

# [A PILOTS PERSPECTIVE OF THE 1989 PILOTS DISPUTE]

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On the 18th of August 1989, the Australian Federation of Air Pilots (AFAP) embarked on an industrial campaign ostensibly in support of a 29.47% pay claim. This action precipitated one of the worst and most expensive industrial disputes in Australia's history, now known as the 'PILOTS DISPUTE' of 1989.

# **A PILOTS PERSPECTIVE OF THE 1989 AUSTRALIAN PILOTS DISPUTE**

*An aviation safety article*

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## INTRODUCTION

On the 18th of August 1989, the Australian Federation of Air Pilots (AFAP) embarked on an industrial campaign ostensibly in support of a 29.47% pay claim. As part of this campaign, AFAP Pilots imposed on their employers (Ansett, East West, Ipec and Australian Airlines) a limitation on the hours they were prepared to work in the form of only making themselves available for flying duties within the normal office working hours of 9am to 5pm. <sup>1</sup>

This action precipitated one of the worst and most expensive industrial disputes in Australia's history, now known as the 'PILOTS DISPUTE' of 1989.

The Dispute has been conservatively estimated to have cost the Australian economy well over a billion dollars and resulted in the loss of many thousands of jobs associated with the demise of the many businesses indirectly affected. <sup>2</sup>

The Dispute was a significant factor causing Australia to plunge into recession nearly two years earlier than its trading partners during the early 1990s.

The Dispute, which has never been resolved, has resulted in nearly 80 % of the pilots involved not returning to their former positions, despite the pay rise allegedly causing the Dispute being well and truly met. This being the case, a number of key questions need to be answered:

- What was the real agenda behind the Dispute?
- How did the Dispute effect the Profession of Airline Pilot?
- What are the long term ramifications of the Dispute in regards to airline safety?

The following is a pilot's perspective of the real causes of the Dispute and the reasons why the vast majority of the pilots involved were unable to return to their former positions.

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<sup>1</sup> This action is now known as the Pilots' 9 to 5 campaign. The Pilots decided to use this milder form industrial action as opposed to a conventional strike because they were aware of the potential disruption to the rest of the nation that their industrial action would cause.

<sup>2</sup> Some commentators have put the cost of the Dispute to the Australian economy as high as \$4 billion.

## OVERVIEW

The Dispute witnessed the formation of an alliance involving the then joint Managing Director of Ansett Airlines, Sir Peter Abeles, his close friend, the then Prime Minister of Australia, Mr Bob Hawke and to a lesser extent senior people associated with:- the Hawke Government, the Australian Council of Trade Unions (ACTU), the Industrial Relations Commission (IRC) and senior airline management from both the major domestic airlines. This alliance was aligned against the Pilots.<sup>3</sup>

The formation of this alliance led to the unprecedented situation of the extensive resources of two multinational corporations (TNT and NewsCorp, the joint owners of Ansett) being combined with the Australian Federal Government's power and influence. This alliance resulted in a significant amount of public resources being made available to a private corporation to fight, what would appear to be, the private industrial dispute of one man, Sir Peter Abeles, the then joint Managing Director of Ansett Airlines.

The consequent tangible and intangible support flowing from this alliance facilitated the occurrence of, among other things, the following circumstances.

The Hawke Government's support for Sir Peter Abeles' actions throughout the Dispute would appear to have been generally unquestioned. To this end, Prime Minister Hawke publicly declared "war" on the Pilots and enthusiastically endorsed Sir Peter Abeles' decisions to:-

- Embark on a policy of point blank refusal to negotiate or even discuss the pay claim with the Pilots' Federation. (This was unprecedented in any industrial dispute in Australia. At no stage, throughout the course of this dispute, were negotiations without preconditions ever conducted.)
- Embark on a policy of outright refusal to recognise that the Pilots' Federation represented the Pilots. (This was part of a strategy to force pilots to return to work on individual contracts.)<sup>4</sup>
- Shut down the airline system early in the Pilots' 9 to 5 campaign, despite the acknowledgment by most independent observers that most airline passengers were able to reach their destinations, albeit with some delay.
- Stand down the Pilots, then sack and serve writs on individual pilots in the first week of the Dispute. (This action forced the Pilots to resign en masse to protect their family homes and superannuation. The companies were then able to argue that "the Dispute was over" and that they were "now recruiting." The companies advertised the Pilots' jobs globally, the day following the resignations.)

In addition the Hawke Government subsequently provided:

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<sup>3</sup> For word economy, this alliance will henceforth be known as 'Abeles' Coalition'.

<sup>4</sup> On numerous occasions, when asked by the media if he would take part in negotiations with the Pilots' Federation, Sir Peter Abeles replied "...What Federation?"

- A subsidy of well over one hundred million dollars of taxpayers' money being made available to fund the Airline Companies during the Dispute.<sup>5</sup>
- The use of military aircraft and pilots to strike break. The airlines were charged below cost price for these aircraft.<sup>6</sup>
- The changing of immigration regulations to legalise the replacement of Australian pilots with foreign pilots.
- The relaxation by the relevant authorities of airline operating standards to facilitate the importation of foreign aircraft and pilots during and after the Dispute.

The Hawke Government's pervading influence over the supposedly independent Industrial Relations Commission (IRC) facilitated:

- The extraordinarily rapid cancellation within the first week of the Dispute of the Pilots' original industrial award without allowing any discussion on the merits of the Pilots' claim to be heard. (This process was unprecedented and took less than 24 hours to effect.)
- The absence (apart from threats) of any serious attempt to resolve the Dispute in its early days, despite the fact that industrial dispute settlement was, at that time, the IRC's primary function.

However, far more serious was the subsequent arbitration by the IRC of an award based on the airline companies' 'Individual Employment Contracts' which took away from pilots virtually all their previous rights and employee protections. It is important to understand that the ability of pilots to make their day to day operational decisions free of any commercial pressure from airline management is fundamental to airline safety. This basic concept, known as the 'Independence of Pilot' is without doubt the most important factor contributing to Australian aviation's outstanding safety record.

To summarise, the IRC had ratified an award that no responsible professional pilot could work under. Hence the reason why nearly 80% of the Pilots refused to return to work and why the Dispute is still to this day not resolved.<sup>7</sup>

In the space of just over a week, Sir Peter Abeles, with the support of his partners had manoeuvred the Pilots into a hopeless industrial position; resigned, locked out and with no industrial award. The only avenue made available to pilots for a return work was for them to individually abandon, not only their colleagues, but also their profession by signing an individual employment contract which contained virtually no rights to exercise their professional skills free of management pressure. The denigration of the Position of

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<sup>5</sup> The Hawke Government's financial support of the airlines consisted of a moratorium on air navigation charges and charging the airlines below cost price for the use of military aircraft.

<sup>6</sup> Military Pilots' training and operating standards are different from Civil Transport Pilots, simply because military priorities are different from civilian priorities. Because of this, the carriage of civilians in military aircraft is illegal under Australian aviation law. Due to the illegal status of these flights and the lack of effective insurance, had an accident occurred in any of the military aircraft the legal ramifications would have been dire.

<sup>7</sup> See the 'Analysis of the Individual Contracts' for the reasons why the individual contracts are unacceptable to professional pilots.

Airline Pilot had been completed with no realistic mechanism for a return to work being offered to professional pilots. The dispute was deadlocked within the first week.

And the cruelest irony of all? The Australian public, by funding the airlines with their taxes, were enabling Sir Peter Abeles to prolong the Dispute in his endeavour to industrially crush his pilots. At the same time, the same Australian public were suffering as a consequence, economic hardship and a very real threat to their safety due to the non-resolution of this dispute. All this occurred ostensibly because of Sir Peter Abeles' point blank refusal to negotiate a pay claim alleged to be outside the wage fixing guidelines of that time by being in excess of 6%. Yet, the one positive aspect of the Individual Contracts made available for Pilots to return to work was a 25% pay increase, disguised and presented to the public as 6%.<sup>8</sup>

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<sup>8</sup> See the chapter titled 'The Hidden Pay Rise in the Individual Contracts' for clarification.

## THE FORMATION OF SIR PETER ABELES ALLIANCE.

Many aspects of the Pilots' Dispute were extraordinary and unique. None more so than the formation of the alliance opposed to the Pilots centred around Sir Peter Abeles, the then joint Managing Director of Ansett. Other leading members of this alliance included:

- Mr Bob Hawke, Labor Party Prime Minister of Australia.
- Mr Bill Kelty, Secretary of the Australian Council of Trade Unions (ACTU).
- Mr Ted Harris, Chairman of Australian Airlines. (the Government owned domestic airline)
- Mr James Strong, Chief Executive of Australian Airlines.

The Dispute could never have been prolonged for as long as it was and to have then degenerated into the unmitigated disaster that it finally became, without the coordinated involvement of all the protagonists associated with this unusual alliance.

The minutes of the meeting between Prime Minister Bob Hawke, Sir Peter Abeles, Mr Ted Harris, Mr Peter Morris (a Government Minister), Mr Ralph Willis (another Government Minister) and Mr Bill Kelty (by phone), which occurred in Bob Hawke's office on 15th August 1989 just prior to the commencement of the Pilots' 9-5 campaign, were made public during the Pilots' Immigration Court Case. These minutes provide an insight into the participants' firm determination to focus all their energies on the destruction of the Pilots' Federation instead of attempting to resolve the impending dispute by negotiation.<sup>9</sup>

It is important to understand that at no stage had there ever been any negotiations without preconditions with regard to the Pilots' claim. The purpose of the Pilots' 9-5 campaign had been to pressure the companies to commence meaningful negotiations.

The refusal by the Pilots' Federation to give a public commitment to the wage fixing guidelines associated with the 'Accord' prior to the commencement of negotiations, not only facilitated the formation of Sir Peter Abeles' Alliance, but also allowed them to publicly argue via the media that the Pilots' pay claim was "outrageous, a threat to the 'Accord', and just a greedy grab for money". (That the pay claim was none of these things, is discussed later.)

That each member of this alliance was deeply committed to the 'Accord' was publicly well known. However, it is the view of many pilots that the alliance members' deep commitment to the 'Accord' appears to have had less to do with the job creation outwardly associated with the 'Accord' process and perhaps more to do with exercising and ultimately protecting the political power and influence conferred upon them as members of the Accord.<sup>10</sup>

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<sup>9</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989

<sup>10</sup> It is ironic that the dispute was clearly a major factor causing Australia to plunge into recession nearly 2 years earlier than its trading partners and as a consequence many of the jobs created earlier by the Accord process were subsequently lost by the prolonging of the Dispute.

## THE ROLE OF SIR PETER ABELES.

It should be understood that one of the main benefits of the 'Accord' for entrepreneurs such as Sir Peter Abeles was that it provided the unique situation of facilitating the real wage compression of their employees without the threat of industrial disruption.

But in Sir Peter Abeles' case, his membership of the industrial relations club associated with the 'Accord' provided much more. Sir Peter Abeles' personal friendship with, not only the then Australian Prime Minister, Bob Hawke, but also ACTU Secretary,

Bill Kelty, together with his early involvement in the initial creation of the 'Accord' in the early 1980's conferred upon him extraordinary political influence and power. It was this power which he used with such devastating effectiveness during the course of the Pilots' Dispute in his endeavour to destroy the Pilots' Federation.



Sir Peter Abeles

It should be clearly understood that Sir Peter Abeles was ultimately the central character, not only to the formation and function of this alliance, but to the Dispute itself. For in the final analysis this was Sir Peter Abeles' personal dispute.

That Sir Peter Abeles had developed a profound contempt for the Position of Pilot, there can be little doubt. His public behaviour during the Dispute and the lack of any basic rights within the Individual Contracts speaks for itself. It was this visible contempt for the position of pilot that was suspected by many pilots as being one of the major catalysts fueling the Dispute, if not the cause. Without his dogged determination to destroy the Pilots' Federation (and by default the Profession of Pilot) it is the belief of many Pilots that the other main protagonists in his alliance would have sought a negotiated resolution to the Dispute at some stage.<sup>11</sup>

It is now clear that Sir Peter Abeles and his alliance were extremely well prepared to tackle and eventually destroy the Pilots' Federation. Negotiations to avert the Dispute were not considered. Their plan was simple; if the Pilots questioned the 'Accord' by embarking on an industrial campaign, they would be crushed. By subjecting the Pilots to the extraordinarily draconian tactics which they had agreed upon prior to the commencement of the Dispute, the planned destruction of the Federation was expected to have taken only a few days.<sup>12</sup>

Sir Peter Abeles' decision to shut down the airline system at the beginning of the Pilots' industrial campaign would appear to have been designed to ensure that the Dispute was to be fought entirely on his terms.<sup>13</sup>

It would appear the airline shutdown was planned to ensure the industrial isolation of the Pilots prior to exposing them to the maximum amount of industrial, media and political pressure thought possible. This pressure consisted of, among other things:

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<sup>11</sup> The TV interview with Richard Carlton on the '60 minutes' television program of September 10th 1989 provided a revealing insight into Sir Peter Abeles' ruthless resolve not to negotiate when he said: "I won't give in, because if I give in, I'd rather close the airline forever..."

<sup>12</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989

<sup>13</sup> See Appendix regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989 for an insight into the planning of these tactics.

- Mass sackings and the indiscriminate issuing of writs on individual pilots. Sixty seven (67) pilots were indiscriminately sacked and served writs on the day prior to the mass resignations. This action left the Pilots with little option except to resign en mass in order to protect themselves from the Companies' legal action.<sup>14</sup>
- The threat, and then use of legal action and the subsequent civil damages court case resulting in \$6.9 million being awarded against the Pilots' Federation and its Principle Officers.
- The threatened and then attempted seizure of the Pilots' superannuation entitlements. The surplus in the funds following the Pilots' resignations went to the companies (AAL \$50m, Ansett about \$19m)
- The cancellation of the Pilots' original award within the first week of the Dispute.
- The relaxation by the relevant authorities (Airline and Government) of airline operating standards to facilitate the importation of foreign aircraft and pilots during and after the Dispute.
- The changing of immigration regulations to allow the importation of foreign pilots.<sup>15</sup>
- The use of the military to strike break.

And a plethora of other tactics including the use of psychologists to conduct a campaign of psychological warfare. This campaign included, among other things, the spreading of rumours through susceptible pilots, countless telephone calls at all hours of the day and night, personal letters from management being hand delivered by courier, entreaties, threats, deadlines, etc.

But most importantly, the Airline shutdown was fundamental to the subsequent introduction of the Individual Contracts.<sup>16</sup>

The public justification for this shutdown was that the Pilots' 9-5 campaign had made the Airline System unworkable. Yet, this is despite the acknowledgment by most independent observers that most airline passengers were able to reach their destinations, albeit with some delay.<sup>17</sup>

Certainly far more people were able to reach their destinations in a far safer manner during the Pilots' 9-5 campaign than they were in the hotch potch of aircraft and pilots (both military and civilian) scrapped up from all over the world to replace the Airlines' own original pilots following the shutdown.<sup>18</sup>

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<sup>14</sup> The Pilot resignations were the subject of a great deal of controversy and were widely misunderstood. See the chapter titled 'The Pilots' Resignations' for a full explanation concerning the reasons why the Pilots resigned.

<sup>15</sup> The changes to relevant immigration regulations legalising the employment of foreign pilots were included in the package put together by the Hawke Government to allow Chinese students to remain in Australia following the Tianamin Square massacre.

<sup>16</sup> See the 'Analysis of the Individual Contracts' for the reasons why the Individual Contracts are an anathema to profession of pilot.

<sup>17</sup> There was considerable media comment at the time about this shutdown.

<sup>18</sup> It has been forgotten, that the Pilots did not strike. They exercised the mildest form of industrial action available to them; a restriction on the hours they were prepared to work. (in the form of the 9 to 5 campaign) They took this action because they were acutely aware of the potential disruption to the rest of the nation their industrial action would cause. Sir Peter Abeles' decision to shutdown the airline system prior to the Pilots' mass resignation, caused massive disruption to the rest of the nation.

## SIR PETER ABELES' SUSPECTED REAL AGENDA.

As mentioned earlier, the Individual Contracts made available for pilots to return to work contained a 25% pay increase, disguised and presented to the public as 6%. Despite this hidden pay offer, most Pilots refused to return under the conditions of the Individual Contracts. Given that the pay claim sought by the Pilots was met almost immediately by the Airline Companies, it follows then that pilots' pay was not really the main issue in the Dispute as far as the Airlines were concerned. If this is the case, it prompts the question; what were the real issues behind the Dispute as far as the Airlines were concerned?

A number of clues have now come to light which suggest that not only was the Dispute never really about pay, but that there existed a hidden agenda behind the Dispute. Further, these clues suggest that the person behind this hidden agenda was Sir Peter Abeles himself. This clues include: <sup>19</sup>

- Sir Peter Abeles' alleged interference in the negotiations between the Pilots' Federation and Australian Airlines held at Lorne, Victoria in late June 1989 resulting in the breakdown of those negotiations.
- Ansett Management's hardened attitude about numerous pilot issues prior to the Dispute. For 18 months prior to this dispute coming to a head, airline management (particularly in Ansett) had embarked upon a campaign of persistent contract violations and a refusal to negotiate in good faith on numerous day to day issues, including pay.
- Sir Peter Abeles' appointment of Mr Ian Oldmeadow, a former senior industrial officer with the ACTU, who was appointed in late 1985 to Ansett's senior industrial relations position and the subsequent appointment in late 1988 of AFAP's former executive director, Mr Len Coysh, to a senior industrial relations position within Ansett.

The frustration felt by pilots associated with this management attitude finally resulted in a ground swell push by the pilot rank and file calling on the Federation's leadership (by 95% secret ballot) to resolve all these issues using conventional industrial tactics if necessary. The resulting industrial action presented Sir Peter Abeles and his partners with a unique opportunity to destroy the most powerful union in the airline industry, namely the Pilots' Federation, and employ their pilots on Individual Contracts.

It is important to understand that pilots' pay at that time represented well under 5% of airline operating costs. Thus, restructuring pilots' pay and conditions was never going to produce any significant cost savings. The key to significant micro-economic reform within the airline industry lay in restructuring the other large airline unions.

Sir Peter Abeles' massive aircraft buying spree, associated with his speculation in airline aircraft during the mid to late 1980s, had put Ansett Airlines in a very difficult financial position, even before the Dispute came to a head. <sup>20</sup>

As can be gleaned from the minutes of the tactics meeting held in Prime Minister Hawke's office on the 15th August 1989, Sir Peter Abeles expected the destruction of the Pilots' Federation to be quick and total. ("Will be short - we won't give them anything.") The planned decisive destruction of the Pilots' Federation (clearly the most powerful union in the airline industry) would have provided a very public demonstration to the

<sup>19</sup> Clues are not proof. Nothing short of a Royal Commission can really hope to get to the bottom of this issue.

<sup>20</sup> Numerous media reports indicate Ansett has not been operating profitably since the Dispute.

other unions of Sir Peter Abeles' industrial and political power. Had this scenario unfolded as expected, there can be little doubt Sir Peter Abeles would have been in a powerful position, both politically and industrially, to renegotiate new industry awards with the rest of the airline unions.

Sir Peter Abeles was able to secure the co-operation of the rest of the trade union movement through his close contact and friendship with the ACTU Secretary, Mr Bill Kelty. Further, his ability to have the then Prime Minister, Bob Hawke, ensure the Federal Government agree to substantially fund the Airlines during the Dispute was a master stroke. This aid package was of inestimable value to Sir Peter Abeles. Not only was Sir Peter Abeles supplied with a significant amount of public resources to fight his pilots, but more importantly, the aid package ensured that the Airline Companies did not need to stand down the members of the other unions in the airline industry. This had the effect of ensuring the defacto involvement of these unions in what was to become the total destruction of another union. This ploy was extremely successful, for it not only kept the other unions quiet (no mean feat), but more importantly it placated most of the Airlines' other employees.

It is now clear that the wider ramifications of Sir Peter Abeles' suspected plan to destroy the Pilots' Federation was poorly understood by most of the trade union movement as well as the general public. Yet, this is surprising because both Sir Peter Abeles and the other joint owner of Ansett, Rupert Murdoch of Newscorp, had a long and well documented history of being involved in the radical and ruthless restructuring of other industries with which they had been associated.<sup>21</sup>

Whether or not the suspicion of Sir Peter Abeles' hidden agenda proves true or not, what is clear is that Sir Peter Abeles and his coalition partners seized upon the opportunity provided by the Pilots' industrial action to successfully unleash the raft of tactics they had planned prior to the commencement of the pilots' industrial campaign which ensured the successful destruction of the Pilots' Federation and the subsequent employment of pilots on individual contracts.

NOTE: It is not widely known, but a precursor to the Pilots' Dispute was played out on a group of Ansett tarmac workers who were members of the Transport Workers Union (TWU) at Sydney airport in April 1986. Without going into the details of the Dispute itself, it would be true to say that Sir Peter Abeles was successfully able to force the workers involved in that dispute into signing individual contracts of employment or lose their jobs. Sir Peter Abeles was able to achieve this because it would appear he had the tacit approval of the ACTU. It may or may not be of significance that this industrial episode occurred within months of Sir Peter Abeles appointing a former senior ACTU industrial officer, Mr Ian Oldmeadow, to the senior industrial relations position within Ansett. However, what is clear is that the significance of Sir Peter Abeles' win in this relatively minor episode of industrial history escaped the notice of most of the trade union movement, including the Pilots.

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<sup>21</sup> Newscorp's dispute with the Printers Union at Wapping, England in 1988 is a pertinent example.

## ABELES' CONTEMPT FOR THE POSITION OF PILOT.

Whilst Ansett Airlines' difficult financial position may have been a motive behind Sir Peter Abeles' refusal to negotiate with the Pilots' Federation, it would appear that his personal contempt for the position of pilot was the catalyst fueling his intransigence. That Sir Peter Abeles had contempt for the position of pilot there can be little doubt. His public behaviour during the Dispute and the almost total lack of employee rights within the Individual Contracts speaks for itself. This being the case, it is important to attempt to understand the source of this contempt.<sup>22</sup>

It is probable that Sir Peter Abeles' personal contact with pilots may have had at least some influence on his contempt for their profession. The only airline pilots he had any significant and regular contact with were his senior management pilots. In fact it is probably true to say they were the only consistent window he had into airline pilots. And although most Line Pilots would have been loath to publicly admit it prior to the Dispute, in their eyes, outside the cockpit of an aircraft, the management skills displayed by a significant number of Ansett Airlines' Management Pilots were poor. (There were some exceptions.)

Put bluntly, as airline managers they were viewed by many Pilots as not worthy of respect.

In fact, this open contempt of them by a significant number of line pilots may have had some bearing on the decision by some of the management pilots to acquiesce in Sir Peter Abeles' plans for the destruction of the Pilots' Federation.

But it would appear that what Sir Peter Abeles never understood was that inside the cockpit of an aircraft, as Cockpit Managers (i.e. Pilots) most of his senior management pilots were like the vast majority of his line pilots, competent. It must be remembered that they had originally been employed as pilots (cockpit managers), not as airline managers.

And the reason why they were competent was that they were part of an airline cockpit management system second to none in world. A system which they, along with their former colleagues, had helped to professionalise and evolve over the previous 30 years. A system that had transformed them from being raw pilot recruits when they joined the airline into the competent airline captains they were eventually to become. A system which ensured that they were able to operate as responsible professional pilots in one of the safest airline systems in the world. A system that protected them from the more unsafe ideas of a tycoon like Sir Peter Abeles because they worked under a collective employment contract that conferred upon them basic pilot 'rights' and thus ensured the concept of 'pilot independence' pertaining to their operational decisions.

The irony is that by abandoning the system that they themselves were a product of, they ultimately helped to destroy it.

It is open to speculation as to whether their acquiescence in Sir Peter Abeles' denigration of their former profession reinforced the contempt he may have had for them and the profession.

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<sup>22</sup> When asked by the media if he would talk to the Pilots' Federation Abeles replied "What Federation?"

## ABELES' EARLY PREPARATION FOR THE DISPUTE.

As mentioned earlier, it is now clear that Sir Peter Abeles was extremely well prepared to tackle and eventually destroy the Pilots' Federation. Further, there is evidence suggesting that the preparation for this dispute was initiated a number of years prior to the eventual outbreak of the Pilots' dispute.

Whilst it may never be known when Sir Peter Abeles actually made his decision to take on his pilots, it is now fairly obvious that the appointment of a number of key outside experienced industrial relations experts, beginning in 1985, signaled the start of Sir Peter Abeles' long term strategy to restructure his airline empire.<sup>23</sup>

The 2 significant appointments were:

- Mr Ian Oldmeadow, a former senior industrial officer with the ACTU, who was appointed in late 1985 to Ansett's senior industrial relations position. He brought to this position, not only extensive industrial relations expertise, but perhaps more importantly, strong connections with the power brokers within the ACTU and IRC. (That his wife was later appointed as a commissioner to the IRC, may or may not be significant.)
- Mr Len Coysh, who was previously employed as the Pilots' Federation's Executive Director. Mr Coysh left his position with the Pilots' Federation in February 1987. His appointment to an Ansett management position 18 months later (August 1988) obviously engendered a great deal of suspicion and speculation amongst pilots as to whether or not he had been in some way compromised by Sir Peter Abeles whilst he was still working for the Pilots' Federation. This suspicion was further reinforced by his central involvement in the subsequent destruction of the profession and pilots he had previously spent so much of his working life defending.<sup>24</sup>

It would appear that both these people saw no contradiction or hypocrisy of being former trade union officials involved in the ruthless destruction of a trade union.

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<sup>23</sup> It would appear to be a trademark of Sir Peter Abeles to employ key trade union officials for industrial relations positions. Other appointments within the airline industry include:- Mary Kinsella, ex Secretary of Australian Flight Attendants Association (AFAA) Sue Bussell-Renn, ex Vice President of the AFAA Barry Robinson, ex (ATOF), a close friend of Ian Oldmeadow. In 1990, ATOF became favoured by Sir Peter Abeles to be the union to represent the pilots employed by Ansett Airlines following the Pilots' mass resignation of August 1989.

<sup>24</sup> Len Coysh was subsequently sacked by Ansett in 1995.

## THE ROLE OF THE INDUSTRIAL RELATIONS COMMISSION. (IRC)

The nation's peak industrial relations statutory body, the Industrial Relations Commission (IRC), is meant to be independent of Unions, Employers and Government and to be impartial. Further, one of the primary roles of the IRC at the time of the Dispute was to resolve industrial disputes, not to punish recalcitrant parties involved in a dispute.

The Pilots' Federation's insistence throughout the Dispute that the Pilots wished to conduct negotiations with their employers free of any outside interference, diminished the role of the IRC from the beginning. This would appear to have greatly annoyed the IRC commissioners involved in the Dispute and may have made it easy for them to side with Sir Peter Abeles in the destruction of the Pilots' Federation.

As the Dispute unfolded it became apparent to pilots (and some media commentators) that a significant motivation behind the decisions made by IRC in regard to the Dispute appeared to have had less to do with finding a resolution to the Dispute and more to do with punishing the Pilots for having the temerity to question the IRC's relevance.

Yet a civilised nation should expect a far higher standard of behaviour from a body whose primary purpose is to resolve inflamed industrial situations. No matter what the provocation, the IRC's key role, in what was after all the denigration of the position of Airline Pilot, was a national disgrace.

In fact the attitudes and consequent decisions made by the Commissioners ultimately denied any possibility of the Dispute ever being properly resolved.

To this end the IRC cancelled the Pilots' original industrial award in the first week of the Dispute, without allowing any discussion on the merits of the Pilots' pay claim to take place. This process took just over one day. (In contrast, the deregistration of the Builders Laborers Federation (BLF) took over one year.)<sup>25</sup>

This extraordinarily rapid cancellation of the Pilots' original award was unprecedented and subsequently enabled the companies to introduce the Individual Contracts.<sup>26</sup>

The IRC then effectively removed themselves from the industrial process for 4 weeks during which time the management of the respective airlines attempted to coerce their pilots to return to work on individual employment contracts. During this phase of the Dispute the Companies' campaign of 'psychological warfare' culminated in their penultimate deadline of 5.00 pm, Friday the 22nd of September 1989, in which they insisted that pilots to return to work under the Companies' non-negotiable Individual Contracts or lose their seniority rights. As the deadline approached it became patently obvious, even to the public, that this campaign had completely failed to coerce pilots to return to work on an individual basis.

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<sup>25</sup> AFAP's refusal to return to work in accordance with their award, was used by the IRC as the justification to cancel the Pilots' original award. However, the IRC's action overlooked the fact that practically any industrial action by a union is by definition a breach of the relevant union's award.

<sup>26</sup> The significance of the cancellation of the Pilots' original award was generally poorly understood by most independent observers and many pilots. The cancellation of the Pilots' original award was fundamental to the subsequent introduction of the 'Individual Contracts' because the individual contracts could not be introduced unless the Pilots' original award had first been cancelled. Further, the cancellation of the original award also meant that had the Pilots elected to back down and come back into the 'industrial system' they would have had to justify every condition of employment previously negotiated over the previous 30 years, clause by clause. In other words, the cancellation of the Pilots' original award by the IRC left the Pilots without any realistic path of retreat.

Six minutes after the expiry of the Airlines' ultimatum the IRC advised the Pilots' Federation by fax that IRC President, Justice Barry Maddern, would be making a statement regarding the Dispute on the following Monday. However, as occurred so often throughout the Dispute, the intervention by the IRC at this late stage of the Dispute appeared to have less to do with finding a resolution and more to do with backroom politics. For on the following Monday the IRC announced that it planned to arbitrate on the Dispute without realistically attempting to resolve the Dispute by a conciliation process, as was available under the Act and as was requested by the Pilots' Federation.

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The IRC's ensuing arbitration of a replacement award, based on the Companies' Individual Contracts, deprived pilots of, among other things, any rights to exercise their professional skills free of commercial management pressure. To this end, the Pilots' original 200 page collective contract was replaced by a 16 page individual contract.

It is now clear that the IRC commissioners completely failed to comprehend the significance of their actions. Their failure to grasp, despite days of argument, the fundamental importance to the core principles of the profession of pilot and airline safety of a pilot's ability to make operational decisions free from any commercial pressure from airline management is inexcusable. The IRC, by ratifying an award that no responsible professional pilot could realistically work under, had deadlocked the Dispute! Hence the reason why nearly 80% of the Pilots refused to return to work and why the Dispute is still to this day not resolved.

NOTE 1: In view of the appalling way the Pilots' Dispute was handled by the IRC, it would appear that the Pilots' insistence throughout the course of the Dispute that they wished to conduct negotiations with their employers free of any outside interference, was justified. In fact the apparent inability of the IRC to perform its primary function, that is of resolving the Dispute, provides evidence of what had long been suspected by pilots; that the IRC of that time was not an independent industrial relations commission but in reality just another instrument of the Hawke Government's industrial relations policy. <sup>28</sup>

NOTE 2: On 22nd of September 1994, IRC Deputy President Hancock handed down his decision regarding the Domestic Airline Pilot Award responsiveness (known by Pilots as the Section 118 case). In handing down his decision, Commissioner Hancock delivered a surprisingly candid appraisal of many aspects of the Pilots' Dispute. See Appendix 8 for a summary.

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<sup>27</sup> The IRC used to be known as the 'Conciliation and Arbitration Commission', with conciliation occurring before arbitration. There are many examples of the IRC intervening in industrial disputes and knocking heads together to commence a negotiating process in order to resolve the relevant dispute. This often occurs even when one or both of the parties have previously ignored IRC directives. It should be remembered that the IRC's primary function is dispute resolution, not the punishment of recalcitrant parties involved in a dispute.

<sup>28</sup> It is pertinent to remember, that Justice Staples was the only former Conciliation & Arbitration Commissioner not appointed to the IRC when it was formed in the late 1980s, because he publicly insisted on the independence of his position.

