SMALL IS BEAUTIFUL

A HISTORY OF THE
VICTORIAN PSYCHOLOGISTS ASSOCIATION
1974 – 1994

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ABOUT THE AUTHOR

JENNIE BREMNER WAS AN INDUSTRIAL OFFICER of the Medical Scientists Association of Victoria from 1991 – 1994 and its Assistant Executive Officer from 1994 – 2010.

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Abbreviations

AEU
Ambulance Employees Union

AHPV
Association of Hospital Pharmacists of Victoria – A Victorian union and a component association of the HSUA (Victoria) No. 4 Branch

AHSV
Association of Hospital Scientists of Victoria – The predecessor union to the MSAV

AIRC
Australian Industrial Relations Commission – (This term is taken to incorporate predecessor Federal industrial tribunals such as the Australian Conciliation and Arbitration Commission)

ALP
Australian Labor Party

AMA
Australian Medical Association

ANF
Australian Nursing Federation – Now the Australian Nursing and Midwifery Federation (ANWF)

APESMA
Association of Professional Engineers, Scientists and Managers of Australia – Now Professionals Australia

ASWU
Australian Social Welfare Union

BCOM
Branch Committee of Management

CPSU
Community and Public Sector Union

FMWU
Federated Miscellaneous Workers' Union

HAAEU
Hospital and Asylum Attendants and Employees Union – The original Victorian health union, which in 1959 became the HEF

HACSSA
Health and Community Services Staff Association – Amalgamated with HSUA to become HSUA (Victoria) No. 5 Branch. Later merged into HSU No.1. Branch

HACSU
Health and Community Services Union – Previously HEF #2 Branch. Became HSUA No. 2 Branch

HEF
Hospital Employees' Federation – Comprised No.1 and No.2 Branches in Victoria. Amalgamated with HREA to form the HSUA No. 1 and No. 2 Branches. No. 2 Branch also known as HACSU

HMAS Board
Hospital Medical Ancillary Services Board – Later became the Health Professional Services Board (HPSB)

HPS Board
Health Professional Services Board – Previously the Hospital Medical Ancillary Services Board (HMASB)

HREA
Health and Research Employees Association – NSW health union which amalgamated with HEF to form HSUA

HSUA
Health Services Union of Australia – The amalgamated entity formed from the HEF and HREA. Later became the Health Services Union (HSU)

IRCV
Industrial Relations Commission of Victoria

MAAV
Medical Ancillary Association of Victoria – Later became VAHPA

MSAV
Medical Scientists Association of Victoria – A Victorian registered union and a component association of the HSUA (Victoria) No. 4 Branch

MSPA
Medical Scientists and Pharmacists Association – The amalgamated entity temporarily created from the MSAV and the AHPV

SPSF
State Public Services Federation

SPSF(V)
State Public Services Federation of Victoria

VAHPA
Victorian Allied Health Professionals Association – Amalgamated with HSUA to form the HSUA (Victoria) No. 3 Branch

VAHP
Victorian Association of Hospital Psychologists – The predecessor of VPA. Disbanded in 1986 when VPA was founded

VEF
Victorian Employers' Federation

VHA
Victorian Hospitals Association – A peak body that represented the industrial interests of public hospitals. Later formed a separate, registered industrial organisation called the VHIA

VPA
Victorian Psychologists Association – Formed in 1986 as an independent organisation. Became a component association of the HSUA (Victoria) No. 4 Branch in 1994

VPA (Inc.)
Victorian Psychologists Association (Inc.) – The official name of VPA after incorporation in 2003

VPSA
Victorian Public Service Association Later became the SPSF(V), which then amalgamated with the CPSU

VPS
Victorian Public Service

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Introduction

WHY IS THE HISTORY OF THE VICTORIAN PSYCHOLOGISTS ASSOCIATION (VPA) important? Some observers would not see a small association of Victorian psychologists as warranting special interest or study. After all, it has not played a significant part on the national political stage: it is not affiliated with any political party and therefore does not make or shape national governments as some Australian Labor Party (ALP) union affiliates are said to do. Having a relatively small membership, it has limited influence within the Australian Council of Trade Unions (ACTU) and has but a small voice in national media debates over political matters.

But VPA's significance lies in a different direction. Through its 'trade union' activity, it has established high standards of employment for psychologists, strengthened their separate, professional identity within the Victorian health industry and given them greater control over their working lives.

Furthermore, VPA history holds broader significance for current and future union formation in Australia. It is a case study in the complex inter-relationship between professionals and organised labour, casting light on the tension that sometimes exists between the two. In the period 1974 – 1994 psychologists struggled to find a way of reconciling their desire for professional autonomy with their need for trade

union protection. At a time when trade union membership is falling to historically low levels and the workforce is becoming more highly qualified and specialized, the origins and development of VPA provides an important case study in the successful unionisation of professional workers.

VPA, founded in 1986, is a unique organisation in the Australian industrial relations context. It is a small association of around 500 members, which represents the industrial interests of psychologists in public and private hospitals, private companies, community health centres, and the not-for-profit sector. Although never registered as a trade union at either State or Federal level, it is in effect the only specialist union of psychologists in Australia, and through its work in having awards and enterprise agreements made and maintained, it plays a vital role in the maintenance of professional standards for Victorian psychologists employed in the health sector.[1]

Today, VPA has a dual identity. At a Federal level, it is a component part of the Health Services Union Victoria No. 4 Branch and has three dedicated positions on the Branch's Committee of Management. This link to a Federally registered union gives VPA's members access to the Fair Work Commission and coverage by Federal awards and agreements.

In Victoria, the Association is a separate, incorporated entity with its own elected Committee of Management, which determines policy and strategy, and is responsible for collecting subscriptions, recruiting, training and representing its members. VPA sits as a separate party in negotiations for renewal of enterprise agreements, and as such, plays a key role in influencing the outcome of negotiations on behalf of psychologists in the Victorian health sector.

1. VPA is to be distinguished from the Australian Psychological Society and the Australian Clinical Psychology Association, which are professional rather than industrial organisations. Although it does provide services to self-employed psychologists, VPA's primary role is to protect and advance the interests of pyschologists as employees.

The turbulent period from 1974 to 1994, which is the focus of this study, encompassed the formative years of the Association, during which neo-liberal ideology began to gain its ascendancy in Australian public policy.

The consequential push by governments and private corporations for labour market deregulation saw the weakening of the award system. Australian workers, who were dependent on this system for protection of their wages and conditions, were faced with loss of entitlements and the very viability of unions was under threat. The ACTU responded to this threat by pursuing policies in support of union amalgamations, which were seen as ensuring the survival of unions, albeit in another form. These policies were given legislative underpinning by Labor governments at the Victorian and Federal levels. By the late 1980s, small, independent unions were under formidable challenge by governments, employers and the mainstream union movement.

This was an unfavourable time in which to establish a small professional organisation, and yet these were the circumstances of VPA's formation. Notwithstanding the difficulties of its early years, the author contends that the Association has had astonishing success in advancing the industrial interests of its members, having achieved rates of pay, working conditions and a career structure that put them ahead of most other health professionals in Victoria. That the foundations of this success were laid between 1974 and 1994 makes the VPA story an important one, from which all trade unionists can learn.

It is the author's contention that VPA's success is attributable to the preservation of its identity as a specialist, or 'craft' union: that is, one where membership is restricted to employees qualified in a particular craft or profession. Had it been absorbed into a larger union and lost its identity, it is very likely that the unionisation of psychologists in Victoria would have stalled. The ideological and historical underpinnings of craft unionism are key concepts in understanding the VPA story.

VPA's success is attributable to the preservation of its identity as a 'craft union'.

This paper is based on archival material drawn from several sources. The Public Records office of Victoria was an invaluable source for records relating to the Victorian wages boards and their successors, the Victorian conciliation and arbitration boards. The uncatalogued archives of VPA and Medical Scientists Association of Victoria (MSAV) provided a rich source of material for the entire period, but particularly relating to the State Public Services Federation (SPSF) and the (then) Health Services Union of Australia (HSUA) amalgamations.

In addition, the author interviewed some of the key players in this history: Rob Gordon, Secretary of the Victorian Association of Hospital Psychologists (VAHP), the precursor organisation to the VPA; David List and Patricia Miach, two of the prime movers behind the formation of VPA; Rod Felmingham, the MSAV Executive Officer whose advocacy resulted in the establishment of the first separate Conciliation and Arbitration Board for psychologists in Victoria in 1986; and Sam Eichenbaum, who led negotiations which eventually took VPA into the HSUA in 1994. This paper also draws on the recollections of the author, who commenced employment with the MSAV in February 1991 and was witness to some of the events that are described in this paper.

The following chapters chart the formation of VPA within the context of the social and political history of 'craft' unionism. They move in chronological order from the early stirrings of discontent of psychologists at the Royal Children's Hospital (RCH) in 1974, through to the formation of VAHP in 1976. They then follow the events that led to the formation of VPA itself in 1986, the appointment of the Victorian Psychologists Board in 1987 and the making of the first Victorian Psychologists Award in 1988. From that point, subsequent chapters describe the political upheaval in Victoria in the early 1990s, which threw the Association into crisis and, after a series of missteps, resulted in its eventual amalgamation with the HSUA. These events culminated in 1993 with the making of the first Federal award covering VPA members and the creation of HSUA No.4 Branch in 1994. Finally, this history reflects on the reasons for the success of VPA and draws conclusions about its future strategic direction.

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Craft unionism and 'the property of skill'

THE CRAFT MODEL OF UNIONISATION HAS A LONG AND RICH TRADITION. In Britain, from the eighteenth century onwards, mass manufacturing industries were forming, cheap goods were becoming available, and the old guilds controlled by master craftsmen were breaking down. Skilled workers, or artisans, felt themselves to be under direct threat from unskilled and semi-skilled workers, who they feared would undermine the established trades through de-skilling, lowering incomes, and destroying jobs (Rule, 1987). Artisans responded to these threats by forming combinations to exert a degree of control over the labour process. These early combinations were based in part on traditional values about the primacy of skill, knowledge, tradition and hierarchy (Rule, 1987).

The most crucial part of their strategy was to create skill and training barriers to prevent entry into their occupations by unskilled workers. Formal apprenticeships were established, which were controlled by the artisans themselves. High levels of skill acquired through apprenticeships – which could be as long as seven years – were effective barriers to entry to the mass of unskilled and semi-skilled workers (Rule,1987, p.101).

Artisans were therefore paradoxically not only conservative, in the sense of

seeking to maintain established social hierarchies, but also radical, in the sense of challenging market forces and fighting to maintain independence from them.

The craft workers of the industrial revolution were acting to protect the 'property of skill', a political critique which saw training and skill as another form of capital, which conferred property rights similar to those conferred on owners of other forms of property.

In 1823 cotton weavers opined that:

> *The weaver's qualifications may be considered as his property and support. It is as real property to him as buildings and land are to others. Like them, his qualifications cost time, application and money (Rule, 1997, p.106).*

Professional identity and union formation

This history contends that psychologists are heirs to the craft tradition. VPA history shows that psychologists, like weavers in early nineteenth century Britain, have organised primarily around issues of protection and enhancement of their profession. Indeed, at key points in VPA's history, preservation of craft has been a stronger driver than the immediate protection of wages and conditions.

If protection of the property of skill was and remains a primary motivation for craft union formation, the rise of 'professionalism' in the twentieth century has provided validation and structure to craft groups and the specialist unions that have grown from them. The establishment of tertiary courses, statutory registration, professional development requirements and codes of ethics, by Governments and professional associations, have provided strong bonds between members of the same occupational groups, heightened perceived differences with other workers, and therefore, provided a 'natural' organising base for specialist unions.

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The social and political construction of 'professionalism'

SOME SOCIAL THEORISTS ARGUE THAT OCCUPATIONAL GROUPS, through organisation, attempt to define their work as skilled, and so provide protection for their rates of pay from labour market competition. This is done through control of the labour supply, by means such as the regulation of entry into the occupation; through support for statutory licensing and registration requirements; through internal regulation, for example by control of training; and through the construction of difference, by the use of language and symbols which identify the work as skilled (Noon, 1997).

In order to construct particular work as skilled, an occupational group must establish its distinctiveness and separateness. This is achieved through ideological, political and material processes that lead to what is termed 'social closure', a state in which members of the group achieve a demarcation from other groups. The length of the training period and status of the credential are important symbols in the construction of the work as 'professional' (Noon, 1997).

This is illustrated by the example of psychologists who in order to be able to legally practice, must complete a minimum training period of six years and, under the *Health Practitioner Regulation National Law 2010*, be registered by the Psychology

Board of Australia under the auspices of the Australian Health Practitioner Regulation agency.

Ulrich Beck critiqued professionalism in these terms:

> *The professions can be understood as 'brand name products' on the labour market, a form of licensed competence which gives vocational groups power. Professional organisations, through the construction of professional work as requiring particular training, registration and competencies, provide protection for their members from the 'injustices of the labour market'. The processes of professionalisation sustain certain forms of rules, practices and meanings through which the members of the profession, through organisation, are able to exert power within the labour market. Professionally sanctioned rules of practice are discursively constructed through networks which spread across the universities and organisations which employ professionals, often supported by the state through credentialing and other processes (Beck,1994).*

Professionalism can therefore be seen as an adaptation of the property of skill to suit the social and political circumstances of the twentieth and twenty-first centuries. However, while advantageous to psychologists in demarcating and protecting the boundaries of their profession, social closure has also at times sat uneasily with trade unionism, which is an inherently collectivist tradition founded on the concept of solidarity between all workers. It would take psychologists many years to establish a union that reconciled the apparent contradiction between professionalism and industrial unionism.

