as well as restructure the mechanisms of bargaining, threatened the scope for workplace regulation. Centralising wage determination at an industry level would remove discussion of wage rates and allowances from workplace negotiations, which would effectively limit the capacity of unions and management at the workplace to jointly regulate how work was organised, performed and rewarded.

3.4 The Development of Coordinated Bargaining, 1970 - 1974

The early 1970s saw the companies attempting to establish greater coordination of award renewal in the oil industry, largely in response to their inability to isolate wage increases granted either to one occupational group or in one refinery. The employers' initiative resulted in the adoption of a mechanism known as 'common negotiations' in 1974. In order to create an effective industry bargaining structure, the companies, the ACTU, executives of the federal unions and the federal government cooperated in an attempt to bring the entire industry within the jurisdiction of the federal Commission. These initiatives encountered resistance from some sections of the industry, most notably refinery operators at Kurnell, and to a lesser extent the Caltex company and state tribunals. As a result of this process, the period from the early 1970s to the

early 1980s saw industrial disputation in the industry increase. Much of this conflict was concentrated around the issue of legal jurisdiction and the establishment of a truly national industry forum. It became increasingly apparent that jurisdictional coverage and union coverage were the essential factors that hindered the development of a uniform industry bargaining forum.

The Engineering (Oil Companies) Award (1968) expired in mid 1970. Since its creation, this award had been renewed by consent between the parties. However, during the 1970 renewal, agreement could not be reached between the oil companies and the unions on wage rates to be included in the new award. The Engineering (Oil Companies) Award was arguably the most important of the industry awards and 1970 marked the first time that the award was not made by consent, instead requiring arbitral intervention for its finalisation. The impasse resulted in strike action by maintenance workers in all refineries and the first major oil industry case in the Australian Conciliation and Arbitration Commission (ACAC).

There was some dissension within the union movement about the methods by which the 1970 award should be renewed. The AEU wanted no involvement from the ACAC, being content to negotiate the award directly, without Commission interference. In contrast, the ACTU under its new President (R.J.L. Hawke) wanted to progress the award through the federal Commission, using it as a test case to challenge the Commission's wage fixing principles.²³ The ACTU prevailed and the case focused on the federal Commission's principles on 'industry capacity to pay', as enunciated in the 1966 GMH case. The argument proffered by the ACTU on behalf of the maintenance unions was that the oil industry could afford to pay increased wages and the unions' claim should be granted. The unions' case was, however, unsuccessful. The full bench of the Commission refused to accept the 'capacity to pay' argument in the oil industry, particularly as it feared flow-ons to other unrelated industries.²⁴ The new 1970 award was consequently arbitrated, the final wage quantum reflecting the companies submission.

23. Sydney Morning Herald, 25 July 1970.

24. Electrical Trades Union of Australia and others v Altona Petrochemical Company Pty Ltd and others, 16 October 1970, Print No B5642.

The renegotiation of the 1968 engineering award (in 1970) and the subsequent arbitration hearing signaled the beginning of increased federal Commission intervention and greater organisation of award renewal in the industry. The trend was hastened by the emergence of coordinated industrial action by maintenance workers, and the consequential impact on petrol supplies. One of the effects of greater coordination was to remove the discretion of delegates covered by enterprise awards and local level management to determine issues such as wages and allowances. Those issues were instead increasingly determined by industry level bargaining or by arbitration through the federal Commission.

Greater coordination of award negotiations in the industry also increased the influence of the ACTU over its affiliates. The growing authority of the ACTU was illustrated by the issue of the thirty five hour week. The expiry in 1972 of the 1970 Engineering (Oil Companies) Award saw the ACTU for the first time coordinate the unions' claim for award renewal. Part of the union claim related to a thirty five hour working week. The companies, through the OIIC, refused to negotiate the award until this particular item was removed from the claim. Negotiations failed and strike action by the maintenance workers followed. Commission hearings under Justice Sir John Moore resulted in this part of the claim being deferred as part of a settlement package.²⁵ The union decision to pursue a thirty five hour week was largely determined by ACTU policy. In the early 1970s a committee formed by the unions (through the ACTU) to look at work and leisure time recommended that workers have their hours of work reduced. The oil industry was deemed by the ACTU as a suitable target for this attempted reduction in working hours.

Subsequent to its deferral in the 1972 settlement, the issue of a thirty five hour working week also produced an agreement on a formal mechanism for industry bargaining. The adoption of 'common negotiations' came about with the implementation of the Standard Hours (Oil Industry) Award in 1973,²⁶ and was a concession made by the federal unions in return for the introduction of a thirty five hour week through the provision of rostered days off by the companies. The standard

25. Information Paper on the Australian Oil Industry prepared by the Federal Department of Employment and Industrial Relations, 1975, pg 9.

26. Cockburn and Yerbury, op cit, pg 72.

hours award set out the hours of work for both day workers and shift workers. The significance of the award itself lay in its application: it was the first award to cover virtually the entire oil industry. The federal award took precedence over state awards and agreements where any inconsistency emerged; and to that extent, workers in state jurisdictions were subject to the provisions of this award. Even more importantly, the negotiations for this award produced an agreement, initiated by the companies, to adopt a forum for the common negotiation of oil industry awards in the future. The term 'common negotiations' referred to the establishment of a 'common forum' for the renewal of awards. It originally entailed the companies (represented by the OIIC) meeting with the federal and state unions representing maintenance workers, operators and storeworkers to renegotiate the awards covering these workers. By simultaneously renewing all awards covering refinery workers, the companies hoped to avoid the problem of flow-ons and leapfrogging. The terms of the original agreement were included in the Standard Hours (Oil Industry) Award. The agreement set out that:

"In respect of all awards and agreements (except the Clerks' (Oil Companies) Award) common negotiations will be conducted in respect of major conditions such as hours of work, annual and sick leave, overtime, meal allowances and shift work standards."²⁷

Further, to allow for the implementation of common negotiations, it was agreed that the following procedures were to be adopted:

- "1) The A.C.T.U. should formulate on behalf of all Unions a list of common claims in respect of major conditions and the Oil Industry should do likewise.
- 2) Following an exchange of these claims, a meeting is to be arranged to mutually agree which claims have general application. Claims not considered to have general application may be dealt with in individual award/agreement renewal negotiations.
- 3) Negotiations to commence on the claims agreed to be included in the common negotiations.

27. Oil Industry Industrial Committee. Common Negotiations, 30th April 1974. (Noel Butlin Archives, N72/610).

4) The results of these common negotiations to be adopted in each award/agreement as it is renewed.”²⁸

Notably, this original agreement did not include wages as an issue for common negotiation; and it excluded important unions and awards. The Clerks (Oil Companies) Award was not covered by the agreement, and while both the TWU and the AWU were party to the agreement, both initially refused to take part in the common forum. The agreement did set out, however, the intent to coordinate the bargaining of major conditions across the refining industry and the establishment of procedures to achieve this.

The terms of the agreement were tested with award negotiations in mid 1974. The AWU, TWU and FCU did not participate; nevertheless, negotiations proceeded with respect to the Engineering (Oil Companies) Award, the Storemen and Packers (Oil Companies) Award and the Storemen and Packers (Oil Refineries) Award. The unions succeeded in initiating negotiations over wages and allowances (nominally not an issue for common negotiations), with the outcome of this bargaining round being a flat wage increase and a transport and location allowance, which subsequently flowed on to all refineries and the transport and clerical awards.²⁹ Common expiry dates were inserted into the awards made as a result of the common negotiations, with the industry awards due to expire every two years.

In summary, the period between 1970 and 1974 witnessed the development of a national industry level mechanism for bargaining awards in the oil industry. It was the result of an explicit strategy by the companies, through the OIIC, to centralise the setting of major employment conditions in the industry in an attempt to overcome the problems of wage flow-ons. While the common forum was established in 1974, it did not cover all awards in the industry, with several major awards being excluded. The development of the common forum represented an extension of the trend toward greater coordination of award negotiations in the industry. It also represented the formalisation of coordinated bargaining and importantly specified a role in this process for the ACTU as well as the individual unions. This allowed the ACTU

28. *ibid.*

29. Federal Department of Employment and Industrial Relations, *Submission to Joint Commonwealth/State Oil Industry Working Party*, pg 13

greater responsibility for negotiation of awards in the industry. The changing role of the ACTU in award negotiations in the oil industry, through the coordination of bargaining, had potentially restricted the scope of bargaining and consequently the regulation of labour at the workplace level.

3.5. Conclusions

This chapter has described the development of the formal structure for the bargaining of awards in the Australian oil industry. It is evident that the level of bargaining in the industry gradually changed. After a highly decentralised beginning with considerable fragmentation on a workplace basis, the negotiation of awards in the industry gradually became more coordinated in the later 1960s. The centralisation of bargaining became an explicit strategy of the companies in the early 1970s and was pursued with the broad agreement of the federal unions and the ACAC. The companies' motivation was to stabilize wage movements, in order to allow them to focus upon production, distribution and marketing as the primary areas of competition. In contrast, some of the unions in the industry began to liaise to ensure that they were not undermining each other's claims; this process was increasingly facilitated by the ACTU's coordination role. The successful coordination of union claims through the ACTU allowed that organisation to begin to use the oil industry negotiations as a vehicle to improve conditions more broadly, as evidenced by the 1970 Oil Industry case and the pursuit of the thirty five hour week. The OIIC was not adverse to the ACTU playing an increasingly authoritative role, as it saw the ACTU as a mechanism to control the individual unions. The ACAC was essentially passive during most of this period, with little opportunity to influence the level or scope of bargaining.

The changing level of award negotiation in the industry had an effect on the scope of bargaining, particularly at the workplace level. Section 3.3 showed the historical development of awards in the industry. It was demonstrated in this section that the industry was characterised by the coexistence of industry, occupational and enterprise awards. Refinery operators were predominantly covered by enterprise awards and as

29. Federal Department of Employment and Industrial Relations, Submission to Joint Commonwealth/State Oil Industry Working Party, pg 13.

a result in many refineries they had developed a strong tradition of workplace bargaining. The coordination of award claims by the AWU operators and that between the FSPU and TWU set some parameters on local level bargaining. However, the agreement to establish the common forum to settle 'major (employment) conditions' in the industry would severely limit the role of workplace representatives. While this did not greatly affect those workers and unions already covered by industry awards, the common forum would potentially restrict the authority of those delegates and officials involved in negotiating enterprise awards. In this way the centralisation had the capacity to impact upon the scope of workplace negotiations, particularly between operator delegates and company management. The inclusion of wages in the common round of 1974 effectively meant that the workplace representatives from the unions that were party to the common forum were emasculated for the purposes of workplace bargaining. Their scope to determine the regulation of work at the workplace level was consequently reduced.

These trends at the industry level had significant implications for the workplace. In many refineries there were union delegates who were active and organised. In the case of operators in the NSW refineries, the delegates had maintained an important role in negotiating enterprise awards under the earlier decentralised structure. The trend toward simultaneous award renewal in the industry and the emphasis on consistent substantive outcomes had the potential to reduce the authority of these delegates. Rather than being concerned with local issues and responsible to their own constituency, they would be required to be aware of wider industry standards and be responsible to groups outside the workplace, such as the ACTU. Similar forces were acting on local level company management. The increasing centralisation of company responses to union wage claims bolstered the status of the OIIC and those senior managers who were members of this group. However, local level management was increasingly constrained in its ability to settle local issues.

These developments thus highlighted the tensions between those involved in labour regulation at a local level (delegates, management and in some instances industrial tribunals) and those concerned with broader issues of labour regulation at an industry level (union officials, upper level management and industrial tribunals). Those

tensions came to the fore during the 1970s and early 1980s, as the upper level management of the companies attempted to overcome the effects of a growing market on wage pressures through the establishment of centralised wage agreements ratified in the federal tribunal. Before describing these events (which are addressed in Chapter Five), however, the next chapter contains a discussion of labour regulation at the Shell Clyde refinery and begins to explore in more detail the influence of the changing bargaining structure on labour regulation in that workplace.

4.1 Introduction

4.2 The Establishment of Clyde Refinery, 1926-1958

4.3 Large Scale Expansion of Clyde Refinery, 1959-1974

4.4 Union Representation and Award Coverage

4.5 Union Structure and Strategy

4.6 Management Structure and Strategy

4.7 Workplace Relations, 1965-1974

4.8 Conclusions

Clyde Refinery, 1959-1974

4.1 Introduction

The previous chapter outlined the development of a structure for formal bargaining through award negotiation in the oil industry in the period from 1950 to 1974. This chapter describes the regulation of work at the Shell Clyde refinery over a similar time period, and shows how this regulation, both informal and formal, is affected by the mechanisms of award negotiation. This is fundamental in the overall context of the thesis, as it provides the foundation for understanding how the changing bargaining structure impacted upon regulation of work at Clyde. The chapter also provides an insight into the strategies and structure of both unions and management at Clyde and how this has impacted upon workplace regulation. Once these 'independent variables' have been described, forthcoming chapters serve to draw out the relationships between them and how they affect labour regulation.

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4.2 The Establishment of Clyde Refinery, 1926-1958

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Chapter 4:

Clyde Refinery 1959-1974

4.1 Introduction

The previous chapter outlined the development of a structure for formal bargaining through award negotiation in the oil industry in the period from 1950 to 1974. This chapter describes the regulation of work at the Shell Clyde refinery over a similar time period; and shows how this regulation, both informal and formal, is affected by the mechanisms of award negotiation. This is fundamental in the overall context of the thesis, as it provides the foundation for understanding how the changing bargaining structure impacted upon regulation of work at Clyde. The chapter also provides an insight into the strategies and structure of both unions and management at Clyde and how this has impacted upon workplace regulation. Once these 'independent variables' have been described, forthcoming chapters serve to draw out the relationships between them and how they affect labour regulation.

The chapter is devoted to two main purposes. The first is to describe the establishment and development of the Clyde refinery, in terms of both physical and employee representative infrastructure. In order to achieve this objective, the first three sections address the establishment and development of the refinery, the expansion of the refinery in the post World War Two era and the union and award coverage in the refinery. The second purpose of the chapter is to show the development of workplace industrial relations at the refinery after 1959, as it was not until the 1960s that Clyde became a major manufacturing site. In detailing workplace relations at Clyde, particular attention is given to union structure and policy, management structure and strategy, and workplace relations at the refinery until the early 1970s.

The increasing scale of the refinery, combined with an increase in employee numbers, provided the environment for the development of employee workplace organisation and mechanisms for bargaining with the company. As a consequence, the period between the late 1960s and 1974 witnessed the beginnings of overt conflict at the

refinery, in the context of a buoyant market for petroleum products. The decades of the 1950s and 1960s were characterised by increasing demand for these products and, as a consequence, the oil companies sought to increase the yield of manufactured product from available feedstocks. At Clyde this market imperative meant that new technology was introduced into the refinery in order to maximise production. The investment in technology had two implications for management. The first was a desire for continued production, which highlighted a need for stability in refinery operations. The second was a need to operate the new machinery in the most efficient manner, requiring management to direct how the machinery was used and by whom. The need for stability allowed the workers on site a large degree of industrial power, as any reductions in throughput or unscheduled plant shutdowns were extremely costly to the company. However, the second imperative, namely the need for efficiency, meant that management was called upon to recast the production process, in terms of jobs performed and staff numbers, creating tensions with the workforce. These competing forces created the potential for conflict over the regulation of labour.

This chapter examines how the strategies and structures of the parties to bargaining at Clyde contributed to the contest over its labour regulation. The primary focus of the discussion will be on the operators at Clyde, as they represent the largest and arguably the most industrially powerful occupational group at the refinery.

4.2 The Establishment of Clyde Refinery, 1926-1958

John Fell and Company Pty Ltd established a refinery at Clyde in 1925. It was closely linked to a shale oil refining operation situated at Newnes, west of Sydney in the Blue Mountains, which was also owned by Fell. The Fell company held leases for the mining of shale in the Blue Mountains and operated a process for the extraction and refining of oil from shale at Newnes in the early 1920s. In 1923 most of the shale oil operations at Newnes were shut down, as Fell explained later, largely because the cost of mining shale was too high.¹ However, some refining operations at Newnes continued, with imported Borneo oil being used as feedstock. This continued until the beginning of 1924, when the remainder of the operation was closed and eighty

¹ Sydney Morning Herald, December 9, 1927, pg 10 and December 16, 1927, pg 13.
² Lough Mercury, 22 August 1923.

workers were dismissed.² The plant at the Newnes refinery was subsequently dismantled and moved to the site of the new refinery at Clyde (or Duck Creek as it was also known) "where an entirely new process (was) to be inaugurated".³

The dismantling and removal of equipment from Newnes to Clyde continued over the next two years. John Fell and Co was listed on the Australian Stock Exchange in November 1926 and at least one cracking unit had commenced operation by this date.⁴ As late as March 1927 plant was still being transplanted from Newnes to Clyde. The refinery's early incarnation was short, as Fell closed down the operation in November 1927 following an explosion in the distillation unit which killed three workers, one of whom was the assistant manager, John Fell junior.⁵ John Fell and Company Pty Ltd was sold in December of 1927. It was anticipated that the refinery would continue to operate, manufacturing petroleum products for other organisations on a profit sharing basis, however it was sold to the British Imperial Oil Company before such an arrangement could be put in place. Fell's stated reasons for the sale of the operation included "... keen competition prevailing in the oil business, coupled with high labour costs, and difficult labour conditions."⁶ The operation was finally bought by Shell Australia in 1928, following which refining operations were established on a small scale and remained such for almost thirty years. The major process at the refinery was distillation; and workforce numbers were small for most of the period until the late 1950s.

The association between the Newnes and Clyde plants was fundamental in shaping industrial relations at the Clyde refinery. The Federated Engine Drivers' and Firemens' Association of NSW obtained sole union coverage of the Newnes plant.⁷ The extraction of oil from shale involved heating the shale in retorts, which was followed by a basic refining process, distilling the vapour extracted in the retorts into kerosene. The operators involved were thus essentially boiler attendants, who could

1. Letter to the Editor, Sydney Morning Herald, 30 July 1926, pg 10.

2. Lithgow Mercury, 31 October 1923 and 25 February 1924.

3. Lithgow Mercury, 1 April 1926, pg 4.

4. Lithgow Mercury, 5 November 1926, pg 7.

5. Lithgow Mercury, 19 August 1927, pg 3, 22 August 1927, pg 6 and 28 November 1927, pg 2.

6. Sydney Morning Herald, December 9, 1927, pg 10 and December 16, 1927, pg 13.

7. Lithgow Mercury, 22 August 1923.

be recruited under the constitutional rules of the NSW FEDFA. Upon the establishment of the refinery at Clyde, the FEDFA maintained representation of these operators; and as a result of this historical anomaly, the FEDFA retains coverage of production workers at the refinery.

An insight into the objectives of the FEDFA and its methods can to some degree be gained by an examination of the union's role at Newnes. Early in 1926 John Fell and Commonwealth Oil Refineries (COR) applied to the Mining Warden's Court for a suspension of labour conditions on their shale and oil leases at Newnes. During the hearing of the application Fell complained that "I have been under job control for too long, and I won't stand it any longer. The nasty dirty spirit at the back of you people (miners) makes me inclined to throw the whole thing up."⁸ This was followed by a conference of the Miners Federation and the FEDFA at Newnes, which unanimously passed a resolution of protest against the companies that held leases for coal and shale at Newnes but were refusing to work the leases.⁹ Further disputation occurred, with workers going on strike over the imposition of managerial prerogative. Workers struck when Fell ordered a reduction in manning levels on "the dog watch" (the night shift) on the boilers. The FEDFA considered that to operate the boilers with only one man was unsafe. In response, Fell again stated that he did not intend to have the union exercising job control and, as owner, he should have the right to run his business without interference.¹⁰

Thus by mid 1926 both the Miners Federation and FEDFA had become involved in disputes about job control at the Newnes site. There was evidently a tradition of job control at that site, but it is difficult to surmise the extent to which such a tradition could be transferred to a new site. However the unions involved, most notably the FEDFA, considered the challenging of managerial prerogatives on issues of work organisation and manning to be a legitimate union aim. The goals, ideology and structure of the FEDFA were each instrumental in shaping the nature of industrial relations at the Clyde refinery.

8. *Sydney Morning Herald*, 9 January 1926, pg 16.

9. *Sydney Morning Herald*, 27 July 1926, pg 10

10. *Sydney Morning Herald*, 19 July 1926, pg 10.

4.3 Large Scale Expansion of Clyde Refinery, 1959-1974

There was large scale plant construction at Clyde between 1958 and 1967. As of 1 January 1959 Shell Refining (Aust) Pty Ltd took over the Clyde operation from the Shell Company of Australia. This change in corporate name had little effect, except to create a separate corporate identity for Shell's refining operations in Australia. There followed the establishment of new plant and equipment at Clyde. A Catalytic Reforming Unit (also called a Platformer) was commissioned in 1958, with a further unit commissioned in 1972. A High Vacuum Unit (HVU) was commissioned in 1962, followed by a Catalytic Cracking Unit (CCU) in 1963, a Polymerisation Unit in 1963, an Alkylation Unit in 1964, Sulphur Recovery Units in 1964 and 1978, and a new Crude Distillation Unit (CDU) in 1967. In addition to the oil plant, there were several chemical processing plants built during this period, namely an Epikote Resin plant (1960), an Ethylene plant (1962), a Hydrocarbon and Chemical Solvents plant (1968) and a Polypropylene plant (1970-71).¹¹ In July 1959 there were 130 refinery operatives employed at Clyde;¹² yet it has been estimated that the total workforce exceeded 1000 workers by the end of 1968.¹³ Thus, although Clyde is the oldest operating refinery in Australia, it was not a large scale petrochemical plant until the 1960s. The majority of plant at Clyde refinery was built in the same time frame as the construction of most other Australian refineries.

The completion of construction in the late 1960s resulted in two distinct products being manufactured at Clyde: petroleum products (produced in the oil section or 'oil side') and petrochemical products (produced on the chemical plants or 'chemical side'). The plants on the refinery site were categorised accordingly. The oil section was constituted by: the Movements Plant, which coordinated the movement of product into and out of the refinery; the CDU, which distilled and reformed crude oil into base petroleum products; the CCU which further refined the heavier product through a process of catalytic conversion; and Utilities, which comprised several pieces of plant (boilers, alkylation unit, demineraliser) which were instrumental in supporting the refining process. The chemical section consisted of the four plants

11. Shell, *Clyde Refinery*, 1982, pp 1-4.

12. 59 *NSW Arbitration Reports* 325.

13. Interview, ex Clyde Payroll Officer, 31 July 1995.

that produced petrochemicals, the inputs of which were largely by-products of the refining process. These were: the Epikote plant, the Ethylene plant, the Solvents plant and the Poly Propylene plant (PPU). Different corporate ownership of the two areas of operation gave the appearance that the operations were distinct. The refining or oil side was owned by Shell Refining (Aust) Pty Ltd, while the petrochemical plants were owned by Shell Chemicals (Pty Ltd). This distinction was, however, one of title only, with workers on all plants being represented by the same unions and covered by the same awards, while management of all plants was accountable to the Refinery manager.

The location of the Clyde refinery produced its own unique problems. Clyde, like all other Australian refineries, relied on imported or domestic crude as feedstock for production. Unlike most other Australian refineries, however, Clyde is located inland and is inaccessible to ocean going ships. Between its establishment and the mid 1960s Clyde was also not connected directly by pipeline to terminal facilities. This meant that feedstocks were transported by ship into Sydney, then barged down the Parramatta River to the refinery. Shell acquired a terminal at Gore Bay, located on Sydney's lower north shore, in 1901. With the development of the Clyde refinery, this terminal acted as a transfer point between seagoing vessels transporting crude feedstocks and refined product, and the barges which shipped supplies and manufactured product up and down the Parramatta River. The Gore Bay terminal began as a separate entity from the refinery, but after 1970 the two sites were integrated for management and industrial relations purposes. They remain geographically separate locations, however.

The increase in scale of the Clyde refinery between 1959 and 1968, and the associated increase in workforce numbers, brought about more structured industrial relations at the refinery. Some of the characteristics of its workplace industrial relations were set early in the refinery's history, although most were developed during this phase of expansion. It was also during the decade of the 1960s that more informal norms and practices began to emerge at the refinery. Both employees and management established workplace-specific mechanisms that contributed to an industrial culture

which became extremely important in creating the scope for, and barriers to, workplace change.

4.4 Union Representation and Award Coverage

The expansion in employment to over one thousand workers, combined with the increased technical complexity at the Clyde refinery, brought with it an increasing number of unions representing employees on site. The largest single group of workers at the refinery were the operators, who were represented throughout by the FEDFA, which had retained a presence at the refinery since its establishment by John Fell and Company. (The functions of operators were discussed in Section 2.2.1).

There is some confusion over how employment conditions for the operators at the refinery were set prior to 1951. In 1951 a specific category of 'operator' was inserted into the Engine Drivers & c General (State) Award.¹⁴ In a decision in 1960, Justice Taylor of the NSW Industrial Commission made reference to this, stating:

"It is necessary to point out that (the) refinery's operatives were included in the Engine Drivers & C. General (State) Award for the first time by a consent variation made by Cantor J. in 1951"¹⁵.

However, it is likely that the operators' employment conditions were set by reference to this award before the formal inclusion of a classification of 'refinery operator', as they were covered by the FEDFA and conformed to the award definition of engine drivers, being "in charge of plant".¹⁶ The Engine Drivers & c General (State) Award was supplemented by agreements made locally between delegates and management at Clyde.¹⁷ Similarly, the operators at the Gore Bay facility were covered by the award as well as registered industrial agreements. Some insight into the history of industrial regulation of operators at the refinery is provided by Justice McKeon's statement in 1969 that:

"..I have also been made aware of the long history of more than forty years of regulation of the conditions of employment of employees at the Clyde refinery,

14. Judgment by Cantor J at 101 NSW Industrial Gazette 1039.

15. Decision by Taylor J. at 60 NSW Arbitration Reports 183.

16. See 33 Industrial Gazette 925.

17. 69 NSW Arbitration Reports 110.

sometimes by agreements made between the company and the FEDFA, and other times by awards of industrial tribunals made upon applications by the FEDFA.”¹⁸

In 1965 an award was made expressly for operators at the Clyde refinery, entitled the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award.¹⁹ The operators at the Gore Bay terminal remained covered by the Engine Drivers &c. General (State) Award, supplemented by an industrial agreement, until March 1971. The separation of the two sites was described by the FEDFA State Secretary of that time as an attempt by Shell management to isolate the operators at the two facilities, even though they were both covered by the same union. The separation ended in 1971, when Gore Bay operators were formally brought under the coverage of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award.

The representation of operators at the Clyde refinery by the FEDFA was not completely undisputed. On a number of occasions the AWU questioned the FEDFA's right to represent refinery operators at Clyde, as it desired exclusive representation of refinery operators throughout NSW. Although Clyde operators were covered by the Engine Drivers & c General (State) Award, no specific operative classification existed until 1950. When this classification was inserted into the award, it was with the consent of both the FEDFA and Shell, reflecting the industrial realities at Clyde. However, the AWU was successful in seeking the establishment of a conciliation committee to cover refinery operatives in NSW in 1960. This committee, the Oil Refineries (State) Conciliation Committee, exclusively covered “all persons employed in or about oil refineries, engaged in or in connection with the distillation of oils, the refining of oils and the extraction of oil products”. There were certain exemptions, one of which was for engine drivers.²⁰ The AWU's application for the establishment of this committee created some problems for the registration of a new FEDFA &c General (State) Award in 1959. In his decision to establish the committee Justice De Baun did not exempt Shell from the committee's jurisdiction. Instead he ratified a new FEDFA award, including a classification of ‘refinery

17. These agreements were formally registered through the NSW Industrial Commission from 1958, see 130 Industrial Gazette 367 and *ibid*.

18. 69 NSW Arbitration Reports 117.

19. 160 Industrial Gazette 911.

20. 69 NSW Arbitration Reports 110.

operative' based on the reasoning that most of the relevant workers were in fact engine drivers. He argued:

"On the material before me it is impossible to say whether all of the operatives employed by the Company (Shell) should come under the provisions of this award, but the majority of them would appear to be true engine driving classifications".²¹

The AWU's desire for exclusive representation of refinery operators saw it challenge the new Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award on at least two subsequent occasions. The first, in 1965, coincided with the making of the award. In this case the AWU elected not to stop the award being made, but reserved the right to raise objections at a later date. The second occasion coincided with the renewal of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award in 1968; and in this case the AWU withdrew its challenge. However, in ratifying the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award in 1968, Justice McKeon found it necessary to address the FEDFA's representation of the refinery operators at Clyde. He stated:

"All these (NSW) industrial tribunals have clearly assumed, to put the matter at its lowest, the right of the FEDFA to take these employees as its members and to cater for their industrial interests, and in the light of this history (over 40 years of regulating employment conditions), I feel that, as the case now stands before me, there would be no justification for failing to act on the footing that on its true meaning the constitution rule (sic) of the FEDFA embraces the present employees. Accordingly, I make no final decision on the competence of the FEDFA to apply as it has; I assume that it was competent to do so."²²

The confirmation of the FEDFA's right to represent operators at the Clyde refinery had two ramifications for industrial relations in the industry. Firstly, Clyde remained the only refinery in Australia where the FEDFA had complete coverage of operators. It also covered a small number of operatives on other sites, but this was restricted to boiler attendants only. Secondly, the federal council of the FEDFA did not have the ability under its constitution to cover refinery operators. Instead, that capacity was restricted to the NSW branch of the union. Consequently, the operators at the Clyde

21. 59 NSW Arbitration Reports 325.

refinery could not move out of the NSW industrial jurisdiction into the federal jurisdiction without the FEDFA's coverage being replaced.

The other occupational groups at the refinery were not encumbered with the same historical idiosyncrasies as were the operators. The trades workers at the refinery were represented by the AEU, FIA, and ETU, and after 1959 were covered by the Engineering (Oil Companies) Award. Clerical workers were represented by the FCU and covered by the Clerks (Oil Companies) Award. Storemen and packers employed in the warehouse at the refinery belonged to the FSPU and were covered by the Storemen and Packers (Oil Stores) Award. Tanker drivers working from the adjacent terminal (and employed by a different corporate identity, The Shell Company of Australia) were covered by the Transport Workers (Oil Stores) Award. In addition to these primary occupational groups, there were also small numbers of workers at the refinery who belonged to the Australasian Society of Engineers (ASE), the Association of Draughtsmen, Supervisors and Technical Employees (ADSTE), and the NSW Fire Brigade Union (NSWFBU); as well as cleaners, canteen workers and medical staff.

Given that the operators and the maintenance workers were the most numerically and industrially powerful of all occupational groups at the refinery, many of the smaller unions on site came to rely upon these groups, particularly the operators, to gain benefits. Wage increases or other advances in employment conditions gained by operators or maintenance workers would flow on to other sections of the refinery workforce. As a consequence, many important personal and institutional alliances were developed at the refinery between delegates from different unions.

As was the case with union representation, the operators at Clyde maintained a unique position among the other occupational groups at the refinery with respect to award coverage. Award coverage at the Clyde refinery was dominated by industry awards, with the exception of the operators, who negotiated an enterprise award. The industry awards were negotiated at an industry level, largely removing from Clyde management the responsibility for the terms of these agreements. The Engineering (Oil Companies) Award, the Clerks (Oil Companies) Award and the

Transport Workers (Oil Companies) Award were re-negotiated almost every two years during the 1950s and 1960s with little industrial disputation. Nevertheless, the interpretation and application of awards were two areas of local level negotiation and occasional dispute. This was particularly so given that the grievance procedure contained in the Engineering (Oil Companies) Award nominated the local level as the first stage in any dispute resolution.

However, Clyde management was required to negotiate separately with the operators and their representatives for the renewal of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award. As was the case with most other industry awards, this award (and its predecessors) was, on the whole, finalised by consent between the parties. This did not, however, indicate an absence of conflict between them. By the early 1970s the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award was being renegotiated annually. In addition to the negotiations over award renewals, operator delegates and management discussed many local issues, such as shift rostering, hours of work and the reclassification of work with the introduction of new technology. The autonomy of both award and non-award negotiations began to be undermined by the movement toward common negotiations after 1974. The centralisation of industry negotiations is considered in Chapter Five, while its effect on the workplace is addressed in Chapters Six and Seven.

In addition to the permanent workforce employed by the Shell Refining company, there were also a number of contractors who worked on the Clyde site. The on-site workforce changed substantially in periods of shutdown. The refinery was required to undergo a routine maintenance shutdown periodically in order to comply with NSW government directives. If construction of new plant or storage facilities was to be undertaken, the company usually planned for an extended shutdown to coincide with this routine maintenance. During these periods, substantial numbers of contractors were engaged to undertake the required construction or maintenance in conjunction with the Shell employees. The number of contractors could double the size of the workforce for the period of the shutdown. The contractors usually entered into an agreement with the unions which specified that their employment conditions would be in line with prevailing awards, usually the metal industry or civil

construction awards, but that actual pay rates were set with reference to the Engineering (Oil Companies) Award. It was then the responsibility of the contractors to ensure that payment complied with the award. The agreements usually specified that all workers should belong to the relevant union.²³ The company took no legal responsibility for the employment conditions of the contractors, apart from their obligations in relation to occupational health and safety; however the company could still be drawn into disputes arising between the contractors and the unions. In addition to the large number of contractors employed during shutdowns, there were a smaller number of regular contractors employed to do non-routine maintenance, cleaning, canteen work and drafting. Most of these workers were also paid in line with prevailing awards, most being union members. However some contractors, particularly those with professional qualifications, were employed on individual contracts.

4.5 Union Structure and Strategy

Of all the unions present at Clyde, the FEDFA had the largest membership and coverage of one of the most industrially powerful occupations. The FEDFA emerged from mining activities in the late 1880s. It is characterized as a left wing union with a strong shop steward organisation and a policy of encouraging combined shop committees or inter-union shop committees.²⁴ While the FEDFA is registered federally, it consists of a number of active and autonomous branches, many of which have state registration. Coverage of this union began with mining but has since spread to include occupations such as boiler/firemen, stationary engine drivers, crane drivers, locomotive engine drivers in private industry, drivers of heavy equipment in open cut coal mines, and metalliferous mining and oil refinery operatives.²⁵ During the late 1980s and early 1990s it amalgamated with a number of unions to form the Construction, Forestry, Mining and Energy Union (CFMEU).

23. See for example Shell Contractors Construction Agreement, FEDFA Holdings Noel Butlin Archives, Box N72/660

24. P. Huntley, Inside Australia's Top 100 Trade Unions, (Huntley Pty Ltd, 1985), pp 107-111.

25. *ibid*.

Within the oil industry the FEDFA encouraged rank and file involvement, through the development of delegates' structures and shop floor organisation. Evidence of delegate autonomy within the FEDFA can be found during the operation of John Fell & Company at Newnes in the 1920s;²⁶ and this history of rank and file representation continued at the Clyde refinery. With the growth in the scale of operations, and a corresponding growth in the labour force and FEDFA membership, the numbers of operative delegates also increased. Operators represented around two thirds of the waged workforce. During the 1960s there were four to five FEDFA delegates elected at any one time at the refinery. These delegates were not drawn from the workforce in any systematic fashion, for example from different plants or different shifts. Rather, they consisted of those operators who were willing to nominate. As a result, delegates were spread across different plants but not across shifts. There was little regular communication between the delegates, with the consequence that management could reach agreement with a delegate in one plant and use this to set a standard applicable to other plants; or conversely, delegates could run disputes about issues confined to one plant.

In the early 1970s there was a reorganisation of the FEDFA delegate structure in the refinery. This restructuring was encouraged by the State Secretary and was facilitated by the workplace delegates. Until the mid 1970s the Clyde operators had been members of the Granville sub branch of the NSW (or Coast branch) of the FEDFA. In the mid 1970s the operators formed their own branch of the union, called the Refinery Operators Group (ROG). The ROG was run by a committee, comprised of the refinery delegates, that met on a monthly basis to discuss issues that had arisen in the refinery over the previous month.²⁷ All delegates were members of the committee, while a chairman, secretary and treasurer were elected to administer union business. The creation of this committee coincided with a change in the delegate representative structure, which allowed for three delegates to be elected from each shift, resulting in a total of twelve in all.

The policies and politics of the NSW branch of the FEDFA clearly had an effect on the delegates at the refinery. Following the Second World War the leadership of the

26. See for example Sydney Morning Herald, 19 July 1926, pg 10.

FEDFA NSW branch was comprised of officials affiliated with the Communist Party of Australia. These officials placed a heavy emphasis on participatory democracy and militant tactics. This approach by the union resulted in many attempts to de-register the state branch.²⁸ One commentator argued in this regard that:

"The [NSW] coast branch then was no stranger to the threat of de-registration. Its militant industrial attitude, reflected in the willingness of the rank and file to engage in direct action, brought (sic) itself to the attention of the court on more than one occasion."²⁹

While nurturing this shopfloor structure, the organisers played an active role in the affairs of the union by attending meetings, making reports and participating in award negotiations. The officials were particularly active in this last role until the early 1970s. The intervention of officials was not always welcomed by the delegates and rank and file. In 1965 a meeting of rank and file operators passed a motion, put by the delegate chairman, castigating the FEDFA officials. Similarly, in 1968 a letter was sent to the President of the FEDFA, at Trades Hall, Sydney, stating:

"We the undersigned, being financial members of the above union (FEDFA), wish to express our complete dissatisfaction in the manner in which the executives of our union have negotiated with the company (Shell Refining (Aust) Pty Ltd) regarding our new Refinery Operatives Award. Therefore we hereby direct you to abide by our resolution made at a recent stop work meeting and submit the matter to the court for settlement without further delay."³⁰

The NSW branch official with responsibility for the oil industry was the State Secretary. The State Secretary from 1969 onwards, by his own admission, was a very 'hands on' official who maintained regular contact with the Clyde operators. Nonetheless, from the beginning of the 1970s the delegates (through the delegate committee) retained substantial autonomy in dealing with the day to day industrial

27. Interview, FEDFA State Secretary 1969-1980, 3 July 1995.

28. The Coast Branch was asked to show cause as to why it should not be de-registered in 1950 and 1951. De-registration proceedings began in 1952 and 1955. See G. Teagle, *op cit*, pg 66.

29. G. Teagle, *op cit*, pg 67.

30. Motion by J. Cooper, Delegate Chairman at a rank and file meeting, 27 July 1965 (Noel Butlin Archives, FEDFA Holding, N72/616) and Letter to President of

31. *ibid*, pp 102

32. Interview AMWU Delegate between 1973-1986, 3 March 1995.

relations issues at the refinery. The delegates, in combination with the Secretary, undertook negotiation of awards and agreements as well as the presentation of arbitration cases if and when required.³¹ The Clyde refinery operators thus enjoyed a strong tradition of workplace organisation and substantial autonomy within the structure of the NSW branch of the FEDFA. This autonomy increased in the early 1970s and had important consequences for workplace industrial relations and the regulation of operators' work.

The maintenance workers and particularly the metal workers enjoyed a similar degree of workplace organisation and autonomy. The AEU was founded in 1952 as an overseas branch of the British Amalgamated Society of Engineers and has been described as "one of Australia's largest and most militant trade unions".³² The union began by representing skilled engineers but has since (through amalgamation) come to cover many occupations involved in engineering. Its structure (before the amalgamation of 1972) consisted of three basic tiers: branches (membership determined by residence), district committees and a federal executive. Like the FEDFA, the AEU and its successors actively encouraged rank and file representation; indeed Sheridan comments that "(t)he AEU constitution always paid more attention to shop stewards and shop committees than that of virtually any other Australian union".³³

In comparison to the number of FEDFA delegates at Clyde, there were fewer representatives for maintenance workers, corresponding to the smaller numbers of metal trades employees. The late 1950s to the late 1960s saw a steady increase in the number of maintenance workers on site, peaking in 1968 at around 120. The vast majority of maintenance workers worked on the day shift, with only a small proportion of maintenance crew, twelve in all, working shift work.³⁴ Each of the fitters, riggers and boilermakers (represented by the AEU, which became part of the Amalgamated Metal, Shipwrights and Foundry Workers Union (AMSFWU) after

FEDFA, Trades Hall, Sydney, 11 February 1968 (Noel Butlin Archives, FEDFA Holdings N72/618).

31. Interview, FEDFA State Secretary 1969-1980, 3 July 1995.

32. T. Sheridan, loc cit, pg 162

33. ibid, pp 163.

34. Interview AMWU Delegate between 1973-1986, 3 March 1995.

1972) and the instrument-electrical workers (represented by the ETU) elected two delegates, a head delegate and a co-delegate. There was, however, a qualitative difference between the instrument-electrical workers and the fitters. The fitters were perceived by management to be more militant than the instrument-electrical workers. The policies and politics of the unions representing these respective groups reflect to some extent the differing militancy of the two groups. The ETU was historically a right wing union, with little emphasis on shopfloor organisation and autonomy, while the AEU (and its successors) was a left wing union which actively supported its shopfloor delegates.³⁵ However, it must be noted that there is not necessarily automatic correspondence between the level of militancy of officials and delegates.

There were also small numbers of workers belonging to other unions on site which had their own workplace representatives: these included Ironworkers (FIA), Engineers (ASE), Supervisors (ADSTE), Storemen and Packers (FSPU) and Firefighters (NSWFBU). Despite their presence and the activism among operators and maintenance delegates, there was no formal joint union committee on site. Instead, the workplace delegates created informal channels of communication. This lack of coordination reflected the strong occupational identification of the workers and the strong relationships with union officials, particularly in those unions representing operators and maintenance workers. In the case of the operators, this was a result of the personal relationship between the FEDFA State Secretary and the operator group, while metal workers maintained a relationship with federal branch officials largely because they were covered by a federal industry award.

In summary, the expansion of production facilities between 1959 and 1968 at the refinery saw two contradictory trends in union organisation and presence at Clyde. The first was an increase in the numbers of employees and union members, which resulted in the establishment and refinement of formal representative mechanisms. This process was aided by the structures and policies of the FEDFA and AEU in particular. In addition, the delegates and their committees began to exercise greater autonomy during the late 1960s, which provided an active mechanism for collective

35. See S. Frenkel and A. Coolican, Unions Against Capitalism: A Sociological Comparison of the Australian Building and Metal Workers' Unions, (Sydney: Allen and Unwin, 1984).

labour regulation at the workplace. The representative structures for employees and the processes of negotiation with local management were consolidated during this time. The development of these workplace structures became increasingly important in regulating how labour was employed at the refinery.

Secondly, the growth in shop floor organisation and, for operators, the consolidation of workplace bargaining through the negotiation of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award did not necessarily complement the increasing centralisation of award bargaining in the industry. The establishment of the thirty five hour week and the common forum in 1974 (outlined in Section 3.4), began to constrain the ability of delegates and management to regulate labour at Clyde, specifically with respect to wage movements. This created problems for both management and union delegates at Clyde. For management there was an obligation to attempt to insulate the refinery from industrial campaigns occurring elsewhere in the oil industry. Within the refinery management increasingly endeavoured to isolate particular local issues to one plant or occupational group. The trend toward greater industry coordination also created problems for workplace delegates. In particular, delegates were caught between exercising their workplace autonomy and responsibility to the rank and file, and conforming with broader union policy developed outside the workplace and designed to affect the entire industry. Coordination of bargaining in the industry, and the limitations that it placed upon local level action, constrained the development of rules to regulate labour through autonomous workplace mechanisms.

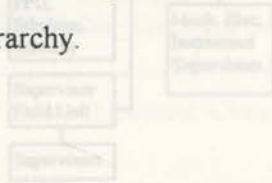
4.6. Management Structure and Strategy

Since 1959 Clyde refinery has been part of the Shell Refining Company of Australia, which is responsible for refining operations at both Clyde and Geelong. The Shell Refining Company of Australia is in turn part of the Shell Australia group of companies, which is a wholly owned subsidiary of the world-wide Shell-Royal Dutch group of companies. The organisational status of Clyde has clearly impacted upon both the management structure and strategy, but principally strategy, at the refinery. The close relationship of the Shell companies was described by a senior member of its personnel management as follows:

“(a)lthough (the Shell group of companies) compris(e) a number of separate companies, the Group’s activities in Australia are closely integrated through a functional organisation”.³⁶

This integration includes consultants from its international head office being involved in the construction and commissioning of new equipment. In addition, there is evidence that personnel strategies pursued in the Australian subsidiaries have been discussed with Shell management overseas.³⁷ In this way, local management at Clyde have been constrained by policies developed by the Shell Refining Company and Shell Australia. These policies, practices and procedures have established parameters for local level management on the basis that there be some consistency in policy across the entire Shell Refining company.

Management structure at the refinery has reflected a consistent organisational plan establishing the lines of authority and areas of responsibility. However, this management structure was replicated with the establishment of new plants on site throughout the 1960s. In this way the numbers (rather than levels) of management were increased, with a new management group being added with the establishment of each new plant. Each plant had its own management structure for both production and maintenance. Figure 4.1 below provides an abridged graphical representation of this structure, highlighting the production management hierarchy and the specialist labour management hierarchy.



* Report to Shell Chemical Australia at Melbourne head office

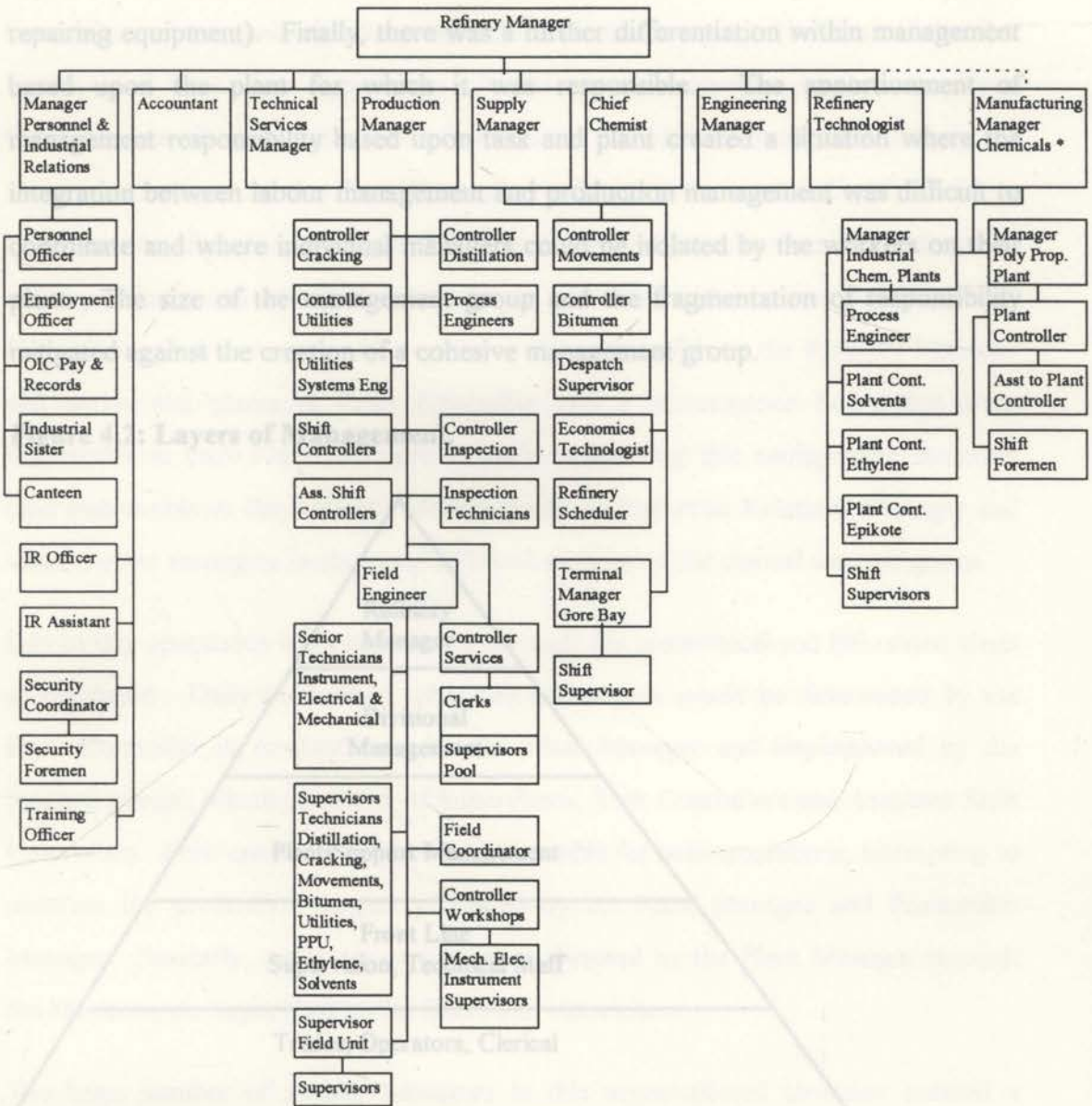
Source: Shell Refining, October 1975.

As each plant was built, an additional management division was added to the overall management structure. As a result there developed over the 1960s structural divisions between different parts of management at the refinery. First, there was a distinction in the organisational structure between the production management (those managers involved in the actual manufacture of the product) and management in support areas (for example, clerical, personnel, finance, industrial relations). Second,

36. R. G. Pretty, “Organisational Development at Shell”, *Personnel Practice Bulletin*, 27 (3) September 1971, pg 196.

37. *ibid*, pg 197.

Figure 4.1: Clyde Organisational Structure.



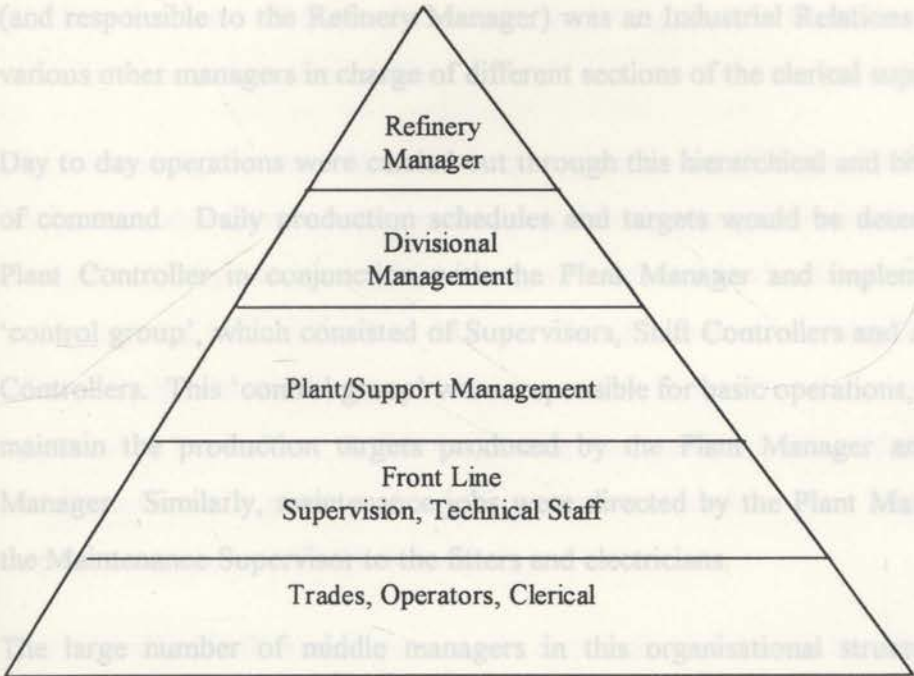
* Reports to Shell Chemical Australia at Melbourne head office

Source: Shell Refining, October 1975.

As each plant was built, an additional management division was added to the overall management structure. As a result there developed over the 1960s structural divisions between different parts of management at the refinery. First, there was a distinction in the organisational structure between the production management (those managers involved in the actual manufacture of the product) and management in support areas (for example clerical, personnel, finance, industrial relations). Second, within the production management group there was a further distinction between

process management (those managers concerned with maintaining the production process) and maintenance management (managers responsible for maintaining and repairing equipment). Finally, there was a further differentiation within management based upon the plant for which it was responsible. The apportionment of management responsibility based upon task and plant created a situation where the integration between labour management and production management was difficult to coordinate and where individual managers could be isolated by the workers on their plant. The size of the management group and the fragmentation of responsibility mitigated against the creation of a cohesive management group.

Figure 4.2: Layers of Management.



Source: Shell Refining Company

During the 1960s and 1970s there was a multi tiered hierarchical management structure at the refinery, as illustrated in Figure 4.2 above. Ultimate responsibility rested with the Refinery Manager. Responsible to the Refinery Manager was a Production Manager in charge of the oil plants. The Production Manager overseeing the chemical plants was strictly responsible to Melbourne Head Office, but was subordinate to the Clyde Refinery Manager. Within each plant there was a Plant Manager who was ultimately responsible for the performance of their particular plant. The Plant Manager was accountable for the plant's performance and as such had

responsibility over operations, maintenance, engineering decisions, production scheduling and planning. Day to day operations were the responsibility of the Plant Controller, who organised daily production and maintenance. The Plant Controller was assisted by a Plant Supervisor. At the same management level as the Plant Controller was the position of Shift Controller. The Shift Controller had largely the same job functions as the Plant Controller and assumed responsibility for refinery operations on afternoon and night shift when the Plant Controller was absent from the refinery. There was one Shift Controller on each shift, aided by two Assistant Shift Controllers. A Maintenance Manager was also responsible to the Refinery Manager and within the plants, a Craft Controller and a Maintenance Supervisor were responsible to each Plant Manager. Finally, supporting this management structure (and responsible to the Refinery Manager) was an Industrial Relations Manager and various other managers in charge of different sections of the clerical support group.