## THE ROLE OF BILL KELTY AND THE ACTU

For Mr Bill Kelty the 'Accord' provided a forum to exercise a level of power and influence far in excess of his position as Secretary of the Australian Council of Trade Unions. (ACTU) <sup>29</sup>



Bill Kelty

Mr Kelty's pervading influence over the industrial relations community in Australia in the late 1980's was fundamental to the eventual destruction of the Profession of Airline Pilot. As can be gleaned from the minutes of the tactics meeting held in Bob Hawke's office on the 15th August 1989 involving the members of Sir Peter Abeles' Alliance, Bill Kelty was closely involved in the plans to destroy the Pilots. (This meeting was held just prior to the start of the Pilots' 9-5 campaign) His acquiescence in the use of tactics which, by their very nature, were an anathema to the basic principles of the labour movement and his ability to keep dissent within the union movement to a minimum, were of inestimable value to Sir Peter Abeles. <sup>30</sup>

To this end his pervading influence ensured the extraordinarily rapid cancellation by the IRC of the Pilots' original award without any discussion of the Pilots' pay claim taking place. He then, through his silence gave tacit approval for the use of the following tactics:

- Sir Peter Abeles' refusal to recognise that the Pilots' Federation represented pilots. <sup>31</sup>
- Sir Peter Abeles' refusal to even commence negotiations.
- Sir Peter Abeles' decision to shut down the airline system, effectively locking out the Pilots. (This action caused massive dislocation to the rest of the nation.)
- The indiscriminate issuing of writs, forcing the mass resignation of the Pilots.
- The attempted seizure by the Companies of the Pilots' superannuation entitlements. The surplus funds were ploughed back into the Companies' balance sheets.
- The importation of foreign pilots and aircraft to strike break.
- The use of taxpayers' money to fund an employer during an industrial dispute.
- The use of the military to strike break.
- The use of civil court action by an employer to attempt to totally destroy the union of choice of the vast majority of the employees directly involved in the Dispute. <sup>32</sup>

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<sup>29</sup> This influence, which is clearly associated with his mateship with Bob Hawke, Paul Keating and Sir Peter Abeles, has even been formally recognised by his appointment by the Hawke Government, along with Sir Peter Abeles, to the board of the Reserve Bank on 29 July 1987. He resigned from the Board on 4 March 1996 following the election of the Howard Government.

<sup>30</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989

<sup>31</sup> The cancellation of the Pilots' original award allowed Sir Peter Abeles to argue that the Pilots' Federation no longer had the industrial right to represent pilots. This tactic was used to coerce pilots to return to work on the Companies' non-negotiable Individual Contracts without union representation.

- The replacement of the Pilots' original industrial award with non-negotiable, individual employment contracts, without union participation or representation and with virtually no employee rights or protections.

By acquiescing in the use of these tactics, Bill Kelty, in his role as one of the most senior officials of Australia's peak trade union body, has effectively endorsed the use of these tactics in future industrial disputes. Further, the long term ramifications of Bill Kelty's secret involvement in this dispute has yet to be fully understood by the majority of the trade union movement's membership.

It is open to speculation as to whether Mr Kelty's close friendship with Sir Peter Abeles had much influence on his decision to endorse the use of these tactics. However, it is most likely that the Pilots' Federation's longstanding objection to ACTU interference in previous negotiations between the Federation and their Employers, coupled with the Pilots' historical refusal to countenance an affiliation with ACTU, fanned the flames of a longstanding antipathy towards the Pilots held by some senior officials within the ACTU executive.<sup>33</sup>

The rank and file pilots' insistence that the negotiations regarding pilots' pay and conditions involved only the Pilots' Federation and their Employers and did not involve the ACTU through the 'Accord' process, was almost certainly perceived by some members of the ACTU executive as an affront and threat to their position in the industrial relations arena. This perceived loss of face probably made it easy for them to remain silent at the destruction of the Pilots' Federation.

It should be remembered that, by definition, an 'Accord' is an agreement between willing partners. Further, the 'Accord' had no legal standing in industrial law; it was simply an agreement between the Federal Labor Government and the unions affiliated with the ACTU and with the support of some major employers like Sir Peter Abeles. The Pilots were not partners in the 'Accord' by choice.

But as occurred so often throughout the Dispute, the prime motivation behind the ACTU executive's stance appears to have had less to do with allowing a legitimate industrial campaign to take its course and more to do with backroom politics. For within the membership of the ACTU there existed a significant sentiment (particularly by some key large unions) to reject the wage fixing guidelines of that time and to embark on their own wages campaign. This was almost certainly perceived, by at least some members of the ACTU executive, not only to have the potential to lead to a wages blowout, but also (perhaps of more importance) to become a threat to the power and authority of the power brokers within the ACTU themselves.<sup>34</sup>

In this context it is clear that Bill Kelty and the other partners in Sir Peter Abeles' Alliance intended to make an example of the Pilots as to the consequences of stepping outside their 'Accord' system.<sup>35</sup>

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<sup>32</sup> The result of this court action proved 'legally' what had long been suspected; that the 'right to strike' does not exist in Australia, unlike most Western democracies.

<sup>33</sup> The Pilots' Federation's long standing refusal to affiliate with the ACTU, stems from the distaste felt by most pilots towards the backroom politics associated with the political career advancement of its senior officials like Bob Hawke, former ACTU President Simon Crean (who later became a Government minister) Bill Kelty and Martin Ferguson, to name just a few.

<sup>34</sup> That the Pilot's claim could have been handled by the 'Accord' partners such that it would not have been a threat to the 'Accord', is discussed later.

<sup>35</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989 where Bill Kelty commented that what they planned for the Pilots would "...teach 'em what it's like to be out of system..."

## THE ROLE OF PRIME MINISTER BOB HAWKE

It is now obvious that Bob Hawke's role in the Dispute was fundamental to the success of Sir Peter Abeles' bid to destroy the Pilots' Federation. For without the extraordinary level of public resources which Bob Hawke as Prime Minister made available "carte blanche" to Sir Peter Abeles, it is most unlikely that Sir Peter Abeles could have succeeded in destroying the Federation.<sup>36</sup>



Bob Hawke

As mentioned earlier, the Dispute witnessed the use of tactics which, by their very nature, were an anathema to the basic principles of the Labour Movement. The irony was that by actively endorsing the use of these tactics Bob Hawke totally corrupted the core principles of his political constituency, the labour movement. (Bob Hawke was President of the ACTU throughout the 1970s.)

Considering the cost of the Dispute, both in human and financial terms, it is important to attempt to discover what motivated Bob Hawke to become so deeply involved in the Dispute in the first place. And the answer probably lies in examining what was at stake as far as he was concerned.

It could be argued that apart from attaining his life long ambition to become Australian Prime Minister, Bob Hawke has actually achieved very little of any real significance in history.<sup>37</sup>

However, Bob Hawke's one undisputed claim to fame was that penultimate example of 'consensus and conciliation', the 'Accord' between the Australian Council of Trade Unions (ACTU) and the Hawke Government. In fact it could be argued that the 'Accord' is possibly Bob Hawke's only significant stamp on history. For this reason it would appear that the 'Accord' was of paramount importance to Bob Hawke at the time of the Dispute.

While many of Sir Peter Abeles' friendships with powerful people could be suspected of being strategic, it would appear that the bond of affection between Bob Hawke and Sir Peter Abeles is genuine and extends back to 1969, soon after Bob Hawke became President of the ACTU.

All this puts into perspective Bob Hawke's subsequent behaviour leading up to, and then during the Dispute. For it is inconceivable that the level of public resources that was made available to the Airlines (and that really means made available to Sir Peter Abeles) would have been made available to any one else. (Imagine, for example, if Ansett had been controlled by the business tycoon, John Elliot, a former President of the opposition Liberal Party!)

It is now obvious that the Pilots completely underestimated the bonds of friendship that existed between Bob Hawke and Sir Peter Abeles and the political power that this friendship conferred upon Sir Peter Abeles.

<sup>36</sup> The decision by Mr Hawke to effectively lay the 'Office of Prime Minister' at the feet of a private citizen like Sir Peter Abeles is unprecedented in Australian history. This issue received scant media attention at the time and the true implications of this action has yet to receive proper judicial scrutiny. At least \$100 million of public money was made available to the Airlines through a moratorium on aircraft landing charges and the airlines being undercharged for the use of military aircraft. None of this money was the subject of a parliamentary appropriation bill which means it was made available to the Airlines illegally.

<sup>37</sup> According to Gough Whitlam, (a former Labor Prime Minister) as reported in the Australian newspaper of 5th Sept. 1992, "Hawke never had any policies except the 'Accord'. He had one objective in public life, and that was to become Prime Minister. And when he got there, he had no purpose...."

The reasons for Bob Hawke's enthusiasm to be involved in the attack on the Pilots is open to speculation. It would appear that he may have been convinced that the Dispute was a threat, not only to the 'Accord', but also to his friend Sir Peter Abeles. He may have even expected that his perceived public toughness would enhance his image as a decisive leader, both in the eyes of the public and his parliamentary colleagues.<sup>38</sup>

The Pilots' historic unpopularity with the general public (i.e. the tall poppy syndrome) was expected to make it easy to portray their pay claim as nothing more than "just a greedy grab for money." But it is suspected by many Pilots that a significant motivation to Bob Hawke was Sir Peter Abeles' clear expectation that the Dispute would be short and decisive.<sup>39</sup>

Bob Hawke's apparent expectation of a quick and decisive defeat of the Pilots appears to have fuelled his exuberant enthusiasm to such an extent that he made his now infamous 'over the top' public attack on the Pilots at the beginning of the Dispute. In this attack he not only verbally attacked the Pilots personally, but declared "war" on them. But it was his unwitting denigration of the profession of Airline Pilot itself by describing pilots as just "glorified bus drivers" that had an extraordinary effect on, not only public opinion (which for a time, rapidly came around in support of the Pilots) but much more significantly on the Pilots themselves. For in one fell swoop Bob Hawke had defined unequivocally for the Pilots what this Dispute was really about. Up until this attack the Dispute was still in the eyes of many pilots a pay dispute. However, after this attack, the plan to denigrate the Profession of Pilot in the pursuit of the wider aims of the various members of Sir Peter Abeles' Alliance could not be denied by any pilot.

It cannot be over emphasised just how important to the Pilots' subsequent industrial solidarity was caused by Bob Hawke's attack. For months after this comment Bob Hawke was referred to amongst pilots as 'araldite' because he stuck the Pilots together. It is probably the supreme irony of the whole dispute that this one throwaway comment undoubtedly denied Sir Peter Abeles the decisive victory he expected and so desperately needed. As the Dispute dragged on Bob Hawke became increasingly tied to Sir Peter Abeles. Like the Pilots, Bob Hawke now found himself in a set of circumstances where he had few options. Politically it became virtually impossible for Bob Hawke to back down and as a consequence there was no way back. His only option for political survival became the total destruction of the Pilots.

NOTE: One of the more intriguing aspects of Bob Hawke's involvement in the Dispute was his rather extraordinary declaration of a "national emergency" on 23rd August 1989. While this action may have been used to legitimise the use of the military, it is open to speculation as to whether it also facilitated more sinister purposes. Thus, it may have provided a mechanism to involve the nation's security organisations in a bugging and surveillance operation on the Pilots' Federation and its personnel. For there is no doubt that the Pilots were bugged. This bugging operation was vital to the Airlines, not so much for specific information, but in order for them to maintain a constant 'feel' as to what was causing apprehension amongst the Pilots. It should be remembered that the Airline Companies were continually spreading rumours through susceptible pilots as part of their campaign of psychological warfare in their attempt to coerce frightened pilots to abandon their colleagues and return to work on the Individual Contracts. There is evidence (but not proof) that the security services may have been used in this bugging operation, but nothing short of a Royal Commission can hope to get to the bottom of this affair.

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<sup>38</sup> It has now become clear through television programs such as the ABC's 'Labor in Power' series, that at the time of the Dispute Bob Hawke's position as Prime Minister was becoming increasingly under threat from Paul Keating, who replaced Mr Hawke as leader of the ALP in 1991.

<sup>39</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. '89 for Sir Peter Abeles' expectation that the dispute "...would be short"

## THE ROLE OF THE PILOTS WHO SCABBED

It is now obvious that Sir Peter Abeles and his alliance partners had absolutely no understanding of the underlying principles and ethics associated with the Profession of Airline Pilot and of the Profession's fundamental importance to, not only airline safety, but ultimately to an airline's commercial viability. Had they done so, they would have realised the futility of attempting to coerce professional pilots to abandon their professional guild and embrace an employment contract that deprived them of any rights to exercise their professional skills free of management pressure.<sup>40</sup>

However, the personnel within the airline companies who should have had at least some understanding of these fundamental facts were the handful of pilots who were actively involved in Sir Peter Abeles' plan from the beginning. What motivated them to undertake this self serving course of action, whether disaffection with their colleagues, perceived promotion opportunities and/or financial inducements, may never be known and is probably not that important. What is clear however, is that had these pilots behaved as the responsible professional pilots that they were supposed to be and advised Sir Peter Abeles of the eventual and inevitable consequences of his planned action, this dispute may have never occurred. Ultimately these people were more to blame for the eventual destruction of the Profession of Airline Pilot than Sir Peter Abeles himself. For without this handful of pilots, who not only had Sir Peter Abeles' ear, but were to become the core of the Airlines' new Check and Training Pilots, it is clear that Sir Peter Abeles and his partners could not have attempted to replace their original pilots with the opportunity seekers who presented themselves for the jobs that were not theirs.

Without going into a deep discussion on the calibre of the pilots who either returned to work or took up the positions that were clearly not theirs, it would not be a gross exaggeration to say that in the early stages of the Dispute (i.e. the first 3 months) the Companies were so desperate for pilots that almost anyone with a pilot's licence and a beating heart got a job. Further, it is a testament to the calibre of the foreign pilots in particular, that they were prepared to come half way around the world to knowingly steal a job in foreign land and embrace a contract with virtually no rights and in the process earn the title of 'Scab Pilot'. This was despite the fact that at that time of the Dispute there was a world wide shortage of pilots.

In the final analysis, the suitability criteria for employment as an airline pilot was not based on proper psychological aptitude and pilot professionalism, but on whether or not these candidates were prepared to abandon their profession and the standards set by their peers for their own personal advancement.

For these and other reasons the term 'scab' is of far more significance to the profession of Airline Pilot than for most other professions. Put bluntly, by scabbing and acquiescing in Sir Peter Abeles' plans, these pilots not only benefited themselves at the expense of the careers of their aviation colleagues, but more importantly they actively condoned the destruction of the very foundation of their former profession, namely 'pilot independence'.<sup>41</sup>

It should be remembered that by using the arsenal of tactics they had planned prior to the beginning of the Dispute, Sir Peter Abeles and his alliance partners had expected the "pilots to split" and the Dispute to be resolved on their terms in a couple of days. It is doubtful that the Airlines seriously intended to replace their original pilots with such an

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<sup>40</sup> See the chapter on 'The Profession of Airline Pilot' for clarification of this statement.

<sup>41</sup> See the chapter on 'The Profession of Airline Pilot' for the full significance of this behaviour.

unknown and dubious product as the foreign pilots and others. The visible presence of these pilots was simply intended to pressure the Airlines' original pilots to return to work on the Individual Contracts.

Yet, despite the pay claim allegedly causing the Dispute being well and truly met within the Individual Contracts, the vast majority of their original pilots refused to abandon their colleagues and professional ethics by returning to work under the terms of these contracts.

Within the first 3 months of the Dispute, the only pilots tempted to sign the Individual Contracts were a handful of the Airlines' former pilots attracted by the hidden pay rise within the Individual Contracts and perceived promotion opportunities outside their normal expectations, plus some foreign pilots. (who were being used as the 'bait' to coerce the Airlines' original pilots to return to work.) As the Dispute dragged on into its fourth month, the psychological pressure associated with the increasing presence of replacement pilots (particularly the foreign pilots) began to slowly but surely frighten an increasing number of the Airlines' former pilots to abandon their colleagues and return to work.

However, because the pilots who returned to work at a much later stage in the Dispute were more inclined to feel that they had been forced to return to work under duress ("crushed" was the description used by some media) they were much more aware of the wretchedness of their actions.<sup>42</sup>

This subsequently led to the situation of apparently differing degrees of 'scabbiness' between the pilots who had scabbed. Thus, there occurred frequent cases of abusive behaviour between the pilots who had returned, usually based on the simple theme of; "I wouldn't have scabbed, if you hadn't scabbed earlier." This behaviour became so disruptive that Ansett management was forced to officially reprimand their pilots in a written 'Notice to Pilots'.<sup>43</sup>

These tensions simmering just below the surface within an airline cockpit environment are extremely dangerous. It is important to understand that effective cockpit management can only be achieved in an environment of mutual trust, respect and cooperation between all the cockpit crew members. The reason for this is that it is not possible for each pilot to effectively monitor the actions of the other crew members all the time, particularly during the most critical and dangerous phases of flight such as takeoffs, landings, instrument approaches and emergencies. Examples of how poor cockpit management associated with ineffective crew coordination has resulted in airline disasters are legion and well documented.

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<sup>42</sup> Many of the pilots who returned to work, particularly those in the later stages of the dispute, were ashamed and distressed by their own actions. They were only too well aware that their decision to return to work without their colleagues not only vindicated the behaviour the pilots who had scabbed much earlier, but inevitably contributed to the destruction of the careers of many of their former colleagues and friends. It should be remembered that when the Pilots voted by secret ballot to embark on their industrial campaign, each pilot was in effect making a solemn vow to their colleagues to stick together and not to abandon them. The decision by individual pilots to return to work without their former colleagues broke that vow and invariably destroyed lifelong friendships.

<sup>43</sup> See Appendix 2. Ansett Airlines' 'Notice to Pilots'

## THE ROLE OF THE CIVIL AVIATION AUTHORITY. (CAA)

Pressure from the Hawke Government led to the relaxation of significant civil aviation regulations to expedite the introduction into Australia of foreign pilots and aircraft during the Dispute.<sup>44</sup>

This process could not have been effected without the cooperation of senior personnel within the Civil Aviation Authority (CAA) and witnessed sections of the CAA failing to carry out their charter of properly monitoring the operations of the airlines during and after the Dispute.

During the Dispute legal action was initiated against at least two (2) senior CAA examiners (Seegun and Lewino) which effectively restrained them from publicly speaking out about their concerns pertaining to airline safety.

Other CAA personnel appear to have acquiesced in the diminution of standards associated with the temptation of obtaining an airline pilot job. (At least nine (9) CAA officers resigned from the CAA to join the airlines at various times during the Dispute)<sup>45</sup>

The shortcomings within the CAA which have arisen since 1989 have been highlighted in at least three separate accident investigations since 1989 (Seaview Air crash, Monarch Airlines crash and Ansett B747 crash) and the organisation has been restructured twice. At the time of writing (1997) the organisation was still without effective leadership and as a consequence remained in crisis.<sup>46</sup>

It is the assertion of the author that many of the deficiencies now existing within the CAA are a direct result of the aftermath of the Pilots' Dispute and could not have existed prior to the Dispute because they would have not been tolerated by most of the pilots employed at that time or the Pilots' Federation.

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<sup>44</sup> The relaxation of Civil Aviation Regulations included irregularities in the conduct of Australian Air Legislation examinations for foreign pilots and the undue haste in recognising the pilot licenses and ratings held by foreign pilots without a proper process of peer review being put in place.

<sup>45</sup> Source: 'Australian Pilots' Dispute of 1989 Scab List'.

<sup>46</sup> For the Monarch Airlines crash see BASI report at: <http://www.dot.gov.au/programs/basi/pdf/ndusynop.htm> and 'The NSW Coronial Inquest Report into Monarch Airlines Crash of 11 June 1993'.

For the Seaview Air crash see BASI report at: <http://www.dot.gov.au/programs/basi/pdf/svqsynop.htm> and 'The Staunton Commission of Inquiry into the Relations between the CAA and Seaview Air'.

For the Ansett B747 crash see BASI report at <http://www.dot.gov.au/programs/basi/pdf/inhsynop.htm>

## THE EVENTS LEADING UP TO THE DISPUTE.

### AUSTRALIAN AIRLINES.

Historically, the relations between the Australian Airlines Management and their Pilots fluctuated depending on circumstances prevailing at the time. The irony is that in the period just prior to the commencement of the Dispute relations between them had been developing towards a new era of closer cooperation. This was partly due to Australian Airlines' Pilots' cooperation with the 1986 introduction of Australian's new Boeing 737 aircraft. But it was also due to the recognition by the Australian Airlines' Pilots that closer cooperation with management promised significant opportunities for both the Pilots and the Company with the approaching deregulation of the airline industry and the expected privatisation of Australian Airlines.<sup>47</sup>

With this new era of cooperation in mind, the Pilots' Federation had expected the negotiations regarding a new enterprise contract between Australian Airlines and their Pilots (which was held at Lorne, Victoria, in late June 1989) to be routine. So routine in fact that Captain McCarthy (the then President of the Pilots' Federation and who was under going command training at the time) did not attend. But after three days of the Lorne negotiations it became obvious to the Federation's negotiators that the Australian management negotiators did not possess the authority to negotiate anything substantial. In response to the question as to what was going on, they indicated that their hands were tied because "Sir Peter Abeles wanted an 'industry award' to cover all airline pilots."

### ANSETT AIRLINES.

While this process of closer cooperation between the Pilots and management at Australian Airlines had been developing, the traditional close cooperation between Ansett management and their pilots was deteriorating at an alarming rate. (This deterioration is now suspected by many pilots to be associated with Sir Peter Abeles' growing contempt for the profession of pilot.)

One of the first indications of Sir Peter Abeles' growing contempt for the profession, was the 1988 'sideways promotion' of Ansett's senior management pilot, Captain John Dorward, who was then Director of Operations. This occurred when a senior engineering staff member, Mr John Bibo, was appointed to the same executive level in the corporate structure of Ansett as Captain Dorward.

While Captain Dorward failed to recognise that his new situation was a demotion (he chose not to resign from his management position) many line pilots instantly recognised it for what it was; a demotion of all pilots. As it transpired, this demotion signaled the

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<sup>47</sup> All pilots, in both airlines, realised that any actions they took, must ultimately be in the best interests of the company that employed them. For it is an aviation fact of life that pilot careers can only advance if the company itself grows and prospers.

beginning of an inexorable denigration of the Position of Airline Pilot which culminated in the Pilots' Dispute.<sup>48</sup>

Captain Dorward's demotion was followed by a whole series actions, which most pilots at that time perceived as a concerted, if not deliberate attack on the Position of Pilot.<sup>49</sup>

To this end, in the 18 months prior to the outbreak of the Dispute, Ansett Management:-

- Attempted to deny paying their Check Captains 'draft' pay. (i.e. pay associated with forced overtime.)
- Refused to negotiate in good faith on the pay rates for the new Airbus A320 aircraft which was introduced into Ansett in early 1989. This was despite the Federation's acceptance, even before the introduction, that this aircraft did not require a flight engineer as part of the aircrew despite the fact that his presence had previously been agreed to by Sir Peter Abeles. Further, as the A320 was a newly designed aircraft and Ansett was a launch customer, the introduction of the aircraft was accompanied by numerous teething problems. The attitude of Ansett management towards their Pilots during this period was not in keeping with the cooperation extended by the A320 Pilots.
- East West Airlines was purchased by TNT and NewsCorp in July 1987. The subsequent merging of the East West Pilots into the Ansett Pilots' seniority list (a process called pilot integration) was conducted in the usual manner utilising a well proven formula. However, the usual practice of allowing the travel concession privileges of each pilot group to be used on the other airline was refused by Sir Peter Abeles. Travel concessions in an airline are essentially a low cost employee privilege. (even with the fringe benefits tax) Sir Peter Abeles' refusal to extend these concessions between airlines was construed at the time as just another rather minor but disturbing example of 'pilot bashing' at its worst and reflected Sir Peter Abeles' growing contempt for the Position of Pilot. In the context of Sir Peter Abeles' suspected hidden agenda, this action could be argued to have been a deliberate provocation to the Ansett Pilots.<sup>50</sup>
- Ansett Management's refusal to operate their airline at the agreed manning levels as per the Pilots' Contract. This shortage of pilots manifested itself such that forced overtime (drafting) had become endemic within the system.<sup>51</sup>

And a profusion of other annoying incidents; some petty, some serious, but all debilitating to pilot morale and fueling a growing frustration within the Ansett Pilots' ranks. This frustration climaxed within the Ansett pilot ranks in August 1988, with an open letter to their colleagues from the author of this document. The author's letters expressed concerns about the then rumoured direction being taken in the negotiations between the Pilots' Federation and Ansett management regarding the 1988 Ansett Pilot

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<sup>48</sup> There was much pilot speculation at the time, that Captain Dorward's 'acceptance' of his demotion possibly reinforced Abeles' contempt for the Position of Pilot.

<sup>49</sup> Mr Bibo's appointment was associated with a 'new' engineering philosophy within Ansett. This involved extending the 'life' of aircraft components by a process of routine inspections, assessing whether the part was within certain parameters and if it was found to be outside those parameters, then replacing it. (as opposed to a component time expiry replacement system) Of course, the success of this 'on condition' policy was based on the premise that spare parts were readily available. (i.e. in the store.) However, this new 'on condition' policy was accompanied by another new philosophy, that being the 'minimum spare parts in stock policy'. The combined affect of these contradictory policies manifested itself in pilots experiencing pressure (whether real or imagined by the pilot, deliberate or otherwise by management) to fly their aircraft with significant aircraft systems either unserviceable, or more seriously, with intermittent or unknown faults.

<sup>50</sup> Ansett Airlines' has a long history of airline purchases.

<sup>51</sup> For example, Ansett's Fokker Friendship base in Sydney was so short of pilots, that complete monthly rosters often went unassigned to a pilot.

Contract renewal. The author was concerned the Federation's negotiators were in the process of giving away significant conditions of employment in exchange for a nebulous pay rise buried in an complicated forced overtime pay formula. (Draft Pay)

The author's letters reflected a significant groundswell of pilot dissatisfaction associated with Ansett management's (meaning Sir Peter Abeles') deteriorating attitude towards the Position of Pilot, coupled to a perception by many pilots that the Federation's negotiators were failing to effectively defend the Position of Pilot from this onslaught.

It subsequently became clear that the Federation's decision not to insist that Ansett meet its obligations with regard to manning levels as per the Contract, coupled to its willingness to freely give up conditions of employment, was done as an act of good faith. The Federation's negotiators had expected that acts of good faith on their behalf would result in a reciprocal attitude from airline management. It is now obvious that the Federation's 'lethargy' on these and other issues probably contributed to Sir Peter Abeles' perception that his pilots were weak and as such, worthy of contempt.

It can not be over emphasised that the Federation's actions during this dispute were not leadership inspired as 'proven' in the Victorian Supreme Court. (Case Number CL421 before Justice Brooking) They emanated from a sense of rank and file pilot dissatisfaction at the perceived attitude by the management of both companies towards their pilots and the 'softly softly' approach that the Federation's leadership had been pursuing at that time in its endeavour to resolve these issues. The author's letters were simply an example of this dissatisfaction.

The culmination of all these pressures and pilot frustration finally resulted in a groundswell push by the pilot rank and file calling on the Federation's leadership (by 95% secret ballot) to resolve all these issues using traditional industrial tactics if necessary.

In other words, Captain McCarthy did not drag the Pilots into this dispute, the Pilots directed McCarthy to take action.<sup>52</sup>

NOTE: The Federation's most experienced Ansett Pilot Negotiator of that time, Captain Tony Fitzsimmons, was the focus of interesting saga which provides an insight into Pilot attitudes leading up to the Dispute. In the 18 months prior to the Dispute coming to head, Captain Fitzsimmons was continually 'giving away' significant conditions of employment for no reciprocal benefit to Ansett Pilots and in the process providing Ansett with a significant increase in pilot productivity. As it turned out, he was doing this as an on going act of good faith. This was despite Ansett management's growing and obvious contempt for the Position of Pilot. This cooperation was so much out of kilter with management's attitude towards pilots that a significant body of Ansett pilots (including the author) at that time began to suspect that Captain Fitzsimmons had somehow been 'compromised' by Sir Peter Abeles.<sup>53</sup>

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<sup>52</sup> A union leader does not end up with 80% of the union membership still behind him after 6 months 'locked out' if he has had to coerce them.

<sup>53</sup> Examples of union officials being 'improperly' compromised or corrupted by powerful business interests are legion. This sort of inappropriate activity often results in the union involved 'allowing' an inexorable decline in the pay and working conditions of the relevant corporation's employees, which in turn allows the corporations involved to gain considerable commercial advantage over their competitors. In the period prior to the 1988 Ansett Pilot Contract renewal, there had been considerable media comment regarding the alleged complicit behaviour between the management of companies controlled by Sir Peter Abeles and key union officials in the transport industry. (The ABC's 4 Corners documentary "Flying High" screened on 2nd November 1987 was but one well researched example.) In this context, Captain Fitzsimmons' unilateral negotiating decisions to freely 'give up' significant conditions of employment (and some of his decisions were of dubious 'legality' under the Federation's constitution of that time) aroused considerable disquiet and suspicion amongst a significant number of Ansett Pilots. Hence the 'Patersons' letters'. As it

As it eventually transpired during the Dispute, Captain Fitzsimmons honestly believed he was dealing with decent people who would remember the Pilots' earlier concessions in future negotiations. "They're just talking tough" he argued during the early stages of the Dispute. It was not until the Federation was deeply involved in the civil damages court case that it finally dawned on him that Sir Peter Abeles "..was trying to finish us off."

For Captain Fitzsimmons this was a shattering revelation!

Incredible though it may seem now, it was simply beyond Captain Fitzsimmons' comprehension that the Pilots' former employers could be such ".. ruthless bastards."

And in particular, his former friend and colleague, Mr Len Coysh. <sup>54</sup>

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eventually turned out during the course of the Dispute, these suspicions with regard to Captain Fitzsimmons were completely unfounded.

<sup>54</sup> Mr Len Coysh was the Pilots' Federation's former executive director who was recruited by Sir Peter Abeles in late 1988.

## SIR PETER ABELES' FINAL MEETING WITH PILOTS

One of the great mysteries of the whole dispute was, given that Sir Peter Abeles' suspected real agenda appeared to be so thinly disguised and his contempt for the Position of Pilot so obvious, how could it be that the Pilots failed to perceive these things and as a consequence walk straight into Sir Peter Abeles' ambush. For it is true that while some pilots did suspect an ambush, most of the Pilots did not.

Well, the reason was simple.

The fact is, from a professional pilots' perspective the inevitable result of Sir Peter Abeles' plan was such an abomination it was simply beyond their perception. In other words, the Pilots did not think the companies would be "so stupid, to seriously attempt to replace them" with the ad hoc personnel and system they eventually ended up with.

Historically, the relationship between pilots and airline management was based on an enterprise bargaining arrangement and as such subject to a process of constant renewal (almost daily) as a matter of course.<sup>55</sup>

However, it is an industrial fact of life that an enterprise bargaining arrangement can only work successfully in a climate of mutual respect and trust between the parties involved. Further, there must exist a willingness by both parties to negotiate in good faith. Unfortunately, due to Sir Peter Abeles' growing contempt for the Position of Pilot (which would appear to have been shared by other senior management personnel in both the major companies) this relationship between management and pilots had degenerated to such a low state that it had become unworkable. Put bluntly, in the eyes of many pilots Sir Peter Abeles' attitude towards them and their profession simply had to be resolved.

Further, a close study of Sir Peter Abeles' history reveals that he was the master at positioning himself such that no matter which way an issue unfolded, he invariably won. In this context most pilots believed that had they caved into Sir Peter Abeles' perceived provocation and withdrawn their claim they would have almost certainly been condemned to experience a 'death by a thousand cuts'.

It is now strongly suspected by pilots that Sir Peter Abeles' expert on pilots (the Pilots' Federation's former executive director, Mr Len Coysh) was probably advising Sir Peter Abeles that the Pilots were weak, riven with dissension and that if subjected to a concerted attack and offered more money they would split ranks and cave in after a couple of days.<sup>56</sup>

All this may explain Sir Peter Abeles' closing comments at one of the two Melbourne Regent Hotel meetings of late July 1989, which were organised ostensibly for him to speak to pilots about his plans for Ansett's future. (It is now strongly suspected by Pilots that Sir Peter Abeles was probably using these meetings to personally gauge the Pilots' resolve) At the last of these meetings the pilots attending politely asked a whole series of irrelevant questions, studiously skirting around THE issue of the impending dispute

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<sup>55</sup> Negotiations about pilot productivity had been continually occurring successfully over the previous 30 years. There even existed within the Pilots' pre-dispute contract a formalised process for the changing the conditions of the Pilots' employment contract known as 'Letters of Agreement'. This process was used to 'fine tune' the Pilots' Contract on a day to day basis in the light of changing circumstances. Until the lead up to the dispute, these negotiations were usually conducted in a professional and cooperative manner.

<sup>56</sup> See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th August 1989 for Sir Peter Abeles' expectation that the dispute "...would be short"

while Sir Peter Abeles himself failed to raise it. (The dispute was just a matter of weeks away) In fact the Pilots' obsequious demeanor would have almost certainly confirmed any conviction that Sir Peter Abeles may have had that the Pilots were weak.

However, towards the end of the meeting, one of the more senior pilots bluntly asked; "Look, let's stop pussy footing around, red letters are out (referring to the Federation's distinctive red information newsletters regarding the looming dispute) what are you going to do about it?"

To which Sir Peter Abeles quietly replied; "You do what you think you have got to do but understand this; I have a deep commitment to the 'Accord'."

And that was it. No beseeching speech. No dire threats. Just that one quietly spoken line. <sup>57</sup>

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<sup>57</sup> After making that comment Sir Peter Abeles promptly closed the meeting and left.