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Early moves for an award 1974-1986

PRIOR TO 1987, PSYCHOLOGISTS WERE USUALLY EMPLOYED IN PUBLIC and private hospitals on individual contracts, with salaries aligned to rates of pay for psychologists employed in the Victorian or Commonwealth public services (IRCV, 1988, 27 June).

In September 1974, the Board of the Royal Children's Hospital (RCH) decided that it would no longer negotiate directly with non-award staff, and that in order to obtain salary increases, they would have to obtain coverage from a wages board in the Victorian industrial relations system (J.S.Williams, December, 1974).

The Hospital's decision arose from the Department of Labour and Industry's decision that it would only fund award-based wage movements. As they were not covered by any award, this decision effectively froze the salaries of all psychologists and audiologists at RCH. The Hospital itself pressed them to seek coverage under a board known as the Hospital Medical Ancillary Services Board (HMAS Board). This was a controversial proposal, which, had it been agreed to, would have had far-reaching implications.

The Royal Childrens' Hospital froze the salaries of all psychologists and audiologists.

Victorian Wages Boards

Wages boards were central to the structure of the system of labour market regulation in Victoria at that time. They were statutory bodies charged with making awards for the trades or industries for which they had jurisdiction. The route to obtaining an award for any award-free group was to first seek coverage by a wages board, which could regulate the terms and conditions of employment of that group of employees via its award-making powers, and to then seek recognition before that board, which would confer the right to make applications to it.

Wages boards had equal representation from employers and employees, along with an independent chairperson. There were many such boards, covering both the public and private sectors. During the 1970s, the Minister for Labour and Industry had the power to create boards on his/her own initiative, and so the process for seeking the creation of a board was by direct application to the Minister. There were no public hearings in relation to applications to create a board, and no reasons for decisions regarding such applications were publicly issued by the Minister. There was, however, a right of appeal to the Industrial Appeals Court.

The normal practice for parties seeking to establish a board was to apply directly to the Minister, who would respond by letter informing the applicant of the outcome of their application. The Minister therefore had a very wide discretion in how these applications were handled.

Wages Boards covering the Victorian health industry

During the 1970s the Hospital Scientists Wages Board covered scientists employed in public and private hospitals. Allied health professionals – such as physiotherapists, occupational therapists, and speech therapists employed in public hospitals – were covered by the HMAS Board, which also covered a miscellaneous assortment of other sub-professional and technical classifications, such as laboratory technicians, radiographers and medical librarians. Community service workers – such as community development workers, social welfare and youth

workers employed in the public and private sectors – were covered by the Social and Community Services Wages Board (SACS Board).

Hospital scientists (later called medical scientists) were represented by the Association of Hospital Scientists of Victoria (AHSV). In 1981, AHSV merged with the Dietitians Industrial Association and the Medical Laboratory Scientists Association of Victoria to form the Medical Scientists Association of Victoria (MSAV). Hospital scientists were degree-qualified and paid 'science' rates, later to be called 'professional rates'. These rates were to become the benchmark rates of pay for degree-qualified staff in hospitals. Nurses and allied health professionals later relied on work-value comparisons with scientists to increase their rates, as their qualifications moved to degree level.

Most occupations covered by the HMAS Board were at that time not degree-qualified, and consequently not paid science rates. Some of those occupations, such as physiotherapy and occupational therapy, could then have been described as 'emerging' professions, which over the course of the 1980s came to require degree qualifications, with their practitioners also moving onto professional rates. They were represented by the Medical Ancillary Association of Victoria (MAAV); this later became the Victorian Allied Health Professionals Association (VAHPA), which was subsequently absorbed into the Health Services Union Victoria No. 3 Branch. The HMAS Board itself later changed its name to the Health Professional Services Board (HPS Board).

Social and community services workers, employed in community health centres and government-funded, not-for-profit organisations and charities, were represented by the Australian Social Welfare Union (ASWU), which later merged into what is now the Australian Services Union (ASU). The SACS Award that governed their conditions also covered some registered psychologists, but not those specifically employed as psychologists. Psychologists covered by the SACS Award were primarily employed as social workers and 'counsellors', and as such, were paid below professional rates for psychologists.

Other boards in the Victorian industrial relations system covered medical practitioners, nurses, dentists and hospital ancillary workers. Hospital ancillary workers were covered by the Hospital and Benevolent Homes Wages Board (HBH Board), and were represented by the Hospital Employees Federation no. 1 Branch (HEF no. 1 Branch). That organisation later became part of the Health Services Union of Australia, and is now the Victoria Number 1 Branch of the Health Services Union (HSU).

First application for a psychologists' wages board

In December 1974, John Williams, senior psychologist at the Royal Children's Hospital (RCH) wrote to the Minister for Labour and Industry, seeking the establishment of a wages board for psychologists (J.S.Williams, December, 1974). Williams' letter implied that it was sent on behalf of all Victorian hospital psychologists, but there is no evidence that this was in fact the case. It appears that his move was an isolated attempt to break through the wages freeze imposed by RCH management.

At that time, there were 16 clinical psychologists employed in Victorian hospitals: 7 full-time at RCH and nine part-time elsewhere (J.S.Williams, December, 1974);(Department of Labour and Industry 1975(a)). Williams' letter to the Minister explained that psychologists had previously negotiated wage increases, together with doctors, directly with the Hospitals and Charities Commission (HCC). However, this arrangement had been terminated after a wages board was made for medical practitioners.

Psychologists had then unsuccessfully attempted to enter into private negotiations with RCH in pursuit of salary increases. That endeavour had been doomed by the RCH policy, adopted three months prior, of only paying salary increases mandated by an award. Having last negotiated with the old HCC in November 1971, this meant that psychologists (unless able to negotiate increases on an individual basis) had effectively been subject to a wages freeze for three years.

The grounds advanced by Williams for seeking a separate board for psychologists were professional status, training, and work value. Importantly, his letter explains, that the RCH had advised its psychologists to seek coverage by the HMAS Board but that this was "quite unacceptable" to psychologists:

> *Having looked at the professional status, the training and the work value of clinical psychologists in hospitals we believe that none of the existing Hospital Wages Boards could accommodate our special needs. The salary and conditions required to maintain the current high standing we believe clinical psychologists have in the community can only be adequately negotiated through a separate Hospital Clinical Psychologists' Wages Board* (J.S.Williams, December, 1974).

Later in December 1974, Eddie Keir, Senior Audiologist at the RCH, also wrote to the Minister in very similar terms to Williams. Besides seeking a board for audiologists, Keir expresses a common interest with psychologists on the grounds that audiologists were required to have a major in psychology in their undergraduate degree (Keir E., 1974). At the time, there were only five full-time audiologists employed in Victoria and another three part-time, making them half the size of the psychologists' group (Keir E. H., 1975). Given the small number of psychologists and audiologists employed in Victorian hospitals and the lack of a union to advocate on their behalf, John Williams and Eddie Keir were fighting an uphill battle.

Internal Department of Labour and Industry correspondence relating to their applications shows that the Acting Minister, John Rossiter, sought the views of a number of interested parties, including the HCC, the Victorian Hospitals Association (VHA), the Victorian Employers' Federation (VEF), MAAV and the Victorian Trades Hall Council (VTHC). Although all respondents supported the principle of award coverage for psychologists and audiologists, all opposed the establishment of a separate board for them (except MAAV, which offered no view on the matter).

The employer view was that both professions should be covered by the HMAS

Board because of a perceived commonality of interests with social workers and speech pathologists (Department of Labour and Industry, 1975(b)). Ken Stone, the Secretary of the VTHC at that time, similarly opposed the creation of a separate board for psychologists and audiologists, but wanted them allocated to the HBH Board, which covered a range of ancillary classifications represented by the HEF (Stone, 1975). This could be seen as reflecting the dominance of blue-collar unions in the VTHC at that time and their lack of interest in unionising the professions.

Application for a psychologists' board fails

Unsurprisingly, in July 1975, Rossiter decided to reject the requests by the psychologists and audiologists for separate board status, on the grounds of the small number of people concerned, but to offer an extension of the jurisdiction of the HMAS Board to cover them (Rossiter, 1975). The Department of Labour and Industry's recommendation to the Minister, which led to this decision, echoed the employer organisations' view about compatibility of interests between psychologists and HMAS classifications (Department of Labour and Industry, 1975(a)).

Psychologists preferred to forfeit wage increases and award protection, rather than lose their identity.

It is pivotal to the subsequent history of VPA that John Williams rejected out of hand the Minister's proposal to place psychologists under the jurisdiction of the HMAS Board. The Minister's offer would have provided a means of unfreezing the wages of psychologists and audiologists and given them the security of award regulation. It says much about the psychologists at RCH that they preferred to forfeit wage increases and award protection, rather than lose their separate identity within an eclectic mix of classifications, of which most at that time were not degree-qualified (Gordon R., 1984). It could be inferred that the meaning of work to psychologists was intrinsically bound to notions of the value of their profession. In this, they clearly echoed their predecessors in the early craft unions. They perceived that absorption

into the HMAS Board would be a dead-end, which, by tying psychologists to the wages and career structures of allied health workers, would lead to loss of professional autonomy.

The subsequent history of VPA has validated this judgement. Submissions made by VAHPA (previously the MAAV) in the IRCV in 1986 (discussed more fully in Chapter 7) made clear that, had psychologists agreed to coverage by the HMAS Board in 1975, it is very likely that they would have lost their professional identity and almost certainly would have been tied to the wage rates of social workers and therapists (IRCV, 1986, 18-19 February). This would have operated as a barrier to future claims for higher pay rates based on work-value grounds.

But psychologists were in a difficult position. They were seeking to preserve their separate status, but this appeared impossible – as the Government, all employer parties and the trade union movement were against them. They were caught in the tension between the ideals of professionalism on the one hand and the principles of trade unionism on the other. Where to from here?

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Formation of the Victorian Association of Hospital Psychologists: 1976–1986

ONE OF THE LEGACIES OF THE WHITLAM FEDERAL GOVERNMENT (1972–1975) was the rapid expansion of public health facilities and services throughout Australia. Over $140 million was allocated to the development of hospitals throughout Australia between 1972 and 1975. To complement this expansion, the Federal Government launched the 'Community Health Program' in 1973. Through this scheme, $120 million was allocated to the construction of new facilities such as community health centres, rehabilitation teams and services for geriatric patients. Associated with this program was additional funding to State governments to provide alcohol and drug rehabilitation services, and mental health services (Whitlam Institute, 2013). This expansion opened up new career opportunities for psychologists in assessment, treatment intervention, research, education, teaching, liaison, consultation and administration (VAHP, 1978). Increased numbers of psychologists were employed in community health services (Gordon R. D., 2014).

But unlike the majority of workers in the Victorian public health system, psychologists had no award coverage, and many were languishing on unsatisfactory individual employment contracts. A second submission to the Minister in 1978 by

psychologists and audiologists (referred to below) asserted that during a 24-month period between 1973 and 1975, one Victorian hospital paid no yearly increments, delayed paying female psychologists equal pay with male psychologists until two years after those employed by the Victorian public service, and did not pay casual loadings to sessionals employed on a casual basis (VAHP, 1978) . This hospital was later identified as the RCH (Gordon R. D., 2014).

Psychologists at the Royal Melbourne, the Alfred, Prince Henry's and St Vincent's were also said to be facing difficulties, through lack of an appropriate career structure, non-payment of overtime, and lack of provision of conference leave (VAHP, 1978). Because these issues were not confined to RCH, all Victorian psychologists had a strong motive to obtain award coverage.

Psychologists made the next move, and showed that they had learned some lessons from their first failed attempt. It was appreciated that any award had to apply to the whole of Victoria, and for this purpose a broadly based union was needed. At this point, audiologists and psychologists went their separate ways. Audiologists went on to join what became the MSAV in 1985, after the IRCV resolved a heated demarcation dispute with VAHPA in favour of the MSAV (IRCV, 1985, 17 May). Since 1986, audiologists have been covered by the awards and certified agreements pertaining to medical scientists in Victoria. This point is addressed more fully in Chapter 7.

Formation of the Victorian Association of Hospital Psychologists

In 1976 a number of psychologists, primarily drawn from RCH and the Alfred, formed the Victorian Association of Hospital Psychologists (VAHP), the first specialist industrial organisation for employee psychologists in Australia. Rob Gordon, appointed to RCH in 1976, became VAHP Secretary in 1978.

The Association was "virtually a bosses union, driven by bosses because of funding issues".

VAHP was never registered as a trade union. Nor was it incorporated. It therefore had no legal status, and appeared to have been established for the sole purpose of overcoming RCH's funding problem. Sam Eichenbaum, who later became the Executive Officer of the MSAV, stated derisively that the Association was *"virtually a bosses union, driven by bosses because of funding issues"*. (Eichenbaum, Interview, 2013). Rob Gordon rejects the suggestion that any hospital management was involved in the formation of VAHP, but concedes that it was not intended to be a union so much as an 'advocacy group' which was not seeking to represent individual members (Gordon R. D., 2014).

Second application for a psychologists' board

Notwithstanding the 1975 Ministerial rejection, Gordon made a second application for a psychologist's wages board in October 1978 (VAHP, 1978). This was the first attempt by an employee organisation to represent the views of psychologists across Victoria.

The VAHP submission claimed the Association had a membership of 39, of whom nine were employed full-time and 30 as sessionals. It asserted that all Victorian hospital psychologists were surveyed, and made a work-value case for them that claimed comparability with dentists and doctors. Again, it sought a separate wages board for psychologists. The application set out options, in the following order of preference:

1. A board exclusively for psychologists;
2. A joint board for psychologists and audiologists;
3. Coverage under the dentists' wages board;
4. Coverage under the scientists' wages board.

