6 The Australian Experiment of Compulsory Arbitration

DIANE KIRKBY

I

The compulsory arbitration system of Australia and New Zealand, which inspired one American professor at the turn of the century to describe it as 'the most notable experiment yet made in social democracy', can be seen as the pinnacle of the antipodean social experiments which earned the colonies the title of 'social laboratory of the world' at the turn of the century.¹ That Australasia was seen as a 'laboratory', particularly in the area of labour relations, can be attributed to the existence of similar reform movements in other advanced industrial capitalist countries.

The 'labour problem' was an issue confronted by policy-makers in the UK, Canada and the USA. Australia and New Zealand, as regions of most recent European settlement, were attracting attention by their ability to solve a problem which had already emerged in other parts of the world. Their ideas, in unique circumstances, took a particular form. Thus a concept of voluntary arbitration which had surfaced several decades previously in the UK and the USA, became institutionalised as compulsory arbitration in the Australasian colonies. The great strikes of the 1890s prompted concern at the economic disruption caused by industrial dislocation, while the federation of the six Australasian colonies into one commonwealth at the end of the decade provided the means by which a federal industrial tribunal could be written into the Australian constitution. It was this federal solution to the 'labour problem' which interested American reformers, and it is American interest in the compulsory arbitration experiment which is the focus of this paper.
II

The Australian industrial relations system developed at the end of the nineteenth century to take account of the special problems of coping both with the economic needs of capital and with a militant labour movement within a federal political structure. The 1890s strikes, fought over the issue of ‘freedom of contract’, occurred in pastoral and maritime industries crucial to an Australian economy heavily dependent on the export of primary produce. The danger to economic prosperity of disputes which, ‘like bush-fires and rabbits in search of food’, could ignore state boundaries and spread beyond the jurisdictions of colonial (later state) legislatures, seemed to call for a federal tribunal which had great coercive power, not least because they revealed the vulnerability of the economy. Furthermore, such a tribunal would also be an instrument for regulating and standardising wages in those industries which crossed colonial borders, thus acting as a check on inter-state competition.

The Australian industrial relations model of compulsory arbitration, which had developed to cope with a labour problem in a federal economy, was attractive to American progressive labour reformers because American intellectuals had been preoccupied with the labour problem for several decades. Arbitration contained principles that progressive reformers were seeking to institutionalise: a codified industrial relations system; rules and procedures of industrial dispute settlement; the breakdown of the doctrine of ‘freedom of contract’ (which had hampered so much labour legislation in the courts) and its replacement by a three-party labour contract; standardisation of working conditions across industries; uniformity of legislation across states; the formation of unions to attack employers’ reliance on a system of fluctuating, manipulable labour supply; and guaranteed enforceable minima of safety, hours and wages as a way of maintaining standards and protecting workers’ health and therefore productivity.

America’s progressive political economy was, according to one historian, ‘a hydra of political federalism and competitive capitalism’. Federalism was an element in competition because capitalists now competed for national markets. Since the character and form of the progressive labour reform movement was a product of a federalist political economy, it is not surprising that progressive labour reformers in the United States took such an interest in Australia (a country where a new federal system had incorporated industrial disputation within the constitution). The arbitration court, perhaps more than any other experiment, epitomised the progressive ideal of the interdependence of