## THE PILOTS' RESIGNATIONS

The decision by the Pilots to resign en masse within the first week of the Dispute had a profound effect on the subsequent course of the Dispute. This decision was the subject of a great deal of controversy throughout the Dispute and was widely misunderstood by both the public and the media. Unfortunately, an initial source of this confusion was due to Captain McCarthy's public statement explaining the reason for the resignations as being partly due to "the shabby treatment of them by airline management". (More on this later)

The true reason for the resignations was actually quite straight forward. The fact remains that the Pilots had little choice but to resign in order to protect themselves from being sued by anyone adversely affected by the Dispute. Unlike most Western democracies, the right to strike under statute law did not exist in Australia in 1989. Further, it was not widely known that when the Companies issued the writs against their pilots, they also sacked them. The status of being a 'sacked' pilot served with a writ implied in a legal sense 'wrong doing' by the pilot concerned. This in turn made them much more vulnerable to being successfully sued by anyone else adversely affected by the Dispute. (Thus for example, Mr Keith Williams of Hamilton Island Resort attempted to personally sue the pilots issued with writs by the Companies.)<sup>58</sup>

Further, it should be remembered that as a result of the IRC cancelling the Pilots' original award a couple of days beforehand, the option for the Pilots to back down and rescind their pay claim no longer realistically existed. In other words, the point of no return had already passed.<sup>59</sup>

It was in this dire set of circumstances that the Pilots' Federation advised the Pilots that resignation removed the very real danger of being successfully sued and besides "...it was obvious they were going to be picked off one by one and sacked anyway."<sup>60</sup>

Unfortunately, Captain McCarthy's 'throwaway' line that the Pilots resigned because of "the shabby treatment of them by airline management" not only tended to trivialise the issue but ultimately proved to have disastrous consequences. While the comment was obviously never intended to be taken seriously (and most media commentators at the time did not take it seriously) it was seized upon by some sections of the media and the members of Sir Peter Abeles' Alliance to argue that the Pilots had "freely resigned their careers in a fit of pique." This enabled the members of Sir Peter Abeles' Alliance to declare that because the Pilots had resigned "of their own free will" their jobs had become vacant and as such, "the Dispute was over and they were now recruiting!" This argument enabled the pilots who came from all over the world and presented themselves for the jobs that were clearly not theirs, to kid themselves that they were not stealing the jobs of others. But more importantly, it allowed many key people in the Labor Party,

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<sup>58</sup> The Companies served writs on Pilots in what appeared to be an indiscriminate and random manner. Whether this indiscriminate issuing of writs by the Companies had some other purpose apart from being used as a 'terror' tactic to split the Pilots, is still unclear. It is suspected by many Pilots that this tactic may have been specifically designed to place the Pilots in a position such that if they did not split ranks and cave in then they would have had little choice but to resign en masse. It may be pertinent to note that Sir Peter Abeles was very adept at placing himself in a position such that which ever way a situation unfolded he would still be in a winning position. As with so many aspects of the Dispute, the only hope of ever unraveling this issue will be through the auspices of a Royal Commission.

<sup>59</sup> The option for the Pilots to back down no longer existed because their previous award (which had been cancelled by the IRC on 21/8/89) did not have to be recognised because it no longer existed! This meant the Pilots' Federation would have had to justify every condition of employment negotiated over the previous 30 years clause by clause. It is suspected by many Pilots that the Companies probably did not want the Pilots to back down until after the cancellation of their original award had been achieved. This may explain the reason why the writs served on individual pilots did not appear until after the cancellation of the Pilots' original award had been effected.

<sup>60</sup> It is important to understand that the Federation advised the pilots to resign. There was no coercion or pressure placed on any Pilot to resign. The decision to resign was the individual choice of each pilot.

the IRC and the ACTU to publicly justify the tactics subsequently used against the Pilots.  
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As it transpired during the course of the Dispute, the mass resignation of the Pilots had the following unforeseen consequences:-

- It tended to vindicate Sir Peter Abeles' decision to embark on a policy of outright refusal to recognise that the Pilots' Federation represented Pilots and his point blank refusal to negotiate or even discuss the pay claim with the Pilots' Federation. Sir Peter Abeles was able to pursue this line because the Federation's membership no longer officially worked for the Airlines. Sir Peter Abeles used this tactic as part of his strategy to coerce pilots to return to work on the Individual Contracts.
- It allowed Sir Peter Abeles to justify his decision to shut down of the airline system as part of the tactic to industrially isolate the Pilots.

NOTE: Many people have come to believe that Airlines shutdown the Airline system because the Pilots resigned. This is untrue. The true position was that the Airlines began to stand aside individual pilots and issue writs on them on throughout the day of 23/8/89. Management subsequently shutdown the Airline system at 8pm that night. The Companies were presented with the Pilots' mass resignations in the afternoon on the following day, namely 24/8/89. See Appendix 9, Airline Dispute Chronology.

The airline shutdown in turn :-

- made it easier for Sir Peter Abeles and his partners to publicly justify the use of military aircraft as well as the importation of foreign pilots to strike break
- Facilitated the relaxation, by the relevant authorities, of airline operating standards to permit the importation of foreign aircraft and pilots during and after the Dispute.
- made it far easier for Prime Minister Hawke to publicly justify his government's decision to provide the Airlines with taxpayers' money to help fund them throughout the course of the Dispute. (This exercise was estimated to have cost taxpayers well in excess of \$100 million.)

The tragedy for the Pilots was that by resigning they had become trapped between 'a rock and a hard place'. Thus, while the resignations afforded the Pilots protection from being sued, it also placed them in a very weak position from an industrial point of view. From an industrial perspective they had become 'persona non gratia' and consequently had little recourse to any of the traditional employee protections within the Australian Industrial System.<sup>62</sup>

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<sup>61</sup> Very few people who came to personally know Captain McCarthy during the course of the Dispute failed to be impressed by his calm dignity in the face of appalling pressure. This calmness, coupled to his frank openness and complete honesty with the Pilots commanded respect and made him an exceptional leader. His calm leadership was without doubt a major factor in the Pilots' industrial solidarity. (A union leader does not end up with 80% of the membership still behind him after 6 months 'locked out', by lying to them) In this context, Captain McCarthy's 'looseness' with the truth to the media on the occasion of the Pilot resignations was most out of character. While this episode was of no consequence to Pilots, because every pilot knew why he/she had resigned, it was to have disastrous consequences on the subsequent course of the Dispute. It should be understood that throughout the Dispute, Captain McCarthy's public utterances were invariably truthful because he used the public forum of the media to communicate with Pilots. Apart from Captain McCarthy's basic honesty, it would have been counter productive for him to attempt to mislead Pilots, especially through the media.

<sup>62</sup> As Bill Kelty is reported to have said during the meeting in Prime Minister Hawke's office on the 15th August 1989, the cancellation of the Pilots' original award would "...teach 'em what its like to be out of system.....it is no soft option

NOTE: In handing down his September 1994 decision regarding the resendency of the Domestic Pilot Industrial Awards (section 118 case), Senior IRC Deputy President Hancock provided a surprisingly candid appraisal of the Pilots' Dispute in general and the Pilots' mass resignations in particular. However, Mr Hancock provided no assessment on the IRC's handling of the Dispute. See Appendix 8: 'IRC Deputy President Hancock's S118 Decision' for excerpts from Justice Hancock's findings.<sup>63</sup>

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to be out of the system." See Appendix 1 regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989

<sup>63</sup> Justice Hancock was a member of the full bench of the IRC adjudicating at the hearings regarding the Pilots' Dispute in 1989.

## ANALYSIS OF THE PILOTS' PAY CLAIM

Considering that the Pilots' pay claim was allegedly the cause of the most expensive industrial dispute in Australia's history, it is surprising that no independent body has seriously attempted to dissect and analyse the Pilots' pay claim or examine in any detail the pay structure of the Airlines' Individual Contracts. Close examination of these twin issues reveals a level of duplicity and hypocrisy of breathtaking proportions.

Breaking down the pay claim into its constituent parts reveals that the Pilots expected a real pay increase of around 10%. (This assertion is explained in detail later)

The background to the Pilots' pay claim is as follows.

It must be remembered that the Pilots' Federation's refusal to give a commitment to the guidelines of the 'Accord' prior to the commencement of negotiations was used by Sir Peter Abeles and his partners to mobilise the raft of tactics which they had planned in advance in their bid to subjugate the Pilots' Federation. Yet, the Federation's refusal to give a commitment to the guidelines of the 'Accord' prior to the commencement of negotiations was based on a number of very valid reasons which appear to have been forgotten in the mayhem of the Dispute. These reasons were:

1. That at the time of the Pilots' claim, nobody was prepared or able to define just what the actual boundaries of the guidelines were. In other words, the Pilots were being expected to sign a blank cheque.<sup>64</sup>
2. Even if the guidelines had been defined, it is a fact that the 'Accord' could usually be a remarkably flexible document when it suited the 'Accord' partners. As Captain McCarthy quite rightly observed early in the Dispute, "You would be amazed at what they can fit within the wage fixing guidelines when it suits them." No better example of this can be found than the Federal Politicians 36% pay rise package of late 1988. (which needless to say, received the enthusiastic support of the vast majority of politicians from both sides of the political fence.) This pay rise package was announced just before Christmas 1988, so avoiding much media scrutiny. The level of cynicism of the people who were insisting that the Pilots remain within their system is no more graphically illustrated than by IRC commissioner Barry Maddern's acknowledgment that there was general agreement that the Politicians' pay increase could be justified within the wage fixing principles because no one dissented!<sup>65</sup>
3. The Pilots' Federation's previous industrial success by using direct enterprise bargaining to resolve salary matters made them very hesitant to rely on the IRC. Further, their reservations about using the IRC were simply confirmed when IRC Commissioner Justice Coldham stated right at the beginning of the process that the Pilots' claim was "outrageous and outside" the yet undefined 'guidelines'.

All these considerations led most pilots to believe at that time that had the Federation agreed to abide by the these undefined guidelines they would have received a 6% pay rise and not a cent more.

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<sup>64</sup> Even the ACTU itself had difficulty with the 'guidelines' at that time. As the then ACTU President, Simon Crean (who later became a minister in the Hawke Government) said at the time, that "the union movement was not prepared to give a commitment to something that had yet to be fully defined."

<sup>65</sup> As reported in the Australian Newspaper Dec 24th 1988.

NOTE: The subsequent 18% pay rise awarded to Qantas B747-400 Pilots by the IRC in January 1990 (which went virtually unnoticed by the media and the general public) provides an example of how the 'system' could be made to work without causing disputation when it suited the 'Accord' partners. As such, it provides further evidence that the Pilots' Dispute was never really about pay. It also demonstrates that the Federation's pay claim could have been processed without destroying the 'Accord'. (as was claimed by Mr Hawke and others) While the Qantas Pilots' case no doubt had merit, its subsequent success at passing through the 'Accord process' virtually unscathed served as a very public example to the rest of the union movement of the rewards available to those who stayed within the 'System'. (It should be noted that the Qantas Pilots' pay rise did not result in a wages blow out within the rest of the union movement.)<sup>66</sup>

That aside, the Pilots' Federation did agree that they were prepared to have the IRC ratify any subsequent agreement they may have reached with their respective employers, but only after the relevant negotiations between them had taken place.<sup>67</sup>

Now, it is simply an industrial reality that employees, through their union, sometimes have no choice but to take industrial action in order to demonstrate unequivocally to their employers the seriousness of their concern with regard to an issue in dispute. In other words, some form of industrial action is from time to time the only realistic avenue available to employees to get an employer to the negotiating table.

It has been forgotten that the Pilots did not strike. They exercised the mildest form of industrial action available to them; a limitation on the hours they were prepared to work (the Pilots' 9 to 5 campaign) in order to get Sir Peter Abeles to commence the negotiation process.<sup>68</sup>

With this in mind, the Pilots expected that after a period of public political grandstanding by the members of Sir Peter Abeles' Alliance, common sense would have prevailed and a normal process of negotiation in good faith would have then commenced.

Clearly, most pilots did not consider the possibility of Sir Peter Abeles' suspected real agenda or the ambush.

The following is a breakdown of the Pilots' actual pay claim and an examination of the wider aims that the Pilots were attempting to achieve.

The purpose of the Pilots' claim was designed to achieve four main aims.

These were:

1. To restore the purchasing power of pilots' pay which had declined as a result of inflation and the Hawke Government's 'Accord' process.
2. To renew the Australian Airlines' Pilots' Contract which was over two years past expiry and significantly inferior to the Ansett Pilots' Contract.
3. To establish an 'industry award' to cover all airlines.

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<sup>66</sup> The Companies' replacement Individual Contracts contained a 25+% pay rise. For a full explanation about this pay rise see the chapter titled "The Hidden Pay Rise in the Individual Contracts"

<sup>67</sup> This process is the basis of "enterprise bargaining", a system subsequently embraced by the Accord partners.

<sup>68</sup> They took this action because they were acutely aware of the potential disruption to the rest of the nation their industrial action would cause.

4. To re-establish a proper attitude of respect for the Position of Airline Pilot by senior airline management.

A more detailed examination of these aims is as follows:

## 1. THE RESTORATION OF PILOTS' PAY.

It is not the purpose of this document to examine in detail the success or failure of the 'Accord' between the Hawke Government and the ACTU. However, in order for the reader to be able to develop some sort of perspective on the Pilots' claim, the following is a summary of the effects the 'Accord' process had had on pilots' wages.

It should be understood that the original 'Accord' of 1983 was supposed to maintain the real purchasing power of wage and salary earners through a process called 'full indexation'. But over the years, as with so many political promises, the real wages of salaried employees inexorably declined despite the fact that Australia was experiencing one of its longest periods of boom, with record company profits. In the view of the Pilots the 'Accord' process was being used to facilitate the real wage compression of salaried employees without the threat of industrial disruption.

In the case of the Pilots, due to inflation and the 'Accord' process, they had experienced a reduction of:

- Gross pay by 18%. (which is important as it effects superannuation, among other things.)
- Net take home pay by at least 10% despite the tax cuts made by the Hawke Government.
- The devaluation of the Australian dollar by approximately 30% almost entirely due to government policies and a plethora of irresponsible corporate decisions made during the 1980s.<sup>69</sup>

The net result of all these factors was that the Domestic Airline Pilots were, at the time of the Dispute, in the ranks of the western world's lowest paid airline pilots.<sup>70</sup>

Obviously, other wage earners were effected in a similar fashion as the Pilots, however the Pilots had decided that as the 'Accord' was no longer delivering on any front (including job creation) they had had enough.

To this end, the Pilots served a claim on the Airlines, to be negotiated, which was based on the Ansett pay scales and consisted of 21% effective immediately and 7%, compounded for inflation to become effective one year later. This totaled the well known figure of 29.47%

Captain McCarthy's public statement at the beginning of the Dispute that this was not an ambit claim was seized upon by Sir Peter Abeles' Alliance and sections of the media as

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<sup>69</sup> No better example can be found than Sir Peter Abeles' speculation in airline aircraft, which has practically bankrupted Ansett, added to the national indebtedness and in the process contributed to the devaluation of the Australian dollar.

<sup>70</sup> See Appendix 5 regarding an 'International Comparison of Airline Pilots' Pay.'

'proving' that the Pilots were totally intransigent and that the only way to deal with them was to crush them.

But this of course this ignores the fact that a "claim to be negotiated" is by definition ambit. Further, it is the basic tenet of negotiating tactics that the exact nature of the real fall back position is not revealed. (i.e. ask for tuppence but take a penny.) That aside, any lasting resolution to an industrial dispute must contain the essential elements of what both sides really want to achieve. In other words, the Pilots were well aware that a true and lasting resolution to the Dispute could only occur if both sides 'won'.

Now it is inconceivable that Sir Peter Abeles and the negotiators from all Airlines were not aware of these basic negotiating rules. The fact is, the Federation and the Airline Companies had been negotiating between themselves virtually daily for the previous 30 years and like a married couple, they knew each other backwards.

This being the case, the burning question which is rarely asked and has never been answered is:

Why did negotiations never start?

The most likely reason was that Sir Peter Abeles never intended to negotiate. As mentioned earlier there is evidence pointing to Sir Peter Abeles' suspected hidden agenda. If this was the case, then it is clear that Sir Peter Abeles could not afford to allow negotiations to even commence, because once negotiations had started a resolution was inevitable. It should be remembered that the foundation of Sir Peter Abeles' suspected hidden agenda was the subjugation, if not total destruction of the Pilots' Federation in his bid to restructure the rest of his airline. All this of course puts into perspective Sir Peter Abeles' decision to shut down the airline system within the first days of the Dispute and his point blank refusal to allow the negotiation process to start.

<sup>71</sup>

Conversely, it is also the reason why Captain McCarthy insisted on countless occasions throughout the Dispute that "the Pilots want to negotiate with the airline companies, free of outside interference, and that a successful resolution to this dispute could only emerge as a result of direct negotiations between the Federation and Airline Management".

In hindsight, although Sir Peter Abeles' preparations for the impending dispute were not well disguised, the Pilots missed all the signs and walked straight into what appears to have been a classic ambush.

Which brings us to the question, what was the ambit in the Pilots' claim?

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<sup>71</sup> As indicated in the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. 1989 (See Appendix 1), Sir Peter Abeles and Mr Ted Harris (Australian Airlines' Chairman) appear to have decided that the cancellation of the Pilots' original award would isolate the Pilots industrially. But perhaps more importantly, the cancellation of the Pilots' original award was fundamental to the introduction of the Individual Contracts. It would appear that the indiscriminate issuing of the writs on pilots and the subsequent decision by the members of Abeles' Coalition to shutdown the airline system may have been an integral part of the plan to introduce the Individual Contracts. However, it should be noted that after four (4) weeks of fruitless coercion by the members of Abeles' Coalition, it had become patently obvious that the decisive (and expected) defeat of the Pilots had not been achieved. (Only a handful of pilots had returned.) This failure to achieve the expected quick destruction of the Pilots' Federation, ("...will be short", see Appendix 1) effectively meant that Sir Peter Abeles had lost the dispute. Considering the damage to the interests of his fellow shareholders and the country at large, Sir Peter Abeles' decision to press on with the dispute for a further 5 months was grossly irresponsible. In many respects his behaviour became reminiscent of World War 1 generals pressing on with fruitless frontal attacks despite appalling casualties. The Dispute had degenerated into economic 'madness'!

The answer of course, lies within the domain of the Federation's Senior Negotiators and as negotiations never occurred, it will probably never be fully divulged. However, there were plenty of 'items' that most rank and file pilots were quite happy to 'trade in' for a direct pay rise. Keep in mind that the following list is by no means comprehensive.

Like many unions in Australia, the Pilots' Federation had over the years managed to negotiate various allowances as part of their remuneration package in lieu of a direct pay increase. This was usually done in order to circumvent the wages policy of which ever government happened to be in power at the time.<sup>72</sup>

In the case of the Pilots' Federation, some of the allowances they had managed to negotiate, particularly during the life of the 'Accord', included:

- A car allowance, worth \$2000 (2% of a captains wage) which due to taxation changes had become taxable and thus effectively halved.
- A licence renewal allowance, worth \$2600 (2.5%). It too, had been made taxable.
- An Overtime allowance called the 'O day'. By "making themselves more available for extra work" pilots were paid 6 hours flight pay whether they actually flew or not. This was meant to be nothing more than an 8% pay rise, circumventing the 'Accord' guidelines of that time. However, due to changes insisted upon by the IRC the net value of the 'O day' allowance was reduced in half to about 4%.<sup>73</sup>
- The Ansett contract also included an extremely complicated pay formula relating to forced overtime (literally pages of formula) worth anything from 2% to 4% to the typical line pilot.

With this in mind, it would be true to say that most rank and file pilots expected the Federation to 'trade in' the myriad of allowances for a straight uncomplicated pay rise. That being the case, the true base position that most pilots expected negotiations to proceed from, was somewhere in the order of:

- + 21% The Ambit Claim
- - 4.5% minus the car and licence renewal allowance
- - 4.0% minus the 'O day' allowance
- - 2.5% minus the forced overtime allowance.

**= 10% The true expected pay rise.**

To summarise, the Pilots expected about a 10% real wage increase, a cleaned up contract and 7% one year later to compensate for forecast inflation.<sup>74</sup>

Of course, as Captain McCarthy quite rightly said, once negotiations in good faith had commenced it would be true to say that anything was possible, including large pay rises for any significant productivity trade offs. (Which is exactly what transpired in the Individual Contracts, but we come to that shortly.)

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<sup>72</sup> Almost always a policy of a real wage reduction in the name of the "...wider national interest".

<sup>73</sup> See the 'O Day Anomaly' in Appendix 6 for a full explanation of the 'O day'.

<sup>74</sup> Removal of at least 20 pages out of the old contract associated with the forced overtime formula.

## 2. THE RENEWAL OF THE AUSTRALIAN AIRLINES' PILOTS' CONTRACT

This Contract was over 2 years past expiry and significantly inferior to the Ansett Pilots' Contract. Negotiations about the renewal of this contract (which were conducted at Lorne in June 1989) had broken down because the Australian Airlines' Negotiators were required by their owners (the Federal Government) to negotiate with the 'Industry' as a whole. (In reality that meant Sir Peter Abeles.)

## 3. THE ESTABLISHMENT OF AN INDUSTRY AWARD

The purpose of this was to cover all airlines, including the proposed future airlines like Compass. Clearly an industry award would have achieved the previous aim of renewing the Australian Airlines' Pilots' contract. Further, an industry award made good sense to not only the Companies but also the Pilots, especially with airline deregulation on the horizon. For the Companies it provided a level playing field between all companies with regards to pilots' wages and conditions of employment. In the case of the Pilots, it removed the very real threat of each company playing one group of pilots off against another.<sup>75</sup>

## 4. THE RE-ESTABLISHMENT OF RESPECT FOR THE POSITION OF PILOT

The re-establishment of respect for the Position of Airline Pilot by senior airline management was clearly the crux of the whole dispute. There can be little doubt that had Sir Peter Abeles and the other senior airline managers possessed a proper respect and understanding for the Position of Airline Pilot, the planned denigration of the Profession of Pilot would have been inconceivable. That being the case, all other issues of disagreement would have either never arisen, or would have been resolved at some stage in a civilised and dignified manner.

In other words, with a proper respect for the Position of Airline Pilot there would have been no dispute.

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<sup>75</sup> Sir Peter Abeles was alleged by the Federation to have interfered in the negotiations held at Lorne in late June 1989 between the Federation and Australian Airlines' Management regarding the renewal of the Australian Airlines' Pilot Contract. According to the Federation negotiators, after 3 days of fruitful negotiations it became obvious that the Australian Airlines' management negotiators did not possess the authority to negotiate about anything of substance. In response to the question as to what was going on, the Australian Airlines' Management negotiators said that Sir Peter Abeles wanted an 'Industry Award'. (It should be remembered that Sir Peter Abeles was not supposed to have anything to do with Australian Airlines)

## THE HIDDEN PAY RISE WITHIN THE INDIVIDUAL CONTRACTS

Of all the hypocrisy and straight out dishonesty that emerged out of the Dispute, none was more blatant than the 25%+ pay rise concealed in the Airline Companies' Individual Contracts and which was presented to the public as a 6% rise. The presence of this hidden pay rise provides clear evidence that the Dispute was never really about pilots' pay, but rather the subjugation of Pilots for the various reasons discussed elsewhere.

It must be remembered that the non resolution of the whole dispute was officially due to the Airlines' point blank refusal to negotiate the Pilots' pay claim because it was alleged to be outside the undefined wage fixing guidelines associated with the 'Accord' by being in excess of 6%.

The problem for Sir Peter Abeles and his partners was that at the time of the Dispute, airline pilots' pay in Australia was significantly deficient when compared to other airlines around the world. Thus, even to get 'scab' pilots the airlines had to pay the going world rate. Hence, the reason for the hidden pay rise.<sup>76</sup>

By completely changing the method used to calculate pilots' pay, Sir Peter Abeles and his partners were able to create a 'smoke screen' around the issue of pilots' pay. In this way they were able to convince the public, who were significantly funding their side of the Dispute, into believing that a 25% pilot pay rise (which they had to pay to get pilots to scab) was only 6%!

This exercise was achieved in the following manner. At the beginning of the Dispute, Sir Peter Abeles alleged that:-

- airline pilots on average flew only 35 hours a month.
- the replacement individual contracts was alleged to be based on increasing the Pilots' flying hours from 35 hours to 55 hours. (an alleged 57% increase in productivity.)
- the Companies increased the Pilots' former annual pay by the 'Accord' approved figure of 6% to compensate for this alleged "massive increase in pilot productivity". This became the new annual 'basic' pay .
- the Companies stated any flying in excess of 55 hours a month would be treated as overtime and would attract a hourly overtime payment.<sup>77</sup>

As mentioned earlier, Sir Peter Abeles stated that "The average pilot only flies 35 hours a month". The key word is 'average'. With regard to Ansett Airlines this statement may even have been somewhere near the truth due to the Company's gross inefficiency of pilot utilisation. But of course, 'average' also included:

- all pilots on annual leave, long service leave and sick leave.
- all pilots on conversion courses, which in Ansett's case was a very high number because Sir Peter Abeles was continually buying new aircraft types.

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<sup>76</sup> See Appendix 5 regarding an 'International Comparison of Airline Pilots' Pay.'

<sup>77</sup> This overtime payment was calculated using the following formula: The pilots new annual pay, divided by the new average number of flying hours per year, which is 660. (55 hours a month multiplied by 12 months = 660)

- all pilots on 'Reserve' duty.

However, the main reason why pilot productivity appeared to be so poor, particularly in Ansett's case, was due to the Airlines' policy of aircraft substitution and/or flight cancellations. In order to maintain high seat loadings on their aircraft (i.e. full aircraft) airline management would often either cancel flights or swap aircraft types of different sizes.

The following example illustrates this point. For safety reasons airline pilots only ever fly one type of aircraft at a particular stage in their career. (i.e. An Airbus 320 pilot could not fly a Boeing 767.) Keeping this in mind, let us assume that a Boeing 767 (a large aircraft) and its pilots were rostered to fly from Melbourne up the east coast of Australia, with the pilots ending their day's work at Brisbane for an overnight, with another flying sequence planned for the following day starting out of Brisbane. The same day, an Airbus (a smaller aircraft) and its crew were rostered to fly in the opposite direction to Perth with this air crew overnighing in Perth. Quite often, as the time of these flights approached it would transpire that ticket sales were such that the Perth flight would become over booked and require a larger aircraft, whereas the east coast flying really only required a smaller aircraft.

So, management would simply swap the aircraft.

But the original pilots would not fly this new sequence, usually because of later roster requirements. 'Reserve' or spare crews would fly these new sequences, with the original pilots often just 'passenger' to their original overnight port in order to resume their rostered flying the following day. (Further, the 'reserve crew' would often fly home as passengers the following day.)

Airlines can afford this inefficient usage of pilots because pilot wages represented less than 5% of airline operating costs.

But getting back to the word 'average'. Sir Peter Abeles deliberately confused the word average with typical.

The fact is, the typical pre-dispute airline pilot was usually rostered to fly between 62 to 67 hours a month. (average about 64 hours)

Thus, under the new pay scale in Sir Peter Abeles' Individual Contract, a typical line pilot received the following pay for flying his pre-dispute roster:-

His pre-dispute pay,

- + plus 6% for the first 55 hours,
- + plus 4% associated with the 'O day anomaly', <sup>78</sup>
- + plus another 20% associated with the extra 8 hours, which was always part of his pre-dispute working roster, but which was subsequently called "overtime" in the new Individual Contracts. <sup>79</sup>

**In summary, a pay rise well in excess of 25%. (6%+4%+20%) <sup>80</sup>**

<sup>78</sup> See Appendix 6 for an explanation of the 'O day anomaly'.

<sup>79</sup> The 'old' pre-dispute pay was also increased by a further 15% to compensate for the loss of the pilot allowances no longer included in the individual contracts.

<sup>80</sup> See examples of pre-dispute pilot rosters in Appendix 6

And this pay increase does not include any real overtime. Since the Dispute, the Airlines have employed far less pilots. Obviously the pilots that are employed are now flying far more hours in a year. Further, as a consequence of abandoning their colleagues and scabbing, many of these pilots have been appointed to positions well in excess of their pre-dispute seniority.

The combined effects of the hidden 25%+ pay rise, the increase in real overtime and career advancement in excess of pre-dispute seniority has resulted in the pay of many of the pilots who returned to work being literally doubled. (i.e. a 100%+ pay rise)

Yet the inability to resolve this dispute was allegedly due to the fact that the Pilots' original pay claim, (to be negotiated) was supposed to be outside wage fixing guidelines associated with the 'Accord' by being in excess of 6%!

Captain McCarthy's observation, which was made on numerous occasions early in the Dispute "...that it would appear that the pay rise sought by the Pilots has been met; we want to negotiate an orderly return to work", was never understood or heeded by the media.

But of course, this dispute was never really about pay anyway. And;

- The Pilots knew it.
- Sir Peter Abeles and Airline Management knew it.
- It is difficult to believe that Bob Hawke and Bill Kelty didn't know it.
- The IRC commissioners involved either didn't know it, which means they were incompetent or did know it, which means they were involved in a conspiracy.
- The Labor Caucus understood little about the Dispute and appeared to believe carte blanche whatever Sir Peter Abeles, through Bob Hawke, told them.<sup>81</sup>

And the public?

Well, they were simply treated like mushrooms (i.e. kept in the dark etc) and through their taxes substantially helped fund the whole operation. And although many of them swallowed the story, an increasing number instinctively knew that something was very wrong even if they did not understand the details.

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<sup>81</sup> There were some exceptions.

## ANALYSIS OF THE INDIVIDUAL CONTRACTS

Given that the Individual Contracts were the core issue of the Dispute and that their presence effectively deadlocked the Dispute within the first week, it is surprising that their significance was one of the most poorly understood aspects of the whole dispute.

The whole concept of an individual contracts is based on the premise that they facilitate workplace flexibility and provide employees with scope to exhibit extra individual endeavour or effort, which in turn could lead to an increase in financial reward for that employee whilst providing the employer with an increase in employee productivity. Thus for example, in the case of a salesman, the more product he sells the more he earns. Similarly, a factory worker, the more he produces the more he earns. The whole concept of Individual Contracts may certainly have a place in many employment environments.<sup>82</sup>

However the concept and purpose of individual contracts serves no useful purpose in the cockpit of an aircraft because there is little scope for a pilot to increase his productivity safely.

However, there is significant scope for pilots to increase their 'so called' productivity unsafely.

As mentioned throughout this document, the ability of pilots to be able to make their day to day operational decisions free of the commercial considerations is fundamental to airline safety. Without 'pilot independence', then 'commercial considerations' (which will always exist in the airline industry) will inevitably begin to insidiously affect a pilot's day to day operational decision making process. This being the case and human nature being what it is, safe operational practices eventually become compromised. (i.e. Professional standards drop and pilots begin to 'bend the rules'.)

And when pilots no longer err on the side of safety disaster inevitably turns up.

Without basic pilot rights enshrined in an employment contract 'pilot independence' cannot exist.

Some appreciation of the magnitude of the loss of pilot rights associated with the Pilots' Federation being crushed during the course of this Dispute can be gauged by fact that the Pilots' original 200 page collective contract was replaced by a 16 page individual contract.

The following explains the importance to airline safety of some of the pilot rights and protections which were lost with the introduction of the Individual Contracts.

Under the conditions of the Pilots' pre-dispute contract, practically all aspects of pilot career advancement were determined by seniority. Thus seniority determined the type of aircraft a pilot flew, his status on that aircraft (i.e. whether he is captain or first officer), monthly roster, leave, days off, home base, practically everything.

It is important to understand that unlike most careers, the ability of management to have a direct role in pilot career advancement not only serves no useful purpose, but

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<sup>82</sup> However, it should be noted that in most circumstances the negotiating position of an individual employee is considerably weaker than a collective bargaining arrangement. This is probably the main reason why the union movement is generally opposed to the concept of individual employment contracts and why employer groups want them!

actually has the potential to produce some very dangerous incentives into the cockpit environment. The reason for this unique situation is that the day a pilot joins an airline, if he is worthy of selection he should be capable of being appointed as captain on the largest aircraft in the airline's fleet from day one. In other words, responsible airlines employ potential captains, not career first officers.

For safety reasons, airline aircraft are always crewed by at least 2 pilots of which only one can be the captain. Yet either pilot should be capable of acting as the captain. That being the case, the only fair and equitable method to determine who shall be the captain is by seniority.

It needs to be understood that pilots are flight checked by their peers at least five (5) times a year. This process is unique to the Profession of Airline Pilot. No other profession experiences this sort of scrutiny. If a pilot does not meet the high standards required during a check flight, he undergoes a period of retraining prior to a second check flight. If he fails this second check his airline career is finished. Further, because there are at least two pilots in the cockpit, every flight is essentially a check flight. Let there be no misunderstanding, pilots not performing up to standard soon get to be known about within a responsible airline system.<sup>83</sup>

This system has the further advantage in that although a junior pilot should be capable of command on the day he joins the airline he usually spends the first 10 - 15 years of his career as a first officer gaining invaluable experience by flying with older and more experienced colleagues.