Psychologists and scientists in mutual rejection

Option four was seen by VAHP as a poor match because scientists did not have direct patient contact and very few had post-graduate qualifications. Many psychologists, by contrast, were required to have higher degrees to meet standards set by the APS for specialised practice. Clinical psychologists, for example, were required to have Masters Degrees as a minimum, which involved two post-graduate years, plus a year of supervised experience in order to be recognised by the (then) Clinical Board of Psychologists of the APS. Doctoral qualifications were becoming increasingly common at this time (IRCV, 1986, 18-19 February, p.228). VAHP claimed that 38% of its membership (15 people) in 1978 had Masters Degrees or higher (VAHP, 1978). Interestingly, hospital scientists had their own reservations about psychologists. Responding to the Minister's request for comments on the VAHP application, the Secretary of the Association of Hospital Scientists of Victoria [AHSV], J.Chakman, rejected outright the proposal that psychologists be covered by the Medical Scientists Board.

Chakman's reasons were many and varied. He believed, incorrectly, that psychologists did not have science degrees.[2] Chakman also opposed admitting psychologists to membership of the AHSV because they did not work in pathology laboratories, did not supervise large departments, did not do on-call work, and were generally 'different'. His real aversion to accepting employees from outside the profession appears to be caught by the following sentence: "hospital scientists will in turn find themselves encumbered with a small group with whom they have little in common" (Association of Hospital Scientists of Victoria, 1978).

The echo of the early craft combinations can be clearly heard in this. Here were two groups of health professionals, whose identity was firmly based on their qualifications and skill, both wanting to keep their identities separate.

2. In fact, entry into psychology training was through an undergraduate degree in either in Arts or Science, meaning that some psychologists did in fact have science degrees (IRCV, Psychologists Case, transcript, 1986).

Although some psychologists were more highly qualified than scientists, they were differently qualified, and scientists saw this difference as a dilution of the ties that bound their own members together.

Despite the more organised efforts made by psychologists on this second application, there seemed no inclination by the Government to change its views. Internal Department of Labour and Industry correspondence states that there was still no support from any interested party for a separate board for psychologists or audiologists. The Department was still wedded to the idea of extending the jurisdiction of the HMAS Board (Department of Labour and Industry, 1979). Even the MAAV, which stood to expand its coverage and membership had the Board's jurisdiction been extended, appeared indifferent, stating in correspondence to the Department that psychologists and audiologists could just as well be placed with the Hospital Scientists or the Hospital Dentists Board as with the HMAS Board (MAAV, 1979).

Failure of second application for a psychologists' wages board

It should therefore not have greatly surprised VAHP when the Minister, James Ramsay, advised the parties on 9 July 1979, that he had again rejected the applications for separate Boards for psychologists and audiologists but once more offered to extend the jurisdiction of the already rejected HMAS Board (Minister of Labour and Industry, 1979). This offer attracted no more support from psychologists on this occasion than it had previously. Rob Gordon replied:

> *Your proposal has been considered at length and after detailed examination of it, we have decided that it is inadvisable for our Association to join the Hospital Medical Ancilliary Services Wages Board. Psychologists perform clinical functions and accept clinical responsibilities which are different from those of employees of Hospital Medical Ancilliary Services Wages Board* (VAHP, 1980).

This was a major blow. It was now nearly five years since John Williams' initial approach to the Minister, and psychologists were no closer to obtaining an award. All interested parties – employer organisations, other unions, the VTHC and the State Government –appeared dismissive of them, and they seemed powerless to push their case.

Furthermore, according to claims made by VAHP, the wages and conditions of many psychologists were deteriorating, with a degree of exploitation alleged in some hospitals (VAHP, 1978). The hapless VAHP seems to have become dormant at this point. There is little evidence of further psychologist activism for nearly a decade, until moves were made to form VPA in 1986. The VAHP lingered on until 30 June 1986, when it was formally dissolved on the same night that VPA was founded.

The wages and conditions of many psychologists were deteriorating, with a degree of exploitation alleged in some hospitals.

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Formation of the Victorian Psychologists Association: 1986

EVENTS IN THE 1970s SHOWED THAT PSYCHOLOGISTS FACED MULTIPLE impediments to establishing themselves as a viable industrial force. They recognised the need for an industrial organisation, but were unable to form one that was effective.

They were small in number and had few resources; they appeared to lack strong networks with each other across hospitals; and they did not have any obvious leaders within their own ranks who had the skills and time to deal with the complex industrial issues that they faced. Their quest for a psychologists' board had no support from any Victorian union or employer body. And yet they were strongly opposed to joining forces with any established trade union, as they saw such an alliance as threatening their professional autonomy.

Adding to these problems, there was no regulatory body at the State level that could hear their claim for a separate board on its merits, such as existed at the Federal level with the Australian Industrial Relations Commission (AIRC). Victorian psychologists were therefore at the mercy of the Minister for Labour and Industry. All of these problems were significant and complex, and were likely to have contributed to the passivity that stalled the move to unionisation between 1979 and 1986.

Changes in the industrial environment in the 1980s

However, by the 1980s change was in the air. The era of Ministerial discretion over the appointment of wages boards ended with the establishment of the Industrial Relations Commission of Victoria (IRCV) in 1981. The IRCV fundamentally changed the system of industrial regulation in Victoria. For the first time, there was an independent tribunal – comprised of a President, two Commissioners and a panel of Chairpersons of newly created conciliation and arbitration boards – to perform the functions previously carried out by the wages boards and the Industrial Appeals Court. The IRCV now determined applications for boards and the allocation of seats on them. It was transparent and independent. This new Commission therefore offered a huge potential advantage to psychologists, who had never previously had a forum in which to argue the merits of their case.

Coincidentally, at this time, new psychologists were being recruited to health services who showed a determination to improve the status of the profession in Victorian hospitals.

Dr. David List, a New York psychologist, had arrived in Australia in 1979, and took up a position as Deputy Director of Clinical Psychology at the Austin Hospital in 1981. Dr. Patricia Miach was the first psychologist appointed full-time at the (then) Queen Victoria Hospital in 1982. She had spent her formative professional years (1974 to 1981) working in Canada.

Both described conditions for psychologists in North American hospitals as being very different to those in Australia at the time. Miach described psychologists in Canadian hospitals as being like an "army", employed in large numbers, well organised, well recognised for their contribution, and "feisty" (Miach, 2013). List saw US psychologists as being more confident and having higher status, which he attributed to psychology being a more male-dominated profession in the USA (List D., 2013). List and Miach's North American grounding appeared to give them the confidence to take up where Rob Gordon had left off in 1979. They now worked

closely with Pat Leaper, who was the Senior Psychologist at RCH and one of the foundation members of VAHP (Gordon R. D., 2014).

Dr. David List, Inaugural President of the Victorian Psychologists' Association.

Dr. Patricia Miach, VPA Committee Member 1991-2011. Life member of VPA.

Changes had also occurred in the leadership of the unions. Rod Felmingham, a former employee of the Victorian Health Department, took up the position of Executive Officer of the MSAV in 1985. The author, who worked under his leadership in 1991, found him to be an intelligent and strategic thinker, experienced, ambitious and keen to expand and strengthen his Union's role in the Victorian health sector.

MAAV's successor body, VAHPA, had until this point not displayed any interest in representing psychologists. This changed with the appointment of, first, Brian Sullivan, and then Michael Maloney to leadership positions in the early 1980s. They, like Felmingham, were professional industrial relations operatives. Maloney, a former industrial officer of the HEF, became the key player when Sullivan left. The author observed that he brought some of the values of 'blue collar' trade unionism into this professional association, giving it a more assertive style than it had shown in the past. He was very determined to make VAHPA the primary union for health professionals in Victoria, which put him on a collision course with the MSAV and Rod Felmingham.

The rivalry between Maloney and Felmingham for control of health professional unionism in Victoria became the central narrative in the history of these two unions over the next decade. By the mid 1980s, psychologists, still effectively non-unionised, had become an attractive recruitment target for them both. Psychologists, who had for so long been marginalised, now stood at the centre of what was becoming a highly contested field.

VAHPA seeks award coverage of psychologists

In February 1985, VAHPA applied to the IRCV to extend the Health Professional Services Board's (HPSB Board) jurisdiction, to cover psychologists and audiologists (VAHPA, 1985). This move was intended to absorb these groups into VAHPA's membership. Both professions were firmly opposed to having any relationship with VAHPA, but chose different routes to self-protection.

As previously noted, audiologists reacted by moving into the MSAV. The MSAV in turn, on their behalf, opposed VAHPA's application in the IRCV. This led to MSAV winning its first major victory over VAHPA, when its case for audiologists to be brought under the coverage of the Medical Scientists Board (previously the Hospital Scientists Wages Board), rather than the HPSB, was won (IRCV, 1985, 17 May).

However, psychologists were in a different position from audiologists. Psychologists did not want to become part of the MSAV, and were still floundering within the effectively defunct VAHP. They were therefore in a more vulnerable position.

If VAHPA's application to the IRCV to cover psychologists succeeded, they would become covered by the Health Professional Services Award, and through that, be tied to VAHPA. This would have spelt the end of their hopes of retaining a separate identity, as they would have been submerged into the larger allied health professional group within the Victorian health industry.

Word filtered out slowly. When List became aware of VAHPA's application and saw its implications, he realised that urgent action was required. He took the same

view that John Williams and Rob Gordon had taken 10 years previously: that psychologists would lose their identity and status if they became grouped with allied health professionals.

This time would be different. Psychologists were facing legal proceedings that could deliver their industrial prospects into the hands of VAHPA if they came under the jurisdiction of the HPS Board and Award. They felt vulnerable. The whole issue of award coverage, which had been dormant for the preceding eight years, was about to explode.

Psychologists and scientists join together to fight VAHPA

Memories differ about the events that followed. Felmingham recalls that List sought membership of the MSAV for psychologists, and that this proposal was rejected by the MSAV Council (Felmingham R., 2013). As an alternative, however, the MSAV proposed that psychologists form a new association and enter a service agreement with the MSAV, whereby the new association would contract its industrial work to the MSAV. To counter VAHPA's application to the IRCV, the MSAV would then make a cross-application for a separate Board for psychologists (Felmingham R., 2013).

List, by contrast, claims this idea as his own (List D., 2013). Whichever way it was, no one disputes that this was the deal that was struck.

It was a mutually beneficial arrangement. Psychologists would get the representation they needed, whilst preserving their separate identity. In return, MSAV was to be paid 90 per cent of VPA member subscriptions, and stood to benefit from a group with strong future recruitment potential (List D., 2013). This organisational arrangement appeared to be a canny strategic move – one that offered a means of resolving the perceived conflict between the separatist tendencies of professionalism and the collectivist imperatives of trade unionism.

This new alliance marked another turning point in the story of the unionisation of psychologists. The deal sealed between Felmingham and List was to see the emergence of the VPA, which was to provide the vehicle for psychologists to finally establish themselves as an effective and independent voice in Victoria.

Formation of VPA

VPA was formally constituted on 30 June 1986 at a general meeting attended by 45 psychologists (with 18 apologies from non-attendees) (IRCV, 1986, 18-19 February, p.257). It came into existence on the same night that the VAHP was dissolved. The first VPA officer holders were: President, David List; Vice President, Jeannette Milgrom; Secretary, Tony Catanese; and Treasurer, Diana Fogyl. The Committee members were Heather Gridley, Patricia Leaper and Carmel Davis.

VPA was created for an instrumental purpose: primarily to protect the separate identity of psychologists against the predations of the allied health professionals union. The advancement of wages and conditions at this stage was a secondary objective.

The new Secretary, Tony Catanese, a psychologist employed by the Spastic Society, later gave evidence to the IRCV about the circumstances around the Association's formation:

> *Psychologists became aware of the situation* (VAHPA's application to the IRCV) *purely by accident. …I believe at the time, an audiologist from the RCH mentioned the application to a psychologist at the RCH, who in turn contacted Dr. David List, …. who in turn contacted Mr. Sullivan to request a meeting between himself and some psychologists.*
>
> *Following that meeting, the first development, I believe, occurred to allow us to do some consultation, but that was the first time we were ever in a position where we were able to consult about industrial matters relating to ourselves. Following that time, we have had numerous what you would call general meetings of interest and so on, leading up to a point in September…of an annual general meeting in 1985, where all psychologists who*

were interested in the area were requested to come along… At that time, a working party was brought in and given the task of seeking professional expert advice on behalf of the rest of the group and to come back to them with recommendations (IRCV, 1986, 18-19 February, pp. 256-258).

Catanese went on to describe how the working party obtained legal advice and consulted with members of the IRCV and "several experienced persons", as a result of which:

We came to the conclusion that we are an independent profession, we are not para-medical therapists… like physiotherapists, nor do we see ourselves as social workers, and therefore, we felt that we needed to be represented as a group independently industrially (IRCV, 1986, 18-19 February, pp. 256-258).

Catanese made clear the feelings of vulnerability felt by psychologists at that time:

The psychologists found themselves in a very difficult position, with no award coverage; and essentially they found themselves in a position where – I do not know how to describe it – very, very incapable of carrying their case with their management… They have never had anyone to speak on their behalf. There had been attempts over the past years, prior to the very first application being made, to actually seek assistance from the bodies making other applications, and the psychologists were turned away. So it was another reason why we looked at the independent thing (IRCV, 1986, 18-19 February, pp. 256-259).

Catanese disclosed that his reference to psychologists being "turned away" covered not only VAHPA but also the ASWU, which he had approached for assistance with industrial issues in 1982 and 1983; both unions had rejected his approaches.