Day to day operations were carried out through this hierarchical and bifurcated chain of command. Daily production schedules and targets would be determined by the Plant Controller in conjunction with the Plant Manager and implemented by the 'control group', which consisted of Supervisors, Shift Controllers and Assistant Shift Controllers. This 'control group' were responsible for basic operations, attempting to maintain the production targets produced by the Plant Manager and Production Manager. Similarly, maintenance jobs were directed by the Plant Manager through the Maintenance Supervisor to the fitters and electricians.

The large number of middle managers in this organisational structure created a breeding ground for what have been described by various delegates as 'petty jealousies'. Many of those in the control groups were ex-operators who had been promoted to the supervisory level, while many of the Plant Managers were chemical engineers by training. Engineering managers were usually mechanical engineers, while fitters progressed into the ranks of Maintenance Supervisors. There were often confrontations between workers and managers about the best way to perform certain jobs, with various operators and fitters accusing their supervisors or plant managers of lacking the job knowledge of how the process and equipment worked. This in itself gave rise to on-going personality clashes, disputes and a reluctance to follow

directives by some in the operations and maintenance group (as will be shown in Section 4.7). The combination of different personalities with different qualifications and experience on each plant resulted in each plant developing its own industrial relations culture. This was exacerbated by the presence of delegates on some plants but not others. In practice both plant based management and delegates could establish work practices on one plant that could then become an issue of dispute in another. The perception amongst delegates, confirmed by a Personnel Officer at the refinery during the 1970s, that there was differential treatment of workers and an inconsistency in management approach by middle management which made it difficult for these managers to exert authority over workers. This in turn created problems for refinery management when attempting to establish refinery-wide procedures and practices that were effective. As a result, the prerogatives of the managers were often called into question by the workers.

The relationship between the refinery management and Shell head office, located in Melbourne, also contributed to problems in labour management at the refinery. The lines of authority and areas of autonomy of local and head office management were ambiguous and often difficult to discern. Thus decisions concerning the introduction of new equipment and budgetary decisions above a specified dollar value had to be approved by head office. Policies regarding the overall operation of the refinery, the viability of specific plants and resulting employee numbers were also generated by upper management in Shell head office.

The role of head office management was extremely important in the framing of longer term policies. However, in addition to this function of long term planning, management from head office had over time also become involved at the local level. This was particularly the case if local issues remained unresolved, if they had ramifications for other sections of Shell operations, or if they had implications for the industry as a whole. The authority and autonomy of the Clyde Refinery Manager depended greatly upon the degree of respect that was accorded by upper management to the incumbent in that position. The high turnover in management staff in all positions at the refinery, including Refinery Manager, did little to consolidate the authority of Clyde management. The result was that some refinery regimes enjoyed

more relative autonomy from head office than others. This lack of a firm division between the respective authority of local and head office management combined with the relatively high turnover of managerial staff to create an impression among the workforce that the local management was ineffectual in dealing with important issues. The relationship between head office and Clyde management also affected labour regulation at the refinery. The autonomy of the local Clyde management to make decisions relating particularly to the reward for work was often brought into question by the delegates. Although the Clyde managerial staff argued that they had the authority to deal with a range of labour management issues, this authority seems to have depended upon whether the issues relating to labour regulation were local, or whether they were (or could become) company-wide or industry-wide.

Problems gaining employee acceptance of managerial authority were exacerbated by the style of management and recruitment policies adopted by the company. The labour management approach of the company during the 1960s has been characterised by both delegates and industrial relations management at the refinery during this period as paternalistic. One former delegate described the company's approach in the following way:

"There was then, which (sic) the upper levels (of management) acknowledged, an extremely paternalistic outlook on life. I think the greatest indicator I ever had of that was when I was asked questions about the superannuation fund to which I didn't know the answers and I went to find out and I said to this personnel manager 'I have been queried on this that and the other what are the answers' and he said 'I don't know but why are you worried (name) Shell will look after you'. I thought that showed quite clearly the paternalistic approach ..."³⁸

Similarly, the FEDFA state secretary at the time argued that the expectation of management was that managers would make decisions and workers would respond accordingly.³⁹ This process of top down decision making meant that management was extremely bureaucratic and there was as a result little room for workers to consult with management over daily orders. Yet there was scope for employees to deviate from the actual instructions about work performance. The large numbers of

38. Interview, Former FEDFA Clyde Delegate, 12 January 1995.

middle managers also created a lack of certainty about which managers were responsible for certain decisions; and this contributed to a situation where informal compromises on work performance could be made between workers and different members of the control group. Nevertheless, the company formally maintained that the exercise of managerial prerogative and the authority of supervisory staff was absolute. This policy was clearly stated in the following memo regarding work practices, from the manager of a chemical plant to workers:

“a) Allocation of Duties, Deployment etc.

The allocation of duties, deployment of personnel and the setting of priorities is the sole prerogative of the company, exercised through it's (sic) supervisors, since it bears the cost of operation of it's (sic) plant and equipment. In the practical exercise of this prerogative, the company discusses proposals regarding the introduction of new working methods or the changing of existing ones with the operators concerned and the association through it's (sic) delegates.

.....

c) Communication

It is the prerogative of the shift foreman to determine plant priorities on a shift by shift basis.”⁴⁰

The evidence that the company's employee management style was essentially paternal is tempered by the highly bureaucratic mechanisms for work allocation, the limited scope for formal employee input into this process and the official maintenance of management prerogative. It has been suggested by an Industrial Relations Officer transferred to the refinery in the late 1970s that management practice was in fact reactive.⁴¹ The lack of consistency in labour management practice across the refinery created a situation where management was more often responding to industrial problems that emerged rather than adhering to a particular management approach.

The paternalistic policy of management toward labour management and the expectation of acquiescence from the employees was reflected in the company's recruitment and promotion strategies for operators. It established an internal labour

39. Interview, FEDFA State Secretary 1969-1980, 3 July 1995.

40 Process Memo; From: Manager Polypropylene, To: Polypropylene Plant Personnel, Re Workpractices in Poly Plant, 8 March 1973.

market with respect to operators, recruiting at entry level and using internal promotion to higher occupational classifications and supervisory levels. In addition, the company recruited many ex-naval personnel into operating positions at the refinery, actively advertising in periodicals associated with the Australian and British Navy. The large number of ex-naval personnel employed by the company resulted in many referring to the refinery as 'HMAS Clyde'. The rationale for this strategy was partly the company's preference for expertise with boiler operation, which could be gained from marine engineering. However, it has been suggested by the FEDFA State Secretary at that time that the strategy was also based on the assumption that ex-naval personnel would be more responsive to taking directions from management. For example, he recalled requests by Clyde management to keep the operators in line. He was asked by members of Clyde management to "arrange" for ex-naval employees to be more responsive to management direction.⁴² Delegates and officials claim that the assumption about ex-naval personnel being more compliant was in fact a miscalculation by the company. One interpretation of this, from a delegate who served in the English navy, is as follows:

"You see they made a terrible mistake at the time they recruited people like me. It dawned on somebody that they did not need to train people, that there were all these people trained by the Navy who know all about this kind of thing. (t)hey also, as they told me afterwards, thought that they would get these people who were used to taking orders and would do what they were told. In my case and in one or two other cases they got in people who were used to giving the orders. It worked against them..."⁴³

Many of the ex-naval personnel resented the assumption that they would follow directives, particularly as they were no longer in the navy.

The initial management strategy of isolating industrial relations at the Gore Bay terminal from those at the refinery was another cause of industrial problems, both in the 1960s and 1970s. While Gore Bay occupied a geographically distinct site, and had a distinct management group (like all refinery plants), the Gore Bay Terminal

41. Interview, Shell Industrial Relations Manager, Oil and Resources, 13 January 1997.

42. Interview, FEDFA State Secretary 1969-1980, 3 July 1995.

43. Interview, Former FEDFA Clyde Delegate, 12 January 1995.

manager was accountable to the Supply Manager at Clyde (as shown in Figure 4.1). Channels of communication between the operator delegates at the refinery site and those at Gore Bay were not well developed during the 1960s. However, the same could not be said for the metal trades delegates at the refinery and terminal. This is exemplified by a dispute which occurred in 1968, arising over a demand by workers at the Gore Bay terminal for an allowance which had been granted to the maintenance workers at Clyde. Shell management argued that the allowance was site specific to Clyde and represented compensation for 'rationalisation of labour' (the reduction of maintenance workers which occurred in 1968). The maintenance workers at Gore Bay imposed a ban on the working of overtime until the allowance was paid. Commissioner Holmes granted the allowance to the Gore Bay workers and in his decision commented on the relationship between the two sites, stating that:

"(t)he only reason for Gore Bay's existence is the inability to berth tankers at the refinery site and therefore Gore Bay becomes an essential and integral part of the Clyde refinery and as such the employees at the Terminal should be treated in the same manner as employees at the Clyde site."⁴⁴

Complete integration between the two sites, for industrial relations purposes, followed in the next two years.

In summary, management structure at Clyde was influential in determining management style. The large network of managerial employees at the refinery encouraged a bureaucratic approach to operations management which resulted in a reactive labour management practice. This style, combined with the paternalistic approach to personnel management that was mirrored in the recruitment policies pursued by the company, contributed to the creation of an environment where labour regulation at the workplace became a contested terrain. Management authority was not well defined and many managerial personnel had trouble legitimizing their role in the eyes of employees. The difficulty in exercising and legitimizing management authority became even more problematic when the style of management was one of paternalism. Rather than producing constructive familial relations, Clyde became the dysfunctional family in the Shell group. The personal tensions created by the

44. 127 Commonwealth Arbitration Report 3.

organisational structure, as well as the scope for worker autonomy that was produced by the division and confusion over responsibilities, allowed operators in particular to assert their own judgement as to how tasks should be carried out. Further, the style of management, and the distinction in structure between operations, engineering and supporting functions such as industrial relations, established an environment for recurring industrial problems.

4.7 Workplace Relations, 1965-1974

The development of an organised delegate structure with relative autonomy within the broader union branches at Clyde provided an avenue into which employee grievances could be channeled. Management's pursuit of a paternalistic labour management style and its insistence upon the observance of managerial prerogative was a basic source of worker grievances at the refinery. As a result, from the mid 1960s Clyde refinery began to experience periodic industrial disputation. This conflict was largely the product of employees collectively contesting issues of how labour was regulated; and the confrontation essentially revolved around two issues. The first was control over the production process. Workers perceived there to be a lack of legitimate management authority; and the structure and style of management did little to dispel this perception. The result was that many areas of operation were subject to struggles between workers and management over who was more competent in directing work. The second factor was uncertainty among workers about the future. Despite the period of rapid job expansion, changes in refining technology, particularly in the 1970s, represented a threat to the job security of operators. By protecting job areas through the establishment of job rules, employees could reinforce their positions within the refinery. In this sense, employees' concerns about the security of employment contributed to the conflict over control of the production process. Both these issues involved in part the issue of remuneration. By controlling the production process workers ensured that their 'worth' to the company was maintained, which in turn reinforced their bargaining position during award negotiations. Alternatively, the problem of job security and new technology was often couched in terms of the effect it would have on the workers' effort-bargain. In other words job boundaries needed to be protected to ensure both job security and

levels of earnings. Operators in particular took the view that the company must pay for any change in work organisation and performance.

There were three examples in the late 1960s of disputes caused by the exercise of managerial prerogative. The first came in 1965 and concerned the issue of whether it was the duty of management or operators to direct how a plant should be shut down in the case of industrial action being taken. In October of 1965 the operators initiated a 24 hour stoppage in furtherance of their award claims.⁴⁵ In support of their wage claim the operators began to shut down the refinery. Unlike other industrial processes, refinery operators cannot 'walk off the job' as the nature of the refining process is such that it cannot be stopped instantaneously. Any shut down must occur over a period of days to avoid damaging equipment and personnel. The action of the operators saw management make its acceptance of the union claim contingent upon an agreement about the procedures for a refinery shut down. The company stated that it maintained the "sole right to determine the period required and the personnel necessary for the safe shutting down of plant".⁴⁶ The potential danger associated with working in an oil refinery also heightened confrontation over the control of equipment. Operators often felt that their expertise in operating equipment was not recognised by management; and that since they as a group were most exposed to the dangers of the process, they believed they best knew how to operate it safely. Conversely, the company assumed the legal responsibility for the refinery's operation and employed trained experts who understood the requirements and capabilities of the machinery, as well as the overall process. Whilst there was agreement on a procedure for shutting down the refinery, the operators and first line management continued to disagree over which group was best equipped to coordinate the production process and it remained a point of contention between the two groups.

The second example of problems resulting from the use of managerial prerogative involved a dispute between the company and the ETU concerning the dismissal of an employee in 1966. The employee was dismissed for performing private work, called 'foreign orders', without authorisation. The issue was not whether the employee had

45. Letter from Shell to NSW Secretary of the FEDFA, 30 October 1965, Noel Butlin Archive, FEDFA Holdings, N72/616.

46. *ibid.*

been undertaking private work, but whether this was within the legitimate bounds of workplace behaviour. Undertaking foreign orders was acceptable if the work had been given written approval by the Refinery Manager. This mechanism had been established in order to recognize that:

“(t)he practice of both staff and wage employees executing “foreign orders” at the Clyde refinery in the company time has been prevalent and wide spread for about as long as the refinery has operated.”⁴⁷

The dispute over the dismissal went to the ACAC, which recommended reinstatement of the employee, arguing that dismissal was too harsh given that:

“(t)he evidence given by employees clearly indicates that despite the notice mentioned above, the practice continued of making “foreign orders” without formal approval of the manager, and has continued right to the present time”.⁴⁸

Further evidence was presented to the effect that a number of these foreign orders were actually undertaken for foremen and other supervisors. This provides a clear example of an informal set of rules outside the formal directives and the tacit approval given to these rules by some supervisors even though they contravened written directives. It also illustrates the ability of foremen to enforce written rules in a selective fashion. Clearly some workers were allowed to undertake foreign orders, while others were not.

A final example of this aspect of workplace relations at Clyde was a case heard in the ACAC, brought by the AEU over the removal of smoking sheds at the refinery. Smoking within the refinery is restricted due to the highly flammable nature of petroleum and petro-chemical products. Consequently, specifically designated smoking sheds are the only area in which workers can smoke. Representatives of the union argued that the sheds, which had been a fixture at the refinery for many years, could not be unilaterally removed because their existence had become an accepted employment condition. The Commissioner found that he had to weigh the importance of custom and usage against managerial rights. In the course of the proceedings some insight was obtained into the relationship between supervisors and

47. 115 Commonwealth Arbitration Reports 763.

48. *ibid*

workers. The representative from the AEU had noted that "there has recently been considerable industrial trouble at the Clyde refinery".⁴⁹ The source of much of this trouble had been a breakdown in the relationships between supervisors and workers. This disintegration, he argued, stemmed from an inability of management to understand the repercussions of engineering plans upon the workforce. He stated that it was when there was contact between "the masonite board, the piece of paper and the pencil and the character who does not understand the simple industrial circumstances" that problems arose.⁵⁰ In the estimation of the AEU, the lack of understanding of industrial realities between the supervisors and the workers was largely the cause of industrial troubles. This again suggests a particular style of management, namely inconsistent and unilateral imposition of managerial prerogative. The evidence of the AEU official indicates that middle management may have been oblivious to the responses that their decisions would evoke in the workforce, perhaps reflecting an assertion by the unions that many of the plant and maintenance management were trained as engineers and had no training and little experience in managing workers.

The second element underlying the conflict over regulation of work at Clyde during this period was the increasing uncertainty among workers about future employment after the completion of construction in 1968. As early as 1967, the refinery management made available a scheme of voluntary redundancies to reduce employee numbers, in particular maintenance workers. The redundancy offers were in excess of the normal company guidelines, and management insisted that they would not create a precedent for the future.⁵¹ The voluntary redundancy scheme reduced the number of maintenance workers on site from around 120 to around 50.⁵² The company's intention of reducing workforce numbers resulted in workers attempting to protect their job security and earnings. In 1969 the operators imposed a ban on starting up the Sulphur Recovery Unit in protest against work being performed by supervisors. The operators argued that the supervisors had encroached upon a job demarcation by

49. 115 Commonwealth Arbitration Reports 729.

50. *ibid.*

51. Letter from Refinery Manager in Management Information Newsletter, 1 August 1967, Noel Butlin Archive, FEDFA Holding N72/616.

52. Interview, AMWU Delegate between 1973-1986, 3 March 1995.

undertaking work that legitimately belonged to operators.⁵³ The dispute resulted in an order from the Industrial Commission to the operators to lift all bans on the unit and to work as lawfully instructed. The desire for security of tenure and earnings amongst employees, both operators and supervisors, further brought the rights and attitude of management into question.

Concerns over job security were heightened by management undertaking 'de-manning' exercises on all plants in the refinery in 1970-71, with the aim of reducing levels by one operator per plant. The company proposed that reductions in overall numbers would be offset by increasing the level of wages in award categories for operators. The rationalisation of positions continued with the removal of Supervisors from plants in 1972.⁵⁴ The work that had been performed by the Supervisors was redirected to two new Assistant Shift Controllers, who supported the Shift Controller, and to operators, with a new award classification of 'senior operator' being created. The effect of this rationalisation process on one particular plant is illustrated in the findings of Commissioner Manuel of the NSW Industrial Commission. In a hearing concerning the reclassification of operating positions on the Ethylene plant, he stated that:

"Historically the work has been under constant review since 1962 and [the NSW State Secretary of the FEDFA] put at that time that there were six operators and one foreman in charge of the plant; and with the change of operating technique has been gradually reduced to what it is at the present time. The company tendered an exhibit E, setting out the manning of the Ethylene Plant commencing at July 1969, when at that time there were five operators and a foreman in charge of the plant. In September, 1970 this manning was reduced to four operators and the foreman; and in August 1972 the foreman was taken away from full time supervision of the Ethylene Plant and one of the operators was designated as a Senior Operator with a classification of category 6 plus an allowance of \$7 per week."⁵⁵

53. FEDFA resolution passed 17 September 1969, Noel Butlin Archive, FEDFA Holding N72/618.

54. IR: FEDFA Process Memo from the Manufacturing Manager, 27 August 1970 and FEDFA note, Noel Butlin Archives, FEDFA Holdings N72/ 618 & 619.

55. Unpublished Decision by Commissioner Manuel, NSW Industrial Commission, No 525 of 1973, 7 September 1973, pg 7.

Regulation of labour at Clyde occurred in the context of continual technological change. The effect of this process on staffing and to a lesser extent wages can be gleaned from the quote above. The pressure to reduce staff numbers became an ongoing source of conflict between workers and management, as it forced a renegotiation of the wage-effort bargain. The instability associated with de-manning in the refinery resulted in the operators and lower level management in particular attempting to reinforce their importance or value in the production process. In this way concern over security of tenure and earnings emphasized the conflict over production issues. By controlling the production process workers could bolster their 'value' and maximise job security as well as earnings. The management control group in turn sought to exert its authority over the operators, while the operators sought to establish job boundaries based upon expertise, safety and custom and practice. By the early 1970s conflict over control of the production processes (and the relationship that this had to reward for work) had become an integral aspect of the regulation of work at Clyde refinery.

4.8. Conclusions

The decade of the 1960s was crucial in influencing the nature of workplace regulation at the Clyde refinery. It was during this time that the structural features of the production process and the infrastructure for collective workplace regulation were established. The increasing scale of operations brought about an expansion in employment numbers and the establishment of several distinct plants within the refinery site. Both of these factors were instrumental in reforming and solidifying the delegate structure on site. The development of the site also produced a growth in the management hierarchy, yet with little change in management's approach to labour management. A system of formalised industrial relations developed, with operator delegates and local management becoming more involved in award negotiation (as shown in Section 4.5). However, informal regulation of work performance became as important as the formal determination of work conditions. These informal matters were in many cases first determined by lower and middle management and the site delegates, often unilaterally by either party. Although issues of staffing and work performance had implications for the more formalised conditions of employment, for

instance in demands for pay increases or the creation of new award classifications, these work issues formed the basis of increasing confrontation between workers and management at the refinery. The result was that the basis of management authority became increasingly questioned and industrial tribunals were more often called upon to adjudicate as to who had the right to determine how work was performed. This was particularly evident in cases involving the introduction of new equipment, where the tribunals had to reconcile the legally derived prerogatives of management within the arguments of custom and practice. Decisions by the federal Commission, and more particularly the NSW Industrial Commission, came to represent an important dimension of how the workplace was regulated.

The development of workplace mechanisms for the regulation of labour at Clyde in some ways conflicted with the increasing integration of award negotiation in the industry. The ability of operators to use industrial power and their capacity to contest control of the workplace created problems for management, in terms of changing the production process and isolating the refinery from gains won by other industry workers. This resulted in a concerted effort in the early 1970s by the companies (with the support of the ACTU), which was pursued more vigorously following the establishment of the common forum in 1974, to centralise the determination of primary employment conditions. These efforts are described in the following chapter.

5.1 Introduction

5.2 The Evolution of Common Negotiations, 1974-1980

5.3 The National Integrated Wage Structure, 1980-1988

5.4 Toward Enterprise Bargaining, 1988-1994

5.5 Conclusions

Industry Coordination, 1974-1994

5.1. Introduction

Chapters Three and Four have identified the main elements of labour regulation at both the industry and workplace levels in the period to 1974. Chapter Three addressed the formation of bargaining in the Australian oil industry, in the form of awards and agreements made by oil industry unions and companies, mainly through the federal Commission. It concluded by examining how the companies in the industry had attempted, with the support of some unions, to bring about more coordinated bargaining over wages and conditions in the early 1970s. For the companies the coordination of bargaining brought about a stability in employment conditions across the industry. Chapter Four focused on workplace relations at Clyde refinery, where conflict over the organisation, performance and reward of work threatened the stability of employment conditions in the industry.

Consequently the decades of the 1970s and 1980s witnessed both individual companies and the industry unions attempting to reconcile industry and workplace level bargaining. As the following chapters show, the compromises reached by the parties about the level at which certain rules regulating labour should be formulated did not wholly satisfy either of them.

5.1 Introduction

This chapter continues the account of industry level labour regulation, in particular

5.2 The Evolution of Common Negotiations, 1974-1980

5.3 The National Integrated Wage Structure, 1980-1988

5.4 Toward Enterprise Bargaining, 1988-1994

5.5 Conclusions

set the development of coordinated industry level bargaining, which occurred between 1974 and 1980. The establishment of common industry bargaining provided the companies with a means to control wage costs. The acceptance of this process by unions was neither immediate nor uniform, however,

Chapter Five

Industry Coordination, 1974-1994

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This chapter continues the account of industry level labour regulation, in particular the discussion of the development of coordinated bargaining in the industry that was begun in Chapter Three. The industry had experienced unprecedented and uninterrupted growth until the mid 1970s; but thereafter, changing product market conditions (described in Chapter Two) brought about a greater need for oil companies to adjust their use of both labour and capital. The first major section of this chapter addresses the development of coordinated industry level bargaining, which occurred between 1974 and 1980. The establishment of common industry bargaining provided the companies with a means to control wage costs. The acceptance of this process by unions was neither immediate nor uniform, however;

and the reluctance by some unions to embrace centralisation was exacerbated by the competing jurisdictional coverage of the industry. However, the growing authority of the ACTU in the industry and its increasing role in award negotiations held sway and contributed to greater coordination and compliance among the industry unions. The second main section of this chapter considers the period between 1980 and 1988 which witnessed the consolidation and institutionalisation of this process.

Development of an industry-wide mechanism for negotiating awards was not only important in allowing the companies to establish wage stability (and the ACTU to institute industry-wide standards for workers), but also for them to maintain managerial prerogative. The companies successfully shifted many issues associated with workplace control away from the workplace to the industry level, thereby restricting the scope of workplace bargaining. Again, this was facilitated by the authority of the ACTU over affiliate members, particularly during the period of centralised wage fixing under the Prices and Incomes Accord.

A dramatic change in both the level and scope of bargaining in the oil industry occurred in the 1990s. After almost two decades of encouraging and developing industry level bargaining, in 1991 both the unions (in particular the ACTU) and the companies abandoned centralised bargaining in favour of enterprise bargaining. An account of this change is contained in the third major section of this Chapter. By the 1990s, the market, political and industrial context had changed markedly. The federal government moved to de-regulate the petroleum industry, in keeping with its philosophy of general market deregulation. The market for petroleum products had stabilised and the number of operators had been rationalised. There was increasing pressure from large business lobby groups to decentralise wage fixing further than the 'managed de-centralism' that had characterised the Accord from 1987 onward. The ACTU began advocating the adoption of enterprise bargaining; and this prospect was encouraged and embraced by the oil companies, as it would allow them to make formal arrangements recognising the growing diversity of operations in the industry.

The movement to enterprise bargaining in the industry returned bargaining to the level of the workplace. However, unlike the situation in the industry prior to 1972, where there existed a combination of industry and enterprise bargaining, after 1991

bargaining was undertaken on a systematic single-employer basis. This decentralised system allowed the companies, with union acceptance, to formalise new working arrangements at the refinery level. However, unlike the environment of the 1970s, it occurred in a context of low union militancy and industrial stability.

5.2 The Evolution of Common Negotiations, 1974-1980.

The common negotiation of industry awards, begun in 1972, was not immediately successful. Chapter Three showed that the first round of common negotiations in 1974 involved only the Engineering (Oil Companies) Award, the Storeman and Packers (Oil Companies) Award and the Storeman and Packers (Oil Refineries) Award. This first forum did not include the AWU, the FCU or the TWU. In 1976 these unions again refused to take part in the award re-negotiations, and refinery operators covered by state awards (Clyde, Kurnell and Kwinana) continued to finalise their awards through their respective state tribunals. The initial success of the common negotiations in establishing a mechanism for industry-wide award bargaining was therefore tempered. However, this process did see the federal tribunal become more prominent in the award renewal system. It was perhaps the unintended consequence of the desire by the oil companies to use the federal Commission as a mechanism to coordinate bargaining, in combination with the renewed authority of the Commission generally that accompanied the reintroduction of wage indexation in 1975. The role played by the Commission was to finalise negotiations by establishing industry conferences chaired by members of the Commission. In later years that role was extended by attempts to redress anomalies that had developed within and between awards in the oil industry.

In the two years following the 1974 common negotiations, there were increases in shift penalties and allowances (or award appendix payments) which flowed across the industry to include the Kurnell and Matraville refineries, at which the workers were predominantly covered by state awards.¹ There were also wage increases granted under the system of wage indexation introduced by ACAC in 1975. In 1976, during a

1. Before the Australian Conciliation and Arbitration Tribunal, in the matter of Oil Industry Common Negotiations Conference, Transcript of Proceedings at Sydney, Monday 13 September 1976, Before Mr Justice Robinson, pg 8-9 (Noel Butlin Archive, FEDFA Holding, Z257 Box 10).

conference convened by the President of the ACAC to discuss the award renewals, the ACTU attempted unsuccessfully to isolate wages from the common negotiation forum. The ACTU representative argued that the forum should consider issues related to industry conditions, but that wages should be negotiated separately but simultaneously by the individual unions and the companies.² This submission reflected a desire by industry unions to maintain their autonomy in wage negotiations. However, the historic integration of wage movements in the industry, and the importance attached to wage stability by both the Commission and the companies, ensured that the submission was rejected. In fact there followed further formal integration of wage rates across the industry with the establishment of an industry allowance. In 1977 the Anomalies Conference rationalised all site allowances embodied in industry awards. These site payments had over time come to be inserted as appendices to various industry awards. They generally related to localised circumstances, for example the payment of an allowance to compensate employees for working in a isolated location (for example these were paid to Kwinana workers), or to specific types of work performed. All of these appendix payments were eliminated in the 1977 decision and reimbursed through increased wage rates. This resulted in greater uniformity in allowances throughout the industry, with specific localised allowances disappearing and industry wide payments remaining.³

The common negotiations for award renewals in 1978 included the FCU and the Clerks (Oil Companies) Award as part of the negotiations for the first time. As an indication of the growing importance of the ACAC in wage setting, both the unions and the companies agreed to attempt to increase wages across the industry by using the work value principle under the wage indexation guidelines; and a case was mounted in the ACAC on that basis. The decision of Commissioner Neil in that case was subjected to intense scrutiny from all industry participants, particularly following a decision made soon afterwards in the NSW Industrial Commission (referred to on page 151). In November 1978, Commissioner Neil granted a flat across-the-board wage increase, but questioned the unions' submissions about increases in work value. More importantly, he recognised and reiterated the national nature of the oil industry

2. *ibid*, pg 15.

3. *ibid*, pg 15.

and accepted that his decision would flow through the industry to those industry awards not actually the subject of the case (for example the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award, even though this was a state award). He lauded the actions of the ACTU both in attempting to establish a national union forum and in admonishing the industry unions that were not part of the forum.⁴ In December, the AWU and TWU, with the cooperation of the ACTU, ran a combined case to vary their oil industry awards through the ACAC, again heard by Commissioner Neil, and using the same arguments as the earlier oil industry case, referred to as the ACTU case, to gain the same wage increases. This led Commissioner Neil to comment:

"However, in these proceedings not only have they (TWU & AWU) followed a parallel course, but both have fallen into the pattern of the ACTU case and both rely on the findings of the Commission in that case"⁵.

In granting the same wage increases to the TWU and AWU awards, the Commissioner made the increases operative one month later than the increases of the November decision, arguing that both the TWU and the AWU had had the opportunity to participate in the earlier case but had refused. Commissioner Neil's comments reflect the pressure that was being exerted on these federally registered unions by the federal Commission, the companies and to a lesser extent the ACTU, to become part of the common forum.

The persistence of disjointed award and union coverage, particularly of refinery operators, thus remained an obstacle to centralisation in the oil industry. There were three impediments to the successful achievement of a truly national industry forum for the negotiation of oil industry awards. The first of these was the representative structure of the OIIC negotiating group. The companies' representation through the OIIC was seen by the unions to cause delays because of its lack of authority. The OIIC did not have the authority to bargain on behalf of the companies. It was comprised of managers from the various oil companies, who had to confer with higher management from their own company before decisions could be made. This

4. 213 CAR 487.

5. 215 CAR 620

point was made in a letter from the federal secretary of the FEDFA to the chairman of the OIIC in June 1978. He stated:

"On past performance negotiations have been protracted and delayed by your insistence that the discussions be under the umbrella of the commission and because the negotiators have no authority to make decisions without reference back to their respective companies".⁶

The second hindrance to centralisation related to the fragmentation of union representation of workers in the industry. The union negotiation committee consisted of representatives, mainly officials, from the federal unions. The committee was first established by representatives from the metal trades, to negotiate the Engineers (Oil Companies) Award; and with the establishment of common negotiations, it was expanded to include representatives from the FSPU. In the later half of the 1970s there were also representatives from the FEDFA, FCU and finally the TWU. A FEDFA delegate from Clyde refinery attended the committee meetings, largely as an observer, with the Federal Secretary of this union representing members of the FEDFA employed in other areas of the industry. Notably, the AWU did not take part in the common negotiations until 1980. The negotiating committee was divided into groups corresponding to different industry awards. For example, the metal trades representatives would be negotiating the engineering award, while representatives from FEDFA and NUW would discuss wage rates for refinery operators.

This committee structure was coordinated by the ACTU and its officials, but was initially independent of the ACTU. However, with the growth of industry wide award bargaining and increasing numbers of unions taking part in the process, the ACTU and its officials played an increasingly dominant role. This was particularly evident with ACTU officials presenting the agreements for ratification at the Commission. The effectiveness of the union representation depended greatly upon a lack of rivalry and political differences between the unions, and the coordination role of the ACTU.

6. Letter from D. Ferguson (Federal Secretary FEDFA) to I.T. McKenzie (Chairman OIIC), 22 June 1978, (Noel Butlin Archives, Box N72/662).

It is not coincidental that the growth in union integration into the industry forum coincided with the growing authority of the ACTU.⁷

The third and most important feature that inhibited centralisation was the existence of competing legal jurisdictions for oil industry awards. By the late 1970s there were few oil industry workers outside the common forum. The most notable exceptions were those workers covered by state awards, including the Clyde operators, Kurnell operators and maintenance workers and Kwinana operators. Movement into a federal award was not an option for Clyde operators, however, as a result of the constitutional limitations of the federal branch (outlined in Chapter Four), however operators at Kurnell and Kwinana could be covered by a federal award. Competing legal jurisdiction became a significant impediment where refinery workers covered by state awards were reluctant to become part of the industry forum. The operators and maintenance workers at the Australian Oil Refineries (AOR) Kurnell refinery (both covered by state industrial agreements) and the operators at the Shell Clyde refinery were not party to the common agreements. However, as both Caltex and Shell were part of the OIIC they were encouraged by their employers to accept the terms of the common forum agreements. While both initially refused, Clyde operators became more willing to accept the wage increases won through the common forum. The inclination of Clyde operators to comply with the industry forum was no doubt influenced by the experience of the Kurnell operators, described in detail below, who attempted to remain independent from the rest of the industry.

The logical extension of the increasing coordination and centralisation of bargaining in the oil industry was to bring all industry awards into the federal jurisdiction; and this strategy was pursued by the companies throughout the late 1970s. The push for uniform jurisdictional coverage saw the companies attempt to bring all refineries with AWU operatives under a single federal award. An award of this kind would, first, overcome the discrepancies in individual AWU awards for the Queensland and Victorian refineries; and second, reduce anomalies between these refineries and the refineries in WA and NSW, which were covered by state awards.

8. Report of the Joint Commonwealth / New South Wales Working Party, op cit, pg 37.
9. Ibid, pg 37.

7. See M. Bray, (1994) loc cit and G. Griffin (1994) loc cit 1994, pp. 81-103 for a discussion of the changing authority of the ACTU.

The OIIC's attempt, undertaken with the approval of the federal AWU, to make such an award resulted in large scale industrial conflict in NSW, primarily at Kurnell refinery. Upon the expiry of the AOR's state agreement in August 1976 (AOR was wholly owned by Caltex), Caltex refused to negotiate with the operators outside the common forum. Following threats of industrial action and the listing of a dispute by the company, a state interim award was made by Justice Macken of the NSW Industrial Commission to cover the AOR refinery, which replaced the expired industrial agreements.⁸ In the same month, the federal AWU served logs of claims on employers operating refineries outside NSW, in an attempt to increase the wage levels of operators at these refineries. The federal AWU was seeking to take advantage of an anomalies report by Commissioner Neil of the federal Commission, which showed that the operators in NSW received higher rates of pay than those under the various federal awards.⁹ The oil companies responded by serving logs of claims on all refineries covered by the AWU, including those in NSW. By making the NSW refineries respondent to a federal award, the companies could avoid the pressure for wage rises which emanated from the traditional relativities between state and federal awards. The Oil Industry Branch (OIB) of the NSW AWU intervened in the federal hearing, arguing against the creation of any federal award that covered the AOR and Matraville refineries. The federal Commission acceded to the wishes of the companies and the federal unions, however, and in September 1976 created two interim awards to cover the NSW refineries. A further interim award was created soon afterwards to cover employees at the Kwinana refinery.¹⁰

In 1977 a new federal award for operators, the AWU (Oil Companies) Award, was created to cover all refineries organised by the AWU and to replace the interim awards created in 1976. Friction over the creation of a truly industry-wide forum came to a head in 1978. Between the making of the interim award in September 1976 and November 1978, the OIB had undertaken both industrial and legal action to avoid federal coverage. Following the companies' refusal to negotiate, the OIB made a commitment not to appear before the federal Commission; and undertook strike

8. Report of the Joint Commonwealth / New South Wales Working Party, op cit, pg 37.

9. *ibid*, pg 37.

10. Report of the Joint Commonwealth / New South Wales Working Party, op cit, pg 30.

11. *ibid*, pp 42-43.

action which seriously affected petrol supply in NSW, prompting intervention by the NSW government. The employment conditions of the operators came to be governed by informal over-award agreements which were negotiated through a private mediator.¹¹ In 1978 the ACAC, at the behest of the ACTU and the OIIC, conducted work value cases involving four major federal oil industry awards. The decision relating to these assessments, handed down on 6 November 1978, saw an across-the-board increase for operators of \$4.20 per week. On 8 November 1978 Justice Macken in the NSW Industrial Commission handed down an increase of \$7.50 per week for the 'fitter' classification under the state registered agreement covering maintenance workers at the AOR refinery. This decision would have flowed on to AOR operators, placing pressure on all other companies to do likewise. With the threat of nationwide industrial action, the President of the ACAC reconvened the oil industry work value case and increased the amount granted by its original decision to maintain parity with the NSW rates.¹²

The events of November 1978 illustrate both why the OIB operators did not want to leave the NSW jurisdiction and why the companies sought national coordination of wage setting in the industry. The OIB members voiced concerns about losing autonomy over wage bargaining to the federal executives of the AWU. However, the role of the NSW Industrial Commission remained an important element in the resistance by the operators to federal coverage. The OIB perceived that remaining in the NSW award system would be more beneficial for them, or in effect that the NSW Commission would rule on their claims more favourably than the federal Commission. This perception carried some validity, judging from the original decisions of both tribunals in November 1978. Conversely, uniform federal coverage was seen by the companies as a necessity in order to establish truly effective coordination and control over wage setting in the industry. The intransigence of all parties saw the conflict over jurisdictional coverage continue for several years.

10. AWU - BP Kwinana Refinery Interim Award 1976 (Print D. 1481), Oil Refinery (Total Refineries Aust Ltd) Interim Award 1976 (Print D1563) and Oil Refinery (AOR and ALOR) Interim Award 1976 (Print D1261).

11. Report of the Joint Commonwealth/New South Wales Working Party, op cit, pp 39-41.

12. *ibid*, pp 42-43.

The immediate parties to the 1978 dispute, Caltex, Total and the OIB, held out against a compromise solution, although a compromise between state and federal coverage may have been impossible in any event. Cockburn and Yerbury commented that:

"This period was also remarkable for the equally determined resolve of the companies-particularly Caltex-not to accept anything less than federal-award coverage."¹³

Clearly the companies' resolve, through the OIIC, to pursue a national framework was in direct conflict with the operators' desire to maintain responsibility for negotiating wages and conditions at the local level. Cockburn and Yerbury contend that the vigour of this dispute resulted largely from the operators at AOR-Kurnell and Total-Matraville being caught between the oil companies, the federal Commission and the federal unions. They argue:

"The operators at the Kurnell and Matraville refineries soon found themselves caught in a cross-fire. With the expiration of their State industrial agreements in 1976, they proceeded to serve logs of claims on the companies. The companies refused to negotiate and insisted that the OIB join the common negotiations."¹⁴

By the end of the decade the struggle as to who should have jurisdiction over the Kurnell refinery had resulted in a series of highly visible and publicised industrial disputes which at various stages involved the NSW Industrial Commission, the ACAC, the OIIC, the ACTU, the NSW Labour Council, the Prime Minister, the Premier of NSW and his Minister for Industrial Relations. The conflict also saw the mass resignation of OIB operators from the federal AWU, a High Court challenge to the power of the federal Commission, bans and limitations on refinery equipment and the appointment of a NSW Industrial Commission judge as a board of reference.¹⁵

As was the case at Kurnell, the Clyde operators were also covered by a state award. The position of Clyde operators outside the industry forum posed an additional threat to the OIIC, ACTU and federal oil unions attaining an industry bargaining structure. As will be detailed in the following chapter, the Clyde operators' autonomy from the

13. Cockburn & Yerbury, op cit, pg 74.

14. *ibid*, pg 73.

industry forum created tensions with the Shell Refining Company over the renegotiation of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award. These tensions on occasion resulted in disputation requiring the intervention of the NSW Industrial Commission. Like Caltex, Shell sought to force the operators into the common forum. However, the level of disputation at Clyde did not reach the same magnitude as occurred at Kurnell and consequently the extent of external interest and intervention in the conduct of industrial relations at Clyde was far less. There were two primary reasons for this relative industrial peace at Clyde. First, as has been previously mentioned, the Clyde operators could not be covered by a federal award (due to the limitations in the federal FEDFA's constitutional coverage) unless that union was displaced at the refinery, which was a course of action not attempted by Shell. Secondly, the Clyde operators were more accommodating of the common forum, particularly after the primacy of that forum for setting wages in the industry was demonstrated with the reconvening of the federal industry wage case in November 1978. The Clyde operators did not reject the common forum, eventually joining it in 1980, and Shell Refining did not attempt to coerce the operators, rather attempting to coax them to join. Consequently, in contrast to Kurnell, industrial disputation and dislocation occurred on a smaller scale at Clyde.

In the end the AOR and Total interim federal awards were suspended in June 1979 and a joint Commonwealth - NSW working party was established to collect evidence and provide a permanent solution to the dispute. The joint working party received both oral and written submissions from all parties in the industry. The submissions of the companies, the ACTU, the majority of oil industry unions and the Commonwealth all favoured a solution that would bring the OIB operatives into a national framework, although most resisted the idea of establishing an independent tribunal for refinery operators.

The joint working party suggested three options as a solution to the problem. The first option proposed was for a member of the NSW Industrial Commission, holding a dual appointment with the ACAC, to act as a separate tribunal. This member would hear matters relating solely to the operators at AOR-Kurnell and Total-Matraville.

15. *ibid*, pg 74.

The second option involved a joint sitting of the ACAC and NSW Industrial Commission; while the third proposed the establishment of an autonomous tribunal similar to the Coal Industry Tribunal.¹⁶ The oil companies were unhappy with all options and pressured the Federal government to resist the adoption of any of these solutions. The NSW government favoured the second option. This uncertainty concerning the future of the operators continued until 1980. In the face of further industrial action, the Federal Government agreed to a proposition from the NSW Premier that saw the OIB retain their State award coverage. It involved complementary amendments being made to the NSW Industrial Arbitration Act and the Commonwealth Conciliation and Arbitration Act.¹⁷ The effect of the amendments was to return the AOR and Total operators to the NSW system. However, the power of the NSW Commission was restricted to only those matters not the subject of common negotiations and the NSW Commission could not make awards or agreements for the OIC operators until the common negotiations were complete. Thus, the operators at the AOR and Total had to wait until claims dealing with wages and other major conditions of work were settled or arbitrated at the federal level before they could bring similar claims before the NSW Commission.¹⁸ In practice this forced greater consultation between the NSW and federal Commissions with respect to oil industry awards.

In summary, if the decades of the 1950s and 1960s witnessed the development of institutionalised labour regulation in the Australian oil industry, then the decade of the 1970s represented an attempt, primarily by the companies, to consolidate the bargaining structure at an industry level. The companies hoped that the creation of industry level bargaining would result in an end to the wage leapfrogging and flow-ons that had characterised wage movements in the industry during the 1960s. In doing so, centralisation would allow the eleven major companies to take wages out of competition in the downstream sector. The industry forum also provided a mechanism to subvert conflict over labour regulation at a workplace level, by settling

16. *ibid*, pg 75.

17. Industrial Arbitration (Oil Industry) Amendment Act 1980 (NSW Government Gazette, No 80, 30 May, 1980, pg 2741) and Conciliation and Arbitration Amendment Act (No.2) 1980 (Commonwealth of Australia Gazette, No G21, 27 May 1980, pg 2.).

18. Cockburn and Yerbury, *op cit*, pg 76.

major labour issues at the industry level. Wage determination quickly became the central component of common negotiations, effectively restricting workplace negotiations that involved issues of compensation. The industry forum did not instantly result in a reduction in workplace level conflict, however; and in fact in some instances, these processes exacerbated tension at a workplace level.

5.3 The National Integrated Wage Structure, 1980 - 1988

The movement toward federal award coordination came to fruition with the negotiation of award renewals in 1980. The oil industry decision of 1980 marked the first time that all federal oil industry awards were heard in the same case. Unlike the previous award renewals under the common forum, negotiations for the 1980 renewals included the TWU and the AWU. This award renewal saw the development of a package for the entire industry. During ACAC proceedings to process the award renewals the ACTU Secretary commented that:

"In 1978 the ACTU was prepared to convene meetings of all interested unions and to organise national negotiations. We did that on the clear understanding that there would be only one position put by the oil industry and that would be maintained. That is, it would be put to the common forum or to the ACTU forum and there would be no deviation from that. We asked specifically for the same position to hold in these negotiations and the oil industry has responded positively to that. We have reciprocated in terms of our response. We believe there can only be one forum in terms of negotiations and the matters in the national contract and that is this forum. There will be no other forum. The result which is obtained in this forum will in our view be applied right across the industry".¹⁹

During the 1980s the coordination of wage movements across the industry was taken one step further by both the OIIC and the ACTU, with both groups arguing that there should be similar wage rates for similar work performed throughout the industry. This was to be achieved by the creation of a National Integrated Wage Structure (NIWS). It extended the attempts at wage coordination which had occurred in the 1970s. The initiative for the NIWS came from the companies and resulted in the

¹⁹ Transcript - No.3040/1980: TWU & o/s & Altona Petrochemical Company; 3079/1980: Engineering (Oil Companies) Award 1978, 3085/1980: AWU (Oil Companies) Award 1978, 9 July 1980, pg. 802.

attainment of wage stability and industrial peace. The creation of the NIWS by the companies with the support of the ACTU and industry unions effectively incorporated the unions into an industry bargaining framework and removed responsibility for most aspects of labour regulation from the workplace level. This structure was then frozen, with the election of the Australian Labor Party (ALP) to federal government in 1983 and the adoption of the Prices and Incomes Accord, resulting in a undermining of the workplace as the major arena of labour regulation.

Bargaining in the oil industry during the 1980s took place in a very different economic and political context than that which had prevailed in the 1970s. It was only with the slowing in the growth of the market for petroleum products and the changing economic conditions in Australia in the late 1970s that much of the workplace militancy that had been present in petroleum manufacturing faded. This created a partial vacuum at the workplace level, as workers came to rely upon industry level negotiations and decisions for improvements in wages and conditions. The ACTU encouraged the growth in importance of industry level bargaining, as it equalised conditions across the industry for all workers.

The election of the ALP to federal government in 1983, and the negotiation of the Prices and Incomes Accord by the ALP and ACTU, changed the industrial relations landscape in Australia and impacted significantly upon bargaining in the oil industry. For the period of the Accord between 1983 and 1987, unions agreed to follow the decisions of the National Wage Case. The unions' commitment to making 'no extra claims' outside those they lodged at the National Wage Case meant that the workplace was effectively negated as an area of conflict between unions and companies over wages. This situation allowed some companies to undertake substantial workplace changes, with little or no obstruction from on-site unions. The partial decentralisation of wages after 1987 allowed some latitude for negotiation at the workplace level; however this was within guidelines set by the Restructuring and Efficiency Principle (REP) formulated by the federal Commission in 1987 and the NIWS principles drafted at the industry level.

19. Transcript - No 3040/1980: TWU & ors & Altona Petrochemical Company; 3079/1980: Engineering (Oil Companies) Award 1978; 3085/1980: AWU (Oil Companies) Award 1978; 9 July 1980, pg 302.

The NIWS was negotiated by the parties and subsequently ratified by the federal Commission. The ACAC justified the adoption of the NIWS by arguing that it reflected: first, the Commission's own principles of wage fixation and in particular those relating to work value and the eradication of anomalies; second, the national character of the industry and the commitment of the unions and companies to a national structure; and third, the inclusion of all occupational groups in the industry in conferences and proceedings.²⁰

The adoption of the NIWS was the foundation for wage movements in the industry in the 1980s. The parties devoted much energy to attempting to implement the NIWS across the industry. The major impediment to its successful implementation again lay in the inability of the unions and the companies to control the operators at the AOR and Total. Additionally, however, the changing political and industrial climate modified the aspirations and effectiveness of the NIWS over the course of the 1980s.

The goal of the NIWS was to have a national uniform wage structure across the industry as a whole and to eliminate anomalies between different awards. This was articulated by the ACTU Secretary during federal Commission proceedings in early 1980, which were concerned with anomalies and inequities caused by the wage decisions (both in the ACAC and the NSW Industrial Commission) of November 1978 (see page 151). He argued that, in order to overcome these anomalies:

"The first step should be to seek the elimination of interstate differentials, the tidying up of the disparate rates for certain classifications in federal awards, and the correction of the disturbance to the 1978 oil industry settlement created by the decision of Mr Justice Macken in respect of operators at AOR and Total, given this year."²¹

The Commission granted a wage increase to overcome the anomalies created by wage rises to the AOR and Total operators. However, in its decision in 1980 it rejected the unions' claim to abolish interstate differentials. The framework of the NIWS was accepted and facilitated by the Commission in its decision regarding the oil industry

20. 448 CAR 293.

21. Australian Conciliation and Arbitration Commission, In the matter of TWU and Altana Petrochemical Co, Engineering (Oil Companies Award) 1978, The AWU (Oil Companies Award) 1978, 15 April 1980, pg 21.

award renewals in December 1980. As part of the award renewals, all parties made a commitment to move towards the NIWS. In order to formally achieve this, a federal Commission member was assigned the task of examining the abolition of interstate differentials. The federal Commission outlined how the NIWS was to be implemented in its decision of October 1981.²²

The agreement reached between the unions and the companies regarding the NIWS included a commitment to an examination of all classifications, both in terms of the definitions of occupational classification and the wage rates being paid. This required:

"... examining relative skills and responsibilities, involving 'a process of considering and weighing all material and evidence arising from the inspections and no regard to rates of pay either within the awards concerned or outside of those awards.'"²³

In short, all federal oil awards were to be reviewed, with particular reference to the definitions of various classifications, the relationships between classifications, the differences between refineries and the impact of these differences upon other grades. The wage increases that resulted from the agreement varied considerably across the industry. Both the unions and companies appreciated the difficulties involved in abolishing relativities between grades and locations, particularly for the position of refinery operator. Nevertheless, in advocating the adoption of the NIWS, both the ACTU and the OIIC remarked on the far-reaching advantages that it would have for wage rates within the industry. The Full Bench of the Commission saw the NIWS as a natural extension of the concept of a national industry. Their comments concerning the concept and mechanism of the NIWS, made in October 1981, are worth quoting at length:

"We agree that the proposals before us represent a step towards the establishment of a national integrated wage structure in the oil industry. The agreement now reached, at least in terms of federal awards at this point, represents a logical extension of the need to examine the oil industry in a total national framework, an

22. 266 CAR 51.

23. *ibid.*

approach accepted by the parties and fully endorsed and supported by this Commission."

In relation to the process of the NIWS, they added:

"The NIWS exercise necessitates, the oil companies stressed, that "any changes or alterations to rates of pay ... (have) to be authoritative, justifiable and to have a logical basis; that the concept does not necessarily entail the same rates of pay for the classifications bearing the same name at different locations, nor does it necessarily entail raising of rates to the highest rate obtaining (sic) in any particular locality; that any alterations which occur to rates of pay in accordance with the concept rely upon proper comparisons and take into account of (sic) many and varied factors ... of industrial relations ... that there may be or are likely to be alterations to existing relative positions both within and between awards resulting from a process of investigation and comparison on a proper basis.""²⁴

The importance of this decision lay in the stated commitment by the parties to the concept of the NIWS. The initial agreement set down the processes for achieving the proposed structure, although the effect on wage relativities at the outset was quite small, particularly for differentials between operators. The NIWS was perceived by the parties as an ongoing commitment; that is, it was acknowledged that the eradication of relativities and anomalies could not be achieved in one large correction. Rather, it was a process that would continue through future industry award renegotiations. The NIWS process had extreme significance for the operators at Shell Clyde. Their entry into the common forum in 1980, combined with their position (along with Kurnell operators) as the highest paid operators in Australia, resulted in Clyde operators becoming the 'benchmark' for wage movements in the industry under the NIWS. The elimination of anomalies was translated to mean that the wage rates for refinery operators (and through relativities, other occupations) in the industry were brought closer to the wage rates that prevailed at Clyde.

However, the first complication faced by the parties in the industry proved to be external intervention, in the form of a federally sanctioned wages freeze. The oil industry awards were renegotiated in early 1982. The 1982 package to renew the oil

24. *ibid.*

industry awards contained three main features. The first was a wage increase, which was to be paid in two instalments. The increase itself was argued to reflect the prevailing economic conditions as well as changes to work and productivity improvements in the industry. Second, there was to be an allowance paid for the continued adoption of the NIWS. Finally, the companies agreed to pay employee contributions to medical benefit funds, which would be phased out with the introduction of company medical benefit schemes.²⁵ The agreement was finalised in October 1982, with the first part of the wage increase being paid.

However, in December of that year the Fraser government, with the agreement of the ACAC, introduced a wages freeze. This saw major parts of the package deferred. The postponement of wage increases was resisted by the unions, who argued that the package had been agreed to before the implementation of the freeze and thus the payments should be made in full. The oil companies in turn resisted this, arguing that the ACAC did not ratify the agreement before the freeze was imposed.²⁶ The ACTU opposed the whole concept of a wages freeze and planned to use the 1982 oil industry agreement as a means of breaking the freeze. The ACTU and the federal unions took industrial action in order to force the companies to pay the remaining part of the package, with the ACTU coordinating the action through its Disputes Committee. In January 1983 overtime bans were imposed on the companies, in an attempt by the unions to pressure them without actually stopping petrol supply, so as to minimise the effect of the dispute on the general public.

The 1982 agreement thus became an avenue through which the union movement attempted to break the wages freeze. Conversely, the federal Coalition government had to ensure that the second half of the package was not granted by the companies. This situation spawned rumours that the government was actively lobbying the oil companies to escalate the dispute for its own political advantage. Simon Crean, then ACTU President, stated that:

27. Quoted in P. Kelly, *The Hawke Ascendancy: A Definitive Account of its Origins and Causes 1975-1983* (Sydney & Robertson Publishers, 1984), pg 333.

25. Oil Industry, *The Case for Ratification of the Oil Industry Agreement 1982*. October 1982.

26. "Oil workers keen to push against freeze" *Sydney Morning Herald*, 12 January 1983, pg 2.