However, under the new individual contracts career advancement is now decided totally by management. Given that this system actually serves no useful purpose, then this ability to personally make or break a pilots' career effectively places immense power in the hands of management. The problem with this system of direct management 'patronage' is that pilots experience tremendous pressure, whether real or imagined by the pilot, deliberate or otherwise by management, to 'bend the rules' in relation to operational decisions such as flying in poor weather, flying overweight, flying with less fuel than prudent or operating aircraft with significant systems unserviceable.

Examples of how this sort of pressure on pilots to stay in favour with management resulting in safety standards being compromised and eventually leading to airline disasters are common and well documented.

For example, consider a large passenger aircraft such as a Boeing 747 making an approach to land at the destination airfield in bad weather. The aircraft can legally and safely descend in cloud to the lowest safe altitude or 'minima' published for this approach. When the aircraft reaches that minima, the captain is expected to assess whether the conditions are such that it is safe to continue the approach. (i.e. whether the pilots can see the runway) On some approaches, this minima may be only 30 metres above the ground and with the aircraft descending at over 300 metres a minute, the aircraft is less than 10 seconds away from impacting the ground. If the captain assesses that the conditions are such that it is not safe to continue the approach (such as he may not be able to see the runway) he should immediately abort the approach by climbing away from the runway. If fuel is short, a diversion to another airfield (the 'alternate' airfield) which may be over 1000 miles away may be the only safe option available. When all the considerations such as the extra fuel burnt by diverting, disruption to the following services planned for the aircraft, hotel accommodation for passengers and

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<sup>83</sup> The standards of airmanship required to be demonstrated are high, with the minimum criteria of each check item to be passed clearly defined and documented to avoid victimisation.

crew, extra landing charges and a host of other factors are taken into account, the decision to divert has the potential to cost an airline well over \$100,000.<sup>84</sup>

Yet in our example, had the captain been tempted to just 'sneak' down a little lower (i.e. below the minima) and as a consequence establish visual contact with the runway and land, he would have effectively saved his airline over \$100,000. Whilst aircrew can often get away with this sort of unprofessional behaviour, eventually this sort of risk taking leads to disaster. It is that odd occasion when it all goes terribly wrong that disaster strikes. (And it usually happens very quickly.) The Hamilton Island incident described in *Appendix 3* may prove to have been a classic example of this sort of incident almost degenerating into a disaster.<sup>85</sup>

The question that needs to be addressed is; why would aircrew even contemplate such unprofessional behaviour?

The answer is that under the new Individual Contracts, not only does the pilot have few rights and as such can be dismissed without good reason, his whole aviation career is totally at the whim of management. Thus there exists very strong incentives for a pilot not to draw attention to himself and to stay in the 'good books' with the senior management of the airline.

And make no mistake, a \$100,000 diversion does not escape management's notice. (especially if the competitor's aircraft managed to 'get in'.)

In a similar manner to the previous example, pilots working under individual contracts will inevitably experience pressure (whether real or imagined by the pilot) to:

- Fly overweight.
- Fly with less fuel than is prudent for the circumstances. (Aircraft burn more fuel when carrying extra fuel, due to the extra weight of that fuel. Needless to say, pilots can experience tremendous pressure regarding the carriage of extra fuel, especially when electing to leave payload on the ground to carry that extra fuel.)
- Operate aircraft with significant aircraft systems unserviceable. This becomes very prevalent when an airline is under 'financial pressure'. (Especially as spare parts may not be available and valuable time which the aircraft could be flying and earning revenue is often considered to be 'wasted' by grounding the aircraft to fix an unserviceable system.)
- Operate an aircraft when the pilot is fatigued or unwell.

And pressure to modify a myriad of other costly operational decisions, which invariably arise throughout a pilot's career.

But it gets worse.

Under the terms of the pre-dispute contract, if a flight was cancelled for whatever reason, the pilots still got paid. However, under the new Individual Contracts, if they do

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<sup>84</sup> Depending on its age, lease payments for a Boeing 747 are somewhere in the order of \$1 - \$2 million per month. (i.e. \$30,000 - \$60,000 per day.)

<sup>85</sup> The crash of the Martin Air DC10 at Faro in Portugal on the 21st December 1992 may prove to be an example of Pilots 'pressing on' with an approach in unsuitable and dangerous conditions resulting in disaster instead of diverting to an alternate aerodrome. As reported in 'Flight International' magazine of 27th Jan 1993, the aircraft's wingtip struck the ground as it landed during a storm. This caused the aircraft to deviate off the runway, breaking up and catching fire with the loss of 56 lives. See *Aviation Safety Network* for more details about this crash.

not fly, they do not get paid. Needless to say, this system actively encourages pilots to operate aircraft when it is unsafe.

So there we have it.

- A system where pilots have few rights.
- A system where nepotism, favouritism and more seriously, pilot victimisation can become rife.
- A system where pilots are on their own and can expect little support from airline management, their colleagues or their profession.
- A system that encourages unsafe operating practices.

And as argued throughout this document, the first victim of such a system is airline safety.

It is for these reasons that the vast majority of the world's airlines embrace the seniority system of career advancement for their pilots under the umbrella of a collective employment contract.

And it is for all these reasons that professional pilots who understood and remembered their professional responsibilities simply could not sign the Individual Contracts, despite the pay rise. Hence the reason why the vast majority of the Airlines' former pilots refused to return to work under those conditions and why the Dispute is still, to this day not resolved.

It is not just a case of irresponsible scare mongering to highlight the fact that the loss of these basic pilot rights, when combined with pilots who have clearly demonstrated their inability to withstand management pressure by signing the individual contracts in the first place, has laid the foundation of Australia's first civil jet transport disaster.<sup>86</sup>

Australia's outstanding aviation safety record is no accident; it is a direct result of the professionalism exercised by pilots free from these insidious pressures.

NOTE: It is not the purpose of this paper to analyse in detail the full extent and ramifications of the changes to the Pilots' Award that occurred with the introduction of the Individual Contracts. However, *Appendix 7* contains the assessment of these awards by the former President of the Pilot's Federation, Captain Dick Holt (retired). Keep in mind that Captain Holt's appraisal was addressed to the Pilots during the first month of the Dispute.

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<sup>86</sup> See *Appendix 4 'Ansett B747 Sydney Incident'* for a well documented example of these sort of pressures adversely affecting the performance of aircrew resulting in near disaster.

## THE PROFESSION OF AIRLINE PILOT

In order to develop an insight into the Profession of Airline Pilot, it is important to realise that a professional pilot's primary task is to fly his aircraft from the departure airport to destination safely.

This fact cannot be over emphasised.

After this primary objective has been addressed, the myriad of other important considerations such as operating the aircraft economically, on time, smoothly, quickly, efficiently etc can be tackled. But unless the aircraft is operated safely it ultimately cannot be any of the latter. The fact is, airlines that do not operate their aircraft as safely as possible eventually 'lose' aircraft. And airlines that lose aircraft do not survive in the market place and as such are not viable.<sup>87</sup>

As with any form of human endeavour, the ability of pilots to perform this primary task competently is a complex distillation of many diverse and often competing factors. Some of these factors include:

- That the pilots employed be of high calibre in that they possess a high standard of basic aeronautical skills. These skills include basic flying ability (manipulative skill) and cockpit management skills. (which are fundamental to effective crew coordination and a safe decision making process.)
- That pilots are prepared to exercise these aeronautical skills in a responsible (professional) manner and as such display what is known in the profession as 'good airmanship'. In order for this to occur professional pilots must possess two character traits:- 'INTEGRITY' meaning honesty such that the pilot does not delude himself about the significance of any information or clues that come his way and 'STRENGTH OF CHARACTER' such that he is able to resist external 'pressures' to modify his operational decisions in the light of commercial considerations.<sup>88</sup>
- That pilots are able to operate in an employment environment where they receive the active support of senior airline management for such things as proper aircrew training, safe operating procedures and the pilots' operational decision making process. In other words, active management support of a pilots' ability to operate their aircraft in a professional (safe) manner. For this to take place, the authority pertaining to the position of 'Captain' must be recognised and actively supported by airline management.
- But as mentioned ad nauseam throughout this document, fundamental to a safe airline operation is a system that ensures that pilots are able to exercise their professional skills free of external pressures. In summary, a system that enshrines basic pilot rights within an employment contract and as such ensures 'pilot independence'.

These qualities combined together begin to define the position of 'Professional Pilot'.

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<sup>87</sup> It is not widely known that due to financial losses associated with the Mount Erebus disaster, Air New Zealand came to within 24 hours of closing down. It was only the direct intervention of the then Prime Minister, Sir Robert Muldoon, in appointing a new board and supplying Air New Zealand with a Government loan that saved it.

<sup>88</sup> It is the core ethic of the profession of airline pilot that all operational decisions of the pilot in command must always err on the side of safety. This ethic defines the concept of 'GOOD AIRMANSHIP'.

All these factors are crucial to a safe airline operation because the pilot in command of an aircraft is in a unique position. Not only is he the only person aware of all the factors and operational constraints pertaining to his particular flight, but ultimately he is the only person on location with the necessary expertise to be able to do deal in a safe manner with the myriad of problems that invariably arise throughout the course of a flight.

To summarise, an aircraft captain is the only person capable of managing his particular flight and as such his primary role in an airline is as the manager of his flight.

To quote an address to pilots from the former President of the Pilots' Federation, Captain Dick Holt (now retired), who said of the Position of Airline Pilot:

*"Through his seat at the front of the aircraft flow the efforts of thousands of people who provide the means by which he carries out his task. However, it is an undeniable fact that:*

*His is the final responsibility.*

*His is the ultimate decision in any course of action.*

*He can never be complacent.*

*He must be humble; the elements keep him so.*

*He must prove himself to his peers over and over again throughout his career, or seek another job.*

*He must exude a quiet but magnetic confidence in his own ability and his aircraft.*

*He must create an aura of efficiency and capability such that the passengers stream on and off the aircraft without even a thought about what is occurring at the front of the aircraft.*

*Finally, he must be ready during every second of his working life to defeat the ultimate emergency he may encounter at any time."*

These responsibilities are recognised in the definition of his title of "Captain", which means "in command" and as such legally the final responsibility for the safety of the aircraft rests solely with the pilot in command.<sup>89</sup>

It is these professional responsibilities that not only make pilots "Sui Generis", but also worth every cent of their pay and conditions.<sup>90</sup>

In a sense, pilots are the stewards of an airline's three most valuable assets; its passengers, its aircraft (worth up to \$200+ million each) and the public's confidence in the corporate identity of the airline. As such, unpalatable though it might be to some like Bob Hawke and Sir Peter Abeles who think "pilots are just glorified bus drivers" the most important people in any successful airline are its pilots, for on their backs rides the very survival of the airline.

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<sup>89</sup> The legal position of the pilot in command of an aircraft is defined under *Australian Civil Aviation Regulation (CAR) 224* which states that "the pilot in command shall have final authority as to the disposition of the aircraft."

<sup>90</sup> The title "Sui Generis", which means "of one's own kind" (Latin), was used to describe the position of Airline Pilot during a 1954 Arbitration Court decision.

## EXTERNAL FACTORS CONTRIBUTING TO AIRLINE DISASTERS

One of the more poorly understood aspects of modern airline operation is the fact that with the advent of the modern jet transport, civil aviation has become much safer associated with the increased reliability of aircraft 'systems'. (for example, jet engines are inherently much more reliable than piston engines.) Consequently, whereas a generation ago (1950's) catastrophic aircraft systems failure was a significant cause of airline disasters, this is no longer the case today.<sup>91</sup>

As a consequence of this quiet revolution, the majority of so called airline "accidents" since the 1960s are not accidents at all. They are usually the result of a set of circumstances and/or a series of relatively minor incidents mismanaged (or inappropriately handled) by the relevant aircrew. As such, with the benefit of hindsight the resulting disaster often proves to have been avoidable if it had been handled in a different manner.<sup>92</sup>

This being the case, the cause of many airline disasters could be described as being due to "pilot error". However, while this assertion is often seized upon by airline management and government aviation authorities to shift the entire blame for the disaster onto the aircrew, it often proves to be a gross over simplification of a far more complex situation. If the object of any investigation into an airline disaster is to determine the true cause (or causes, including all peripheral influences) of that disaster, it is vital to determine all the reasons why the aircrew operated the aircraft in a manner which, in retrospect proved to be inappropriate for the circumstances.<sup>93</sup>

The fact is there are many examples where factors adversely influencing the relevant aircrew's decision making process are often set in train by policy decisions and/or attitudes of airline management and/or government authorities years before the disaster occurs. Some of these factors include:

- A poor appreciation by senior airline management of aircraft operational constraints.
- An inadequate and/or inappropriate pilot selection process.
- An inadequate and/or inappropriate aircrew training program.
- An inadequate and/or inappropriate aircraft maintenance program.
- Inadequate and/or inappropriate aircraft operating procedures.
- Inadequate and/or inappropriate air traffic control procedures.

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<sup>91</sup> The inflight disintegration of a number of early comet jets in the '50s is a graphic example of this.

<sup>92</sup> By definition, an accident is 'an unforeseen chance event resulting in injury'. The key word is 'unforeseen'. In modern aviation most 'chance events' have been 'foreseen'. and procedures designed to manage these adverse sets of circumstances in a safe manner should have been put in place by airline management and the aircrew properly trained to carry out these procedures.

<sup>93</sup> History is riddled with investigations where the board of inquiry was used to 'cover up' procedural and/or endemic faults existing within an airline and/or the relevant civil aviation authority. The 'Mount Erebus Disaster' involving Air New Zealand is a recent example of this sort of behaviour. It should be noted that it was not until a Royal Commission was finally set up that the true extent of the attempted cover up by senior management personnel of Air New Zealand was revealed. The Royal Commission was then able to unravel the true events leading up to the 'Mount Erebus Disaster'.

- Inadequate ground facilities such as runways, lighting, instrument approach aids, radar, etc.
- The refusal by airline management to formally remove commercial pressures from affecting the operational decision making process of the aircrew. This is usually associated with the lack of pilot 'rights' enshrined in pilots' employment contracts.

Of considerable significance is the attitude by senior airline management towards not only 'pilot professionalism' (meaning safety, particularly associated with pilot independence) but a professional approach to their jobs by all employees throughout all sections of the airline. As argued throughout this document, safety should be the overriding ethos of an airline. Unfortunately, this is increasingly not the case, not only in Australia, but throughout the world usually due to overriding commercial considerations associated with the deregulation of the world airline industry. The importance of a responsible corporate attitude towards airline professionalism cannot be over emphasised. Because the attitude of senior management permeates throughout all sections of an airline, a poor management attitude insidiously adversely affects all aspects of an airline operation. The inevitable result of this corporate climate is a reduction in safety margins.

That aside, it should be remembered that because the final responsibility for the safety of an aircraft rests solely with the pilot in command (Captain) of that aircraft, it is his responsibility to insist that his flight (including all preflight preparation) is conducted in a professional (meaning safe) manner, irrespective of pressures which may be placed upon him to get the aircraft flying. (and earning revenue) If need be, the pilot in command must be prepared to refuse to operate the aircraft even if it means the loss of his job.

A captain is paid (and earns) in excess of \$100,000 to ensure that not only are all the myriad of little insignificant clues noticed, but are also assessed in a honest manner. (In other words, the captain must not delude himself about the potential significance of any clues that come his way.) Further, he must display the strength of character to be able to withstand the significant 'pressure' (whether real or imagined by the pilot, deliberate or otherwise by management) to get the aircraft airborne and earning revenue. Despite this pressure (which unfortunately he can expect as a matter of course) it is his job to insist that the source of the problem be determined prior to takeoff. Remember, the final responsibility for the safety of the aircraft rests solely with the captain.<sup>94</sup>

Many of the factors described above played a significant role in the lead up to the Ansett Airlines Boeing 747 accident which occurred at Sydney Airport on 19/10/94 in which the aircraft crash landed with its nosewheel still retracted. This incident was a classic example of a series of external factors involving commercial pressures from airline management and CAA impropriety adversely affecting the performance of the whole crew such that they were unable to cope with a relatively minor problem, resulting in an avoidable crash.<sup>95</sup>

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<sup>94</sup> This example illustrates the vital importance to airline safety of the two character traits which professional pilots must possess; 'INTEGRITY' meaning honesty such that the pilot does not delude himself about the significance of any information or clues and 'STRENGTH OF CHARACTER' as in the ability to resist external 'pressure' to modify operational decisions in the light of commercial considerations.

<sup>95</sup> See *Appendix 4 'The Ansett B-747 Incident of 19 Oct 1994'* for a detailed analysis of this accident.

## THE AUSTRALIAN FEDERATION OF AIR PILOTS. (AFAP)

It became obvious very early in the Dispute that Sir Peter Abeles' primary objective was the subjugation, if not the total destruction of the Pilots' Federation (AFAP) in his endeavour to have total control over his pilots. As mentioned earlier, the members of Sir Peter Abeles' Alliance had decided even before the Pilots had embarked on their industrial action to focus all their efforts on the destruction of the Pilots' Federation rather than attempt to resolve the issues involved by negotiation. (See *Appendix 1* regarding the meeting of Company leaders in Prime Minister Hawke's office on 15/8/89) Whilst on the face of it Sir Peter Abeles' strategy could be considered rational, it represents a gross misunderstanding of the role of the Pilots' Federation to the Profession of Air Pilot in particular and to air safety in general. It also represents a misunderstanding of the causes of the 'Dispute' and of the role of the Federation's executive in the 'Dispute'.

Prior to the 'Dispute' the Pilots' Federation performed a number of functions with regard to professional aviation by representing professional pilots in a number of arenas. These include:

### 1. TRADE UNION

As a trade union the 'Federation' represented domestic aviation pilots in the industrial arena at all levels of the industry up to and including domestic airline pilots. In this capacity the 'Federation' was the respondent to all the relevant aviation industrial awards except the Qantas Pilots Award. (Qantas pilots are represented by their own separate union, the Australian International Pilots Association AIPA)

At the time of the Dispute the 'Federation' was clearly the most powerful union in Australia. The Federation's strength stemmed from its inherent structure and the commitment by a significant number of its members to their profession. Unlike many trade unions, the Federation was rigorously run on democratic principles and as a consequence its policies represented the true wishes of the majority of the membership. Through its pilot councils the power within the union rested solely with the membership (through the representation of the members' representatives) and NOT with any of the union officials employed by the 'Federation'. The election of officials and motions regarding industrial action were all done by secret ballot.<sup>96</sup>

In this way the policies of the union were rank and file driven, not leadership driven as was argued by Sir Peter Abeles and his partners in the Victorian Supreme Court.<sup>97</sup>

Ultimately the collective industrial strength of a union such as AFAP is the only effective shield available to protect individual pilots from the day to day commercial pressures which have always existed in the aviation industry. The presence of a truly independent

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<sup>96</sup> The historical reasons as to why the 'Federation' was so rigorously structured from its inception on a democratic basis is explained in Appendix 10: 'Capt Dick Holt's History of the Pilots' Federation'.

<sup>97</sup> The judge hearing the civil damages court case brought against the Pilots' Federation by the Companies in the Victorian Supreme Court, Justice Brooking (case number CL421) accepted the claim by the Companies that the Pilots were coerced by the Federation's leadership into conducting their industrial campaign. However, Senior Deputy President of the IRC, Justice Hancock, rejected this argument when handing down his judgement of 22 Sept 1994 regarding the resendency of the Pilot Awards. See *Appendix 8* for a summary of Commissioner Hancock's decision.

pilots' union ensures the existence of pilot independence with regard to a pilot's operational decision making process.

The 'Federation' also had a clear responsibility to protect the pay and conditions of its members in accordance with the wishes of the members. From an industrial point of view, the industrial campaign embarked upon by the Pilots' Federation was both lawful and measured.

However, the 'Federation' was much more than an industrial union representing the Pilots. The other main roles of the Pilots' Federation include:

## 2. TECHNICAL COMMITTEE

It is the purpose of the Technical Committee of AFAP (in conjunction with similar committees from other pilot unions throughout the world) to collate and review the actual operational experiences of its membership. (the vast majority of whom are line pilots) The Technical Committee of the 'Federation' (along with a similar body in the Qantas pilot union, AIPA) is the only source of independent aviation technical expertise available in Australia. The Federation's membership is ultimately the only source of pilot expertise available to the wider community that is not beholden to powerful vested interests such as governments or large corporations. (such as TNT and Newscorp)

Further, the Federation's technical committee, through its affiliation with the International Federation of Airline Pilot Associations (IFALPA), has access to a vast pool of pilot experience and expertise from around the world. The aviation expertise obtained through this pilot network provides an important source of information for airline pilots to continually upgrade and refine their expertise. When it is all said and done, line pilots are really the only source of pilot expertise available simply because they are the only ones in the commercial arena actually gaining the relevant experience. It is this source of technical expertise that is utilised by the pilot organisations like AFAP to lobby and ultimately influence governments and airline management to ensure that the regulations governing the operations of airline aircraft always err on the side of safety.<sup>98</sup>

It would be true to say that historically the vast majority of airline safety features that now make air travel so safe were invariably initiated or strenuously lobbied for by professional pilot bodies such as the Pilots' Federation.

Some specific examples include:

- The Pilots' Federation's representation on most accident and incident investigations prior to 1989.<sup>99</sup>
- the grooving of runways to minimize the incidence of aircraft tyres aquaplaning in heavy rain.
- the installation of weather radar which is now mandatory in all regular public transport (RPT) aircraft.

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<sup>98</sup> It would be true to say that many of the more questionable changes that have occurred within the CAA during the early part of the 1990's would have never come about had AFAP not been emasculated during the 'Dispute'.

<sup>99</sup> The presence of the Pilots' Federation in accident and incident investigations has ensured that a 'whitewash' similar to Air New Zealand's attempted cover-up of the Mt Erebus disaster had not occurred in Australia prior to 1989.

- the existence of minimum performance requirements that must be met by large RPT aircraft prior to aircraft certification.<sup>100</sup>
- the introduction of effective airport security procedures.
- the introduction of aircrew flight time limitations and mandatory rest periods which have been set down to counteract the obvious dangers associated with aircrew fatigue.
- the re-hydration of cockpit air in long range jet transports to counteract the effects of fatigue associated with the dehydrated air that is an unfortunate result of aircraft air conditioning systems.
- numerous aircraft design features and pilot input into aircraft ergonomics. (e.g. cockpit design and layout)<sup>101</sup>
- minimum fuel requirements.

### 3. PROFESSIONAL GUILD

Since its inception, the 'Federation' has always acted as the focus for the Profession of Pilot. In this capacity the 'Federation' embodied and voiced the ethics permeating the profession in a similar manner to the way that the AMA represents the Profession of Doctors and the Society of Engineers represents the Profession of Engineers.

Throughout its history, the 'Federation' has represented the unified voice of professional pilots in relation to the lobbying of government authorities and airline management, particularly in regard to airline safety issues. It is a fact of life that the 'Federation' has had to periodically flex its industrial muscle to ensure airline safety standards were maintained and improved.<sup>102</sup>

However, the Pilots Federation was much more than the sum of its parts. It was an embodiment of the ethics of the Profession of Pilot as well as its public voice. The destruction wrought upon the Pilots Federation by Sir Peter Abeles and his partners has irrevocably changed the aviation climate in Australia for the worst. In the aftermath of the 'Dispute', the airline industry is now almost entirely in the hands of the sycophants to people like Sir Peter Abeles and without the moderating affect of the Pilots Federation in the industry, these people are redefining the ethics of the industry away from airline safety to a position more in line with airline profit imperatives.

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<sup>100</sup> Thus for example, jet RPT aircraft are now required to be able to continue a takeoff following an engine failure whilst still on the ground. AFAP's technical committee has played a significant role establishing Aircraft Certification Criteria

<sup>101</sup> The DC9 jet aircraft is a good example of an aircraft cockpit designed with significant pilot input.

<sup>102</sup> The issue of airport security in the late 1980's is a pertinent example. The 'Federation' was forced to threaten industrial action to get the relevant Federal Government Authorities to take the matter seriously.

## MISTAKES MADE BY THE PILOTS

In view of the disastrous outcome of the Dispute, it would be ludicrous to deny that mistakes were made, both by the Pilots collectively, as well as the Federation's leadership. As Captain McCarthy candidly admitted during the Dispute, "...with the benefit of hindsight, some decisions made by the Federation would have been different". Some of the more unfortunate decisions made by the Pilots include:-

1. Captain McCarthy's attempt to score a cheap political shot early in the Dispute by describing the reason for the Pilots' resignations as "...due to the shabby treatment of Pilots by the Companies" instead of stating the real reason, namely the protection of pilots from being personally sued by anyone adversely affected by the Dispute. This gaff provided Sir Peter Abeles and his coalition partners with an effective argument that, because the Pilots resigned apparently in a fit of 'pique', their jobs had become vacant. As a consequence, the Airlines were able to publicly declare to the world that they were now recruiting. This argument allowed the pilots who presented themselves for the positions that were clearly not theirs and to kid themselves that they were not involved in the straight out theft of other people's jobs. But most importantly, it allowed the various members of the Australian Labor Party, the IRC and the ACTU et al to publicly justify the draconian tactics used against the Pilots.
2. The decision by the Federation not to highlight and explain in detail to the public the unacceptable nature of the Individual Contracts with regard to the Profession of Pilot. It is the opinion of the author that the presence of the Individual Contracts became THE issue of the Dispute and as such, the dispute should have been refocused around it. The Federation's justification for not choosing to pursue this course of action was because the Federation's Executive suspected a resolution to the dispute may have lain in the Pilots accepting a return to work on the basis of individual contracts, but under the umbrella of the Pilots' Federation. In other words, they wanted to leave a face saving option open for Sir Peter Abeles and his partners to embrace in an endeavour to resolve the dispute.
3. The decision by the Federation not to publicly highlight the 25%+ pay rise which was hidden within the Individual Contracts but passed off to the public as a 6% rise in accordance with the IRC's wage fixing guidelines of that time. This failure to reveal the duplicity displayed by Sir Peter Abeles and his partners in this matter, passed up a golden opportunity to point out publicly that this Dispute was never really about pay. This in turn could have been used to publicly expose the fraudulent basis of Sir Peter Abeles and his partners' position during the Dispute. As with the above example, the Federation chose not to highlight the hidden pay rise in order to leave a face saving option open for Abeles and his coalition partners to embrace.<sup>103</sup>
4. The decision by the Federation to structure the Dispute such that it lumped all the domestic airline pilots' grievances into the one big dispute, instead addressing the grievances of each pilot group on an individual airline basis. It is the view of the author that this was the Pilots' most significant mistake.

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<sup>103</sup> It should be noted that whilst Captain McCarthy did not explain to the public the existence of the 25%+ pay rise in detail, he did say on numerous occasions that "it would appear that the pay rise sought by the Pilots has been met, we wish to negotiate a return to work."

The Federation had chosen to lump all the grievances into one big dispute partly because of Abeles' alleged preference for an award to cover the whole industry.<sup>104</sup>

It is ironic that the alternative strategy of addressing the grievances of each pilot group on a case by case basis between the Federation and each airline separately, had always been used in the past with success. Further, the minutes of the meeting of Sir Peter Abeles' and his partners in Prime Minister Hawke's office on the 15th August 1989 seems to indicate that this strategy may have been feared by Sir Peter Abeles and his partners.<sup>105</sup>

It is now clear that had the Federation structured the Dispute around the grievances of each pilot group on an airline by airline basis, Sir Peter Abeles and his coalition partners would have found it extremely difficult to justify or effect the Airline shutdown. This in turn, would have almost certainly precluded the ability of Abeles' Coalition to use most of the tactics that they subsequently used so effectively against the Pilots following the airline shutdown. Thus, had the Pilots chosen to structure the looming dispute such that one domestic airline was not directly involved in the dispute of the other (and consequently still flying), it would have been highly unlikely that Sir Peter Abeles and his partners would have been able to:-

- Get the IRC to cancel the relevant airline's original pilot award.
- Which in turn, would have precluded the introduction of the Individual Contracts.
- Without the Individual Contracts the writs for damages would only have been useful as a terror tactic to frighten pilots back to work under the conditions of their old contract. (a fairly pointless exercise)
- The use of the military would have been politically impossible to achieve and would have been purposeless in any case.
- The relaxation of immigration regulations to import foreign scab pilots would have been politically impossible to achieve as well as being pointless.
- The relaxation of aviation regulations to facilitate the importation of foreign aircraft and crews would also have been politically impossible to achieve. It is doubtful that, with the other domestic airline still flying, many passengers would have risked their lives flying on the charter aircraft if they had had a choice! Further, the pilots of the domestic airline still flying would have retained a significant amount of public credibility with regard to pilot professionalism. In this capacity, they would have immediately alerted the public to the many regulations relaxed by the Hawke Government to allow foreign pilots to fly in Australia. Even more importantly, it is inconceivable that they would not have reported and pursued the numerous incidents involving the foreign pilots. In view of the fact that many changes to aviation regulations were 'fast tracked' to allow foreign pilots and aircraft to operate in Australia during the dispute, on safety grounds alone it is doubtful that the pilots of the domestic airline still flying would have accepted operating their aircraft in the same airspace as one of the foreign

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<sup>104</sup> It should be remembered that the Australian Airlines' negotiations at Lorne broke down due to Abeles' alleged interference in the negotiation process, by insisting on the creation of a single Industry Award for pilots.

<sup>105</sup> See *Appendix 1* regarding the minutes of the meeting in Prime Minister Hawke's office of the 15th Aug. '89 where Sir Peter Abeles made the comment that "If let them do it their way, rolling strikes, disruptive over a long period, and they will get more than they should..."

charter aircraft. In other words, with one domestic airline still flying, the importation of foreign pilots and aircraft would not have been a viable option.<sup>106</sup>

- there would have been no grounds to justify the Airline involved in a dispute receiving government funding. (Federal government funding was fundamental to Sir Peter Abeles' ability to hold out for nearly 7 months)

In view of the exceptional solidarity displayed by the Pilots during the Dispute, it is now clear that had the extraordinary raft of tactics used against the Pilots been denied Abeles' Coalition (as described above), it is very doubtful that this dispute would have degenerated into the unmitigated disaster it eventually became.

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<sup>106</sup> The silence of the Qantas Pilots to these changes and their acceptance of the grossly inadequate investigation process used to 'investigate' the many 'incidents' involving the foreign pilots throughout the course of the Dispute disgusted many domestic airline pilots.

## CONCLUSION

If there was one underlying characteristic about the Dispute it would have to be 'madness'. Madness in the sense that there was a loss of insight by all the parties involved into the eventual consequences of their respective actions. After all, there have been no winners in the Dispute.

Thus, the Pilots in their attempt to resolve their grievances with their respective employers about pilots' pay and management's growing contempt for the position of pilot, lost not only their careers, but more importantly the very essence of their profession; 'Pilot Independence'.

It is now obvious that the Pilots' past victories associated with their history of having to remind Airline Management every 10-15 years not to take the position of pilot for granted lulled the Pilots into a false sense of security about their capacity to deal with such a formidable opponent. All these things not only clouded the Pilots' vision as to what they were up against, but more importantly, they lost sight of what they were putting at risk in their pursuit of a resolution to their grievances with Airline Management.

The Pilots' failure to fully take into account the underlying political imperatives of the various members of Sir Peter Abeles' Alliance facilitated the formation of that alliance. Sir Peter Abeles' plans leading up to the eventual destruction of the Pilot' Federation were transparent and his close friendship with Bob Hawke was well known. The political importance of the 'Accord' to the various Accord Partners was widely documented and as a consequence the importance of the 'Accord' to them should have been better appreciated by the Pilots. Further, the well publicised push by some large unions to break out of the 'Accord' and pursue their own wages campaign ensured that the 'Accord' partners would publicly portray the Pilots' pay claim as a direct threat to the 'Accord' and consequently that the Pilots had to be crushed at any cost in order to make an example of them. In many respects the timing of Pilots' pay claim and the way it was handled could not have been worse.

With the benefit of hindsight all these factors should of been foreseen.

Which prompts the question, why then did the Pilots pursue their pay claim?

The answer to this question it is twofold. The first aspect relates to the Pilots' perception of the 'Accord' and their attitude towards the various Accord Partners and the second relates to the Pay issue itself.

Readers should be aware that prior to the Dispute most Pilots understood very little about the complex politics associated with the 'Accord'. In the eyes of Pilots, the 'Accord' was a bankrupt agreement representing a litany of broken promises. The Accord Partners themselves were viewed by most Pilots (rightly or wrongly) as a band of inflexible people pursuing their own political agenda with little interest or sympathy in the unique problems associated with airline flying. By the same token, the subtleties associated with the political imperatives of the various Accord Partners was simply beyond the perception or interest of most Pilots.