Not only had VAHPA refused to help psychologists, but under examination by Felmingham, Catanese also alleged that it had made threats, to deter them from seeking separate board status. He then described a meeting at the Austin Hospital in 1985 with a VAHPA representative:

Felmingham: Would you say one of the outcomes of those lengthy negotiations (i.e. with VAHPA) *was the decision to go it alone following this application?*

Catanese: Yes, the very first meeting we had, essentially we were told that if we sought a board, we would fail, and: "Do not try, because we would oppose you," and when Mr. Sullivan was questioned, he said, "You were threatening the psychologists group?"(sic) – and he said, "I suppose you could see it that way" (IRCV, 1986, 18-19 February, p. 269).

It is hardly surprising, then, that psychologists rejected VAHPA and were willing to fight to maintain their independence from it.

The founding of VPA was a significant moment for Victorian psychologists: a first real step on the road to award coverage. But it was only the first of many steps that would need to be taken – because in reality at this stage, it was still little more than another interest group, albeit one which had an experienced ally in the MSAV and a small group of highly motivated and savvy members. It was unincorporated, not registered as a trade union, with few members and therefore a very small resource base.[3]

And yet before VPA had a chance to find its feet, it was faced with a make-or-break dispute with an established trade union over coverage of psychologists (or a demarcation dispute), which it had to win if it were to have the legal right to represent its members. This was a battle for survival, and the odds were stacked against it.

> We came to the conclusion that we are an independent profession, we are not para-medical therapists… and therefore, we felt that we needed to be represented as a group independently industrially.

VPA made application to the Commission for establishment of a board for psychologists on 5 August 1986, a little over a month after its formation.

3. VPA's lack of legal status remained unaddressed until 2003.

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Creation of the Psychologists Conciliation and Arbitration Board: 1987

THE *VICTORIAN INDUSTRIAL RELATIONS ACT 1979* GAVE THE IRCV WIDE discretion in establishing and dissolving boards. Importantly, it allowed the Commission to extend the jurisdiction of existing boards to 'any similar trade or branch of a trade or group of trades'; this became known as the 'community of interest' principle

The Commission was predisposed to provide board coverage to award-free workers. It stated in the Actors' (Television) Case:

> *"Where a significant number of employers or employees are award-free and desire industrial regulation, an application for board coverage will receive a positive attitude from the Commission." Cited in* (IRCV, 1986, 18-19 February, pp. 255-256).

While this augured well for psychologists in their bid to gain board coverage, it did not necessarily follow that the Commission would accede to the VPA claim for separate board status. The Actors' (Television) Case was a two edged sword: while it gave a green light to bringing award free workers within the system of industrial regulation, it also warned that:

> *A careful eye will be kept upon the number of representatives on a board, and upon any*

unnecessary proliferation of boards (when it may be more appropriate to extend the jurisdiction of an existing board rather than appoint a new one).

Furthermore, there was no evidence that the fledgling VPA had any more support from employers and other unions for a separate board than in 1975 and 1978 when, as discussed in Chapters 4 and 5, they faced a wall of opposition from all parties to their previous attempts to gain board status.

Psychologists faced a real risk of being driven into VAHPA's arms by the Commission. Had the IRCV extended the jurisdiction of the HPS Board to cover them, VPA would have been left without any capacity to act on behalf of its members, because VAHPA occupied all employee seats on the HPS Board. There would then have been little purpose in anyone joining VPA. De-unionisation of psychologists, or alternatively, their absorption into VAHPA, would have likely followed, in which case VPA may have followed VAHP into oblivion.

The Psychologists Case

When IRCV hearings commenced in September 1986, the Commission had before it four applications, which were joined:

- VAHPA's original application, which sought extension of the jurisdiction of the HPS Board to cover psychologists (VAHPA, 1985).
- another, from the MSAV, for extension of the Hospital Scientists Board to cover psychologists (MSAV, 1985).
- a third application, from the ASWU, for variation of the jurisdiction of the Social and Community Services Board to cover psychologists (ASWU, 1986).
- VPA's claim for a separate board for psychologists (VPA, 1986).

The key issue for the Commission was whether there was a community of interest between psychologists and 'health professionals'.

These hearings became known as the 'Psychologists Case'. The central issue before the Commission was whether it should:

- extend the jurisdiction of either the HPS Board or the SACS Board to cover psychologists;
- create a new board for them; or
- base its decision on a combination of these outcomes.

The key factor determining the Commission's approach was its judgement of whether there was a community of interest between psychologists and 'health professionals' and/or any of the various vocations covered by the SACS Award.

In 1985, MSAV had won a case for audiologists (the 'Audiologists' Case') that was parallel to the one that its Executive Officer, Rod Felmingham, was now seeking to prosecute for psychologists (IRCV, 1985, 17 May). This earlier case arose from the same VAHPA application which led to the psychologists' case; that is, the February 1985 application by VAHPA to extend the jurisdiction of the HPS Board to cover audiologists and psychologists.

As described in Chapter 6, MSAV had resolved this problem for audiologists in 1985, by opening its membership to them and then successfully running a case for their coverage by the Medical Scientists Board. In other words, this was an earlier demarcation dispute between MSAV and VAHPA, which MSAV had won. The Audiologists' Case, decided by an IRCV full bench on 17 May 1985, therefore gave some clues as to how the Commission might see the Psychologists' Case.

The Audiologists' Case had been decided on two main grounds. Firstly, the Commission noted that audiologists had demonstrated their antipathy towards VAHPA when they had rejected the Minister's 1975 offer to extend the jurisdiction of the then HMAS Board to cover them. The IRCV therefore concluded that the VAHPA employee representatives on the successor HPS Board in 1985 would be unlikely to adequately represent the interests of audiologists. As those circumstances were identical to those of psychologists (who had in conjunction with audiologists twice rejected pressure to join forces with VAHPA's predecessor,

the MAAV), the Audiologists' Case was an important precedent for them.

Secondly, the IRCV cited records of actual membership as another ground for handing the audiologists to MSAV. The scientists had been able to show that they had a substantial proportion of audiologists as members, and were therefore able to demonstrate their capacity to effectively represent audiologists (IRCV, 1985, 17 May). Two members of the bench that decided the Audiologists Case (IRCV President Marshall, and Commissioner Eggington) were also on the bench hearing the Psychologists' Case. This made the 1985 decision particularly important.

In part because of the personalities involved, but also because of its importance to psychologists, the Psychologists' Case was always going to be bitterly contested. The hearings stretched over eight months, with an initial mention in September 1986 and a final decision not issued until May 1987. There are 340 pages of transcript.

VPA witness evidence

In reviewing the transcript and decision of the Psychologists' Case, it is clear that VPA had both luck and merit on its side.

It ran a strong and well-argued case. It called three witnesses: Dr. Jeannette Milgrom, Director of Clinical Psychology at the Austin Hospital, Tony Catanese (whose evidence is cited above) and Dr. David List, the inaugural VPA President. These three witnesses gave strong and detailed evidence of why psychologists were different – by qualifications, training and clinical practice – from the psychotherapists, occupational therapists and social workers with whom they were being compared.

This allowed VPA to make a convincing case that there was no community of interest between psychologists and classifications covered by the other two unions, but rather only one between psychologists themselves; that the discipline of psychology was unique, with admission granted to only those who were able to meet rigorous educational and training criteria. It is worth quoting the evidence of Milgrom in some detail, because it seems to have made a deep impression on the Commission.

Milgrom defined a psychologist:

> *as a professional who has been trained in the study of human behaviour and in scientific method, and this knowledge base is very broad and covers a wide range of areas, covering diverse areas such as learning, how the brain works, memory functioning, perception and personality – I could go on for a long time to indicate that the knowledge base in very broad in the undergraduate training.*
>
> *Psychology is a well and long-established profession, with roots in religion, philosophy and literature, and combined with the experimental method, has developed into a discrete discipline which is well recognised and taught as a pure discipline by tertiary institutions. There are many different types of psychologists – there are two broad groups…applied, and experimental or academic psychologists.*

She said that psychologists fell into eight categories, and were involved in:

> *things such as psychological assessment, diagnosis and treatment, psychological rehabilitation, research and teaching, secondary and tertiary consultation, administration, organisational work and professional training* (IRCV, 1986, 18-19 February, pp.222-251).

Milgrom's evidence was that the *Victorian Psychological Practices Act 1965* – the legislation which at that time established the registration requirements for psychologists – was changing the minimum qualification requirements for registration, from three years of university training plus three years of supervised experience, to four years of university training plus two years of supervised experience.

She described the experimental psychologist as generally being placed in academic institutions conducting research, teaching and writing, and using controlled experiments to develop 'psychologist' knowledge and being engaged in the theoretical side of psychology.

She categorised applied psychologists into eight groups, each of which required its own specialised training: clinical psychologists; developmental and educational psychologists; occupational psychologists; neuropsychologists; organisational psychologists; community psychologists; counselling psychologists; and forensic psychologists.

Under cross-examination by the ASWU, Milgrom dealt with the proposition put to her that psychologists had similar training and skills to social workers, by pointing to an overlap wherein new professions such as social work 'borrowed' parts of the discipline of psychology, but did not have the breadth and depth of psychologists' training.

> *…I do not disagree that some social workers function in some areas the same way (as psychologists). That does not mean that they have the same range of skills that the psychologists have, nor necessarily the same approach, if I may say* (IRCV, 1986, 18-19 February, pp.222-251).

The Commission seemed to have a good grasp of the differences between psychologists and allied health professionals, even before hearing from the witnesses. In transcript, Commissioner Eggington made the following observation, which although oddly expressed, summed up the VPA case before it was even put:

> *There is in the health field, as I understand it, substantial difference between someone who is a therapist and someone who is an "ologist". Take the difference between a radiotherapist, however styled now, and a radiologist. It has an entirely different meaning, and I would have thought that that would have been the situation here* (IRCV, 1986, 18-19 February, p.219).

Commissioner Eggington went on to enquire of the VAHPA advocate whether there were any "ologists" on the HPS Board. The VAHPA advocate replied that there

were none, only therapists. This, on the morning of the first day of hearings, was a very promising start for VPA.

Hostility between psychologists and VAHPA

VAHPA and the ASWU both seemed to underestimate the importance of the principle of community of interest. Those unions called no witnesses of their own, and VAHPA in particular appeared to dismiss the importance of those called by VPA. There was, throughout the proceedings, a barely restrained hostility between them and the VAHPA advocate. He saw the VPA's claims to special status and 'difference' as elitist and lacking in credibility:

> *It has been suggested to me, and I have chosen not to believe it, that psychologists may feel that they may be a level above the type of people who are currently covered by the Health Professional Services Board – possibly that is something Mr. Felmingham would like to respond to. I would like to think that there is nothing in that. I would like to think that that type of pecking order, if you like, no longer exists in the health industry, or indeed in any industry* (IRCV, 1986, 18-19 February, p.215).

VAHPA's negative attitude towards psychologists cannot but have helped VPA: it suggested, if the case was to be decided in VAHPA's favour, that it might not fairly represent psychologists on the HPS Board. In other words, VAHPA's approach was a live demonstration that the reasoning of the Commission in the Audiologists' Case could be applied here.

The belief of psychologists that VAHPA would not represent their interests was reinforced by the evidence of List, who stated that in meetings with VAHPA:

> *….it (had) been indicated to us…that they considered all professions to be equal, and they took a decision that all professions that would be under the jurisdiction of that (the HPS) Board would be treated equally, and we would have no special consideration and our identity would not be treated in the way we have liked. We also have had indications from Mr. Maloney that when we disagreed with his point of view, he has reacted extremely negatively, so that both in terms of VAHPA itself and also being on a board*

which is composed of VAHPA representatives, our members felt a very strong and grave concern that our views would not be dealt with in a fair and reasonable manner (IRCV, 1986, 18-19 February, p.275).

Felmingham, on behalf of VPA, was quick to make the point that:

They (psychologists) *could very well wish, for example, to run an argument before a conciliation and arbitration board that because they are, to use a shorthand expression, of a superior status – and I use that term in a work-value sense – they should be paid more than physiotherapists, etc. They could well be in a position to run an argument like that. But Mr Maloney already has it on record here that the VPA would not be given a seat on the HPS Board, but could make submissions… .if the VPA were to make such submissions to the HPS Board on the basis of their status and the work-value argument on that basis, we all know what instructions the employee representatives on that board would be under* (IRCV, 1986, 18-19 February, p.300).

Psychologists – union membership

A further problem for both VAHPA and the ASWU was that they were unable to provide any evidence of having psychologists in the membership of their unions.

VAHPA's original application had been made two years prior to these hearings, and knowing after the audiologists' decision that this would be a consideration likely to be taken into account by the Commission, it could have been expected to initiate an active recruitment drive among hospital psychologists. However, as previously noted, when VAHPA was given the opportunity to meet with psychologists, tensions arose.

During the Psychologists' Case, Felmingham goaded VAHPA by making the point that, had psychologists wished to join VAHPA, they would have done so by the time of these hearings. He estimated the psychologist membership of VAHPA as being two to three, a claim not challenged by Maloney. The ASWU representative relied on vague assertions about having members who were psychologists, but did not provide numbers (IRCV, 1986, 18-19 February, p.289).

VPA asserted that it had a significant number of members, although its actual membership at that time is not clear. Catanese gave evidence that there were 63 members in 1986. When interviewed in 2013, Felmingham stated that there could have been as few as 27 financial members in 1986, and that the higher figure supplied by Catanese may have included unfinancial members (Felmingham R., 2013).

Whichever figure was correct, there appeared to be a consensus between the parties in these IRCV hearings that, of the three competing unions, VPA had the highest psychologist membership, as neither ASWU nor VAHPA challenged its claims. The Commission made no call for evidence of membership to be tabled.

In addition to satisfying the Commission that it had a credible psychologist membership, VPA also had to show that there were enough award-free psychologists in Victoria to justify appointing a separate board for them.