"There is no doubt that the oil companies were deliberately creating the dispute because the limitations we had imposed affected no supplies to the public ... We'd heard rumours that the Government had put pressure on. It was hard to confirm. But the example of unnecessary exacerbation can't be refuted. We had people being asked to unload tankers on overtime when those tankers weren't due for a couple of days. The oil industry bosses wanted to bring the dispute to a head."²⁷

The industrial action was quietly dropped following the announcement of a federal election in March 1983. The NSW Secretary of the TWU commented: "We (TWU) are not going to play into the hands of the Federal Government."²⁸

The national and political importance of industrial relations in the oil industry is reflected in these events, which saw the manipulation of oil industry awards for political leverage by both the Coalition and Labor parties. Liberal Prime Minister Malcolm Fraser rationalised that the dispute in the oil industry was a threat to the integrity of the wages pause and used this as grounds for calling an early election. Correspondingly, the ACTU used the dispute to attack the wages pause.²⁹ The ACTU called off all industrial action in the oil industry once the federal election was called in February 1983. This was indicative of the growing authority of the ACTU over the union movement, but more specifically, of its ability to control the federal oil industry unions. As the Secretary of the ACTU commented:

"The ACTU had a fair measure of authority in the oil industry. We were on top of the dispute. We were always confident that once Fraser had gone all the way and called an election, then the very next day we would be able to have a meeting and call off the dispute. By and large the workers were prepared to accept our leadership on this issue."³⁰

The ability of the ACTU to manage this dispute was integral to the election success of the Australian Labor Party. The management of the oil industry dispute by the ACTU was one important demonstration to both the Labor Party and the public that it had

27. Quoted in P. Kelly, *The Hawke Ascendancy. A Definitive Account of its Origins and Climax 1975-1983*, (Angus & Robertson Publishers, 1984), pg 358.

28. "Oil workers keen to push against freeze" *Sydney Morning Herald*, 12 January 1983, pg 2.

29. Kelly, op cit, pp 356-357.

30. *ibid*, pg 367.

the necessary authority to control its affiliate organisations, which was essential to its ability to fulfill its Accord commitments.

Following the election of the Hawke Labor government in March 1983 the major constraint on bargaining in the oil industry was the return to centralised wage fixation and the union movement's commitment to making no further claims. Both these principles were encapsulated in the first Accord negotiated by the ACTU and the ALP.³¹ In order to meet the guidelines of the Accord and the new national wage principles, the remainder of the 1982 oil industry package had to be substantially renegotiated. This resulted in the Arbitration Commission granting the 3 percent NIWS payment to workers in the industry other than those working in benchmark classifications (that is, operators and fire brigade workers at Clyde refinery) in August 1983. It was argued that this NIWS payment would not lessen disparities within the industry, but would allow for further implementation of the NIWS.³² The final part of the package was ratified by the Commission in November 1983.

The jurisdictional fragmentation of operators remained an underlying issue both in these negotiations and in award renewals throughout the 1980s. This was particularly evident in the payment of NIWS allowances. The operators at Clyde refinery in NSW were subject to a state award, yet after 1980 these workers made a commitment to the national system and to the NIWS, while the operators at Kurnell and Matraville, who were also covered by state awards, made no such commitment to the industry forum. In 1984, the operators at the Kurnell refinery negotiated substantial wage increases which purported to represent increases in work value. As part of the increases the operators received an allowance of 2.9 per cent. This was perceived to threaten traditional relativities with the federal oil awards. Both the oil companies and the ACTU intervened in the NSW Commission hearing, arguing against the ratification of the agreement. The advocate for the oil companies questioned whether the 2.9 per cent was a catch-up for the forgone NIWS allowance, or a genuine increase in work value. He argued that if it was the latter, it would have the potential

31. J. Teicher, 'Union compliance and incomes policy: The Australian Social Contract, 1983-87', *New Zealand Journal of Industrial Relations*, 13 (3) 1988, pp 225-227.

32. "Oil workers get pay rise despite pause", *Australian Financial Review*, 11 August, 1983, pg 3.

to flow-on to the rest of the industry.³³ This was particularly so as the ACTU claim for the federal award renewal negotiations in 1984 amounted to a zero increase in actual wage rates. Indeed, in the FEDFA federal council newsletter of September 1984, the FEDFA member on the ACTU committee for the federal negotiations remarked in respect of the Kurnell agreement that:

"The oil industry negotiating team representing all the oil companies assured us that no one would gain any conditions greater than what was contained in the national settlement. The reason why the ACTU/Unions sought these assurances was because of past assurances that have effected (sic) the national settlement especially by one company, Caltex. Well it appears that, once again, Caltex (who is represented on the oil companies negotiating team) have decided to offer the operators at AOR a better deal than has been negotiated in the national discussions. There appears to me only one reason for this and that is to buy some industrial peace."³⁴

While the 1984 wage agreement reached by Caltex and the Kurnell refinery workers appeared to resolve many union grievances, or at least buy industrial peace at that refinery, it again caused problems for the rest of the industry. The decision by the NSW Industrial Commission to register the Kurnell agreement, particularly the 2.9 percent allowance, resulted in the OIIC agreeing to an ACTU request that the operators and firemen at Clyde be paid the 3 percent NIWS allowance. This in effect subverted the aim of paying the allowance, which was to raise the earnings of occupations relative to the benchmark classifications of the Clyde operators and firemen.

The unions' log of claims for the 1984 award renewals involved long service leave entitlements, greater employee participation and occupational health and safety. The agreement ratified by the ACAC in December 1984 allowed for the making of an award regulating long service leave entitlements for workers in the industry: the Long Service Leave (Oil Companies) Award of 1985. In addition, there was agreement to

33. "Commission to rule on oil pact 'within days'", Australian Financial Review, 4 October 1984.

34. FEDFA (Federal Council) Newsletter No 6 - September 1984.

adjust standard industry allowances on a once-only basis, by twelve per cent.³⁵ This adjustment was forced into the agreement also as a result of the wage increases achieved by the workers at the Kurnell refinery in their 1984 agreement.

Laboratory technicians represented by the Association of Draughtsmen, Supervisors and Technical Employees (ADSTE) belatedly became part of the common forum in 1985, with the creation of the Laboratory Employees (Oil Companies) Award 1984.³⁶ This removed classifications for laboratory technicians from the existing AWU (Oil Companies) Award and incorporated them into a single independent award. The movement toward the implementation of the NIWS continued in 1986, with a hearing before the Anomalies Conference which redefined the category structure for operators covered by the AWU (Oil Companies) Award.³⁷ As with all NIWS exercises, the change was made with reference to the operators at the Shell Clyde refinery, which were accepted as the benchmark for the industry. The industry awards were renegotiated in 1986, with industry based superannuation being the major union claim.³⁸ The NIWS was formally completed with the granting of wage increases in 1987.

Thus the tensions between local and industry level regulation were largely resolved during the period of the NIWS in favour of the latter, with the scope of workplace bargaining set by the parameters of industry agreements. Many of the changes that occurred at the workplace level had implications for remuneration. For example changes in technology and staffing levels, which both impacted on work organisation and performance, had repercussions for levels of compensation due to changes in work performed. The NIWS and the early Accords effectively removed wage determination from the realm of workplace bargaining, setting strict rules for wage increases. This left little or no discretion for workplace delegates to negotiate over changes in remuneration as a consequence of workplace change, thereby restricting the scope of workplace bargaining. The large and often disorderly wage increases

35. 295 CAR 778.

36. 298 CAR 504.

37. 301 CAR 253.

38. "Super tops oil workers' agenda in award talks", The Australian Financial Review, 5 February 1986. pg 3 and "Oil workers get backdated 4pc rise", Sydney Morning Herald, 10 October 1987.

that had been a feature of the oil industry during the 1960s and to a lesser extent the 1970s had virtually disappeared by the 1980s. This reflected both the consolidation of the industry forum as the main avenue for regulating conditions of employment, particularly wages, and the changed expectations of unions in response to the market changes. Such was the acceptance of the industry bargaining structure by the majority of industry participants that the Clyde operators voluntarily entered the common forum and legislative amendments were made in an attempt to force Kurnell operators to follow the terms of the industry agreements.

Considering the reluctance of unions to accept the industry forum and the associated industrial disputation of the 1970s, why was the NIWS largely successful in the 1980s? Its success was a reflection of the changed economic and political context. As shown in Chapter Two the oil industry in the 1980s was characterised by a stagnating demand for petroleum products and a significant shift toward 'lighter' products. There was also a rationalisation of companies operating in the industry, with associated reductions in the award workforce, and union expectations were diluted by the reduced profitability experienced by all companies during the first half of the 1980s. More generally, the early 1980s in Australia were marked by an economic malaise. The political environment, with the election of the Labor government and the adoption of the Accord, also had repercussions for the oil industry. The commitment by the ACTU and its affiliate organisations to make 'no extra claims' outside National Wage Case sanctioned wage increases effectively curtailed action by individual unions and eliminated workplace negotiations over pay. The ACTU enforced the 'no extra claims' commitment in the Accords, becoming the regulator of union behaviour across the union movement as a whole.³⁹

The primacy of the national wage decision was reflected by the NSW Commission adopting similar wage guidelines in state wage decisions during the 1980s. However, industry-wide wage bargaining came under increasing pressure in the late 1980s, as both industry-specific influences and changing national wage principles forced the industry to re-evaluate the central wage forum and the NIWS. The result was a return to decentralisation. The new bargaining arrangements were more fully

39. Teicher, loc cit, pp 225-231.

decentralised than those that prevailed before the 1970s, resulting in a return to the workplace of responsibility over labour regulation.

5.4 Toward Enterprise Bargaining, 1988-1994

The changed political and economic context of the 1980s saw the OIIC consider bargaining and long term industrial relations in the industry. During 1988 the OIPC, part of the oil industry IRG including the OIIC, investigated and recommended options for future industrial relations strategies in the industry. The terms of reference of the OIPC were:

"To evaluate options for the structure of industrial relations for the industry (companies respondent to oil industry awards), including consideration of processes for their implementation, which will lead to the formulation of a long term strategy".⁴⁰

The oil industry had been undergoing substantial changes during the 1970s, as outlined in Chapter Two. Federal government regulation of the industry was re-evaluated and substantially modified in the late 1980s, providing the companies with a greater ability to plan for production and marketing. Further, since 1987 the Accords negotiated by the ACTU and the federal Labor government had begun advocating greater decentralisation of wage fixing. This was reflected in the national wage principles adopted by the ACAC and later the Australian Industrial Relations Commission (AIRC). The first of these principles was the two-tier wage decision handed down in 1987, whereby a proportion of the wage increase was gained through modifying work practices to increase productivity. The modifications were to be consistent with the REP developed by the Commission in this case. The REP was modified by the Commission in 1988 to become the 'Structural Efficiency Principle' (SEP). These wage principles severed the link between the cost of living and automatic wage increases (wage indexation) and advocated increased productivity in Accord VI in 1991, saw option B quickly eclipsed by option C. Decentralised negotiations were to be introduced across the industry.

41. See B. Dabachek, 'The Arbitration System Since 1967', in Bell and Hand (eds), *State Policy in Australia* (Melbourne: OUP, 1994).

40. Oil Industry Future Industrial Relations Strategy - Report to the Oil Industry Policy Committee, December 8, 1988.

order for workers to receive wage increases,⁴¹ thus effectively forcing award respondents to negotiate methods of increasing productivity.

However, perhaps more importantly it appears that the companies believed that In December 1988, the employers' policy committee presented three options to the industry for reform of industrial relations. The first, known as option A, provided for little change in the existing relations and structures. It involved the retention of a common forum for industry negotiations, with the involvement of the ACTU. Within this framework, the federal awards would remain virtually unchanged, retaining their paid rates status but giving greater emphasis to local agreements which would reflect productivity. This would allow some differentiation between sites and companies based on productivity. The second option (B) represented a modification of the existing structures. This alternative advocated the adoption of a parent oil industry award which would be supplemented by certified agreements within the individual companies. As a result, there would be a decreased role for the OIIC and the ACTU, both of which would largely be confined to negotiating the central parent award. The individual company agreements would be certified through the AIRC. The third option (C) represented the most radical departure from the status quo. It promoted a complete decentralisation of bargaining in the industry. Each company would undertake its own bargaining and, as company awards were made, would relinquish responsibility to the existing federal awards. There would be no centralised role for the OIIC and only the standard hours award and long service award would prevail across the whole industry.⁴²

There was initial agreement among the oil companies on the second option. The procedure outlined in option B most closely conformed to the SEP that prevailed at the time, which may have accounted for the acceptance by the ACTU and the unions of that strategy; however, the reopening of formal workplace negotiations, and the adoption by the ACTU of the concept of enterprise bargaining with the negotiation of Accord VI in 1991, saw option B quickly eclipsed by option C. Decentralised negotiations were to be introduced across the industry.

41. See B. Dabscheck, "The Arbitration System Since 1967", in Bell and Head (eds), *State, Economy and Public Policy in Australia*, (Melbourne: OUP, 1994).

42. Oil Industry Future Industrial Relations Strategy - Report to the Oil Industry Policy Committee, December 8, 1988.

The history and experience of some occupations in the industry with local bargaining may have contributed to the modification of the bargaining strategy from B to C. However, perhaps more importantly it appears that the companies believed that decentralisation would not result in the same problems that it had created in the 1970s. Many of the conditions that contributed to wage flow-ons and high levels of industrial disputation in the 1970s had altered dramatically by the late 1980s. Reduced employee numbers and slack labour market conditions, combined with the adoption of more accommodative strategies by ACTU affiliates, substantially reduced the pressure for wage increases from trade unions in the industry. In turn, the rationalisation of companies in the industry provided unions with little opportunity to isolate a company in order to win wage increases. Finally, due to legislative change the AIRC was no longer a mechanism that could flow-on wage increases achieved at one particular site to the rest of the industry. The combination of these factors appears to have confirmed that the companies could attain wage stability and control wage fixation at an enterprise level.

The shift toward decentralisation in the industry was formalised by an agreement between the OIIC and the ACTU in October 1991. The broad parameters of the framework were set as follows:

"With respect to the form of future award regulation in the Oil Industry in the 1990s it was agreed that the framework of award regulation would shift from the current position of eight principal Federal Oil Industry Awards, negotiated predominantly through the Central Forum, to individual Company awards on the following basis:

- * Retention of the Standard Hours (Oil Companies) Award and Long Service Leave (Oil Companies) Award as industry awards;
- * Establishment of National Skills and Accreditation Standards for maintenance and laboratory employees;
- * A company award for each refinery;
- * A company award for terminals;
- * An award for the Bass Strait Complex;
- * Retention of the Transport Workers (Oil Companies) Award restructured as follows:

- Part 1 Driving

- Part 2 Aviation

- Part 3 Company Sections;

* Company awards for clerical employees consistent with the agreements reached with each company;

* IIC. Awards established within the Companies as outlined above will have designated sections. Part 1 will include the general conditions of employment. Other parts will relate to the specific occupational group; in particular, structures relevant to that group. The relevant unions will become respondent to the awards created on an individual company basis."⁴³

This agreement was reaffirmed in 1991, with the inclusion of wage increases for workers in the industry commensurate with the progress of restructuring occurring within their particular site or company. The agreement represented a radical departure from the policies of both the oil companies and the ACTU in the 1970s and early 1980s, of uniform centralised industry standards; indeed it encompassed a complete restructuring of awards in the industry. Award responsency between 1972 and 1989 for the four major occupational groups working in oil refineries and terminals is shown in Appendix 2. This Appendix shows the situation that prevailed before the implementation of the decentralised strategy.

There was to have been a separate award for transport workers; but instead they were made party to enterprise agreements. The major concession with respect to transport workers in the 1991 agreement was a fracturing of the award link between oil tanker drivers and airline flight refuellers, who were also members of the TWU.⁴⁴

The pace of enterprise bargaining increased remarkably with the removal of institutional impediments by the government after 1991. Individual companies approached the task of enterprise bargaining in different ways. Within the Shell Australia group there were different approaches adopted at different sites. For

43. Agreement on the Future Form of Industrial Relations Regulation of the Oil Industry in the 1990s. Joint Statement by the ACTU and Oil Companies, June 1991, pg 3.

44. *ibid.*

instance, at the Clyde refinery agreements were negotiated individually with the operators, metal workers and electrical-instrument workers, while at the Shell Geelong refinery one agreement was negotiated for the entire site. Agreements were also made on a site by site basis in the major Shell oil terminals from which the refined product is transported. This move to enterprise bargaining had an effect on the role of the OIIC. Under the centralised regime the OIIC had been the mechanism for negotiating awards, however with the decentralisation of bargaining the actual negotiations were carried out by the individual companies and the OIIC serviced these companies with information about agreements across the industry. The continued existence of the OIIC, although in a much reduced capacity, meant that there was still a formal avenue for the companies to exchange information about industrial relations. At a more informal level, there were personal linkages between management in different companies.

Although there is currently no formal coordination, there are claims by company employees of oil industry standards developing. This is particularly so in terms of the push by several companies to increase hours of work and reduce employee numbers. The unions have responded to this by developing their own formal mechanisms of communication. While the transport workers and maintenance workers on different sites are covered by the same union, the same is not the case for refinery operators. Since 1993 the operators at Australian refineries have established the Australian Refinery Operators Group (AROG). The AROG, which meets on average once every six months, is primarily a forum through which the operators can exchange information about company initiatives and provide financial support for operators facing industrial action.⁴⁵ Such measures ensure that industrial relations in the industry will retain some type of coordinated character following decentralisation.

5.5 Conclusions

Both this chapter and Chapter Three have described the forces which impact upon the formal level and scope of bargaining in the oil industry. As was argued in Chapter One, both the level and the scope of formal bargaining have important implications for the regulation of labour within the workplace. Having first considered the

⁴⁵ Interview, FEDFA delegate, 20 January 1995.

determinants of the formal bargaining structure, the discussion in the following chapters then focuses on the relationship between this formal bargaining and labour regulation at the workplace.

In discussing the determinants of the level and scope of bargaining in Section 1.5.4, it was argued that they are not only influenced by the choices made by the bargaining parties but that these choices are in turn influenced by market conditions, the structure of the parties and the state regulation of bargaining processes and parties. The changing nature of these variables results in alterations in the procedures for and the substance of labour regulation, as is clearly demonstrated by the experience of the oil industry presented in this chapter.

With respect to the level of bargaining, there is reason to believe that the changing product and labour markets have impacted upon the strategies and expectations of the companies and the industry unions. The growth in the market for petroleum products was instrumental in motivating the companies to agitate for bargaining at an industry level. The buoyancy of the market during the 1970s allowed unions to readily extract improvements in wages and conditions at a workplace level. The change in demand for petroleum products, combined with the general economic deterioration in the second half of the 1970s and early 1980s, affected the bargaining position of workers in the industry. The decline in companies' profitability and the reduction of employee numbers were also instrumental in tempering union action and allowing an industry forum to be successfully developed.

Importantly, the parties in the oil industry were structured in a manner that allowed them to develop an industry level multi-employer bargaining structure. The existence of the OIIC provided a mechanism for the companies to undertake industry level bargaining; and the funding of an oil industry secretariat in 1972 consolidated this bargaining infrastructure. The ACTU in turn facilitated an industry response from the unions. It initially coordinated the claims of the individual unions, but over the course of the 1970s and particularly the 1980s came to initiate claims and undertake bargaining with the support of the individual industry unions. The development of the Accord and its bargaining arrangements involving the ACTU and the federal Labor

45. Interview, FEDFA delegate, 20 January 1995.

government consolidated centralised bargaining in the industry. Perhaps the best example of the authority of the ACTU over its affiliate unions was its agreement on their behalf to decentralise bargaining in the early 1990s. This was the companies' preferred policy, which was supported by the ACTU.

Both the ACAC and subsequently the AIRC provided the legal support for both the development of industry bargaining and the reversion to enterprise bargaining. As was the case with the ACTU, by facilitating and encouraging the development of an 'official' industry framework, administered by the federal tribunal, that tribunal consolidated its own authority in influencing wage levels. The growing importance of the federal Commission as a result of centralisation occurred at the expense of the state tribunals, and had the effect of emphasising consistency in industry regulation (as the federal Commission administered industry awards) rather than recognising the divergence in workplace labour regulation (as state tribunals administered enterprise awards). This process of change in the level of bargaining had implications for the scope of bargaining and the regulation of work.

With respect to the scope of bargaining, the development of industry bargaining limited the scope of workplace level bargaining over wages. As the major conditions in the industry were brought under the common industry framework for determination, the scope for workplace bargaining was further limited. The difficulty in divorcing issues of workplace change from issues of compensation (or wages) meant that workplace bargaining over the regulation of labour was severely restricted. In the context of a tight labour market and buoyant product market, this worked to the advantage of the companies. The consolidation of this bargaining structure under the NIWS and the Accord continued to marginalise the workplace as an area for the regulation of work. Under the initial Accord agreements there was little scope for workplace determination of wage related issues. Both the NIWS and the Accord strengthened the authority of the ACTU relative to individual industry unions, thus effectively entrenching the industry as the appropriate level for bargaining.

Ironically, one advantage for the companies of centralising award negotiations was that it broke the nexus between workplace change and wage increases. The following chapters will illustrate that by removing wage setting from the workplace level,

management could implement changes in staffing and technology at a workplace level, with individual unions having little scope to claim wage increases. Any wage claims based upon increased work intensity or improved productivity needed to be progressed at an industry level. Consequently, there was little scope to account for change that had occurred at individual workplaces, as wage increases were reduced to the "lowest common denominator".⁴⁶ For the union movement the common forum, and specifically the NIWS, allowed the ACTU to try and attain uniformity in wage rates for similar work across the industry. The highest paying refineries, this being Clyde in the case of operators and firemen, were used as the benchmark for wage parity. The success of the NIWS was thus contingent on workers in the highest paying refineries agreeing to an alteration in relativities between locations. Once again, this policy did not account for any changes to the regulation of work at individual sites.

The policy of employers to later encourage decentralisation in the 1990s seemed to reflect the belief that wage stabilisation would no longer represent a problem for them. Indeed, the move to decentralisation reflected a desire to re-establish a link between workplace conditions and pay, which meant expanding the scope of bargaining at the workplace or enterprise level. This strategy appears to have been based on a perception by the companies that market conditions and union strategy had altered sufficiently to allow for workplace negotiations about the regulation of work to proceed with relatively little disruption to operations. Indeed, the linking of pay to workplace conditions was seen by the companies as crucial for attacking issues of how labour was allocated within production and how work was actually performed. The following three chapters examine the relationship between the centralisation and de-centralisation of bargaining in the industry and the regulation of labour at Clyde refinery.

6.3.3 1976

6.3.4 1977

6.3.5 1978

6.3.6 1979

6.4 Conclusions

46. Interview, Clyde Employee Relations Manager, 1987-1993, 14 June 1994.

Chapter Six

Chapter Six:

Clyde Refinery, 1974-1980

Clyde Refinery, 1974-1980

6.1 Introduction

Chapter Four described the establishment and early development of the physical infrastructure and industrial relations at Clyde refinery. Relations between workers, particularly operators, and management began to deteriorate from the late 1960s onward, with increasing confrontation over regulation of labour. Much of this discord revolved around the issues of staffing, control over work processes and compensation, particularly with reference to new technology. The decade of the 1970s saw an escalation in conflict levels at the refinery, primarily between operators and local management, but in some instances including maintenance workers.

The regulation of work performance remained a contested issue at the refinery. In the case of operators, the struggle over workplace regulation was often directed through the renegotiation of the refinery operatives' award. For most of the 1970s this award was renegotiated annually. The operators' responded to technological changes in their work processes by either attempting to change the wage category structure in the award or reclassify certain types of jobs to a higher wage category. This contributed to disputes between the different operating plants within the refinery, resulting in a situation where, by the mid 1970s, the majority of issues relating to work performance and compensation were effectively negotiated through the NSW Industrial Commission.

6.1 Introduction

6.2 The Nature of the Labour Process: Implications for Bargaining Tactics

6.3 Escalation of Conflict, 1974-1980

6.3.1 1974

6.3.2 1975

6.3.3 1976

6.3.4 1977

6.3.5 1978

6.3.6 1979

6.4 Conclusions

This chapter describes in detail the processes and substantive outcomes of the regulation of labour at Clyde refinery between 1974 and 1980. The chapter is

Chapter Six

Clyde Refinery, 1974-1980

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The regulation of work performance remained a contested issue at the refinery. In the case of operators, the struggle over workplace regulation was often directed through the renegotiation of the refinery operatives' award. For most of the 1970s this award was renegotiated annually. The operators' responded to technological changes in their work processes by either attempting to change the wage category structure in the award or reclassify certain types of jobs to a higher wage category. This contributed to rivalries between the different operating plants within the refinery, resulting in a situation where, by the mid 1970s, the majority of issues relating to work performance and compensation were effectively negotiated through the NSW Industrial Commission. Against this background Shell management began pushing the operators to join the common industry forum. The growing importance of this forum placed constraints on local level management and workplace union delegates, particularly as to their authority to settle wage issues. The increasing significance of the industry forum combined with the local level changes to the work process combined to cause operators and local management intense frustration in their attempts to settle issues related to the performance of and compensation for work.

This chapter describes in detail the processes and substantive outcomes of the regulation of labour at Clyde refinery between 1974 and 1980. The chapter is

structured so that workplace regulation is considered chronologically. Since many issues associated with the way in which work is organised, performed and rewarded were connected or attached to award renewals, the timeline approach provides a useful means of organising the data. However this detailed discussion of workplace regulation at Clyde is preceded by a more general consideration of the increasing conflict at the refinery.

6.2 The Nature of the Labour Process: Implications for Bargaining Tactics

The development of active delegate bodies at Clyde refinery in the early 1970s and their challenges to the way in which work was organised, performed and rewarded (illustrated in Chapter Four) did not undermine management prerogative over many important labour issues. While Chapter Four has shown examples of challenges to managerial authority by workers at Clyde, it also demonstrated that the company had been able to achieve restructuring of the workforce. Shell Refining, for example, was successful in reducing numbers of maintenance staff, operators and supervisors to varying degrees. In addition, it had been successful in introducing new technology into the production process, both through large scale construction and smaller scale additions to existing plant. Staff reductions had been managed by the company through a process of voluntary redundancy, while industrial tribunals had been used to reinforce management decisions regarding the modification of the production process. Despite these successes, the employees at Clyde perceived management decisions that altered the effort bargain as being illegitimate if they were not properly negotiated or remunerated.

These workplace relation dynamics are illustrated by the operators ability to cope with change in the production process itself. Since the establishment of the Clyde refinery, but particularly following its expansion in the 1960s, the refining process was characterised by constant alteration. That situation still prevails at Clyde. The refinery treats a large number of different feedstocks, varying from light Gippsland crude to heavy Middle Eastern crude. One operator, referring to this situation, remarked that 'Clyde could refine shit'. The reliance on a significant number of different crude feedstocks means that the production process at Clyde is subject to routine change. Each change-over of feedstock requires modification of the refining

process in order to deal with the properties of the new crude. These change-overs can and have occurred up to twenty times a year. Consequently, workers at the refinery have become accustomed to regular modification of the production process. The story presented in this chapter will show that during the 1970s refinery workers were not resistant to change in principle, only to those changes that were perceived to redefine the effort bargain. Alternatively, the imperative for change at the refinery, both in terms of technological innovation and modification of the existing production process, may have created an environment where workers attempted to establish stability by taking control of their work and their working conditions.

The most notable manifestation of conflict over the regulation of labour at the refinery during the 1970s was in the disagreement between management and operators over the wage rates for certain types of jobs. The Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award, created in 1966, outlined an eight step wage category structure for the operators at Clyde, as shown in Table 6.1.

Table 6.1: Wage Category Structure for Operators at Clyde Refinery

1. PPU Movements Operator
2. Trainee Process Operator
3. Process Operator Category 2
4. Process Operator Category 3 (Terminal Operator Gore Bay)
5. Process Operator Category 4 (Senior Terminal Operator Gore Bay)
6. Process Operator Category 5
7. Process Operator Category 6
8. Process Operator Category 7

Source: Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award, Section 5.

A ninth classification of 'Senior Operator' was added with the removal of the Supervisor's position from plants in 1971. The wage classification into which operators were placed depended upon where in the refinery they worked and what jobs they performed. In other words, the wage category largely depended upon the equipment, or plant, to which an operator was assigned, rather than the skills and

qualifications of the individual operator. Within the refinery, certain pieces of equipment were designated as supporting a specific job category. For example, the demineraliser on the utilities plant was a 'Category Three job', while the number 8 boiler on the CCU was a 'Category Five job'. The only concession to individuals' skills was in the correlation between qualifications, length of service and earnings, as an operator had to have the appropriate 'tickets' (or qualifications) to operate some equipment. These tickets were gained by undertaking both formal instruction and working a specified number of hours, usually under supervision, on the appropriate equipment. However, the situation often arose where there was an excess supply of qualified operators and some had the expertise to operate higher classified equipment but were assigned to lower classified equipment.¹ Some plants had better or higher paying jobs and this meant that there was an arbitrary element involved in the level of earnings of an operator, with some plants, notably the CCU and CDU, allowing more scope for wage increases because of the nature of the machinery and the size of the actual plant. The options for an operator to increase their earnings were to apply for promotion, apply to transfer to another plant, have their existing plant re-classified or 'act up' to a higher classification by filling in for another operator on a higher category job.

Another important part of the labour process was 'acting up', which flowed from the shift work system that prevailed at Clyde. The finalisation of the Standard Hours (Oil Industry) Award, which came into effect on 1 June 1974, saw all refinery workers move to a 35-hour week. While most other refineries in the country introduced a five shift system to accommodate the 35-hour week, the operators at Clyde had their existing four shift system modified into a 'four shift supplementary system'. This involved the operators being divided into four shifts (A-D) and working three seven-day cycles broken by two two-day breaks and concluding in a three-day break (See Appendix 3). The shift system was referred to as a 4x4x7 system. At the conclusion of four shifts (e.g. day/afternoon/night/day), one shift was rostered off (e.g. afternoon). Operators would be rostered off for a further shift (day) after the completion of their next four shifts (night/day/afternoon/night). The operators then

running created problems for management. A refusal to 'act up' or cover for another

1. The position of Senior Operator was an exception to this practice as they were paid at a Category Seven level and would know all jobs on their particular plant.

had to complete seven shifts before they were rostered off again. This shift system equated to a 35-hour week averaged over the course of the year. The supplementary component involved the allocation of workers to shifts. Enough operators were assigned to each plant on each shift to perform both the outside jobs and the panel operations, with at least two extra operators to cover for those on annual leave and rostered off. This meant that, in practice, some operators did not work a 4x4x7 but instead may have worked a 3x5x7 to cover for other operators. That created a problem in terms of providing adequate coverage when operators took leave; particularly those operators at the upper end of the category scale who were the most experienced and knowledgeable. In order to replace them, others had to 'act up' to the higher positions. 'Acting up' was open to all, but was particularly problematic for Senior Operators. There was only one Senior Operator per shift, and while on leave the work of a Senior Operator had to be covered by another Senior Operator. The incidence of 'acting up' became more pronounced with the introduction of the 35-hour week, primarily because of the four shift supplementary system which provided a greater need for 'acting up'. The effect was that a large proportion of operators were earning significantly more than the position to which they were appointed, as they were 'acting up' for long periods of time.

of the decade industrial dispute was a common and almost constant phenomenon at Clyde refinery. This is illustrated in Table 6.2, which compares the impact of industrial disputes at Clyde with the Australian refinery owned by Shell Refining at Geelong.

Concern over the loss of earnings an operator would experience if forced to act at their appointed level manifested itself in bans that led to a hearing before a Conciliation Commissioner in 1975. The Commissioner recommended that if an employee 'acted up' to a higher position for more than six months, they should be paid for the entire year at the higher rate.² Thus, if an operator was to 'act up' to a higher level for a certain number of shifts, they would be deemed to have been working in that position for the entire year for the purposes of calculating leave loadings and pension entitlements. The only real disadvantage for employees 'acting up' occurred when they were required to return to their assigned position. One of the tensions inherent in the category system was that the operators came to expect certain levels of earnings and that these earnings should be commensurate with the number of jobs they could do. The necessity for staff to 'act up' in order to keep the refinery running created problems for management. A refusal to 'act up' or cover for another

operator taking legitimate annual leave or rostered off leave effectively meant that certain plants could not be properly and safely operated. Although compliance was assumed to be part of the employment contract, operators could refuse to cooperate with such a direction. This represented one means by which the operators sought to control the use of their labour in order to increase their bargaining position. The operators at Gore Bay changed over to a five shift system (rather than a four shift supplementary system) in 1978. The company deemed this to be an easier system to administer, with less need for operators to 'fill in' and 'act up' to other positions while their colleagues were on leave. The discrepancy between the two sites, namely Gore Bay and Clyde, went unnoticed by the union for three years; and undermined the union's position when the company attempted to introduce the five shift system at the refinery proper. The importance of the shift system in adequately allowing the proper functioning of the refinery is reflected in the efforts to install a new shift system, which are considered in Chapter Seven.

6.3 Escalation of Conflict, 1974 - 1980

The 1970s saw the level of conflict at Clyde increase, particularly between local management and operators. By the end of the decade industrial dispute was a common and almost constant phenomenon at Clyde refinery. This is illustrated in Table 6.2, which compares the impact of industrial stoppages at Clyde with the other Australian refinery owned by Shell Refining at Geelong.

6.3.1 1974

The implementation of the 35 hour week in 1974 contributed to the continued conflict about issues of rostering and staffing. In January 1974 the company developed a proposal to change the grouping together of equipment into plants in the refinery by incorporating some boiler equipment within the CCU plant and combining the CDU

Table 6.2: Industrial Stoppages (Man days lost) at Shell Clyde and Geelong Refineries

Year	Clyde	Geelong
1974	183	N/A
1975	1534	0
1976	48	0
1977	35	0
1978	2362	0

Source: Submission for Shell Company to the Joint NSW/Commonwealth Oil Industry Working Party, 1979.

Much of this dispute resulted from factors internal to the workplace, most notably the implementation of changes to the production process, which had implications for the employees' effort bargain. However, the evolution of the common forum at a national level began to exert an influence over workplace industrial relations at Clyde particularly. The dispute figures for 1978 at Clyde include working days lost due to industry-wide as well as local union campaigns (outlined in Section 6.3.5). The authority of local level management to make settlements in relation to wages and conditions was limited by Shell, creating frustration among the operators' delegates, who themselves came under increasing pressure from external sources. These developments are important in understanding the escalation of conflict at Clyde in the later half of the 1970s.

6.3.1 1974

The implementation of the 35 hour week in 1974 contributed to the continued conflict about issues of rostering and staffing. In January 1974 the company developed a proposal to change the grouping together of equipment into plants in the refinery by incorporating some boiler equipment within the CCU plant and combining the CDU

plant and the Utilities section. The effect of these amalgamations would have been to reduce employee numbers in both plants and increase responsibilities for the remaining operators. The response of the operators to this proposal was the passage of a resolution effectively banning 'acting up'. The resolution stated:

"No operator will work on his rostered off breaks or annual leave in order to relieve and/or supplement his, or other shifts, because of (sic) no trained and/or DLI (Department of Labour and Industry) certified operators are provided by the company to take rostered off operators places".³

In March 1974 the resolution was put into effect and bans were placed on 'acting up' into higher classifications. The action was partially successful, as the CDU and Utilities sections were not grouped together into a single plant. However the company persisted with its attempts to reduce numbers, setting out a further proposal for de-manning on the CDU and CCU plants in October 1974, by combining and upgrading existing jobs. This issue, and the broader issue of staffing and 'acting up', became integral to negotiations about award renewals. Both management and the ROG favoured restructuring of the existing wage category structure. However, the company was unable to act on the wage category structure issue, as Shell became involved in the re-negotiation of awards in the common forum (see Section 5.2).⁴ In this situation, both the operator delegates and management at the workplace found it increasingly difficult to reach settlements at the local level. The inability of the parties to come to agreement created an environment in which both sides came to rely heavily on the NSW Industrial Commission to regulate workplace relations.

6.3.2 1975

The introduction of new technology and its effect on staffing and remuneration continued to be a source of friction at the refinery. As detailed in this and following sections, the operators responded to both the potential effect of technological changes, and the manner in which these changes were introduced, by banning the commissioning of certain new equipment. In May 1975 bans were placed on the starting up of power recovery units on the CCU. The claim made by the operators

3. Memo: IR Officer, IR: FED&FA Memo 3/1974, 21 January 1974.

4. IR: FEDFA Memo, 18/1974, 16 October 1974.

involved reclassifying the employee who was to operate these units to a higher level. In an attempt to resolve the dispute, it was referred to a Conciliation Commissioner. The approach taken by the Commissioner, outlined below, illustrates the role of the Commission.

After making inspections and taking evidence, the Commissioner in essence reinforced managerial prerogative. Quoting a decision by Commissioner Mancini in the federal Commission, Commissioner Manuel found that there was no basis for increasing the classification of the relevant operators. The decision of Commissioner Mancini, which related to a dispute involving hydrocarbon processing at ESSO, had in part stated:

"In a plant of this kind the introduction of new and/or modified equipment is the (sic) feature of industry and the manning for that equipment must be kept under review, but there must also be some allowance made for increase or decrease in tasks and responsibility of the operators without a continual upward and downward adjustment of his (sic) wage rate."⁵

Commissioner Manuel reiterated these views, stating that:

"...I like Mr Mancini is (sic) of the opinion that there must be some change and modification in the operating procedures from time to time, that would have no material effect on the requirements of the employee, whether it be by some minor change in the physical content of his employment or some minor change in the area of responsibility."⁶

The company's approach to the issue was illustrated by:

"(its raising of) objections to this matter coming on for determination in the way it did, by the imposing of bans and the interruption of the normal operations of the refinery, putting that these matters should be determined in whole with respect to the categories rather than selecting isolated jobs for some review as it cuts

5 Decision for Compulsory Conference 328 of 1975, before Commissioner Manuel, 19

June 1975, pg 7.

6. *ibid*, pg 8.

across the original intention with respect to the flexibility of operations in the refineries brought about by the introduction of the 35 hour (week)."⁷

The company maintained that individual instances of introducing new plant and equipment were subject to the prerogatives of management and that any changes in work value should be addressed by way of a review of the award categories. However, it avoided negotiating changes to award categories until the award re-negotiations in 1975.

While the award conditions of maintenance workers were being determined in the common forum, the operators' award was negotiated locally until 1980. The FEDFA claim for award re-negotiation in 1975 was pared down to two main issues, a wage increase and a change in the category structure. Other items on the log were deemed by management to be industry-wide concerns, to be dealt with in the common forum.⁸ The category structure was seen to be a problem because of the prevalence of 'acting up', which created a situation where operators with considerable experience and long term service would suffer large wage cuts if they returned to the wage classification to which they had initially been appointed. The basis of the operators' concern was described as follows:

"The central complaint of the employees concerns the reduction in wages which occurs by (sic) this system when an employee, who is qualified to perform work in a higher category, is required to 'act down' in a lower category with a consequential reduction in wages. Where an employee is permanently promoted to a higher category he will retain his rate of wages when he 'acts down' but many employees have a low substantive category and are required to 'act up' in higher categories for long periods, with a consequential reduction in wages when they revert to their substantive category or 'act down' to a lower category."⁹

The problem was exacerbated by the procedure whereby an operator would be required to train another to perform a higher function, only to have the trainee take the position once trained, leaving the trainer to revert to their lower paying function. The company's approach to solving this problem through a review of the category

7. *ibid*, pp 6-7.

8. IR: FEDFA Memo, 14/1975.

11. 75 NSW Arbitration Reports 777.

structure was based on the premise that any change in the wage category structure did not constitute a general wage increase. The company argued that any change to the category structure should not cost it any more than the existing system. In order to achieve this, there would have to have been a change in relativities within the refinery such that some operators would improve their relative position, the positions of some would remain unchanged and some would have their earnings reduced.¹⁰

The company saw that modifications to existing plant through the introduction of new technology required a reclassification of some positions, both upward and downward. However, operators perceived that the tasks and responsibilities in certain plants required greater reward, particularly against the background of reduced staffing. The position of the operators was strengthened by the fact that the refinery maintained normal operations largely due to the informal system of operators acting outside their appointed position. The difference in the positions of management and operators was exacerbated by the fact that Shell Refining Australia had to be seen by the rest of the industry to be presenting a consistent stance with respect to wages. Any inconsistency between the wage levels agreed at Clyde and those agreed in the industry forum would produce immediate pressure for flow-ons. The inability of the parties to settle the issue of the wage category structure created antipathy among the operators toward local level management for its perceived ineffectiveness. Failure to resolve this issue at the workplace level led to the imposition of bans and limitations on normal operations by the operators in September 1975, which in turn resulted in the inevitable involvement of the NSW Industrial Commission.

The reintroduction of wage indexation effectively precluded the Commission from increasing wages above the levels stipulated in State Wage Case principles. However, the Commission was able to address the issue of the category structure. Justice Macken, who took responsibility for NSW oil industry awards from the beginning of 1975, outlined the history of conflict in relation to the category structure at the refinery, stating that: "(t)his matter has been in issue between the union and the company since 1973 and may have been in issue, on and off, even earlier than that".¹¹

9. 75 NSW Arbitration Reports 777.

10. IR: FEDFA Memo, 4/1975, 12 June 1975.

11. 75 NSW Arbitration Reports 777.

In handing down his decision Justice Macken criticised the way in which wages had been determined at the refinery, arguing:

“The category structure at this refinery has been the cause of industrial difficulty because it has been based on incorrect principles of wage fixation and it will continue to be the cause of difficulty, in my opinion, until it is changed to properly reflect the principles laid down by this Commission for the fixation of wages.”¹²

Macken argued that the company's view was that wages should be determined based upon the task performed and that no other factors were relevant for an assessment of the rate to be paid. In contrast, the Commission recognised that although wages must reflect the performance of work, they could also depend on a wide variety of circumstances such as skill, the responsibility of an employee, training, the number of tasks which could be performed by an employee and the difficulty of undertaking these tasks. However, Macken understood that the category structure had been in existence for some time and, as it was made by the parties, they were both familiar with it. In addition, he recognised that changes in the industry, especially the introduction of the 35-hour week, had resulted in ‘acting up’ becoming a major difficulty (the introduction of the 35-hour week was to be cost neutral, whereas at Clyde labour costs had risen as a result of the four shift supplementary roster). He therefore made several recommendations for a new wage and classification structure. He proposed that the existing category system be scrapped and replaced by three broad classifications: refinery operator, process operator and senior operator. The categories in the new structure should be supplemented by job knowledge payments (JKP), which involved a payment for each additional piece of equipment that could be run by an operator, up to a maximum of three. Finally, he recommended that the parties themselves should negotiate the terms of the new classifications and insert a savings clause to maintain an employee's current rate of pay in the event that the new classification contained a lower wage rate.¹³

The parties responded positively to the recommendations made by Justice Macken, but they remained unable to settle on their implementation and the details of the new structure. The major impasse centred around ‘acting up’ in any form. The company

12. *ibid.*

argued that Macken had indicated in his judgment that there would be a requirement for operators to 'act up' on some occasions, particularly if relieving other operators unable to work. The ROG responded by insisting that all operators were opposed to any 'acting up', the implication being that they should be promoted to higher categories.¹⁴ Citing dissatisfaction with progress in the implementation of the new award, in October 1975 the operators imposed bans on 'acting up', working overtime and training until the "category structure was settled to the satisfaction of the FEDFA".¹⁵ Justice Macken intervened, coaxing the operators back and sardonically requesting their representatives to:

"remind (the operators) that if they put bans on work, and if there is no work for them in accordance with the terms of their lawful employment, they are not entitled to be paid for that period, it is considered to be a stoppage by the Commission in Court Session earlier this year; and that whatever else they do, would they please mind not coming back to me for payment during a period while they are on strike, and that way no one will be disappointed."¹⁶

The award was eventually ratified in February 1976¹⁷, but the discontent arising from problems in the category structure was not alleviated by this new award. Workplace relations remained relatively poor between operators and management at the refinery, largely as a result of the operators' continuing dissatisfaction with management unilateralism and the uncertainty created by the continual introduction of new equipment. Frustration on both sides increased as the scope to settle issues relating to performance of and reward for work at the refinery level was further restricted, and the NSW Commission and the industry forum participants increasingly intervened in the determination of these issues.

6.3.3 1976

In the years between 1976 and 1980 it became increasingly apparent to the Clyde operators that the terms of agreements reached in the common forum negotiations

13. *ibid*.

14. IR: FEDFA Memo 16/1975, 11 November 1975.

15. FEDFA Notice of Motion, 18 October 1975.

16. IR: FEDFA Memo 16/1975, 11 November 1975.

17. 201 NSW Industrial Gazette. 1357.

would have a substantial impact on the negotiation of their enterprise award at Clyde. Their detachment from the common forum did not preclude the common negotiations from intruding upon regulation of labour at the workplace. The position of Clyde operators outside the common forum came about in part because of the choice of these workers to retain their local autonomy, but also in part by virtue of the unique standing of these operators in the industry. As noted in Chapter Three, the federal FEDFA represented a handful of operatives who worked as boiler attendants in other refineries. Their employment conditions were governed by industrial agreements made in the federal Commission and were subject to the common forum. These workers were represented at this forum by the federal branch or council of the FEDFA. However, Clyde operators were members of the NSW or Coastal Branch of the FEDFA and covered by a NSW award. In contrast, most other award workers at the Clyde refinery were employed under federal awards (see Appendices 1 and 2).

These circumstances effectively isolated the operators at Clyde during the common negotiations of 1976. The federal council of their union was committed to the industry forum and Clyde operators were the only occupational group employed by Shell Refining not party to the industry negotiations. Nevertheless the ROG at Clyde wanted to remain outside the forum. In contrast to the policy of the Clyde operators, Shell's presence in, and support for, the common forum saw it put pressure on the operator group to join the common negotiations. Indeed, the company actively pressed for the operators to join the common forum negotiations in mid 1976.¹⁸ The FEDFA delegates at Clyde rejected this invitation to join, citing a possible loss of delegate autonomy as one of the main factors in their decision. The Clyde delegates' concern about reduced autonomy arose from the reluctance among the oil industry union officials, who were party to the common negotiations, to allow workplace union delegates on the union negotiating committee. The operators at Clyde were unwilling to place responsibility for award negotiation in the hands of federal union officials.¹⁹

In June 1976 the Clyde operators served a log of claims on the company. In keeping with the initial agreement establishing 'common negotiations' contained in the

¹⁸ Interview, Ex FEDFA Delegates, 12 January 1995, 3 August 1995.
¹⁹ ROG Newsletter, 12 January 1995.

18. ROG Newsletter, July 1976.

Standard Hours (Oil Industry) Award (discussed in Section 3.4), the log was split by the company between those issues of significance to the industry overall and those issues that were truly local in nature. This process differentiated the issues to be heard in the common forum and those to be determined locally through simultaneous local negotiations. Under the terms of the Standard Hours (Oil Industry) Award, the local level negotiations were to proceed simultaneously with the industry negotiations. In 1976 at Clyde, these negotiations were in fact put off until after the common industry agreement had been finalised.

Company policy, originating from Shell Australia head office, to coax the operators into the common forum in 1976, contributed to a further deterioration in relations between the operator delegates and local level company management. The ROG chairman of that time claims that the company industrial relations management at the refinery (without consultation with head office management) agreed to allow the operators to negotiate wages independently of the forum. When the federal council of the FEDFA made reference to this agreement in common negotiations, the Shell Industrial Relations Manager from Melbourne claimed that no such agreement had been made.²⁰ This alleged repudiation coincided with a breakdown in negotiations at an industry level and the ACTU formed a disputes committee to coordinate industrial action. The situation was partially defused at a hearing in the ACAC, when the memo outlining the initial agreement between the Clyde delegates and Clyde management was found. The conclusion of the industry negotiations resulted in an agreement ratified in November 1976. This industry agreement allowed the FEDFA explicit exemption from its terms in order to permit the renegotiation in 1977 of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award. The wage rates in this award renewal were to be determined under the work value principle of the NSW Industrial Commission.²¹ The perception by both the operators and delegates that the refinery industrial relations management had knowingly misled their own superiors and the ACAC over the site agreement to allow Clyde operators to negotiate their award independently of the common forum, and that in doing so local management

19. Interviews, Ex FEDFA Delegates, 12 January 1995, 3 August 1995.

20. Interview, Ex FEDFA Delegate, 12 January 1995.

21. 77 NSW Arbitration Reports 290.

had called into question the integrity of the delegates before their own members, contributed to the environment of mistrust and suspicion.

Despite their exemption from the industry forum in 1976-1977, the development of that forum restricted the autonomy of both local level management and the ROG delegates, and impacted upon their ability to influence the regulation of operators' employment at the refinery. However, there remained structural problems, and political and personal differences at the workplace which contributed to the environment of confrontation. In November 1976 the company sought advice about its legal position with respect to what was termed by both management and workers as 'worker control'. This was a union tactic, used by the NSW branch of the FEDFA, to further its bargaining position by effectively taking control of production and resisting management direction. From the early 1970s the operators at Clyde had used 'worker control' (described below) as an industrial tactic. 'Worker control' was not restricted to Clyde refinery, with incidents being reported at another refinery in the mid 1970s.²² Similarly, it was not limited to the oil industry, with comparable action being taken by FEDFA members in a NSW brewery.²³

There were two variants of the tactic used at Clyde. The first was to place bans on the commissioning of new equipment. If management directed the lifting of bans, operators would refuse. If workers were then stood aside, they would decline to leave the plant and would continue their normal duties in defiance of management instructions. This represented a direct repudiation of managerial prerogative, while not interrupting the supply of refined product. As one operator remarked, it had the advantage of maintaining supply to contracted customers, thus not creating customer resentment. It also confined the issue within the refinery gates.²⁴ An alternative method of worker control used by the operators was to set the refinery on minimum throughput, meaning that the operators effectively took control of the production process. It was achieved by a combination of the panel operators setting instruments to reduce throughput and the outside operators controlling the plant accordingly. This method imposed a greater cost upon management, as all production processes

22. In particular the PRA Port Stanvac refinery, organised by the FSPU in 1975.

23. See 72 NSW Industrial Reports 43.

24. Interview Ex-FEDFA Delegate, 3 August 1995.

were continuing (with associated running costs of expensive chemicals and power) with full staffing, while relatively little product was being produced. The efficacy of both methods depended on their sparing use and the inability of management to respond effectively to the situation.

It was the company's frustration with these tactics that led it to seek advice as to its legal rights in such circumstances. The company approached one prominent labour lawyer, subsequently appointed to the federal Commission, and a member of the NSW Industrial Commission for direction. It was particularly interested in its ability to summarily dismiss or stand-down workers. In addition, the company sought advice as to its liability under both the Workers Compensation Act and the common law; and the liability of the union, union officials and individual employees during instances of worker control.²⁵ Both experts advised that 'worker control' could constitute a breach of the employees' contract of employment, providing grounds for summary dismissal. This investigation of the company's legal options represented an explicit attempt by the company to explore options that would mitigate the operators' use of 'worker control'.

Within the refinery, the company sought to clarify with the ROG the appropriate grievance procedures, to ensure that no industrial action could be taken by individual delegates without the approval of all members. It sought to do this by establishing guidelines for the proper handling of grievances. The guidelines noted in part that:

"At present meetings with delegates occur :-

- a) When there is a plant problem, e.g. queries on equipment, roster problems overtime problems etc.
- b) After a stop work, off shift or committee meeting
- c) When the award is renewed, questions of industrial action involving the whole refinery, disciplinary action etc."²⁶

The guidelines then stipulated a three-tiered grievance procedure, the first tier involving the handling of day-to-day issues between operators or delegates and the plant controllers and plant managers. Any problems not resolved at this level would

25. Advice, 2.November 1976, Noel Butlin Archive, FEDFA Holding, Box N72/627.

be taken to a meeting between the delegates and the manufacturing managers of the chemical and oil plants and the industrial relations officer. Issues not resolved at these meetings would in turn be heard in the same forum with the addition of a selected panel of managers.²⁷ Regular monthly meetings, organised by the company, were held between the delegates and the industrial relations officers, often with the presence of plant managers, depending on their availability. The formalisation of these guidelines reflected a problem that was perceived to exist by management and subsequently recognised by the delegates: namely, that individual plants could invoke industrial action that was not sanctioned by the full ROG Committee, or full rank and file meeting.²⁸ Certain delegates in particular plants were using their positions to take plant-based issues immediately to the industrial relations officer, without consultation with plant management. This situation was symptomatic of a broader problem of splintered management and delegate authority and a confusion over the responsibilities and authority of certain managers. As a result, the grievance procedures that were agreed were often ignored in dispute situations.

6.3.4 1977

It has already been shown that the first half of the 1970s saw a growth in overt conflict at the refinery, particularly between operators and local level management. The policies and strategies pursued by both the operators and management at a local level contributed to the poor relations and persistent conflict over how work was to be rewarded and performed. However, the increasing importance of the industry level common forum began to restrict the ability of delegates and management to make local level settlements. This led to further escalation, with industrial disputation at the refinery reaching its zenith in the years 1977 and 1978. Management's desire to change the workplace, often without consultation, and the operators' use of worker control to combat this process came to a head in 1977.

26. Shell Document: Guidelines for Handling Industrial Relations Matters, 29 September 1976.

27. *ibid.*

28. By the late 1970s the ROG had a standing resolution to the following effect: "That under no circumstances will FEDFA members proceed to a strike situation without a stopwork meeting of all FEDFA members at the refinery/Gore Bay, and an affirmative vote for the strike."