In essence, most Pilots viewed the 'Accord' with contempt and consequently that it was of little relevance to Pilots. With this attitude in mind, the Pilots simply viewed their pay claim as an issue between them and the Airline Management and no one else.

Which brings us to the issue of Pilots' Pay itself, the alleged cause of the Dispute.

It should be understood that Professional Pilots are an international commodity and as such pilots' pay commands an international price. The fact remains that at the time of the Dispute pilots' pay in Australia was deficient when compared to the rest of the Western world and it was simply untenable that Australian airline pilots be paid less than the going world rate.

Make no mistake, pilots' pay was instinctively understood by most Pilots to be essentially a non issue! The pay rise was always going to turn up, it was just the method of achieving it that may have been the focus of some 'negotiation'. For this reason the hidden pay rise within the Companies' Individual Contracts came as no surprise to Pilots because they expected it.

In other words, this Dispute was never really about pay and both the Pilots and Airline Management knew it.

The real issue at stake was that Airline Management, lead by Sir Peter Abeles, had developed a profound contempt for the Position of Pilot (and possibly for Pilots personally) and consequently they no longer recognised the authority or responsibility pertaining to the position of 'Pilot'. For this reason the attempted and eventually successful introduction of the Individual Contracts was again, not unexpected by Pilots. The Individual Contracts were viewed by Pilots as the 'grand finale' of a long drawn out campaign by Sir Peter Abeles to denigrate the Position of Pilot.

The alleged dispute about pilots' pay was simply a 'furphy' for public consumption enabling the extraordinary raft tactics used against the Pilots to be justified.

However, what did astound Pilots was that this Dispute was allowed to rage on unresolved for over 6 months, causing absolute mayhem to the rest of Australian society, endangering the lives of tens of thousands of air travelers, consuming millions of dollars of public money and resources and costing the Australian economy literally hundreds of millions of dollars; all associated with one of the most outrageous abuses of political power in living memory and all for the benefit of one man, Sir Peter Abeles.

And yet few outsiders appeared to perceive the blatant dishonesty that permeated the tactics used against the Pilots or the injustice.

That aside, it must be recognised that having made the mistake to tackle Sir Peter Abeles head on, the Pilots were effectively dispatched onto the industrial scrap heap within a matter of days, with no avenue for a return left open.<sup>107</sup>

In the end the Pilots have had to pay a terrible price for their part in the Dispute. For having been forced to resign they were faced with a dreadful choice. Either they scabbed on their colleagues and profession or they lost their careers.

Most chose the latter.<sup>108</sup>

In Sir Peter Abeles' case, perhaps his 'madness' can be better understood by the fact that his contempt for the Position of Pilot denied him the ability to understand the Profession of Pilot. Because of this he was unable to comprehend the fundamental

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<sup>107</sup> Resigned, 'locked out' and with no industrial award, all occurring within 4 days.

<sup>108</sup> It is a comment on the strength of character of the Domestic Pilots in 1989 that 80% of them were prepared to walk away from their careers rather than be part of Sir Peter Abeles' denigration of their profession.

importance to the Profession of the concept of 'pilot independence'. It is clear he no longer really recognised the authority pertaining the position of 'Captain'. As a consequence he failed to realise the futility of attempting to coerce professional pilots to abandon their professional guild and embrace an employment contract that deprived them of any rights to exercise their professional skills free of management pressure. This lack of understanding ultimately denied him the decisive victory he expected and needed.

What was even more extraordinary was that within the first few weeks of the Dispute it became patently obvious that the expected rapid and decisive defeat of the Pilots was not achievable.

Because of this, Sir Peter Abeles had essentially lost the Dispute within the first month.

From that point on his decision to press on with the destruction of the Pilots' Federation (and by default the Profession of Pilot) must surely be judged as grossly irresponsible, not only to the interests of the shareholders of TNT and Newscorp, but also to the rest of the Australian community who were suffering significant dislocation while the Dispute remained unresolved. In a sense Sir Peter Abeles' decision to press on with the Dispute for a further 5 months must surely be judged as economic madness and almost certainly reflected an insane desire to get at pilots.

Which prompts the question; given that the Dispute was never really about pay, what were Sir Peter Abeles real motives behind this extraordinary affair? Was his real agenda the destruction of the Pilots' Federation as part of a strategy to restructure the rest of his Airline empire.<sup>109</sup>

Or was it simply that as a powerful man used to getting his own way he was no longer prepared to tolerate employees who were not prepared to be at his beck and call and that he was prepared to loose his corporate empire defeating them rather than give in.<sup>110</sup>

The only hope of ever getting close to the truth of this matter will be through the auspices of a Royal Commission, which unfortunately will probably only occur after the inevitable airline disaster has occurred.

That speculation aside, what is clear is that the Dispute ultimately ruined Sir Peter Abeles.

The consequent prolonged nature of the Dispute rendered his business empire desperately weakened, both financially and politically. The political debt he subsequently owed to both the Labor Government and ACTU was such that it became politically impossible for him to ruthlessly move on the other unions associated with the airline industry. The desperate financial position of Ansett Airlines has resulted in it no longer

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<sup>109</sup> As described in the chapter '*Abeles Suspected Real Agenda*'.

<sup>110</sup> This may not be as far fetched as it sounds. History is riddled with examples of powerful people dragging their empires to destruction rather than giving in. The behaviour of Napoleon, Hitler and more recently Saddam Hussein are but a few of the more famous examples. Sir Peter Abeles' rather extraordinary statement in an interview with Richard Carlton on the '60 minutes' television program of September 10th 1989; that he "would not give in ...because if I give in, I'd rather close the airline forever..." may have actually been very close to the truth. Another clue supporting this hypothesis is that although the Individual Contracts contained a 'fist full of dollars' they also contained virtually no Employee rights. As argued throughout this document, this lack of pilot rights served no useful purpose. This implies that Sir Peter Abeles was not really concerned about what he had to pay to get Pilots, so long as they were totally within his power.

having the resources to effectively deal with the myriad of competitors, both domestic and international, gathering on the horizon. <sup>111</sup>

It is perhaps ironical that due to the Dispute, Sir Peter Abeles has effectively supplied Ansett's future competitors with some of their most valuable assets; the cream of Australia's professional pilots. This is something which, without the Dispute, they would have never got. At the same time, his contempt for the Position of Pilot has deprived Australia's domestic aviation industry of a vast pool of pilot expertise built up over the previous 40 years. As argued throughout this document, this dearth of professional cockpit management skill, coupled to an employment environment devoid of any pilot rights, will inevitably result in an avoidable airline disaster at some time in the future.

Yet Sir Peter Abeles contempt extends far beyond the Pilots. For it is the public at large who are still paying and suffering the consequences of this extraordinary episode. His disregard for the inevitable consequences of the outcome of this dispute will leave a ominous legacy which society will have to contend with well into the future. <sup>112</sup>

In the case of Bob Hawke, his action of laying at the feet of his friend (Sir Peter Abeles) the office of Prime Minister was unprecedented and should greatly disturb all Australians, irrespective of their political persuasion. This was clearly a corrupt abuse of power and should be the subject of a Royal Commission in its own right.

Finally, it is worth noting that one year after the start of the Pilots' Dispute, the industrial relations 'club' (consisting of the Hawke Government, some significant entrepreneurs like Sir Peter Abeles, the ACTU and the IRC) had embraced a new industrial relations policy based on direct negotiations between employers and employees called "enterprise bargaining". The fact that the Pilots' Federation had been negotiating with their employers under the auspices of this same industrial policy for the previous 30 years appears to have escaped the attention of most observers. When it is remembered that the Pilots' insistence that negotiations with their employers be free of outside interference, was a classic example of this new policy, then the hypocrisy of the industrial relations club almost defies belief.

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<sup>111</sup> Sir Peter Abeles 'resigned' as the chief executive of TNT in October 1992 and as joint managing director of Ansett on 10 Nov 1992. He died of cancer on 25 June 1999.

<sup>112</sup> The Ansett B747 crash landing at Sydney airport on 19 Oct 1994 is a sobering portend of the consequences of Sir Peter Abeles' actions.

## APPENDIX 1

### MINUTES OF THE 15th AUG 1989 TACTICS MEETING.

MEETING: Hawke's Office 15th August 1989

NOTES OF: Dr. David HARRISON.

ATTENDING MEETING: Prime Minister, Abeles, Harris, Morris, Willis. Kelty by phone.

- HARRIS: Widespread disruption A & A not tolerate Should cancel agreement Kelty thought Coleman should end Agreement - put pressure, loss of seniority.
- ABELES: Agreement should be cancelled but once they are outside industrial agreement then G'ment should have strong pressure. (presence?)
- MORRIS: If cancel award take them out of system - give them what they want, seniority is dear to them.
- ABELES: Fighting to be outside award. If they go outside, with G'ment backing and stick together can really take them on. Will be short - we won't give them anything.
- HARRIS: If they tie us up - Australians costs are 14 million per week. G'ment ought to compensate by not paying charges to FAA & CAA 3 million dollars per week for each week not flying, don't pay charges for x weeks.
- ABELES: G'ment should compensate. Wouldn't stand anyone down - isolate the pilots. Pilots split down middle. If let them do it their way, rolling strikes, disruptive over a long period, and they will get more than they should. No sympathy for them - don't compare themselves with others in airline industry.
- MORRIS: 1 strategy for this, 1 for that.
- P.M.: Counterattacks Whole award or pick eyes out of it. If put 'em out lose bans clause Abeles, Willis - doesn't matter anyway.
- WILLIS: Go for 45D or common law They want to be outside the system.
- P.M.: Will Kelty cop 45D or Crimes Act? If so, go for 45D.
- ABELES: Sign 'em up on individual contracts - fast eliminate everything we want to eliminate - same contract for all - lose super if they leave/don't sign
- HARRIS: Kelty as vigorous in his views as we are
- ABELES: Suspending seniority is nothing.
- MORRIS: If you go outside the system - more vulnerable to union pressure.
- HARRIS: Want to negotiate flying hours.
- MORRIS: How poisonous do you want this to be? Will pick one at a time.

- ABELES: The G'ment shows support - through charge waivers. If one airline off-ground then 25% of revenue goes to other airline.
- HARRIS: Have to do this through G'ment.

P.M./KELTY: Phone conversation:

- P.M. What your attitude to suspension of Agreements, then move 45D, common law.
- KELTY: Has to be on basis of award suspended then - teach 'em what its like to be out of system. it is no soft option to be out of the system. - should warn them.
- ABELES: If there is aftermath, subsidise each other.
- P.M. Tactic - G'ment be in court with airline. - we want to be in the system but if not, then G'ment will support airlines in any punitive action. - DIR/9 : Trade Practices - DIR/6 : Cancel agreement if you go for this, Coleman will move quickly won't he.
- P.M.: Horrendous proportions
- MORRIS: Smart. Best advice, money to hold out.
- WILLIS: A non-policy to hold out.
- ABELES: Before they go out, must have G'ment warn them that they get no protection.
- P.M.: 1. We are committed to system which has rights and obligations. 2. If pilots won't operate in system we support suspension of Agreements. 3. G'ment supports any punitive action by the airlines to bring about an end. Have a talk to Walsh/Keating re: Waiver of charges.
- ABELES: Losing \$11 million in a week.
- HARRIS: Losing \$14 million a week.
- P.M.: Say \$12 million each.
- ABELES: Will get goodwill of ACTU - shows what happens to those outside the system.
- P.M.: (Nothing Recorded)
- ABELES: Subsidy will strengthen airlines.
- P.M.: On financial ground you would shut (stand?) down.
- HARRIS: Use the annual leave.
- ABELES: (Nothing Recorded)
- MORRIS: Don't stand down ACTU members.
- P.M.: We will look at question of compensation.

- HARRIS: Make it clear we have had no direction from G'ment.
- ABELES: G'ment should say airlines should stick together.
- ABELES: Same problem with 400 transport workers - proper but fair contract - 24 hours to come back and sign or they don't employer continued suspension (lose employer contrib supn)
- P.M.: use judgment ` use instruments which hit hard hit as hard as you can, quick as you can carte blanche from me.
- MORRIS: Qantas

Do a brief general note, discussed tactics how to handle airline pilots dispute.

Dr D.S. HARRISON

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### **COMMENT by Alex Paterson**

This meeting occurred in Prime Minister Bob Hawke's office on 15 August 1989, three days prior to the commencement of the Pilots' Federation's industrial campaign. The meeting was originally denied to have taken place, then that no minutes existed. The minutes of the meeting were taken down by Federal Government Public Servant, Dr D. S. Harrison, and were tendered as evidence in the Pilots' Federations' Immigration court action in the Federal Court. (VG 85 of 1991) The minutes provide insight into the members of this alliance's firm determination not to attempt to resolve the impending dispute by negotiation, but instead to focus all efforts on the destruction the Pilots' Federation. To this end, those attending the meeting planned:

- that the Pilots' original industrial agreement be cancelled.
- that the Pilots be re-employed on the individual contracts. "...Sign 'em up on individual contracts, fast eliminate everything we want to eliminate,.... we won't give them anything."
- that the government back the airlines, publicly, politically, as well as financially. "G/ment should compensate."
- that common law writs be used against pilots.
- that with government financial support, it would "strengthen the airlines", thus the airlines would not need to stand-down other airline employees, this would maintain the goodwill of the ACTU and provide an example to others of what happens if they were to choose to step out of the 'system'.

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<sup>113</sup> Dr Harrison was a public servant in the Department of Prime Minister in Cabinet in 1989. Dr Harrison was asked to take notes at the 15 August 1989 meeting and was subpoenaed by the Pilots' Federation in 1992 to give evidence about the meeting in the Pilots' Federation's Federal Court Immigration Court case (No VG85 of 1990) pertaining to the Federal Government's action of changing the Immigration Regulations to facilitate the immigration of foreign pilots to replace Australian pilots. Dr Harrison gave oral evidence about the meeting in court on 21 February 1992 (see Court Transcript pages 212 - 235)

- that the airlines threaten the Pilots' superannuation, and then withhold it if they leave.
- that if there was an aftermath, the airlines should subsidise each other. (This statement may be of particularly relevance to the subsequent concerted attack on Compass Mk 1 & Mk 2 Airlines, culminating in their eventual demise.)

Sir Peter Abeles also noted:

- that he expected the Pilots to split and the Dispute to be of short duration.
- that the real threat to the Airlines would be if the Pilots were to take on the Airlines one at the time with rolling industrial action. This may explain why Sir Peter Abeles shutdown the airline system virtually within days of the start of the Dispute. It may also explain Sir Peter Abeles' alleged interference in the negotiation process between Australian Airlines and the Federation (over their new employment contract) which occurred at Lorne in late June 1989.

These minutes indicate grounds for criminal conspiracy based on the evidence:

- That they planned (and then attempted) to withhold the Pilots' superannuation. This money belonged to the Pilots. It was never theirs to attempt to withhold.
- That the Airlines subsidise each other. This is clearly collusion under the Trade Practises Act. The subsequent demise of Compass Mk 1 & 2 airlines may be associated with this suggestion.
- That they planned to use government money to fund a private company (Ansett) to fight an industrial dispute. This could be argued to be a criminal misappropriation of taxpayers money.
- That they planned in advance to use common law (writs) against the Pilots. (The presence of the writs left the Pilots little choice except to resign.)
- That "Coleman" (Justice Coldham?) was expected "to move quickly" against the Pilots! The IRC is supposed to be an independent statutory body. This prompts the question, who had influence over "Coleman" and who had he been talking to?

## APPENDIX 2

### ANSETT AIRLINES' 'NOTICE TO PILOTS'

**Ansett Transport Industries Limited.** Our Ref. 1806

From: DEPUTY GENERAL MANAGER Date 27/8/1991

To: ALL FLIGHT CREW - ANSETT AUSTRALIA

ANSETT EXPRESS, ANSETT WA

Subject: RESPECT FOR COLLEAGUES AT WORK

It has been brought to my attention that, from time to time, conversations and/or comments of a personal nature occur that lead to ill will and resentment between staff.

Whilst it is not possible to eliminate misunderstandings between people who work closely together in the work place, it is essential everybody exhibits the utmost regard for the feelings of their workmates.

In particular it is not acceptable in the work place to make derogatory or offensive remarks or suggestions about a fellow staff member or their private life.

I appreciate that it is only in rare circumstances that comments of a derogatory or offensive nature are intentionally made to others, however, all staff must take particular care to ensure that what is said to others cannot be misunderstood to be offensive.

I also draw to your attention that it is unlawful to discriminate against another person on the basis of race, colour, national origin, sex, marital status, pregnancy, religion, political convictions or impairment and that such will not be tolerated within Ansett.

I am sure that you will all co-operate to maintain a respectful harmonious and happy workplace at Ansett.

Yours sincerely,

CAPTAIN M. TERRELL

DEPUTY GENERAL MANAGER

cc. General Manger - Ansett WA  
General Manager - Ansett Express

## APPENDIX 3

## HAMILTON ISLAND INCIDENT.

The following internal East West Airlines report was anonymously sent to the Pilots' Federation and the incident was reported on ABC Radio News on 6/6/91. This incident is alleged to have occurred in late 1990. It is an example of the level of complacency towards airline safety which has emerged since the Pilots' Dispute within sections the Federal Government, the Civil Aviation Authority (CAA), the Bureau of Air Safety Investigation (BASI) and the Airlines. (in this case East West.)<sup>114</sup>

The pertinent points regarding this affair are:

- This incident apparently only came to the attention of the authorities weeks after it had occurred and only via the 'airport gossip grapevine'.
- The government authority who should have investigated this incident, the Bureau of Air Safety Investigation (BASI), did not initiate an investigation.
- The Civil Aviation Authority (CAA) initiated their own investigation, but a report was never released.
- Pre-dispute, an airline incident would have been investigated internally by the Airline's Flight Captain (a management pilot) in consultation with the Manager of Flight Standards (another management pilot) and overseen by the BASI (an independent government body) & the CAA. The Pilots' Federation would have acted as 'honest broker' ensuring that any investigation of the pilot concerned was conducted in a proper manner and that natural justice with regards to the pilot's civil rights was observed. (In other words, due process was observed.)

This system worked very well because it ensured that :

- since all 'parties' were involved in the process, the possibility of either a 'kangaroo' court or a 'whitewash' occurring was slim. (Pre-dispute, a 'Mount Erebus' type coverup would have been virtually impossible in Australia)
- In the industrial and corporate climate of that time (i.e. pre-dispute), all the parties involved in the investigation usually exercised a responsible and professional approach to their respective roles.
- At that time (i.e. pre-dispute), airline safety was the primary ethos of all the parties involved, including the Airline Companies. Airline management at that time appeared to recognise that an unsafe airline was not a viable airline.
- The primary purpose of any investigation was to seriously attempt to discover what had caused or contributed to the incident under investigation. This occurred irrespective of whether the incident eventually turned out to be due to:
  - deficiencies with the aircraft and/or ground facilities
  - deficiencies in the Airline Company's operating procedures,
  - deficiencies in CAA's procedures,
  - deficiencies in pilot skill levels. These deficiencies may have been due to poor pilot training and/or a straight out lack of ability associated with an inappropriate pilot selection process etc.
  - a combination of all the above.

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<sup>114</sup> East West Airlines was a subsidiary of Ansett Airlines at the time of this alleged incident.

Having discovered any deficiencies which may have contributed to the incident, there was a serious attempt to rectify the situation to prevent a repeat episode.

## **EAST WEST PILOT BULLETIN**

### FLIGHT SAFETY BULLETIN

#### HAMILTON ISLAND OPERATIONS

During the recent less than perfect weather associated with the North Queensland wet season, one of our BAE 146 aircraft was involved in an incident during an approach to Hamilton Island which caused activation of the GPWS whilst attempting a go-round from the 32 VOR/DME approach.

This approach was being used as a cloud break procedure for a landing on RWY 14 and throughout the descent the understanding of the conditions at Hamilton Island justified this decision with passing showers and quite a strong wind from the east.

On descent it was also noted that a tailwind component of approx 50 kts existed which put the aircraft high on profile during the final stages of descent and on reaching the missed approach point was still higher than the chart profile and in less than ideal conditions.

The decision to abort this approach was not made until over the airport at which stage windshear was encountered with subsequent fluctuations in airspeed and no gain in altitude even though go-around power was being produced and a body angle of 25 deg NOSE UP being achieved. The GPWS system then started giving hard terrain warnings ceasing when North of the island.

Due to terrain problems associated with operations into Hamilton Island it is essential as can be deduced from this incident that in conditions less than the required criteria the X.A.P. be strictly observed and carried out in accordance with I.A.L. procedures. I would also suggest as a refresher to these pilots who have not operated into Hamilton Island on a regular basis and indeed any port which has special conditions and procedures to take advantage of the Audio Visual displays at Hangar 10.

### **COMMENT by Alex Paterson:**

Considering the fact that the aircraft involved in this incident appears to have come close to colliding with the high terrain at Hamilton Island, the cursory and totally inadequate manner in which this incident was investigated raises far more questions than it answers.

Close examination of this 'official' response to this incident reveals:

1. The document is not signed or dated and the author is not identified.

2. That according to the author "...the less than perfect weather associated with the North Queensland wet season..." is by implication somehow of relevance to this incident. This statement ignores the fact that the weather associated with a North Queensland wet season is not abnormal weather as far as a professional pilot is concerned. Difficult weather is not a mitigating circumstance for poor operating technique. It is the job of a professional pilot to operate within the constraints of the circumstances prevailing at that time.

3. "On descent it was also noted that a tailwind component of approx 50 kts existed which put the aircraft high on profile during the final stages of descent...."

The tailwind did not "put the aircraft high on approach." It was the aircrew's failure to take the tailwind into account which allowed the aircraft to get high on approach. It would appear that this aircrew had simply mismanaged the approach from the beginning.

4. "...on reaching the missed approach point, was still higher than the chart profile and in less than ideal conditions..... .....The decision to abort this approach was not made until over the airport." What this implies is that, without proper visual contact with the ground, the aircrew pressed on past the missed approach point. In other words it appears they broke the rules and 'pushed it' hoping to get visual contact with the airfield. Then...

5. "windshear was encountered with subsequent fluctuations in airspeed and no gain in altitude even though go-around power was being produced and a body angle of 25 deg NOSE UP being achieved. The GPWS system then started giving hard terrain warnings ceasing when North of the island."

It would appear that because the aircraft was lower than it should have been and hence near terrain, windshear was encountered whilst still in poor visibility. Then the 'ground proximity warning system' (GPWS) started giving 'hard' terrain warnings. It should be understood that a GPWS warning sounding when an aircrew have visual contact with the terrain is not dangerous and the warning can be safely ignored. However, according to this bulletin, the aircrew applied "go-around power". This implies that the aircraft may have been in imminent danger of colliding with high terrain whilst still not visual. If this was the case, the only appropriate course of action at this late stage would have been to select 'maximum power'. "Go around power" is not 'maximum power'. It is not credible that even pilots who appear to have made as many fundamental mistakes as this aircrew have, failed to select maximum power.

5. If maximum power had been selected (as it should have been), then the engines may have been 'over stressed'. That being the case, the engines should have been examined for damage, prior to the next take off. In other words, the only responsible course of action would have been to check the engines on the ground at Hamilton Island. (It is not known whether the engines were subsequently checked for damage.)

6. The author then states "Due to terrain problems associated with operations into Hamilton Island it is essential as can be deduced from this incident that in conditions less than the required criteria the X.A.P. (missed approach point) be strictly observed and carried out in accordance with I.A.L. (instrument approach and landing) procedures."

There are no terrain problems as such at Hamilton Island. It is just another airfield with hills around it like many other airfields. The author implies in this document that only at Hamilton Island does the missed approach point need to be observed. The fact is,

'missed approach points' are where they are for very good reasons and as such must be observed always.

7. And finally, ".. I would also suggest as a refresher to these pilots who have not operated into Hamilton Island on a regular basis and indeed any port which has special conditions and procedures to take advantage of the Audio Visual displays at Hangar 10." It would appear that through cockpit mismanagement, the pilots involved in this incident may have come dangerously close to destroying an aircraft and obviously killing all on board.

Pre-dispute, these pilots would almost certainly have been grounded, subjected to a rigorous retraining program and then rechecked. It is doubtful that the Captain involved would have retained his command.

And the remedy post-dispute?

A 'slide' show in Hangar 10!

### **BUREAU OF SAFETY INVESTIGATION (BASI) REPORT ANSETT BOEING 747-312 VH-INH SYDNEY AIRPORT 19 OCTOBER 1994**

Following is the Synopsis and Conclusion of the BASI report into the Ansett B 747 landing incident at Sydney on 19/10/94 in which the aircrew inadvertently landed the aircraft with the nosewheel still retracted. The BASI investigation revealed numerous systemic deficiencies existing at the time within Ansett Airlines and the Civil Aviation Authority (CAA) which contributed significantly to the incident. The BASI report reveals that many of these deficiencies were a direct result of a poor corporate attitude existing within Ansett at the time resulting in commercial imperatives over-riding airline safety considerations. It is the assertion of the author that this sort of inappropriate corporate climate was a direct result of the aftermath of the Pilots' Dispute and could not have existed prior to the Dispute because it would have not been tolerated by most of the pilots employed at that time or the Pilots' Federation. Pre-dispute, Ansett management would have never dared attempt to introduce a new aircraft into the fleet in such a cavalier manner as revealed by the BASI investigation.<sup>115</sup>

It should be noted that

- Pre-dispute aircrew would have not tolerated being expected to fly an aircraft with an incomplete set of operating manuals.
- Pre-dispute aircrew would have not have continued an approach without first carrying out the relevant abnormal drill as a crew from the book. In other words, it is inconceivable that a pre-dispute Ansett crew would not have conducted an overshoot and sorted out the nosegear problem as per the manual prior to attempting another approach.
- The tenuous nature of the relevant Captain's contract of employment must have had some bearing on his decision to press on with the approach in an endeavour to get the aircraft on the ground as quickly as possible so that the crew could continue the flight in another aircraft. (See 'Conclusions' section 3.2.8) This sort of behaviour of trying to "help the Company" by cutting corners is without doubt one of the most insidious effects of the individual contract system of employment and is a portend of the sort of inevitable aviation disaster which will surely occur under such a system.
- The introduction into Ansett of the Boeing 747 was a relatively small operation with regards to crew numbers required because of the relatively few aircraft being introduced at that time and should have been well within Ansett's capabilities to have been conducted in a proper manner.

NOTE: The complete BASI Report into this incident can be downloaded from the Internet at: [http://www.atsb.gov.au/publications/investigation\\_reports/1994/AAIR/pdf/air199403038\\_001.pdf](http://www.atsb.gov.au/publications/investigation_reports/1994/AAIR/pdf/air199403038_001.pdf)

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<sup>115</sup> The Pilots' Federation's claims at the time of the Dispute that airline safety would be severely compromised by the introduction of individual contracts was generally dismissed by many commentators as nothing more than a scare tactic by the Federation. This incident and others since 1989 have vindicated the Federation's warnings.

## SYNOPSIS

The flight was an international regular public transport operation between Sydney, Australia and Osaka, Japan on 19 October 1994. The technical crew consisted of a very experienced (B747) pilot in command who was also acting as a training pilot, an experienced co-pilot who had not yet completed his line training on the B747, and an experienced but newly B747-rated flight engineer who was on his first revenue flight as a qualified B747 flight engineer.

Approximately one hour after departure the crew shut down the number one engine because of an oil leak. They returned the aircraft to Sydney where the approach proceeded normally until the landing gear was selected. With selection of the landing gear and selection of the flap beyond a setting of flaps 20, the landing gear warning horn began to sound because the nose landing gear had not extended. The flight crew unsuccessfully attempted to establish the reason for the warning. Believing the gear to be down, the crew elected to complete the landing, with the result that the aircraft was landed with the nose gear retracted. There was no fire and the pilot in command decided not to initiate an emergency evacuation.

The investigation found that the oil loss was caused by the failure of a threaded insert used to retain the engine angle gearbox housing cover. The cover came loose, allowing oil to escape. An opportunity to action service bulletin SB JT9D-7R4-72-410, which would have prevented the oil leak had not been taken. Although the same engine is used on a number of aircraft approved for extended range operations over water, the manufacturer had not made the incorporation of this service bulletin mandatory. The owners of an aircraft can elect not to action a manufacturer's recommendation to incorporate a service bulletin.

An unexplained reduction in air-driven hydraulic pump output caused slower than expected operation of the number one hydraulic system. The system may still have been capable of extending all the landing gear, given adequate time. However, the aircraft landed before the system could complete the landing gear extension.

The flight crew had the opportunity to recognise and correct the landing gear problem prior to landing. The pilot in command attempted to determine the actual landing gear situation from the flight engineer. Although the flight engineer's panel indicated the nose gear was not down and locked, the flight engineer did not recognise this and subsequent communication and co-ordination between the flight crew failed to detect this error.

During the latter part of the flight, the crew did not adequately manage the operation of the aircraft. The crew's performance reflected a lack of effective crew resource management, the crew's lack of knowledge about some of the company's procedures for B747 operations, the flight engineer's and the co-pilot's lack of experience in the B747 and perceived pressure.

A review of events associated with the introduction of the B747 indicated that organisational factors involving both Ansett and the Civil Aviation Authority led to a situation where there was increased potential for an accident of this nature to occur. These factors included deficiencies in the planning and implementation of the introduction program for the new aircraft, particularly with respect to manuals, procedures and line training. In addition, all regulatory requirements were not observed, nor were they enforced.

The flight crew's performance combined with the organisational factors to breach defences that had been put in place to ensure the safety of regular public transport

operations in high capacity aircraft. A number of recommendations were made as a result of the investigation.

Ansett Australia has advised the Bureau that it has taken a number of significant actions in response to this occurrence. Details of the actions taken can be found in Section 4 of this report.

## **BUREAU OF AIR SAFETY INVESTIGATION (BASI) REPORT**

### **ANSETT BOEING 747-312 VH-INH SYDNEY AIRPORT 19 OCTOBER 1994**

## **3.0 CONCLUSIONS**

### **3.1 Findings**

#### **General**

1. The crew was correctly licensed and qualified to operate the service as a regular public transport flight.
2. The flight was being used as a training flight for the co-pilot.
3. The flight was the first non-supervised line flight for the flight engineer.
4. There was a large difference in the level of experience on type between the pilot in command and both the other crew members.

#### **Aircraft**

5. The aircraft was serviceable prior to its departure from Sydney.
6. The number one engine was shut down due to loss of oil from a leaking angle gearbox housing cover.
7. The housing cover was leaking oil because an angle gearbox casing internal thread, which retained a threaded insert securing one of the cover attachment bolts, had stripped, allowing the cover to move and oil to escape.
8. It was possible to install the inserts in such a way that preload was insufficient, thus allowing the insert to vibrate until the threads failed.
9. Although the engine manufacturer had issued two service bulletins to correct the problem, neither addressed the root cause; nor was there any urgency specified for their incorporation.
10. The recorded performance of the number one hydraulic system during the accident flight was consistent with the demonstrated performance of the system when the number one engine was shut down and the air-driven pump was not delivering output.
11. The reason for an apparent reduction in output from the air-driven hydraulic pump system was not determined.

12. The only component in the nose landing gear system which exhibited test performance outside manufacturer's specifications was the nose landing gear door actuator. This component may have needed pressure and flow higher than specification levels to release the internal lock.

13. The flaps were moving almost continuously from the time of gear selection to touchdown. This, combined with the reduced output from the air-driven hydraulic pump, did not allow full system pressure and flow to be applied to the nose landing gear internal lock.

14. The landing gear warning and indicating system operated correctly.

### **Flight deck**

15. The flight engineer did not recognise that the information presented on the landing gear annunciator panel indicated that the nose landing gear was not extended.

16. The design of the landing gear annunciator section of the flight engineers' panel did not facilitate quick recognition of the landing gear status when the nosewheel was not extended with the main gear.

17. Neither pilot recognised the significance of the words 'four greens' when spoken by the flight engineer in response to the pilot in command's query on the landing gear status.

18. The non-use of intercom and the ambient cockpit noise, combined with the lack of concern in the flight engineer's voice, probably contributed to both pilots not recognising the significance of the content of the flight engineer's comments regarding the number of green lights.

19. After the initial exchange on the gear status, the pilot in command appeared to have concluded that the gear was extended. Subsequent actions by the crew failed to resolve the ambiguity between the pilots' perception of the gear status and the continuing warnings.

20. The failure to resolve this ambiguity was partly a consequence of the pilot in command not using good crew resource management procedures, particularly with regard to initiating the 'red gear light remains illuminated' operations manual procedure without reference to the other crew members.

21. A go-around was not initiated despite the continuing landing gear warnings, the landing checklist challenge and responses being incomplete, the inner trailing edge flaps remaining in transit and the speed being 26 knots above target speed.

22. Subtle pressure resulting from the turn-around request and the invitingly close runway probably played a significant part in the crew's performance and decision making.

### **Organisational**

23. Commercial imperatives resulted in the accelerated introduction of the B747 to the operator's fleet which, in turn, contributed to deficiencies in the management of manuals, procedures and line training.

