

## WEEKEND ESSAY HUGH MORGAN

# Unlocking jobs is key to sustaining growth

**A**lthough it is commonplace to note the world has changed since September 11, 2001, and particularly for Australia since October 12, 2002, the regional and global implications that follow from these events have still to be internalised within Australian thinking and political debate.

A few days ago news of an impending defence budget blow-out and the need to replace the ageing F-111s hit the press. These issues are the forerunners of what cannot be set to one side: the necessity of substantially increasing our defence expenditure during the next decade or more, within what is seen by many voters as a high taxation society.

The most effective way of generating the revenue needed to finance this expenditure is through economic growth of the kind we have experienced since 1994, only more so. We need to aim for at least 5 per cent annual GDP growth figures for the next decade. Such an ambition may seem unrealistic, but it can be achieved if we undertake critical reforms; the most important of which is effective labour market reform.

The great reform which has given us a decade of strong economic growth was the phasing out of protectionism, a policy initiated by the Hawke government in the mid-1980s and supported by the coalition in opposition. From the beginning of federation, protectionism was the twin sister to legally privileged trade unionism and compulsory arbitration at the hands of tribunals with law-making powers concerning employment contracts. Protectionism has been wound back significantly, and Australia has benefited mightily as a result; but the legal privileges of the trade unions remain, as does the capacity of the arbitral tribunals to regulate, to an astonishing degree, the way in which the people responsible for getting our work done, workers and management together, go about their business.

The Cole Royal Commission characterised the construction industry as one where intimidation, coercion, and violence are commonplace. The auto making industry is facing union campaigns of pattern bargaining and industrial disruption which threaten its future. Teachers in Victoria and NSW are going on strike next month. These are events which attract media attention, and they are the outward and visible sign of the legal privileges which registered trade unions enjoy.

But the monthly unemployment statistics, which understate the numbers of people who are seeking more work, or would like to get a job but do not fit the official definition of unemployed, are not usually connected to the labour market regulatory apparatus which, through the handing down of thousands of different awards, contributes to our unemployment problem.

The intractability of

unemployment and underemployment needs to be emphasised. Australia has enjoyed 10 years of unprecedented economic growth. But despite this we still have nearly 1 million unemployed or underemployed, and these people tend to be concentrated in particular suburbs and particular regions. These concentrations of adult unemployment are coincident with even higher concentrations of youth unemployment.

Unemployment as a way of life (in reality a way of hopelessness and drug abuse) is now becoming set as a pattern in clearly demarcated parts of Australia. The tragedy is caused, in the main, by our arbitral tribunals, which have locked people out of the jobs market by making it illegal for employers to offer them jobs at market-based prices. The irony is that regulators sincerely believe they are doing us all a service.

The most tragic example of such high-minded regulation was the 1966 Northern Territory



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Stockmen's case in which the full bench of the Arbitration Commission disemployed thousands of aboriginal stockmen throughout the Northern Territory and forced them, with their families, into the fringes of the towns where they became subject to the depredations of alcohol and substance abuse.

At the same time as we have increasingly intergenerational unemployment (at a time of general prosperity) we also find labour shortages in many trades; bricklayers, carpenters, plumbers for example; shortages which will be compounded in a few years as the ageing workforce in the housing industry moves towards retirement. Whenever we see unemployment combined with labour shortages we should look to regulation as a primary suspect. Attempts to replace the apprenticeship contracts of former times (contracts which were freely negotiated between masters and apprentices or their parents) with highly regulated and government-subsidised arrangements have been a spectacular failure.

The evidence that unemployment is the consequence of making unlawful employment contracts that would benefit both employer and employee, particularly the low-skilled and poorly-educated, is overwhelming. It is the arbitral tribunals that create this situation

and they have to be prevented from continuing in this role.

It has been argued by unions that without minimum wages and the tribunals which prescribe them, employers would exploit and ill-treat their employees. That this argument is nonsense is evident when we look at industries in which there are no awards and where the day's work is done by contractors and sub-contractors rather than by employees. Industries such as the home building industry and the information technology industry are dominated by contracting rather than by employment relationships. The rapid growth of contracting as a way of engaging in the workforce bears testimony to the fact that the employment contract is becoming a burden to the worker, rather than a useful instrument for reducing the transaction costs associated with a working relationship.

The traditional common law contract of employment recognised that employers and employees were both capable of unreasonable and unconscionable behaviour, and sought to minimise the costs associated with such behaviour by recognising the right of the employee to quit at will, and at the same time the right of the employer to fire at will. Those rights could be overridden by the parties if they wished to do so, but were always subject to the test of unconscionability. The basic premise underlying all common-law employment contracts, and indeed contracts of every kind, was the capacity of people to know their own interests and to act to advance those interests. Thus employer and employee entered into a contract which made both parties better off as a consequence.

The legislation that established the institutions of our labour market regulatory system was passed in December 1904, nearly a century ago. Like the protectionism which endured for eighty years or so, it has done Australia great harm. Henry Bournes Higgins, the father of arbitration, believed his legislation and his judicial interventions into the workplace as president of the Arbitration Court, would put an end to strikes, lockouts and the trade union violence that had been endemic in the 1890s. A century later these things are still with us, and they now threaten the cohesion and integrity of our economic life.

Australia is a small nation, occupying a large and resource-rich land, located in a strategically uncertain part of the world. If we are to maintain our integrity as a nation state we will have to be wealthy enough to provide for high quality defence forces on a continuing basis. The institutions Higgins established a century ago negate our ability to generate that wealth and thus they threaten our future. We can no longer afford to keep the Higgins legacy.

**Hugh Morgan will become president of the Business Council of Australia later this year. He is the former chief executive of Western Mining Corporation.**