INDUSTRIAL DEMOCRACY BILL 1983
(Private Senator's Bill)

Date Introduced: 24 May 1983
House: Senate
Presented by: Senator Jack Evans

Short Digest of Bill

Purpose
To encourage the introduction of industrial democracy in Australian enterprises through reductions in company tax for enterprises which are classified as industrial democracy enterprises.

Background

Whilst the concept and practice of worker participation or industrial democracy have been well established overseas, particularly in the Scandinavian countries, Germany and Japan, a great deal of confusion still exists in Australia, at the industry, union and government levels, as to the precise meaning of worker participation. Interest in worker participation in Australia became evident only in the last ten years or so, and where present, largely takes the form of joint consultation i.e., employee representatives are consulted about decisions but are given no significant role in the decision-making process.

In the past, a number of inquiries have recommended the introduction of greater employee participation. These included the Coombes Inquiry into the Australian Public Service and the Jackson Report on the future of the manufacturing industry in Australia. In June 1978, the Commonwealth Government announced its policy on employee participation. The National Employee Participation Steering Committee was established to implement the Government's policy of encouraging and assisting employers and employees to develop work arrangements jointly in order to improve the quality of worklife for employees, and to use resources more effectively. A 1981 study by the Department of Science and Technology reported a survey with 19.9 per cent of firms having employee share arrangements and another 24.8 per cent considering them.
The former Senator J.R. Siddons introduced the Industrial Democracy Bill in 1981 which was subsequently amended and was still before Parliament when it was dissolved early in 1983. This Bill reintroduces the Industrial Democracy Bill 1981 together with agreed amendments.

Outline

The Bill provides for the establishment of a seven-member Industrial Democracy Board comprising 3 representatives nominated by the Minister for Employment and Industrial Relations, 3 nominated by the Australian Council of Trade Unions and 1 nominated by the President of the Australian Conciliation and Arbitration Commission. A Register of Industrial Democracy Enterprises is to be maintained by the Board to list companies which comply with its industrial democracy criteria. The criteria are:

a) at least 8 per cent of the issued share capital is owned, or held through a share purchase trust, by a substantial proportion of the non-executive employees of the enterprise,

b) the operations of the business are carried out through autonomous working groups based on profit centres within the enterprise,

c) a profit sharing scheme has been established in the enterprise, and

d) a consultative council has been established by the enterprise.

Companies which satisfy these criteria will be entitled to an 8 per cent reduction in their tax payable under applicable income tax legislation. A pro rata reduction is allowable where an enterprise is registered for only part of the year.

Main Provisions

Clause 4 defines the terms used in the Bill. "Enterprise" means a company within the meaning of the Income Tax Assessment Act 1936 and includes all bodies or associations corporate or unincorporate, but does not include partnerships. By Clause 5 the Industrial Democracy Board is established and its functions of encouraging enterprises in the establishment of industrial democracy and disseminating information on the matter are provided for by Clause 6. Clause 7 outlines the membership of the Board and under Clause 8, members will be appointed for 3 years and
may be reappointed. Clause 15 requires members to disclose their pecuniary interests.

Clause 19-25, inclusive, relate to the registration of industrial democracy enterprises. Clause 19 requires the Board to maintain a Register and to make a copy available for public inspection. The eligibility criteria for entry in the register are set out in Clause 20. Clause 20, sub-clause (5), gives the Board a discretionary power to list an enterprise which complies with only three out of the four listed criteria.

Clause 21 provides for the application of enterprises for registration in accordance with the proposed section 20, whilst clauses 22 and 23 set out the grounds on which an enterprise may be removed from the register.

Clause 25 makes the power of the Board absolute in respect of the listing or removal of an enterprise on the register. The provision is similar to section 60 of the Conciliation and Arbitration Act 1904 with the express exclusion of the Administrative Decisions (Judicial Review) Act 1977 (AD (JR) Act). Decisions under the Conciliation and Arbitration Act 1904 are excluded from review in the AD (JR) Act 1977.

The tax incentive to employers is provided by Clause 28.

The Board is empowered by Clause 29 to issue guidelines for the interpretation and application of the criteria set out in clause 20 and such guidelines are required to be notified in the Gazette, and made reasonably available to enterprises. Clause 30 contains a requirement for the Board to present an annual report to both Houses of Parliament. Clause 31 confers the normal regulation-making powers upon the Governor-General.

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References

2. Gunzburg, Daron, "Employee Participation in Australia" Progress Report, Department of Science and Technology, AGPS 1980.