When preparing this case, Felmingham gained access to the Register of Psychologists. As registration was (and is) a legal requirement to practice in Victoria, the Register gave an accurate snapshot of the numbers of practicing psychologists in Victoria at that time and their distribution across industry sectors.

A summary of this information, shown on page 45, was tendered to the Commission. It can be seen from this exhibit that employment of psychologists in Victoria at that time was concentrated in private practice, the State and Commonwealth public services and tertiary education, where award coverage already applied.

VPA's application was seeking coverage only of employees of those agencies whose table entries are bolded, which were then award-free. Aggregated, these entries put the total potential coverage by a new board at 271 psychologists. This provided the basis for VPA's argument that the appointment of a separate psychologists board with private and public sector coverage was justified.

Registered Psychologists – Victoria | December 1985	
Psychologists in Private Practice	697
Victorian Public Service	275
Tertiary Education (employed in academic, teaching or counselling positions)	175
Private Enterprise Companies (including management consultancies, industrial psychologist positions etc.)	**103**
Public or Private Hospitals	**63**
Secondary Schools (predominantly student counselling positions in private schools)	**61**
Australian Public Service	58
Community Health Centres	**23**
Non-Government Agencies (such as the Spastic Society, Marriage Guidance Council etc.)	**21**
Other ('Other' mainly comprised psychologists registered in Victoria but resident interstate or overseas).	40
(RCV, Psychologists Case; Transcript, 1986, p. 251).	

Political pressure for large unions

VAHPA's case against VPA referenced the political and social consensus at that time about the need for fewer unions. This was a potentially powerful political argument.

As noted in the introduction to this paper, strong political pressure for forced amalgamation of unions existed throughout the 1980s. The ACTU and the Hawke Labor government of that time both saw the rationalisation and amalgamation of unions as solutions to the problem of declining membership. When the Psychologists' Case was being heard in 1986 and 1987, processes were underway

in the Federal sphere to create a superstructure of 20 principal unions, into which all members of Federal unions would be allocated (Australian Council of Trade Unions, 1990). Hence VPA was again swimming against the tide in seeking separate status for a small group of specialist employees.

VAHPA contended that the Victorian industrial system would fragment if VPA were to have its own board. This would facilitate the disintegration of the system, by encouraging small ad hoc unions to form and seek separate board coverage. VAHPA cited a 1984 IRCV decision, in which the Commission stated that it would not facilitate recognition of unions without a strong trade union foundation. The 1984 decision noted that:

> *In coming to a decision, we have taken note of Ms Jones' submission on behalf of the VTHC that either as a matter of law or as a matter of industrial practice, we should not consider any group which did not have a strong trade union foundation, as a basis for its activities* (Re. Victorian Fire Services Administrative and Clerical Officers' Board (1984), cited in (IRCV, 1986, 18-19 February, p.211).

In the Psychologists' Case, VAHPA cast doubts on VPA's bona fides as a trade union. The VAHPA advocate Michael Maloney said:

> *I would submit the philosophy expressed by Ms Jones on behalf of the VTHC is very relevant in this application. It cannot be said, by any stretch of the imagination, that the Hospital Psychologists' Association (sic) has a trade union foundation for its activities* (IRCV, 1986, 18-19 February, p.211).

He also pressed the 'conveniently belong' argument. This referred to a provision in the Commonwealth *Conciliation and Arbitration Act 1904*, which prevented the registration of a new union where an existing union already had coverage. The intention of the Commonwealth provision was to prevent the unnecessary proliferation of registered organisations, fragmentation of the system and consequential demarcation disputes. It also afforded registered unions with protection against the predations of competitors.

The 'conveniently belong' argument posed potential problems for VPA, in spite

of the fact that this provision did not exist in Victorian industrial law at that time. VAHPA submitted that legislation to incorporate such a provision into the Victorian Act had been passed by Parliament and was awaiting promulgation (IRCV, 1986, 18-19 February, p.207). The Act was in fact amended to incorporate a 'conveniently belong' provision a few months after the Psychologists' Case was decided (VAHPA, 1987). Had it existed in law at the time the case was heard, that provision would have constituted a formidable obstacle to the creation of a separate psychologists' board. However, even without it, there were still grounds for VPA to be concerned. The Victorian Commission, as noted above, had voiced a view that proliferation of boards was to be guarded against. Further, although the State and Federal acts were separate and different, the State tended to follow Federal decisions and on one view could have chosen to apply the anti-fragmentation principle in this case.

Social policy was closing the door on small unions; the moment for psychologists to achieve separate recognition was passing. Therapists had moved to degree qualifications over the 1980s, and so the qualifications gap between them and psychologists had closed significantly; VAHPA had amended its rules to cover psychologists. Therefore, on the face of it, there was more community of interest than there would once have been. Had the case been run any later, it is probable that 'conveniently belong' considerations would have counter-balanced the 'community of interest' principle.

"Victorian Psychologists Association. Victory!!!!"

After extensive hearings, IRCV issued its decision on 27 May 1987, and gave psychologists a real cause for celebration by granting VPA's application for a separate board. The decision effectively established psychologists as *sui generis* or unique, hence validating the contentions that had been pressed by psychologists themselves since 1974, when John Williams first put his case to the Minister.

The decision in the Psychologists' Case referred extensively to the evidence of Milgrom, which had established the depth and breadth of psychologists' training

and practice and the interaction between psychology and other disciplines. It also noted the fears expressed by Catanese about the consequences for psychologists of being forced into a general union with non-psychologists.

The IRCV decision summarised its conclusions:

- There are a significant number of employed psychologists who are not covered by an award, determination or industrial agreement.
- Psychologists are employed in public and private sector (sic).
- Psychologists form part of a profession which has very high standards of training.
- The work of psychologists is extensive in nature and will tend to overlap with other professions.
- An industrial community of interests exists with psychologists who are employed as such (IRCV, 1987(a)).

In canvassing the choices open to it, the Commission decided not to assign psychologists to the SACS Board, because there was no community of interest between psychologists and the majority of vocations under that Board.

Further, it also decided that, because the HPS Board did not have private sector coverage, it was not appropriate to place psychologists under the coverage of that Board.

The Commission did not, however, directly address the issue of whether there was a community of interest between allied health professionals and psychologists – but it implicitly seemed to accept that there was no such link, by finding that the only community of interest was between psychologists themselves.

The jurisdiction of the new Board was granted on the terms sought by VPA, without challenge from any other party. The Psychologists' Board was to cover all qualified psychologists and probationary psychologists in Victoria, with exclusions for those employed by universities and other educational institutions, medically qualified psychologists, and those subject to the jurisdiction of the SACS Board.

The VPA was jubilant. Its newsletter for June 1987 struck a triumphal note:

Victorian Psychologists Association. Victory!!!

VPA wins Conciliation and Arbitration Board

*In a decision which stunned critics and opponents of the VPA, the Full Bench of the Industrial Relations Commission of Victoria determined on 27 May to establish a conciliation and arbitration board exclusively for psychologists, rejecting opposing argument from VAHPA and the ASWU, and implicit opposition from employer groups. The Committee is, not to put too fine a term on it, tickled pink that this is the case, which has taken more than two years to conclude, has gone in our favour (sic). Victorian IRC struck a substantial blow for democracy and for the rights of freedom of association by granting the VPA claim in full. In the words of one health department commentator, it was very much 'a goal kicked against the run of play'[*Cited in (IRCV, 1988 (a), p. 38)*].*

A bittersweet victory

This was a splendid victory, won against the odds and a full 13 years after the initial unsuccessful attempt by John Williams to have a separate board for psychologists established.

The win was all the more surprising, given that the VPA had less than 30 financial members, that it was unincorporated, not registered under the *Trade Unions Act*, and had only existed for eight months – and all this at a time when the political winds were blowing strongly against small, specialist unions.

However, although this was a sweet victory for craft unionism, it was a bittersweet one. Together with VPA, ASWU and VAHPA were also granted seats on the new Board, albeit on an interim basis. The Commission deferred the task of finalising the competing claims for representational rights until the three unions made formal applications for recognition by the new Board. This would be dealt with at a separate stage.

Therefore, whilst it had achieved its goal of a separate board, VPA had failed to

establish itself as the sole legitimate union for psychologists within the Victorian health industry. The ASWU and the VAHPA were to have an equal say in regulation of their wages and conditions. In so far as both these unions were competitors, this was a real threat. The long march towards independence was not yet over.

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Battle for Control of the Psychologists Board

VPA NOW HAD A SEAT ON THE PSYCHOLOGISTS BOARD, BUT ONLY had interim 'recognition' by it. Through its decision to create this Board, the Commission had appointed VPA, ASWU and VAHPA to the three employee seats on an interim basis, with full recognition to be applied for in separate proceedings.

Recognition by a Board conferred certain rights that were essential in enabling a union to act effectively on behalf of its members. These rights could be summarised in the following terms:

1. To nominate persons for appointment to boards established under the Act;
2. To be kept informed of the proceedings of any board with respect to which it is recognised under the Act;
3. To appear by its representatives or agents before any board in respect of which it is recognised under the Act in any matter affecting any interest of the members of the Association; and,
4. To enter into an industrial agreement to be registered under the Act (*Industrial Relations Act 1979 (Victoria)*, Part V, s.(3)).

Under section 28 of the Act, all members of Conciliation and Arbitration Boards

had 12-month appointments from 30 September each year, and were eligible for re-appointment subject to there being no objections. Any member of a board could object to the re-appointment of any other member.

Objections were to be heard by an IRCV full bench. Although the Act contained little guidance on the criteria for objection, case law had over time established principles that would usually be applied in cases of this sort. In order to succeed, the organisation represented by an objector had to meet three main tests:

- Have actual or potential membership in the trades concerned;
- Be able to present a positive and convincing case that it has better relative standing in the trade or trades concerned than the organisation being objected to;
- Show that it was better placed to service employees subject to the jurisdiction of the Board.

VPA fights to be the sole voice for psychologists in the health industry

When appointments to the Psychologists Board were reviewed in September 1987, VPA lodged an objection to the re-appointment of VAHPA and ASWU (VPA, 1987). This objection opened the next front in the 'psychologist wars'.

The matter came on for hearing in February 1988. VPA sought the right to nominate all three employee representatives to the Board.

The case began well for VPA; it reached agreement with the ASWU for the latter to relinquish its seat on the Board, in return for VPA agreeing not to seek to recruit psychologists employed under the jurisdiction of the SACS Board. As VPA had no interest in recruiting psychologists who were not employed as such, this was a painless concession. The Commission then proposed to give the vacated ASWU seat to VPA. Surprisingly, there was no objection to this from VAHPA (IRCV, 1988 (a)). Hence, the battle was already half-won before the case started. The withdrawal of ASWU from the hearings left the old adversaries, VPA and VAHPA, once more

as the only contenders for the right to speak on behalf of psychologists in the Victorian health industry.

VPA's case rested on two grounds. Firstly, that VAHPA had no standing in the industry; that VPA was the only employee organisation that had sufficient standing to justify representation on the Board. Secondly, that VAHPA had insufficient psychologist membership to justify having its own seat.

By the time the matter came on for hearing on 9 February 1988, the Psychologists Board had not yet been convened. However, in November 1987 VPA had submitted a log of claims for a first award, which was at that time being negotiated between VPA and public and private employers.

The VPA advocate at this 1988 IRCV hearing was Robert Burrows, an industrial officer with MSAV. Rod Felmingham was called as a witness. His evidence gave a snapshot of the growth and development of the Union since its formation nearly two years previously (IRCV, 1988 (a), pp. 6-20).

Which union should speak for psychologists?

Felmingham's evidence was that the membership of the VPA at that time was 80, up from a claimed 60 in February 1987 when the Psychologists Case was heard. The Union's own records support this assertion, by showing that there were 76 members in February 1988, although many of them were unfinancial (VPA, 1988(b)).

Membership was based mainly in public hospitals, with some in the not-for-profit sector, for example, the Spastic Society (IRCV, 1988 (a), pp. 8/9). This increase in membership in a little over 12 months was impressive for a union without any paid staff, infrastructure or even facilities of its own. Recruitment at this stage was still purely by word of mouth.

VAHPA did not challenge the VPA membership figure *per se*, but did express doubt about whether all 80 members would be covered by the jurisdiction of

the Board. However, VAHPA refused to provide any information about its own psychologist membership, but did concede that it would be less than that of VPA and "modest" (IRCV, 1988(a), pp. 42/43). The Commission put an end to the argument by asking rhetorically:

> *Is it going to make a big difference, though, to the ultimate argument? What I am driving at is, are we going to be down to hair-splitting arguments about whether or not Mr Burrows has 51 and you have 50 or 52, that sort of thing* (IRCV, 1988(a), p. 11)?

Signalling that the Commission was not going to attach much weight to actual membership numbers was not encouraging for VPA, as this matter constituted one of the two central planks in its case. The Association needed to persuade the Commission that there was a very sizable disparity in membership, and that it was not just "hair-splitting". It had failed to impress upon the Commission that it was the union of choice for psychologists, despite that fact that even VAHPA conceded that VPA had the more sizable membership.(IRCV, 1988(a), p. 42).

The main argument now narrowed to the standing of the two unions in the industry. In his evidence, Felmingham referred to the negotiations afoot with the (then) Health Department and private employers for the first psychologists' award. By negotiating with VPA alone, he opined, the employers were recognising that it was the sole, legitimate representative of psychologists who were covered by the Board.

David List – who had been a key witness in the 1986 Psychologists' Case, and who was by this time both President of VPA and Victorian Chair of the Board of Clinical Psychologists of the Australian Psychological Society (APS) – also gave evidence. He testified to the APS's recognition of and close relationship with VPA. He explained that at one point APS had wanted to set up an industrial arm, but decided it couldn't "because of its basic charter on New South Wales common law" which forced it to "recognise a split between professional activities and industrial activities". It therefore liaised with VPA on industrial issues, regularly printed Union articles in its journal and even, on one occasion, "made a small financial

contribution" to it "that was extremely helpful".[4] List's conception of the VPA as, in effect the industrial wing of the professional body, the APS, is a reminder that, although by this stage VPA was a recognized industrial association within Victoria, not all psychologists had yet accepted it as having a 'trade union' identity.