In January 1977 there were discussions between the company and the FEDFA delegates about the introduction of new equipment on two plants in the refinery, the CCU and CDU. There was a recognition by the company that staffing levels would need to increase in order to operate some of this new equipment, but management argued that other changes would be covered by the present staffing numbers, with some rearrangement within the plants.²⁹ Delegates disagreed with this view, arguing that any change must result in more staffing or increased pay. The discussions occurred in the context of the re-negotiation of a new operator award at the refinery. On 11 February 1977 the FEDFA made an application before the NSW Industrial Commission for a new award. The two issues (new equipment and award renewal) were separated for consideration, but remained inexorably linked due to the operators' application for a wage increase proceeding under the work value principle.

The company and the operators could not reach agreement about how the introduction of new technology should proceed at the refinery, nor about the more specific issue of the staffing levels required to operate a new de-salting unit on the CDU. The operators consequently placed bans on the operation of this equipment on 24 February 1977. The dispute came before Justice Macken who, before delivering his decision, made a recommendation that the bans be lifted. The operators duly complied.³⁰ Macken considered both the broad question of how the introduction of new equipment into the refinery should be managed and the particular case of the de-salter. With respect to the first, he enunciated three principles that needed to be considered by the parties. They were broadly that:

i) there should be a significant increase in the work performed by an operator, not merely the change of existing work arrangements, before any change in remuneration was considered, as "it is the totality of the work which has to be considered to determine whether there has been a significant net increase in the work requirement";³¹

ii) in the case of significant change an increase in the manning scale should be considered, rather than paying higher wages; and

29. IR:FEDFA Process Memo 1/77, 3 January 1977.

30. IR:FEDFA Process Memo 5/77, 3 March 1977.

31. 1977 NSW Arbitration Reports 113.

iii) the classification or reclassification of an operative should be considered in the case of a significant increase in skill, responsibility or arduousness.

Macken also suggested that JKP, introduced in 1975, could be used as a means of compensating operators for increased work, however he did recognise that this could undermine the relativity between award wage classifications.³² In the particular case of the de-salter, Macken ordered that the JKP of the operator responsible for the equipment should be lifted from \$2 to \$2.25.³³

The operators were initially dissatisfied with Macken's decision regarding the JKP for the de-salter. Before his decision on the wage claim, they passed the following three resolutions at an off-shift meeting:

- “1) Judge Macken's decision re JKP for de-salter be rejected and we request the company to (sic) stop the payment.
- 2) No new equipment in the refinery will be put on line until manning agreements are implemented and adequate compensation is agreed to.
- 3) In future, all negotiations are to be carried out within the refinery between the union and the company. We should avoid as far as possible appearing before the arbitration commission unless in a dispute situation.”³⁴

The operators' wage claim came before Justice Macken in May 1977. They claimed a general wage increase and a determination of overtime rates for 5 day continuous shift workers. The company initially argued that the Commission could only consider work value changes since the making of the last award, as the making of the 1976 award had already accounted for changes in work at the refinery up to this time. Macken refuted this, stating that the 1976 award had implemented a new category structure and he explicitly precluded a direction about a general wage increase.³⁵ In his judgment, handed down in May 1977, he allowed the operators to bring a claim based upon the work value principle 7(a) of the state wage case guidelines.³⁶

32. *ibid.*

33. *ibid.*

34 Transcript, Notification under s25A of the Act by Shell Refining (Australia) Pty Ltd of a dispute with the Federated Engine Drivers and Firemen's Association of Australasia (NSW) re wage claim, NSW Industrial Commission, Matter No 396 of 1977, 28 July 1977, pp 1-2.

35. 1977 NSW Arbitration Reports 290.

36. *ibid.*

Following later hearings in May and June, Macken handed down a decision which rejected the contention of the union that work value changes at the refinery constituted a basis for a general wage increase for all refinery operatives. Macken stated that the changes at the refinery had not been uniform in their effect, with some plants being affected far more than others. The company reinforced this interpretation by pointing out that no evidence of work changes in the chemical plants had been presented by the union. Macken further found that changes in operation had in some cases reduced the workload of operators at the refinery. He reinforced the principles he had enunciated in May by inviting the union to use staffing changes, job knowledge payments or reclassification to compensate for perceived changes in work load. In relation to the associated issue of overtime for 5 day shift workers, Macken found that they should be paid double time.³⁷

The operators rejected Macken's wage decision also and imposed a ban on the commissioning of all new equipment. This was followed on 25 July 1977 by a claim for a 33% wage increase backdated to 1 August 1976. The CDU at the refinery had been forced to shut down for 24 hours on 19 June due to a maritime dispute which cut the supply of feedstocks to the refinery. When the CDU began operation again the following day, the operators refused to start up the de-salter which was part of the CDU plant.³⁸ This resulted in a dispute being notified to the NSW Industrial Commission. At a hearing on 28 July to consider the dispute, the industrial relations officer at the refinery described the situation in the following terms:

"So we have a gigantic problem at the refinery at this stage. We have bans imposed on new equipment; we have the union members clearly rejecting two decisions of this commission-one dealing with new equipment and the other dealing with the general wage claim. We have a situation where we have bans as far as clearances [clearances for maintenance workers to perform maintenance] are concerned, bans which clearly are of concern to the company and are of concern to

work is performed contrary to the company's directions, employees may render themselves liable to a civil action for damages by:-

37 1977 NSW Arbitration Reports 425.

38. Transcript, Notification under s25A of the Act by Shell Refining (Australia) Pty Ltd of a dispute with the Federated Engine Drivers and Firemen's Association of Australasia (NSW) re wage claim, NSW Industrial Commission, Matter No 396 of 1977, 28 July 1977, pg 2

other unions as indeed, we have other union delegates at the refinery talking about harassment.”³⁹

The company's policy of maintaining the terms of the common forum agreements and therefore making a wage offer to the Clyde operators similar to those negotiated in this forum was attacked by the NSW Secretary of the FDEFA during this same hearing. He cast doubt on the longevity of the common negotiations at an industry level, stating that because of the unsatisfactory nature of the negotiations, the FEDFA and other unions were looking to take no further part in the process. He further added that it was his understanding “that common negotiations in the oil industry are now a thing of the past”.⁴⁰ Regardless of his perception about the future of common negotiations, the FEDFA Secretary concluded his submission by commenting on the workplace relations at Clyde:

“I do not disagree with what (Clyde Industrial Relations Officer) indicated, the relationship between the company and its employees at the present time could be described as being at an all time low.”⁴¹

On 28 July 1977 Justice Macken ordered that all bans be lifted.

The company took measures to ensure that the operators complied with Macken's decision. On the day following the order the refinery manager issued a memo to all operators ‘cautioning them to consider their personal position’ following Macken's order.⁴² This was followed several days later by another memo directed to all operators commenting on the lack of action taken by the union towards lifting the bans. It read in part:

“Under the terms of their contract of employment with the company, operators are expected to perform work as required by the company. This means that they are obliged to obey lawful instructions from the company and if they do not, their employment may be terminated. Also refusal to carry out work as instructed, or if work is performed contrary to the company's directions, employees may render themselves liable to a civil action for damages by:-

39. *ibid*, pg 6.

40. *ibid*, pg 8.

41. *ibid*, pg 8.

42. Memo from Refinery Manager to all Operators, 29 July 1977.

- i) fellow employees, or
- ii) the company,
- iii) any person injured or suffering damage to his (sic) property or his (sic) livelihood as a result of those actions.”⁴³

This memo clearly reflected the legal advice received by the company the previous year, and drew attention to the individual liability of the operators rather than their collective responsibility. It became clear from the company's actions that it was prepared to resist the operators in relation to this issue of managerial prerogative.

The operators refused to lift the bans on equipment, including the de-salter. The company followed through its threat and began issuing dismissal notices on 9 August to operators who refused directions to start up the equipment. A small group of managers visited the CDU and personally issued verbal directives to start the equipment. When these directions were refused, they informed the operators of their dismissal and gave them one week's notice. Five operators on each of the four shifts, two panel men and three outside operators, were issued with such notices. The notices set out the following terms of dismissal:

“This memorandum confirms an earlier verbal advice that your services will terminate effective from 7 am Tuesday, 16th August, 1977.

Before that date,

(a) would you please arrange through your supervisor for the completion of the normal clearance procedures on termination including the return of any company property on issue to you.

(b) you will be interviewed in relation to your rights under the Shell Australia Contributory Pension Fund.

If before the expiration of this notice you decide to work as instructed, the company may give consideration to its withdrawal.”⁴⁴

With the operators electing to leave the bans in place, the NSW Minister for Industrial Relations intervened to arrange a conference between the parties on 12 August 1977. An agreement was reached at this meeting between local company

43. Memo from Refinery Manager to all Operators, 10 August 1977.

44. Memorandum from Refinery Manager, 8 August, 1977.

representatives, union delegates and the FEDFA State Secretary. The three main points of this agreement consisted of, firstly, the appointment of a Conciliation Commissioner to examine the matters of new technology and other claims (including free gasoline) in the revised FEDFA log; secondly, the calling of a meeting of operators on 16 August 1977 with a recommendation to lift the bans; and thirdly, a withdrawal of the termination notices.⁴⁵ At the meeting held on 16 August the operators elected, by way of a secret ballot, to reject the recommendations of the Minister to lift all bans. Instead the meeting endorsed a FEDFA Committee resolution that stated in part:

“(i)t is the view of the Committee that the Company should however implement sub clause (c) [of the log of claims] ‘free gasoline’ before proceeding with the other matters [i.e. lifting of bans] contained in the Ministers recommendation”.⁴⁶

This action resulted in the company implementing the dismissal notices at 3 pm on 16 August 1977, sending hire cars to some operators’ homes informing them of their dismissal and providing a cheque for their entitlements up to that date. In addition to acting on the dismissal notices, the company applied to the NSW Industrial Commission for the deregistration of the FEDFA. The dismissed operators responded by arriving to work their normal shifts, thus undertaking what was termed a ‘work in’. The first shift to start the ‘work in’ was the afternoon shift. They were told by company representatives that they were trespassing, that they were not covered by workers compensation and that they were liable to civil action. However, these same operators were also given instructions by management, issued with equipment and locker keys and no attempt was made to remove them from the refinery.⁴⁷ In a Commission hearing called to consider whether these dismissals were fair, the situation was described by the Department Manager, Distribution, Utilities and Bitumen as follows:

“The union delegate at the time was (name), he was there and he said words to the effect that the union, the FEDFA did not recognise the terminations. The

45. Unreported Decision by Conciliation Commissioner Johnson, Compulsory Conference No’s 689, 690, 743 of 1977, 11 November 1977, pp 3-4.

46. *ibid*, pg 5.

47. FEDFA Notes, Noel Butlin Archive, FEDFA Holding, N72/639

operators would not hand over to the staff and they would continue to operate normally.”

When questioned further as to why management staff did not reclaim the plant, he responded:

“Basically because the operators said that they would not hand over to the staff and there was never any question of physically taking over or physically preventing people doing anything.”⁴⁸

This period of ‘work in’ continued for approximately one week, with an effective stand-off between management and the ‘dismissed’ operators. Management made only a symbolic effort to stop the ‘dismissed’ operators working, while the workers ignored their dismissal notices. The impasse at the workplace level may have been allowed to continue because there were efforts being made outside the workplace to resolve the dispute. The NSW Minister for Industrial Relations again intervened in an attempt to reach a settlement that would avoid the refinery closing. The Minister was instrumental in having a FEDFA meeting called on 22 August which put forward what was essentially the same resolution as that of 16 August. Operators were asked to indicate in a secret ballot whether they accepted the Minister’s proposal or whether they elected to “escalat(e) the current dispute understanding that it could lead to an early closure of the refinery”⁴⁹. The operators voted to lift the bans on the proviso that the sacked workers were reinstated. With the lifting of the bans, the company withdrew its action for de-registration of the FEDFA, but refused to withdraw the dismissals.

Part of the proposal accepted by the operators involved the convening of a Conciliation Committee which would hear an application to vary the award. The application was first heard on 19 September 1977, with the company suggesting that the parties were making some progress in negotiating the claim. However, the company’s refusal to withdraw the dismissal notices for the dismissed workers, who had been re-employed rather than reinstated, threatened to lead to further industrial

48. Unreported Decision by Conciliation Commissioner Johnson, Compulsory Conference No’s 689, 690, 743 of 1977, 11 November 1977, pp 9-10.

49. Ballot Paper for Return to Work/Lifting of bans, 22 August 1977.

action at the refinery. The Conciliation Commissioner handed down a decision on 13 October, prefacing his order with the remark:

"I am satisfied that a serious industrial dispute exists at the Shell Refinery, Clyde, which if allowed to continue could result in complete disruption of working of the refinery."⁵⁰

He went on to order the reinstatement of all workers who had been dismissed. A section of the order also directed the FEDFA to refrain from imposing any further bans and limitations. In justifying this order in a longer decision, Commissioner Johnson singled out the intentions of the company during the dispute, specifically that no attempt had been made to actually remove the dismissed employees. This action, if taken, would certainly have resulted in a shutdown of the refinery. The evidence of the Department Manager, Distribution, Utilities and Bitumen, during this hearing made clear that the company had explicitly accepted the presence of the dismissed workers in the refinery and made no real attempt to enforce the dismissal notices. The manager also admitted to not knowing who had made the decision not to enforce the dismissals:

"(FEDFA Advocate): The decision was taken by the company that they (the dismissed operators) would be advised of the company position, they would be advised of the certain position in respect to themselves as people regarded as not being employed?

(Manager): Yes.

(FEDFA Advocate): And that was as far as the company was -- proceeded to go with the matter?

(Manager): That's right.

(FEDFA Advocate): What would normally happen if an unauthorised person entered the plant?

(Manager): If an unauthorised person attempted to enter the plant would he be - -

(FEDFA Advocate): Through the gate I am talking about?

50. Unreported Decision by Conciliation Commissioner Johnson, Compulsory Conference No's 689, 690, of 1977, 13 October 1977, pg 1.

(Manager): Yes, he would be stopped at the gate. By the security personnel on the gate.

(FEDFA Advocate): You are aware of what instructions were given the security people on that night?

(Manager): No I Didn't - - I wasn't involved in giving the security people any instructions.

Commissioner: You just referred to what occurred on that night that no attempt was made to stop the employees entering the plant. Who made that decision?

(Manager): Not myself, I can only say that I can imagine that (name) ---

Commissioner: I don't want you to imagine.

(Manager): OK.

Commissioner: You don't know?

(Manager): I don't know who made that decision.

Commissioner: The instruction was passed down to you from management?

(Manager): That is correct."⁵¹

The Commissioner reiterated his earlier decision to reinstate the workers, stressing that he did not condone the actions of the operators, but that:

"(w)ith regard to the company's role it seems clear to me that it was anxious to avoid closing the refinery, and made no serious attempt to prevent the work-in and in fact condoned it."⁵²

The company successfully appealed this decision before a full bench of the NSW Commission. The decision handed down on 16 December 1977 meant that the dismissed workers were re-employed rather than reinstated, with the associated implications this had for length of service, long service leave and pension entitlements.⁵³

Notwithstanding the company's action in the industrial tribunal, some progress was made between the delegates and refinery management on the issue of new technology. This may have reflected an improvement in workplace relations caused by a change in the industrial relations management at the refinery. Refinery management and

51. *ibid*, pg 12. Process Memo, 9/77, 22 November 1977 & 10/77, 12 December 1977.

52. *ibid*, pg 16. Process Memo, 1/78, 7 March 1978.

53. Interview Ex FEDFA Delegate, 3 August 1995.

delegates discussed a proposal for increases in JKP, new equipment, outstanding award matters and the introduction of a five-shift system. All outstanding issues were to be dealt with through the Conciliation Committee. In December 1977 there was an 'interim settlement' on new technology, with the company offering increased JKP and increased margins on new equipment at the CCU and CDU. The union also reserved the right to argue outstanding claims before the Conciliation Commissioner.⁵⁴ In March 1978 the FEDFA and the company concluded negotiations on the introduction of another new piece of equipment, the Butane Deasphalting unit (BDA).⁵⁵ The manner in which the de-salter dispute had been handled by both unions and management had contributed to the atmosphere of mistrust and hostility, which now began to slowly improve, as evidenced by the successful introduction of the BDA.

the refinery and in the wider industry

The de-salter dispute represented a turning point in workplace relations at Clyde. The company's vigorous pursuit of its legal right to sack workers for refusing lawful commands began to undermine the use of workers control by the operators. One ex-delegate explained the effect of the company action as follows. By selectively sacking operators, and sending notices of termination and cheques with their termination pay directly to their homes, the company individualised the dispute and brought it into the confines of the family home. This created an awareness among other operators and their families that they could at worst lose their job, or at best have their service record broken, which in itself had financial implications.⁵⁶ Within the ROG, there was also some tension about the propensity of certain delegates to act without the sanction of the ROG committee. This led to a change in leadership of the ROG committee, with the long-time chairman being defeated in an election for the position. The company, although not necessarily site management, had shown that it was prepared to confront the operators once they had contravened what were considered to be legitimate standards of behaviour, in this case their repudiation of both Commission authority and company directives. As already mentioned, there was also a change in management personnel at the refinery in late 1977. A new industrial

negotiations. This constrained the ability of local management to undertake and conclude negotiations. In May 1978 the operators met at a scheduled stop work

53. 1977, *NSW Arbitration Reports*, 926

54. IR:FEDFA Process Memos, 9/77, 22 November 1977 & 10/77, 12 December 1977.

55. IR:FEDFA Process Memo, 1/78, 7 March 1978.

56. Interview Ex FEDFA Delegate, 3 August 1995.

relations manager was appointed, by his own admission to "clean up the place".⁵⁷ The Commission's handling of the wage dispute exposed the constraints placed upon it by principles established in the federal jurisdiction, as well as broader wage principles adopted by the state body. The adoption of wage indexation both federally and in NSW in 1975 (as discussed in Section 5.2) meant that to achieve any wage increase, outside those granted by the Commission for inflation, the claim had to be progressed through a work value case. The position of Shell Refining was not to negotiate for wage increases outside the parameters set by the common forum, leaving the Clyde operators with only the option of running a work value case to achieve a general wage increase. As a result it appears the Clyde operators began to understand that they could not be treated independently from other workers, both in the refinery and in the wider industry.

However, this realisation was tempered by the existing resentment of and lack of confidence in company management. Clyde management was in turn faced with balancing the sometimes immoderate demands of the operators, as witnessed by the 33 percent wage claim, with maintaining refinery operations and holding the line on wage rates across the industry. While 1977 represented the low point in workplace relations at Clyde, confrontation continued into the next year. Unlike previous years, this was not so much a reflection of poor relations at work, but of the restrictions imposed by the industry forum and the companies' policy of seeking an industry-wide settlement for wages.

6.3.5 1978

The wage claims formulated in August 1977 were held over until 1978. As was the situation in 1976, the FEDFA operators remained outside the common forum, again contributing to frustrations at a workplace level, with the company adopting a strategy of refusing to enter into an agreement at Clyde, which could be seen as a precedent for the rest of the industry, prior to the finalisation of the common industry negotiations. This constrained the ability of local management to undertake and conclude negotiations. In May 1978 the operators met at a scheduled stop work meeting to finalise their log of claims, which was served on management once

57. Interview Ex Clyde Industrial Relations Manager, 15 February 1995.

approved by the rank and file. Although not part of the common forum, the operators' claims were influenced by ACTU policies. The 33 percent wage claim lodged in 1977 was modified to a claim for full wage indexation in line with the ACTU policy.⁵⁸ This reflected a more moderate position on the part of the newly formed ROG committee and an increased consideration by the Clyde delegates of the claims made by other unions in the industry. The experience of the previous year and the effect of concerted management and Commission action against the operators may also have influenced the softening of their approach.

The company's involvement in the common forum saw it again identify those issues in the union's log that were considered local issues and those issues that the company would not deal with, as they were common to the industry. The Clyde operators declined to be represented in the industry negotiations, refusing both invitations from the ACTU and pressure from the companies. In a letter from the Chairman of the OIIC to the Federal Secretary of the FEDFA it was made clear that:

“...the companies intend to make one decision which will determine their position in relation to all awards which apply within the industry, whether they are awards of state or federal industrial tribunals”.⁵⁹

In reply, the Federal Secretary did not wholly accept the company position and argued that FEDFA members, in conjunction with their branches, would seek to discuss their awards with their employers at the appropriate time.⁶⁰ The ROG's detachment from the common negotiations was however tempered by the formal meeting of FEDFA representatives with officials from other industry unions. As described in Section 6.3.3, Clyde FEDFA delegates met with representatives from their own federal council as well as other industry union officials both prior to and following their meetings with company representatives at the common negotiations.

Following the commencement of common forum negotiations in June 1978, Shell Clyde management met and discussed the local issues with the operators at the

58. FEDFA Log of Claims, 1 May 1978.
59. Letter from I.T. McKenzie (Chairman of the OIIC) to D. Ferguson (Federal Secretary FEDFA), 20 June 1978, Noel Butlin Archives, FEDFA Holding, N72/662.

refinery. The isolation of 'industry' issues did not prevent disagreement between the parties at Clyde about the staffing and operation of new equipment at the refinery. In July 1978 the operators placed a ban on the operation of new equipment in the movements plant. The movements plant comprised the equipment that controlled the movement of feedstocks into the refinery and the movement of finished product into tanks and out of the refinery. This dispute was brought before Conciliation Commissioner Johnson, who recommended that the bans be lifted, that there be a trial of the new equipment and that a formal log of claims be served by the union on the company.⁶¹ The operators' concerns about the effect of common negotiations were also raised during this hearing. The company was reluctant to respond to the union's broader log while there was a dispute over new equipment; and it was successful in having the two issues separated. The union agreed to stand aside its general log of claims and have the claim for wage increases heard by Justice Macken.⁶²

As was the case with many of the previous disputes about the introduction of new technology, the dispute about the movements plant was sparked by the operators' concerns about the effect of the new equipment on staffing levels. The bans remained in place while the Commissioner undertook an inspection of the site and heard evidence from the operatives on the subject of the new equipment in mid-August 1978. Also during August the union formally submitted a log of claims to the Industrial Commission of NSW. On 22 August, the same day as the submission of the claim, the Conciliation Commissioner made a statement urging the operators to lift their bans on equipment so as to encourage the company to respond to the log of claims.⁶³ The bans on the movements equipment were lifted, with the company's staffing formula for the new equipment being implemented, and the company responding to the union log. However, the operators were not satisfied with the company's response and imposed bans on the working of overtime and on operators responding to company call-ins while off shift. These new bans were implemented on

60. Letter from D. Ferguson (Federal Secretary FEDFA) to I.T. McKenzie (Chairman of the OIIC), 22 June 1978, Noel Butlin Archive, FEDFA Holding, N72/662.

61. Unreported Recommendation by Conciliation Commissioner Johnson in Matter 441 of 1978, 6 July 1978, pg 1.

62. Unreported Statement by Conciliation Commissioner Johnson in Matter 441 of 1978, 31 July 1978.

the same day that the equipment bans were lifted.⁶⁴ The company notified the Commission of the imposition of new bans at the refinery, and as a consequence, Justice Macken called a compulsory conference on 1 September. During this conference the ROG delegates made it clear to Macken that they believed that the cause of the dispute was the company's unwillingness to provide a response to their log of claims independently of the common negotiations. During the same conference Justice Macken made clear his views about common negotiations. In response to a statement by the company representative Macken retorted:

"As I understand it there is almost nothing common that comes out of common. There would not be a refinery operating under common (negotiations) which would have the same principle adopted, the same way, at each refinery. Historical differences require different treatment".⁶⁵

However, Macken advised the union that the bans should be lifted and that he would then consider arguments related to the log of claims.

Macken's recommendation was not accepted by the operators. Indeed, the frustration of the operators with the company's perceived lack of genuine action in relation to the log of claims reached a peak on 4 September, when the operators passed a resolution at an off shift meeting, stating:

"That we reject the Company offer and proceed to shut down the refinery until such time as the Company makes an acceptable offer on our log of claims. The acceptability of the offer will be determined on the basis of reports by delegates to further meetings. One boiler will be handed to the A.F.S. (supervisory management) for safety reasons".⁶⁶

The operators subsequently began to shut the refinery down, stopping the flow of product to the Parramatta terminal and refusing to bunker a tanker waiting to unload at the Gore Bay terminal. Hearings were held before Justice Macken in the two days

63 Unreported Statement by Conciliation Commissioner Johnson in Matter 441 of 1978, 22 August 1978.

64. IR:FEDFA Process Memo 7/78, 25 August 1978.

65. Transcript of Proceedings, Industrial Commission of New South Wales, Matter No 446 of 1978, Compulsory Conference, Notification under s 25A by Shell Refining (Aust) Pty Ltd of a dispute with the Federated Engine Drivers' and Firemen's Association of Australasia (NSW) re Overtime bans, 1 September 1978, pg 3.

immediately following the resolution to shut down the refinery. In addition, the NSW Minister for Industrial Relations held talks with both the company and the union, urging the union to allow some operations at the refinery.

On 6 September 1978 Justice Macken made a statement which outlined the context and the cause of the dispute, as follows:

"The closure of the refinery is the culmination of six months or more of deteriorating relationships between the employees and the Federated Engine Drivers and Firemen's Association of Australasia (NSW) on one hand and the Shell management on the other. The heart of the dispute lies in the insistence of the employees that the Clyde refinery should be treated autonomously for award purposes. The union claims that all it seeks in the award claims currently before the commission are conditions of various kinds already existing in the oil industry at other refineries. The company claims the right to refuse to negotiate with the union on subjects affected by common negotiations currently being discussed at a federal level. The result is the present "Mexican Standoff", it is an impasse of very serious proportions."⁶⁷

Macken made several recommendations in the course of this statement. He suggested that the company submit all claims to arbitration, including those relating to pension entitlements. Further, he recommended that the company let all other issues in dispute proceed to arbitration without insisting that negotiations in other areas of the industry be completed first; and finally, that the company agree that the outcome of arbitration would apply from the expiry of the current award. Justice Macken also suggested that the union should hold a meeting of operatives at the earliest possible time, at which it should convey the recommendations made and endorse a return to work.⁶⁸

The company rejected the idea that claims relating to the pension fund should be the subject of arbitration, arguing that this was an area for determination by the company

66. ROG resolution, 4 September 1978.

67. Unreported Statement by Justice Macken in Matter no 446 of 1978, (Notification under s25A by Shell Refining (Aust) Pty Ltd of a dispute with the Federated Engine Drivers and Firemen's Association of Australasia (NSW) re Overtime bans) 6 September 1978.

68. *ibid.*

alone. It also queried the application date of any decision, arguing that it should not be made retrospective to the expiry of the current award. The operatives met on 9 September, and were informed of the recommendations and the company's response to them. At this meeting they reaffirmed the resolution to strike.⁶⁹

The company continued to question the jurisdiction of the NSW Industrial Commission to hear claims relating to the pension fund, at a further hearing held following the operators' stop work meeting. On 14 September Justice Macken issued another statement, in which he was particularly scathing of the company's conduct over the preceding days, arguing that it had effectively sabotaged his return to work recommendation of 6 September. He referred to the unusual request from the company to meet privately with the Commission in order to make clear its position on the Commission's recommendations and then to have the company's minutes of this meeting with the Commission endorsed by a FEDFA delegate. The result was described by Macken as follows:

"The relevance of this extraordinary course did not become apparent until the meeting of operatives convened on the Saturday morning (7th). On arrival at the canteen for the meeting the union officials discovered that the company had reproduced the record of the private discussions which had taken place in my chambers and had circulated them by leaving them on the chairs at the meeting.

Thus prior to hearing my statement and recommendations the employees had read a document in which the employer stated and restated its reservation to itself at every available technical and legal point with respect to an arbitration of the issue in dispute. The game was lost before it had begun, so far as the union was concerned.

...So far as I am concerned there are many unanswered questions about the company's actions. While I do not know the answer to these questions, I do know that the lower levels of lunacy were reached by the company's action. It could have had only one possible result and that was to militate against the

70. Unreported Statement by Justice Macken in Matter No 446 of 1978, 14 September 1978, para 1.5.

69. ROG resolution, 9 September 1978.

acceptance of my recommendations, to be put to the meeting by the union officials and delegates.”⁷⁰

Macken’s account of events was disputed by the company, as there had been an agreement with the ROG delegates to distribute the minutes of the meeting with Macken at the operatives’ meeting. The company felt that Macken’s criticisms of the company’s behaviour were unfounded and that he had used these remarks as a vehicle to persuade the operators to accept his appeal, however at the company’s expense. Macken thought that under the circumstances he described it would be detrimental to make an order for the operators to return to work. However, he made a personal appeal to the operators to return to work, with the promise to arbitrate outstanding claims and make an award as soon as possible.⁷¹ The operators met to consider this statement two days later and voted to return to work as long as arbitration commenced as soon as possible. They also allowed delegates to call further stoppages if there were any attempts to unnecessarily prolong the proceedings. Although voting to return to work, the operators elected to maintain the overtime bans they had imposed in August. These bans were eventually lifted on 21 September, after Macken indicated that he would not enter into arbitration until all bans had been lifted.

The arbitration hearings covered areas that had been the source of dispute in previous Commission hearings. The issues of the classification of operators on the de-salter and number 8 boiler were again addressed by the Commission, with the same recommendations being made. The Commission granted a wage increase of \$7.50, on 13 December which notably was the same amount granted in the ACAC oil industry case of 1978 (but only after a revision by the federal Commission to ensure parity between NSW and federal award increases, as noted in Section 5.2). The decision by the President of the ACAC to reconvene the oil industry case to secure equivalence between NSW and federal award increases reinforced to Clyde operators that their wages would not be determined independently from the rest of the industry. Their detachment from the common industry forum made little difference when their wages

70. Unreported Statement by Justice Macken in Matter No 446 of 1978, 14 September 1978, pp 1-5.

71. *ibid*, pg 5.

increased in line with increases granted to the workers covered by common industry forum.

The wage decision for Clyde operators handed down by the NSW Industrial Commission in December 1978 demonstrates the influence of the common forum and industry hearings on the regulation of labour at Clyde.⁷² The OIIC intervened in the NSW hearing to make representations on behalf of the other oil companies. The FEDFA unsuccessfully argued for an increase in the 'local' transport and location allowance. Justice Macken rejected this claim on the basis that, although the allowance may have originated at Parramatta-Clyde, it had become an industry allowance. The FEDFA also made a claim for the adoption of a practice of paying treble time for the starting up and shutting down of plants. The basis of this claim was that such a payment was made to operators at the Caltex Kurnell refinery. Justice Macken rejected this claim also, arguing that there had been no evidence presented of reasons why such a payment should be paid at Clyde, other than because it was the practice at Kurnell; and the Clyde operators were in complete ignorance of the reasons that had led to the allowance being paid at Kurnell.⁷³

The friction at the workplace, particularly during 1978, reflected the continued attempts by the company to coax and coerce the operators into the common forum. This was in direct opposition to the operators' wish to remain autonomous from that forum. Against these disparate positions, the NSW Industrial Commission grew in importance as an influence on workplace regulation at Clyde. However, its position became increasingly difficult as it attempted to mediate workplace relations at Clyde, but do so in the shadow of the federal Commission and the rest of the industry. This proved to be impossible, as illustrated by the effect of the wage decision made by the NSW Commission with respect to Kurnell in November 1978, which had to be flowed-on to the rest of the industry.

In concluding his recommendations for the 1978 Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award, Justice Macken commented on the nature of industrial relations at the Clyde refinery as follows:

72. 1978 NSW Arbitration Reports 679.

73. *ibid.*

"The months which have led up to the making of this award have been turbulent in the oil industry generally. This refinery has proven to be no exception. I invite the parties to treat the making of this award as a foundation upon which a period of improved industrial relations can be based.

A change in award cannot give rise to a better industrial relations scenario in itself: a change in attitude can. If this award can make for a period of stability within the refinery it may contribute toward the evolution of an industrial relations atmosphere in which there can be greater harmony and more mutual respect between the company and its employees.

Despite the fact that industrial relations at the refinery are at a low ebb and appear to have progressively declined from the hopeless position pertaining six months ago, I believe that a conscious effort by both employees and management directed to improving this climate will have mutual benefits for all concerned."⁷⁴

The operators remained unconvinced. They were dissatisfied that their award decision reflected wage movements in the industry as a whole, rather than the specific circumstances of work at Clyde refinery. This discontent was articulated in a resolution passed on 20 December 1978, which also indicated that the optimism expressed by Macken in his decision may have been unfounded. The resolution stated that:

"The award decision is seen as being unsatisfactory in a number of areas. It is clear that many of the decisions taken were not based on evidence put by the Union but rather taken on the grounds of what occurred in the rest of the industry. Our earlier expectations of what would emerge from the Arbitration hearing were overcome by subsequent events. We particularly refer to the Neil, Macken decisions in the Engineering Award, and the later hearings before Moore. It is obvious that these events influenced Macken in the Award handed down for FED&FA Clyde and Gore Bay".⁷⁵

The effect on the company of the industrial action taken by the operators was heightened in September 1978 by the metal unions undertaking strike action and imposing bans as part of their campaign in the common forum. The effect of this

74. *ibid.*

75. FEDFA ROG Resolution, 20 December 1978.

action, coming immediately after the operators voted to return to work, was to delay the start up of the CDU, which was an integral part of the refinery. However, the metal workers dispute at Clyde appeared to take on a life of its own. On 20 September the ACTU recommended that the Clyde metal trades employees lift their bans, due to the hardship they were causing the company as a result of the maintenance bans being implemented immediately after the operators' bans. This recommendation was later passed as an ACTU resolution, when the Clyde metal trades employees continued with the bans.⁷⁶ The metal trades employees initially refused to lift all bans, only removing them to allow major plants to be started up after the company threatened to shut the entire refinery down.⁷⁷ The dispute was finally resolved by the industry unions and companies through the federal Commission.

The metal trades dispute at Clyde indicates that local level grievances were not confined to the operators. The fact that a national campaign took on a local character illustrates both the state of workplace relations and the detrimental side-effects for local management of external processes and decisions. Dissatisfaction among Clyde fitters escalated the original campaign to the point where the ACTU had to formally instruct these workers to desist in their action. Perhaps more importantly, these grievances were expressed through a mechanism over which local level management had no control. The common forum allowed, in some instances, local level problems to become incorporated into national level disputes. A corollary to this was that individual companies could be isolated within the common forum and local management would have to face disputes 'imported' from the breakdown of industry negotiations, again something over which they had little control. In this situation the distinction between 'internal' grievances and 'external' or 'imported' issues became extremely blurred.

76. This reference to the transcript was included as part of the company's report on the dispute. It is included in Appendix 7.

77. Metal Trades Bans: Clyde Refinery, Statement of Company Response 29 September 1978 & Clyde Metal Trades Resolution, 29 September 1978.

6.3.6 1979 (discussed in Section 5.2) which were however quickly equalised. This

The FEDFA and Shell were again involved in Commission hearings concerning the operators' wage classification structure in 1979. In particular, the Clyde operators argued that the increase in job knowledge payments granted by Macken in December 1978 had created an anomaly, as a refinery operator on the CCU who received the maximum number of job knowledge payments received a higher total wage than the classification above them, this being a process operator.⁷⁸ The operators brought a further case that the process operators (previously senior terminal operators) at Gore Bay terminal had suffered a deterioration in their position relative to other refinery classifications.⁷⁹ The decision of the Commission in the first case was that a true anomaly did not exist and therefore there was no case for a change in margins between the award categories. In the second case, the union was successful in obtaining an allowance for the Gore Bay process operatives.

Conflict over labour regulation at Clyde continued to be channeled through arguments about the wage rates in the operators' award. The situation was perpetuated by the operators' recognition of the traditional relativities between different plants and jobs within the refinery, even though the category structure had been changed in 1975. The persistence of these informal and historical comparisons between operating jobs remained an important element in industrial relations at the refinery. They were used by the operators both to argue the legitimacy of wage claims in the Commission and to educate new managers in the refinery about the relative value of work done.

More broadly, in New South Wales the oil industry had been disrupted by the disputes at the Caltex Kurnell refinery and the Total Matraville refinery. As was noted in Section 5.2, this conflict was primarily the result of the combined efforts of Caltex, the OIIC and the federal branch of the AWU to bring both these refineries under the jurisdiction of the federal Commission. The resistance of the workers at Kurnell and Matraville to federal award coverage was strengthened by the conflicting work value decisions of Neil in the federal Commission and Macken in the NSW

78. 1979 NSW Arbitration Reports 395.

79. 1979 NSW Arbitration Reports 883.

Commission (discussed in Section 5.2) which were however quickly equalised. This led to the establishment of a joint Commonwealth-NSW working party to investigate regulation of the industry. Both Shell Australia and the FEDFA made submissions to this working party, outlining the position of operators at Clyde. Both these submissions recognised that the constitution of the FEDFA limited, if not precluded, the movement of Clyde refinery operators into the federal jurisdiction. The FEDFA made clear its preference for staying within the NSW system, while the company stated that it would prefer the operators to move into the federal system.⁸⁰

The working party itself delivered a report containing three recommendations, none of which were adopted in their entirety. The jurisdictional coverage of the Kurnell refinery was finally resolved by amendments to both the NSW Industrial Arbitration Act and the Commonwealth Conciliation and Arbitration Act (see Section 5.2 for a full account). The marginalisation of the Kurnell operators by the federal unions, government and the companies must have had some influence on the actions of the operators at Clyde. The experiences of the previous two award renegotiations had shown that, although they were formally independent of the common negotiations, the common forum was a major influence in setting the parameters for any increases in the wages and conditions of Clyde operators. In addition, the company had shown that it was willing to incur both the wrath of the unions and the NSW Commission in order not to make any offers or agreements contrary to the common forum. These events, combined with the concerted attempt by the companies and some industry unions, under the direction of the ACTU, to emasculate the operators at the Caltex Kurnell refinery, must have created enormous pressure for the Clyde operators to join the common forum.

Even so, there was still resistance among operators and FEDFA officials to joining the industry forum. In evidence presented to the joint working party, the state Secretary of the FEDFA twice stated that the FEDFA did not wish to join the common negotiations, as all refineries and operators were not the same.⁸¹ Nevertheless, following the report of the joint working party, the ROG investigated

80. FED&FA and Shell Submission to the Joint Commonwealth/State Oil Industry Working Party, 1979.

81. FEDFA ROG Minutes, 25 July 1979, Book 1 pg 6.

the feasibility of joining the common negotiations. The impetus for this was partially the realisation that "(I)t is a fact that what comes out of these negotiations is passed on to us as a matter of course, regardless of whether we participate in them or not"⁸².

The Clyde operators voted to join the common negotiations in February 1980. The motion was won by a single vote, with many operators raising concerns about the foreshadowed change in shift systems and about being covered by a federal award.⁸³ The growing dominance of the industry forum in setting wage rates for all occupations in the industry, whether they were party to the forum or not, and the increasing influence of the ACTU Secretary over the Clyde FEDFA delegates, may have accounted for the growing acceptance of the common forum amongst Clyde operators.

6.4 Conclusions

By 1977 workplace relations at Clyde had reached what all parties have described as the low point in the refinery's history. An employee relations manager who was present at the refinery for a short period in the mid 1970s described it as a 'hell hole'. Much of the acrimony was created by the internal friction over regulating work performance and reward. The operators maintained their unwillingness to accept that issues of staffing and equipment operation were managerial prerogatives. Both these issues were extremely important in influencing the workers' effort bargain. The Clyde operators also resisted any change to their effort bargain unless they perceived that it was adequately compensated. This attitude was supported by the introduction of job knowledge payments in the 1975 award, which management argued encouraged a 'bob-a-job' attitude among operators. As a group they successfully undermined management attempts to impose change in refinery operations and organisation. They achieved this largely as a result of their strong representative organisation and resources. However, the operators' obstruction of changes in the workplace influenced management decisions about the scale of technological change at the refinery. It has been argued by a former Personnel Officer at Clyde that one result of the operators' resistance to technological change was to encourage

82. FEDFA ROG Minutes, 4 December 1979, Book 1 pp 42-43.

83. FEDFA ROG Minutes, 27 February 1979, Book 1 pg 75.

management to initiate larger scale technological change rather than incremental change, as both strategies would be met with equal hostility from the workers. The inconsistency in management's enforcement of its directives, however, particularly as between different levels of management, also resulted in the establishment by workers of strong traditions of custom and practice. This saw the company and the FEDFA come to rely upon the Industrial Commission, and Justice Macken in particular, to regulate work at the refinery, a role that did not sit uncomfortably with the Commission.

However, internal problems were not the sole cause of disputation at the refinery. Shell's commitment to the national common forum resulted in a position where it could not agree to terms with the operators at Clyde which may have influenced the industry negotiations. As a result, local level management had restricted autonomy in negotiating wages and conditions, and was often forced (in accordance with OIIC policy) to prolong local level negotiations in order to allow an industry settlement to be finalised. This contributed to the frustration felt by operators at the efficacy of local level management; and reinforced the role of the NSW Industrial Commission as a party to workplace regulation, as it became increasingly involved due to the absence of effective local level bargaining. The company's decision to force the operators into the common forum further exacerbated the situation. The existence of the common forum, and the increased legitimacy granted to it by the federal Commission and ACTU, began to have a marked effect on the behaviour of the companies, unions and industrial tribunals, even those previously outside the forum. The common forum was clearly seen by Shell management as a means to control increases in wages and allowances at the Clyde refinery, but it placed the local level management in the precarious situation of not being able to respond to operator claims while still having to deal with any consequences. The decision in 1980 by the operators to enter the common forum amounted to a realisation that the autonomy that they had once enjoyed had been severely constrained and that they would be better served by attempting to influence the forum from within.

The analysis in this chapter has begun to display the way in which the different elements of labour regulation are interconnected. The majority of the discussion has

been in terms of award negotiation, because issues of staffing and work performance were linked to the reward system set out in the award. The most pervasive industrial issue for operators at Clyde refinery during the 1970s was the wage classification structure. However, this did not merely reflect the operators' dissatisfaction with wage rates. The main concern for the operators was that the wage structure did not correctly reflect the relative value of the jobs at the refinery. For the operators this value was influenced by both 'objective' criteria such as qualifications and experience, and 'subjective' criteria such as that fact that some plants were considered to be more demanding. A particular job value changed with the addition of new equipment to plants and with changes to staffing arrangements, creating a situation where there were perpetual demands by operators for a review of wage categories. These modifications altered the overall number of operator positions and the operators' effort bargain. Their grievances in relation to work intensity and job security were thus manifested through the issue of the wage category structure.

The bargaining structure in the oil industry influenced the nature of labour regulation at the workplace level. The common forum impacted heavily upon labour regulation at Clyde. The authority of both the workplace delegates and site management to determine issues of work regulation was reduced. In this way, centralising bargaining in the industry, or creating an industry bargaining structure, reduced the scope for workplace bargaining. The next chapter will show how this process consolidated management prerogative at a workplace level. With the centralisation of wage determination, workers at Clyde had great difficulty in gaining compensation for workplace-specific issues and circumstances, largely because the nexus between work organisation, work performance and reward for work was broken under the industry framework. In this way the company inhibited the operators' ability to win pay increases for workplace change at the refinery. In doing so the company was able to stabilise wage growth whilst continuing to undertake the workplace changes necessary to maximise production. Thus the common forum provided a means for the oil companies to create wage stability and strengthen their workplace authority. Stability in wage movements in the oil industry was further aided by the establishment of wage indexation. The initial refusal by operators to join the common forum and the company's policy of attempting to replicate industry level settlements at Clyde,

whereby they would not treat local level negotiations as truly autonomous, saw the NSW Industrial Commission play a significant role in setting substantive elements of workplace regulation, particularly in relation to staffing and payment. The changing bargaining structure had the effect of limiting the scope for workplace bargaining. The operators at Clyde were initially unwilling to accept that this was the case, resulting in conflict at the refinery in the late 1970s. The move by the operators into the common forum in the 1980s provided management with the opportunity to make changes to the way in which work was organised and performed, either through the introduction of new equipment or a reduction in employee numbers, without necessarily having to change the level of compensation to employees.

7.1 Introduction

7.2 Stabilisation of Relations, 1980-1987

7.2.1 1980-1982

7.2.2 1982-1984

7.2.3 1984-1986

7.3 Partial Decentralisation, 1987-1989

7.4 Conclusions

Chapter Seven

Chapter Seven

Clyde Refinery, 1980-1989

Clyde Refinery, 1980-1989.

7.1 Introduction

The previous chapter has shown the development and entrenchment of conflict at Clyde refinery. Repeated disputes over workplace regulation created a situation of mutual distrust and contributed to low trust relations between management and the workforce at the refinery for the decade of the 1970s. The 1980s witnessed both a different approach by the parties to workplace regulation and different outcomes with respect to workplace change and dispute levels. The result was an improvement in workplace relations at the refinery. Union behaviour at Clyde was strongly influenced by the institutionalisation of the national industry forum and the development of the Accord. In this regard the ACTU came to exert even greater authority over the Clyde workplace unions, especially the FEDFA. The company maintained its strategy of negotiating with unions, particularly at the industry level. At the refinery level, local management altered its approach to workplace change, making a more concerted effort to consult with union delegates about change. This culminated in the development of a new industrial relations strategy at the refinery in the late 1980s, which was designed to develop high trust workplace relations.

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Perhaps even more pervasive and influential than the adoption of different policies with respect to industrial relations by both the unions and management at Clyde was the changed market and economic context of the 1980s. The industry was subject to substantial rationalisation, particularly in the first half of the decade. As Section 2.3 has shown, company profitability suffered in the early 1980s and several companies quit the Australian market. This coincided with an environment of high rates of unemployment. These changed product market conditions impacted on the relative bargaining power of the parties, in particular favouring management. Combined with the greater restrictions on individual workplace action imposed by the industry forum, this produced relative industrial calm and substantial technological change at Clyde without the worker resistance of previous decades.

As was the case with the previous chapter, this chapter will proceed using a chronological framework to identify and describe the regulation of labour at Clyde. The issues of: wage setting, the wage category structure, rostering, new technology and staffing will be addressed in each historical period. It is difficult to treat these issues separately, as they are closely interconnected and all impact on the effort bargain. However, for structural purposes each chronological section will separate these issues.

7.2 Stabilisation of Relations, 1980-1987

The previous chapter has illustrated the complexity of workplace regulation, describing in particular how workplace issues are interrelated. Changes in the regulation of labour, specifically those rules related to work performance, staffing levels and reward, combined with the manner in which these changes were introduced, were met with resistance from the operators at Clyde; however, this resistance was mostly articulated through dissatisfaction with the wage category structure. In this way, disputes over the category structure not only incorporated dissatisfaction with wage levels, but also became a means of resisting change to the production process and staffing levels. The company's reluctance to deal with the issue, due largely to external pressures, merely exacerbated the industrial disputation at the refinery. While the category structure continued to be a source of dispute at Clyde through the 1980s, there were several factors that contributed to a stabilisation in workplace relations at the refinery during this period.

Perhaps the most important, apart from the changed market context, was the removal of wages as a topic for negotiation between local level management and delegates. As illustrated in Chapter Four, all major occupational groups at Clyde, other than operators, had been involved in wage determination outside the workplace since the late 1950s. The difficulties that this created for the company and operators, particularly with the development of the common forum, were discussed in detail in Chapter Six. Some of these difficulties were alleviated when the operators entered the common negotiation forum in 1980. The locus of wage negotiations for Clyde operators moved from the refinery to the industry level, thus relieving local level management and delegates of the responsibility for setting wages. Given the history

of confrontation and low level of trust that existed between the two parties, this diminution of responsibility eased the tensions over wage setting that had been created in the preceding award re-negotiations and redirected dissatisfaction away from the workplace.

Not only did the Clyde operators join the common forum, but they were thrust to centre stage in the industry. Ironically, the establishment of the National Integrated Wage Structure in 1981 (outlined in Chapter Five) took the wage rates of Clyde refinery operators as the benchmark for all other operators in the industry, since wage rates for operators were higher in NSW than other states. Consequently the Clyde operators, who had voluntarily entered the national forum, had an obligation to allow the wage rates of other operators to gravitate toward the level at Clyde. There was also an obligation on the Shell company to ensure that the existing category structure and pay rates for the refinery operators were not disturbed, as any changes would have had an effect on other OIIC members.

The reintroduction of wage indexation in 1983 reinforced the centralisation of wage fixation in the oil industry. Indexation was introduced at the behest of the newly elected federal Labor government, and was a central feature of the first Prices and Incomes Accord agreed between the ALP and the ACTU. Under the terms of this Accord agreement, the ACTU committed its affiliate organisations to 'no extra claims' outside the wage increases won through the national wage case. This had strong implications for industrial stability in the oil industry in general and at Clyde in particular. All industry unions were affiliated to the ACTU and therefore committed, at least publicly, to the Accord. The introduction of wage indexation also froze to a large extent the relativities between different occupational groups and refineries in the industry. The Clyde FEDFA delegates accepted the centralisation of wage determination, the NIWS and its effect on their position in the industry. Indeed an Industrial Relations Manager at Shell claims that these delegates became fierce proponents of the NIWS and the Accord generally. He claims that this position reflected the respect they had developed for the ACTU Secretary through their informal involvement in the common forum and the influence that this official had over the delegates. Finally, the involvement of Clyde operators in the common

forum, followed by the election of the Labor government and introduction of the Accord, diluted the influence of the NSW Industrial Commission on industrial relations at the refinery, in particular wage fixing. The weakening of the NSW Industrial Commission's influence over Clyde had begun with the legislative changes to the NSW Industrial Arbitration Act and the Commonwealth Conciliation and Arbitration Act following the report of the joint NSW-Commonwealth working party into the oil industry, as discussed in Section 5.2. These amendments forced the NSW Commission to consult closely with the ACAC before making any wage determinations for oil industry workers. The federal Commission effectively administered oil industry awards and ratified industry agreements. The Clyde operators still had to rely upon the NSW Industrial Commission to ratify changes to their award, but this usually occurred after the federal agreements had been validated.

Beyond the issue of wages, however, the NSW Industrial Commission continued to play an important role in hearing disputes over workplace issues related to staffing and rostering. The major avenue for changing wage rates was by means of the application of clause 26 of the award. This clause, inserted into the award ratified in February 1979¹, was designed to overcome operator resistance to the commissioning of new plant at the refinery. It allowed the union to apply to the Industrial Commission for a wage increase, under the anomalies provision, if there was an increase in the responsibilities of an operator which had not been contemplated at the time that the award was originally made. However, the capacity of the operators to take action pursuant to this clause was predicated on their acceptance and commissioning of new plant and equipment on a trial basis.

The beginning of the 1980s also witnessed a significant change in workplace relations in the refinery. The State Secretary of the FEDFA resigned his position in 1980 to take up a position on the federal council.² This official had a longstanding and close relationship with the delegates at the Clyde refinery. As both an organiser and an official, he had been involved in the refinery's industrial relations since the late 1960s. He had been instrumental in helping the delegates at the refinery develop industrial strategies and tactics, like 'worker control' (discussed in Section 6.3.3), and had

¹ Interview, Retired FEDFA NSW Branch Secretary, 3 July 1993.

² Interview, Retired Personnel Officer, Clyde Refinery, 12 August 1993.

³ Letter from Secretary of OHC to ACTU, 22 May 1980.

assisted in the running of hearings in the NSW Industrial Commission. The new State Secretary of the NSW branch, who had responsibility for the refinery, did not maintain the same level of involvement with the refinery delegates as his predecessor had done and consequently did not have the same influence over the shape of workplace relations at Clyde. The ROG also experienced a turnover in delegates in the late 1970s, with some of the long-time delegates being replaced by younger operators. It has been argued by the Industrial Relations Manager at the refinery that this change resulted in the ROG taking a more 'mature' approach to negotiations and that it became more willing to compromise with management, rather than competing against it. In addition, the management approach at Clyde appeared to undergo a change during the early 1980s, encouraged by changes made to internal management structure. Management adopted a more consultative approach to workplace change and the introduction of new technology during this decade. A former Personnel Officer at the refinery suggested that this change coincided with higher levels of management training within the company.³ Together these factors helped facilitate more stable workplace relations and reduced industrial disputation.

7.2.1 1980-1982

Wages and Category Structure

Under the common forum arrangements, award negotiations occurred simultaneously at a local and industry level. At the industry level, all the oil companies and unions were represented in the negotiations but there were a number of sub-committees, made up of both OIIC member and industry union representatives, which corresponded to the major industry awards. The sub-committees then re-negotiated each industry award.⁴ At a refinery level, issues were divided between those that were common and those that were local. This decision continued to be the source of some tension between unions and companies (as it had been in previous years-see Chapter Six), reflecting attempts by both parties to control the bargaining agenda. While all major conditions of work were to be decided at the industry level (as stated in the Standard Hours (Oil Industry) Award), the dividing line between industry and

2. Interview, Retired FEDFA NSW Branch Secretary, 3 July 1995.

3. Interview, Retired Personnel Officer, Clyde Refinery, 12 August 1995.

4. Letter from Secretary of OIIC to ACTU, 22 May 1980.

local issues was relatively fluid. Issues that unions believed were local were often deemed by management to be common, particularly if there was the possibility of a local standard being passed on to other workers in the industry.