24. Some of the flight operations department's development team, responsible for the management of the B747's introduction, were diverted onto a crew-training course at a critical stage of the introduction program.
25. The development team leader used management processes which did not highlight critical deficiencies during project planning or implementation.
26. The development team leader did not recognise the need to delay the start of B747 operations when it became apparent that some requirements would not be met.
27. B747-experienced staff within Ansett were not used to assist with planning or implementation of the B747 introduction.
28. The method of selecting flight engineers for training was driven principally by seniority rather than by a broader range of selection criteria, such as previous experience and adaptability.
29. Ground training of Ansett flight crew was completed in accordance with a Civil Aviation Authority approved syllabus.
30. Critical instructions and procedures had not been developed or put in place before the B747 training commenced. Procedures evolved rapidly and constantly as training progressed, causing confusion amongst trainees.
31. The training ability of contract flight engineers was not assessed prior to appointment or rostering in a training role.
32. The indoctrination of contract crews to Ansett's operating philosophies and procedures was inadequate.
33. Ansett crew resource management training was briefer than internationally accepted best practice.
34. Ansett's crew resource management training program was not fully effective in instilling crew resource management principles into the operational culture of the company's flight crews.
35. The Ansett operations culture tended to treat the B767 flight engineer as a 'systems specialist' rather than as a crew member integrated into all aspects of the flight deck operation. This background made it more difficult for the flight engineer to transition to the integral role played by a flight engineer in a B747 cockpit crew.
36. The overall training program did not adequately prepare the flight engineer for B747 operations.
37. Training standards, syllabuses and procedures for line training were either absent or deficient.
38. The Ansett training system did not incorporate a comprehensive reporting process.
39. Line checks were programmed to occur when minimum hours/sector requirements would be achieved but were not varied on trainee performance as reported in training reports.

40. Inadequate follow-up action was taken when the accident flight engineer failed his first formal check to the line. Discussions were not held with previous trainers, a remedial program was not developed and only two extra training sectors were allocated to correct the identified problems.

41. The manuals available to the crew did not include a definition of a 'stabilised approach' in a B747, nor was such a definition covered during training.

42. Management's option to use the same crew to complete the flight in another aircraft could not have been utilised without industrial and regulatory waivers, as it would have resulted in the flight crew exceeding their flight duty and flight-deck duty time limits.

43. Management and supervision of the Civil Aviation Authority's role in Ansett's B747 introduction was inadequate, partly because of a lack of training and partly because of a lack of resources. In addition, the Authority's management did not follow some aspects of its documented administrative instructions.

44. The Civil Aviation Authority's project manager issued an air operators certificate to Ansett before all the regulated requirements were met and without Ansett having developed and/or put in place all the necessary procedures.

45. Training for Civil Aviation Authority staff in the procedures for issuing an air operators certificate was inadequate.

46. The organisational climate prevailing in the Civil Aviation Authority at the time was biased towards commercial considerations rather than ensuring regulatory compliance and safety.

47. Real or imagined pressure, caused by a seemingly inflexible starting date for Ansett's B747 operations, probably influenced some of the actions taken by Civil Aviation Authority staff.

48. Civil Aviation Authority staff did not take sufficient action to ensure that concerns raised during inspections and surveillance were addressed.

### **3.2 Significant factors**

1. Adequate steps had not been taken by the engine manufacturer to correct a known deficiency with the angle gearbox inserts. This led to the number one engine being shut down due to a loss of oil.

2. During the accident approach, reduced output from the air-driven hydraulic pump system severely degraded the capability of the number one hydraulic system to extend the nose landing gear in the time remaining between landing gear selection and the aircraft's touchdown.

3. The flight engineer did not perceive that one of the five gear annunciator lights on his panel was not illuminated when he was asked to check their status.

4. The pilot in command interpreted the information initially supplied by the flight engineer as indicating that the gear was extended. From this point the pilot in command maintained a mindset which influenced his further decisions and actions.

5. The co-pilot heard the conversation concerning the analysis of the landing gear between the pilot in command and the flight engineer, and formed the same conclusions as the pilot in command with regard to the status of the gear.

6. The crew's erroneous perception of the gear status was not corrected by subsequent communications nor by the effective use of crew resource management principles and practices.

7. A go-around was not initiated despite the continuation of warning indications, the approach not being stable and apparent unresolved ambiguity of the situation.

8. Significant local factors influencing crew performance were:

- The crew composition set up a steep differential in crew experience levels which resulted in a degree of the co-pilot's and the flight engineer's responsibilities being relegated to the pilot in command and in the pilot in command assuming some of those responsibilities without discussion.
- The flight engineer's training did not adequately prepare him for the circumstances of the accident flight which probably contributed to him not recognising that the nose landing gear light was not illuminated.
- The crew was not using intercom for intra-cockpit communications. This probably contributed to a misunderstanding of communications between crew members.
- There was a lack of a definition of a stabilised approach in Ansett's manuals.
- Subtle pressure which arose from the crew being aware only of the option to transfer to an alternative aircraft and complete the flight in their remaining duty time, probably motivated them to continue with the landing to save time.
- The design of the landing gear annunciator display on the flight engineers' panel was deficient. A flight engineer was required to detect a missing light as an indicator of a problem and the layout of the lights could present misleading information if the flight engineer possessed minimum skills or was under pressure.

9. Significant organisational factors contributing to the accident were: Commercial imperatives to arrive at Kansai Airport at its opening resulted in an accelerated introduction of the B747 aircraft into Ansett's operations.

- Planning, implementation and management of the operational aspects of the aircraft introduction were deficient, particularly with respect to manuals and procedures, indoctrination/training of contract crew members, crew resource management training and flight training to the line.
- The Civil Aviation Authority issued the air operators certificates knowing that the requirements for their issue had not been fully met.
- A culture persisted in the Civil Aviation Authority which appeared to concentrate on assistance to the aviation industry in preference to regulation enforcement.
- Inadequate resources and training contributed to deficient handling of the approval processes for Ansett's air operators certificates by the Melbourne office of the Civil Aviation Authority.

## APPENDIX 5

### AUST./U.S. COMPARISON OF PILOT PAY RATES

SOURCE: AFAP 18th August 1988, All rates \$AUST.. Per Annum., Senior Captain.

A300	Australian Airlines	\$102278
	U.S. Air	\$183645
	Eastern	\$133192
	Pan American	\$179934
	Continental	\$ 99114
	<b>A300 US Average</b>	<b>\$148971</b>
B767	Ansett Airlines	\$102531
	U.S. Air	\$184155
	American	\$184178
	Delta	\$203167
	Piedmont	\$187830
	Transworld	\$128400
	United	\$179885
	<b>B767 US Average</b>	<b>\$177936</b>
B727-200	Australian Airlines	\$ 87241
	Delta	\$184569
	Eastern	\$115539
	Fying Tiger	\$ 92422
	Northwest	\$177174
	Pan Am	\$150880
	Piedmont	\$181785
	Republic	\$144489
	United	\$163247
	Continental	\$ 99114
	TWA	\$113578
<b>B727 US Average</b>	<b>\$131880</b>	
B727-100	Australian Airlines	\$ 92073
	American	<b>\$164662</b>
B737-300	Australian Airlines	\$ 85467
	US Air	\$173145
	American	\$156570
	Piedmont	\$174405
<b>B737 US Average</b>	<b>\$168040</b>	
DC9	Australian Airlines	\$ 81542

	Delta	\$172941
	Eastern	\$113399
	Republic	\$144489
	Hawaiian	\$118260
	Pacific Southwest	\$142385
	Continental	\$ 80051
	<b>DC9 US Average</b>	<b>\$128586</b>
F-28	Ansett Airlines	\$ 79573
	Piedmont	<b>\$112860</b>
BAe 146	Ansett Airlines	\$ 74681
	Pacific Southwest	<b>\$123752</b>

### EXAMPLES OF PRE-DISPUTE PILOT ROSTERS

COMMENT by Alex Paterson:

The following two examples of pre-dispute rosters (blocks) are provided to explain the method by which pilots' pay used to be calculated pre-dispute. This result is then compared with the pay for exactly the same roster after it has been calculated using the post-dispute 'Individual Contract' method.

The average pay increase for a typical pre-dispute pilot roster using the pay calculation rules of the new 'Individual Contracts' is over 25%.

By completely changing the method used to calculate pilots' pay, Sir Peter Abeles and his partners were able to create a 'smoke screen' around the issue of pilot's pay. In this way they were able to convince the public (who were significantly funding their side of the Dispute) into believing that a 25% pilot pay rise (which they had to pay to get pilots) was only 6%!

It should be remembered that the justification for the raft of tactics used against the Pilots, which included a government grant of at least \$100 million of tax payers' money, plus the apparent inability to resolve the Dispute, was because the Pilots' original pay claim (to be negotiated) was alleged to be outside the wage fixing guidelines of that time by being in excess of 6%. Hence the reason for keeping the pay rise secret. The presence of this hidden pay rise provides clear evidence that the Dispute was never really about pilots' pay, but rather the subjugation of Pilots for the various reasons discussed elsewhere.

NOTE 1: Block 5 Dec 1988 is a low hour roster, whereas Block 7 Feb 1989 is a high hour roster.

#### NOTE 2: **The OVERTIME DAY ('O day') ANOMALY.**

The original concept of 'O days' was supposed to be an 8% pay rise outside the wage fixing guidelines associated with the 'Accord' of that time. Pilots nominated a day where they made themselves 'more available' for overtime flying. For this 'extra availability' pilots were paid 6 hours pay whether they flew or not. Because this exercise was designed to be a pay rise circumventing the wage fixing guidelines of that time, 'O day' pilots were originally placed at the bottom of the availability list for any extra flying. However, the IRC subsequently insisted that the 'O day' pilots went to the top of the availability list. As a consequence of this change, pilots usually ended up working on their 'O day'. The net effect of this change degraded the monetary value of the 'O day' concept from the planned 8% to about 4% because:-

- By working on their 'O day', pilots became unavailable for any real overtime flying on other days.
- Extra flying, which should have been available for pilots to work real overtime, was being 'soaked up' by other pilots being required to work on their 'O day'.
- The productivity gains associated with IRC's changes to the 'O day' system saved Ansett having to employ approximately 30-40 pilots. This represented about one year of career advancement for the average pilot.

The pay scale in the new individual contracts fully compensated 8% for the loss of the 'O day' allowance despite the fact that the 'O day' was effectively only worth 4%.

This had the defacto effect of hiding an extra 4% pay rise in the Individual Contracts, hence the 'O day anomaly'.

**Pre-Dispute Roster BLOCK 5 Dec 1988 MEL B-767**

Note 1: All flight duty as a passenger marked with an asterix \*

Note 2: All times Eastern Standard Time (E.S.T.)

Note 3: 'Grey' days were days that pilots could choose to 'bid' for overtime.

DAY	Flight Number	Depart Port	Depart Time	Dest Port	Dest Time	Sector Mins	Flight Mins	Pay Mins	TOTAL Time Away
THU 01	Grey								
FRI 02	Grey								
SAT 03	22	MEL	1400	SYD	1510	70	70	240	
SUN 04	8	SYD	0930	BNE	1045	75			
	21	BNE	1200	SYD	1320	80			
	20	SYD	1415	BNE	1530	75	230	240	
MON 05	25	BNE	1400	SYD	1520	80			
	25	SYD	1600	MEL	1715	75			
	30	MEL	1800	SYD	1910	70			
	* 37	SYD	2015	MEL	2130	75	225	300	
								<b>851</b>	<b>3405</b>
TUE 06	Off								
WED 07	Off								
THU 08	'O' Day								
FRI 09	22	MEL	1400	SYD	1510	70			
	27	SYD	1700	MEL	1815	75			
	55	MEL	1900	PER	2245	225	370	370	
SAT 10	Layover								
SUN 11	245	PER	1405	SYD	1800	235			
	* 33	SYD	1830	MEL	1945	75	235	310	
								<b>825</b>	<b>3300</b>
MON 12	Off								
SUN 13	Off								
WED 14	26	MEL	1600	SYD	1710	70			
	245	SYD	1825	BNE	1940	75			
	39	BNE	2015	SYD	2135	80			
	401	SYD	2230	MEL	2345	75	300	360	

								<b>360</b>	<b>540</b>
THU 15	* 55	MEL	1900	PER	2245	225	0	240	
FRI 16	Layover								
SAT 17	221	PER	0210	SYD	0605	235			
	* 1	SYD	0645	MEL	0800	75	235	310	
								<b>566</b>	<b>2265</b>
SUN 18	22	MEL	1400	SYD	1510	70			
	22	SYD	1550	BNE	1705	75			
	1133	BNE	1740	SYD	1900	80			
	39	SYD	2220	MEL	2335	75	300	325	
								<b>325</b>	<b>650</b>
MON 19	Grey								
TUE 20	Off								
WED 21	Off								
THU 22	Grey								
FRI 23	* 1	MEL	0845	PER	1230	225			
	245	PER	1415	SYD	1810	235	235	460	
SAT 24	92	SYD	0830	OOL	0940	70			
	1181	OOL	1020	MEL	1220	120			
	1082	MEL	1300	OOL	1450	110			
	1083	OOL	1530	MEL	1730	120	420	420	
								<b>880</b>	<b>2010</b>
SUN 25	12	MEL	0900	SYD	1010	70			
	1112	SYD	1040	HTI	1250	120			
	1125	HTI	1330	SYD	1535	125	325	325	
MON 26	1090	SYD	0735	OOL	0845	70			
	1090	OOL	0910	BNE	0935	25			
	* 17	BNE	0955	SYD	1115	80	95	240	
TUE 27	1062	SYD	0740	BNE	0855	75			
	17	BNE	0955	SYD	1115	80			
	14	SYD	1205	BNE	1320	75			
	25	BNE	1400	SYD	1520	80			
	25	SYD	1600	MEL	1715	75	385	385	
								<b>950</b>	<b>3450</b>
WED 28	Off								
THU 29	Off								
FRI 30	Grey								
SAT 31	Grey								
<b>GRAND TOTAL</b>	<b>MINS</b>	<b>FOR</b>	<b>THE</b>	<b>MONTH</b>				<b>3425</b>	<b>4757</b>
<b>GRAND TOTAL</b>	<b>HRS</b>	<b>FOR</b>	<b>THE</b>	<b>MONTH</b>				<b>57</b>	<b>79.3</b>
								<b>15620</b>	<b>260</b>

TOTAL time actually flying an aircraft is 57 hours

TOTAL duty as a passenger, which is all flights marked \* is 755 mins

TOTAL time away from home is 260 hrs for the month, which averages 59 hrs/wk

### **'OLD' PRE-DISPUTE CONTRACT PAY CALCULATION FORMULA:**

For the purpose of pay calculation, each day at work was 'credited' with either the total flying hours for the day or at least four hours minimum, whichever was greater. This figure was called the pay 'credit hours' for the day. Duty as a passenger (paxing) was considered 100% 'flying' and paid as such.

Total 'pay credit minutes' of this roster is 4798 mins, which is 80 hours for the month. However, pilots were guaranteed to be paid a minimum of 85 hours per month. The pre-dispute contract pay rate was \$86 per hour x 85 'credit hours' = \$7310 for the month.

In addition, pilots were paid a standard \$1455 per month called 'Base pay'.

Thus, the total pay for this month pre-dispute used to be  $\$7310 + \$1455 = \$8765$ <sup>116</sup>

### **'NEW' INDIVIDUAL CONTRACT PAY FORMULA:**

Total time actually flying an aircraft. 57.0 Hrs Total time Paxing = 755 mins (12.6 Hrs), which earns 1/2 Flight pay. 6.3 Hrs pay

Total pay hours under new Individual Contract rules for pay calculation = 63.3 Hrs

Now, the first 55 Hrs is paid a 'standard' rate of pay for the month of \$10,027 The next 8.3 Hrs is called 'overtime' and paid at the rate of \$182 per hour = \$ 1510

Thus, the total pay for this month post dispute became \$11537<sup>117</sup>

The difference between the 'old' pay and the 'new' pay is  $\$11537 - \$8765 = \$ 2772$

This is a 32% pay increase.

However, the 'individual contracts' do not have all the 'allowances' that were in the 'old' contract which were worth about 10%. (i.e. No car allowance, no licence renewal allowance, no 'O day' allowance etc.)

**Thus the effective real pay increase for this roster is 22%.**

NOTE 1: This figure does not count real overtime.

NOTE 2: It was implied during the dispute that Pilots performed little work. However, it should be noted that this roster contains:

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<sup>116</sup> Reference section 9 page 18 of Ansett Airline Pilots' Agreement 1988.

<sup>117</sup> Reference section 8 page 6 of IRC Ansett Airlines Pilots' Award 1989.

5 late night sign offs i.e. After 21.30

3 early morning sign ons i.e. Before 7 am.

9 nights away from home port.

No weekends off. (However, 1 Saturday off)

Total time away from home is 260 hrs for the month, which averages 59 hours per week.

### Pre-Dispute Roster BLOCK 7 Feb 1989 MEL B-767

Note 1: All flight duty as a passenger marked with an asterix \*

Note 2: All times Eastern Standard Time (E.S.T.)

Note 3: 'Grey' days were days that pilots could choose to 'bid' for overtime.

DAY	Flight Number	Depart Port	Depart Time	Dest Port	Dest Time	Sector Mins	Flight Mins	Pay Mins	TOTAL Time Away
TUE 31	Grey								
WED 01	Off								
THU 02	Off								
FRI 03	6	MEL	0715	SYD	0825	70			
	6	SYD	0915	BNE	1030	75			
	6	BNE	1105	HTI	1230	85			
	27	HTI	1305	BNE	1425	80			
	27	BNE	1505	SYD	1625	80	390	390	
SAT 04	7	SYD	0800	MEL	0915	75			
	14	MEL	1000	SYD	1110	70			
	14	SYD	1205	BNE	1320	75			
	25	BNE	1400	SYD	1520	80	300	300	
SUN 05	7	SYD	0800	MEL	0915	75			
	14	MEL	1000	SYD	1110	70			
	14	SYD	1205	BNE	1320	75			
	25	BNE	1400	SYD	1520	80			
	25	SYD	1600	MEL	1715	75	375	375	
									<b>1065 3555</b>
MON 06	'O' Day								
TUES 07	8	MEL	0800	SYD	0910	70			
	11	SYD	1000	MEL	1115	75			
	20	MEL	1200	SYD	1310	70	215	240	
WED 08	62	SYD	0740	BNE	0955	75			

	17	BNE	0955	SYD	1115	80		
	17	SYD	1200	MEL	1315	75	230	240
							<b>480</b>	<b>1830</b>
THU 09	Off							
FRI 10	Off							
SAT 11	Off							
SUN 12	* 1	MEL	0845	PER	1230	225		
	245	PER	1405	SYD	1800	235	235	460
MON 13	7	SYD	0800	MEL	0915	75		
	14	MEL	1000	SYD	1110	70		
	14	SYD	1205	BNE	1320	75		
	25	BNE	1400	SYD	1520	80	300	300
TUE 14	62	SYD	0740	BNE	0855	75		
	17	BNE	0955	SYD	1115	80		
	17	SYD	1200	MEL	1315	75	230	240
							<b>1000</b>	<b>3195</b>
WED 15	22	MEL	1400	SYD	1510	70		
	25	SYD	1600	MEL	1715	75		
	30	MEL	1800	SYD	1910	70		
	* 37	SYD	2015	MEL	2130	75	215	290
							<b>290</b>	<b>525</b>
THU 16	30	MEL	1800	SYD	1910	70		
	34	SYD	2025	BNE	2140	75	145	240
FRI 17	* 25	BNE	1400	SYD	1520	80		
	27	SYD	1700	MEL	1815	75	75	240
							<b>480</b>	<b>1530</b>
SAT 18	Off							
SUN 19	Off							
MON 20	4	MEL	0700	SYD	0810	70		
	652	SYD	0855	BNE	1010	75		
	21	BNE	1200	SYD	1320	80	225	240
TUE 21	7	SYD	0800	MEL	0915	75		
	14	MEL	1000	SYD	1110	70		
	14	SYD	1205	BNE	1320	75		
	* 25	BNE	1400	SYD	1520	80	220	300
WED 22	62	SYD	0740	BNE	0855	75		
	17	BNE	0955	SYD	1115	80		
	17	SYD	1200	MEL	1315	75	230	240
							<b>832</b>	<b>3330</b>
THU 23	Grey							
FRI 24	26	MEL	1600	SYD	1710	70		
	245	SYD	15	BNE	1940	75		

	39	BNE	2015	SYD 2135	80			
	* 39	SYD	2220	MEL 2335	75	225	300	
							<b>300</b>	<b>530</b>
SAT 25	Grey							
SUN 26	Grey							
MON 27	Off							
TUE 28	Off							
WED 01	8	MEL	0800	SYD 0910	70			
	660	SYD	1005	BNE 1120	75			
	21	BNE	1200	SYD 1320	80			
	21	SYD	1350	MEL 1505	75	300	300	
							<b>300</b>	<b>500</b>
<b>GRAND TOTAL</b>	<b>MINS</b>	<b>FOR</b>	<b>THE MONTH</b>			<b>3910</b>	<b>4747</b>	<b>14995</b>
<b>GRAND TOTAL</b>	<b>HRS</b>	<b>FOR</b>	<b>THE MONTH</b>			<b>65.15</b>	<b>79.1</b>	<b>250</b>

TOTAL time actually flying an aircraft is 65.15 hours

TOTAL duty as a passenger, which is all flights marked \* is 535 mins

TOTAL time away from home is 250 hrs for the month, which averages 57 hrs/wk

#### **'OLD' PRE-DISPUTE CONTRACT PAY CALCULATION FORMULA:**

For the purpose of pay calculation, each day at work was 'credited' with either the total flying hours for the day or at least four hours minimum, whichever was greater. This figure was called the pay 'credit hours' for the day. Duty as a passenger (paxing) was considered 100% 'flying' and paid as such.

Total 'pay credit minutes' of this roster is 4747 mins, which is 79.1 hours for the month. However, pilots were guaranteed to be paid a minimum of 85 hours per month. The pre-dispute contract pay rate was \$86 per hour x 85 'credit hours' = \$7310 for the month.

In addition, pilots were paid a standard \$1455 per month called 'Base pay'.

Thus, the total pay for this month pre-dispute used to be \$7310 + \$1455 = \$8765 <sup>118</sup>

#### **'NEW' INDIVIDUAL CONTRACT PAY FORMULA:**

Total time actually flying an aircraft. 65.15 Hrs

Total time Paxing = 535 mins (8.9 Hrs) , which earns 1/2 Flight pay. 4.45 Hrs pay

Total pay hours under new Individual Contract rules, for pay calculation = 69.60 Hrs

Now, the first 55 Hrs is paid a 'standard' rate of pay for the month of \$10,027

<sup>118</sup> Reference section 9 page 18 of Ansett Airline Pilots' Agreement 1988.

The next 14.6 Hrs is called 'overtime' and paid at the rate of \$182 per hour = \$ 2657

Thus, the total pay for this month post dispute became \$12,684 <sup>119</sup>

The difference between the 'old' pay and the 'new' pay is \$12684 - \$8765 = \$ 3919

This is a 44% pay increase.

However, the 'individual contracts' do not have all the 'allowances' that were in the 'old' contract which were worth about 10%. (i.e. No car allowance, no licence renewal allowance, no 'O day' allowance etc.)

**Thus the effective real pay increase for this roster is 34%.**

NOTE 1: This figure does not count real overtime.

NOTE 2: It was implied during the dispute that Pilots performed little work. However, it should be noted that this roster contains:

3 late night sign offs i.e. After 21.30

11 early morning sign ons i.e. 7 am or earlier.

8 nights away from home port.

Total time away from home is 250 hrs for the month, which averages 57 hours per week.

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<sup>119</sup> Reference section 8 page 6 of IRC Ansett Airlines Pilots' Award 1989.

### **CAPT DICK HOLT'S ASSESSMENT OF THE INDIVIDUAL CONTRACTS**

TO: All members of the Australian Federation of Air Pilots  
FROM: Dick Holt  
SUBJECT: The "Award" Applications by your Employers

Brian McCarthy has granted me the privilege of direct communication with you about the "awards" application if I wish. I do wish and I will try to contain my language.

This "award" has been carefully drawn up by and on behalf of persons having a massive dislike of pilots and which under normal standards would cause its originators to be dismissed for stupidity.

It is made possible only by a mischievous and dangerous association between parties and persons in political and commercial fields each of which has a direct vested interest in destroying the protection under which you have worked for several decades.

This is proven *inter alia*, by the fact that these awards would destroy by elimination, a host of protections which have nothing whatsoever to do with the Dispute at large.

It seems to me that such awards would leave you:

- without representation by your Federation
- without any bid system
- without any grievance procedures
- without any rules for the application of seniority
- locked into a system under the control of the A.C.T.U. and the Politicians of the day.
- subject to "direction" by the Industrial Relations Commission.
- without defined Loss of Licence insurance.
- without the ability to discuss new aircraft types.
- without protection from arduous tours of duty. (particularly in relation to pilot fatigue)
- without any right to be informed why you have been terminated
- without A.F.A.P. support in accident or incident investigation
- without a specified recreation leave arrangement
- without any Equipment Assignment procedures
- without any recognised input into scheduling
- without a savings clause
- without protection against enforced dual endorsements
- without any severance pay.
- without any pay calculation formula
- without recognition of non-flying time spent away from home port.
- without a controlled pay "deduction" rule
- without any input into rostering
- without adequate specified reserve duty rules (a massive loss)
- without any drafting rules
- without any pay protection for cancellation, substitution and displacement
- without any real specification of your duties performed.

and so on.

The proposed Australian Section 6B says: "It is not considered necessary nor possible to specify every detail of the duties, it being generally understood within the aviation industry what those duties comprise" (I wonder who wrote that!) The proposed Ansett award at Section 21 says: "all other conditions of employment shall be as determined by the employer".

So - you are left with your employer making all of the decisions on all of the matters listed above as and when they come up, which they surely will, and a multitude of other matters including introduction of new aircraft types.

The style of management mischief and patronage this would recreate appals me.

Another vicious section of the general approach to the Industrial Relations Commission is the request by the airline management group to set aside all General Aviation Awards - an animal act taken without any thought of the consequences, other than an insane desire to get at pilots.

All in all, this is vintage 1950 - 1959 stuff. In those days:

- you did what you were told
- you rang and begged for information about the next roster so that you could make a few plans
- accommodation was frequently vile - a two bed room over the hanger at Essendon
- a five bed dormitory in the staff quarters of a hotel in Cairns - we weren't good enough to occupy guest rooms!
- advancement - you eased respectfully into the Senior Route Captain's office and asked about your prospects, upgrading etc. The right hand opened a drawer about four inches and looked at whatever was "the list" and said something like - "maybe soon, maybe longer"
- the "good boy" system was rampant - carry the extra weight, bend the regulations etc, very much on the agenda.

I'm not being nostalgic - you may be assured that the 1990's version of that kind of treatment awaits you under such awards.

No other Association or Trade Union in Australia would accept such a disgusting recession to employer savagery and denigration of current working conditions.

Dick Holt. 4.10. 89 <sup>120</sup>

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<sup>120</sup> Captain Dick Holt was a former long serving President of the Pilots' Federation. Despite the fact that he had retired from Ansett Airlines over 10 years earlier, he was so concerned about the destruction being wrought on his former profession that he placed and paid for full page advertisements in the nation's metropolitan daily newspapers. (The Age, The Australian etc) He did this to explain to both the public and the members of Abeles' Coalition, the inevitable consequences of the dispute. Although not wealthy, he refused to accept money from pilots to pay for the said advertisements. (Estimated to have cost at least \$100,000.)

### **IRC DEPUTY PRESIDENT HANCOCK'S S118 DECISION**

On 13th March, 1990 the Airline Companies made application to have the matter of award responsibility considered by the Full Bench of the IRC with the intention of having AFAP removed as the respondent to the new Pilot Awards. Commission President Barry Maddern referred the matter to Deputy President Hancock for arbitration.

On 14th March, 1990 hearings regarding the award responsibility commenced in front of Deputy President Hancock.

On 22nd of September 1994, after 70 sitting days, Commissioner Hancock handed down his decision regarding the Domestic Airline Pilot Award responsibility (known by Pilots as the Section 118 case) In handing down his decision, Commissioner Hancock delivered a surprisingly candid appraisal of many aspects of the Pilots' Dispute.

Not surprisingly, Commissioner Hancock made no adverse comment on the IRC's handling of the Dispute. Commissioner Hancock had been one of the three Industrial Relations Commissioners on the full bench of the IRC presiding over the Dispute in 1989. Because of his position, Commissioner Hancock had been intimately involved in the IRC's handling of the Dispute since the beginning.

Commissioner Hancock's decision ran to 298 pages. The Pilots' Federation Executive Director, Mr Terry O'Connell, compiled the following selection from Mr Hancock's report for AFAP members' information and published it in the Federation's 'Go-Around' newsletter in January 1995.

#### **Australian Federation of Air Pilots Go-Around January 1995**

### **SECTION 118 DECISION**

The long awaited decision over 70 sitting days by Senior Deputy President Hancock was handed down on the 22nd September 1994. It ran to 298 pages but is interim in that he has made no decision in relation to which organisation will represent the Ansett, East West and Ipec pilots.

To pick and choose paragraphs obviously raises the question of subjective/objective selection. As Executive Director I have attempted to choose paragraphs that deal with the major issues raised by pilots with me over the years since the dispute in 1989. Most of the excerpts are taken from conclusions of the various sections into which the decision is divided :

#### **The AFAP Approach to the Dispute**

Pre-Dispute "Overall the Federation's campaign in the pre- dispute period, carried strong membership support. In such a campaign, it is necessary that there be planning, leadership and - in all probability - a measure of secrecy. These were all aspects of the strategy. In recognising this of course, I am commending neither the AFAP's objectives nor its preparedness to resort to industrial action in pursuit of them".

## Resignations

"I reject the contention that members of the AFAP participated in the resignation strategy because they were manipulated and deceived. My reasons, in summary, for reaching this conclusion are:

- that the vigorous prosecution of the pilots' salary claim by negotiation and industrial action had been strongly supported by the pilots;
- that there is negligible evidence of pilots questioning the continuation of the campaign, even when the next step - resignation - confirmed them;
- that little or no basis exists for the allegation that the leaders embarked on a strategy of deliberate deception;
- that to the extent that the leaders exercised discretion, without receiving explicit membership approval, this was within the normal bounds of leadership autonomy and consistent with their general mandate from the membership; and
- that the leaders did not fail to consider the consequences of the resignations for the pilots' employment.

To these reasons I add the following. If the members signed the forms of resignation because they were taken by surprise and confused, it might be expected that there would be a reconsideration. No evidence exists that, in the first month or thereabouts after 24 August, there was any widespread disposition on the pilots' part to question the step which they had taken. The employers, by offering to re-engage them, provided opportunities for pilots to "reconsider" their resignations. Few availed themselves of those offers until much later in the dispute, when the failure of the strategy had become obvious.

That the resignations were catastrophic for the AFAP and many of its members is beyond dispute. They do not, however, stand apart from the chain of events which was inherent in the determination of the Federation - with overwhelming membership support - to free the pilots from the restraints of the then-existing wages system. Of course, there existed the alternative of "turning back". This would have been a massive retreat. There is no evidence that more than a handful of pilots wanted it. At the time of the resignations, the AFAP and the pilot body were not separate entities: the leaders and the members were as one".

"Turning to the latter version of the allegation that the resignations were an industrial tactic, I think that the implied dichotomy between industrial purposes is unrealistic. The AFAP, confronted with the employers' recourse to writs, could hardly have allowed its members' liabilities to escalate. Deferring action in respect of any pilot until that pilot was served with a writ would have been irresponsible, because the pilot's liability might have mounted in the meantime. In reality, the AFAP was obliged to choose between a resumption of normal flying in accordance with the pilots' contracts, on the one hand, and bringing the contracts to an end, on the other. The former course implied a renunciation of industrial action in pursuit of the wage claim. Hence the continued pursuit of the claim by industrial action and protection of the members' interests by resignation were, in practice, inseparable. It is unremarkable that the leaders, having secured the resignations, would hope to impress the employers as to the pilots' solidarity. To have forfeited that opportunity would have been inept".

## Communication and Leadership

"Communication with members was central to the leaders' strategy. Three purposes have been identified:

- to ensure that the pilots had a sense of participation in a common and consensual enterprise;
- to ensure that the pilots maintained "the AFAP view" of what was occurring rather than come under the influence of contrary interpretations (the "brainwashing" function); and
- to provide members with opportunities to make their views known to the leaders.