VAHPA's 1988 case for retaining its seat on the Psychologists Board was flawed in some respects but it did succeed in pointing to the central weakness of the VPA case and that was the Association's failure to have any matters listed before the Board in the first year of its existence. Although its advocate, Robert Burrows, responded to this criticism by asserting that VPA had nonetheless been taking matters up for individual members over this time and – most importantly had been negotiating with employers for a first award - VAHPA's point was a telling one which was to have decisive impact on the outcome of the case.

VPA seeks a trade union identity

In October 1987, VPA took a further step to establishing itself as an independent union, by making application for affiliation to both the VTHC and the ACTU (Catanese, 1987). Its application to join the VTHC was opposed by VAHPA and the HEF alone amongst all affiliates to the Council, but at the time of the IRCV hearings in early 1988, it had yet to be accepted by the VTHC (VPA, 1988(a)). This affiliation stalemate leant weight to VAHPA's contentions in the IRCV that VPA was not a *bona fide* union.

The VPA's pursuit of affiliation to the peak union councils was politically significant. It suggested that the tension between professionalism and unionism, which had constrained the formation of a psychologists' union since the 1970s, was formally resolved. But, by seeking ACTU/VTHC affiliation a decade on, were psychologists now really signalling that they were ideologically motivated to become part of a broader labour movement?

There may have been a more pragmatic reason. MSAV was affiliated to both the

4. VPA has never had any organisational connection to the APS.

The VPA's affiliation to peak union councils signified the resolution of the tension between professionalism and unionism, which had constrained the formation of a psychologists' union since the 1970s.

VTHC and the ACTU, and it is likely that Felmingham advised psychologists to follow the same path to strengthen VPA's 'standing within the industry' arguments in the Commission, and to give it greater legitimacy as a *bona fide* industrial organisation. This observation is based on the already noted number of decisions in the IRCV where union applicants seeking the establishment of a board had been rejected on the grounds of not having a strong trade union foundation.

However, there is also evidence to suggest that the move to obtain trade union status was not merely tactical manoeuvring. The proposals to affiliate to the VTHC and ACTU were put to the first Annual General Meeting of VPA members in 1986, and passed unanimously. Another indicator of the identification that some psychologists felt with the broader union movement was shown when five members at the Spastic Society, under the leadership of VPA Secretary Catanese, notified their employer that they would strike on 21 and 22 April 1988 in solidarity with their fellow Victorian unionists in a state-wide stoppage (Catanese, April, 1988). The emerging politics of VPA could be seen as showing similar duality to that displayed by many craft unions in the nineteenth century: conservative in the sense of wanting to preserve traditional employment hierarchies and exclude other workers from their professional association, but simultaneously radical in the sense of being willing to challenge managerial prerogative.

VPA loses its bid to be the sole voice for Victorian health psychologists

The Commission's decision, handed down on 19 April 1988, was a heavy blow for psychologists. The Commission rejected the VPA application, finding that it had not made a case for removal of VAHPA from the Psychologists Board. The Commission expressed itself as being unimpressed with VPA's low level of activity on the Board after its appointment 12 months previously. While acknowledging that VAHPA had fewer members than VPA and that its "membership situation is uncertain", it countenanced the rival union's own argument that "it expects to recruit more" (IRCV, 1988 (b)).

The only consolation for VPA was that it had gained one more seat than held previously, and so could now outvote VAHPA if there was a difference between the two on the Board. This put VPA in a far stronger position.

Over time, as the dust settled and the Board started to function routinely, VPA was to find that, in spite of its chief rival's presence, it was able to use the Board to develop itself into a small but effective industrial organisation. Its first and most important task was to have an award made.

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Log of claims and first award

VPA FILED ITS FIRST LOG OF CLAIMS WITH THE PSYCHOLOGISTS Board on 12 November 1987 (VPA, 1987). The most salient features of the log were claims for a five-grade career structure and the adoption of Grade 2 as the entry point for the fully registered psychologist. As Grade 1 was the entry point for medical scientists, audiologists, health professionals and psychologists in the Victorian Public Service (VPS), this was a bold claim, which on the face of it was going to meet stiff resistance from employers. It also sought Higher Qualifications Allowances (HQAs) in line with those that already applied to medical scientists. Negotiations with public and private employers over the log occurred privately, and so there are no public records of those discussions. A draft award was brought to the Board on 27 June 1988 and adopted without dissent (IRCV, 1988, 27 June).

Rates of pay and Higher Qualification Allowances

This Psychologists Award No.1 of 1988 adopted the pay rates and career structure established in the VPS. The structure incorporated four grades (with seven increments in Grade 1, four in Grade 2, and three each in Grades 3 and 4); the rates reflected those paid in the VPS, on a point-for-point basis (IRCV, 1988 (c)). Although VPA did not then win the fifth grade sought, the new Award nonetheless

put psychologists in a stronger position than either VPS psychologists or medical scientists, because employers agreed to the inclusion of both the Grade 2 entry point and to the medical scientist HQAs.

Hence this first award was a hybrid, which drew on both VPS rates and medical scientist conditions in addition to having its own unique career structure. HQAs came from the medical scientists, but went beyond them to include allowances for Master of Psychology and eligibility for membership of the APS Boards of Clinical Psychologists, Counselling Psychologists and Neuropsychologists. This was a great win for psychologists at a time when post-graduate qualifications were becoming more common (Gordon R. D., 2014). That employers accepted Grade 2 as the entry point for the fully registered psychologist is surprising, as it set a new standard in the Victorian health industry.

The result was that Grade 1 became an exclusively trainee rate for probationary psychologists. This put the entry-level rate for fully registered psychologists in the new award, far ahead of medical scientists and VPS psychologists, because they commenced at Grade 2.

At the time of presenting an agreed draft award to the Board in June 1988, Felmingham noted that the rates adopted from the VPS were out of date and that the Union intended to make application to the Commission for an increase in rates on work-value grounds. VPA explained this to members as being a "professional rates case" to bring psychologists' rates into line with those of medical scientists (List D., 1991). Subsequently in March 1990, VPA applied to the IRCV for an increase in rates of pay above those allowed by the Wage Fixation Principles, and again sought to add a fifth grade to the structure. This was referred to a full bench as a 'special case' (IRCV, 1990(a)) but was adjourned pending the outcome of a VPS psychologist review (IRCV, 1991). It was subsequently allowed to lapse.

The reason for not proceeding is not known, but it is the author's observation that such a case may not have succeeded. Had the rates and structure been subjected to the scrutiny of a full bench, the Commission would have been likely to find that

psychologists were paid above professional – or science rates – at the lower end of the structure. This would have made it very difficult to succeed with a professional rates argument. It is less clear why VPA did not proceed with its case for the fifth grade but it may have been attributable to the small number of psychologists in the Victorian health system at that time who would have been eligible for classification at this level of seniority.

A number of other non-agreed items were made 'Reserved Matters', that is, matters that could be dealt with at another time, being:

- Conference or Study Leave
- Sabbatical Leave
- Private Practice Income
- Trade Union Training Leave.

Conference, Study Leave and Trade Union Training Leave were all to be achieved over time. Sabbatical Leave and Private Practice Income are still outstanding in 2015.

Code of Professional Conduct

In July 1990, with the consent of employers, the Award was varied to insert a 'Code of Professional Conduct' (IRCV, 1990(b)). This was particularly significant, because it demonstrated the continuing influence of the craft union imperative in VPA's priorities, which were at least as concerned with professional autonomy as with wages and conditions.

The award clause reads:

> *An employer shall not dismiss or threaten to dismiss a psychologist or injure, or threaten to injure them in their employment or alter their position to their prejudice, by reason of the circumstance that the psychologist has done or proposes to do any act or thing which is required of them by adherence to the Code of Professional Conduct adopted from time to time by the Australian Psychological Society* (Clause 44).

The author contends that this is a most unusual clause for an industrial award, and grants considerable power to psychologists by, in effect, establishing a legally enforceable right for them to have dual loyalties: to their employer on the one hand, and to their profession on the other. It gave psychologists some rights to defy an employer directive where that directive offended their professional ethics.

As psychologists often report to managers from other professions that adhered to a different ethical base – nursing and psychiatry are two examples – this clause offered important protections. It has since been used successfully by VPA on occasion to defend members who are in dispute with their employer over issues that go to ethics. For example, the Code of Professional Conduct has been used to defend the right of psychologists to protect the privacy of their patient records, and on at least one occasion, to protect the employment of a VPA member who declined to assist nursing staff in the force-feeding of a teenage patient. The Union was able to use the system of industrial regulation to protect the professional autonomy of members, by demarcating psychologists from other professions that had not achieved a comparable standard of professional protection.

This first Award was a significant breakthrough for psychologists. Although the five-grade structure was not to be finally achieved until 2010, 22 years later, the 1988 Award lifted them from the parlous position of negotiating their own individual contracts, to a career structure and conditions of employment which set a new standard for non-medical health professionals in Victoria.

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Amalgamation Frenzy Part 1: The Australian Federation of Health Professionals

WHILE VPA SPENT ITS FORMATIVE YEARS WORKING TO ESTABLISH ITS legitimacy as the primary industrial voice for psychologists in the Victorian health sector, political developments in the broader society were bringing changes to public policy, which favoured the formation of large, general unions.

ACTU policy supports union amalgamations

In 1989 the ACTU adopted a policy of amalgamation of unions coincident with the restructuring of industrial awards (Australian Council of Trade Unions, 1990). The rationale for union amalgamation was based on the argument that the economies of scale generated by larger unions would lead to better resourcing of services to members and a coordination of policy-making and bargaining, which would in turn lead to increased membership. The ACTU's notion of strategic unionism was intended to reverse the decline in the membership of some unions and to assure the organisational survival of the union movement, if not individual unions.

Associated with the policy of amalgamation was the ACTU's endorsement of a policy declaring 20 unions to be 'principal unions' in particular industries, to the exclusion of the rights of other competing unions to enrol members and to bargain over wages and conditions. ACTU policy stated that: "A Principal Union shall have the capacity to recruit all employees in a given industry or, in certain cases, defined occupational category". There were to be only one to four unions per industry grouping, and one new clerical, professional, administrative union that recruited various 'white collar' employees across industry groupings on an occupational basis. It was hoped that these new structures would reduce demarcation disputes. The ACTU acknowledged that its policies might lead to 'organisational performance' taking precedence over union democracy, but that this might be unavoidable because union structures "do not necessarily equate with democracy" (Australian Council of Trade Unions, 1990. p.2.).

This strategy could be seen as an expression of the ACTU's own drift towards neo-liberalism. Its policy supported the virtues of efficiency and rationalisation, based on an economistic assumption about the meaning of work to unionised labour. In this model, workers joined unions solely to improve their material standard of living. The importance of other motives for joining unions – such as to protect professional identity, to effect political change, or to express solidarity with other workers – was downplayed. This assumption then led to the policy prescription that craft unions should be forced to give way to large, industry unions which, it was asserted, could exercise more industrial clout. (However, the ACTU's theory about motivations for union membership seemed overly simplistic. In the case of the VPA, the theory failed to explain the case of Victorian psychologists, who in the 1970s eschewed the opportunity for better wages and conditions in the interests of preserving their separate identity (see Chapter 4)).

Federal and Victorian governments facilitate forced union amalgamations

The ACTU strategy won support from the Federal Labor government, through amendments to the Federal *Industrial Relations Act 1988* which gave the AIRC new powers to change union rules and membership coverage to facilitate union amalgamations.

This policy unleashed a frenzy of activity by Victorian health industry unions, as the HEF and the State Public Services Federation (SPSF) competed to establish themselves as the 'principal union' in the industry. Eventually VPA was to become enmeshed in this scramble.

Victorian health unions under pressure to amalgamate

In the late 1980s and early 1990s, Victoria's health sector was characterised by a multiplicity of small unions, many State-based. Apart from VPA, these included MSAV, AHPV, VAHPA, the Health and Community Services Staff Association (HACSSA), ASWU and the Ambulance Employee's Union (AEU). Such unions, which were not part of a Federally registered organisation, were directly threatened by the amalgamation push, because they did not have registration under the Federal Act and therefore could not be parties to a Federal award.

Under the terms of s. 109 of the Australian Constitution, Federal laws override inconsistent State laws. Therefore, a Federal award would override inconsistent provisions in a State award. If a Federal award had the same scope and coverage as a State award, the latter would be rendered inoperative. If this occurred, the State union party to that award was faced the likelihood of a Federal takeover.

This threat was foreseen by the MSAV as far back as January 1984. The *Medical Scientist*, the newsletter of the MSAV, informed members that:

> *We do not have a Federally registered constitution. Other organisations do… To become registered under the Federal act is very difficult. Other organisations already registered*

can object. They can claim that a new organisation should not be registered if there is an organisation already registered to which people can conveniently belong. If the MSAV is not registered as a Federal organisation it can not be registered before the C & A (Conciliation and Arbitration) Commission. This can lead to an almost impossible situation, and while there is an initial individual determination to resist such inroads, inevitably it happens that the rot sets in. Most Federal onslaughts have, with rigorous prosecution, ultimately succeeded. As a result…I believe that the Association must commence to plan for the future, and that Federal registration is the key to this approach (Grenville, 1984).

Unfortunately for VPA, Federal registration in its own right was an unachievable goal because of the 'conveniently belong' barrier. It would have to find another way to move into the Federal industrial system.