This difference in perception was clearly illustrated during the award renewal of the Clyde operators' award in March 1980. A meeting of the ROG committee decided that no more than five issues should be classified as being common, including wages, overtime rates and long service leave. All other issues were to be designated local issues and were to be "totally divorced from Common Negotiations".⁵ The emphasis placed on the independence of local negotiations reflected doubts about the effectiveness of the forum and the scope for rank and file delegates to participate in the common forum negotiating committee, which was comprised totally of union officials. Management responded to the operators' log of claims by arguing that additional claims should be subject to common negotiations, these being computer, boiler and gas testing allowances, fire control allowances, training allowances and a restructured job knowledge payment system.⁶ The refinery management seemed concerned to designate any issue relating to wage rates and allowances as a common issue. In addition, the company attempted to link together the offers made at the industry and local levels; for example, the Refinery Manager insisted that the offer made to unions at the industry level combined with that made at the local level represented an integrated package. According to the company, a rejection of its offer at a local level would represent a rejection of the industry offers.⁷

Although the award re-negotiation continued for some months at both the local and industry levels, there was no industrial action undertaken by the operators. This seemed to represent a softening in the approach to pursuing wage claims by the operators, that can be partly explained by their entry into the common forum.⁸ The industry agreements were finalised in November 1980. Even then, the federal Commission did not ratify the agreements until December 1980, after negotiations between Caltex and Kurnell refinery workers had been completed. The 1980 award

5. ROG Committee Meeting, 4 March 1980, ROG Minutes, Book 2, pg 2

6. ROG Minutes, 18 July 1980, Book 3, pg 38.

7. ROG Minutes, 12 August 1980, Book 3, pp 67.

8. This has been confirmed by FEDFA delegates.

renewal marked the first occasion in many years that there had not been any disputation associated with the renegotiation of the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award at Clyde. This was recognised by refinery management in the 1980 refinery appraisal report for senior management, which commented:

"In 1980 the relationships between the Company and the Unions on site continued to improve with a resultant low level of industrial activity, particularly in relation to the Federated Engine Drivers and Firemens Association. On reflection this represents a marked change in trend which has historically been associated with the industry award renewals. In 1980 the FED&FA attained a level of industrial maturity which enabled effective job consultation regarding the introduction of new equipment and an acceptance of the arbitral process."⁹

Entry into the common industry forum had not, however, diluted the Clyde operators' dissatisfaction with the wage category structure in their own award. The addition of new plant to the refinery, the effect that this had on the work performed by operators and the issue of how it should be rewarded each persisted as a source of disagreement between management and the FEDFA at Clyde. The Industrial Commission of NSW continued to be used as a forum for settling these issues; however there was a qualitative difference in the way that they were handled in the 1980s. A new clause was inserted into the award in 1979, which outlined the grounds for seeking a variation in wages during the currency of the award. This clause, clause 26, required new equipment to be commissioned and trialled before the Commission would consider an adjustment to wage rates.¹⁰ The success of this system for the company

9. Clyde Refinery, 1981 Appraisal Report, pg 18.

10. Clause 26: Basis for Review of Clause 25 - Wages:

- i) In the event that during the life of this award changes occur in the degree of responsibility of the operator which were not contemplated at the time of making the award the union is free to apply to the Industrial Commission of New South Wales for variation.
- ii) New plant and equipment commissioned during the life of this award shall be accepted by operators on the understanding that the union may apply to the Industrial Commission in accordance with sub clause (i). It is envisaged that the new equipment will be given a fair trial up to and including a period of three months, before the union makes application to the Industrial Commission. It is also agreed that any variation to the award shall apply from the date the new plant and/or equipment was first handed over to the operator.

215 NSW Industrial Gazette 1113.

was illustrated by several examples in 1980 and 1981. In June 1980 Justice Macken made an order under clause 26 of the award concerning the classification of jobs on the CDU. He reclassified upward the work of an outside operator and agreed that an allowance should be paid to the CDU (north) panel man.¹¹ The Commission was again called upon to make rulings under clause 26 in June and August of 1981. In June the Commission found that a boiler operator's position needed to be reclassified upward and in August 1981 a decision was reserved on the correct classification of equipment on the PPU plant.¹²

The incidence of these disputes about reclassification of work, or adjustments to the amount of job knowledge payment, continued to place pressure on the overall wage categories and on how operating jobs were allocated to the various categories. The significance of clause 26 of the award was that both the company and delegates accepted that it provided the NSW Commission with continued authority to change the rates paid to individual operators at the refinery. For refinery management, it allowed new equipment to be commissioned and brought into operation without dispute, which differed markedly from the situation that prevailed with respect to new equipment in the 1970s.

The ongoing dissatisfaction among both the operators and refinery management about the category structure at the refinery resulted in commitments from management to review the structure. Such a review had been mooted as early as 1979. Increases in both the number and quantum of job knowledge payments since their introduction in 1976 had caused a compression in the relativities between the three different operator classifications. The inadequacies of the structure were that it allowed for refinery operators on some plants to earn more than process operators, a situation which came to be viewed as a problem by management, operators and by Justice Macken, who asserted that:

“One of the principal difficulties with the 1976 category structure was that it failed to come to grips with changes in an operator's duties in the refinery. There were only two methods by which changes could be reflected in the award. One was by

13. Unpublished Judgment, No 40668, *Shell Refining (Aust) Pty Ltd and the FEDFA of Australia v. Shell Refining (Aust) Pty Ltd*, 25 November 1988, pg 3

11. 1980, *NSW Arbitration Reports*, 393

12. 1981, *NSW Arbitration Reports*, 384 and 446.

reclassifying the work so that, for example, a refinery operative could be promoted to the position of process operative. This is an inadequate means of reflecting change as the difference in today's terms is \$26.40. Rarely is the additional skill required properly reflected in an amount as great as this.

The only other method of reflecting change in the performance of work is by awarding of a job knowledge payment. Under the existing award that allows a payment ranging from 50 cents to \$1.40 per week. These amounts were far too low to compensate justly many of the changes in the refinery."¹³

Refinery management voiced similar complaints about the structure established in 1976. In a document providing the background to a review of the category structure, management stated that:

"Both the FED&FA and the company recognise the importance of a new category structure for the refinery. The current structure has as a result of the passage of time become unwieldy and inflexible to the changes and pace of change within the workplace. The refinery is in the process of a major capital investment program to take it into the 1990s and requires a category structure which will accommodate the effects of these changes on operator duties".¹⁴

The growing imperative to restructure the wage categories in the award was heightened by increasing technological change at the refinery. However, in contrast to the increasing pressure to change the wage category structure of operators at the refinery were the constraints imposed by the common forum and in particular the NIWS. This made any change to wage rates at Clyde difficult, which resulted in no action being taken to modify the category structure between 1980 and 1982. Yet notwithstanding the impediments to changing wage levels, management at the refinery was able to undertake substantial workplace change which had a particular effect on staffing levels.

Staffing, rosters and new technology

13. Unpublished Judgment, No 405/88, Shell Refining (Aust) Pty Ltd and the FEDFA of Australasia (NSW), 15 November 1988, pg 3

14. Shell Document: Clyde Refinery Category Structure Review, Undated 1988 (IRPO6D952:paa). Work Roster at Clyde Refinery, 26 October 1978.

Management at Clyde initially proposed to address the category structure in exchange for the introduction of a new shift roster. The company had sought to change the shift system for some time, its preferred option being to introduce a fifth shift to overcome the problems of the four shift supplementary system. A five shift system had in fact been operating at the Gore Bay terminal since 1978.¹⁵ The attraction of a five shift system was that it enabled management to adequately accommodate the 35 hour week working arrangements. In addition, it could effectively cover annual leave without needing to resort to spare operators. This in itself would reduce the need for operators to 'act up' into different categories, thus alleviating some of the rigidities in staffing arrangements and allowing refinery management more flexibility in operations. The FEDFA opposed a five shift system, with many operators preferring to stick with their existing shift rosters. The company had previously made proposals to the operators concerning the implementation of a five shift system. In 1978 the Industrial Relations Officer at Clyde broached the issue in a letter to the NSW State Secretary of the FEDFA, where he argued:

"During the last four years it has become evident that the 4 shift supplementary system has serious short comings in that it requires operators to move from job to job, often at short notice, to meet roster requirements. This results in many unsatisfactory situations including:

- a) Lack of continuity on the job, due to a continuous change in each shift manning,
- b) A reduction of experience on plants because experienced operators are being rostered off for 35 hour week breaks resulting in their positions being filled by less experienced operators,
- c) A complicated roster to administer which on occasions has resulted in disputes."¹⁶

Discussions about reviewing the shift work roster system initially became part of the 1978 award renewals, but were deferred until after that award had been finalised. The issue was again raised in discussions between the delegates and the company in February 1979. The company put a proposal to the delegates, which included a

15. Unreported Decision, Compulsory Conference before Conciliation Commissioner Johnson, 64 of 1978, 18 April 1978.

16. Letter from Industrial Relations Officer (Clyde Refinery) to FEDFA NSW State Secretary, Re: Shift Work Roster at Clyde Refinery, 26 October 1978.

substantial lump sum payment for the adoption of the shift system. However the proposal was rejected by the operators and the company elected not to pursue the issue further at that point. It considered that the introduction of such a system would have to be by consent rather than arbitration.¹⁷

Management again raised the issue in February 1981, making informal approaches to delegates suggesting at the very least a trialling of a five shift system. The company offered a renewed proposal for the five shift system in October 1981, arguing that the system would improve refinery operation by allowing stability of shift crews and an ease of rostering and training.¹⁸ However, at the quarterly communications meeting of the Clyde FEDFA (a paid quarterly stop work meeting) that considered this proposal, the operators voted by an overwhelming majority (202-49) not to allow the ROG committee to negotiate the introduction of any new system. Although faced with overwhelming opposition to the proposed shift changes, management persisted with the plan over the next few years.

In summary, entry of the operators into the common forum had an impact on the conduct of award negotiations at Clyde refinery. While the operators and their delegates remained suspicious of losing autonomy in the industry negotiating forum, they nevertheless successfully concluded agreements through this mechanism, which brought a positive response from Shell senior management. In addition, conflict over the introduction of new technology diminished with the successful installation and commissioning of equipment, albeit that it was managed through the Industrial Commission of NSW. However, there remained several issues of contention between operators and management at Clyde. Both realised the deficiencies in the existing wage category structure, yet were restricted for different reasons from addressing the issue. In addition, management's attempts to change the shift roster became more intense, initially prompting strong objections by the operators. In a bid to address both issues, the company promised a review of the category structure if the operators acquiesced to a new shift system following the 1982 award renewals.

17. ROG Minutes, Book 9, pg 54.

18. *ibid.* Minutes, Book 12, pp 41-47

7.2.2 1982-1984

Wages and Category Structure

During the 1982 award renewals the company used similar tactics to those used in the previous award negotiations. However, the wage fixing regime that governed the process had changed, with the ACAC abandoning wage indexation in July 1981. The end of wage fixation did not cause any great disruption to award negotiations in the oil industry, as it had a history of structured bargaining between the parties. The immediate effect was that the oil industry unions sought to and were successful in reopening award negotiations in November 1981 even though they were committed to a two year agreement. The justification for this was that the end of indexation represented a "significant circumstance" necessitating a reconsideration of the terms of the current awards.¹⁹ Their appeal had little effect, however, with award re-negotiations beginning in early 1982.

As was the case with the 1980 award round, a distinction was made between common claims and local claims. At Clyde refinery the operators' log of claims was drawn up, ratified by the rank and file and served on the management in March.²⁰ The experience of the 1980 round was repeated, with many issues moving from the common forum to the local forum. The failure to have negotiations about computer and gas testing allowances dealt with in the previous award round saw each of them now become common issues. The payment of medical benefits was listed as a common issue until ESSO acceded to the demand at a local level. The other oil companies responded by arguing that it had now become a local issue, in an attempt to avoid the ESSO package becoming an industry standard. Thus, the two-level bargaining structure was manipulated by both management and unions as a means of respectively resisting or establishing industry standards.

Unlike in the award round of 1980, Clyde refinery did experience industrial action in the negotiation of the 1982 agreements. It was primarily a result of worker dissatisfaction with the progress of negotiations in the common round, but it was also influenced by the reluctance of management to negotiate over specific workplace

21 Memo: To all FED&FA Operating Personnel, 21 July 1982.

22 Memo: To all FED&FA Operating Personnel from the Refinery Manager, 14 September 1982.

19. 269 Commonwealth Arbitration Reports, 613.

20. ROG Minutes, Book 12, pp 41-47

issues. In July the operators placed bans on gas testing and the introduction of computers to monitor the production process.²¹ While the bans were imposed locally by the operators, they were in response to the company's refusal to make a firm response to the unions' industry-wide claim for a \$10 per week allowance. The operators' bans remained in place from 14 to 28 July. The lifting of the bans by operators, as a result of a company offer, was quickly followed by strike action by the ETU, who were similarly dissatisfied with the pace of industry negotiations. This strike action, which began on 5 August, caused delays in the startup of the CDU, and subsequently affected other refinery processes supplied by the CDU, in particular the CCU which was shut down on 5 September.²² In early September refinery management warned a meeting of delegates that the refinery faced imminent shutdown unless the ETU returned to work.²³ The ETU dispute was part of an industry-wide campaign, but Clyde refinery was most affected, as it had undertaken a routine CDU shutdown almost immediately prior to the dispute. The operators supported the ETU by refusing to grant clearances for maintenance and instrument work necessary to re-start this plant. The desperation of management to bring the plant back on line was indicated by the proposal put to the ROG delegates at the conclusion of the joint delegate meeting on 2 August 1982:

"When all other refinery delegates had departed (the Refinery Manager) stated that he wished FEDFA to be able (sic) to explore all possibilities and to give the FEDFA the opportunity of doing just that he had a proposal to put. The proposal was not written verbatim due to the shock and horror felt by the (ROG) Secretary. The crux of the offer was that the Co(mpany) wanted/expected (?) FEDFA operators to give clearances to staff personnel for duties appertaining to the ETU. Stunned delegates watched as both (the Refinery Manager) and (the Industrial Relations Officer) left the room. All delegates registered both disbelief and disgust at the audacity of the Co(mpany) to even suggest such an odious request."²⁴

This provocative offer by management was duly rejected and management proceeded to issue termination notices to all striking ETU workers and to stand down some

21 Memo: To all FED&FA Operating Personnel, 21 July 1982.

22. Memo: To All Employees From the Refinery Manager, 14 September 1982.

23. ROG Minutes, Book 16, pg 46.

24. ROG Minutes, Book 16, pg 50.

operating staff. Those operating staff "for whom there was no useful work", a total of 53 operators, were stood down on 14 September. The FEDFA committee had a standing resolution whereby if any FEDFA member was stood down the operators would automatically begin shutting down the refinery.²⁵ As the refinery was largely inoperative at the time (except for the chemical plants), there was extensive discussion as to whether the union should follow this course of action, particularly as it would benefit the company by saving salaries. The operators voted, by majority, to go on strike at a stop work meeting on 15 September.²⁶ The industry-wide dispute was settled the following day, when the AMWU (formerly the AMSFWU) and ASE accepted the industry offer, effectively isolating the ETU. The operators voted, by majority, to return to work on 17 September; and the workers who had been stood down were reinstated. Management refused to pay back pay for the period during which the workers were stood down (effectively one shift) but instead offered to provide an overtime shift for these employees to compensate for lost earnings.

The problems experienced in reaching a settlement in the 1982 award round led some Clyde operators to question the decision to enter the industry negotiating forum. The delays in agreement and frustration with the lack of autonomy under the industry system were articulated by the ROG Secretary and other delegates. In the minute book the Secretary commented:

"It was quite evident that our position at the top of the wage scale was about to be taken. We had been used by the AWU/Kurnell operators to pass us (sic). We were not entitled to the NIWS rises, yet these were being paid to the AWU/Kurnell operators. Our position since entering the common negotiations forum for the 78-80 (sic) award was that there was to be one offer only, made to all. Obviously this situation had changed and abuses of the system made."²⁷

This entry makes specific reference to the NIWS payment made to all refinery operators, excepting those at Clyde, to bring them to near parity. Operators at

25. The resolution was to the effect that in the event of an operator being sacked during an industrial dispute, which has been duly sanctioned by the Union, all operators in the refinery/Gore Bay, after notification by the unions delegate, are to proceed to shut down their respective units. A stopwork meeting is to be held at the earliest opportunity after the refinery/Gore Bay have shut down.

26. ROG Minutes, Book 16, pg 79.

27. ROG Minutes, Book 16, pp 16-17.

Kurnell were exempted from this rise as they were not part of the NIWS. Justice Macken gave the Kurnell operators a wage increase comparable to the allowance. The NIWS allowance was subsequently granted to Clyde operators by the companies (see Chapter Five). However, the sentiments expressed by the ROG secretary were followed up by comments made by an ex-delegate at a stop work meeting. He said, with reference to the common negotiations:

“The whole exercise was a big con game, all the ACTU wanted to do was play politics. The industry (companies) was using the ACTU to weaken unions”.²⁸

Further comments by other delegates confirmed that they believed they would be better off negotiating their award locally through the Industrial Commission of NSW. One delegate stated: “we had absolutely no doubt that our claims and concerns would receive a more than sympathetic ear from Macken J”.²⁹ The dissatisfaction with the industry wide-negotiations was, however, probably overtaken by events in the wage system generally, and in particular the Accord.

During the 1982 award renewal negotiations Clyde management raised the possibility of restructuring the wage category system in the operators’ award. The trade-off for such an exercise would be the introduction for operators of a five shift system in the refinery. The previous resistance by operators to the discussion of any shift change gave way and the delegates were granted authority to hear proposals put by the company. The ROG Secretary explained the nexus between the category review and the shift system as follows:

“(The ROG Chairman) understood the company to be saying that they could not see any real need to review the present category/JKP system. The Co(mpany) wished to introduce a new shift system and they wanted to know would the rank and file accept a change if enough monetary incentive on a weekly basis was offered. Owing to current industrial situations any payment for the shift change must be disguised and hidden, and the category/JKP system was seen as the ideal carrier”.³⁰

27. ROG Minutes, Book 16, pg 62.

28. ROG Minutes, Book 16, pg 77.

29. ROG Minutes, Book 17, pg 52.

30. ROG Minutes, Book 16, pp 15-17.

The process of reviewing the category structure, job knowledge payments and shift systems was to begin immediately following the satisfactory completion of the 1982 award renewals.³¹ This would serve the company's purpose by both introducing a more flexible roster system and divorcing the category structure issue from the formal common award re-negotiations, thereby avoiding any flow-ons. However, that goal was not achieved. The possible adoption of the new shift system was thwarted when Shell was forced to pass the NIWS payment on to Clyde operators in October 1982. The company withdrew its offer for the new category structure and five shift system, justifying this by claiming that the 3 percent NIWS payment had exhausted the funds it had available to finance such a change.³² In addition, the industry envisaged that any payment for Clyde operators to introduce a new shift system would be passed on throughout the industry, thereby making other oil companies pay for changes sought at Clyde.

The 1982 wage round and its effect on workplace industrial relations illustrated the difficulty of, firstly, insulating Clyde refinery from the wider industry, and secondly, attempting to overcome local issues and practices by centralising negotiations. With respect to the first issue, Clyde continued to be affected by external forces. In the case of the 1982 award round (like the 1978 round), campaigns mounted by unions at a national level had a particularly detrimental effect on operations at Clyde. Local circumstances, in this case the CDU shutdown, were utilised by industry union officials to gain leverage in the industry-wide negotiations. In addition, the refusal of the Kurnell operators to join the industry-wide forum continued to create problems for both Shell management and the OIIC. The historical relativities between Kurnell and Clyde, combined with the ability of Kurnell operators and maintenance workers to achieve wage increases through the NSW Industrial Commission (with the tacit approval of Caltex management), put pressure on the industry wage structure, which was designed to produce pay parity across similar occupational classifications. Conversely, the companies were not universally successful in isolating local issues at the workplace level. The tactic of switching items between local and industry levels

31. Letter to FEDFA delegates from Refinery Manager, Re local Negotiations: 1982 Award Renewals, 4 August 1982.

32. Letter to FEDFA delegates from Refinery Manager, Re local Negotiations: 1982 Award Renewals, 16 November 1982 and ROG Minutes, Book 17, pg 55.

proved effective in some cases (for example the gas testing, boiler and computer allowances), but in other cases the companies were ineffective in stopping industry standards being created (for example medical benefits). The irony of this situation at Clyde was that both operators and management felt frustrated by their limited autonomy to address issues such as the wage category structure, yet unlike the situation of the 1970s, when the parties (or more particularly the operators) possessed such autonomy, industrial action generated at the workplace level was limited.

The introduction of the wages freeze by the ACAC, following prompting by the Fraser government, resulted in the companies refusing to fulfil part of the 1982 wages package (see Section 5.3). This brought concerted industrial action from the industry unions, under the direction of the ACTU, which affected Clyde refinery. An overtime ban was endorsed by operators at the refinery and at Gore Bay in February 1983. This action was initiated by the ACTU disputes committee, established to coordinate action across the industry.³³ The industrial action was called off with the announcement of a federal election in March 1983; and the nature of award renegotiations changed substantially following the election of the Hawke Labor government and the reintroduction of wage indexation in September 1983.

Staffing, rosters and new technology

While negotiations over wages had been successfully confined to the industry level, this did not prevent changes to technology and staffing at the workplace level. One of the strongest triggers for change in the way in which work was organised arose out of the introduction of new technology in the production process. This affected both the scope of the work performed, the number and nature of the tasks carried out, and how these tasks were allocated among the operating group. The most pervasive change that took place after 1980 was the introduction of computer technology and the slow diffusion of computer control over the work process, a trend experienced throughout the industry and not confined to Clyde refinery.

Concerns about the effects of computerisation were voiced by the ROG group as early as 1977. Such was the extent of the disquiet that the ROG investigated joint

33. IR:FEDFA Process Memo, No 2/1983, 8 March 1983.

funding of a video on the topic.³⁴ The Clyde operators had largely accepted the inevitability of computerisation by 1980, as evidenced by their agreement to treat computer allowances as a common forum issue during the 1982 award renewals. As was the case with many issues negotiated at the industry level, the industry agreements represented broad outlines rather than specific detail, leaving the companies with considerable autonomy over their implementation at a workplace level. At Clyde refinery several computer systems (such as OMOSS: Oil Movements Operations Supervisory System and PROSS: Process Operations Supervisory System) were gradually introduced into various plants in the early 1980s. These early systems affected operations within plants, particularly the accuracy of instrumentation and control of some operating processes. The impact of the changes on operations staff was contradictory. On one hand there was a need for them to undertake training in order to effectively understand and operate the new systems, thereby acquiring new skills. On the other hand the change did reduce some of the traditional discretion that could be exercised by operators in the production process. As the accuracy of monitoring processes improved and the primary control for some tasks moved from being manual to being computerized, operators lost some of their ability to make judgments and corrections to the process based on their experience and understanding of the plant.

In addition to the issue of computerisation, there was also a substantial reorganisation of work and staffing in the refinery during this period. The most pronounced change was a decrease in the number of staff, both waged and salaried. As Chapters Four and Six have shown, there was an ongoing process of reducing employee numbers at Clyde from the late 1960s onward. Actual numbers of employees at Clyde peaked in 1968, when there were over 1000 employees on the refinery site. By the end of the 1970s this number had been reduced to around 900 employees (375 operators in 1977)³⁵, primarily through reductions in maintenance workers and some supervisory positions. In August 1982 there were 885 employees at Clyde, including 351 FEDFA operators, 206 maintenance, engineering, laboratory and store workers and 328

34. ROG Newsletter, November 1977.

35. Cited in FEDFA records, FEDFA Holding, Noel Butlin Archives, N72/639.

staff,³⁶ employed on both the oil and chemical plants. The most visible reductions in staffing levels resulted from the closure of several plants and the replacement of others within the refinery.

The Secretary of the ROG provided some insight into the climate at the refinery at the end of 1982 when he reported:

"Refinery Rumours-A plethora of rumours was (sic) rampant within, and concerning, the refinery. Plant closures, total closure, redundancies, etc were items of common discussion. The following rumours are prevalent:

- a) Total shutdown of the refinery within five years allowing Shell to concentrate on marketing only in NSW.
- b) Shutdown of BBU (sic).
- c) Shutdown of Ethylene in August '83
- d) Shutdown of Ethylene in February '83
- e) Shutdown of PPU from mid '83 for 18 months
- f) Epikote to change to 5 day shift operation
- g) Introduction of LPG recovery unit at CDU (nth)
- h) Compilation of over 50s list of all refinery personnel."³⁷

Some of the rumours proved to be accurate. The BDA unit on the oil side was closed after a fatal accident in July 1980. It was reopened for a short time following the accident, but was permanently shut down in the early 1980s due to poor demand for the product. The company also determined in the early 1980s that most of the chemical plants were economically unviable; and subsequently decided to close the Chemical and Hydro-carbon Solvents plant, the Ethylene plant and the Epikote plant. Operators in these plants numbered around 70 in 1982.³⁸ The Chemical Solvents plant was shut in early 1983; while the Hydro-carbon Solvents plant was closed in November 1983 due to the high costs of production and decreasing demand for hydro carbon chemical solvents. The Ethylene plant was shut down in January 1984 with the expiration of a contract to produce ethylene for ICI, who had constructed its own plant. The Epikote plant also became unprofitable following the expiry of a short

36. Figures supplied by the Company.

37. ROG Minutes, Book 18, pp 29-30.

38. Figures provided by the company.

term contract to manufacture the product used in coating the North West Shelf pipeline. Both these plants were shut in December 1983.³⁹

The closure of these plants over a relatively short time created a fairly dramatic dislocation. In a period of just over twelve months, around 120 employees were made redundant, most of these being operators. The company dealt with this situation by offering voluntary separations.⁴⁰ Any employee in the refinery could request that the company determine their redundancy entitlement. Based on this estimate they could apply for a voluntary separation or 'handshake' as they became known. The company reserved the right to decide who was made redundant.⁴¹ Those operators formerly on chemical plants who did not apply for voluntary separation were re-trained and re-deployed within the refinery.

Management at the refinery attempted to use the redundancy process to remove employees they deemed to be unsatisfactory or not performing adequately. This strategy was not universally successful, but many such employees received 'handshakes', which left those employees who were committed to their work with the impression that they were being overlooked. While this may seem contradictory, these workers perceived that their efforts were not being rewarded as they were not offered an attractive separation package. The short-term effect was to reduce morale and motivation among the remaining employees.

This climate of uncertainty must have impacted on industrial relations and was probably important in influencing operator acquiescence to re-structuring. The shutting down of four plants in less than a year would have influenced the industrial expectations of the workers who remained, reinforcing their reduced bargaining power. Nor were the concerns of operators about job losses allayed by periodic technological change meetings held between the company and the ROG delegates (one in 1981 and one in 1982), which were designed to inform the delegates of the viability of the refinery and the rationale for any changes that were mooted within the refinery.

39. Memo, From: Refinery Manager, To: All employees, Clyde Plant Closures, 12 July 1983 and IR:FEDFA Memo, 9/83, 8 September 1983.

40. *ibid.*

41. *ibid.*

The rumoured and actual reductions in staffing resulted in the 1982 award renewal containing an attachment that set out the union's "current understanding" in relation to classification and manning. It read in part:

"(t)he union and its members recognise and accept that the determination of the appropriate manning and allocation of duties is the sole prerogative of the company, subject only to the right of the union to make application to the Industrial Commission if it can establish circumstances justifying the intervention if the Commission."⁴²

As was illustrated in the previous chapter, the FEDFA on many occasions made application to the NSW Industrial Commission concerning the commissioning of new machinery and the staffing levels that were appropriate to operate this equipment. Most of these applications sought to increase staffing or re-classify work for the purposes of payment. However, in cases of staff reductions the Commission had reinforced the prerogative of management to decide staff levels.⁴³

7.2.3 1984-1986

Wages and Category Structure

The award renewals for 1984 and 1986 provided little or no scope for local level bargaining over wages. The locus of decision making about award matters shifted almost totally to the industry level, where the ACTU negotiated wage increases for industry unions within the guidelines of the Accord(s) and the national wage principles. As the Clyde operators were covered by a state award, they had to wait until the federally ratified agreements were passed on by the NSW Commission.

The ROG delegates, however, continued to articulate their dissatisfaction with the attempts by oil companies to control the bargaining agenda. In a report to the operators during the 1984 award round, the FEDFA delegate on the industry negotiating committee stated that two meetings were needed to sort out which items were common and which were local. He went on to say that "(t)he primary reason for this is that the oil companies have tried to rope in nearly all claims and tie them to

42. Attachment E, 228 NSW Industrial Gazette 1395.

43. Memo: From Solvents Plant Manager, To: All employees, 28/72, 26 October 1972.

the common forum ...".⁴⁴ Similarly, the company was cautious to ensure that it would not unilaterally lift industry standards through local level decisions that could be flowed on through the NIWS.

The system that was devised to determine the new category structure was the Clyde. At the same time, the operators at Kurnell were using the state Commission to achieve wage increases in line with work value changes. The Clyde operators found themselves effectively caught in the NIWS, for which they were the wage benchmark for operators across the industry, with no formal way of maintaining relativities with the Kurnell operators. The relationship between the two NSW refineries was assessed by an officer in the federal Department of Industrial Relations in the following terms:

"Regardless of the comparisons and reasons given for increases, the dominant force between the Clyde and Kurnell refineries is CWJ (Comparative Wages Justice). If one gets an increase, then the other expects it-and has in the past got it one way or another. Expectations of a flow-on of the Kurnell agreement of Dec '85 are high at Clyde and believed to be high throughout the oil industry".⁴⁵

The category structure, however, remained a local issue at Clyde in negotiations for award renewal in 1984. By this time management had indicated its intention to unilaterally introduce a new shift system. As a result, the category structure became a stand-alone issue. The operators' position in the common forum remained a problem for the company, as any change in the category structure had the potential of provoking wage increases throughout the industry. The danger of this occurring largely explained the delay in reaching agreement on the new structure. The FEDFA and Clyde management formally began negotiations about a new category structure following the completion of the 1984 industry award renewals, with a specifically designated committee of delegates and operators assigned the task of concluding the negotiations. For a period of around eighteen months between January 1985 and June 1986 there were, on average, monthly meetings, held between delegates and the industrial relations management at the refinery, at which the category structure was

44. FEDFA ROG Notice, 9 June 1984.

45. Oil-Comparison of Clyde & Kurnell refinery operators, Federal Department of Industrial Relations, 29 January 1986.

discussed. During this period, general principles for the new category structure and a procedure for enacting these principles were also developed.

The system that was devised to determine the new category structure was the Clyde Operators Ranking Technique (CORT). The CORT system was comprised of objective measures, for example the number of jobs per plant and the tickets required to perform these jobs, as well as subjective measures such as the skills and responsibilities required and the difficulty of undertaking certain jobs.⁴⁶ The implementation of the category review required a two step process before new classifications could be established. The first step involved plant controllers gathering information about the number of jobs performed by different operating positions, as well as detailing the skills, qualifications and requirements needed to perform these jobs. The second entailed the company and delegates examining and assessing this information with the delegates supplementing it with material from their own survey.⁴⁷ The review process itself was affected by an internal dispute among the delegates. Several members of the category review committee resigned due to differences of opinion, primarily over the pace of review but also the nature of the review process. The delays were unsurprising, given the complexity of the review process itself and the constraints imposed by the wage fixing system. The dissatisfaction among operators with the review process was also exacerbated by changes in the refinery operation, through introduction of computer based production monitoring and rationalisation of operating plants. These changes further contributed to the complexity of the category review process. The result of this frustration was a threat by the operators in the CDU complex to run a separate work value case based on technological change within the plant.⁴⁸

Staffing, rosters and new technology

Company management continued to use the stability created by the Accord and the NIWS to alter the regulation of work at the refinery. The process was assisted by the reduced industrial power of the employees, resulting from plant closure and redundancies. Management took advantage of this situation to unilaterally institute

46. Interview, Ex-delegate, 3 August 1995.

47. Shell Document: Clyde Category Structure Review (IRP07D1005).

48. *ibid.*

the five shift system it had been attempting to introduce by consent for some years. Contrary to previous attempts, the company decided to use its management prerogative to force the introduction of the new system. To this end, the Refinery Manager issued a letter to all operatives in January 1984, justifying the adoption of the five shift system and stating that it would be introduced in mid 1984.⁴⁹ The company elected to use clause 9 of the award, which stipulated that:

"The method of working shifts may be in any case varied by agreement between the employer and the accredited representative of the union to suit the circumstances of the establishment or in the absence of agreement by 48 hours' notice of variation by the employer. The time of commencing and finishing shifts once having been determined may be varied by agreement between the employer and the accredited representative of the union to suit the circumstances of the establishment or in the absence of the agreement by 48 hours' notice of alteration given by the employees."⁵⁰

The operators protested against this manoeuvre and in March 1984 the NSW Industrial Commission was informed of a dispute and called upon to interpret this award clause. In presenting argument before Justice Macken in relation to the shift system, counsel for Shell put its attitude in the following terms:

"The difference in 1984 is that the company is committed to the five shift system and whereas in 1979 and 1981 it was prepared to defer implementation because of the lack of agreement it now is in a position where it is no longer going to defer and that is a difference of approach on the company's part perhaps but it is one that is taken in light of the circumstances that now apply."⁵¹

In response, the FEDFA delegates reported to their members that this decision was in line with a company attitude which had prevailed over several months; namely, of making personnel decisions in the refinery without consulting the union.⁵² During the hearing, the union insisted that the clause related to changing the shifts of individual

49. Letter, From: Refinery Manager, To: All FED&FA Operators, Refinery Shift System, 24 January 1984.

50. Refinery Operative, &c. (Shell Refining (Aust) Pty Ltd) 215 IG 1113.

51 Transcript, Matter 559 of 1984, Notification under s25a by Shell Refining (Aust) Pty Ltd of a dispute with the FED&FA of Australasia (NSW), Re Introduction of a Five Shift Roster System, 30 March 1984, pg 8.

workers and that it had been in the award long before the 35 hour week agreement. It further argued that management was using the clause out of context in order to make a substantial change to the running of the refinery. Justice Macken however agreed with the company's argument that the clause allowed the company to introduce a five shift system. He stated:

"The company contends that, whatever the merit of its case, the award allows it to amend the method of working shifts, such a matter plainly being within the ordinary prerogatives of management.

I accept this proposition; there is no doubt that a strict interpretation of this clause gives the company the right to introduce a five-shift system."⁵²

Macken's decision was premised on an indication by the company that it needed to introduce the five shift system before the category review could be undertaken.

The new shift system (illustrated in Appendix 3) stabilised the number of operators in the refinery, as it required the creation of a new shift, called E shift. However, the structure of the new roster meant that operators effectively worked on average less than 35 hours per week; and as a result were required to repay the company for the time not worked. They did this by undertaking 32 hours of training in addition to their normal work duties and participating in performance meetings. The performance meetings consisted of two hour meetings (outside the operators' normal shift time) held eight times per year, where operators were informed of any problems or changes that had occurred on the plant, plant performance or refinery performance. These performance meetings became an alternative to the traditional union-management meetings through which management could communicate directly with employees.

The rate of introduction of technological change became more rapid at the refinery in the mid 1980s. New equipment became an issue in the classification review, with modifications at the Gore Bay terminal and threats by the operators to ban training on the new equipment. The largest change in operations at the refinery occurred in the later part of the 1980s with the introduction of an integrated computer control

52. Notice Report on Five Shift System Dispute Commission Hearing, 30 March 1984.

53. 1984 NSW Arbitration Reports 134

system. It coincided with the movement towards decentralisation in the industrial relations system, the adoption of the SEP and, at the refinery level, the re-negotiation of the operators' category structure. Unlike the previous changes, which had been introduced in a piecemeal fashion, the introduction of the integrated control system (ICS) involved a rationalisation of existing plant and control facilities into a new central control room. This resulted in a reduction in operator positions, a requirement for some operators to learn new tasks, and a change in control of the production process. In the context of a dispute over the classification system, the Industrial Relations Officer at the refinery described the changes in the following terms:

"The company is presently building a new centralised control room which will replace the 3 existing control rooms and in that control room intends to utilise the new generation of process control technology which is the integrated control system and it is imperative for the smooth transition from the old to the new operating mode that the operators are being trained and are able to commence operating the new control room, as each unit comes under the new integrated control system."⁵⁴

The construction of the new centralised control room (CCR) was first brought to the attention of operators in 1986. At a meeting between FEDFA delegates and company representatives, the delegates were told that:

"...the rationale for the project is that the control centre would provide advantages in terms of increased efficiency of the processing units as well as reducing costs, in particular labour costs, through a reduction in manning."⁵⁵

The negotiation of the new staffing levels and the introduction of the new control room were undertaken and finalised after the partial decentralisation of wage fixing in 1987. The finalisation of the new category structure for operators was again halted with the industry award renewals late in 1986. The company again used its commitment to the NIWS as a reason for deferring the resolution of the category structure. In doing so the company appeared to be content to use the on-going category review process as a means of justifying the introduction of new equipment in

54. Transcript Matter No 459 of 1988, Compulsory Conference, 13 April 1988, pg 1.

the refinery. The effect of new equipment on the performance of work was to be assessed and compensated (if necessary) through the CORT system (renamed by some operators as the RORT system) and the new category systems. Thus, actual changes in production and employee numbers were unimpeded, while negotiations were effectively stalled by the constraints imposed by the wage mechanism operating in the industry. This represented a substantially different situation to the one that prevailed in the 1970s, where operators had effectively blocked or impeded workplace change by refusing to commission new equipment. In this way the institutional constraints of the NIWS produced favourable outcomes for the company, by ensuring stability in industrial relations.

7.3 Partial Decentralisation, 1987-1989

Wages and category structure

The introduction of the two tier wage fixing system and the structural efficiency principle created scope for more local level negotiation, but it was again within limits set outside the refinery. In March 1987 the ACAC ratified the two tiered wage rise requested by the ACTU and Federal government. The second tier increase of 4 percent was to be won by using the restructuring and efficiency principle; and in the oil industry agreements, finalised in October 1987, the full bench granted this 4 percent as a NIWS payment. The payment was designed to bring operators elsewhere in the industry to parity with the Clyde operators' rates. It placed the Clyde operators in the unusual situation, however, of not being able to seek the second tier increase. The decision of the full bench stated that:

"We also add that this decision does not provide any basis for wage adjustments for workers in the oil industry employed under state awards at the Caltex refinery, the Australian Lubricating refinery or Shell Clyde refinery".⁵⁶

To compound the situation, Justice Macken granted a 4 percent wage increase, in line with the second tier, to Kurnell operators in December 1987.⁵⁷ In response to this

55. IR:FEDFA Process Memo, 6/1986, 11 January 1986.

56. Print No 69593, Australian Conciliation and Arbitration Commission, date 9 October, 1987, pg 12.

57. Matter Numbers, 800, 1107-1109 of 1987, Australian Conciliation and Arbitration Commission, Decision Summary: Week Ending 15 January 1987, pg 7.

decision by Macken, the ACTU and the OIIC allowed the operators at Clyde to use the 4 percent as payment for the introduction of a new category structure.

The companies subsequently sought to use the restructuring and efficiency principle to bring about changes in work allocation and performance in the industry in the next wage round in 1988. A consensus existed between the companies and unions on the definitions of restructuring and efficiencies. Efficiencies related to areas and matters covered by awards which could be more efficiently managed. Restructuring referred to practices which were at the time not covered by the award, for instance demarcations and multi-skilling. Efficiencies were to be identified and negotiated at a local level, with a uniform value attached to the agreements reached locally. The unions sought no less than 4 percent. Restructuring negotiations were to be completed at a national level.⁵⁸ However, the unions attempted to isolate discussion about industry restructuring from the 1988 wage round. The FEDFA insisted that negotiations over industry restructuring should not be part of the award negotiations.

In a report to members, the ROG delegates stated that:

"It is important to state that the ACTU/Oil unions do not regard these negotiations on efficiency and restructuring as part of the 1988 award negotiations. They may be finished before them, they may overlap them but we do not see them as part of them, the companies have a different viewpoint."⁵⁹

At the local level, Clyde management identified several objectives that it hoped to achieve through the efficiency discussions. Among these were the improvement of relationships between management and employees (and among different groups of employees) and the improvement of management and/or company practices and productivity. The Refinery Manager noted that:

"we do not wish to achieve these objectives by simply providing lists of work practices, or by a simple exchange of some particular monetary entitlements for a wage increase."⁶⁰

58. Memo, From: Refinery Manager to All Employees, Industrial Relations: 1988 Award Renewals-Restructuring and Efficiency Negotiations, 28 March 1988.

59. FEDFA Newsletter 1 April 1988, Re-Common Forum Discussions Meeting, 31 March ACTU House.

60. Clyde-Gore Bay, Restructuring and Efficiency 1988, Memo from Refinery Manager to All Employees, 19 April 1988.

He went on to identify two substantive areas for negotiation. The first was skill enhancement and better skill utilisation. The second was increasing employee responsibility and de-structuring the working day. With respect to operators, there were three broad issues identified related to these substantive areas: the introduction of teams; the performance of some maintenance and laboratory work; and the monitoring of contractors. Other changes were suggested for all occupational groups, which related broadly to more flexible work times, rather than changes in task allocation.⁶¹

The operators claimed that the performance of maintenance work represented a restructuring item and as such it was referred back to the common forum. The team concept entailed operators working on equipment (in conjunction with other operators) other than that to which they had been specifically assigned within their plant. The operators agreed to work on plant other than their own when there were plant upsets or emergencies, during plant shutdowns, and if operators had available time to assist on other plant. These situations were however contingent upon the operators receiving the required job knowledge payments.⁶² There was general agreement about the issue of process maintenance, but the exact terms of the arrangement were to be finalised at the industry level. In addition, the operators agreed to assist in the monitoring of contractors and in performing certain laboratory tests on product samples. This last item was made possible by the availability of the relevant equipment in the new control rooms.

Concurrent to the discussions over efficiency items at Clyde, the operators sought an agreement with refinery management about the development the new category structure in their award. The development of the CORT did not result in a quick resolution of the category structure issue. There continued to be delays on the part of management in dealing with the subject, while the company was content to plan for and introduce substantial changes in the areas of operations and staffing. The partial decentralisation of the wage system created some opportunity to address the issue, however. The company tabled a proposal for the new category structure in February

61. Clyde-Gore Bay, Restructuring and Efficiency 1988, Memo from Refinery Manager to All Employees, 7 June 1988.

62. ROG Notice, Efficiency-The ROG Position, 9 June 1988.

1987. However, it was rejected by the ROG delegates, as there was no reference in it to new wage rates and subsequent wage changes, only broad job descriptions for the new wage categories. The process was further retarded by a general rationalisation of staff (including management delayering), which also occurred in early 1987 and which resulted in the category review committee canceling meetings in protest. Discussion about the NIWS during 1987 resulted in a further postponement of the review. Thus, almost four years after the initial agreement to change the category structure, the parties had been unable to agree on any substantive changes to the category system. They had, however, agreed to three broad principles regarding the new structure: any new structure had to be ratified by the NSW Industrial Commission and had to comply with wage fixing principles; the new structure would not provide for an across-the-board wage increase (some jobs would be 'red circled', that is, they would retain current earnings in the event that their wage rate under the new category structure was lower); and it would not cause a change in the relative ranking of jobs.

The payment of the second tier wage increase to Kurnell operators by Justice Macken in December 1987 provided scope for the category structure to be financed within the principles embraced by the majority of the industry. As one committee member recognised, the alternative was to run a work value case and "work value arguments are hard to get up under the present (wage) system".⁶³ The industry and the ACTU provided institutional support for effective negotiation of the new structure using the anomalies principle in the NSW Commission. This allowed the operators scope to more effectively agitate for a resolution of the issue, while allowing management the requisite autonomy to reach a local level agreement that varied wage rates. The response from operators was quick, considering the slowness of earlier events. The NIWS payment (4 percent second tier) was settled in October 1987. In January 1988 the operators threatened to undertake industrial action⁶⁴ unless the company replied with a firm offer on the new category structure by the beginning of February.⁶⁵ The

63. Proposed Category Structure, Clyde Refinery (Draft Copy), 10 February 1988.

64. The threatened action included: reducing throughput on the CCU unit; disbanding committees discussing training, the category review and Gore Bay improvements; removing operators from the team discussing the new control room; and refusing to unload the ship docked at Gore Bay.

65. ROG, Notice of Motion, 29 January 1988. 10 February 1988.

company's response was rejected by a stop work meeting of the operators on 9 February, as it did not increase the existing wage rates. The operators passed a motion to the effect that they would make representations to the Secretary of the ACTU concerning the matter and would inform Justice Macken of the NSW Industrial Commission of the situation. In a company report commenting on this resolution, a company representative noted that the FEDFA envisaged that the Secretary of the ACTU would place pressure on the company to "come to the party", and that in addition, the operators felt that Justice Macken would process their claim in a sympathetic manner.⁶⁶

It is clear that although the negotiations were to proceed at a local level, they would not be free of outside intervention. There was constant communication during the process between the industrial relations management at Shell head office in Melbourne and the local level management at Clyde. In one communication, Clyde management was reminded that "the principal objective in the process is to preserve the integrity of the 1986 (industry) basis of settlement, recognising that Clyde was used as a benchmark". This effectively restricted the quantum of wage rate increases that could be offered by the company. As a result, Clyde management was advised that "...in the absence of an agreement with the FED&FA, it is imperative that local management give attention to a strategy to progress the matter before the NSW Industrial Commission".⁶⁷ Such a strategy was imperative in order to isolate any wage increase to the refinery. Similarly, the ROG used the Secretary of the ACTU to bolster its position in the category structure negotiations; and the ACTU was prepared to assist in negotiations by providing the services of an ACTU officer.⁶⁸

The task of successfully resolving the issue of the wage category structure and of accommodating both external industry pressures and internal expectations was a difficult one. This was recognised by the Clyde Industrial Relations Manager, who reported to Melbourne that:

66. Shell Document: Result FED&FA Stopwork Meeting, 9 February 1988.

67. Memo, From: Industrial Manager (Melbourne) to Clyde Management (Various positions), Subject Clyde Refinery: FED&FA Category Structure, 3 February 1988.

68. FEDFA ROG, Category Structure Review, 10 February 1988.

“(I)n further progress to implementation of the new category structure it is important to recognise the expectation created during the four to five year history of the issue. There are a number of areas in the refinery where change has occurred and there has been some agreement, albeit tacitly in the majority of cases, that the category review would fix any perceived problems”.

The means chosen to resolve the existing tension was to process the claim through the NSW Industrial Commission rather than reach a negotiated agreement at the refinery. In this regard, the Clyde Industrial Relations Manager noted that:

“If progress of the category structure review goes as expected then only the monetary amounts should be left to the NSW Commission for determination. It is recommended that the NSW Commission be approached, when the Company and the FED&FA have exhausted all avenues for agreement, jointly by the parties for assistance to resolve the outstanding issue of monies. This assistance should, subject to Commission approval, be in the form of an anomalies bench to enable the matter to be separated from the restructuring and efficiency negotiations.”⁶⁹

This comment outlined the strategy that was successfully used by the company during the review process. The negotiation of the category structure continued to be constrained by external influences. The company was acutely aware of the need to have the category structure reviewed under the anomalies principle rather than the structural efficiency principle. With this purpose in mind, the management at Clyde emphasised that an anomaly had arisen due to the de-manning of assistant shift controllers, which had the effect of changing the nature of senior operators' work.⁷⁰ If the claim was processed under the structural efficiency principle, it would create problems for the settlement of the common claim.

A counter-proposal made by the FEDFA in March was rejected by management as it conflicted with (federal) wage fixing principles and industry negotiations involving the ACTU. In response to this rejection, the operators placed bans on increasing throughput on the CCU and on training in the use of new technology, new plant and

69. Memo: From Clyde Management to Melbourne Industrial Relations Management, Future Progression. Clyde Category Structure Review, 24 February 1988, pg 3.

70. Memo: From Refinery Manager, to Chairman of the Category Review Committee, 17 March 1988.

new equipment.⁷¹ They also attempted to prolong the commissioning of the new control room in order to bolster their position in the category review negotiations. However, the imposition of bans resulted in the dispute being referred by the company to the NSW Commission. The major point of contention between the parties related to the monetary expectations alluded to by the Industrial Relations Manager at the refinery. The perception of the ROG and the category structure review committee was that the company was attempting to use the Commission to force through a new structure with no change in existing wage rates, except for a token change for senior operators. The referral of the matter from a Conciliation Commissioner to the Industrial Commission gave further credence to this perception. In an attempt to minimise the role of the Commission, the operators lifted the bans, so as to remove any impediment to company negotiations. The company sought to incorporate the introduction of the new control rooms into the category review. In a communication to Melbourne, the Industrial Relations Officer at Clyde proposed that the parties negotiate the category structure themselves but use the NSW Commission to resolve the outstanding issue of the new control room. He stated that:

“(t)he advantages of this approach are that the company is in a position to legitimately pay for changes [the new control room] as they occur and can be seen to be paying for category structure as part of the exercise.”

He went on to add that:

“(b)y conducting the review under the auspices of the [NSW] Commission the parties are able to maintain the separate nature of the industry and Clyde discussions and avoid any double counting of the outcome.”⁷²

By incorporating the introduction of the new control room into the category review, the company could be seen to be paying for workplace change, rather than increasing wage rates. The company was successful both in having the category review processed through the NSW Commission and in using the process to resolve the issue of new equipment and plant amalgamation.⁷³ The operators agreed to continue to

71. ROG Notice of Motion, 23 March 1988.

72. Memo: From Industrial Relations Officer at Clyde to Industrial Relations Manager, Melbourne, 20 April 1988.

73. Memo: From Industrial Relations Officer at Clyde to Industrial Relations Manager, Melbourne, 27 April 1988.

negotiate about the category structure and to remain involved in the cross-plant training needed to facilitate the successful operation of the new control room.⁷⁴ This was seen as a major victory by Clyde management. Promises to reform the category structure had been used in the past to engineer workplace change. The actual review of the category system had led to express approval from the operators for further major workplace re-organisation. The two issues became a package for settlement. The importance of this for the company and the rest of the industry was reiterated in a communication from Clyde management to Melbourne Head office, which outlined the previous insistence of the FEDFA that the category structure and the new control room constituted separate issues and thus should be settled with two separate wage increases. The memorandum stated:

“(t)he company was not and is not going to agree to this approach due to Clyde’s position as a benchmark and the wage fixing principles [SEP]. All discussions with the FED&FA have consistently denied their approach and in April this year after hard argument a fragile agreement was extracted from FED&FA that all issues would be linked and a package resolution sought. The proposal for resolution enables Clyde to resolve the issues without two separate wage increases or upsetting our status as a benchmark or breaching wage fixing guidelines whilst preserving FED&FA’s commitment to the common forum process.”⁷⁵

The category structure was negotiated within this broad framework; and the new award, which was subsequently ratified in February 1989, replaced the existing operator classifications with six new ones. These new classifications are listed in table 7.1.

74. FEDFA ROG Notice, Re: Commission Hearing-Category Structure etc, 29 April 1988.

75. Memo: From Industrial Relations Officer at Clyde to Industrial Relations Manager, Melbourne, 20 May 1988.

Table 7.1: New Category Structure for Clyde Operators

1. Mobile Forklift
2. Trainee
3. Operator (3 Steps)
4. Senior Operator (4 Steps)
5. Head Operator (3 Steps)
6. Senior Head Operator (4 steps)

Source: Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award, 264 NSW Industrial Gazette 1728.

Disagreement between the parties continued over the relevant staffing levels on the new plants. Although the process itself was prolonged, the operators did not take any further industrial action in support of their claims and the new award was made by consent, although Justice Macken was active in hearing the progress of the negotiations. Reflecting on both the changes negotiated under restructuring and efficiency and the new category structure, Justice Macken commented when ratifying the award that: “(t)he size and change in that award is one of the biggest in New South Wales and one of the most important.”⁷⁶

There was also some reorganisation of outside operator work, although outside The development of the category structure illustrated both the opportunities for and the constraints on workplace management, created by the industry framework and the expectations of Clyde operators that wage rates would increase. The benchmark role of the Clyde operators within the NIWS meant that the strategies of local management were constrained. The length of time that the issue took to be resolved (five years) was indicative of these restrictions. Externally imposed wage principles, as well as an obligation to the other companies in the industry (through the OIIC and NIWS), exacerbated workplace tensions between management and operators. However, the acceptance of the NIWS by the FEDFA meant that they acknowledged to some extent the inability of management to act quickly on the issue. During the time of the negotiations (1984-1989), significant changes were made at the refinery in relation to employee numbers, organisational structure and the nature of work itself.

76. Transcript, Matter No 405/88, Shell Refining (Aust) Pty Ltd and the FEDFA of Australasia (NSW), 23 February 1989, pg 34.

The changes were made with a minimum of resistance from workers and little change in the actual formal conditions that governed employment. Such changes would have been almost inconceivable during the 1970s, when the operators were effectively autonomous in negotiating wages and conditions. This in part reflected a more consultative managerial approach. It also demonstrated that actual workplace change could be effectively engineered within a seemingly inflexible and centralised wage mechanism.

Staffing, rosters and new technology

Mechanisms were also established at the refinery to negotiate the plant rationalisation and introduction of new CCR. Two committees were formed in 1986 to finalise the arrangements relating to both the CCR itself and the amalgamation of the utilities plant and CDU into the new Process West plant. The process continued over a two year period. Unlike earlier changes to computerisation, which were introduced under the auspices of an industry agreement, the introduction of the CCR and ICS was completed solely at the workplace level. This technology was to have a more pronounced effect upon operator numbers and the way in which work was actually, or potentially, performed. The amalgamation of utilities and CDU and the consolidation of three control rooms into one resulted in reductions in staffing levels. There was also some reorganisation of outside operator work, although outside operating positions were maintained. However, the number of panel operators and senior operators was reduced. The number of panel operators was reduced from three to two per shift, while senior operator numbers on shift were reduced from two to one. The targets for staffing levels within the new CCR were negotiated by the company and FEDFA. The union agreed in principle to the requirement of de-manning, however there was disagreement about the precise number of operators required to safely operate the new plant. As was the case with previous de-manning exercises in the refinery, the reductions were achieved by a process of voluntary redundancy. The amalgamation and consolidation of plants resulted in a surplus of senior operator positions, which was resolved by some senior operators being

77. Interview, Ex-FEDFA Delegate, 3 August 1995.

76. Transcript, Matter No 405/88, Shell Refining (Aust) Pty Ltd and the FEDFA of Australasia (NSW), 22 February 1989, pg 34.

assigned to other positions in the new plants but maintaining the wages and entitlements of a senior operator.⁷⁷

The commissioning of the new control room, and the cross-plant training that operators required in order to effectively use the new process, came to be included in the dispute about the category structure. In placing pressure on the company to respond to the operators' claims about the category structure, the ROG instructed its members to drop out of the CCR committee and the plant amalgamation committee.⁷⁸ The Clyde ROG also intensified its campaign to finalise the category structure by imposing bans on cross plant training and training in the use of the new ICS.⁷⁹ The operators' approach was to seek to be paid for each new change at the refinery, which had been the case during the 1970s. The presence of bans led the company to approach the NSW Industrial Commission. In pursuing this course, the company successfully tied the issue of the category restructuring to the plant amalgamation and de-manning, resulting in a final settlement of all issues. Nevertheless, the operators clearly saw the vulnerability of management once the decision had been made to invest in new equipment, and attempted to use this situation to reinforce their position with respect to their outstanding claims. Ultimately, however, the company was victorious and was able to successfully use the NSW Commission to counter this strategy on the part of the unions.