Of course, it is attractive to different interests in these proceedings to emphasise a particular purpose and to disregard others. That approach, however, is a distortion. I am convinced that all three purposes existed. Indeed, the dispute could not have been sustained otherwise. The events of the dispute cannot be understood by "explanations" which disregard its complexity. It is important, however, to note that the periodic and well-attended meetings of pilots did afford opportunities for the strategy to be challenged. A degree of courage was required; but that is because the large majority of members was in accord with the strategy. The Federation certainly had leaders who led - as it happened, to disaster. As I have suggested, they were probably separated from the members to a degree late in 1989 by not disclosing fully their doubts about the outcome of the dispute. It is understandable that some of the "rank and file" members who became seized of similar doubts began to make their own decisions in their own interests. I cannot, however, accept the more extreme conceptions of "deception", "manipulation" and "intimidation" that were advanced in the proceedings. The members of the AFAP - both those who "stayed" and those who "left" - were responsible for their own choices".

## The Federation and the Commission

"By late November, the leaders of the AFAP were torn between their reluctance to participate fully in "the system" and their perception - reinforced by external advice - that the Commission was the only means of protecting the pilots' employment prospects and preserving the Federation's industrial role. Their attempt to invoke the commission's "good offices", while avoiding the requirements of full participation in the system, failed when the Federation's applications were before Paine C. They then realised that compliance with the conditions of award response stated by the Full Bench on 6 October was but a matter of time. That it took many weeks, punctuated by the picketing episode in Western Australia, for them to act on this realisation, evinces the Federation's unease about confirming to the norms of the system.

The commitments and the answers to questions given in the March proceedings, in their terms, constitute a full acceptance of those norms. I accepted them - subject to the period of "probation" - in my decision. In this case, I have to consider whether the belatedness of AFAP's compliance and the circumstances in which it was forthcoming tell against its continued representation of pilots. They may, perhaps, do so because

- the Federation's initial rejection of the Commission and its subsequent endeavours to "use" it merit censure;
- its eventual acceptance of the Commission's requirements was dictated by necessity and insincere;

- its attitude toward the Commission before March offended some pilots and contributed to a loss of "trust and confidence" in the Federation.

The first of these considerations raises the issue of punishment, with which I deal more broadly in the last Part of this decision. I do not pursue it here. The second is important because it implies that the Federation, if given the chance, would revert to its earlier attitudes and might behave in a similar fashion. There can, of course, be no certainty about this. Nevertheless I do not think that my decision in this case should be strongly influenced by the risk of recidivism. My view arises not only from the undertakings given by the AFAP in March 1990 but also from the low likelihood of the recurrence of circumstances which would induce conduct such as occurred in the dispute; and I should be surprised if the Federation had learned nothing from the experience. As to the third consideration, I simply note that little evidence exists that pilots were estranged from the Federation because of its conduct in the Commission. Had this been a significant concern, the defections would have occurred much earlier".

### **The Resistance**

"The AFAP's complaint, of course, is not merely with the unexpected charter of the resistance but also with its perceived unfairness. As I comprehend it, the argument is that the combination of the companies' refusal to deal with the AFAP and governmental intervention on the employers' side placed the AFAP in a position where it could not conclude a tolerable settlement; for the companies would not voluntarily countenance any settlement which accorded an enduring role of the AFAP. In the absence of evidence to the contrary, I am satisfied that at some stage in August 1989 - I cannot be more precise - the companies decided that they would no longer treat the AFAP as the pilots' representative except to the minimum degree required by law. The reasons are unclear. They may relate to earlier experience, i.e. the AFAP's successes in deploying its industrial might; they may have reflected a perception that the decimation of the AFAP would allow them a freer hand in managing (including reducing) their pilot complements; and they may have reflected a sense of outrage at the damage which the AFAP was prepared to inflict on them in pursuit of its claim. Because of their failure to call relevant witnesses, the companies are not entitled to expect me to ignore any of these possibilities. The approach which they took to the AFAP's eventual application for respondentship, the Section 118A applications and the companies' attitude to the AFAP during the period between the end of the dispute and the end of these proceedings may be seen as firm adherence to a policy on which they embarked in August 1989. This is a conclusion to be revisited in the final part of this decision. For the present, I record my broad acceptance of the AFAP's contention that the companies' stance militated against retreat by the AFAP. This, I hasten to add, does not condone the AFAP's conduct toward the Commission, which was full cognisant of the Federation's rights.

I should also emphasise that no blame attaches to the airlines for their attempts to persuade pilots to return to work in defiance of the AFAP for so long as the Federation resisted the authority of the commission. They had no obligation to concede the AFAP's wage claim. Indeed, they had a responsibility to resist it. They were entitled to seek to restore services. It was not their duty to protect the solidarity of the AFAP's membership. I am satisfied that the primary purpose of the companies in instituting legal action against the AFAP, its officers and officials, and pilots themselves was to deter the AFAP and its members from persisting in their industrial action. This accords with Mr Green's evidence and my understanding of the discussion of 15 August. It may be, however, that the companies' persistence in their damages claims was eventually linked with an objective of destroying the AFAP".

## **The Employed Pilots**

"Given the support for the industrial campaign which pilots had overwhelmingly given, I find it entirely credible - to be expected, indeed - that those who "returned" would in many instances have experienced a sense of guilt about their defection, however it may have been sublimated. This judgement does not cause me to assume that the returned pilots' alienation from the AFAP will easily mellow. On the contrary, a sense of guilt is more likely than not to have accentuated the defectors' determination to distance themselves from their past associations".

## **Damages**

I here refer to the contingent liability arising from the award of damages in the Victorian Supreme Court. Mr O'Connell gave his opinion that, by reason of a commitment given to the ACTU, the airlines would not enforce the damages. (The position with respect to costs was less definite). I accept the auditors' view about the consequences of enforcement. In my judgement, however, the possibility that the airlines might act to bring about those consequences ought not to affect my decision. They have made the applications which are before me and have not to date put the AFAP "out of business" by enforcing the Supreme Court's judgement. I presume that they seek a decision on merit. The only defensible approach open to me is to assume that my decision, one way or the other, is relevant, which implies that the debts will not be enforced. For this reason, I disregard them in considering the AFAP's viability. I imply no opinion as to whether the airlines will or should require payment".

## **Company Attitudes**

- "The companies' motives cannot be stated with certainty. They had their own agenda and were not merely implementing that of the pilots. Remembering that their wish to "shut out" the Federation became evident early in the dispute, I think it likely that there was a combination of retribution and desire that they be no longer exposed to the bargaining power which the AFAP had exercised by reason of the strategic role of pilots in aviation.
- The companies have sought to minimise the AFAP's role in the industry, limiting severely its capacity to function effectively as an award respondent.
- Clearly, the companies have contributed materially to the AFAP's disablement. Their attitude and that of many of the employed pilots were mutually reinforcing. I cannot apportion causation between them.

With respect to the broader question - whether the companies' behaviour had "produced" much of the case against the AFAP - there can be no avoidance of the responsibility which the AFAP and its members bear as originators of the dispute, the prolongation of it and actions taken in the course of it. It is also true, however, that the doubts which now exist about the Federation's credibility as a union for pilots are due in part to the difficulties which it has encountered in trying to rehabilitate itself. Those difficulties are, in some degree, caused by the employers".

## **Aircraft Safety**

"The evidence leads me to the conclusion that an indiscriminate mixing of pilots from the two groups created by the dispute might well have safety implications. It does not persuade me, however, that no pilot from one group could safely work with a pilot from the other. Appropriate selection is essential. The companies, I believe, are capable of selecting compatible pilots and, in fact, have done so. Since the "returned" pilots were already in place, the unemployed pilots after the dispute were confronted with three impediments to their recruitment :

- the limited number of vacancies;
- the hostility of some employed pilots toward the unemployed pilots; and
- the hostility of some of the unemployed pilots toward the employed pilots.

Having regard to the priority of safety, I think that the companies were entitled to be cautious in selecting from the ranks of the unemployed pilots.

This case, however, is not about recruitment. A decision as to whether or not the AFAP should continue to represent the industrial interest of pilots is not a decision as to whether more or fewer of the unemployed pilots should be re-engaged. The evidence that membership of the AFAP ipso facto would cause safety problems is tenuous. Dr Zentner, for example, did not think it necessary to inquire whether prospective pilots belonged to the AFAP. He assumed that some did, but thought that other factors were "more material to making a decision as to risk than whether they actually retain membership of an organisation". No conceivable outcome of these proceedings will entail a re- absorption by the airlines of the large majority of the unemployed pilots. In my opinion, the question whether the AFAP should retain representation rights does not turn, to any significant degree, upon issues of safety".

## **On Discrimination**

"The companies have re-employed some AFAP members since the dispute. Had they employed none, the inference of discrimination might have been compelling. Were the recruitments from AFAP ranks a token exercise? Since the companies produced no evidence of their recruitment policies and practices - as they might have done - I do not exclude that possibility. I am alive to the provisions of Section 334 of the Industrial Relations Act 1988, whereby various acts which would disadvantage persons for membership of a registered trade union are offences. There is no suggestion that airlines have been convicted of - or even prosecuted for - offences under that section. The ASU submits : "Had there in fact been any unlawful threat by the Companies to terminate or otherwise damage in employment any employed pilot on account of his membership of the AFAP, the commission would have very clear evidence about it". This submission assumes that the evidence of unlawful threats would necessarily have been available to the AFAP. That assumption is unwarranted. A pilot who was subjected to such a threat may have elected to comply with the employer's demand rather than report it to the AFAP. I do not assume, however, that the companies have acted unlawfully. Direct discrimination against the AFAP was not necessary to place its members at a disadvantage: reluctance to recruit from the ranks of the "unemployed" pilots, most of whom were AFAP members, would have a similar effect".

## The Decision

I grant the application of Qantas and the amended application of Australian and refuse the application of ASU. In doing so, I rely upon AIPA's undertaking to provide appropriately for the separate interests of domestic pilots. To protect the rights of potential appellants, I shall in due course issue formal orders consistent with this decision wherein the operative date will be specified. The time at which the orders are issued may be affected by the conclusion in the main case".

"I turn to more general matters of union structure. The AFAP and AIPA both contend that pilots require specialised representation. This is a claim for craft unionism and, as such, requires some justification in view of the policy of the Act, which favours industry-based unions. That pilots are a distinctive group is clear. Their work is highly-specialised, requires intense training and carries unusual responsibilities. The wages of pilots reflect these features of the work, as well as the "industrial muscle" of pilot unions, and to some degree separate their industrial concerns from those of most other employee groups. Their conditions of work - for example, their isolation in the cockpit - are also unusual. These considerations do lend force to the case for pilot craft unions. There is a counter-case : joining pilots with other groups in the airline industry might reinforce the perceived interest of all groups in the success of the industry. This possibility lessens the case for specialised representation but does not greatly enhance the ASU's claim. The ASU is not an industry-based union. It is a conglomerate union, with a presence in several industries, and it covers only segments of the airlines industry. Joining pilots with "white-collar" employees within the Airlines Branch creates an entity which has no particular rationale. This comment must be qualified by reference to the proposed autonomy of pilot groups. The more absolute is that autonomy, however, the more pronounced is the reversion to de facto pilot unionism. The AFAP's entry into a federation of professional unions, with the prospect of a merge, arguably has more industrial logic than the absorption of pilots into the ASU. I acknowledge and take into account the ACTU's designation of the ASU as a principal union in the industry.

I find none of the alternatives confronting me satisfactory. The AFAP's conduct since the granting of award responsibility can be criticised, but taken as a whole constitutes a reasonable response to post- dispute realities. Its conflict-of-interest problem is real, but diminishes with the passage of time. The employed pilots' rejection of the AFAP is, however, a reality which cannot be ignored, whatever my reservations about the merits of their attitudes. Continued recognition of the AFAP as the pilots' union entails a serious risk that the organisation with standing in the Commission will lack industrial credibility. The arrangement whereby the AFAP is the award respondent, but pilots are represented through an agency arrangement, is unattractive as a long-term remedy for that problem. I conclude, therefore, that a simple refusal of the applications with respect to pilots employed by Ansett, East- West and Ipec, leaving the AFAP "in possession", is not the appropriate outcome of the main case. I have misgivings, however, about committing pilots to the ASU. These arise, not from any fundamental criticism of the ASU but rather from the lack of any convincing reason to regard it as a union for pilots. It is an umbrella; the pilots may shelter under it and have access to its rights as an organisation; but it offers them little more. Moreover, as I have stated, I have doubts about the depth of the pilots' support for it.

It is against this background, and in the light of my decision in the reopened case, that I have come to see arguable merit in another possibility - expanding the coverage of AIPA to pilots in all four airlines and not merely to the group in Australian. This is not an option to be pursued without considering whether it is legally available and affording interested parties the opportunity to be heard on its merit.

On the 22nd December, Senior Deputy President Hancock issued a supplementary decision in relation to coverage of pilots employed by Ansett, East West, and Ipec :

"I do not propose to add to the substance of my decision of the 22nd September, wherein I found that neither the continued representation of pilot by the AFAP nor the accreditation of the ASU was a satisfactory outcome of the case. Accordingly, I now decide that orders will issue which deprive the AFAP of the right to represent the industrial interests of pilots but do not confer such a right upon the ASU. This course of action has the obvious disadvantage that pilots will, for a time, lack representation by an organisation. Should AIPA's application fail, that time will be extended. This problem is a manifestation of the disturbance of pilot industrial relations caused by the dispute of 1989-90. The employed pilots' rejection of the AFAP has left them imperfectly represented.

The orders will also give effect to my previously announced decision with respect to Qantas/Australian."

### THE 1989 AIRLINE DISPUTE - CHRONOLOGY

September, 1988

- Extraordinary General Meetings of AFAP endorsed recommendations of the executive to remain within the National Wage System based on a projected 4.5% inflation and significant tax cuts being promised by the Hawke Government. However, the actual outcome was inflation of 7.8% and insignificant tax relief.

23rd September, 1988

- Letter from President AFAP to the Federal Government Treasurer concerning flat rate wage increases and the lack of the promised tax cuts.

23rd December, 1988

- In a statement released to the public, IRC President, Justice Barry Maddern, endorsed the Federal Politicians' recent 36% pay rise package. In endorsing the Politicians' pay rise, Justice Maddern came to the conclusion that there was general agreement that the Politicians' pay increase could be justified within the wage fixing principles because no one dissented! Justice Maddern's statement received little public comment due to the close proximity of its release to Christmas.

20th February, 1989

- 24 Hour stopwork Meetings for Pilots to consider future salary positions.

26-30th June, 1989

- Australian Airlines award negotiations conducted at Lorne, Victoria. All matters regarding productivity and restructuring were discussed.

30th June, 1989

- Federation's commitment to National Wage Guidelines expired.

18th July, 1989

- The Federation was advised by AAL representatives that no monetary value could be placed upon the proposals discussed during the Lorne negotiations and that they were committed to the 'industry acceptance' (meaning Abeles) of any claim. As a result the Federation officially withdrew the AAL Log of Claims.

26th July, 1989

- AFAP issued Letter of Demand for a 29.47% salary increase and setting a meeting with the companies for Tuesday 1st August to discuss this claim.

1 August - 9 August

- A series of conferences between the parties took place during which the companies required AFAP to formally commit to the National Wage case guidelines before allowing negotiations to commence.

7th August, 1989

- National Wage Case Guidelines handed down by the Full Bench of the Industrial Relations Commission. (IRC) Maximum wage rises allowed, including productivity tradeoffs, set at 6%.

9th August, 1989

- Airline Companies advised by AFAP of decision to hold 12 hour rolling stopwork meetings. Federation received notification of a Hearing before Justice Coldham, IRC for Friday 11th August 10am.

10th August, 1989

- At request of companies, IRC convened at 2.15pm. Justice Coldham called AFAP claim outrageous and not justified under guidelines. He directed AFAP not to hold meetings with its membership in the manner proposed.
- 11-14 August, 1989 Stopwork meetings held at which a 95% secret ballot vote was received in favour of pursuing the wage claim using whatever means necessary, including industrial action.

15th August, 1989

- IRC hearing in which the government representative initiated the question of the cancellation of awards by stating, "...the government will support any move for the cancellation or the suspension of the agreements relating to terms and conditions of employment of pilots."
- Mr Justice Coldham directed the parties enter into conference under the wage fixing principles with no industrial disputation to continue during this conference. No date was set for this conference to commence.
- The Prime Minister Mr Bob Hawke convened a meeting of Ministers and Airline Chairmen. In attendance at this meeting were: Hawke, Abeles, Harris, Morris, Willis & later Kelty by phone. This meeting was subsequently denied to have taken place and then that no minutes were kept. The minutes taken by Dr Harrison were eventually made public months later during the Pilots' immigration court case.

17th August, 1989

- Conference between AFAP & the Companies held at AFAP's Melbourne office. Breaks down because Federation was not prepared to commit to guidelines.

18th August, 1989

- AFAP's 9am - 5pm campaign of work limitation began. The companies made application to the commission for the cancellation of awards and an Industrial Relations Commission hearing began. The AFAP is unable to give undertaking on

IRC's request to remove bans. The IRC made a decision to cancel the Airline Pilots awards at 4pm on Monday 21st if bans remained in place.

19th August 1989

- The then President of the ACTU, Simon Crean was reported in the Australian Newspaper of saying that the National Wage Guidelines were not clearly defined and he advised unions NOT to commit to them until these problems had been resolved.

20th August, 1989

- PM Bob Hawke states "I say, without equivocation, that when the airlines decide to initiate those legal processes with significantly very drastic financial penalties against individual pilots and their organisations, the airlines will be pursuing those legal processes with the full support of my Government".

21st August, 1989

- As the deadline for Federation commitment to the National Wage Guidelines passed Hawke declared "It's War".
- The IRC cancelled the Domestic Airline Pilots awards.
- The Companies sent letters to pilots requiring a commitment to full service by individual pilots by 10pm 22 August or face dismissal.

23rd August, 1989

- Reports appeared in the press that Abeles had threatened to sue pilots and shutdown the airline system.
- The companies began to stand aside pilots by letter or telephone and there were rumours that the Companies had begun to indiscriminately issue writs on individual pilots. As it turned out, 67 pilots were served with writs during the day. Later that evening 1647 pilots around Australia signed resignation letters at Federation meeting points as a precautionary measure against any possible legal action.
- Hawke Government authorised RAAF and International Airlines to carry domestic airline passengers.
- At 8pm that evening Ansett and Australian Airlines shut down their airlines and grounded their aircraft indefinitely.

24th August, 1989

- The AGE reported: "Last night, Ansett and Australian Airlines grounded their planes indefinitely."
- Australian Newspaper reported: "Australian domestic Airlines closed at 8pm last night after standing aside hundreds of pilots."
- Australian Newspaper reported: "At 9.30pm last night, Thai flight 485 became the first foreign international carrier to carry domestic passengers."

- During the morning, the Federation became aware of the existence of writs being served on individual pilots and the mass resignations signed the previous night were subsequently delivered to Companies in the early afternoon. That afternoon formal serving of writs began on individual pilots and the Federation.

30th August, 1989

- On its own motion, the IRC began hearings on whether the General Aviation Awards, to which the Federation was the respondent, should be set aside or varied. The GA pilots were not involved in any wage claim or industrial action.

6th September, 1989

- The President of the AFAP, Capt. Brian McCarthy, offered a return to work between 9am and 5pm if genuine negotiations commence.

11th September, 1989

- James Strong (Australian Airlines) sent out letters to Australian Airline Pilots offering re-employment with seniority and end of week cut off for signing of individual contracts.

12th September, 1989

- Federation offered full resumption of work services if genuine negotiations commence immediately.
- Federal Cabinet agreed to waive airline landing charges allegedly to avoid stand downs. This package reportedly worth \$15 m per week.

13th September, 1989

- The PM Bob Hawke, stated that he did not deserve his job if he did not win the dispute.

14th September, 1989

- Hawke gave a commitment in principle of \$30m to tourist industry reconstruction programme.

17th September, 1989

- AFAP put forward Sir Lawrence Street as a possible independent mediator.

21st September, 1989

- Industrial Relations Commissioner Paine referred decision on General Aviation Award to the President of the Commission. (Maddern)
- Trades and Labor Council of Ballarat passed a resolution strongly objecting to the Hawke Governments approach to the dispute.

22nd September, 1989

- 5pm deadline for Ansett pilots to sign individual contracts and retain seniority, as advised in advertisements and individual letter to pilots.
- Shortly after 5pm a fax was sent to the Federation from the IRC regarding a Notice of Listing by IRC. The fax said a statement would be issued on Monday 25 September 1989.

25th September, 1989

- Statement by Justice Barry Maddern that the IRC would arbitrate on the dispute and requirement for the parties to produce reports on new awards and parties to these awards. No attempt was made by Maddern to attempt conciliation as requested by AFAP.

25-27 September, 1989

- AFAP leadership attended national meetings with pilots.

28th September, 1989

- Industrial Relations Commission Hearing at which the Executive Director of the Federation (Terry O'Connell) indicated the feeling from the pilots' meetings was that arbitration would not resolve the dispute.

2nd October, 1989

- Airlines made application for new awards based on their Individual Contracts.

4th October, 1989

- The AFAP withdrew its earlier salary claim and served a new log of claim based upon the salaries and productivity savings in the companies suggested awards with pre-existing award terms and conditions.

4th October, 1989

- IRC commissioner Paine issued a report to the Full Bench of the IRC on his appraisal of the Companies Individual Contracts.

6th October, 1989

- In appearances before the Commission, AFAP sought a finding of a new dispute and that conciliation rather than arbitration could thus occur.

10th October, 1989

- IRC Decision to accept (with minor reservations) the Companies' Individual Contracts as awards. Issue of resposdency undetermined.

12-18 October, 1989

- Pilot meetings throughout the country rejected these awards and resolved to continue holding out until negotiations take place.

17th October, 1989

- Federal Coalition and Democrats join forces to set up a select senate inquiry into the dispute.

18th October, 1989

- Pilot protest/information march at Brisbane airport.

19th October, 1989

- Pilot protest/information march at Melbourne airport.
- Oral withdrawal of company writs against individual pilots. Legal action against the Federation remained.

21st October, 1989

- The Victorian Transport Policy committee of the Australian Labour Party unanimously expresses its extreme concern at the handling of the pilots' dispute and its precedents for the union movement.

23rd October, 1989

- Information meetings for other airline staff held in Melbourne.

27th October, 1989

- The Federation President, Captain Brian McCarthy, offered a return to work for the Christmas holiday period on pre-dispute award conditions to allow "cooling off" and later negotiations.

29th October, 1989

- The Minister for Transport and Communication, Mr Willis, rejected McCarthy's offer as ridiculous

30th October, 1989

- The Prime Minister, Mr Bob Hawke claimed in Parliament that the Pilots Federation no longer existed and that the dispute was over.

31st October, 1989

- Legal proceedings, initiated by the companies, commenced in the Supreme Court of Victoria before Justice Brooking for unlimited damages against the Federation, its elected officials and staff.

2nd November, 1989

- Non profit organisation, Australian Air Pilots Services, launched to help pilots find job overseas.

6th November, 1989

- Mount Isa Trades and Labour Council voiced its support for the AFAP and its concern at attempts to destroy this association.

9th November, 1989

- Opinion poll conducted by Spectrum Research found that 7 out of 10 Australians wanted a speedy resolution to the airline dispute. 60% of those polled also thought that the Airlines' should accept the pilots offer to return to work for Christmas on pre dispute terms and conditions.
- Unanimous resolution passed through Newcastle Trades Hall Council expressing its total opposition to the tactics used against the pilots in the current industrial dispute and concerns with the precedents being set.
- Supreme Court hearings continue and ex-Ansett pilot Capt Ken White gave evidence on plans for the airlines to receive compensation two weeks before the pilots' mass resignations.

10th November, 1989

- Rallies in Kilmore and Epping were held so that pilots could pass their direct message to the Prime Minister, Mr Hawke. Interim injunction sought to restrain the PM, Mr Hawke, from continuing his media allegations re: contempt of court.
- Announcement at Melbourne Information Meeting of pilots of US ALPA donation of \$US 100,000

13th November, 1989

- AFAP submission to the Senate Committee on Certain Aspects of the Airline Pilots Dispute, delivered to Canberra.
- Federation 'White Paper' distributed to Parliamentarians.
- Federation President, Brian McCarthy, began whistle stop tour of the Queensland North and attended a public meeting on the dispute in Caloundra where he received a positive reception by the capacity crowd.

14th November, 1989

- Capt. Brian McCarthy held a joint press conference with Queensland Premier, Mr Russell Cooper, regarding the potential for a new airline for Queensland.
- The Federal Government approved a \$30 million tourist industry assistance package.
- The AFAP lodged an application to vary the IPEC Aviation Pilots' Award 1989 with the Industrial Relations Commission.

15th November, 1989

- At the Supreme Court, Ansett Executives admitted under cross examination that only about 50 pilots had returned. Ted Harris, Chairman of Australian Airlines, commented that he had no knowledge of the numbers that had returned but "believed they were above 10."

16th November, 1989

- Industrial Relations Commission upheld the AFAP's appeal against the decision of the Industrial Registrar to allow the application by Keith Williams (Hamilton Island) for access to the Federation's membership records.

- Rally by pilots and their families in Perth.
- Press release by the Prime Minister Mr Bob Hawke recognising the right of pilots to be represented by a union of their own choice.
- Western Australian Trades and Labour Council condemned the actions of the companies and the government in the dispute.

17th November, 1989

- Bob Hawke criticised the media for portraying his recent public comments as a backdown.

19th November, 1989

- Newspaper reports indicated that the RAAF was \$62 million out of pocket for the use of its services during the dispute.

20th November, 1989

- Commission hearing and decision requiring Federation applications for all awards by 4pm 24th November.
- Victorian Supreme Court hearings conclude with Mr Justice Brooking reserving his decision.

21-22 November, 1989

- Capt Brian McCarthy, Capt John Raby Mr Terry O'Connell, Capt Col Felton and Capt Ken White made their formal submissions to the Senate Inquiry.

22nd November, 1989

- Industrial relations commission granted an application by the Federation for a weeks extension on award application due to other commitments by its principal officers.
- The President Brian McCarthy and other Federation representatives, held talks with the deputy Prime Minister, Mr Lionel Bowen and Mr Fred Chaney Shadow Minister for Industrial Relations. Mr David Jull, Shadow Minister for Tourism and Aviation Support and Senator Janine Haines leader of the Democrats.

23rd November, 1989

- Decision of Mr Justice Brooking, Supreme Court, dismissed company allegations on charges relating to intimidation of new recruits and pilot resignations. In relation to the charge of work limitation between 9am and 5pm, damages would be calculated against the Federation.
- Press Release by the Executive Director Mr T O'Connell states that this decision confirmed that "...it is virtually impossible for a trade union, through its elected officers, to recommend any form of industrial action, without exposing themselves to substantial claims in civil damages."

25th November, 1989

- South Australian elections show a substantial swing against the Labour Government.

26th November, 1989

- Western Australian pilots, Capts. Inglis and Dutton met with the Prime Minister Mr Bob Hawke.

28th November, 1989

- Vice President Capt. Holt and the Executive Director Mr O'Connell met with the Prime Minister in confidential meeting. Basically told to commit and become respondent to new awards.
- ACTU Press Release stating its opposition to common law action against all unions and support for the AFAP on this issue. The ACTU stated that it will consider an appeal once the decision was issued.

29th November, 1989

- Brisbane Lord Mayor Sally Anne Atkinson convened a public meeting in the Brisbane Town Hall where a resolution was passed calling upon the Prime Minister to resolve the dispute.
- Qantas pilot Structural Efficiency and work value claims were processed through the IRC. Qantas B747 - 400 pilots received a 18% pay rise.

30th November, 1989

- Federation applications for all airline awards are made to the industrial relations commission.

2nd December, 1989

- AFAP Executive Director Terry O'Connell met with Bill Kelty, Secretary A.C.T.U., Mr Ian Oldmeadow, Ansett's Director of Personnel and Development and Mr J. Pearce, Australian Airlines' Assistant General Manager in confidential meeting at Eltham.

7th December, 1989

- Bob Hawke asked airlines not to pursue damages from the Federation.

8th December, 1989

- Press Release by Brian McCarthy asking the companies to follow Bob Hawke's conciliatory lead.
- Further pilot and family demonstrations in Melbourne.

11th December, 1989

- Companies refused to accept IRC conciliation on the seniority matter. Conciliation proceedings are concluded and the Commission adjourned until Friday, 15th December. This date is later extended until Monday, 18th for the Federation to be represented by legal counsel.

12-14th December, 1989

- Australia wide meetings of pilots vote on the following resolution, "BE IT RESOLVED that this meeting directs the President to resolve the dispute only on terms appropriate for Australia's professional pilots and totally rejects the Companies planned destruction of our Federation." The results were:-
- Attended 1228 For 1204 Against 16 Informal 6 Abstained 2

15th December, 1989

- The R.A.A.F. ceased public transport operations.

18th December, 1989

- In a hearing before Commissioner Paine, the Federation put forward the following recommendation as necessary for an orderly return to work.
  - \* Recognition of the A.F.A.P. by the companies.
  - \* Re-employment of all pilots employed at 23rd August.
  - \* No more foreign pilots and future employment from previous pilot numbers.
  - \* Negotiation on work rules and if necessary, Commission arbitration.

These recommendations were not adopted by the Commissioner who required that the Federation become a party to the awards to play a part in the industry.

20th December, 1989

- Formal Commission decision resulting from the hearing on the 18th December concluded that the Federation seeks employment on terms more favourable than current employees and as such is "whistling in the wind".
- Pilots pickets at Sydney, Melbourne, Adelaide and Perth airports. These pickets were lifted late in the afternoon as a result of threats of standdown and legal action against individual refuellers.

22nd December, 1989

- Majority Senate Committee Interim Report on air safety tabled in Parliament. These 3 Senators stated: "The Committee is confident that the Australian Airline system has not been made unsafe by changes made due to the airline pilots' dispute."
- A minority report submitted by Senator David Brownhill, National Party, and Senator David MacGibbon, Liberal Party, stated that: "Clearly air safety has been affected." The final report was not due until early next year. Pilot demonstrations held in the terminals at Melbourne airport.

31st December, 1989

- The airlines ceased their regular use of leased seats on international airline services, however the use of chartered aircraft and overseas pilots continued.

4th January, 1990

- Melbourne pilot rally outside the A.C.T.U. Headquarters in Melbourne.

5th January, 1990

- John O'Connor, the State Secretary of the Transport Workers Union, addressed a pilot meeting in Perth, stating his support.
- Pilot demonstration at the Sydney airport terminal.

8th January, 1990

- Federation Press Release issued stating that more than 250 pilots had now left Australia to work overseas.

10th January, 1990

- Pilot rally outside the American Consulate in Melbourne to protest against the use of American pilots and chartered aircraft during the dispute.
- Western Australian pilots picketed the office of Mr K. Beazley, the Minister of Defence, to protest about the use of the R.A.A.F. during the dispute.

12th January, 1990

- Government compensation to the airlines in the form of waived landing charges, ceased. Claims and waived charges to this date totalled \$75.2 million.
- Pilot demonstration at the Sydney and Melbourne airport terminals.
- Western Australian pilots began a long term picket on the Ansett Perth airport terminal and construction work ceased on this terminal as the picket as honoured by the construction workers.

15th January, 1990

- Melbourne pilots also began a long term picket of the Australian Airlines Flight Training Centre, Essendon and Ansett Airlines Maintenance and Simulator Section, Melbourne Airport. Truck drivers respected this picket limiting the deliveries to the Ansett complex.

16th January, 1990

- Pilots in Perth extended their picket line to cover the Air Traffic Control Tower. This picket was respected for a number of hours by Air Traffic Controllers before it was removed. Air traffic control was limited during this period.
- The Telecommunication Union ATEA-ATPOA advised the Federation that it will honour authorised AFAP picket lines.

17th January, 1990

- Media reports by the credit agency, Australian Ratings indicated that Ansett Airlines may profit from the Airline dispute.
- Pilot protest outside Liverpool CES Office in Sydney where the Prime Minister Bob Hawke opened a new adult education centre.

18th January, 1990

- Airport rally by pilots in Perth.

19th January, 1990

- Brisbane pilot demonstration outside the Australian Airlines building.

23rd January, 1990

- 5% increase in airfares granted to the airlines as a result of the costs incurred during the dispute.

25th January, 1990

- Brisbane pilot demonstrations follow the Prime Minister, Mr Bob Hawke and Perth pilots confronted the Defence Minister, Mr Kim Beazley.

30th January, 1990

- ACTU/Airline unions meeting to consider the future coverage of pilots currently employed by the airlines. The TWU, ATOF, AFAA, ALAEA all expressed interest in the coverage of pilots.

1st February, 1990

- Following a Commission direction the five building unions involved vote to respect the A.F.A.P. picket at the Ansett Perth airport building site. Over 200 members vote unanimously not to cross the picket.

2nd February, 1990

- Western Australian Industrial Commission hearing requests that the picket over the Ansett terminal building works be lifted.

3rd February, 1990

- Melbourne pilots' wives hold a silent weekend vigil at Melbourne airport.