Formation of the Health Services Union of Australia

The HEF grew out of a Victorian union called the Hospital and Asylum Attendants and Employees Union (HAAEU), first registered with the (then) Commonwealth Court of Conciliation and Arbitration in 1911. In 1959, HAAEU changed its name to the HEF and went through a series of amalgamations that enlarged and diversified its membership. Although by history and culture HEF was a traditional 'blue collar' union, in June 1987 it amended its certified rules to give it constitutional coverage of all MSAV, VPA and AHPV classifications in both the public and private sectors (HSUA Information Pages). This put HEF into a strategic position where it could apply for Federal award coverage of all classifications covered by these three professional associations, which were still covered only by State awards. With these awards now vulnerable to being overridden by any Federal award that the HEF might succeed in having made, State-based health unions such as VPA faced the prospect of being taken over.

The worst fears of the professional unions came to pass on 17 December 1990, when HEF served a log of claims on public sector employers, being the first step

at that time to the creation of a Federal award. (It subsequently served a second log covering the private sector.) Crucially, this log sought award coverage of most Victorian health professionals, including psychologists. This was the 'gun at the head' that the professional unions had been dreading for many years.

However, although HEF had broadened its constitutional base to include a wide range of professional classifications, it did not at this stage have any actual professional members in Victoria apart from psychiatric nurses. HEF's dilemma was this: it was one thing to pursue the legal right to represent professionals, but another thing altogether to actually attract them into the union. If professionals were resistant to joining HEF, obtaining an award for them in Victoria could be a hollow victory; the hoped for financial and political benefits of an expanded and diversified membership would not be obtained. A further consideration was that without professional members in Victoria, the Union's case for a federal award for professional employees could be weakened.

However HEF's dilemma about its lack of professional members began to resolve when in January 1991, it amalgamated with the Federally registered Health and Research Employees' Association (HREA), to form the Health Services Union of Australia. HREA was a broadly based New South Wales health union, with a large and diversified professional and non-professional membership. While this diversity strengthened the new national union, its professional membership was located primarily in NSW with the Victorian Branch membership of HSUA remaining dominated by technical and service workers.

VAHPA moves into HSUA

Therefore, when later in 1991, the new HSUA acquired a small but strategically important core of professional members in Victoria through the absorption of VAHPA, it broke through the 'blue collar barrier' and began to change its identity. VAHPA's core membership was comprised of therapists and other allied health occupations. In 1986, when VPA had won its demarcation dispute against VAHPA

over the right to represent psychologists, therapists were not degree qualified and this had provided an important distinction from psychologists who were all degree qualified with many holding post-graduate qualifications. (See chapter 8.) Consequential upon the qualifications of therapists being upgraded to degree-level over the course of the 1980s, they moved onto professional rates of pay, which brought their rates into alignment with those of medical scientists (MSAV, 1990).

The take-over of VAHPA strengthened HSUA's ability to obtain a Federal award that included other Victorian professional classifications because it now had both constitutional coverage and professionally-qualified members in that state.

The formation of the HSUA in 1991 directly threatened the viability of VPA, MSAV and AHPV. Felmingham consistently resisted intense pressure to merge with the new behemoth, and continued to look for other options. If HSUA was the only choice, it was his view that scientists, psychologists and pharmacists would prefer not to be unionised at all (MSPA, 1991). The search for a refuge from the HSUA became a high priority.

Australian Federation of Health Professionals; a refuge for VPA?

Because VPA and the AHPV had entered service agreements with the MSAV, VPA's fortunes in the amalgamation negotiations over the next two and a half years were tied to those of MSAV and AHPV. (These three unions will be referred to as the 'professional unions'.) The MSAV was to lead them in these negotiations.[5]

5. The MSAV and the AHPV went through a form of amalgamation with each other, and began to refer to themselves as the Medical Scientists and Pharmacists Association (MSPA). During this period, MSAV continued its separate existence albeit as the 'Medical Scientists' Branch' of the MSPA. (It is revealing that even in these pressing circumstances, VPA did not join with this new enterprise). However, 'MSPA' was in effect only a trading name, which was abandoned on 28 February 1992. This followed receipt of independent legal advice that the amalgamation of the MSAV and AHPV had no legal effect, because it did not comply with the requirements of the Victorian *Trade Union Act 1959*. However MSPA is used (albeit inconsistently) up to 28 February 1992, in archival documentation (MSAV, 1992(a)).

The formation of the HSUA in 1991 directly threatened the viability of the professional unions… If HSUA was the only choice… scientists, psychologists and pharmacists would prefer not to be unionised at all.

There were only two realistic amalgamation options for them. The first was to look for a Federal amalgamation partner other than HSUA that was capable of defeating its drive towards a Federal award. This could be a complex and costly task, as any challenger would have to persuade the AIRC to deprive the HSUA of its constitutional coverage of professional employees and to transfer that right to another union that had yet to establish such coverage.

The alternative strategy was to attempt to negotiate with the HSUA itself. However at this stage, the three unions were strongly opposed to this option. Instead, they held talks with a number of potential amalgamation partners during 1990, including the (then) Australian Nursing Federation (ANF), Federated Miscellaneous Workers Union (FMWU, now part of United Voice) and State Public Service Federation (SPSF, now part of the CPSU).

The professional unions' search appeared to have borne fruit, with the announcement on 4 March 1991 of a new national organisation called the Australian Federation of Health Professionals (AFHP). This was envisaged as a loose federation of professionals, centred on the ANF. Apart from the professional unions, AFHP also included the Health and Community Services Staff Association (HACSSA), comprised of administrative and management classifications in hospitals, and a micro union of computer-based professionals called the Hospital and Allied Systems Officers Association. Both of those unions would later disappear into the HSUA No.5 Branch.

The professional unions saw this new federation as a means of satisfying ACTU policies for union consolidation, while also sidestepping the HSUA (MSAV, 1990). It would have left the professional unions intact, albeit inside a Federal union, while at the same time potentially giving them access to a Federal award. It could have stalled the HSUA's drive to dominate the health industry. For its part, HSUA described the

AFHP's formation as 'provocative and outrageous', and responded by unsuccessfully attempting to lobby the ACTU Executive to over-rule it (List D., 1991).

However, there is little evidence that AFHP ever developed into a *bona fide* organisation. It is the author's observation that, whilst the ANF may have been prepared to share some facilities and resources with the small health unions, it was not willing to embroil itself in HSUA's time-consuming and costly award proceedings. AFHP was allowed to lapse. This once more left the professional unions on their own, to stare down the HSUA. Another option was needed.

Founding members of the Australian Federation of Health Professionals.

Back Row L-R: Jill Giese (VPA), Judy Uren (ANF), Mark Carter (HACSSA), Ibolya Nyulasi (MSAV). Front Row L-R: Sam Eichenbaum (MSAV), Belinda Morrison (ANF), Rod Felmingham (MSAV).

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Amalgamation Frenzy Part 2: the SPSF debacle

FOLLOWING THE FAILURE OF THE AUSTRALIAN FEDERATION OF Health Professionals, the three professional unions were left to look for another amalgamation partner. Apart from HSUA, there were few viable options left. The next organisation that they considered was the State Public Services Federation (SPSF). The primary attraction of this union was that it was Federally registered, with a national membership of 28,000 in the health industry. SPSF also claimed that the ACTU had accorded it 'principal union' status for 'administrative, clerical, professional and technical employees' (SPSF, 1991, 9 July).

However, from the outset, the SPSF seemed a mismatch. It was a 'catch all' union, covering a wide range of professional and non-professional classifications. Despite having a substantial national membership in health, it had no members employed in the Victorian public health system and no rules coverage in the private sector in Victoria. Therefore, any amalgamation with the professional unions would require it to effect significant changes to its rules – changes that would inevitably be challenged by the HSUA.

Nor had the SPSF ever been party to any Victorian health industry awards. Although 11,500 of its 28,000 health members were professionals, SPSF membership in Victoria mainly comprised State public servants spanning a wide variety of professional, clerical, administrative and technical occupations (SPSF, 1991, 9 July).

In normal circumstances, it is improbable that the professional unions would have regarded the SPSF as a compatible partner. But the circumstances that existed in 1991 were far from normal; the unions felt under immense pressure to take defensive action against what they saw as the predations of the HSUA. Therefore, they vigorously pursued the SPSF amalgamation, and either ignored warning signs of trouble which developed during the second half of 1991, or dealt with these signs by short-term fixes.

But the situation eventually became untenable. By February 1992, the SPSF amalgamation had collapsed in a blaze of acrimony, and the VPA, MSAV and AHPV were on the point of collapse. What went wrong?

Loss of professional identity

The history of the VPA had shown that its separate professional identity was the key to its success. MSAV and AHPV were similarly successful craft-based unions. It was always going to be difficult to preserve those identities inside the SPSF, whose national organisational structures were industry-based, and whose Victorian membership was essentially a heterogeneous group of public servants.

Although these were recognised as problems by the leadership of the professional unions, they downplayed their importance. In negotiations with the SPSF, they emphasised putting structural boundaries around the health industry component of the membership as a whole. This would have demarcated and given some autonomy to health industry members, but only as a group; the proposals would not have preserved the autonomy of psychologists, scientists and pharmacists as separate entities. This approach was intended to facilitate the incorporation of the three State unions into the existing structures of the SPSF.

The SPSF welcomed the stance taken by the professional unions, in a letter of offer sent by its Federal Executive Officer to Rod Felmingham of MSAV on 9 July 1991. This letter proposed SPSF rule changes to enable the creation of:

> *an autonomous Health Industry Group comprising all professional, clerical, administrative and technical members within the public service, State* (i.e. Victorian) *public or private sector who worked within the health industry. This Group would be established at the Federal level, with autonomous sections at State level. Health members in each State would elect delegates to a National Health Branch Council and Executive, and would be directly represented on the SPSF Federal Council* (SPSF, 1991, 9 July).

The SPSF amalgamation was as much about resisting the HSUA as it was about providing positive options for members.

The offer meant that members of VPA, MSAV and AHPV would be mixed with a range of professional and non-professional staff, within an autonomous health division. The SPSF expressed its belief that " the needs of health professionals are best served by comprehensive coverage by one national organisation. Further we affirm our view that SPSF is that appropriate body and not the HSUA" (SPSF, 1991, 9 July).

The MSAV, leading negotiations for all three professional unions, sought clarification about the autonomy of the proposed Health Industry Group. Prior to the letter from the SPSF, Felmingham had sought:

> *a degree of autonomy and self-determination at least as attractive as that provided in the HSUA rules, because that is a major concern which could be exploited by any opposition to our pending amalgamation ballot* (Felmingham, R.,1991, 17 June).

However, the structure proposed by the SPSF would not have preserved the autonomy and separate identities of the professional unions; instead, it would have immersed them into a division of a Health branch, with sub-professional and technical classifications.

Why this offer was acceptable to the professional unions is best explained by their preoccupation with the HSUA threat. In an open letter to members, Felmingham later confirmed that the SPSF amalgamation was as much about resisting the HSUA as it was about providing positive options for members.

> *As part of the strategy that we developed at the time (i.e. to gain Federal award protection), and that all of you were involved in and well informed about, SPSF set in train in the Federal Commission and through rule changes a series of moves to resist the HSUA Federal award application, to deprive the HSUA of Federal constitutional coverage to prevent them from further Federal award attempts, and to establish within SPSF a national health industry division* (Felmingham R., 1992).

If the dilution of professional identity was acceptable to the leadership of the professional unions, the next procedural step taken in the amalgamation process – a ballot – gave an opportunity for members of the unions to make their own judgement. It should have acted as a safeguard to ensure the legitimacy and stability of the merger. However, shortcomings in the balloting process produced an outcome that, while endorsing an amalgamation with SPSF, failed to test the acceptability of diluting the separate professional identities of the three unions.

Membership ballots

Members of the three unions were balloted in September 1991. The propositions voted upon were in similar terms for each union. They supported the principle of amalgamation with SPSF unconditionally, thereby giving each union's committee of management a 'blank cheque'.

The proposition that VPA members voted on was:

> *That the VPA Committee be authorised to proceed with amalgamation with the State Public Services Federation, and if this proposition is carried, the Committee is also authorised to determine all timing, machinery, transitional and other matters necessary to the amalgamation* (MSAV, 1991, August).

A newsletter accompanying the ballot papers claimed that SPSF rules had been amended in September 1991 to create the autonomous health division as proposed by the SPSF offer of 9 July, thereby allegedly meeting the autonomy requirements sought by the professional unions (MSAV, 1991, August). However this newsletter did not clarify that the health industry division, even with autonomy, was to submerge scientists and psychologists into a mix of professional and non-professional occupational groups with whom they had little in common.

The VPA ballot strongly endorsed the SPSF amalgamation: 50% of the membership voted, with 90% supporting amalgamation (MSPA, 1991). (Similar results were obtained in the ballots held by the other two professional unions.)

However, because the ballot proposition was unconditional, this endorsement did not signify that members were consenting to forfeit their professional autonomy. The history of the VPA to this point – as detailed in preceding chapters – suggests that had any such proposal been put to members, it would have been highly controversial, at least amongst psychologists.

On 19 November 1991, the VPA Committee formally endorsed the amalgamation by passing three resolutions which, had they been implemented, would have seen the Union consigned to history:

1. *That the Victorian Psychologists Association amalgamate with the SPSF through a two-stage process, the initial amalgamation being with the SPSF Victoria, proceeding to an amalgamation with the SPSF Federally.*
2. *That a Special General Meeting of members of the Association be called for Thursday 5 December. Further, that the Committee recommend to the Special General Meeting the motion that the Association dissolve in accordance with the rules from midnight, 12 January 1992.*
3. *That all assets of the Victorian Psychologists Association be transferred to the State Public Services Federation on a date following the signing of the Deed of Amalgamation and no later than amalgamation day* (VPA, 1991, 19 November).