The commissioning of the new control room and the integrated control system had a substantial impact on the performance of work in the refinery. Prior to the introduction of computer control, operators needed to be well versed in the idiosyncrasies of their plant and develop a 'feel' for how the equipment was operating. Indeed, even today operators often reify the plant on which they worked. One ex-delegate recalled in effusive terms the skills of some of the operators:

".... but those blokes were so good, they were very impressive. When you go to work on the cracker as I did from the utilities and see the skill of some of those guys, its absolutely tremendous and it's very easy to convince Judges and people

77. Interview, Ex FEDFA Delegate, 3 August 1995.

78. FEDFA Notice of Motion, 29 January 1988 and Company-FEDFA Meeting, 11 February 1988.

79. FEDFA Notice of Motion, 23 March 1988.

like that, that these guys should get much better pay because they were running (the refinery)⁸⁰

The introduction of computerisation improved safety in some ways, by ensuring that the plant was easier to monitor and the effects of adjustments to the process were more immediately visible. However, operators lost the same understanding of the machinery, as the process was now effectively run by computer. In this sense the operators played more of a monitoring role. The ICS had the capacity to override the panel operators, but in practice this did not occur; and the panel operators had the capacity to override the computer program. One ex-delegate voiced some pessimism about the effects of computerisation. He argued that the one strength that the operators had was their knowledge and expertise in running the refinery, while the management lacked this expertise. He was puzzled by why some operators would go out of their way to improve the computer program and simplify its operation, as this could contribute to their operating positions eventually becoming superfluous. While admitting that management could never physically run the refinery for any length of time without operators, as they lacked the personnel to perform the outside operator jobs, he felt that the role of the panel operator has been undermined by the ICS.⁸¹

In addition to the impact of new technology on the work performed, that technology also influenced employee numbers. A number of smaller plants and auxiliary operations around the refinery were closed through the 1980s. The closure of the chemical plants between 1983 and 1984 in turn resulted in the closure of the warehouse facilities at the refinery. The warehouse was staffed by day work employees who belonged to the then FSPU. Their primary function was to oversee the storage and removal of product manufactured in the chemical plants and they became redundant with the closure of the warehouse. In 1987 shift fitters were removed. As was the case with the storemen and packers, the actual number was comparatively small, around twelve in all.⁸² The removal of these positions was the precursor for the discussion of process maintenance in the 1988 award renewals. The company envisaged that the work previously done by shift fitters would largely be

80. Interview, Ex FEDFA Delegate, 12 January 1995.

81. Interview, Ex FEDFA Delegate, 3 August 1995.

82. *Ibid.*

87. Clyde Refinery, 1981 (Shell Information Booklet).

taken over by the operators.⁸³ The operators were initially reluctant to formalise this arrangement, however, and only did so with the consent of metal workers and after the conclusion of an industry-wide agreement on the issue.

In 1988 the fire station on the refinery site was also de-manned.⁸⁴ Until that time the company had maintained a fully staffed fire station, with a crew of 12 shift firefighters,⁸⁵ in case of an explosion or fire in the refinery. The employees who staffed this station were not operators but qualified fire fighters and members of the NSWFBU. The removal of these employees resulted in a greater reliance upon operators, who acted as auxiliary fire fighters in times of emergency; and who subsequently claimed an increase in the auxiliary fire allowance. Management responded by reminding the operators of their 'no extra claims' commitment.⁸⁶

Finally, the Parramatta wharf was closed in 1989. This wharf had formerly received barges carrying unrefined or partially refined product from Gore Bay. Operators were employed to connect and disconnect barges at the refinery site. A pipeline had been installed between the refinery and Gore Bay in 1964,⁸⁷ initially only to receive product from Gore Bay. Following the introduction of the pipeline, operators were required to connect lines and pump refined product into barges for transportation back to Gore Bay. The pipeline was upgraded in the mid 1980s to allow for product to be sent back and forth between the refinery and the terminal facility. This resulted in the phasing out of the operations job at the wharf and the eventual closure and removal of the wharf itself. Most of the wharf operators, like some operators on the chemical plants, were five day shift operators. Their removal, again by re-deployment or voluntary redundancy, represented a small numerical change in staffing. However, the closure of the Parramatta wharf represented a further reduction in the number of plants on which operators worked.

82. Transcript, No 78/429, Refinery Operatives, Etc (Shell Refining (Aust) Pty Ltd) Award, 9 April 1979, pp 391-403.

83. Company FEDFA Meeting, 12 January 1988, item 7.

84. IR:FED&FA Process Memo, 1/1988, 20 January 1988.

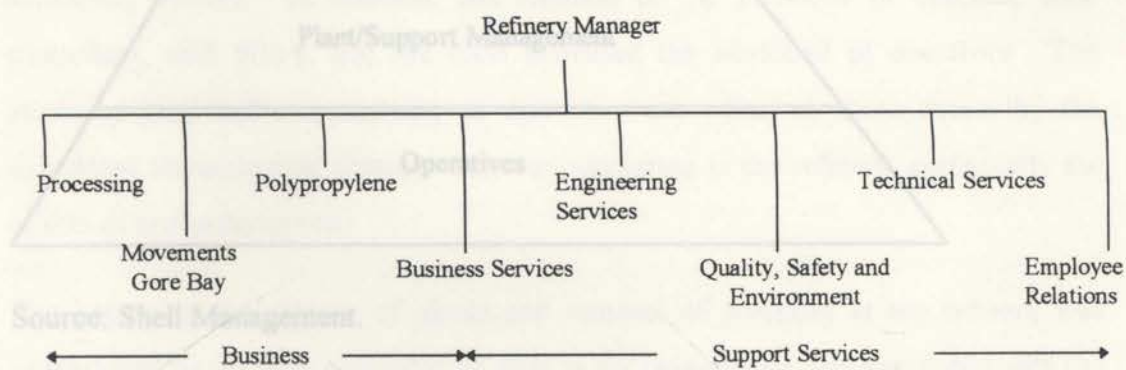
85. Transcript, No 78/429, Refinery Operatives, Etc (Shell Refining (Aust) Pty Ltd) Award, 9 April 1979, pp 391-403.

86. *ibid.*

87. Clyde Refinery, 1981 (Shell Information Booklet).

The period of the late 1980s also witnessed a significant rationalisation in the organisational structure and in particular the supervisory ranks, or middle management, at the refinery. Figure 7.1 shows how the management structure in the refinery was modified in the late 1980s. Refinery workers were divided into eight broad groupings, most employees being included in the Business Services divisions. Notably, the distinction between industrial relations and personnel management that had previously existed (see Figure 4.1) had been abandoned, with both now incorporated into the Employee Relations group.

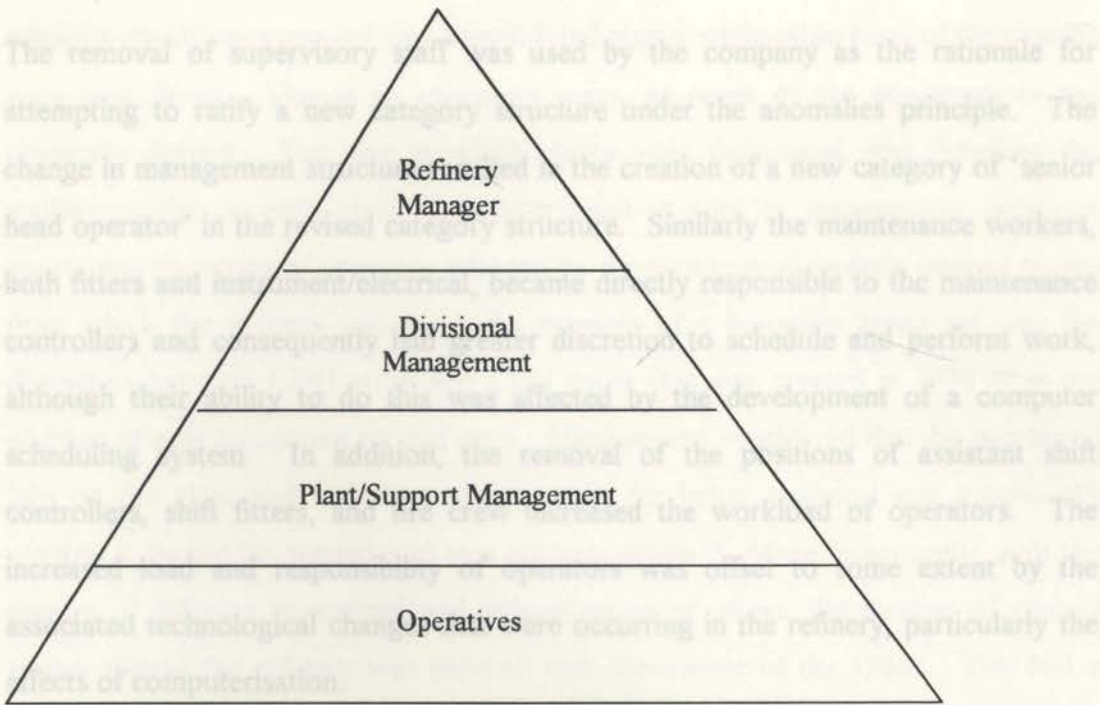
Figure 7.1: Management Structure



Source: Shell Management.

In addition to this change in organisational structure, the managerial hierarchy was effectively reduced by one tier, with the removal of the remaining members of the control group, namely assistant shift controllers and maintenance supervisors. The impact of this change is illustrated in Figure 7.2.

Figure 7.2: Management Layers - Clyde Refinery



Source: Shell Management.

This ‘de-layering’ resulted in plant controllers becoming the only level of direct supervision between divisional management and employees. The removal of the intervening positions coincided with the planned rationalisation of plants within the refinery, particularly on the oil side. This particular staffing change was significant in terms of its effect on task responsibility rather than overall numbers. The result was a devolution of responsibilities, as summarised by Justice Macken in his decision regarding the category structure:

“At the hearing that took place on 3 November 1988 great emphasis was laid on the removal of the assistant shift controller position at the refinery. This has made quite a dramatic change and has led to the devolution of assistant shift controller’s duties and responsibilities downwards (sic). The majority of duties have now been taken up by the operators in varying degrees with the heaviest load going to the senior operators who have had to assume the bulk of the assistant shift controller’s responsibility. A senior operator in the refinery now has to take responsibility for

day-to-day decisions in plant control and has a greater administrative load as well.

The devolution of responsibility has had a ripple effect on almost all other plant.”⁸⁸

The removal of supervisory staff was used by the company as the rationale for attempting to ratify a new category structure under the anomalies principle. The change in management structure resulted in the creation of a new category of ‘senior head operator’ in the revised category structure. Similarly the maintenance workers, both fitters and instrument/electrical, became directly responsible to the maintenance controllers and consequently had greater discretion to schedule and perform work, although their ability to do this was affected by the development of a computer scheduling system. In addition, the removal of the positions of assistant shift controllers, shift fitters, and fire crew increased the workload of operators. The increased load and responsibility of operators was offset to some extent by the associated technological changes that were occurring in the refinery, particularly the effects of computerisation.

The impact of the closure of plants and removal of positions at the refinery was exacerbated by the re-organisation of plant in the refinery that was associated with the introduction of the new CCR. This process of re-organisation resulted in further positions being made redundant. Between 1987 and 1988 the Utilities plant and the CDU were amalgamated to form Process West, while the CCU was re-organised into Process East. Between 1980 and 1990 the number of autonomous plants on the refinery site shrank from twelve to five⁸⁹. In addition, a new Polypropylene plant (PPU2) was opened in 1991. The old Polypropylene plant (PPU1) had previously undergone de-manning exercises in 1971 and 1975 and was demolished in 1992. The new plant required fewer employees to operate. The rationale for the construction of the new plant was not, however, to reduce employee numbers as such, but to use new technology and establish a more profitable production process.

88. Unpublished Judgment, No 405/88, Shell Refining (Aust) Pty Ltd and the FEDFA of Australasia (NSW), 15 November 1988, pg 4.

89. The twelve were: CDU-including platformers; CCU-including alkylation unit and sulphur recovery units; HVU; BDA; Utilities; Movements; Epikote; Ethylene; Hydro-Carbon Solvents; Chemical Solvents; Gore Bay; and Polypropylene, rationalised to five: Process East; Process West; Movements; Gore Bay; and Polypropylene. Memo, 1/78, 7 March 1978.

The reorganisation of plants was a product of both changing technology and changing administrative arrangements. Much of the remaining equipment was modified and administratively re-organised into consolidated plants, while other parts of the process were shut down. This is an important point, as much of the equipment is not physically distinct. The way in which plants were designated, and therefore the staffing profile of each plant, was determined in part by management decisions concerning the scope of operating jobs and by the existence of separate control rooms from which the process was run. An example of a boundary being set was the distinction between CDU north and CDU south that was created in 1978 after the addition of new equipment on that plant. Management considered that the number of jobs on the plant had become too large and, for better technical and supervisory control, it should be divided into two separate plants.⁹⁰ More importantly, with the closure of different operations and rationalisation of others, the number of control rooms around the refinery was reduced over the course of the 1980s. This had a significant effect on staffing numbers. The numbers of outside operators required did not change substantially, but the positions of senior operators and panel operators were greatly affected by the reduction in control rooms. Each plant had previously been required to have a senior operator on shift and many of the control rooms had panel operators overseeing the instrumentation. The amalgamation of plants, and subsequent reduction in control rooms, removed the need to have as many senior operators and panel operators as had earlier been required.

The industrial and economic climate prevailing in the industry during the 1980s allowed the ROG little latitude to stop the process of employee rationalisation. The main efforts of the union were directed towards negotiating staffing targets for the new plants that would maintain safety and ensuring no loss of conditions for those operators forced into lower classifications as a result of plant amalgamations and the new award structure. The company was willing to negotiate with the union about the required staffing levels on the new plants and to use the NSW Industrial Commission if necessary. The operators could not resist the economic justifications for restructuring work within the refinery; and the company policy of voluntary separation allowed them no latitude to resist the initiatives on the basis of forced

90. IR: FEDFA Process Memo, 1/78, 7 March 1978.

redundancy. Indeed, the experiences of the 1970s illustrated that the FEDFA had little influence over workplace change and employee rationalisation, although it had been able to win compensation for such changes. During the 1980s its ability to do even the latter was diminished, due to a combination of the industry wage agreements and the national wage fixing principles. This resulted in the ROG having little influence on the direction and outcomes of staffing changes.

The company, however, achieved substantial workplace change with little industrial upheaval and relatively little cost in terms of its wages bill. The continued deferral of the new category structure allowed the changes to be engineered with an implicit acceptance by operators that any increase in work tasks or intensity would be duly compensated in the new category structure. The constraint of the national industry forum and the operators' commitment to this forum also restricted their capacity to agitate for improved remuneration. Finally, the declining product market, general industry rationalisation and the growing prevalence of new technology formed an irresistible momentum for workplace change. The company strategy proved to be successful, as shown by the refinery management's effective incorporation of both past and future workplace changes into the negotiations that finalised the category structure. This represented a significant departure from the situation of the 1970s, where workplace change and particularly equipment changes had been hampered by operator resistance.

In summary, regulation of work at Clyde refinery passed through two phases over the course of the 1980s, both largely influenced by the nature of industry bargaining. The first phase, lasting until 1988, saw industrial relations at the refinery stabilised, largely through the entry of the operators into the common forum, which reflected a reduction in operator militancy. It appears that the expectations of workers were also influenced by the deteriorating conditions in the petroleum product market and the labour market generally. The absence of industrial action and the restricted autonomy of workplace delegates created a situation where management, both at head office and at a workplace level, could address issues relating to operations and staffing without the same challenges that they had experienced in the 1970s. Subsequently, substantial changes to employee numbers, the introduction of computerised

equipment and the rationalisation of operations occurred unimpeded, although relatively slowly.

The second phase of workplace regulation, which occurred from 1988 onwards and which will be described in more detail in Chapter Eight, saw the emphasis shift away from the issue of staffing numbers toward the ways in which work was actually performed. The first evidence of this was in the negotiations about restructuring and efficiencies. The discussion of issues of teamwork and process maintenance represented a significant change, as it attempted to redraw the boundaries of operators' work and in doing so to blur the demarcation line between them and maintenance workers. As will be shown in the following chapter, management also attempted to remove demarcation boundaries within the maintenance group.

However, the amount of workplace change achieved in the late 1980s was tempered by the fact that many work practices remained unaltered. Delegates and operators alike maintain that the practices agreed to at the local level had in fact previously existed on an informal, ad hoc basis. This was particularly true of the team concept, with many operators maintaining that they assisted their workmates where appropriate. The only change affected by the agreement was that management had formally been given the right to direct operators to do this in certain circumstances. The supervision of contractors had also previously occurred on an informal basis, the effect of the 1988 agreement being merely to formalise this practice. The most substantial change was the introduction of laboratory testing, which was relatively new to operators. However, reduction in the numbers of laboratory workers and the establishment of laboratories in control rooms made it difficult to avoid. Similarly, the agreement on process maintenance reached at a national level had a relatively minor effect on operators. Since the Refinery Operatives &c (Shell Refining (Aust) Pty Ltd Clyde) Award was finalised in 1969, there had been an attachment to the award which outlined instances where operators would use handtools (or undertake maintenance). The national agreement of 1988 contained similar provisions. Several operators have stated that the undertaking of routine maintenance (for instance connecting or disconnecting fittings, replacing oil in equipment and tightening fittings) occurred as required if there were no maintenance workers on shift or in the near

vicinity. If they were available, however, this work would be left to them. The importance of these agreements, negotiated under the SEP, lay in the authorship of the relevant job rules. The agreement about teams, laboratory testing and some degree of process maintenance took the informal operator-controlled job rules or practices and formalised them. In other words, it took essentially unilateral rules and subjected them to bilateral determination. This proved to be important as management continued to re-negotiate issues of how work was allocated and performed in the 1990s.

7.4 Conclusions

The 1980s witnessed a dramatic change in the regulation of labour at Clyde refinery. Management successfully introduced large scale change to the refinery's operating capacity and staffing profile. The significant feature of this workplace regulation was the manner in which institutions external to the workplace were used to reinforce managerial prerogative and to constrain employee resistance. In addition, the context of the industry emerged as an important variable in influencing the strategies of both management and labour. Thus a true understanding of the process of regulation needs to recognise the importance of both internal and external factors.

The decade of the 1980s witnessed a qualitative change in how issues of work organisation, performance and reward were determined. The determination of rules about reward was effectively removed from the workplace level. With the establishment of the NIWS, wages were regulated at the industry level. The effect that this had on workplace relations was to defuse the conflict between the operators and Clyde management that had occurred almost annually during the process of award re-negotiation. Staffing levels remained an issue about which operators and management negotiated; but in the 1980s management used its prerogative to a much greater extent to reduce those levels. Staffing reductions were not confined to waged staff, but also included a de-layering of the organisation which impacted upon professional staff and middle management. The reductions seldom resulted in overt conflict, as they were managed through voluntary redundancy, allowing the company some discretion as to whom it would make redundant. With plant re-organisation, staffing levels were subject to some negotiation between management and workplace

representatives. However, this was often undertaken in the shadow of the Industrial Commission, which frequently reinforced the prerogatives of management. The inclusion of clause 26 in the operators' award restricted their capacity to resist adjustments to staffing levels that resulted from new equipment. Thus, as was the case with wages, albeit to a lesser extent, the capacity of operators to reject or otherwise influence staffing changes was reduced.

The greatest change in the regulation of work at Clyde, however, concerned the way in which work was actually performed. The nature of the work tasks performed by operators changed substantially with the introduction of new refining equipment and new computer controls. This in turn resulted in a qualitative change in the role of operators in the refinery. During the 1970s the operators had exploited their particular skills and knowledge in an effective industrial strategy of 'workers control'. By the end of the 1980s, however, the operators maintained administrative control over the production process, through the issuing of work permits and operating equipment, yet with the implementation of computer controls much of the effective control over the production process had been lost. This had significant repercussions for work intensity. The scope of the operators' work was subject to two seemingly contradictory trends. On one hand, computerisation of the production process removed much of the operators' discretion and simplified the operating tasks. However, the de-layering of management and reductions in overall operator numbers meant that those who were left had a wider range of responsibilities. In short, the effort bargain was subject to substantial modification over the course of the 1980s. Compared to the situation that prevailed in the 1970s, however, it occurred with relatively little operator resistance.

Simultaneously with these substantive outcomes there were alterations occurring to the procedures for workplace regulation. While the established procedure of regular meetings between management and union delegates was maintained, it began to be supplemented by alternative procedural arrangements. Specific committees were convened to discuss the issues of plant amalgamation, new control rooms and the wage category structure. While all of these committees contained union delegates, their existence represented an alternative means by which management could

communicate plans and proposals to the workforce. This new approach by management culminated in the establishment of a plan to recast industrial relations. That plan is described in detail in the following chapter.

The changes to how labour was regulated at Clyde reflected the changing strategies of both unions and management, which were each informed by the conditions prevailing in the product and labour markets and mediated by structures for bargaining. Within the refinery, both management and operator delegates exhibited some change in their strategy toward workplace regulation. Management modified its reactive and paternalistic stance, to become more consultative in undertaking change. The movement of operators into the ACTU-sponsored industry wage system and their commitment to the Accord was also evidence of a more accommodating approach to regulating employment. These changes in strategy were not universally accepted by management and workers. The change in management style was not entirely adopted by managers in all levels across the refinery. In addition, as has been shown, there was resentment expressed among the operators' groups in relation to the efficacy of the industry wage system. The change in management structure and the reorganisation of where employees worked (through the rationalisation of control rooms) also affected the adoption of the new strategies. Elements of resistance on either side may have been diminished by the reduction in both waged employees and first line management at the refinery. The system of voluntary redundancy allowed management some discretion in 'weeding out' employees who were deemed unsuitable. Similarly, the de-layering of the organisation removed the layer of management that had historically exacerbated the tension and low trust at the refinery level, namely the control group. As discussed in Chapter Four, the different treatment of employees and the inconsistent application of managerial prerogative by members of this group had often been a prime source of conflict. A reduction in the number of employees and lower level management facilitated the change in approach of management and allowed more successful communication with the employee group.

It was argued in the introduction to this chapter that the large scale change that occurred at Clyde during the 1980s reflected an improvement in workplace relations.

Relations between management and operator delegates improved in response to changes in key personnel and the strategies pursued by both groups. However, changes to the way in which work was organised, performed and rewarded were largely a result of altered employee expectations and decisions made externally to the workplace. First, the changed market conditions in both the product and labour markets substantially reduced employee expectations and bargaining power. These conditions also provided an impetus for the company to change refinery operations in order to fully utilise existing equipment and replace outdated equipment. The ability of employees, in particular operators, to resist or modify company proposals was constrained by their commitment to the NIWS and their acceptance of managerial prerogative under clause 26 of their award. Both these factors effectively froze the position of operators and removed much of their authority to influence the way in which work was organised, performed and rewarded. This in turn allowed company management to set the scope and procedures for change in refinery operations. It also had an associated impact on the range of the operators' work, in effect changing the effort bargain. The process of plant re-organisation and more effective use of new equipment saw management become interested in changing the manner in which employees worked. In order to successfully manage this change, the company recognised the need to address the relatively low trust relations in the refinery and to negotiate the required modifications at the workplace level, rather than imposing them or having them arbitrated. The introduction of enterprise bargaining in the industry after 1991 provided the company with an opportunity to develop high trust relations in tandem with the establishment of refinery level procedures for bargaining new industrial agreements. To this end, the company sought to explicitly recast workplace relations by way of the 'Secure the Future' plan. The following chapter considers both the development of enterprise bargaining and the 'Secure the Future' plan at Clyde refinery. In addition it provides an analysis of the new approach taken by the company to managing labour and the reasons why it was necessary to cement the changes in the regulation of work that had occurred in the late 1980s.

8.5 Conclusions

Strategies to Improve Workplace Relations, 1989-1994.

8.1 Introduction

The preceding chapters have discussed the changing manner in which labour at Clyde refinery has been regulated during the 1970s and 1980s. The historical survey has illustrated that certain issues which were successfully contested by workers at the refinery during the 1970s (for example staffing and new technology) were largely reclaimed as areas of managerial authority in the 1980s. This process continued into the 1990s, with the complete decentralisation of wage fixing in the industry through the introduction of enterprise bargaining after 1990. The change in bargaining structure produced by decentralisation, combined with the prevailing product and labour market conditions in the industry and, more generally, union and government policy, allowed Shell to effect a change in substantive labour regulation at Clyde. It is argued in this chapter that the modifications to labour regulation at the refinery achieved during the early 1990s were facilitated by these external conditions, but resulted largely from an explicit policy on the part of the company to recast both the manner in which work was performed and industrial relations generally in the refinery. It will be shown that the decisions made and strategies developed by the company at the head office level were significant in influencing the success with which local level management dealt with issues of workplace regulation.

8.1 Introduction

8.2 Enterprise Bargaining, 1989-1993

8.3 Securing the Future (STF), 1989-1993

8.4 Further Management Strategies, 1994

8.5 Conclusions

Chapter Eight

Strategies to Improve Workplace Relations, 1988-1994.

8.1 Introduction

The preceding chapters have discussed the changing manner in which labour at Clyde refinery has been regulated during the 1970s and 1980s. The historical survey has illustrated that certain issues which were successfully contested by workers at the refinery during the 1970s (for example staffing and new technology) were largely reclaimed as areas of managerial authority in the 1980s. This process continued into the 1990s, with the complete decentralisation of wage fixing in the industry through the introduction of enterprise bargaining after 1990. The change in bargaining structure produced by decentralisation, combined with the prevailing product and labour market conditions in the industry and, more generally, union and government policy, allowed Shell to effect a change in substantive labour regulation at Clyde. It is argued in this chapter that the modifications to labour regulation at the refinery achieved during the early 1990s were facilitated by these external conditions, but resulted largely from an explicit policy on the part of the company to recast both the manner in which work was performed and industrial relations generally in the refinery. It will be shown that the decisions made and strategies developed by the company at the head office level were significant in influencing the success with which local level management dealt with issues of workplace regulation.

The first section of this chapter describes the move to enterprise bargaining at Clyde refinery. This was part of the process of decentralisation taking place in the oil industry generally. The decentralisation of bargaining and the adoption by the industry of single employer enterprise bargaining after 1990 allowed the company and the refinery unions to bargain over explicit workplace issues. Significantly, it restored the link between work organisation, performance and reward which had been broken by the development of industry level bargaining; but in a very different institutional and economic climate to that of the 1970s. Thus, enterprise bargaining assisted the company's attempts to alter task performance at the refinery. The management at Clyde also introduced the 'Securing the Future' plan at the refinery in 1989. This

plan was designed to complement the decentralisation by improving trust relations between workers and management at Clyde. The aims of the plan, the procedures it introduced and its impact on workplace industrial relations are considered in the second section of the chapter. The final section considers more recent strategies developed by the company for labour management at the refinery. These sections will show that while improving employee relations at Clyde refinery was a priority for Shell Refining management, it assumed a lower value than reformulating labour regulation to improve profitability.

8.2 Enterprise Bargaining, 1989-1993

In 1989 the oil companies continued to push for greater decentralisation of oil industry awards, (see Section 5.4). The push was initially rejected by the ACTU and oil industry unions. The ACTU argued for a partially decentralised model, where there would be room for local level bargaining within the national framework. In line with the policy of award restructuring espoused by the ACTU, the oil industry awards would be reformed to develop five streams of multi-skilling (within the broader occupational categories) and there would be 14 skill categories applied across the whole of the industry.¹ There was also to be no variation in wage rates between refineries and companies, as the national awards were to remain paid rates awards. The companies responded by proposing that separate agreements be reached in each refinery and that there be company-based agreements for distribution centres. The only awards that were to remain uniform across the industry under the OIIC proposal were the Standard Hours Award and the Long Service Leave Award.² In the end, an agreement was concluded between the unions and the OIIC to adopt a middle course, one closer to the union's proposal than that of the companies, whereby central conditions remained in industry awards but were supplemented by local level agreements.³ However, bargaining at the local level began to overtake the national agreement.

1. Union Position Following National Wage Decision, 1989.

2. Letter from Chairman of the Oil Industry Negotiating Group to ACTU Secretary, 14 November 1989.

3. Interview, Shell Manager Industrial Relations - Oil and Resources, 15 February 1995 and Ex-Esso Industrial Relations Manager, 10 December 1993.

At the Clyde refinery, the maintenance workers represented by the ETU (electrical and instrument workers) reached an agreement with management in 1989. The agreement developed from an organisational restructuring which resulted in the amalgamation of electrical and instrument workers into one group. This merger of electrical and instrument workers into a group, referred to by the company as power-process workers, had a long gestation period. The two groups came to be covered by the ETU in 1973. Since that time, there had been internal dissent, with the electrical workers perceiving that the scope of their work was decreasing while that of the instrument workers had increased. This perception reflected in part the changing technology that blurred the demarcation lines between electrical units and instruments that were not electrically powered.⁴ The company had been attempting, over a period of almost a decade, to address this problem by eliminating the division between electrical and instrument workers. The enterprise agreement represented the conclusion of this process, with prescribed training (including adult apprenticeship) and support for workers to assist them in developing multi-skilling.

The success of local level negotiations across the industry, in line with the OIIC and ACTU agreement, was important in influencing both the OIIC and the industry unions to agree to move to a de-centralised model in 1991 (see Section 5.4). This followed the ratification of an award for maintenance workers, who were covered by the metal workers union at Clyde in 1990. As was the case with the power process workers, the metal workers' agreement broached issues that had not been addressed in the industry award. The new agreement allowed for cross-trade training between fitters and riggers. It was designed to dovetail with the company's personnel policy and required a training matrix to establish levels of competence among the metal workers' group. Like the ETU agreement, the process involved in its development was long and the eventual finalisation of the agreement required the intervention of management and union officials from outside the refinery. Both agreements, which have subsequently been re-negotiated, were far more detailed in relation to the performance of work than were the previous industry awards. The company derived greater flexibility from the agreements, while the maintenance delegates argued that the workers derived greater responsibility and discretion for the completion of work.

4. ROG Minutes, Book 8, pg 58.

The move to decentralisation returned authority to negotiate to the operator delegates. As was the case with the maintenance workers, the content of the operators' award became more detailed than it had been under the industry forum, although it was already an enterprise award. The major variation was in the first award completed after decentralisation, which was ratified in 1989⁵ and included the new category structure for operators (described in Section 7.3). It involved an attempt to formalise the work actually undertaken by the operators. The award contained reasonably detailed descriptions of the work to be done by each category of operator, as well as an appendix defining the general tasks to be completed by operatives and their progression through the category scale. These were retained in subsequent awards made in 1992 and 1994.⁶

Operator delegates argued that the move to decentralisation had a more pronounced effect on the way in which the award was made than on the content of the award. One delegate has stated that the main effect of decentralisation lay in the need to relearn skills associated with negotiation which had not been utilised under the common forum.⁷ However, it would appear that decentralisation in the industry had a major effect not only on the way in which industrial relations and award regulation were managed, but also on the nature of this regulation. Clyde management attempted to formalise the regulation of work and integrate it into wider company policy. This reflected an attempt by the company to address issues of who performs work and how it is performed; and contrasted to the major company imperatives of the 1970s and 1980s which were aimed at industrial and wage stability through uniformity with the rest of the industry. Industrial tribunals played an important role in ensuring industrial stability and wage control. However, the re-negotiation of work tasks and responsibilities required the company to win the consent of the workforce. As a result, management developed a new, more consensual style of managing labour at Clyde in the late 1980s and early 1990s.

In order to maximise the possibilities presented by the return to decentralisation, and perhaps avoid some of the mistakes of the past, management at Clyde and in the Shell

5. 264 *NSW Industrial Gazette* 1728, 20 April 1989 and Interview Ex-Parsonnel

6. 275 *NSW Industrial Gazette* 973

7. Interview Ex-FEDFA Delegate, 22 March 1995.

company made an explicit attempt to improve employee relations at the refinery. While there was substantive change in workplace regulation at Clyde during the 1980s, high trust relations did not prevail during that time. There had been some improvement in workplace relations at the refinery in the 1980s, but the refinery remained characterised by the tension and low trust relations that had developed in the 1970s.¹⁰

The continued poor performance of the refinery, according to both domestic and international measures, forced an evaluation of its future viability by the company. Consequently a policy was developed, in conjunction with a management consultant, to change employee attitudes. However, there was not uniform commitment to this strategy among the entire management group. The timing of the policy followed the substantial organisational and technological change at the refinery that was described in Section 7.3. The approach by management, especially higher management, to workplace change contradicted the principles embodied in the employee relations plan, raising questions about the true aim of the plan. While proposing to improve workplace relations, the plan also legitimized managerial authority at a time of substantial reorganisation at the refinery.

8.3 Securing the Future (STF), 1988-1993

The decision to implement a new employee relations strategy was based on the desire of management to address two related but essentially different problems. The first arose from the restructuring of the refinery's workforce, particularly the rationalisation of its employee numbers. Unlike the 1970s, this problem was not one of overt conflict and confrontation, but instead low morale and ambivalence among the workforce. The reliance upon voluntary redundancy as the primary method of reducing employee numbers was seen by management to have created a perception among the workforce that it was better to get out of the refinery than to stay.⁸ The company called for expressions of interest from workers in relation to redundancy packages and the process was implemented largely by means of the first to express an interest being the first to be offered a 'handshake'.⁹

8. Interview, Management Consultant, 20 April 1995 and Interview Ex-Personnel Officer, 12 August 1995.

9. Interview, Ex FEDFA Delegate, 3 August 1995.

The second problem was general refinery performance. The operating future of the refinery was re-assessed by Shell International in the mid 1980s. It was providing a comparatively small return on investment, had high levels of overtime, was considered to be over-staffed (particularly in the white collar areas) and suffered from technical problems related to the changing nature of feedstocks and increasingly outdated technology.¹⁰ The continued poor performance of the refinery, according to both domestic and international measures, forced an evaluation of its future viability by the Shell International Board. The former Employee Relations Manager described the situation in the following terms:

“The original genesis of (the new employee relations plan) was that the refinery had come through a massive downsizing from the closure of chemical plants. Something like 200 people disappeared from the system very quickly as they closed down the Epikote plant, the Ethylene plant and a couple of other chemical plants on the basis of having an extremely good separation package. So on one hand attitudinally there developed a feeling that you are better off to leave than you are to stay, so we had a problem of managing the attitudes of the ones that remained. Also in terms of international benchmarks, through the Soloman report [a report on industry productivity and profitability compiled by Soloman Consultants] and to some degree through the MF15, which is an internal measurement system that is conducted by the Hague and measures [the profitability of] thirty two Shell refineries, of the thirty two I think in the late 1980s that Clyde was probably around thirty three. On the Soloman reports that just looked at our own geographic region of eight to nine refinery bases, on most measures we would have been eight or nine. Now to exaggerate a little bit in the late 80s period I guess the shareholders were saying ‘do we really have to persevere with this joint’ and (the Refinery Manager) put in a system to say that we can turn this place around and essentially brought in Securing the Future with the fundamental aim of attitudinal change.”¹¹

The program that was developed at Clyde refinery to deal with both of the issues identified above was termed the “Securing the Future” Plan (STF). Shell’s larger

10. Interview, Ex Employee Relations Manager, 18 September 1992.

11. Interview, Ex Employee Relations Manager, 14 June 1994.

Australian refinery at Geelong undertook a similar process with respect to employee relations.¹² It would seem that the Australian head office was influential in encouraging refinery management at both locations to develop strategies designed to elicit greater commitment from their workforce. This reflected a broader philosophy in the Australian operations of devolving responsibility for industrial or employee relations to the actual business units. In head office, industrial relations management were removed from the control of the Personnel Director in 1987 and placed in a unit with upper manufacturing management.¹³ In the refineries themselves, the reduction of management numbers and restructuring of responsibilities resulted in line management becoming more involved in industrial relations decisions. Production and line management were also supported by an employee relations management group reporting directly to the Refinery Manager (see Figure 7.1). This philosophy of devolution allowed details of employee relations strategies to be determined at a refinery level.

The STF plan was significantly different in approach to previous labour management strategies implemented at the refinery. First, it involved participation beyond the traditional union-management forum. Second, it attempted to link, systematically and with employee input, work organisation, employee attitudes, rewards and refinery performance. The development and implementation of the plan was assisted by a management consultant, Strategic Consultancy Group Pty Ltd. Shell also seconded a personnel manager from its own marketing area to assist the process. In December 1988 an STF team was established, comprising about seventeen members, who represented all occupational groups at the refinery as well as the Employee Relations manager. The employee representatives were elected, but there was some encouragement by management for specific employees to nominate. The number of employee representatives on the team reflected the proportion of the total workforce

12. B.W. Stooke, Work Place Reform: Creating a Changing Environment for Enterprise Negotiations; Paper Presented to AMMA National Conference, Bunbury W.A., May 1992.

13. Interview, Industrial Relations Manager Oil and Resources, Shell House, 1 March 1996.

that they represented.¹⁴ The STF plan was developed and its implementation began in the first half of 1989.

Internal	External
The first concern of the STF team was the identification of areas that were in need of change in management-labour relations at the refinery. These were detected by undertaking an employee attitude survey and stakeholder analysis. The survey, which was distributed to all employees and received a response rate of over 90%¹⁵, revealed the low level of trust and employee morale within the refinery. The results of the survey are reproduced in Appendix 4. Most employees responded by saying: they were not being properly rewarded; they were not adequately informed of change; they were not given a real opportunity to develop skills; there were low levels of trust between management and workers; employees were not treated fairly or consistently by supervisors; and morale was generally low. In addition to the survey results, the STF team constructed its own list of problems, which was divided into internal and external problems. These are reproduced in Table 8.1 below.	
Operations training failures	
Skills deficit	
Employee perception of management : (Little credibility) (Inability to address issues) (Inconsistency in standards) (Inconsistency in their jobs) (Poor standards of performance)	
Lack of common objectives	
Little setting of priorities	
Poor record in finishing work	
Limited opportunities for employee development & promotion	
Poor job design	

Source: STF Induction Notes

The problems identified by the STF team, and the results of the survey, reinforced the conclusion that many of the attitudes held by employees during the periods of high

14. Interview, Management Consultant, 20 April 1995.

15. Interview, Ex Personnel Officer, 12 August 1995.

Table 8.1: Problems for Shell Refining at Clyde and Gore Bay

Internal	External
Poor communications	Structure of the Company
Failure to maximise assets (people and plant)	Unions
Poor profitability	Head office relationship (with refinery)
Low standards	Corporate community identity
Low morale	Paternalistic perception of company
Low motivation	
Lack of ownership of the company	
Inability of management to address poor performance	
Management failure to address poor performance	
Personnel profile	
Operations training failure	
Skills deficit	
Employee perception of management : (Little credibility) (Inability to address issues) (Inconsistency in standards) (Inconsistency in their jobs) (Poor standards of performance)	
Lack of common objectives	
Little setting of priorities	
Poor record in finishing work	
Limited opportunities for employee development & promotion	
Poor job design	

Source: STF Induction Notes.

The problems identified by the STF team, and the results of the survey, reinforced the conclusion that many of the attitudes held by employees during the periods of high conflict in the 1970s remained, even though the levels of overt conflict had been

tempered. The refinery had experienced considerable change in its operations and employment levels, but management had not been able to 'win the hearts and minds' of the employees.

The STF plan itself consisted of a mission and certain key values; and it specifically identified key performance areas (KPA) that were to guide the future of employee relations at the refinery and become part of the overall management process. The mission statement of the STF was "...to serve our customers, employees and the community by putting Clyde at the forefront of refineries on an international basis".¹⁶ The purpose of the STF was listed as:

- "Enhance and better utilise the talents of employees;
- Improve understanding of business and gain commitment and ownership to objectives of the refinery; and
- Provide opportunities for individuals to develop and prosper as the company develops and prospers".¹⁷

It seems that the company assumed that international competitiveness would be achieved through better management of the labour force. In striving to attain these goals, certain values were identified as being crucial. These included trust, fairness, communication, consistency and recognition; and the list was later expanded to include quality, safety, teamwork, efficiency, creativity and ownership, many of which are in fact not values but objectives. As the results of the employee evaluation survey had revealed, all of these values had been seen by the workers as absent in the refinery. In order to fulfil the stated aims and instil these values, the team identified six key performance areas (KPA). They were:

• **"People:** To attract, retain and motivate a career structure and training to allow individuals to meet their full potential and the Company to meet its objectives.

Profits & Costs: To maximise profit by fully utilising the Refinery resources and minimising costs in the production of the specified range of products.

16. STF Induction Notes.

Product & Output: To have continuously available the volume and range of quality products specified by customers.

Safety: a) To provide a healthy and safe working environment, b) To ensure all personnel understand and own safety policy and act in a safe manner.

Community & Environment: To be active and visible in making a positive contribution to the community and the environment, using best industry practice.

Plant Investment: To make necessary and timely plant investment which will ensure sufficient capacity and flexibility to meet customers' demands".¹⁸

Five of the KPAs were identified by the STF team, while the sixth (that of profit and costs) was added by the company. These six areas then became the focus of planning and discussion among the team.¹⁹ The relationships between the various elements and the aim of the plan are each represented diagrammatically in Appendix 5 (The Road to Success).

The next step, namely enacting the plan, was more problematic. The major elements of the STF were as follows:

- (To) develop a participative change process;
- (That) the stakeholders would largely determine the success of the change process;
- (That) the STF team's role was to design an improvement process for the refinery;
- (That) change must be integrated into strategic planning, budgets and performance monitoring; and
- (That) STF was to provide a framework for other (ongoing) changes in the refinery.²⁰

17. STF Induction Notes.

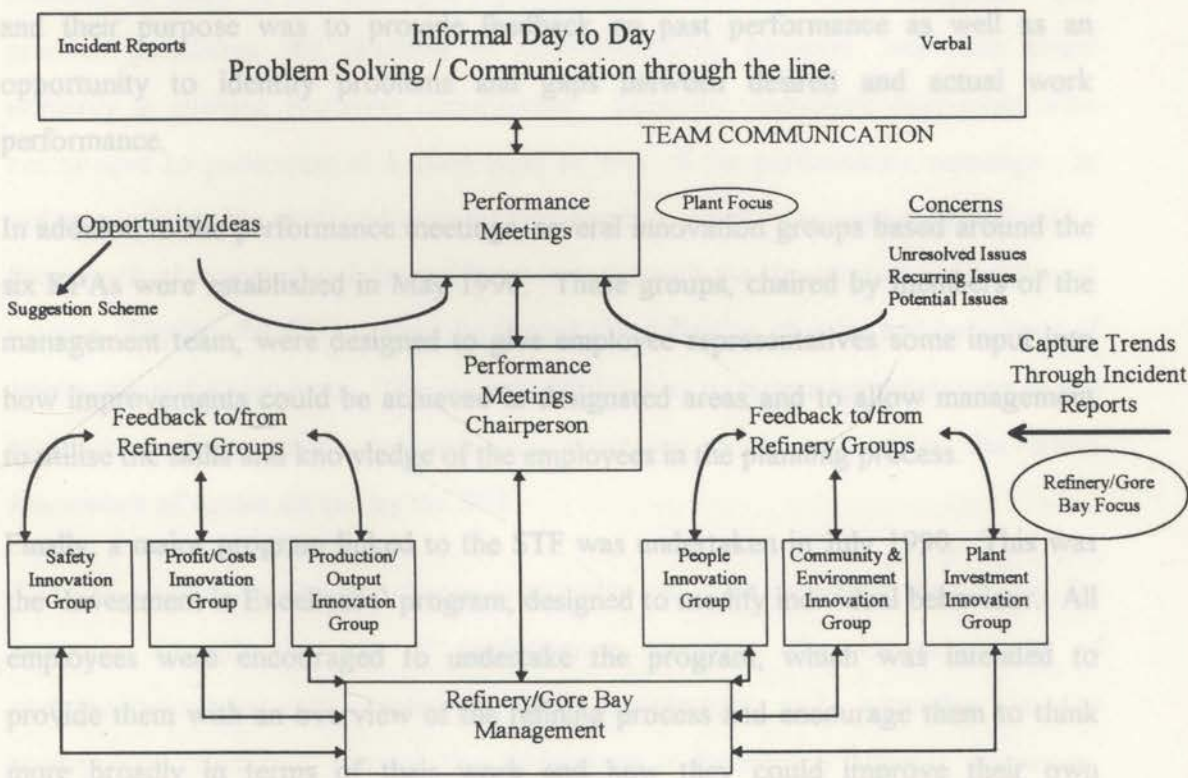
18. Clyde Refinery/Gore Bay Mission Statement. 1989.

19. Interview, Management Consultant, 20 April 1995.

20. P. Saul and C. Naylor, Shell Refining (Clyde / Gore Bay). Securing the Future: A Case Study in Organisational Improvement. Paper presented to AITD 1991 Conference, Hilton Hotel, July 1991.

It is clear that the management consultant and those who were firm advocates of the STF perceived it to be an ongoing process rather than a one-off exercise. The company and many STF members hoped that the end result would be constant involvement in the operation of the refinery, creating a climate that was conducive to change and adaptation, with a continued emphasis on quality. Thus the aim of the STF was to alter the perceptions of employees and management about their role in the refinery and the mechanisms by which labour was regulated. This ideal is represented in Figure 8.1 below.

Figure 8.1: Improvement Management Process



Source: STF Induction Notes.

It was envisaged that the STF team members would develop a better understanding of the problems and opportunities faced by refinery management and would subsequently become more involved in the running and particularly the improvement of refinery operations. Team members were to act as a positive example of involvement for other employees; and were to attempt to find solutions to problems, rather than passing them on to management.

The actual implementation of this process passed through various stages between 1989 and 1992. The main mechanism for developing specific objectives within the framework of the plan was the STF team itself, which later became known as the 'resources team'. This team met during work time at the refinery, as well as at specially convened weekend planning sessions away from the refinery, to identify the goals of the process. Other refinery employees participated in one-off communication and performance workshops throughout 1989. Toward the end of 1989, a permanent mechanism was established for employee involvement, with the introduction of performance meetings.²¹ These meetings were held for all employee groups eight times during the year. They were run by the STF team members or other employees, and their purpose was to provide feedback on past performance as well as an opportunity to identify problems and gaps between desired and actual work performance.

In addition to the performance meetings, several innovation groups based around the six KPAs were established in May 1990. These groups, chaired by members of the management team, were designed to give employee representatives some input into how improvements could be achieved in designated areas and to allow management to utilise the skills and knowledge of the employees in the planning process.

Finally, a major program linked to the STF was undertaken in July 1990. This was the 'Investment in Excellence' program, designed to modify individual behaviour. All employees were encouraged to undertake the program, which was intended to provide them with an overview of the refining process and encourage them to think more broadly in terms of their work and how they could improve their own performance.²² Arguably the most important means of implementing the STF plan, however, was the setting of targets for each KPA. These targets included, for example, that no time would be lost through injury (under the KPA safety), that operating costs should not exceed certain levels (under the KPA profits and costs), that certain environmental goals should be achieved (under the KPA community and

21. *ibid.*

22. *ibid.*

environment), that staffing levels should reach certain international benchmarks or that training was to be provided in certain areas (under the KPA people).²³

The STF program operated on several levels. At a general level, it encouraged greater integration between employee relations and business strategy. This proved to be difficult, as employee relations practices were devised at a refinery level, while a great deal of the business strategy was devised at a company level. With respect to employment relations, the plan tried to foster a change in attitude among the workforce. It did this firstly by involving employee representatives in discussions about current and future operations. This represented a departure from previous practice, as many of the employee representatives were not union delegates. The practice broadened the channels of communication, however, and was aimed primarily at eliciting employee commitment. Secondly, individual employees were encouraged to participate at a plant level by way of the performance meetings. In order to indicate the preferred types of participation, employees were provided with a framework of expected and desired behaviour through the 'Investment in Excellence' scheme. Finally, the STF process facilitated the definition of roles and behaviour of employees and supervisors. The purpose of this was to encourage employees to use initiative in overcoming problems and improving processes, within the broad framework of values set out by the STF.

The STF contributed to some change in attitudes and practices within the refinery; for example, through the use of performance meetings, the encouragement of communication between employees and management and, according to the management consultant, through the 'Investment in Excellence' scheme. However, most participants in the process believed that the stated aims of the plan were not attained, due to a combination of a lack of integration between the plan and the overall business strategy and organisational and personal problems. This in part resulted from management's unwillingness to surrender certain prerogatives and restrictions to the scope of STF negotiations imposed by refinery unions. An ex-Employee Relations Manager described the attitude of management at the refinery in the following way:

23. Clyde Refinery/Gore Bay. Objectives, Targets and Values Statement 1992.

"Now what happened (was) this group, the resources team, basically said, and management agreed as well, that (the STF) is not a negotiating forum on issues that would likely be handled through the normal processes of union-management negotiation. So we (the STF team) never ever, never ever, got to tackle substantive issues. Now ... we had (the management agenda) the structural efficiency negotiations, manpower reduction and we had organisational change that we were working on. So essentially this (the management agenda) was all about dollars and this (the STF) was perceived to be all about people. We never quite got those two, this is my assessment looking back, there was never agreement that these (management agenda) were legitimate parts of that (STF) by the troops, but management would not accept that they were not legitimate parts."²⁴

The STF was never viewed by large sections of management and the workforce at Clyde as an integrated policy that could be used to introduce change. In effect, the substantial changes to the way in which work was organised and performed, through modifications to technology, staffing, rostering and labour allocation, were all decided outside the STF plan. The STF process itself then became a narrow mechanism for modifying employee and management behaviour. The consultant who developed and implemented the proposal argued that there were no formal relationship between the STF and other committees established to deal with issues of plant rationalisation and the like. There were, however, informal linkages. Some members of the STF team served on other committees (particularly the delegates) and there was a degree of information sharing on the plants. In that sense the STF was a process independent of, but compatible with, the organisational changes occurring in the refinery.²⁵ This separation was insisted upon by the union delegates on site. The delegates from both the ROG and the then Amalgamated Metal Workers Union (AMWU-formerly the AMSFWU) made it a condition of their participation that 'traditional' industrial relations issues would not be discussed or decided in the STF forum. Thus issues relating to pay, staffing and working time could not be negotiated. Such restrictions immediately called into question the achievement of goals relating to the KPA dealing with people, which involved not only motivation, but also rewards and staffing levels.

24. Interview, Ex Employee Relations Manager, 14 June 1994.

The isolation of the STF process contributed to a perception among many of the employees that it was ineffective.

If the STF was designed to establish a link between work organisation, performance and reward, with a substantial employee input, then the policy of both management and unions certainly undermined that goal. The STF was also hampered by a lack of support in the refinery and in Shell head office. Within the refinery, the STF resources team had little or no authority to enact plans and decisions; and did not adequately represent all refinery personnel. The team initially had no representatives from middle or upper management. In fact, it was not until late 1990 that senior members of management were included on the resources team.²⁵ This had the effect of disenfranchising a whole group of middle management. In addition, the relationship between the STF and the management team at the refinery was not formalised; and there were only informal meetings between the STF and the management team, over lunch following the monthly STF meetings.²⁷ The situation reflected the traditional distinction between production decisions and industrial relations decisions. Production managers were not convinced of the legitimacy of the STF process and were reluctant to be involved. The resources team had no power to act or to implement decisions. The consultant involved in the process argued that there was no real support for the STF team members or the process generally.

The lack of support given to the 'resources team' highlighted the distinction between the ideals of the STF and the practicalities of its operation. The mission and values of the STF encouraged all employees, but mainly STF team members, to find solutions to problems. Team members were often required to undertake certain actions or to research specific issues between meetings. The company however provided no resources in terms of support or time off work to aid team members, nor was there any recognition of the work they undertook. Again, this reflected a perception that the STF was something distinct from actual day-to-day operations and as such should not impede normal work. The result was that many team members had to complete STF work in their own time. Eventually several members resigned from the resources

25. Interview, Management Consultant, 20 April 1995.

26. P. Saul and C. Naylor, loc cit.

27. Interview, Management Consultant, 20 April 1995.

team.²⁸ The suggestions made by that team in terms of alterations to plant, production and working arrangements ultimately carried no authority and were often ignored by both management and employees.