7th February, 1990

- Brian McCarthy addressed the Industrial Relations Society in Adelaide.

8th February, 1990

- Two pilots demonstrations against the Prime Minister and Ministers Beazley and Dawkins in Perth.

12th February, 1990

- Joint domestic airline press release announced that the airlines would not pursue damages from the individual pilots and Federation staff named in the Supreme Court.
- Pilots demonstrated against Bob Hawke in Newcastle.
- Pilot General Meetings commenced, Brisbane Monday 12th Sydney Tuesday 13th Melbourne Wednesday 14th Perth Monday 19th Adelaide Wednesday 21st

18th February, 1990

- Federation campaign of pilot door knocking in margin seats began with the seat of Melbourne Ports held by the ALP's Clive Holding, seats in Sydney and Brisbane.

19th February, 1990

- Bob Hawke attended a conference at the Sydney Opera House where he was greeted by a large number of pilots and their families.

20th February, 1990

- Melbourne pilots greeted Bob Hawke outside radio 3AW.

22nd February, 1990

- Protesting pilots followed Hawke to various locations during his election campaigning in Sydney.

27th February, 1990

- Large number of pilots and their families followed Hawke in Brisbane.
- In media conferences, Mr Hawke accused pilots of wearing of stolen uniforms during their demonstrations.

28th February, 1990

- Melbourne based pilots followed Hawke.

1st March, 1990

- Former Ansett Captain John Davies was arrested for handing out pamphlets at the entrance to the Perth airport terminal.
- Following a federal court appearance the Immigration Department gave an undertaking to provide additional information to the A.F.A.P.
- Bob Hawke was followed by large groups of pilots and their families in Perth.

4th March, 1990

- Pilots doorknock in Ballarat Victoria, Hughes in Sydney, Fisher in Perth and the seat held by the Minister for defence, Mr Beazley in Perth.

6th March, 1990

- The ongoing picket at the Melbourne Ansett Maintenance and Simulator complex is officially lifted due to the Federations application to the Industrial Relations Commission.

7th March, 1990

- **AFAP Capitulates.** Industrial Relations Commission hearings began in front of Commissioner Maher. The Federation gave the commitments required by the Commission and sought its assistance for an orderly return to work. This meant

that the Pilots Federation had finally capitulated and pilots were free to re-apply for their jobs with the Airlines.<sup>121</sup>

8th March, 1990

- Sydney pilots demonstrated against the Prime Minister Bob Hawke.

9th March, 1990

- Private Conference in the Commission in front of Commission Maher.
- Pilot demonstrations followed Hawke to Brisbane.
- Following the Federations application on immigration, a directions hearing proceeded at the Federal Court, where the airline companies sought to become involved but were refused. The Immigration Department opposed AFAP's application.

11th March, 1990

- Doorknocking campaign continued in two Melbourne electorates and in Brisbane, Perth and Sydney.

13th March, 1990

- Airline companies made application to have the matter of award responsency considered by the Full Bench and for Commissioner Maher to be removed from the process of arbitration as he had conciliated on the matter.
- The Commission President referred the matter to Deputy President Hancock for arbitration.

14th March, 1990

- Hearings re award responsency commence in front of Deputy President Hancock.
- Letter from ATOF to Deputy President Hancock indicating their interest in the coverage of pilots and thus in award responsency.

19th March, 1990

- Letter from the companies solicitors giving support to the ATOF submission.

21st March, 1990

- Decision by Deputy President Hancock casts blame for the dispute on the Federation and adjourns the matter of award responsency until the 15th of May subject to applications for positions by Federation pilots and a good behaviour period.

23rd March, 1990

- Pilot general/information meetings announced;  
Monday 26th Brisbane 1930 hrs  
Tuesday 27th Sydney 1930 hrs

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<sup>121</sup> IRC Commissioner Maher attempted to get the IRC to carry out its charter of resolving the Dispute. In this capacity he organised a private meeting between AFAP President McCarthy and IRC President Barry Maddern. Maddern remained unmoved by this visit commenting that he "...always found Ian Oldmeadow to be truthful.."

Wednesday 28th Perth 1800 hrs  
Friday 30th Melbourne 1930 hrs

24th March, 1990

- Federal election.

4th April, 1990

- Contempt of Court action against Bob Hawke adjourned sine die.

5th April, 1990

- Federal Court hearings begin following an AFAP application for an injunction to restrain the Department of Immigration from processing any further foreign pilots to come to Australia to work for Ansett, Australian, IPEC or East West airlines. This was part of a wider application seeking the deportation of the foreign pilots already in Australia.

9th April, 1990

- Deputy Commissioner Hancock reconvened the matter of Federation airline award responsiveness to consider whether he had been seriously misled by the airlines regarding their levels of recruitment. The Deputy President found that the levels of recruitment had not been significant enough to necessitate that matter of the Federations responsiveness being brought forward.

26/27th April, 1990

- Executive Committee Meeting at Warburton

31st April, 1990

- Mr Justice Keely of the Federal Court granted a further interim immigration injunction in the form submitted by counsel for the AFAP.

14th May, 1990

- The airlines made application under section 118 (Demarcation) of the Industrial Relations Act, so that, "The AFAP shall not have the right to represent under this Act the industrial interests of persons employed as pilots by the application."

15th May, 1990

- In the Commission, the AFAP was granted responsiveness to the airline awards.
- xxxxxxxx Airline pilot general meetings, Brisbane, Sydney, Melbourne, Friday 25th May Perth

31st May, 1990

- Section 118 Application deferred until 13th August, 1990.
- Companies application for a 3% salary increase found insufficient.

- Injunction against immigration of foreign pilots made formal by Justice Keely. Australian Airlines submission to have the substantive case was dismissed quickly.

6th June 1991

- Aircraft Incident: An East West BAE 146 Jet reported on ABC Radio News to have nearly collided with terrain at Hamilton Island. This alleged incident was not properly investigated by BASI.

20th December 1991

- **Bob Hawke** replaced as leader of the ALP and Prime Minister by Paul Keating.

October 1992 **Abeles resigns**

- Sir Peter Abeles resigned chief executive of TNT.

10th November 1992

- Sir Peter Abeles resigned as managing director of Ansett.

14th January 1994 **Death of IRC President Barry Maddern**

- Death of IRC President Barry Maddern at age 56. Mr Maddern died of cancer.

22nd September 1994 **S118 Decision handed down**

- Senior Deputy President Hancock handed down his decision re the Domestic Airline Pilot Award resondancy (S118 case No 31317 of 1990). In handing down his decision, Hancock provided a surprisingly candid appraisal of many aspects of the Pilots' Dispute.

19th October 1994

- Aircraft Incident: Ansett B747 (VH-INH) crash landed at Sydney Airport with its nose wheel still retracted.

26th January 1995

- The Australian Newspaper reported on Ansett's B747 incident in Sydney of 19/10/94: "BASI found that the crew did not complete the final landing checklist.... Ansett faces a detailed investigation of its training and operating procedures..."

Mid February 1996 **Graeme McMahon sacked**

- Long serving Ansett General Manager, Graeme McMahon, sacked.

15th June 1996 **Coroner's Report into Monarch Airlines Crash released**

- Release of the NSW Coroner's Report into the commuter airline, Monarch Airlines' crash of -- in which -- lives were lost. The Coroner was very critical of the CAA's

monitoring role of Monarch Airlines in particular and the performance of the CAA in general. BASI report available.

31st July 1996

- Aircraft Incident: Ansett B747 landed at Taipei CKS airport in strong winds associated with typhoon Herb. Most other aircraft had diverted to other airports. After taxiing to the gate, ground staff opened cargo door which was then blown off in strong winds. Estimated cost of repair & loss of revenue about \$6 million. The aircraft was under the command of Capt Dick McIntosh

25th September 1996

- BASI Report into Ansett's B747 incident in Sydney of 19/10/94 released to the public. Scathing of Ansett's procedures and management and critical of CAA's monitoring role. BASI report available.

26th September 1996

- The Australian Newspaper (a Murdoch newspaper) reported the release of the BASI report into the Ansett B747 incident at Sydney of 19/10/94 in a small story on page 5. Note: Murdoch's NewsCorp was 50% owner of Ansett at the time.

8th October 1996 **Staunton Commission**

- Tabling in Federal Parliament of the Staunton Commission of Inquiry into the Relations between the CAA and the commuter airline, Seaview Air. The report was very critical of the CAA's monitoring role of Seaview Air in particular and the performance of the CAA in general and found that CAA's failure to properly monitor Seaview's operations was a significant factor in the crash of a Seaview Aero Commander aircraft into the Pacific Ocean off Sydney on 11/6/93 with the loss of 9 lives. BASI report available.

25th May 1997

- The Australian Newspaper reported the dismissal of Ian Oldmeadow by Qantas.

25th June 1999

- **Sir Peter Abeles** died of cancer in Sydney, Australia.

9th May 2000

- **Captain Dick Holt** died after a short illness.

13th September 2001 **Ansett Airlines Collapses**

- Air New Zealand, the owners of Ansett Airlines of Australia, put Ansett in the hands of an Administrator in an attempt to save Air New Zealand from going bankrupt. In the months preceding this decision Ansett had been losing well over \$1 million a day. In the wake of this decision Ansett collapses under a mountain of debt and ceases flying, stranding thousands of passengers throughout Australia. The shutdown includes Ansett subsidiary airlines Kendall's, Aeropelican, and Skywest. It is rumoured that Employee entitlements may not be paid out. A

fortnight later Ansett administrators resurrect a skeleton airline operating A320 aircraft between Melbourne and Sydney in an effort to keep the airline a going concern for a potential buyer. The airline operates on a limited basis for the next 6 months losing between \$3 - \$6 million a week.

#### 27th February 2002 **Tesna abandons Ansett**

- The Ansett Administrator approved buyers of Ansett, Solomon Lew and Lindsay Fox of the Tesna Consortium announced that they were not going ahead with their attempt to resurrect Ansett citing an inability to come to an acceptable arrangement with relevant airport corporations around Australia regarding terminal leases. Although this was given as the official reason, many commentators suspected that the real reason was that Lew and Fox realised that without a merger with Sir Richard Branson's the low cost Virgin Blue Airline, a resurrected Ansett Airline would never be commercially viable.

#### 4th March 2002

- **Ansett Airlines' last flight.** All operations ceased from this day

### **A Short History of the Pilots' Federation by Captain Dick Holt**

When Alex Paterson told me of his research and recording of the Pilots Dispute and asked me to provide some details of the Australian Federation of Air Pilots and its predecessor prior to 1978 (the year I retired as an airline pilot), I took the same view as Alex - a lead chapter for a book about the Pilots Dispute of 1989, covering the earlier history of their efforts in Australia to improve the profession, their place in it and overall their safety and that of their passengers, would be an appropriate contribution. I then thought some more, reviewed the history and analysis of the dispute as provided by Alex Paterson and saw beyond doubt that the reason such a dispute could occur laid itself bare in the earlier history of the Federation.

Why did the dispute occur? It occurred because Airline Managements had never really changed their original thinking that pilots were employees who should do what they were told, cease being prima donnas as to the value of their profession and their place in it, and stop setting a bad example to the industry at large.

In the period 1945 to 1989 (in my case to 1978), pilots, through their representatives, contested over very long periods the major elements of their employment which by its very nature controlled their daily lives and that of their families.

During this period there were long agonies of negotiation, threats and at times despair, but in the end a result was achieved of which virtually all pilots were justly proud. The situation now is that all of those agreed improvements have disappeared overnight and a couple of decades of further struggle lie ahead to set it all in place again. Looking back now that 30 years of effort on our part would not in retrospect trouble me except that I see all of our earlier concerns and fears proven by the action of employers in 1989-90. At long last they succeeded in placing their pilots where they had always believed and, given an opportunity, intended they should be. During that 30 years we were in retrospect deadly accurate in those concerns and I feel this written record from Alex Paterson now has an importance within the current experience proving everything we ever said in earlier days about the necessity for

- ever increasing vigilance
- awareness of changing safety standards
- the need for involvement in aircraft accident investigation
- the need for regulatory standards in National & International aviation
- the need for medical limitations
- the need to recognise the value of a pilot's licence to fly in all categories
- the need for insurance of those licences
- the need for remuneration at world standard levels
- the need to have input into scheduling and rostering
- the need for a seniority system
- the need to have management a little frightened of our capacity to raise a fuss if we were not listened to with some respect
- the need for a sophisticated Contract of Employment
- the need for grievance machinery to settle disputes

Australia is yet to have its first major jet accident but when it does, you will see virtually all of these matters thoroughly ventilated as grieving relatives demand explanations and perhaps retribution for the loss of family.

It is ever thus - progress in aviation has always been through blood - kill people and you can get results - what a shocking specification; unhappily it is totally true - but now to the historical. The first joining together of pilot opinion and effort occurred in the five years following the end of World War 11 - that is from 1945 to 1950. The Australian Air Pilots Association was formed and a small but growing band of dedicated thinkers sought the support of their fellows to enable an executive group to speak with one voice. Their effort was assisted by the effect on pilots of some of the sub-standard conditions under which they lived and worked, created by:

- Inefficient regulations
- Harsh work patterns
- Poor remuneration
- Bad overnight accommodation
- Lack of a visible system of promotion
- No visible career path

and many other disadvantages.

The war had shown that the DCIII/Dakota could do virtually anything in what I will call the lower altitudes and pilots who had flown them and others who were finally converted agreed. Regulations however did not recognise that limitations in many areas of operation were badly needed.

As regular schedules on an all weather basis became the norm, and as the search for profit became part of the system of assessing aircraft, a whole new series of deficiencies became visible. In this climate airline management wished to expand and take full advantage of the post war scene. The aircraft were available (i. e. DCIIIs and the new 'giant' DCIVs) and there were plenty of pilots available.

Accordingly, routes were expanded, more pilots employed and the industry began a consistent growth, albeit without much regulation.

The proposition that schedules should be maintained to the maximum possible degree existed and was reasonable, and pilots along with other sections of the industry did their best, but by 1951/52 there were so many unacceptable elements that pilots began to look to banding together more firmly and speaking with one much louder voice.

This was attempted through the loosely organised Australian Air Pilots Association (AAPA), a body registered with the Arbitration Court and to some degree disregarded by the employers - ANA, TAA, ANSETT, QANTAS et al. Every matter of significance relative to employment had to be approached through the Court system of applications or demands by AAPA or employees. Eventually these were processed and ruled on by the Arbitration Court.

The Justices concerned had little or no knowledge or understanding of the airline industry from a professional point of view and were not really concerned to learn. Little or no progress was made and a hardening of pilot opinion and support for their Association slowly grew.

- Pilots were poorly paid - next to the lowest in the world.
- Their long away from home trips living often in the poorest of accommodation irked them greatly.
- They had no say whatsoever in the form of rostering for duty and were virtually on call for 24 hours a day, seven days a week.
- There was no such thing as superannuation.

- There was no real entitlement to sick leave.
- There was however an ethic regarding the quality and dedication of pilot service to passengers and to the company which employed them which was heavily exploited by management.
- There were also quite a few accidents resulting in (for those times) substantial loss of life. The common practice of assuming pilot error as the primary cause was not acceptable to pilots at large or to their Association.

Well, there it was - no great progress achieved or in sight, a very determined set of employers whose expertise in the Arbitration Court gave them a considerable advantage and the AAPA obviously not so far fulfilling its charter.

A hardening took place and without even actually laying down an overall plan, a much more determined group of executives of the Association began to work to bring about change over time.

The writer became involved in 1954 and with the other elected Branch and Federation officers worked assiduously to improve the situation.

A few words about myself: Prior to joining the RAAF at the beginning of the war, my work experience was one year in a gold mine at Cracow Queensland and three years in the Lands and Survey Department of the Queensland Public Service.

My father as a miner was a member of the AWU and growing up I heard of many things wrong in the mining industry which the AWU was working to repair. Certainly I absorbed the Management versus Employees philosophy and understood trade unionism which as it happened I had read quite a lot about. However, 5 1/2 years in the Air Force dropped all of that well behind and virtually out of my consciousness.

When the war finished, I wanted nothing more than to be left alone to live life with my dear wife and our increasing family. It was not to be. I had by now developed a considered understanding of the problems we faced as a toothless Association. I hated the accommodation standards applied to pilots when away from home. I despised the amount of payment received for our very responsible work and I clearly saw that pilots had to take a huge interest in airline safety and also that they must work closely with all authorities and indeed with management to eliminate unacceptable risks and improve their everyday welfare.

So I became, I suppose, a militant and to a degree visibly so. I found others who had similar views and we began to work to further strengthen the capacity of the AAPA.

This was probably our worst period and almost totally frustrating in that it took so long to mount a case in the Arbitration system of the day which inevitably failed to achieve anything worthwhile, though at very considerable cost.

The AAPA had by then developed an organisation which could rapidly identify and assess a need and a means of satisfying that need, but a considerable built-in handicap was the reluctance of pilots to engage in any form of direct action because in the case of pilots refusing their services, airline operation stopped in its tracks, thereby badly affecting passengers and other airline staff.

In addition, management had gained the support of some Flight Management pilots who considered themselves above the level of those who in fact had to stop work and this group often quietly campaigned in support of Management opinion.

The obvious answer was for the AAPA to gather everyone's confidence by proceeding to build a reliable association of Pilot Executives; to employ reliable and industrially competent people to run Association affairs on a day by day basis and to become ever more competent in the patient negotiations with management representatives, which always ensued following any attempt to improve our situation.

If this was done, an occasional flash of temper, threat to take industrial action etc, would be used to speed up the process a little and pilots gave qualified support.

Nevertheless through the fifties (1951-1960) it was very hard going, and after several abortive attempts to go through the Arbitration Court procedures, a strong approach to all pilots by the AAPA Executives of the day - mid 1959 - gained approval for a completely different approach -

- 1. That was to get out of the Arbitration System altogether.
- 2. To kill the AAPA by resignation of all members.
- 3. To immediately form a new organisation - The Australian Federation of Air Pilots.
- 4. To remain unaffiliated with any other union or group.

All of this was achieved in the second half of 1959.

The writer became the first elected President of the now Union/Association/Federation, call it as you will, and we began the long trek to wherever it was we would end up.

A reasoned but careful approach for recognition went to Airline Management groups and it began to be accepted that the now Federation really did represent pilots. We were careful to openly display our rules, our approach to membership fees high enough to ensure a working capacity, and our determination to seek industrial airline agreements from each airline, negotiated separately to ensure their old method of ganging up against us, could not occur.

By 1961 we had the first of these industrial agreements with each company and although the going was very tough, we noted a sneaking respect for our attitude and willingness to stick to those agreements. From here on, it was build, build, build to provide for -

- improved salaries
- a superannuation scheme
- an internal Loss of Licence Insurance Fund
- an Internal Provident Fund
- a seniority system
- representation on all accident and incident investigations
- our growing awareness of the value of international membership of the International Federation of Airline Pilot Associations (IFALPA)
- the introduction of the jet age to Australian domestic routes
- an atmosphere which was conducive to settling problems rather than exacerbating them.

The centre piece became an approach in 1964 to change the entire face of airline pilot working agreements in Australia by the introduction of many of the conditions we had noted pilots around the world enjoying, modified to the Australian scene.

We eventually interested Airline Management in looking into this approach and a long and careful study was made which gave both parties the incentive to proceed.

Final agreement was not reached until July 1966 and then only after prolonged negotiation - at times under acceptable installed Government Chairmanship - per the "Bland Procedures Agreement" and the "Tribunal" (Prof J Isaac). Agreement was eventually reached but only after a full scale threat of an indefinite stoppage had been voted for by the membership unless the now virtually agreed items were confirmed by Airline Managements.

But reached it was and from 12 July 1966 Australian Aviation conditions of employment for pilots changed their lives. Some rancour still existed at management level that pilots were now so well treated, but a form of respectful alliance had come to exist between officers of the Pilots Federation and the career Industrial Officers employed by the Airlines. One exception to the July 1966 Agreement was of course the Qantas pilot group and for them began a year of agony to achieve conditions of employment similar to their fellow members of the Federation flying the domestic airline routes.

Failure to progress in negotiations and management attitude stemming from the very top finally drove the Qantas pilots to a prolonged strike from early December 1966 which served to set a climate for further negotiations and in mid 1967 the Federation successfully concluded an employment agreement with Qantas acceptable to both pilots and management. The Pilots Federation had now achieved its major platform and would go on improving each segment of that platform of operating agreements to include general aviation and every aspect of flying in Australia.

Strong internal discipline within the Pilots Federation and its permanent staff meant we were able to adhere rigidly to our side of the new style of agreement. I retired in 1978 by which time I had been elected President of the Federation some seven times, the last time for the 1977-78 year and had seen all of my hopes and ambitions for the Australian Federation of Air Pilots achieved.

I had however made a fundamental error and that was to believe that we had eliminated and buried the deep management resentment of pilots which had been such a bane in earlier years. I believed that management had as a commercial decision arrived at the conclusion if you can't "beat 'em, join 'em", and with this philosophy found that living and working with us was not so bad. I echoed this in my valedictory address to pilots in September 1978, printed in the autumn edition of the Pilots Journal.

Salient to my view was the belief that we had given something to aviation in Australia. We had created a profession, our ethics were above reproach, our safety record from the introduction of jets to airline operation in the 1960s was second to none in the world, and so recognised. We had a respected place in the highest level in the world aviation scene though the International Federation of Airline Pilot Associations (IFALPA). We were a sophisticated part of Accident and Incident investigation and at every level of flight management and training we had a voice in our respective employer companies.

These things did not just happen - they flowed through arduous patient detailed work, determination, and very considerable sacrifice for no financial reward of any kind by a large band of elected pilot representatives at every level of the Federation over a long period of time. All these improved conditions, according to me, were set in stone and as I retired in 1978 I saw pilots having only to remain alert, not be complacent and their well organised professional way of life would continue.

Silly me, the dragon merely slept! Given his opportunity he would blast out of his bunker and 'fix' the pilots who obviously he and his kind had come to hate. He would prepare and organise and when the time came he would be completely ruthless and back those pilots would go to the supplicant status he and his management group believed pilots

should have. Just as I never envisaged such an action by Management, neither did the officers of the Federation who succeeded my stewardship from 1978 onwards.

They had many new elements to cope with but none which threatened to change their way of life and so come 1989 they were suckers for the big blast and the charge which had been built up for the specific purpose.

These writings are then obviously not a criticism of the Federation's Executive members who were in office when the 1989 dispute began. It would not have mattered who they were, particularly in the initial stages. None would have had the prescience to know that the Prime Minister and the Government would hook in behind the Dragon of standover Airline Management to give it the temporary surge of strength necessary to overcome the pilot group.

None of them would ever have believed the Immigration laws would be fiddled to allow mercenaries into Australian skies.

None of them would ever have believed the entire Australian Union movement would stand aside and watch it happen.

If they could have looked ahead, none of them would have believed that the resultant events occurring as they did at every level of flying operations for the domestic airlines could happen without major jet accidents resulting from the loosening of standards in general flying safety following the introduction of mercenary pilots from overseas.

None of them would have believed that a year or so on they would be permanently outcast and a new group whom I need not, nor do I wish to recognise, would be flying Australia's domestic routes on contracts which debunked almost every pilot employed condition and privilege earned over some forty years of patient effort.

None of them would have believed as I certainly did not that there would need to be a decade or so of a repeat of history to bring the Australian pilot situation back to acceptable standards. I say a decade or two because the smell has to go away and small beginnings have to be built upon to again approach an acceptable position.

Some aspects of the current situation do help. How fortunate the Qantas pilots formed their own association when they did and thus remained outside the big gun barrage mounted by the dragon and his helper.

How fortunate that the blood lost by Australian Airlines over the dispute helped to force that Airline's amalgamation by sale to Qantas where over time the ugliness created domestically will be eaten away by the cautious approach the AIPA will make to this affair. Putting aside the destruction of the pilot ranks, I guess we can be pleased that the justice of events 'so shall ye reap' etc caught up with and destroyed the dragon and most of his associates. Their dream of domination of the airline industry is in other hands and they are mostly gone - just as are almost all of the pilots they so grievously damaged.

What remains to be said - two things I believe.

I wish to see the anatomy of the dispute fully revealed.

I wish to see the public marking of those responsible for turning an individual matter into a way of destruction not only of the airlines themselves but of a very large segment of the Tourist Industry and allied services.

I see this as possibly being done through blood - just as most progress in aviation in this and other countries has been achieved.

Enough of us should remember the situation which came to exist in 1989 to the degree that should however unfortunately a jet aircraft accident occur to an Australian aircraft, the subsequent furore, grief and determination be used to call up specific terms of reference to an inquiry to evidence the real reason for the deterioration in airline safety in Australia which will almost surely be the reason for such an accident to happen.

Remember Mount Erebus - it is possible to go back and find the real reasons an aircraft accident happens even where those reasons stem from attitudes alone.

I have the deep hope there will be no such accident but if it occurs, pilots should be loud and long in their cry for a full Royal Commission with a long term of reference which says:

- When did the safety of airline operations in Australia commence to deteriorate and why did it occur?
- Who was responsible and to what degree?
- Was culpability a factor?
- What action should be taken against any party found to be responsible?

and so on.

The other point I would like to make is that a reader should not make the assumption that the early and tough years of creating the Pilots Federation and its subsequent success were the work of any one man or even of many. The excellent result was the work of a long list of dedicated pilots who sank their own differences to elect and direct executive staff to create and execute policies, ably helped by permanent staff officers who were highly skilled professionals in the field of industrial relations.

My contribution to this book about the pilot efforts in earlier years is limited to non-specifics to enable a balanced view to show, but the reason for its writing is the massive disaster and destruction of Australian pilots' way of life which occurred from 1989 onwards.

I would not like it to be forgotten that a large number of dedicated Executive Officers at all levels, professional and general staff, built a magnificent edifice. Its destruction was an act of violence conceived and executed by Management, its bedfellows and minions. It was not the fault of previous or then current Executive Officers and staff.

Those with whom I worked, far too numerous to mention here, by the similarity of their thinking and the loyalty they engendered, carefully led the Association and Federation to achieve greater things.

In conclusion I repeat that I was asked by Alex Patterson to provide a picture of the Federation and its activities in the industrial area up to 1978 when I retired and without going into too much detail I have tried to do just that, adding perhaps a few thoughts of my own. I wish the current Executive officers and professional staff every success along the road ahead. It is a hard one but I do observe the flickering of the lamp of progress.

Don't let it go out.

R. T. HOLT

19 May 1994

### AIRLINE INCIDENTS SINCE AUGUST 1989

#### INCOMPLETE

The following list of Australian airline incidents since August 1989 is by necessity incomplete due in part to the failure of sections of the CAA to carry out their charter of properly monitoring the operations of the airlines during and after the Dispute. <sup>122</sup>

- Sept 1989 Air Maritime Series of incidents. Aircraft operating under French Regulations, CAA not permitted effective input and some Australian Regulations not applied to the operation of this company. Source: Age Newspaper article by Hugo Kelly 6 Oct 1989, AFAP Fax File #3.
- 9 Oct 1989 Australian B737 Incident. Failure to follow clearance out of Perth. Source: AFAP fax file #2.
- 10 Oct 1989 Ansett B727 Incident. Captain allegedly had passengers in both pilot seats whilst enroute Adelaide to Perth. Source: AFAP Fax File #2, AFAP investigation, taped interview with a passenger.
- 15 Oct 1989 Royal Brunei B757? Incident. People allegedly standing in aisle for take off. Source: AFAP Fax File #2.
- 8 Nov 1989? America West ? Incident Darwin to Brisbane. Source: AFAP Fax File #4.
- 21 Nov 1989 Britannia ? Incident Coolangatta. Source: AFAP Fax File #4
- 13 Dec 1989 Ansett ? Incident. Crew asleep. Source: Herald Newspaper article 15 Dec 1989. AFAP Fax File #6.
- 28 Jan 1990 Ansett B737 Incident. Unsafe operation reported by Skywest Pilot. Source: AFAP Fax File #6
- 23 Feb 1990 Ansett A320 Incident on approach into Coolangatta. Source: AFAP Fax File #6.
- 1 Mar 1990 Ansett B737 VH-CZF. Incident. Failure to comply with ATC instructions at Brisbane. Source: AFAP Fax File #7. BASI Report Ref No 9003196.
- 5 Mar 1990 Ansett ? Incident. Ansett Flight No 527 Mackay. Source: AFAP Fax File #7.
- 7 Nov 90 Ansett ? Incident. Brake fire on landing. Captain allegedly refused to initiate an emergency evacuation of the aircraft. Source: AFAP Fax File #7.
- 18 Nov 1990 (local time 21:35) Australian B737 VH-TAW Incident: Local resident reported VH-TAW hit powerlines on approach to RWY 15 Cairns. BASI report surmised powerlines were probably pushed together by wing tip vortices resulting in wires fusing. Source: AFAP Fax File #7 & #8. Several Newspaper Articles re this incident (AFAP Files 7 & 8) BASI report Ref No 9003526

- ? Ansett? B737 Incident. Aircraft overshot the runway on landing at Gove. Captain allegedly reversed the aircraft out of runoff area and in the process overtemped the engines. Passengers left stranded in Gove whilst the aircraft was ferried back to Darwin. Source: Pilot rumour.
- ? Ansett A320 Incident. Heavy landing at Perth; aircraft allegedly so severely damaged it required major structural repairs. Source: Pilot rumour.
- May 91? East West BA146 Incident. Aircraft nearly collided in IMC (not visual) with high terrain at Hamilton Island after the crew failed to initiate an overshoot at the missed approach point. Source: Anonymous fax sent to AFAP, Transcript ABC Radio News 6 Jun 1991, AFAP Fax File #11.
- 25 Jun 1991 ? ? Incident. SID incident ex Townsville. Source: AFAP Fax File #12.
- 12 Aug 1991 Ansett A320 Incident. Near collision incident at Sydney, Captain failed to use the 'Captain control over-ride button' when taking over control of the aircraft from the First officer resulting in a near collision with an aircraft landing on a cross runway. Source: Bulletin Article dated 29 Jun 93, BASI report Ref No B/916/3032.
- 6 Nov 1991 ? ? Incident. Near collision at Darwin. Source: AFAP Fax File #15
- 4 July 1992 Ansett B727 Incident. VH-ANA. Centre engine fan disintegrated on take off at Brisbane. Aircraft landed safely back at Brisbane. Source: Numerous newspaper articles and TV footage. BASI report Ref No 9202582.
- Early 93 Ansett A320 Incident. Aircraft was being manipulated by the first officer and landed well down RWY 16 MEL (touched down less than 1600m before the end) after making a high and fast straight in approach. Heavy braking was required to stop the aircraft on the remaining runway. Source: Ansett Notice to All ATI(O) Technical Crew OP 4.1.93G (No date)
- 5 Jan 1993 (20:04 hrs local time) Ansett A320 Incident. AN Flight 134 Brisbane to Cairns VH-HYH. Aircraft descended below the DME steps at night attempting to make a visual night approach straight in on Cairns RWY 33. (not possible to legally perform this procedure at night) Source: Ansett Notice to All ATI(O) Technical Crew (ATI.(O):5.2.93'G' dated 2/2/93. BASI report Ref No 9313005
- 31 Jan 1993 Ansett A320 Incident. A320 (VH-HYL) flight Brisbane to Cairns failed to follow SID. Source: Ansett Notice to All ATI(O) Technical Crew (ATI.(O):6.2.93'G' dated 3/2/93. BASI report Ref No 9300275
- 21 Oct 1993 Ansett B767 Flight 33, SYD to MEL, (VH-RMF). Complete radial fracture of the centre pneumatic duct. Captain diverted the aircraft and landed at Canberra Airport. Source of info: Ansett Notice to Pilots NP45.11.93G dated 8/11/93. BASI report Ref No 9303375.
- 19 Oct 1994 Ansett B747 Incident. Ansett B747 (VH-INH) flight landed at Sydney with the nose wheel still retracted. Source: SMH story 17 Jul 1996 & 18 July 1996 and official BASI report.
- 31 Jul 1996 Ansett B747 Incident. Ansett B747 (VH-INH) landed at Taipei CKS airport in strong winds associated with typhoon Herb. After taxiing to gate ground staff opened cargo door which was then blown off. Aircraft substantially damaged.

Estimated cost of repair & loss of revenue \$6 million. Source: Ex Ansett pilot based in Taipei, BASI report Ref No 9602552.

## ABOUT THE AUTHOR



Alex Paterson is an ex Ansett pilot who resigned his position along with most of his colleagues in August 1989 associated with the Australian Pilots' Dispute of that year.

At the time of the Dispute he was a newly elected member of the AFAP executive and although he had little influence over the major decisions pertaining to the same he played a significant role in the day to day running of the Dispute as it unfolded. This role provided him with a rare inside view of the Dispute from a pilot's perspective.

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**1989 was a year that changed the Australian aviation landscape forever, and touched the lives of all pilots that lived through it.**

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