In addition to a lack of support for the STF at the refinery level, upper management at board level inhibited the autonomy of local management to make decisions and, some argue, undermined the STF process. This lack of support outside the refinery was illustrated by the enforcement upon the refinery of a company decision with regard to working hours with no sensitivity to the STF process. A former Employee Relations Manager explained the situation in the following terms:

“Essentially it (STF) was a superbly conceived idea it started off having the potential to save the world but where we really fell down was with basic issues, ... we had ... in the vision consistency and fairness as two values that people wanted to hold dear and yet we had a situation in which the award people still had a 35 hour week, 9 day fortnight and the non award people (had it) unilaterally taken off them with the exception of some non award people who still had their terms and conditions governed by reference to the groups that they supervised. They were quasi unionised staff. They still had the 9 day fortnight, 35 hour week. The union guys would say we’ve got to have consistency in the place so give the 35 hour week back, management would say we need consistency so we will take it off you, they (the unions) would say you try that and we will shut every plant down.²⁹

Management at board level made a unilateral decision to remove the 35 hour week for most non-award staff. Although alternative approaches to the issue were suggested at the refinery level, they were not supported at head office level. Many of those involved in the STF saw this as a repudiation of the core values that had been stated at its inception;³⁰ and it added to the perception that management was not committed to the process. Employee commitment to the STF, particularly among the representatives on the resources team, suffered after this event. Whether the attitudes of upper level management caused the fall in commitment or merely reinforced

28. Interview, Management Consultant, 20 April 1995.

29. Interview, Ex Employee Relations Manager, 14 June 1994.

30. The Management Consultant and Personnel officer involved mentioned this decision as being significant, as did a number of delegates.

existing suspicions, the actions of the company were seen as hypocritical by the STF members and other employees.

In addition to the organisational impediments to the implementation of the STF, there was a degree of personal resistance to the plan on the part of both individual managers and employees. Indeed, the major failing of the process, in the eyes of the consultant who planned the exercise, was the lack of commitment by management and particularly the lack of interest expressed by production management. Little emphasis had been placed on 'people skills' within the refinery management in the past and the traditional emphasis on 'bottom line' results remained entrenched. Although some senior production managers were co-opted onto the STF resources team and paid lip service to the aims and mission of the plan, they did little to support the process.³¹

Resistance was not confined to the management group, as many employees perceived the process not to be genuine and responded accordingly. One delegate commented that, although there were many involved in the process who were committed to bringing about some type of positive change in the refinery, there were others who just went along for the "free food and booze".³² Another operator, who was a member of the STF team, attributed the limited success of the scheme to the presence of "too many Neanderthals on both sides". Managers involved in the process commented that employees were keen to embrace the values of trust and fairness, but were often unwilling to take responsibility for their actions and accept the consequences that arose.³³ The attitudes of some managers and employees involved in the STF meant that the achievement of trust was never realised. Both the major unions at the refinery subsequently used the STF resources team as a bargaining lever in negotiations. As a mechanism to support claims for local agreement, both the FEDFA and AMWU removed their members from the STF resources team at different times. This indicated that the unions perceived the STF to be more

31. Interview, Management Consultant, 20 April 1995. The consultant's sentiments have been echoed by others involved in the process.

32. Interview Ex FEDFA Delegate, 22 March 1995.

33. The Management consultant recalled an occasion when the FEDFA had insisted on the reinstatement of workers who had been dismissed after being recorded

important to management than to themselves. A former Employee Relations Manager argued that:

“As soon as issues came up in (the resources team) that impacted on unions, they would say ‘look I am sorry but we are walking out’, because they perceived, quite rightly, that management valued the resources team more than they did. They saw that this was a bargaining chip that we had given them.”³⁴

The climate of fear created by threats of refinery closure appeared to have dissipated somewhat with the company’s decision to continue its investment in new equipment and technology. However, this again contributed to the unions’ perception that the STF was primarily running a management agenda and they could use their participation in the process as industrial leverage.

The STF process gradually ground to a halt during 1992-1993. The appointment of a new Refinery Manager in 1992, who had no connection with the plan and who was more interested in achieving the management agenda, saw the STF process left to wither.³⁵ The resources team was disbanded and the only remaining vestiges of the process were the performance meetings, along with a periodic newsletter outlining achievement of KPA targets.

In evaluating the success of the STF, it is important to look past the stated aims of the process and consider the context of the plan and the quantum of changes. At a general level, there is broad agreement among the participants that the process was not successful in changing attitudes among the workforce. The company failed to win the hearts and minds of the employees, although the consultant involved argues that the “Investment in Excellence” scheme produced some change in the way in which individual employees perceived their role in the refinery.³⁶ The creation of high trust relations between employers and employees, and the development of greater motivation and commitment among the workforce, however, were two goals that were not attained.

stealing petrol by a security camera. The employees were reinstated after the union claimed that their civil liberties had been violated by the security camera.

34. Interview, Ex Employee Relations Manager, 14 June 1994.

35. *ibid.*

36. Interview, Management Consultant, 20 April 1995.

Nevertheless, management did derive substantial benefits from the process. It complemented the changes in plant organisation and provided an underlying rationale for addressing issues related to the allocation of labour in the refinery. Individual employees were made aware in a systematic manner of the problems facing management, the rationale of the need for change, their place in the refinery and their role in making the refinery more efficient. The company was successful in achieving its management agenda and this was clearly more important to it than attaining the objectives of the STF. While the STF was unable to institute a mechanism for ongoing consultative change involving all employee groups in the workforce, it was successful in developing closer links between individual employees and managers on the shop floor, however this was also aided by a flattening of the management structure and reductions in workforce numbers. The STF also provided a legitimization of the exercise of managerial prerogative, without requiring management to ever surrender any of that prerogative. In this way, the effect of the STF reinforced management's need (and right) to address issues of how labour in the refinery was utilised. It also played an important role in complementing the changes made to bargaining structure and the management agenda of organisational and technical change. The importance of these issues over and above employee commitment and attitudinal change is illustrated by the company's more recent strategies of labour management, which are discussed below.

8.4 Further Management Strategies, 1994

In 1993 Shell Refining management at head office reviewed its employee relations strategies with respect to workplace change at both the Clyde and Geelong refineries. That review led to a company statement on the short term future at both sites. To the embarrassment of the company, the document became public after it 'fell off the back of a fax'.³⁷ The document stated that the visions for both refineries, established in 'The Way Forward' at Geelong and 'Securing the Future' at Clyde, had been updated (unilaterally). The broad goals of the programs remained essentially the same, that is to:

“ * achiev(e) a stronger shared commitment from all employees to refinery

37. "Shell springs an embarrassing leak", *The Age*, 17 February 1994.

values and performance objectives, and

* better realise the full potential of all employees".³⁸

However, in addition to these broad goals, the document set out more specific objectives to be achieved at both refineries. These objectives were geared towards the major aim of a 'breakthrough in performance'. They were:

1. Developing a more skilled and flexible workforce;
2. Introducing a continuous improvement culture at the award level, eg. eliminating the trade off mentality at future award negotiations;
3. Increasing use of performance management for award personnel;
4. Introduction of an award remuneration policy that better supports the refinery objectives;
5. Further manning reductions and contracting out;
6. A reduction in the number of awards and unions".³⁹

Elements of the first two specific objectives were incorporated into the STF and Way Forward programs. However, the setting of the workplace agenda by management, as exemplified by the development of the company statement referred to above, represented a repudiation of the STF values.

The first objective noted above addressed specifically work allocation issues. Stated goals included the elimination of artificial demarcations at the refineries, an extension of the working week from 35 to 38 hours and a reduction in overtime levels. Clearly the company saw flexibility in this instance as meaning greater inter and intra trade flexibility, rather than flexibility in overall staffing numbers, although the latter was addressed under the fifth key objective.⁴⁰

The second objective reinforced the need to build trust through consistency of management style and the reduction of external union resistance to change. In keeping with the broader aims of the STF program, the strategy recommended greater involvement of employees in the formation of business plans, a stronger

38. Refinery Workplace Change Strategies, 1993-1995. Executive Summary, pg 1.

39. *ibid.*

40. See M. Rimmer and J. Zappala, "Labour Market Flexibility and the Second Tier", Australian Bulletin of Labour, 14 (4), September 1988, especially pages 566-570.

emphasis on team based work and quality management and the substitution of non-monetary rewards for monetary ones.

Perhaps the most important ramification for unions in the company strategy document, however, lay in the final four objectives. The third objective of introducing greater performance management would involve the inclusion of performance indicators in agreements to highlight the standard of performance. However no attempt was made (before 1995) to tie performance to wages, as this could increase discontent and distrust among the workforce.

The fourth aim encapsulated the company's desire to move the core employees at the refinery onto the company classified salary system, thereby giving them staff salary status. This goal was achieved for clerical and laboratory staff. However, it was envisaged that the manual workers would move through a two-step process, the first step being the introduction of annualised salaries. The benefits for both employees and the company were listed as follows:

"Benefits to the company of moving to annualised salary are:

- * It achieves an attitudinal change from a dollar motivated approach to a performance driven approach to tasks;
- * It reinforces a quality management approach to work activities;
- * It reduces differentiation in terms of wages policy;
- * It provides some administrative savings (no separate payment for overtime and other allowances).

The benefits for employees are:

- * Income stability;
- * Reduction in the hours actually spent at work."⁴¹

The company realised that the current earnings of many manual employees at the refinery exceeded the equivalent job group positions in the classified salary system, largely because of the high amount of overtime earnings. Therefore, before annualisation could occur, both refineries had to reduce overtime levels.

41. Refinery Workplace Change Strategies, 1993-1995. Executive Summary, pg 3.

The fifth objective referred to a reduction in employee numbers at both refineries. At Clyde, the reduction was to be from the 470 workers employed on site in 1993 to around 380 in 1997. In addition to the reduction in numbers, the company stated that consideration would be given to the benefits of a four-panel, twelve-hour shift system.

Finally, the sixth objective, namely the rationalisation in the number of unions and agreements, saw the company stating its preference for a single bargaining unit for the whole refinery. The company statement noted that by 1997, only three unions would be left operating on the Clyde refinery-Parramatta terminal site. On the refinery site itself, the FEDFA was to have single union coverage by 1997. The issue of rationalising award agreements would become redundant with a move toward staff status. Recognising that the unions on site may have created resistance to the introduction of staff status, the document stated: "(a) review of our closed shop policy will be necessary at some stage. It may be necessary to introduce voluntary unionism before the switch to staff status."⁴²

The importance of this company statement lay not only in its contents, but also in the manner in which the company reacted to its leak, which was initially to deny any knowledge of the strategies. The document foreshadowed major changes in management strategy, as well as substantive changes to the manner in which work was regulated. With respect to management's approach to labour management, it indicated a move away from the constitutional collective style (described in Section 1.5.1) of negotiating primarily with trade unions toward an individualistic approach whereby less emphasis was placed on collective bargaining and more on individual bargaining and development. In practice, this would have resulted in a reduced reliance on awards, unions and industrial tribunals: a significant departure, as over the previous thirty years workplace regulation had revolved around these institutions. In addition, the company statement preempted the negotiation of substantive changes by setting certain targets for hours of work, staffing and demarcations, all of which had significant repercussions for the regulation of labour. Procedurally, the rationalisation of award and union coverage would have significantly modified the mechanisms by which labour was regulated at the refinery.

42. *ibid*, pg 5.

The policies found in the document were also criticised by some of the unions representing Shell employees. A number of the ROG delegates at Clyde refinery saw the document as a step backwards for industrial relations, rather than the logical conclusion of the STF process. In particular, they focused on the references to voluntary unionism, reductions in employee numbers, increasing hours of work (or at least 12 hour shifts) and the reduction in earnings that would accompany both a decrease in overtime and the annualisation of salaries. The leaking of the document steered these unions against a perceived onslaught from management, which in fact did not eventuate. Officials of the Construction, Mining, Forestry and Energy Union (created by the amalgamation of several unions including the FEDFA) had used the document to reinforce the long-term strategic nature of industrial relations policy at Shell and the danger of employees becoming complacent.⁴³

The company eventually admitted authorship of the document, but insisted that the policies in relation to a longer working week and increased contracting out had subsequently been dropped.⁴⁴ At a refinery level, the company's response to the leaking of the statement differed between Clyde and Geelong. Management at Clyde was reluctant to respond to union questions about the policies outlined in the document. At Geelong (after the leaking of the document in February 1994), employees were informed that annualised salaries would be introduced as of June 1994. This highlighted the difference between the rhetoric of the document, which emphasised consultation and trust, and the imperatives to alter workplace organisation. The references in the document to a redefining of the STF process also revealed the intentions of management, as the STF process had effectively ceased at Clyde refinery by 1994. A former Employee Relations Manager at Clyde argued that the leaking of the document provided an opportunity for the company to put the proposal on the table and allow explicit discussion about the policies that it set out. Instead, the company responded by trying to distance itself from the proposals, which contributed to a heightening of suspicion among the workforce. Indeed, some employees suspected that the leak was a ploy by the company to set the industrial relations agenda.

43. "Shell springs an embarrassing leak", *The Age*, 17 February 1994.

44. *ibid.*

The experiment of the STF plan at Clyde refinery highlighted the inconsistency between the maintenance of managerial prerogative and the company's attempt to build high trust relations at the refinery. Flanders argued that "(t)he paradox, whose truth managements have found it so difficult to accept, is that they can only gain control by sharing it."⁴⁵ In the case of Clyde it was the appearance of shared control rather than an actual partnership between management and workers. However, the symbolic importance of the STF and the influence it had on individual employee attitudes should not be understated. The two processes of eliciting greater employee commitment and trust and achieving substantial organisational and technological restructuring within the refinery were viewed as complementary by management. However, both did not proceed at the same rate. The problem that this created for management was that the achievement of organisational and technological restructuring (which related most immediately to the way in which work was regulated, production levels and profits) could undermine advances in employee relations. This was the case with the STF at Clyde. The intervention by head office, primarily at a national but also at an international level, in setting goals for the refinery was in direct contradiction to the values underlying the STF. Ironically, the relationship between the Shell board and middle management has been described as directional rather than consultative,⁴⁶ which stands at odds with the stated objective of creating increased commitment through consultation between management and employees at the lowest levels of the company. The problem for management in this industry, particularly for achieving longer term attitudinal change, was summarised in a comment from a former Employee Relations Manager as follows:

".....(I)t is still very tough, it (Clyde) still has to be one of the toughest industrial environments in the manufacturing world, simply because you have highly paid, highly intelligent, well organised, time on their hands people versus a company which is desperate to keep stuff choofing out the door and if we can choof it out the door at the right sort of price we can tolerate a few other things to get there and if we can whittle down the numbers here and there and get the sort of things in

45. A. Flanders, "Collective Bargaining: Prescriptions for Change" in Management and Unions, op cit, pg 172.

46. Interview, Ex Employee Relations Manager, 14 June 1994.

that we want, pay a bit of extra money, well that seems to be a good deal and lets get on with it".⁴⁷

This calls into question the extent to which changes in the workplace that create immediate efficiencies can be reconciled with longer term policies that contribute to improved relationships. It seems to run counter to the assumption that improved relations will increase profitability, particularly as profitability can be improved with little evidence of improved workplace relations. The reconciliation of these processes is clearly problematic in situations where there is an overriding necessity to maintain production in a highly competitive market.

8.5 Conclusions

Shell management at both the Clyde refinery and head office considered that the changes in technology and organisational structure that had occurred over the 1980s needed to be complemented by improving workplace relations at Clyde. This is curious, given the almost non-existent level of industrial disputation at the refinery and the lack of any systematic resistance to the technical and organisational changes. The decision by refinery management to engage a management consultant, and the head office support through secondment of other staff, implies that the company considered low morale to be a problem and that better workplace relations would aid greater competitiveness. However, the resourcing of the STF plan, the limited discretion given to local management to implement it and the imposition of head office policies suggests that company support for improved employee relations was limited. This raises the question of whether the company had a genuine commitment to improving employee relations, or viewed the exercise as a necessary adjunct to the decentralisation of award negotiations. While management had been successful in reasserting managerial prerogative in the 1980s, largely due to changed external conditions, the move to decentralisation required greater commitment from the workforce to enable it to continue to renegotiate changes to the way in which work was undertaken and rewarded. Under the decentralised regime, industrial tribunals and the industry forum were removed as constraints on labour regulation at the workplace, but they also ceased to be scapegoats for unpopular decisions, thus

47. *ibid.*

placing an increased requirement on management to legitimize its agenda for change and win approval for that agenda. In this sense, the STF can be interpreted as a symbolic measure to 'win the hearts and minds' of the workforce, while not requiring the surrender of any power over substantive work issues.

The acceptance of and support by management for the STF process was fragmented between the levels and different functions of management. Head office management intervened to implement employment policies that were uniform across the company, thus undermining the autonomy of local management. At the refinery level, production management supported the STF process only as long as it did not interfere with production, and resisted any proposals that would impact upon the production process. This resistance, combined with union restrictions on the process, resulted in the STF being limited to addressing procedural matters rather than substantive outcomes. However, the evidence in Chapter Seven and Section 8.2 suggests that management was able to address substantive issues of labour regulation through the existing union-management channels. This indicates that employee commitment to changes in the way in which work is regulated is not a prerequisite for successfully changing that regulation, but it is desirable. Improving employee relations was not an end in itself at Clyde refinery. Instead, it was viewed as complementary to the technical and organisational changes occurring in the refinery, but was largely jettisoned once these changes had been successfully implemented. Clearly profitability was assigned a much higher priority than an improved industrial culture.

The STF at Clyde was a systematic attempt by management to alter both the procedural and substantive elements of how work was regulated within the refinery. It resulted in management adopting a new approach to labour management, incorporating an emphasis on individual development, which better complemented the business strategy of increasing production flexibility in order to adapt to changes in supply of crude and demand for refined products. However, the implementation of the plan highlighted the diversity of management and what Legge has described as the 'contradictions of capitalism'.⁴⁸ Firstly, the change in management approach was

48. K. Legge, "Human Resource Management: A Critical Analysis" in J. Storey (ed.), New Perspectives on Human Resource Management, (London, Routledge, 1989).

clearly restricted to within the refinery. Although the company developed explicit policies to restructure employment relationships, those policies were not universally accepted by management. Production management in particular was reluctant to embrace the new approach to labour management. Thus it is difficult to generalise about the existence of a cohesive management strategy. The resistance by some sections of management may in part have been due to their primary aim of maintaining production levels.

This accords in some respects with Legge's criticism of human resource management, namely that it is often undermined by the contradictions of capitalism. At Clyde there were clear management imperatives to maintain production levels while bringing about changes in the way in which labour was used and rewarded, the second of these aims being clearly stated in the future strategies document. While building employee commitment and improving consultation through quality management can aid in the achievement of these goals, Shell management unilaterally introduced changes to more quickly attain its desired results. Thus, the attempts of management to include employees individually in the renegotiation of their effort bargain were undermined by management's unilateral decisions about staffing and hours of work. Notwithstanding the problems encountered in achieving the stated goal of the STF, however, it marked a departure from the procedures used to determine workplace rules which had prevailed at the refinery for over two decades. If the 1980s were characterised by substantive changes to work rules, then the 1990s have been distinguished by alterations in the procedures for regulating work. The end result of the strategy employed by management would have seen each of the institutions of trade unions and awards removed from the process. The ability of the unions on site to prevent management from achieving this objective has tempered the change; yet nonetheless the way in which work is organised, performed and rewarded at Clyde has gone through a remarkable transformation since the mid 1970s.

9.3.4 Management and Union Structure

9.3.5 Bargaining Structures and State Regulation

9.4 Conclusion

Chapter Nine

Chapter Nine

Conclusions

Conclusions

9.1 Introduction

The preceding chapters have presented an extremely detailed chronological account of labour regulation at Clyde refinery over twenty years. The story has been divided into three main periods. The first period, from 1974 to 1980, was a time of high rates of industrial unrest, resulting from conflict over wage rates, new technology and staffing levels, and prompting extensive Commission involvement in workplace relations. During the second period, from 1980 to 1988, industrial relations at the refinery stabilised, overt conflict abated, wages were removed as a workplace issue and the company undertook a large scale reduction in employee numbers. The third period, from 1988 to 1994, witnessed formalised bilateral negotiations about wages, staffing levels and the implementation of new technologies facilitated by the

9.1 Introduction

9.2 Describing Patterns of Labour Regulation at Clyde Refinery

9.2.1 Wages

9.2.2 Task Allocation and Performance

9.2.3 Staffing

9.3 Explaining Patterns of Labour Regulation at Clyde Refinery

9.3.1 Product Markets

9.3.2 Labour Markets

9.3.3 Management and Union Strategy

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9.1 Introduction

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This chapter summarises the main points raised in the empirical chapters and addresses the broader theoretical issues outlined in Chapter One. The chapter is divided into two main sections. The first addresses the changing regulation of labour at Clyde refinery, using a thematic categorisation of the three main dimensions of that regulation, as identified in Chapter One: wages, task allocation and work performance and staffing.

The second part of the chapter discusses those factors that help explain the Clyde experience. In Chapter One it was argued that the modified bargaining model is most useful in explaining the way in which the effort bargain has changed over time at Clyde refinery; and providing a holistic framework for the explanation of labour regulation. It also enables the relationships between market forces, institutional structures and management and union strategies to be examined. The model has been pivotal in the structuring of the preceding empirical chapters. The analysis in these chapters has been developed acknowledging that market forces (both product and labour markets) are mediated by the institutional arrangements for and the structural

features of bargaining, as well as the structures of the parties themselves. Management and union policy has been shown to have developed within these broad parameters, with labour regulation a direct consequence of the enactment of these policies. Evidence in the study has indicated that the regulatory framework for the conduct of industrial relations and the legal support for unions and management have also each constrained the choices of management and labour.

9.2 Describing Patterns of Labour Regulation at Clyde Refinery

Regulation was defined in Chapter One as “the creation and the enforcement of rules which are designed to control the actions of individuals and groups that are party to the production of goods and services”.¹ Regulation of labour at a workplace level encapsulates both distribution issues (reward) and effort issues (the allocation of labour and work performance). This thesis has used categories to describe the dimensions of the rules that regulate these issues. The dimensions of regulation are the following: where rules are generated (internally or externally); who makes rules (bilateral or unilateral); the status of rules (formal or informal); and the content of rules (procedural or substantive). In the context of Clyde refinery, labour regulation has been viewed as including both the procedures for and the determination of the substantive issues of wage determination, staffing and rostering, work performance and labour allocation. Together, the distribution and control aspects of labour regulation constitute what can be referred to as the effort bargain. This section takes the issues listed above and provides an overview of the manner in which the various dimensions of regulation have been modified over time. Such a thematic approach affords a different means of describing the dynamic process of labour regulation at Clyde refinery which has been developed in detail in Chapters Four, Six, Seven and Eight. The summary provided here then leads into the explanations for changes in labour regulation that are discussed in the later part of this chapter.

1. M. Bray, (1990) op cit, pg 1.

9.2.1 Wages

Since the 1950s wages at Clyde refinery have been regulated through awards and registered industrial agreements, with paid rates awards prevailing across the industry from the 1970s onwards. This meant that rules relating to wage levels were explicitly formal. Of all the major groupings of employees at Clyde, only the operators negotiated their award at an enterprise level. The other major occupational groups had their wages set through industry awards (as shown in Appendices 1 and 2). The operators' wages were settled by way of negotiations between representatives of the state branch of the FEDFA, work site delegates and local management, with some input from head office management. For all occupational groups, wage settlements were made largely by consent until the early 1970s. In the case of the operators, the NSW Industrial Commission ratified the settlements first as part of the Engine Drivers &c. General (State) Award and later as an autonomous award (as described in Section 4.4). For maintenance, clerical, store and transport workers, wage agreements were included in federal awards. Over the decade of the 1970s, but particularly from 1974 onward, there was a marked increase in intervention by the ACAC and especially the NSW Industrial Commission. In the case of the operators, this reflected growing company concern about the level of wages and continuing operator concern about the basis of wage determination. The company was keen to maintain stability in wage movements, particularly as they could not be quarantined to one work site. However, with changes to the production process at Clyde as a result of the addition of new plant, the operators were anxious to be compensated for any perceived increase in their work. The tension over the extent to which wages should reflect work performed or, alternatively, labour market conditions, resulted in the parties increasingly failing to agree and relying on the NSW Industrial Commission to decide the quantum and criteria for wage increases.

The persistence of conflict over this issue was evidenced by the restructuring of the operators' award by Justice Macken in 1975 and the continued dissatisfaction with the award that was voiced by the operators. Thus, while the status of wage regulation remained constant, the authorship of settlements altered. Until the 1970s wage rates were largely determined bilaterally, by employee representatives (both

work site delegates and elected officials) and company management (both workplace and head office), while during the 1970s arbitration tribunals, particularly the NSW Industrial Commission, played a more important role in wage setting.

Wage determination at the refinery became more consistent in the 1980s, when the operators joined the common industry forum. The result for the operators was that, rather than their wages reflecting workplace issues (effort bargain) as well as labour market position, the basis for their wage settlements became their position as compared to other industry workers. Although this increased the importance of the industry over the workplace as the appropriate level at which to negotiate wages, it also removed responsibility and autonomy over wage negotiations from the hands of the delegates. While the operators were represented on the union negotiating committee and therefore participated in the industry forum, the criteria for wage increases were developed by the OIIC, ACTU and ACAC. This not only restricted the authority of the operators at Clyde, it effectively separated the issue of wages from other workplace issues (staffing, new technology) to which it had been linked during the 1970s. The change in the level of bargaining did not change the status of rules, but there were alterations in procedural, substantive and authorship dimensions.

Substantively, the formal basis for wage determination also changed in the 1980s. During the 1970s unions had attempted to change wage rates using work value arguments, a strategy illustrated at an industry level by the failed 1970 oil industry case, run by the ACTU, which attempted to establish industry productivity as a foundation for increased wages (see Section 3.4). At Clyde refinery the operators received a dispensation, in the wage indexation guidelines of 1976, to make submissions to the NSW Commission under work value principles in an attempt to change wage rates (which again largely failed). In contrast, the early 1980s saw the ACTU advocating wage increases under the federal Commission's "anomalies and inequities" principle (see Section 5.3). However, the rationale for using this principle was to equalise wage rates across the industry, rather than raise wages for individual groups within it. By 1984, wages were being determined by guidelines in the Prices and Incomes Accord, developed for the purposes of macro-economic management. These guidelines effectively froze the existing wage structure and differentials in the

industry. The changing procedural rules for wage determination were clearly linked to alterations in the substantive outcomes.

After 1987 wage determination returned in part to the realm of the workplace, the process of decentralisation being completed with the endorsement of enterprise bargaining across the industry by unions, companies and the AIRC in 1991. The procedural rules of the 1970s were recast, with work-site delegates from all unions becoming responsible for negotiation on behalf of workers and local management taking the primary role for the company. At Clyde, the operators had a history of bargaining at the workplace level due to their enterprise award. For the other occupational groups, the move to enterprise bargaining necessitated that they establish formal workplace negotiation mechanisms. Substantive regulation changed also, with the guidelines for wage determination representing a departure from those of the 1970s and 1980s. Rather than unions having to prove work value increases or cost of living increases, or cases of inequity in wage relativities between occupations, wage determination became couched in terms of enterprise productivity. Improvements in productivity (often actually cutting labour costs) became the basis for achieving any wage rise. The SEP, and then enterprise bargaining, was based on a presumption of improving productivity through structural adjustment. Workers found that instead of being able to seek increases in pay rates or additional payments to compensate for alterations in the effort bargain, some form of workplace change had to be shown before any increase in remuneration would be granted.

9.2.2 Task Allocation and Performance

Rules regarding the allocation of work tasks and how and when these tasks were performed also underwent considerable modification over the 1970s and 1980s. Unlike the issue of wages, however, the allocation of work tasks was determined by informal rules or understandings developed at the refinery. The demarcation lines between the three major occupational groups (operators, instrument-electrical and fitters-riggers) remained largely intact; however there was both expansion and contraction in the duties performed by each of these groups, which resulted largely from technological change and plant rationalisation. This section summarises the

fundamental change in the manner in which tasks were allocated and performed, by examining each of these occupational groups in turn.

For operators, the manner in which work is organised and performed changed with the reorganisation and technological change at the refinery. The result was that operators lost control over the production process. The changes are best illustrated by the fate of what became known as 'worker control' at the refinery (described in Section 6.3.3). Operators successfully used worker control as an industrial tactic in the 1970s. The success of the worker control strategy was based on both the acceptance by management of the operators' right to operate equipment and the inability of management to operate the equipment themselves due to lack of knowledge and expertise. Computers, new control rooms and new technology undermined the role of operators, however, limiting the effectiveness of this strategy. By the 1990s operators retained only the administrative control over the production system; that is, they retained exclusive responsibility for operating equipment and issuing authorisation for the performance of maintenance work. In addition, production management and the Plant Controller each consulted with operating staff about the operating levels and volumes. Operating settings were fixed according to these discussions and the judgement of the senior head operator, although the overall refining process was managed by the ICS. Consultation between the operations manager and senior head operators replaced the system of written daily orders being transmitted from management to the operating staff on shift, which they were then supposed to follow. The capacity of operators to influence production levels decreased, even allowing for the establishment of a process that allowed them to formally contribute to the setting of production targets, rather than doing it informally as was previously the case. The scope of job tasks undertaken by the operators increased, particularly at senior operator levels. Senior head operators had their responsibilities expanded to include both administrative and supervisory duties. In addition, on most plants operators were required to perform work that had traditionally been undertaken by laboratory workers and fire station staff.

Maintenance workers also experienced changes to the scope of their work. The most significant change for them was the development of cross-trade flexibility within the

broad occupational group. In the instrument-electrical group, the traditional distinction between electricians and instrument workers was removed. The same was true for the fitter group, where the distinction between fitters and riggers also disappeared. In both these trade groups, employees were provided with the training to complete all tasks for which the group was responsible. However, the trade demarcations between the fitter group, the instrument-electrical group and the operators remained (even allowing for the process-maintenance agreement in 1988). Despite this, as was the case for operators, the performance of work by both groups of maintenance workers was altered, although unlike operators, the work performed by maintenance workers was less affected by technological change. Both the instrument-electrical and metal trades groups increased their levels of responsibility with the removal of supervisory positions. In the early 1990s a new computer system was introduced for the scheduling of work performed by maintenance crews assigned to plants, which replaced the system of receiving direct instructions from management. The manner in which the work was performed was left largely to the discretion of the maintenance group. The scope of the fitters' work increased with their rotation through plants, meaning that they had a wider variety of machinery to maintain. The change in the scope of maintenance work was accompanied by a reduction in the overall number of maintenance workers.

There was also a reduction in staff numbers and a rationalisation of positions at Clyde refinery. While the intensity of work decreased in some cases (through better control and monitoring of equipment and reduced maintenance on new equipment), the reduction in employee numbers increased the scope of the tasks performed by the remaining workers. The rules in relation to task allocation were rarely the subject of explicit formal negotiation between the parties at Clyde; that is, their status was largely informal. In addition, changes in staffing arrangements often occurred as a consequence of management decisions with respect to operations. There were exceptions, however, such as instances where changes in work were negotiated and the regulation was formal and bilateral; although this only really occurred with the decentralisation of award negotiation. As outlined in Chapters Seven and Eight (Sections 7.3 and 8.2), the restructuring and efficiency negotiations, as well as those concerning enterprise agreements, involved explicit consideration of the

responsibilities for and performance of certain tasks. Negotiations under the structural efficiency principle resulted in agreements with operators regarding the amount of maintenance work to be undertaken and the formalisation of team working. The development of the CORT for the purposes of the category review involved management and delegates undertaking a systematic survey of the work performed by the different categories of operators. This process created an inventory of job tasks performed by all classifications of operators on different plants. The increasing formalisation of job duties continued with the adoption of enterprise bargaining, which led to the inclusion in the enterprise agreements of all workers of more detailed job descriptions and responsibilities relating to the performance of certain types of jobs. The formalisation of work performance in the enterprise agreements broadened task areas for most workers. As a consequence, previous job boundaries between wage classifications and between occupations were overturned.

Perhaps the element which changed most markedly from the 1970s to the 1990s was the ability of the workforce to resist these changes to work organisation and performance. In the 1970s operators and maintenance staff had successfully resisted change which impacted upon the performance of work by adhering to custom and practice, but their ability to do so was restricted in the 1980s and early 1990s. As was the case with wages, management successfully engineered the inclusion of these issues in the bargaining agenda, ensuring that they were subject to formal bargaining. While issues about the way in which work was performed remained largely informal and directly influenced by unilateral management decisions regarding the production process, after 1987 these rules were formalised and became subject to bilateral negotiations.

Finally, the changing level and scope of bargaining affected the link between work performance and reward. The centralisation of wage fixing severed the link between work performance and reward at the workplace level, which allowed management to alter task performance at the refinery through redundancy processes and technological change without changing reward systems. The decentralisation of wage determination to the enterprise level after 1990 provided management with the mechanism to negotiate rules concerning who performed certain tasks and how to

reward these changes. Thus, the capacity to reward workers for work performance at the refinery was progressively restricted and enlarged, allowing management to reestablish its prerogative over workplace change under a centralised system in the 1980s and to negotiate changes in labour allocation in the workplace under a decentralised system in the 1990s.

9.2.3 Staffing

Like work performance, staffing issues were refinery specific. Staffing was an area usually seen as within the preserve of managerial prerogative and, as such, an issue left to unilateral management determination. However, at Clyde staffing levels were contested by the unions during the 1970s, particularly with respect to the commissioning of new equipment. Operators in particular attempted to influence staffing numbers by restricting de-manning exercises within the refinery and agitating for staff additions, in some instances where new equipment was introduced. This action sometimes resulted in the intervention of the NSW Industrial Commission, which mostly reasserted the legal prerogatives of management in relation to the issue. While often unsuccessful in limiting reductions in staffing levels, these tactics enabled operators to delay management attempts to reduce staff. The operators did not accept that management had the exclusive prerogative to determine staffing levels. They were, however, unsuccessful in forcing management to formally negotiate the issue. Nevertheless during the 1970s they resisted management's unilateral regulation of staffing levels, thereby reducing the company's ability to finally determine those levels.

The quarantining of wages as a workplace issue at Clyde from 1980 onward, and the agreement to trial new technology (embodied in Clause 26 of the award), impacted on the ability of operators to contest staffing decisions. Their position in this area was further undermined by the large scale redundancies that occurred at the refinery in the mid 1980s. The closure of chemical plants and warehouse facilities and the company's management of the redundancy process through voluntary separation had two major effects. First, the scale of the redundancy program undermined the capacity of the unions to resist the process. Second, many employees found the terms of the separation package attractive and applied for redundancy, thus defusing plant

closure as an industrial issue. The result was a situation where the prerogative of the company to reduce staffing levels at the refinery remained uncontested.

Staffing levels again became an issue in the context of plant re-organisation in the late 1980s. In this situation management invited workers, not just union delegates, to negotiate about employee numbers as part of the changeover to new control rooms (discussed in Chapter Seven). Unlike previous attempts by unions to bargain about staffing, the negotiations became formal. In addition, by contrast with the situation in the 1970s, management established committees with employee representatives (rather than union representatives) to discuss the issue. In effect, the employee representatives were often union delegates, but the significance of this initiative lay in the establishment of an alternative procedure for bargaining. The initiative on the issue came from management. Further, in contrast to the examples of rationalisation in the 1970s, the decision to reduce numbers was not contested, only the quantum of the reductions. The amalgamation of plants, brought about by the construction of new control rooms and the adoption by management of a more consultative approach, resulted in staffing rules becoming subject to greater bilateral determination (within the limits set by management) and, as a consequence, formalised. Moreover, these changes in the dimensions of regulation reflected the establishment of new procedures at the workplace level, namely joint employee-management committees. Staffing evolved from an issue of contest between management and workers to one where management consented to employee participation, within predetermined limits.

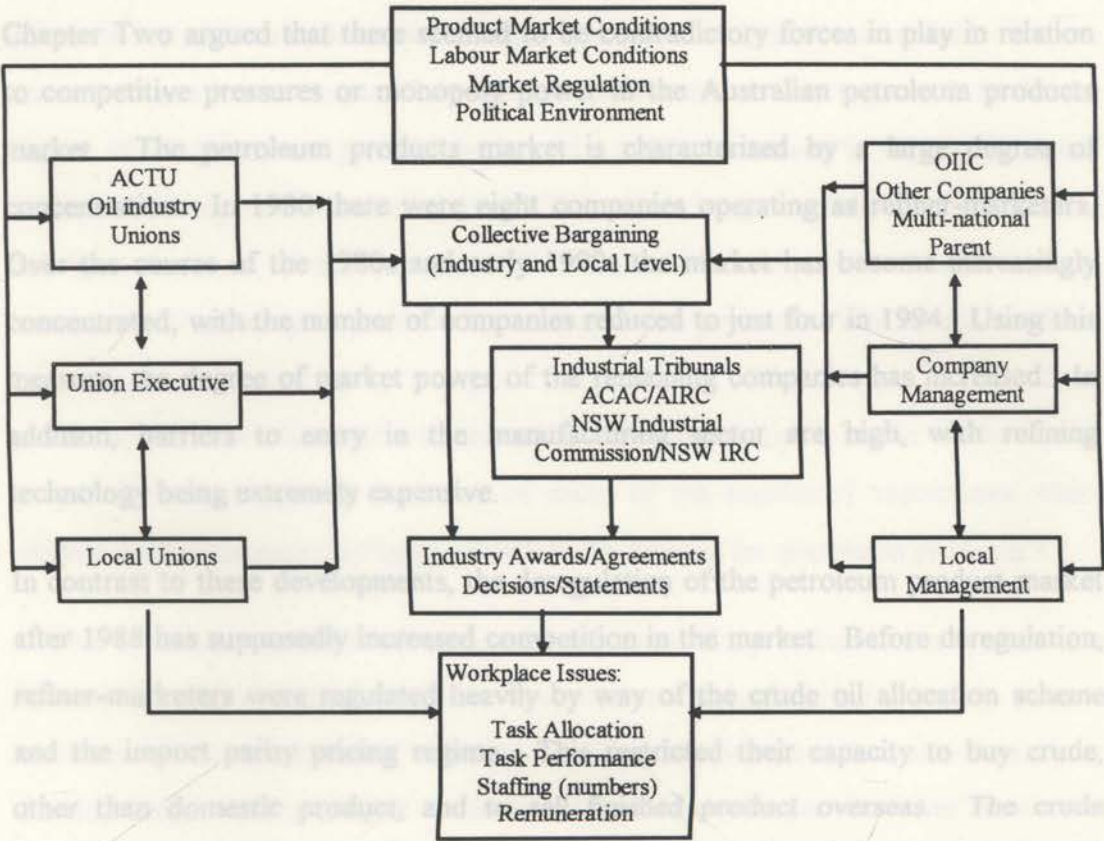
The preceding sections have briefly described the changing dimensions of regulation at Clyde, with particular reference to work organisation and reward. As this summary shows, there have been significant alterations to issues such as who determines rules, the procedures used to determine these rules, the status of the rules and their substantive content. The discussion to date has shown management increasing its prerogatives to set the rules, but has also illustrated a greater willingness among management to share some of its prerogatives. The process was not uncontested. The increasing involvement of industrial tribunals in the 1970s represented a compromise in labour regulation that left neither workers nor management completely satisfied. In addition, management at Clyde was not

necessarily a cohesive group, with differences emerging between production and employee relations management. The trends in labour regulation, as described earlier, represent the outcomes of both conflict and compromise at the refinery.

9.3 Explaining Patterns of Labour Regulation at Clyde Refinery

Having described the patterns of labour regulation at Clyde, it is now necessary to draw out how the preceding chapters have explained these patterns of regulation. The following section uses the framework developed in Chapter One to explain the changes in labour regulation at the refinery. The modified bargaining model not only explains workplace regulation with reference to the interaction of the parties themselves (the traditional notion behind the bargaining model), but also seeks to place this interaction in a wider context, in order to understand how the behaviour of the parties is shaped by the constraints and opportunities created by the interplay of different structural and institutional factors. Notably the structure of the thesis and the argument to date has drawn heavily on this model. Figure 9.1 below illustrates diagrammatically how the model outlined in Chapter One may be applied to understand labour regulation at Clyde refinery. The relevant factors operate at different levels: that is, some factors are mediated through a number of structural variables, while others are restricted primarily to a company, workplace or industry level. The sections which follow address the effects of the various factors on labour regulation, using the categories of: markets; strategies, management and union structures; and bargaining and state regulation.

Figure 9.1: Regulation of Work in the Australian Oil Industry



9.3.1 Product Markets

The conditions that prevail in product markets have a substantial effect on the strategies employed by management and the response of employees and unions. They influence the priority placed by management on policies of wage and labour stabilisation, as opposed to change. Chapter One identified the role of product markets as being a major part of the strategic choice model enunciated by Kochan, Katz and McKersie. These writers recognise that strategic business decisions taken in response to product market conditions will influence labour management relations, although the actual effect will be determined by choices made at a number of levels within the organisation. Marchington has developed a more rigorous model to explore the effect of product markets on the nature of employment relations. He not only recognises the responses of management to product markets, but the influence that product market conditions will have on employees and their representatives.

Marchington identifies two measures of market power, namely the degree of monopoly power and the degree of monopsony power. With respect to the former, Chapter Two argued that there seemed to be contradictory forces in play in relation to competitive pressures or monopoly power in the Australian petroleum products market. The petroleum products market is characterised by a large degree of concentration. In 1980 there were eight companies operating as refiner-marketers. Over the course of the 1980s and early 1990s the market has become increasingly concentrated, with the number of companies reduced to just four in 1994. Using this measure, the degree of market power of the remaining companies has increased. In addition, barriers to entry in the manufacturing sector are high, with refining technology being extremely expensive.

In contrast to these developments, the deregulation of the petroleum product market after 1988 has supposedly increased competition in the market. Before deregulation, refiner-marketers were regulated heavily by way of the crude oil allocation scheme and the import parity pricing regime. This restricted their capacity to buy crude, other than domestic product, and to sell finished product overseas. The crude allocation scheme prevailed in a context of rapidly growing demand until the mid 1970s; and import parity pricing was introduced following the oil shocks of the mid and late 1970s. As a result, entry into the Australian market was restricted. With the removal of this regulatory regime from the mid 1980s onward, the path was opened for freer buying of crude and selling of finished product. The Industry Commission took the position that this would allow potential competitors easier entry into the distribution market if the existing companies were consistently accruing large profits. Deregulation allowed for the importation of finished petroleum products to compete with domestically manufactured product. The Industry Commission also argued that the relatively low cost of importation overcame the high cost of entry into the refining sector and that the potential for competition from other sources ensured that the petroleum product market was competitive, even allowing for the high rate of concentration.

The second indicator of market power described by Marchington is monopsony power or customer pressure. In terms of the petroleum product market, customer

power is limited. Different segments of the market experience different customer pressures, for example the buyers of aviation fuel have more influence than customers of motor fuel, due to their smaller number and possible alternatives available to them abroad. Figure 2.1 in Chapter Two showed that the motor fuels segment is by far the largest in the petroleum product market. In addition, demand in this segment has experienced long term sustained growth. The major change over the last two decades has been in terms of product mix. This in itself has required manufacturers to increase their capacity to produce lighter petroleum products. The companies have been required to respond to changes in demand for different types of petroleum products, but have been able to do this in the context of a stable market (with projected market growth) and free of many of the regulatory restrictions which existed during the period of large growth in the demand for petroleum products.²

In this situation, the major oil companies are more likely to be market leaders than followers. Although the companies have had to respond to the changing demand structure within the industry over the last decade, they have had the capacity to develop longer term strategies for to how they adapt. Chapter Two has shown that some companies responded by leaving the Australian market or withdrawing from the downstream sector, thus reducing the over-capacity that was present in the refining industry during the 1970s. Other companies reacted by investing in new capital equipment to allow them to produce lighter grade petroleum products. Similarly in the distribution sector, there has been a shift away from small volume, driveway service outlets toward fewer large volume self serve outlets operated by the companies. In the case of those companies that chose to invest in refining equipment, like Shell, the decision to do so produced some associated pressures. The companies attempted to establish greater flexibility in production in order to accommodate market changes. In addition, so as to maximise their return on capital investment, they were required to minimise avoidable down time and running costs. Such pressures influenced the policies adopted by the companies with respect to managing labour. This was certainly the case at Shell's Clyde refinery.

2. AIP, *Oil and Australia. Forecasts 1996-2005*, Supplement to Petroleum Gazette, 1996/1, pg 4.

Marchington further argues that the effect of the product market on employment relations is mediated by both the nature of production (which will inhibit the effectiveness of certain strategies) and employee perceptions of the labour market, as this will affect their response to management actions. In relation to the first of these factors, the decisions and strategies of management, and employee responses to them at Clyde, were clearly affected by the existence of a continuous production system. This placed certain constraints on the strategies that management could develop. First, the nature of oil refining is such that once started, the process cannot be quickly stopped. Second, starting and stopping the process is extremely expensive in terms of both time and cost of chemicals. Third, any unplanned downtime is costly due to the lack of capital utilization. Finally, the capital equipment is extremely expensive and technologically sophisticated, with the entire process being integrated.

resistance to changing the shift roster, described in Chapter Seven)

There are three major implications that flow from these constraints. First, no matter how management responds to market change, the imperative for production stability remains. Second, given the technical and hazardous nature of the process, management preference would probably incline toward a higher skilled permanent workforce, rather than a temporary or contract workforce. This limits strategies of outright confrontation (which could produce substantial dislocation) or the phasing in of contract staff. Third, the ability of workers to respond to management initiatives is also limited, with the limits set by both their capacity and inclination to resist. With respect to the former, the introduction of computer controls over the production process in the late 1980s restricted the capacity of operators to disrupt the production process, as they had ceded much of their control over production to the integrated control system. Prior to this, operators had been able to alter production levels as an industrial tactic, as described in Section 6.3.3. This tactic was generally only used to further issues that were seen to be of moment, such as the commissioning of new plant. The perception of whether the action was justified reflected in part the inclination of the workers to resist. Their inclination to act in turn depended upon management's response and the perception of employees and delegates as to whether the action was acceptable. Management responded to 'worker control' in a much more aggressive fashion in 1977. Indeed, following this confrontation, 'worker control' was not used again as an industrial tactic.

Employee perceptions of the product market clearly played a significant role in influencing the acceptance of management policy and, in turn, labour management and labour regulation. Workers at Clyde viewed the expanding market for petroleum products during the 1960s and most of the 1970s as allowing them great latitude in responding to (and resisting) management initiatives at the refinery. The experiences in the early 1980s of redundancy reduced company profitability and the exit of some companies from the Australian market affected the perceptions of Clyde operators. These factors combined with claims by Shell management that Clyde refinery was faced with the prospect of closure unless certain changes were made. The effect was to legitimize in the eyes of the operators the necessity for change in the way in which the workplace was organised, although it did not necessarily ensure that they accepted all proposals for change in workplace regulation (as evidenced by the resistance to changing the shift roster, described in Chapter Seven).

While employee perceptions of the product market are important in shaping their response to management initiatives, conditions in the labour market also affect employees' capacity to respond to management. The following section considers the labour market in the Australian oil industry. Product markets and labour markets together provide the context for the development of union and management strategies.

9.3.3 Management and Union Strategy

9.3.2 Labour Markets

Gospel argues that the nature and the state of the labour market also plays an important role in affecting labour management. The shape of the labour market is an important influence on labour management strategies and the way in which labour is regulated at the workplace. In this regard the changing labour market has had an impact on labour regulation at Clyde refinery. Section 2.4 described the decline in employment in the major oil companies operating in the Australian oil industry. In the twelve years between 1980 and 1992 the number of waged workers covered by awards in the industry dropped by over fifty percent. This took place in an environment of rising unemployment levels across the Australian labour market. At Clyde the closure of several plants in the 1980s resulted in many workers being made redundant. In 1982 there were just under 900 employees at Clyde (both waged and

salaried). Twelve years later there were 470 employees, with staff reductions affecting all occupations at the refinery (see Sections 7.2.2 and 8.4). While employment numbers are only a crude indication of labour market power, it would have been apparent to the employees at Clyde that while employee numbers were falling, production levels were increasing (see Appendix 6). This trend, in addition to the centralisation of refinery control with the introduction of the ICS, weakened the bargaining position of workers at the refinery.

The reduction in growth of the product market, combined with the growing incidence of unemployment, particularly in the context of industry rationalisation, impacted upon the bargaining power of operators and their acceptance of management's agenda for change. The conditions prevailing in the product and labour market are clearly crucial to understanding the experience of changing regulation of work at Clyde refinery. However, the condition of the product market does not prescribe that management will adopt certain strategies, nor that employees will respond in a specified manner. Both groups have the ability to make certain choices regarding how they will respond to market conditions. These choices are in turn constrained or influenced by the structures of bargaining, as well as management and union structure.

9.3.3 Management and Union Strategy

The changing nature of labour regulation at Clyde reflects the altered strategies of both management and unions at the refinery. As discussed in Chapter One, the concept of strategy has been considered mainly with reference to management. The notion of strategy is not fixed, with varying definitions being adopted by different writers, each allowing varying degrees of management discretion. While most discussions have emphasised the rationality and consistency of management strategy, many empirical investigations of this approach take management policy as a proxy for strategy. The notion of strategy can also be applied to unions. Union officials and union members may propose and adhere to policies that are designed to achieve a specific objective. Thus, both management and unions follow particular strategies.

The success of management and union strategies is closely intertwined, and the compatibility of the two is extremely important in influencing the outcome of labour regulation. The development of strategies also reflects changes not only in markets but also in the prevailing socio-economic environment, and societal norms and values. Markets alone do not explain strategy, particularly in the case of trade unions. Moreover, management strategy is not unfettered. It is affected by, among other things, the responses of organised labour. The interaction of the parties shapes the strategies that they adopt. In this way both parties influence the strategies of the other. As was argued in Section 1.6, to look at management strategy in isolation from the responses of labour is to overlook an integral factor in its development and efficacy.

The strategies developed by management will be closely associated to its style of labour management. Section 1.5.1 discussed the concept of management style, arguing that there was an overlap between management strategy and management style, although style referred to a narrower concept than strategy. The work of Purcell illustrates the concept of style (see Section 1.5.1). Purcell argues that there are two dimensions of management style: first, individualism, which relates to how companies approach the management of individual employees and, second, collectivism, which describes the legitimacy granted to trade unions. Like management strategy, the success of a particular style of labour management is influenced by the response to that style from unions. In this way a management style with a high priority on treating individuals in a paternalistic manner and a low priority on recognising collective worker organisations will be difficult to achieve in a well organised and active unionised workplace.

These concepts help to explain the changes in union management relations at Shell Clyde refinery. As has been the case throughout the thesis, the analysis of management strategy and style is categorised into the three time periods 1974-1980, 1980-1988 and 1988-1994. The company's labour management approach during the 1970s was one of containment or stabilization of wages, and was largely unsuccessful. This corresponded to a business strategy of increasing market share in the context of a rapidly growing market. The labour strategy pursued at an industry

level through the OIIC was to control trade union demands by way of the establishment of a common industry forum for award negotiations. An indication of the strategies toward labour management that have been adopted by Shell generally can be gleaned from the policies pursued by the OIIC and company management at Clyde. Shell was an important member of the OIIC, providing the administrative support for the Committee until 1974 (see Section 3.2.1). Shell's commitment to OIIC policies with respect to award negotiation was reflected in its commitment to the common forum, even though the Clyde operators could not and did not want to move into the federal system. Under similar circumstances at the Caltex Kurnell refinery, that company did not adhere to the OIIC common forum policy. Under pressure from operators and maintenance workers covered by a state agreement not to enter the common forum, Caltex acquiesced to those demands, thus contributing to the industrial turmoil of the late 1970s. The policies of the OIIC provide only a partial indication, however, of Shell's approach to bargaining, as the OIIC made no attempt to interfere in individual companies' labour management policies.

At the refinery level, what can be regarded as management style was far from integrated, with inconsistencies in labour management between plants and individual managers. Notwithstanding this fragmentation in style, the company persisted with a bureaucratic, reactive and paternalistic management approach, which led to what has been described in one company document as a 'controlled parental' culture.³ It was partially reflected in the recruitment strategy adopted at Clyde, with the company's preference for ex-naval personnel as operating staff described in Section 4.6. The rationale for this approach seemed to be that these employees would be familiar with a paternal environment and would follow directions without question. With respect to employee representation, trade union delegates were recognised and met with refinery management, management thus granting authority to trade union representation. However, no attempt was made to systematically communicate with employees other than through the trade union. Purcell argues that style is reflected in policy rather than outcome, that is, the actual management practices do not necessarily indicate the style of management, this being rather the philosophy underlying management practice (see Section 1.5.1). The lack of any explicit policy

3. Shell Report, 'What has the STP achieved?', 1981.

on employee management at Clyde makes it difficult to identify a coherent management philosophy toward employee relations. Indeed, fragmentation in management practice at the refinery and the contradictions between the styles of different managers and different sections of management contributed to industrial conflict at the refinery. However, there were common elements of management practice during the 1970s that can broadly be seen to constitute management style, these being a paternal approach to the individual, but with high collective legitimacy. Procedures for dealing with employee relations issues were established but were not necessarily uniformly applied.

The interaction between the approach of management and the response of trade unions on site in part accounts for the development of industrial unrest at the refinery during the 1970s. As described in Section 3.2.2, the two major unions on site, the AMWU and CFMEU (Energy Division - formerly FEDFA), were both historically left wing unions; and both encouraged rank and file participation by establishing shop steward organisation. In addition, the policies pursued by these unions reflected a perception that their role was broader than merely the negotiation of wages and primary working conditions. The approach of the FEDFA has been described in some detail in Section 4.5. The 'militant industrial attitude' of the FEDFA certainly influenced the response of both union officials and delegates to the strategies of management. Ironically, some of the ex-naval personnel became involved in the FEDFA at Clyde as a result of their resentment towards the employee relations approach of refinery management. The policies of both these unions and the response from workplace delegates to the approach of management resulted in confrontation at the refinery level. The operators in particular displayed a willingness to challenge the decisions of management and to establish practices contrary to management directives. This created a situation where the unions and management came into direct conflict due to the nature of the policies and approaches they were each pursuing. Obviously the approaches to labour management adopted by each party were not developed in isolation and were to a large extent affected by the response of the other.

3. Shell Report, "What has the STF achieved?", 1992.

While the strategy of wage stabilization employed by management remained unchanged for the majority of the 1980s, there was some limited qualitative change in management style at the refinery level. The modification to management style at the refinery after 1978 contributed to the arrest of the high levels of conflict experienced in the later half of the 1970s. In addition, diminishing returns for companies in the industry, the slowing in market growth and the exit of some companies from the market each impacted upon management strategy. The business strategy of gaining market share altered, instead to one of maintaining market share. This was to be achieved by reorganizing production and marketing operations, primarily to eliminate unproductive operations and under-utilized capacity. The effect on refinery management was a softening in its approach to labour management, in particular a move toward greater consultation. Management's approach was also affected by the type of labour issues that needed to be addressed at the refinery. During the early 1980s reductions in staff numbers became one of the most important labour management issues at the refinery. Greater communication between management and unions occurred in an environment where the capacity of unions to respond using the tactics of the 1970s was restricted. The manner in which the refinery unions could respond to management initiatives at the workplace was further constrained with the introduction of the Accord. Despite this, the common features of management style, namely a paternal approach to individuals and high collective legitimacy, remained relatively unchanged. Management maintained its reliance upon formal procedures and formal institutions, including industrial tribunals and trade unions. No attempt was made to complement or supplant the existing mechanisms for labour management.

In contrast with management, trade union strategy did change markedly during the 1980s. The ACTU and the Accord extended great influence over union strategy at Clyde refinery. Once the operators joined the industry forum in 1980, all unionised groups at the refinery were represented formally in award negotiations through the ACTU-organised union negotiating committees. The development of the NIWS in 1981, outlined in Section 5.3, resulted in the operators at Clyde becoming the benchmark for wages in the industry. This effectively tied the Clyde workers firmly into the industry common forum. The 1980s were a decade where the bargaining

power of most groups had been undermined by redundancy and growing unemployment. Just as management strategy is influenced by changing product market conditions, union strategy is affected by labour market conditions. The development of the NIWS was quickly followed in February 1983 by the signing of the Accord by the ALP and ACTU (with heavy input from the AMWU) and the election of the ALP to federal government in March 1983. Together, these events resulted in the tempering of trade union demands in the oil industry and elsewhere. As the main unions at Clyde were affiliated with the ACTU, they were required to abide by the 'no extra claims' commitment of the Accord. Perhaps of equal importance was the impact of the Accord rhetoric on workplace delegates, many of whom enthusiastically accepted the principal elements of the agreement and its application to the oil industry through the NIWS.

The relative peace of the 1980s resulted from a growing congruence between employer and union strategies, with both at the time emphasizing stabilization and little change to existing formal structures, namely awards and Commission hearings. Instrumental to the change in union strategy was not only the growing authority of the ACTU within the industry, but also the perceptions and experience of the Clyde employees.

The late 1980s and early 1990s were also characterised by compatibility between the strategies of unions and management. However, the priorities of management had changed. Rather than pursuing the primary goal of wage stability and containment of industrial conflict, management strategy in the late 1980s began to also emphasize flexibility. Union strategy remained one of cooperation with the companies, although within certain limits. The business strategy adopted by management altered in the late 1980s. With a change in the regulatory regime applying to the oil industry, Shell management pursued a strategy of greater adaptability to market changes. This pursuit of flexibility as the major goal over stability did not reflect an abandonment of stability as a management goal. Rather, it indicated that the issue of wages and labour stability had declined as a priority for management, due mainly to the stability created by reduced union militancy that had resulted from the declining labour market power of the oil industry unions, rationalisation of both companies and employee numbers in

the industry and the increased authority of the ACTU. This modified strategy on the part of the oil companies resulted in the OIIC calling for decentralisation of bargaining, as outlined in Section 5.4. The oil companies' commitment to decentralisation of bargaining reflected a desire to develop greater flexibility in their operations. At a refinery level, Shell management adopted an approach of building employee commitment in the form of the 'Secure the Future' plan. Unlike the previous strategies of containment, the STF involved improved and alternative mechanisms for employee consultation, integration between labour management and production decisions and the development of individual employee commitment to their work. The plan was to help replace the 'controlled parental' culture with one that gave employees 'empowerment, greater self supervision and (the capacity to) ... shap(e) .. the working environment.'⁴ The mutuality between this process and broader industry decentralisation was articulated by management as follows: "(t)he aims of the STF embraced reduction in costs, improvement in efficiency, flexible workforces and technological upgrading".⁵ The development of a style emphasising high trust employment relations was seen as complementary and in some quarters necessary to the overall goal of flexibility.

The ACTU accepted the proposals of government and some employer groups for a restructuring of industrial relations and the improvement of labour productivity. These goals were accommodated in later versions of the Accord and most affiliated unions adopted them as priorities. The tension between the strategies adopted by the oil companies and unions revolved around the limits of union cooperation with management agendas. While initially resisting calls for the introduction of enterprise bargaining, the ACTU endorsed such a proposal in the early 1990s. In the oil industry, the result was an agreement between the OIIC and the ACTU about the nature of decentralisation, concluded in 1991. The endorsement by the ACTU of decentralisation in the industry was accepted by workplace delegates at Clyde. This did not change the approach of work site unions, which had broadly been one of cooperation since the early 1980s. Their response to the development of the STF was an acceptance of the aims of the plan, within certain limits. The boundaries imposed

4. *ibid.*

5. *ibid.*

were that traditional industrial relations issues would not become part of STF discussions, but were to remain the domain of union-management negotiations. Union cooperation with the plan was contingent upon the role of the delegates remaining unchanged. However, the union strategy of cooperation remained consistent with the company's strategy of flexibility.

The compatibility of employer and union strategies remains fundamental to whether they achieve their objectives, as illustrated in the case of Clyde. During the 1970s the on-site unions and management had pursued strategies that were mutually exclusive. The changing environment of the 1980s brought about a change in the strategies of the trade unions, aligning them more closely with those of management. This is not to say that they had the same objectives, more that the scope for accommodation with the other party had increased. The effect was a reduction in conflict over issues of workplace control, with unions becoming more focused on maintaining existing labour standards. While both parties were primarily interested in stabilising labour regulation, management desired this end in order to restructure operations. Consequently it sought and achieved greater discretion to implement decisions relating to production, as control of the workplace was no longer an issue. Finally, the late 1980s and 1990s witnessed the pursuit by management of a more aggressive (although not hostile) strategy of altering labour regulation through both changes to production (which influenced the way work was performed) and modifications to work allocation. Rather than resist these attempts, unions on site accommodated the new management approach, although they did not entirely acquiesce to it. The broader policies of the trade union movement, and their acceptance of the importance of economic performance, are important elements in understanding the response by trade unions to a more aggressive management strategy. The effect on labour regulation has been the ascendancy of management's agenda for change, although it is still pursued through negotiation between management and unions.

Thus, the strategies pursued by both parties have greatly influenced the way in which labour is regulated by affecting, first, the objectives of each party and, second, the manner in which these objectives are met. The objectives of both management and unions at the refinery have been subject to change in response to market changes.

The management objective of containing wage movements and industrial conflict has been surpassed (although not replaced) by the objective of developing commitment to flexibility among the workforce. By way of contrast, union aims evolved from challenging management control over the workplace to cooperation with management. The ways in which unions and management went about attaining their objectives also changed. Using the scheme of management style suggested by Purcell, which was described in Section 1.5.1, the management at Clyde pursued a collective constitutional management approach in dealing with unions and a paternal style when dealing with individual employees in the 1970s and early 1980s. This management style then gave way to a more consultative and collective one with respect to the trade unions on site, and the explicit development of a plan to generate employee commitment among individual workers. These alterations in management style broadly corresponded to its changing objectives. The manner in which unions set about achieving their objectives at the refinery was also subject to alteration. While the approach by unions in the 1970s was largely confrontational, during the 1980s and 1990s it became more accommodating in dealings with management. These changes cannot be viewed in isolation from each other, as they are connected.

The modified bargaining model draws out the link between market conditions and management and union strategy. Evidence from the case study of Clyde refinery supports this link. However, it is clear that markets do not direct strategy, rather they establish business imperatives for management and influence the bargaining power of unions. The strategies pursued by both parties also depend on political and ideological factors and particularly on how these factors inform management and union interpretation of the market context. As the evidence from Clyde has shown, the effect of the strategies pursued by both parties is largely a result of the compatibility of management and union objectives. Finally, changes in strategy and style cannot be understood without reference to the structures of the parties themselves.

9.3.4 Management and Union Structure

The influences of market pressures on management and union strategy are mediated by management and union structures. Most writers seeking to explain labour

management have focused on the former. Section 1.5.3 discussed the work of Howard Gospel on management structure. He argues that management structure is significant in influencing labour management decisions. He stresses the role of managerial hierarchy and firm structure, arguing that:

“(s)tructure refers to the organisational forms and management hierarchies which firms develop to manage their activities. These can either facilitate or impede the choice and development of particular strategies”.⁶

Together these factors will limit employer choices with respect to labour strategies. By influencing management’s labour decisions, such factors will in turn affect the nature of workplace regulation. Similar arguments can be made for the importance of union structure and alignment of unions. While the objectives or strategies of unions are clearly not comparable to those of management, the structure of the organisation will facilitate or impede policy in the same manner. The importance of a consideration of structure lies in the presumption that structure both reflects and affects strategy, which is clearly an expansion of Chandler’s notion that structure follows strategy.⁷ The influences of structure on strategy revealed in the literature have been confirmed in this thesis. The following sections will analyse firstly the corporate and management structure of Shell Clyde, and secondly the structure of the major Clyde unions.

The status of Clyde refinery as part of the Shell Australia group influenced the approach of its management to the regulation of labour at the refinery. After 1959 Clyde was made part of the Shell Refining Company of Australia, which is organisationally separate from the marketing and chemical divisions. However, the influence of Shell management, both in the Australian and overseas head offices, has helped shape management approaches to regulating labour, or what has already been discussed as management style. Indeed, in 1971 a senior member of personnel management at the company commented that:

6. H. Gospel, (1992) op cit, pg 3.

7. A. Chandler, op cit, pg 14.

“(a)lthough (the Shell group of companies) compris(e) a number of separate companies, the Group’s activities in Australia are closely integrated through a functional organisation”.⁸

It is evident from interviews with management that there has been a degree of internal comparison between the company’s operations both within Australia and globally. This was alluded to by an ex-Employee Relations manager in the context of Clyde’s international performance and the background for the STF plan in Section 8.3. With respect to labour management, there is evidence of personnel strategies being discussed with Shell management overseas.⁹ This is not to suggest that labour management decisions at Clyde are all directed and approved by head office, merely that the parameters are influenced by higher level management and that there has been a perceived need for some consistency in policy across the company. Perhaps one example of the influence of head office was in the fact that both Clyde and Geelong developed strategies for improving industrial relations, although the details of both ‘Securing the Future’ and ‘The Way Forward’ were developed at the refinery level (see Section 8.3). Similarly, the management objectives for industrial relations at both Shell refineries, which was leaked in February 1994, were developed by the Australian head office (see Section 8.4). The policies and procedures developed by the parent company have constrained the autonomy of local level management. In addition, decisions affecting both production and labour management have very often been made outside the refinery. It is difficult to develop an employee relations policy at the workplace which involves a high degree of employee consultation and individual development if decisions which impact on employees are made outside the workplace (as evidenced by the STF plan). Conversely, the capacity of refinery management to develop a distinctive style, for instance one of individual control, is restricted by company-wide policies prescribing recognition of and bargaining with trade unions.

The second influence of the firm structure relates to the size and operation of the enterprise. Clyde can be considered a medium sized firm, employing between 500 and 1000 employees since the 1960s. Its size, combined with the types of jobs

8. R. G. Pretty, loc cit, pg 196.

9. ibid, pg 197.

performed by employees (skilled and semi skilled blue and white collar occupations), has seen the company pursue a policy of recruitment at entry level and the development of an internal labour market (as described in Section 4.6). As a result, the company has had to develop consistent policies for progression within the refinery. These policies have been a source of conflict among operators, who have questioned the opportunities for progression through the wage categories established in the award categories (as outlined in Chapters Six and Seven). The development of an internal labour market has focused labour decisions around retaining and managing the existing labour force, rather than seeking to replace it. This may in part explain the recruitment and selection policy of employing ex-naval personnel (discussed in Section 4.6). Clearly the fact that Clyde refinery represents one operation in the Shell Refining Company has had significant implications for its workplace relations.

As has been previously argued, the relationship between structure and management strategy is not unproblematic, with the structure of management influencing strategy. During the period of refinery expansion at Clyde there was an increase in the numbers of management. While the levels of management did not necessarily expand, certainly the overall management group increased in number, with the establishment of additional plants. By the 1970s there was on each plant a control group answerable to the plant manager. In the absence of the plant managers (afternoon and night shifts), the control group would take over supervision of the plant. Daily direction came in the form of written instructions from plant managers and production managers, which were implemented through the control group. In addition to the highly bureaucratized hierarchy, there was a bifurcation between production management and maintenance management (as depicted in Chapter Four, Figure 4.1). Finally, management in the refinery was fragmented into what can be characterised as production management and organisational management, or those managers with responsibility for production and maintenance and those involved in the support groups such as finance, industrial relations and personnel.

Over the course of the 1970s there was some reduction in the management control group, with the abolition of the positions of supervisor and assistant shift controller, and the creation of a senior operator position. Nevertheless, the basic management

structure remained largely intact. The management hierarchy during this decade can be characterised as large and fragmented, causing confusion about management direction due to the inconsistent and arbitrary decisions made and the uncertainty among management about its role. This was exacerbated by some managers lacking personal authority. Workers, both operations and maintenance, were able in some cases to establish their own work rules and practices, resulting in a situation where management lacked both effective control over work and the legitimacy to exert such control.

During the late 1980s the company reduced the complexity of management at the refinery, in particular by reducing the levels of management. A reduction in the management hierarchy from six to four layers (depicted in Chapter Seven, Figure 7.2) occurred within the context of the STF. A report from management prepared in 1992 stated that:

“(t)he organisation has been flattened over the period (of the STF) from 6 to 4 layers, improving communications and increasing the scope of activities for many staff. These aspects are leading our culture from a controlled parental one to one of empowerment, greater self supervision and individual shaping of the working environment”.¹⁰

The effect of the change in management structure was twofold. First, there was an impact on the work performed, with operators and maintenance staff required to take on more responsibility for ensuring the completion of work and setting tasks, while the new Plant Controllers were given increased duties. Secondly, many of the problems caused by the previous structure were solved. With fewer levels, communication between the ranks became easier and many of the supervisory functions that had been the source of friction were reassigned. There was also some attempt made to overcome the bifurcation in management. This was, in some cases, an extension of the reduction in management positions and, in others, an explicit policy of the company. For example, with respect to the first there was an integration of production and operations management at the refinery. Although there remained separate operations and maintenance controllers on the oil side and the chemical side

10. Shell Report, “What has the STF achieved?”, 1992.

of the refinery, both were responsible to the production manager and chemical manager respectively. In the second category, Shell has attempted to integrate industrial relations more closely with production management. As outlined in Section 8.3, the industrial section in the Australian head office has been removed from the control of a Personnel Director and combined with manufacturing management. At Clyde refinery, the position of Employee Relations Manager was not filled after 1993, with the employee relations officers becoming responsible to the Production Manager and their role being to advise production management about employee relations matters.

How then did these features of managerial structure correspond to management strategies? The management hierarchy prevailing at Clyde in the 1970s impacted upon management strategy and at the same time reflected it. The constitutional approach to industrial relations complemented the complex management hierarchy, with written rules establishing procedures for grievances and lines of authority (see for example memo on work practices in Section 4.6). In addition, the transmission of written daily orders down the management hierarchy to operations and maintenance staff was consistent with the prevailing bureaucratic approach. However, the confusion about the proper authority of managers, and the contesting of this authority by workers, resulted in industrial tribunals taking an active role in labour regulation at Clyde. While this intervention was not seen as unwelcome by workplace management, it occurred in part as a result of structure modifying strategy. The successful operation of a constitutional approach to labour management was partially impeded by the management structure at Clyde.

The major reorganisation of management positions coincided with the development of the STF plan. It is clear that the Employee Relations Manager considered the structural change to be necessary in order to 'empower' workers and produce greater self supervision. The goals of 'empowerment', 'self supervision' and greater 'individual shaping of the work environment' required greater and more systematic consultation between management and employees. Such a management style was inconsistent with the large bureaucratic management structure which had prevailed at Clyde in the 1970s. Accordingly, by reducing the levels of management and the

numbers of managers, the goals became more attainable. While this seems to be a case of structure following strategy, changes in management structure were as much a result of plant reorganisation as the change in employee relations strategy. Even with the changes to the supervisory hierarchy made at the refinery level, some of the goals of the STF were thwarted by intervention from Shell management outside the refinery. Management structure is thus an important variable in understanding the development of management approaches to employee relations, as well as limiting the implementation of such proposals.

Union structure also impacted on how unions effectively implemented policy. Sections 3.2.2 and 4.5 have shown that both the AWMU and the FEDFA at Clyde were characterised by active delegates and regular meetings. This was particularly so for the FEDFA as a consequence of their enterprise award. The structure of both unions allowed for and encouraged rank and file input. As a result, the contesting of management decisions which marked the 1970s was a reflection of rank and file concern as articulated through the union. The slow move by the unions at the refinery toward a more accommodating stance in turn reflected both a reduction in rank and file dissatisfaction with management policy and the increasing influence of union bodies outside the workplace, in particular the ACTU. This was not evident through a change in union structure as such, but a change in alignment between unions and the national peak body. The ACTU slowly grew in authority over the individual industry unions with the development of the common forum in the 1970s. Union bargaining under the common forum initially provided the ACTU with a mechanism through which the industry unions could cooperate to coordinate their claims. However, it evolved into a process whereby the ACTU, through its officials, took a lead role in the development of claims. The establishment of this industry framework and the emerging authority of the ACTU weakened the response of unions to local issues. The height of the ACTU's power over the industry unions was during the period of the 1980s, when it successfully assisted in the establishment of the NIWS and reached Accords with the federal Labor government. While there had been little change to the internal structures of unions at Clyde, their approach to labour regulation was increasingly constrained by the centralisation of the trade union movement. This centralisation was a result of individual unions ceding authority over

certain issues to the ACTU, rather than the ACTU appropriating these powers. Nevertheless, the structural alignment of the industry unions impacted upon the strategies pursued at a workplace level.

9.3.5 Bargaining Structures and State Regulation

While the structural features of management and labour have been shown to be important factors for labour regulation, it has been postulated that bargaining structure also influences how labour is regulated at the workplace level. As discussed in Section 1.5.4, bargaining structure refers to several features of bargaining, but in this case primarily the level and scope of bargaining. Like the structure of management and unions, bargaining structures are important in both constraining and reflecting the policies and strategies of management and unions. The way that bargaining is structured is closely linked to the function it serves. As argued in Section 1.3, collective bargaining has both distributional and control functions. These are used by employers and unions to achieve different aims. Flanders argues that collective bargaining performs the dual function for employers of assisting market control and managerial control, while for employees it allows for the development of common rules for control of work and equity. The tension between these aims is reflected in the bargaining structure preferred by either party: for instance, employers may prefer single employer bargaining while unions favour multi-employer bargaining. The actual bargaining structure represents compromises between the two parties, with which they may not be completely satisfied. The development and modification of bargaining structures depicts the compromises between the parties. In this way, the structure of bargaining will serve certain purposes for both parties, yet will simultaneously impede other actions.

In the Australian context, the situation is complicated by the active role played by the state, through industrial tribunals, in the development of bargaining structure and the regulation of labour. Arbitral tribunals have affected labour regulation in the workplace both directly, through the settlement of workplace disputes, and indirectly, through influencing the structure of bargaining. Thus, the state can be an active participant in labour regulation at the workplace and can affect the level and content of bargaining, which indirectly influences regulation at the workplace level. An

analysis of bargaining structure thus reveals the constraints on and opportunities available to workplace management and union representatives. However, bargaining structure alone does not provide an adequate explanation for labour regulation and consideration must also be given to how the state has affected workplace regulation, both directly and indirectly.

Chapter Three described the development of formal collective bargaining in the industry. With the continued development of that industry, a mixture of enterprise and industry awards was created to cover the labour force. The ability of trade unions to organise workers and gain protection under the conciliation and arbitration framework meant that the companies were largely obliged to negotiate with them. Initially, the structure of bargaining for awards closely resembled the coverage of individual unions in the industry. This created a situation where awards were negotiated in some cases predominantly by union officials at an industry level (for example the Clerks (Oil Companies) Award) and in others predominantly by work site delegates and local management (for example the operators' awards at Clyde and Kurnell). However, by the late 1960s both companies and unions came to prefer some coordination in award negotiation. The companies initiated the development of an industry award for maintenance workers during the late 1950s; and during the 1960s the unions began to cooperate in their award claims. This trend toward coordination reflected the companies' desire to make uniform wage increases across the industry in order to avoid flow-ons, and a concern among unions to ensure that industry standards were not undermined by the various award negotiations.

Concern among the oil companies about flow-ons was the result of the mix of industry level and enterprise level awards which prevailed in the 1960s and early 1970s, creating instability in wage movements. An inability to control wage movements or take wages out of competition was the largest obstacle faced by the companies. The industry was characterised by both leapfrogging and the flow-on of wage increases. In the context of an expanding product market and a buoyant labour market, control of that labour market was the most important priority for the companies. This resulted in the companies agitating for complete industry level negotiations. The agreement to establish the industry forum in 1974 allowed an

increased role for the ACTU in negotiating awards on behalf of oil industry unions; and the common forum institutionalised cooperation between trade unions at an industry level.

An important factor in the establishment and maintenance of the common forum was the federal Commission. While the negotiations about award renewal took place between the OIIC and industry unions, the Commission conciliated unresolved issues and ran industry cases in order to examine and ratify the final agreements. In cases where the companies and unions could not compromise, they agreed to Commission arbitration of the claims. In addition, the companies' desire for wage control was assisted by the federal Commission's attempt to reestablish control over the wages system through the reintroduction of wage indexation after 1975.

The Commission then took an active role in supporting the development of the common forum. The movement toward industry level bargaining was consistent with both company and union goals of setting common rules across the industry. It also aided the companies' aim of market control. However, moving formal bargaining to an essentially uniform industry level had important consequences for the regulation of labour at the workplace. In the case of Shell Clyde refinery, local level management's authority to respond to employee claims was significantly restricted as a result of the common forum. Prior to the operators' entry into the national forum, management argued that certain issues could not be progressed at the workplace until they had been finalised at the industry level. This frustrated the Clyde operators, such frustration often manifesting itself in bans. Wage settlements reached at Clyde between 1976 and 1980 fell into line with the industry settlements, satisfying management's goal of wage stability, but sacrificing industrial stability.

With rising levels of industrial disputation at Clyde, the state again played an important role, in this instance in the form of the NSW Industrial Commission. It was notable that between 1975 and 1980 the influence of the NSW Industrial Commission over the regulation of work at Clyde grew. During the late 1970s, before the Clyde operators entered the common forum, there was a vacuum in workplace industrial relations at the refinery. While management attempted to defer claims until the common forum negotiations had been completed, operator delegates persisted with

claims that impacted upon wage levels. Clyde management was unwilling and usually unable (due to head office direction) to respond to these claims. The result was that many were listed before the NSW Industrial Commission for settlement. In the absence of workplace bargaining, the NSW Commission directly influenced the regulation of labour at Clyde. The development of industry level bargaining allowed the companies to extend greater control over wage movements, but did not necessarily increase management control at the workplace level. In the case of Clyde, the NSW Commission imposed certain labour regulations on management. Notwithstanding this encroachment on management authority, many Commission decisions reinforced the general principle of management prerogative. This meant that, although management was not free to reestablish its prerogative over certain labour issues at the workplace due to Commission intervention, that intervention often (but not always) supported the rights of management to make decisions with respect to issues like new technology or staff rostering. In this way, the Commission intervention, although not necessarily desired by the company, did not undermine the authority of management.

The entry of the Clyde operators into the industry negotiations in 1980 had an even more substantial impact on workplace regulation. The scope of the issues that were determined at the workplace was markedly reduced, with the acceptance of the employees. The determination of wage levels was taken out of the refinery. Similarly, agreements reached at the national level concerning computerisation, restructuring and efficiency all impacted upon the way in which the workplace was organised and work was performed. While the application of these agreements was subject to workplace bargaining, the ability of the operators to accept, reject or influence the broad outline of the agreements was severely curtailed because they had agreed to abide by the industry agreement. As a consequence, the period of the 1980s saw major changes to the structure of the workforce and technological change as well as some modification to the work roles and duties of unionised staff at the refinery.

The changing bargaining structure did not completely emasculate the unions at the workplace. It did, however, seriously reduce the capacity of these unions to

challenge managerial authority, particularly once issues carried the legitimacy of being negotiated at the industry level with other industry unions and the ACTU. The centralisation of bargaining achieved both the employer aims of market stabilisation and increased (but not unfettered) managerial control during the 1980s. It also reinforced the position and authority of the ACTU and the Federal Commission, both of which were necessary given their roles in the Prices and Incomes Accord. This situation seems to accord with Sisson's argument, discussed in Section 1.5.4, that multi-employer bargaining can reinforce the prerogatives of management by restricting the scope of bargaining at the workplace level.

At Clyde refinery, Shell management was successful in explicitly defining task

Following the deterioration in labour market conditions in the 1980s, as well as the rationalisation of companies and the workforce in the Australian oil industry and the changed product market circumstances, the employers' need for market control declined. The oil industry trade unions had moderated their claims as a consequence of the Accord, and had lost substantial bargaining power. The desire by the companies to develop greater flexibility in their production operations resulted in managerial control becoming an even more important objective of collective bargaining. This change in approach was manifest first in 1987 with the partial decentralisation of wage fixing under the structural efficiency principle, followed in 1988 by a call for enterprise bargaining, that is, the replacement of multi-employer bargaining with single employer bargaining. While the motives behind the companies' proposal for decentralisation of bargaining are transparent, the agreement of the union movement to this measure is more difficult to understand. It presumably has much to do with the political significance of the Accord and the federal Labor government's promotion of enterprise bargaining. Nevertheless the decentralisation of formal bargaining, in a changed market context and industry structure, consolidated the managerial control that had been attained under the industry framework and allowed management to further adjust the regulation of labour at the workplace level. The cause of management was assisted by legislative changes to the Industrial Relations Act in both NSW and federally, which established procedures for enterprise bargaining and, more importantly, restricted the capacity of industrial tribunals to intervene in enterprise issues. The decentralisation of bargaining in the oil industry after 1990 seems to contradict Sisson's argument that multi-employer bargaining

'neutralises the workplace from trade union activity'. However, he does recognise that in the USA and Japan "it is single-employer bargaining that serves to limit the activities of trade unions in the USA and Japan."¹¹ It seems to be the case that both single and multi-employer bargaining can sustain managerial prerogative, with the prevailing conditions influencing which regime is preferred by management. In contrast to the conditions that prevailed in the 1970s and early 1980s the product market, labour market, political and legal context of the late 1980s led the oil companies to prefer single employer bargaining.

At Clyde refinery, Shell management was successful in explicitly defining task responsibilities for different grades of both operators and maintenance workers. In the case of maintenance workers, the categories were tied to competencies specified by a company training matrix. The development of enterprise bargaining, particularly in the case of maintenance workers, changed the focus of formal regulation away from wages and hours toward specific tasks and responsibilities. Decentralisation of the bargaining structure also widened the potential scope of workplace regulation. This situation differed substantially from that of the 1970s and first half of the 1980s, when the oil companies sought to centralise formal bargaining in order to restrict formal joint regulation of labour at the workplace. However, in a very different political and economic context, formal joint regulation at the workplace became the company's preferred bargaining strategy.

The existence of industrial tribunals did not inhibit the ability of the parties to alter the structure of formal bargaining within the industry. However, these tribunals did play an important part in formalising the scope of bargaining. The development of the centralised industry structure in the early 1980s coincided with the reemergence of the federal Commission in the area of national wage fixing. The Commission bolstered its authority by processing the industry agreements reached by the OIIC, oil industry unions and ACTU. It also gave its legal and moral backing to the agreements reached at an industry level by ratifying them under its wage fixing principles. This created a situation where the agreements could be enforced by invoking the legal authority that they carried; and reduced the need for the ACTU and

11. K. Sisson, *op cit*, pp 173-174.

the OIIC to enforce agreements. The result was that neither the ACTU or the OIIC needed to invoke their authority over affiliates to ensure compliance. The outcome fell short of total compliance, as illustrated by the failure of Caltex to adhere to agreements, making separate settlements with their workers at the Kurnell refinery (as discussed in Section 5.2); however departure from the terms of the industry agreement was limited, in the case of those companies and unions that were part of the forum. This arrangement allowed the peak bodies, both union and employer, to control their affiliates using the authority of the federal tribunal; and further assisted the restriction of workplace level negotiation and consequently the scope of issues regulated at the workplace level.

9.4 Conclusion

The early sections of this chapter discussed in descriptive terms labour regulation at Clyde refinery over the period 1974-1994. In order to understand both how and why these changes occurred, it is necessary to situate the workplace in its wider environmental context, as the strategies and policies of the parties alone cannot adequately explain the various changes. Structural variables such as the condition of the product and labour markets, the structure of the management and employee organizations, the structures for bargaining and state intervention all impact upon the approach to labour regulation adopted by the parties. Moreover, the relationships between these different variables are not simple linear ones. The decisions taken by management and labour impact, first, upon the structural variables such as product markets and bargaining structures and, second, upon the strategies of the other party. This thesis has shown that the relationships between structural factors, strategies and outcomes are not constant nor are they easy to predict. It is, however, necessary to recognise structural factors in order to understand the strategies of management and workers (usually articulated through their representatives) and explain the effect of these strategies on the manner in which work is organized, performed and rewarded.

This thesis has used a modified bargaining model in order to explain changes to labour regulation at the workplace. The model recognises the importance of structural variables in setting the parameters for that regulation. It also allows the complex relationship between these structural factors, the strategies of management

and labour and the actual outcomes to be explored. The modified bargaining model takes as its basis the bargaining model developed by Flanders, but incorporates more recent developments from writers who have attempted to explain labour management and labour regulation. In particular the models of Marchington, Gospel and to a lesser extent Kochan, Katz and McKersie have focused upon the relationships between different sets of structural factors and how they explain labour-management relations. The transformation model of Kochan, Katz and McKersie, and perhaps more notably the recent work of Howard Gospel, attempts to develop explanations by concentrating on the experience of individual firms and using that experience as a basis for generalisation. These approaches each attempt to address the relationship between factors by taking a historical perspective; however Gospel's work has a broader analytical scope, making reference to a wider range of intervening variables than does the work of Kochan, Katz and McKersie; and for this reason, many of the elements of Gospel's analysis have been included in the modified bargaining model.

Although the predictive value of this analysis is limited, as the inclusion of more factors makes generalisations about the relationships between them difficult, the explanatory merit of such a model is high. The study of labour regulation at Clyde refinery has shown the efficacy of the modified bargaining approach. It has also highlighted the problems in differentiating between different levels of analysis and the arbitrary (and arguably problematic) distinction between internal and external sources of regulation. While the study was primarily focused at the workplace level, it is clear that the workplace is not detached from the rest of the industry or the nation. Similarly, it is apparent that regulation cannot be simply characterized as emanating from inside the workplace or being external to it. The relationships between the workplace parties, union officials, higher management and industrial tribunals are complex. Taking the more holistic approach to explaining observed phenomena has enabled a more thorough and rigorous explanation to be developed. However, the elegance of simplicity that is inherent in the development of workplace typologies, management styles and strategy, and strategic choices, is often lost; especially as exceptional cases, internal inconsistencies and compromised outcomes are observed. This analysis is explicitly designed to explain actual phenomena, rather than to produce prescriptive models. The inelegance of the theory is offset by the complexity

of the content; and the chosen route provides a different insight into the dynamic nature of workplace relations, rather than just categorizing certain features or seeking explanations rooted in the behaviour of the immediate actors. In this way the theoretical framework "inform(s) and enrich(es) the data and provide(s) not only a sense of the uniqueness of the case but also what is of more general relevance and interest."¹² While the modified bargaining model may itself be only a crude refinement of existing theoretical approaches, it provides a holistic explanation of the gradual refinement of workplace industrial relations at Clyde refinery.

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Personal Interviews Conducted in the Course of the Research:

Mr Bob A'Court	Ex-FEDFA ROG Delegate Clyde Refinery 24 January 1995.
Mr Bob A'Court	Ex-FEDFA ROG Delegate Huntley Hotel Parramatta 3 August 1995.
Mr Jack Adams	Federal Department of Industrial Relations Officer 18 November 1992.
Mr Ray Bowman	AMWU Delegate Clyde Clyde Refinery 5 December 1995.
Mr Barry Brown	FEDFA ROG Delegate Clyde Refinery 20 January 1995.
Mr Jack Camborn	Ex-FEDFA State Secretary and National Secretary 3 July 1995.
Mr Chris Church	Ex-FEDFA ROG Delegate Clyde Refinery 22 March 1995.
Mr Greg Davis	Employee Relations Officer (Trades) Clyde Refinery 15th June 1994.
Mr Daryl Dunn	FEDFA ROG Delegate Clyde Refinery 24 January 1995.
Mr Stan Elling	Ex-FED&FA ROG Delegate, Clyde Refinery Labour Council House 9 June 1993.
Mr Stan Elling	Ex-FED&FA ROG Delegate Department of Industrial Relations Sydney University 12 January 1995.
Mr Dick Gibbons	Ex-FEDFA ROG Delegate Gore Bay Terminal 20 January 1995.

A Note on the Archival Research

During the course of the research for this thesis archival material was gathered from The Noel Butlin Archives at the Australian National University hold record from the Federal Branch of the FEDFA and holdings that related to the oil

Mr Ian Harrington

Ex-AMWU Delegate and Current AMWU
Industrial Officer
AMWU NSW State Branch Office
3 March 1995.

Mr Phillip Jessep

Employee Relations Manager
Clyde Refinery
18 September 1992.

Mr Phillip Jessep

Ex-Employee Relations Manager Clyde
ANZ Building
14 June 1994.

Commission Ron Jones

Ex-Esso Industrial Relations Manager
AIRC-Sydney
25 November 1992.

Sir John Moore

Retired President ACAC
19 January 1994.

Mr Chas Naylor

Ex-Shell Personnel Officer/Manager
Baulkhaum Hills
12 August 1995.

Dr Peter Saul

Management Consultant
20 April 1995.

Mr B. Warren Stooke

Shell Industrial Relations Manager-Oil & Resources
Shell Building
Melbourne
15 February 1995.

Mr B. Warren Stooke

Shell Industrial Relations Manager-Oil & Resources
Shell Building
Melbourne
1 March 1996.

Mr Thompson

FEDFA Delegate
Annandale
23 January 1995.

A Note on the Archival Research

During the course of the research for this thesis archival material was gathered from two main sources. The Noel Butlin Archives of Business and Labour at the Australian National University hold record from the ACTU, NSW Branch of the FEDFA and Federal Branch of the FEDFA. All files in these holdings that related to the oil

Appendix 1

industry and Clyde refinery were inspected. In addition the ROG of the NSW Branch of the FEDFA has its own archive of documents relating to Clyde. This is situated at the Clyde refinery and is maintained by the ROG. The ROG committee kindly allowed me open access to these files.

	Amoco Refineries Australia now Mobil)
Operators	Storeman & Packers (Oil Stores) Award
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award
Transport	Transport Workers (Oil Stores) Award
	Bulwer Is (Formerly Amoco now BP)
Operators	AWU - Oil Refineries Employees (Amoco Aust) Award
Maintenance	Mechanical Engineering (Award) State (Qld) bought under Engineering (Oil Companies) Award in 1963
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award
Transport	Transport Workers (Oil Stores) Award
	Clyde (Shell)
Operators	Engine Drivers & C General (State) Award (NSW) - replaced by Refinery Operatives & C (Shell Refining (Aust) Pty Ltd Clyde) Award 1965
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award
Transport	Transport Workers (Oil Stores) Award
	Geelong (Shell)
Operators	Oil Refinery (Shell Refinery Australia) Agreement + FEDFA agreement
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award
Transport	Transport Workers (Oil Stores) Award + Agreement
	Karnell (Australian Oil Refineries now Caltex Oil Refineries)
Operators	Australian Oil Refinery Agreement (NSW)
Maintenance	Australian Oil Refinery Agreement (NSW)
Clerical	Clerks (Oil Companies) Award
Storeman	NO Storeman & Packers - AWU coverage
Transport	Transport Workers (Oil Stores) Award

Appendix 1

Award Coverage - Oil Industry Workers 1950-1972.

	Altona (Petroleum Refineries Australia now Mobil)
Operators	Storeman & Packers (Oil Stores) Award
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award.
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Bulwer Is (Formerly Amoco now BP)
Operators	AWU - Oil Refineries Employees (Amoco Aust) Award.
Maintenance	Mechanical Engineering (Award) State (Qld) bought under Engineering (Oil Companies) Award in 1963.
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Clyde (Shell)
Operators	Engine Drivers & C General (State) Award (NSW) - replaced by Refinery Operatives & C (Shell Refining (Aust) Pty Ltd Clyde) Award 1966.
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Geelong (Shell)
Operators	Oil Refinery (Shell Refinery Australia) Agreement + FEDFA agreement
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award + Agreement

	Kurnell (Australian Oil Refineries now Caltex Oil Refineries)
Operators	Australian Oil Refinery Agreement (NSW)
Maintenance	Australian Oil Refinery Agreement (NSW)
Clerical	Clerks (Oil Companies) Award
Storeman	NO Storeman & Packers - AWU coverage.
Transport	Transport Workers (Oil Stores) Award.

	Kwinana (BP)
Operators	Oil Refinery Award (WA)
Maintenance	Mechanical Engineering (Award) State (WA)
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Lytton (Ampol)
Operators	Oil Refinery Employees' (Ampol Refineries Ltd) Award
Maintenance	Mechanical Engineering (Award) State (Qld) bought under Engineering (Oil Companies) Award in 1963
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Matraville
Operators	AWU and Total Refineries Australia Ltd Agreement (NSW)
Maintenance	AEU & ors and Total Refineries Australia Ltd Agreement (NSW)
Clerical	Clerks (Oil Companies) Award
Storeman	NO Storeman & Packers - AWU coverage.
Transport	Transport Workers (Oil Stores) Award.

	Port Stanvac (Petroleum Refineries Australia now Mobil)
Operators	Storeman & Packers (Oil Stores) Award.
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Westernport (BP - Ceased operation 1985)
Operators	AWU - BP Refinery (Westernport) Pty Ltd Award
Maintenance	Metal Trades Industry Award - replaced by Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

Appendix 2

Award Coverage - Oil Industry Workers 1972-1990.

	Altona (Petroleum Refineries Australia now Mobil)
Operators	Storeman & Packers (Oil Stores) Award, replaced by Storeman & Packers (Oil Refineries) Award in 1972
Maintenance	Engineering (Oil Companies) Award
Clerical	Clerks (Oil Companies) Award.
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Bulwer Is (Formerly Amoco now BP)
Operators	AWU - Oil Refineries Employees (Amoco Aust) Award, replaced by AWU (Oil Companies) Award in 1977.
Maintenance	Engineering (Oil Companies) Award in 1963.
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Clyde (Shell)
Operators	Refinery Operatives & C (Shell Refining (Aust) Pty Ltd Clyde) Award.
Maintenance	Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Geelong (Shell)
Operators	AWU (Oil Companies) Award + FEDFA agreement
Maintenance	Engineering (Oil Companies) Award
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award + Agreement

	Kurnell (Australian Oil Refineries now Caltex Oil Refineries)
Operators	AOR Australian Oil Refinery Agreement (NSW)
Maintenance	Australian Oil Refinery Agreement (NSW)
Clerical	Clerks (Oil Companies) Award
Storeman	NO Storeman & Packers - AWU coverage.
Transport	Transport Workers (Oil Stores) Award.

	Kwinana (BP)
Operators	Oil Refinery Award (WA), replaced by AWU (Oil Companies) Award in 1977
Maintenance	Mechanical Engineering (Award) State (WA), replaced by Engineering (Oil Companies) Award in 1977.
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Lytton (Ampol)
Operators	Oil Refinery Employees' (Ampol Refineries Ltd) Award, replaced by AWU (Oil Refineries) Award in 1977
Maintenance	Engineering (Oil Companies) Award in 1963
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Matraville (Total - ceased operation 1984)
Operators	AWU and Total Refineries Australia Ltd Agreement (NSW)
Maintenance	AEU & ors and Total Refineries Australia Ltd Agreement (NSW)
Clerical	Clerks (Oil Companies) Award
Storeman	NO Storeman & Packers - AWU coverage.
Transport	Transport Workers (Oil Stores) Award.

	Port Stanvac (Petroleum Refineries Australia now Mobil)
Operators	Storeman & Packers (Oil Stores) Award, replaced by Storeman & Packers (Oil Refineries) Award in 1972.
Maintenance	Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

	Westernport (BP - Ceased operation 1985)
Operators	AWU - BP Refinery (Westernport) Pty Ltd Award, replaced by AWU (Oil Refineries) Award in 1977
Maintenance	Engineering (Oil Companies) Award in 1959
Clerical	Clerks (Oil Companies) Award
Storeman	Storeman & Packers (Oil Stores) Award.
Transport	Transport Workers (Oil Stores) Award.

Appendix 3: Clyde Shift Systems

Four Shift Supplementary System

Day	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su
A			D	A	Y			R	O		A	F	T	N	N		R	O		N	I	G	H	T		R	O	
B	R	O		A	F	T	N	N		R	O		N	I	G	H	T		R	O				D	A	Y		
C	N		R	O		N	I	G	H	T		R	O				D	A	Y			R	O		A	F	T	N
D	G	H	T		R	O				D	A	Y			R	O		A	F	T	N	N		R	O		N	I

Five Shift System

Day	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su		
A			R	O					N	I	G	H	T		R	O		A	F	T	N	N		R	O			D	A	Y					R	O	
B		N	I	G	H	T		R	O		A	F	T	N	N		R	O			D	A	Y						R	O		N	I	G	H	T	
C	R	O		A	F	T	N	N		R	O			D	A	Y							R	O						R	O		A	F	T	N	
D	N		R	O			D	A	Y						R	O							N	I	G	H	T		R	O		A	F	T	N		
E	D	A	Y					R	O							N	I	G	H	T		R	O		A	F	T	N	N		R	O	D	A	Y		

DAY = Day Shift (7am-3pm)
AFTNN = Afternoon Shift (3pm-11pm)
NIGHT = Night Shift (11pm-7am)
RO = Rostered Off

Appendix 4

Employee Relations Survey: Questionnaire

CLYDER REFINE RY

Securing The Future

STF QUESTIONNAIRE RESULTS

This is a reproduction of the questions that were asked originally and correspond with the details on the attached graph.

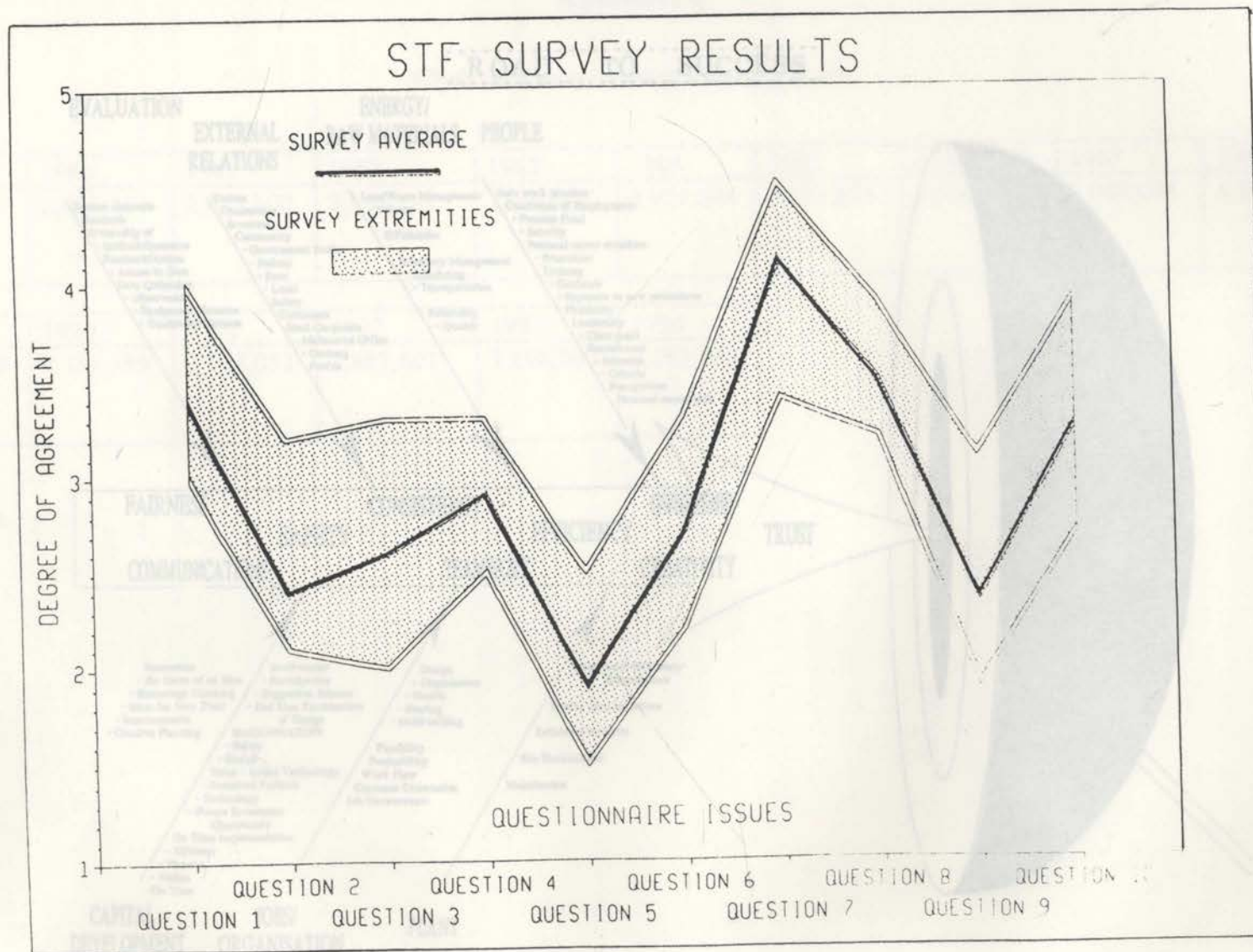
Because of the various personal views put forward in answer to questions 11 to 15, they obviously cannot be detailed in the same manner. Your comments have been summarised for use by the STF Team and have been used in gaining a better understanding of the particular issues.

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
1. I am free to decide the best way to do my job.	1	2	3	4	5
2. Rewards and incentives offered by Shell (including pay, promotion, recognition) motivate people to give their best efforts.	1	2	3	4	5
3. I am usually informed in sufficient time of matters which affect me.	1	2	3	4	5
4. I am given a real opportunity to improve my skills in Shell.	1	2	3	4	5
5. Management and workers trust each other in this organisation.	1	2	3	4	5
6. Managers and supervisors treat employees in a fair and consistent manner.	1	2	3	4	5
7. I regard it as an important part of my job to help make Shell more efficient and competitive.	1	2	3	4	5
8. I believe Shell is making the changes necessary to compete effectively in the future.	1	2	3	4	5
9. Morale where I work is generally high.	1	2	3	4	5
10. Money, materials or time are wasted because of the way my area is managed.	1	2	3	4	5

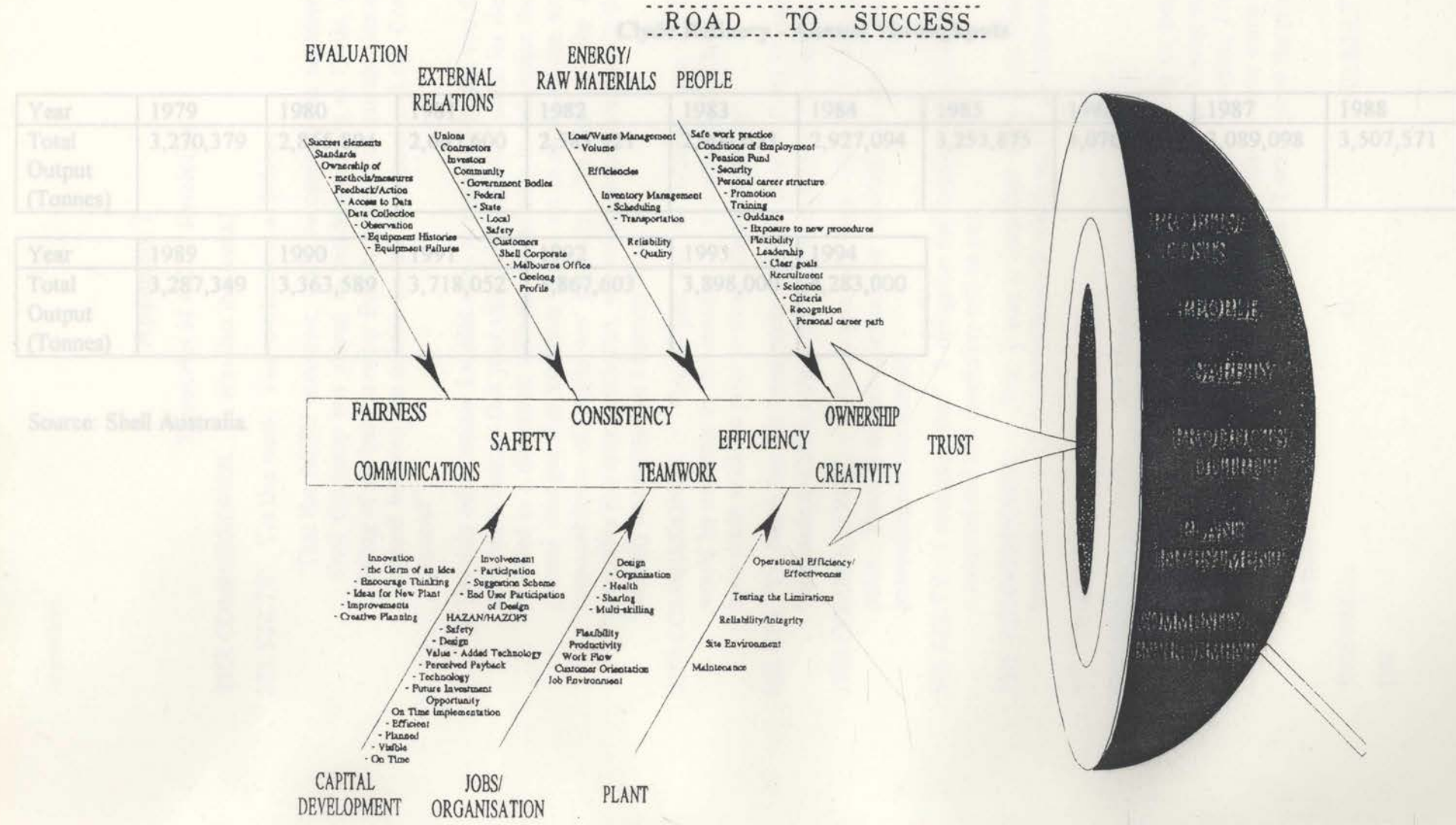
Appendix 4

Employee Relations Survey: Results

The Road to Success



Appendix 5 The Road to Success



Appendix 6

Clyde Refinery - Annual Throughputs

Year	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Total Output (Tonnes)	3,270,379	2,865,894	2,665,600	2,583,921	2,904,653	2,927,094	3,253,875	3,070,945	3,089,098	3,507,571

Year	1989	1990	1991	1992	1993	1994
Total Output (Tonnes)	3,287,349	3,363,589	3,718,052	3,867,603	3,898,000	4,283,000

Source: Shell Australia.

Appendix 7

Transcript of ACTU Resolution.

THE COMMISSIONER: Was that this week?

MR KELTY: Yes this week. The resolution is as follows:

"That the ACTU executive, whilst recognising the negative role that the Shell Company has played in the negotiations at Clyde, recommend a lifting of the bans in order that the process of examination under 7 (a) as agreed between the unions the oil companies and the Commission, can proceed"

The only other matter I would want to report on is that you did indicate on previous occasions that your view is it would be fruitful for the ACTU to be involved in a discussion with the oil industry to determine the effect of the general changes that we have agreed on in terms of the work skills and responsibilities of employees generally. In view of the fact that our executive has now concluded, we would be prepared to do that. They are the only comments that I have to make.

THE COMMISSIONER: Could you tell me whether that ACTU resolution would be available to the members of the meeting at Clyde today? Has it been made available prior to these proceedings here?

MR KELTY: No, it has not been made available prior to these proceedings. It has been made available only to the persons addressing the meeting of members.

THE COMMISSIONER: Thank you, Mr Kelty. Perhaps I had better clear one point. There is no misunderstanding between you and I? We are in open proceedings in this matter?

MR KELTY: I recognise that. I recognise the meeting is in the process of being conducted and that resolution will be put.

THE COMMISSIONER: Yes, I want it clear that there is no misunderstanding between you and I about the forum in which we are now meeting.

MR KELTY: No.

THE COMMISSIONER: Mr McKenzie?

MR MCKENZIE: Mr Commissioner, it is indeed heartening to hear the ACTU resolution and I am sure, if implemented it will go a long way to getting normal industry relations back into the industry. However, I must say I am disturbed to hear it was peculiar to Clyde. We do have many other bans in operation, which are slowly taking effect. I would place the present situation on record.