The Deed of Amalgamation was signed on 22 November 1991 (SPSF, 1991, 22 November).

However, the fate of the assets of the professional unions, addressed in resolution three, was less straightforward than contemplated by the Committee. Here was a further stumbling block, which in the absence of a clear directive from members, would prove to be intractable.

Transfer of VPA assets

Union amalgamations, and consequential transfer of assets, are governed by the legal parameters within which unions operate – primarily State and Federal legislation and the unions' own rules. In Victoria, the *Trade Union Act 1958* only allowed for the dissolution of registered organisations by resolution of general meetings of members. There was a similar provision in the rules of all three unions.[6]

Furthermore, both the Act and the rules of the three professional unions provided that if they were dissolved, their assets had to be divided equally amongst the members. At that time, there was no provision that would have allowed the transfer of their assets to another organisation such as the SPSF (VPA, pre 2003), Rule 70(c)).

Although, in compliance with its rules, VPA called a special general meeting for 5 December 1991, it was cancelled and never rescheduled (VPA, 10 December 1991).[7]

At the same time, and in spite of the rules difficulty referred to above, the Deed of Amalgamation entered into in November 1991 provided that the joint assets of the professional unions would be transferred to the SPSF:

6. Although the VPA was not a registered or incorporated organisation, most of its income and assets were held by the MSAV, and so its fortunes were tied to those of the MSAV.

7. Parallel meetings of MSAV and AHPV members were also called and similarly cancelled.

The loss of autonomy of the professional unions was to go far beyond that which had been disclosed to members and would have seen their memberships absorbed into the Victorian Public Service Association.

Following the execution of this Deed and no later than the day immediately prior to the amalgamation day, the MSPA (this being the trading name of a short-lived merger of the scientists and pharmacists) and the VPA shall transfer all their assets to the SPSF(V). (SPSF, (1991, 22 November). (Amalgamation day was set by the Deed to be 3 December 1991.)

However, because the rules of the professional unions did not permit such a transfer, VPA could not meet the terms of the Deed without breaching those rules. It is not suggested that the Deed was executed with any knowledge of this difficulty. However, it does appear that the issue surfaced after the Deed was signed. This is because a 'work-around' was identified and formalised through an agreed variation to the Deed, made by an exchange of letters between the parties, in December 1991. This variation agreed that the professional unions would establish trusts into which MSAV and AHPA funds – totalling $123,000 – would be transferred, and to which the SPSF would be made a joint signatory (SPSF(V), 1991).

The MSPA[8] met on 17 December 1991, two weeks after the purported amalgamation date, to discuss the logistics of this transfer. The minutes of the meeting give some insight into the controversy that arose from these arrangements. There was a move by a pharmacist committee member to prohibit giving SPSF access to pharmacists' funds. This motion was only lost on the casting vote of the chair (MSPA, 1991, 17 December). It would therefore appear that even a fortnight beyond the supposed fait accompli of amalgamation with SPSF, the governing body of the scientists and pharmacists remained almost evenly split about the crucial issue of disposition of funds, which suggests that, even at this late stage, there was a high level of tension between officials about this amalgamation.

8. The temporary trading name used by MSAV and AHPV 1990-1992.

The amalgamation collapses

Rod Felmingham, the Executive Officer of the MSAV, resigned on 6 December 1991 to take up a newly created position of National Officer for Health in the SPSF.

After his resignation, relationships between the professional unions and SPSF quickly deteriorated. As the 'amalgamation' unravelled, MSAV issued an incendiary newsletter to members in March 1992, disclosing that the MSAV Council had had misgivings about the merger with SPSF since November 1992:

> *After the signing of the 'Deed of Amalgamation' but before the 'amalgamation date' of 10 December 1991, the Council of the MSAV began to be concerned that there may have been certain irregularities in the 'amalgamation'. They instructed Rod Felmingham to seek and provide independent legal advice as to whether the 'amalgamation' was safe from challenge. Although legal advice was obtained, its independence was questionable, as it came from the VPSA's solicitors.*[9] *That source of legal advice did not satisfy many of the individual members of the Council, and they therefore, naturally, determined to seek truly independent opinion. That came separately from two respected barristers. Both advised that the obligations of the Trade Union Act were binding and had not been observed* (MSAV, 1992(a)).

This wide-ranging newsletter put the Council's case for withdrawing from the merger and sought to explain the reversal of its stance. It pointed to loss of autonomy as its primary concern, and revealed that this loss was to go far beyond that which had been previously disclosed to members. The merger would have seen the professional unions absorbed into another State union called the Victorian Public Service Association (VPSA) – an associated entity, not a branch, of the SPSF – rather than the SPSF itself.[9] Psychologists, scientists and pharmacists, together with hospital dentists and Health Department employees, were to form four sections of a new Health Industry Council, which was under the overall control of the State Council of the VPSA. A number of other industry councils were also under the control of the VPSA State Council (MSAV, 1992(a)).

9. The VPSA was the antecedent organisation to the SPSF (Victoria).

Hence, rather than being autonomous entities, the MSAV Council asserted that the three professional unions were to become the bottom rungs in a three-tier structure of a State body which did not itself have Federal registration. They would remain as discrete entities in name only (MSAV, 1992(a)).[10] Although they would have been entitled to six representatives on the State Council, the professional unions would have been heavily outnumbered and therefore would have had negligible influence over policies affecting their members.

Further, the MSAV Council alleged that rule changes purporting to create autonomy for the proposed new Health Group, had in fact never been endorsed by the SPSF Federal Council. (Federal Council endorsement was the essential first step before the Registrar of the AIRC could approve a union's rule change.) Instead, MSAV asserted that the SPSF Federal Council meeting in December 1991 had approved a rule that established the Health Group as an advisory body only. This Health Group would have had no right to determine policy, serve or veto logs of claim, or generally act in the interests of its members as promised.

To add to these problems, it was also asserted by the MSAV that the SPSF Federal Council had failed to endorse rule changes to provide constitutional coverage to all of the members of the three professional unions. There was therefore no rules coverage of private sector members, who were a small but growing section of the membership of MSAV and VPA (MSAV, 1992(a)).

The MSAV Council sheeted home the blame for this imbroglio to Rod Felmingham, against whom it launched a highly personal attack, accusing him of misleading it about the real terms of the amalgamation and of having had a conflict of interest in his dealings with the SPSF (MSAV, (1992(a)). However, the evidence does not support these allegations. Rather, it suggests that the collapse of the amalgamation was attributable to more fundamental factors: incompatibility between the parties; and a process executed at speed, that resulted in error.

10. There was a plan for a 'second stage amalgamation' that would have brought the SPSF(V) into the SPSF, but there was no reference to this in the Deed of Amalgamation.

Any future attempts at amalgamation would have to learn important lessons from this episode.

The most fundamental lesson was that the preservation of the craft identity and autonomy of the three professional unions was crucial. Whilst this was not going to be easy to achieve in the context of three small unions combining with a large Federal partner, it was indispensable to retaining the allegiance of members, particularly psychologists. Secondly, a truly democratic mandate would be required for any future amalgamation to succeed. Members would need to be fully informed about the terms of any proposed amalgamation before they could be asked to give their consent to it. Thirdly, independent legal advice was essential in protecting the interests of members in relation to any larger amalgamation partner, and in ensuring that the terms negotiated were safe from future challenge.

Rod Felmingham led VPA and MSAV in to the SPSF amalgamation.

Sam Eichenbaum led VPA and MSAV out of the SPSF amalgamation.

Aftermath

By February 1992, amid claim and counter-claim, the SPSF amalgamation collapsed. After taking legal advice, the MSAV Council determined on 28 February that in fact the amalgamation was null and void because there had never been an enforceable contract between the professional unions and the SPSF; any contract

which might have existed had been between the Medical Scientists and Pharmacists Association, a body without any formal legal status, and the SPSF(V), not the SPSF itself (Moore, 1992). This technical point potentially offered the three professional unions a neat way out of the mess that they were in, but the SPSF was not inclined to walk away empty-handed.

The inescapable question is why the governing bodies of three small, successful craft unions would have agreed to forfeit their distinct professional identities contrary to their professed ideals by entering into this amalgamation.

It initiated proceedings in the Supreme Court, in an attempt to obtain the membership rolls of the professional unions and to recover damages. The matter was eventually settled out of court at a total cost of $126,000. The AHPA paid $24,000 of these costs, with the balance being met by the MSAV and the VPA (MSAV, 1992(b)).

However, although traumatic in the short term, the merger's collapse could be seen as fortuitous for the three professional unions over the long term. In 2013 Felmingham admitted as much when he said that they "would have withered on the vine if they had gone into the SPSF. In retrospect it was a mistake" (Felmingham R., 2013). When the SPSF was later forced into voluntary liquidation as a result of the Kennett Government's anti-union legislation (Teicher, 1999, p. 167), psychologists, pharmacists and scientists may well have breathed a sigh of relief; the failed amalgamation had saved them from sharing the same fate.

But damage had been done. After its legal costs and payout to SPSF, the MSAV was left with a mere $10,000 in the bank (MSAV, 1992(c)); it had also lost three experienced staff members, in Rod Felmingham, Robert Burrows and Jeff Lewin. Further, despite two years of negotiations, the amalgamation problem remained unresolved – and, crucially, a State election was due in October 1992, only seven months away. The Liberal Party was set to win government under the leadership of Jeff Kennett, a radical free marketeer with an anti-union agenda. Facing the coming maelstrom of the Kennett counter-revolution, the professional unions were bent…. but not quite broken.

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Election of the Kennett Government 1992: beginning of the end or the end of the beginning?

THE KENNETT GOVERNMENT CAME TO POWER IN VICTORIA IN A landslide victory on October 3, 1992. This election ushered in a radical sweep of neo-liberal economic and industrial relations policies that destroyed Victoria's industrial relations system, which had been in place since 1896, slashed jobs and privatised whole swathes of the State's public sector.

In health, unprecedented funding cuts, enforced contracting out and privatisation had a severe impact on psychologists. The Kennett Government's first Budget cut funding to public health by 12 per cent (Teicher, 1999). Throughout the seven years until the Kennett Government fell in late 1999, each successive Budget included further substantial cuts to the health sector. Hospital managers responded by cutting job numbers as quickly as possible.

Legislative changes

The government simultaneously launched a legislative assault on trade unions; these moves renewed the pressure on the three professional health unions to escape from the Victorian industrial relations system.

A review by the author of the legislation passed by the Kennett Government shows the breathtaking scope and speed of its assault on the rights of Victorian workers. Three legislative changes were of particular importance to employees covered by State awards, such as psychologists.

Scrapping of the Industrial Relations Act 1979 (November 1992)

In just its second month in office, the new Victorian Government replaced the *Industrial Relations Act 1979* with the *Employee Relations Act 1992*. From 1 March 1993, the IRCV gave way to the Employee Relations Commission (ERC), a body with severely depleted powers. All Victorian awards were frozen from the same date, becoming mere reference instruments for individual contracts. Consequently, the Psychologists Award, which had taken fourteen years to achieve, was effectively extinguished a mere five years after its commencement.

The new Act deemed employees to be covered by individual contracts that mirrored the expired awards, but without annual leave loading. These contracts had no specified duration. Any changes to them, such as increases to rates of pay, could only be made with the agreement of the employer. There was no requirement for negotiation. Employers were free to impose unilateral contracts on new employees on a 'take it or leave it' basis. Existing employees could be removed from a 'deemed' contract if the employee's position altered. For example, the employer could make any reclassification conditional upon the employee relinquishing some or all award conditions.

The Act prohibited new awards from having common rule application, or from providing for penalty rates or annual leave loading. New awards could only be made with the consent of all employers and employees to whom they applied. The awards only applied to current employees. People employed after 1 March 1993 had to be employed on individual or collective employment agreements. The latter would only apply if the employer agreed to extend the provisions of an existing employment agreement to them. Therefore, new employees could be put on different terms and conditions to existing employees. Awards could be overridden

by collective agreements, and individual agreements overrode both collective agreements and awards.

Industrial action was outlawed in an industry declared by the Government to be vital; any industry could be so declared. The powers of the Magistrates Court were enhanced through the creation of an Industrial Division to hear and determine action in relation to offences such as breaches of employment contracts, unlawful industrial action and hindering inspectors performing their duties. On the other hand, the ERC's jurisdiction over unfair dismissals was severely curtailed, and it was stripped of its power to award compensation or reinstatement in relation to them (Teicher, 1999).

This appeared to be a system designed for fragmentation, so that over time, collective instruments would fall by the wayside, and with them would go trade unions as well. The individual employee was to stand alone, with minimal legal protection from market forces.

Public Sector (Union Fees) Act 1992

Prior to the passage of this Act, unions that covered employees in the public sector drew a substantial portion of their membership income from payroll deduction of union fees by the employer. Payroll deduction had been a very long-standing practice in Victoria, particularly in the public sector. The passage of this Act, expedited through Parliament with lightening speed, prohibited this practice other than with the written permission of the Minister. The Act came into operation on Christmas Eve 1992, less than three months after the election. Unions, particularly those with a majority membership in the public sector like VPA, MSAV and AHPV, faced massive losses of income, which potentially threatened their existence.

Annual Leave Payments Act 1992

Annual leave loadings were removed by statute from all employees who were on Victorian awards. The legislation ensured that employers could not lawfully make such payments even if they were minded to do so. It was applied retrospectively from 28 October 1992. Therefore employees on these awards who had made plans to take annual leave over the 1992–1993 Christmas holiday season were faced with a sizable reduction in their holiday pay.

Privatisation and case management

While the rights of unions were being wound back, savage funding cuts and the privatisation of the public sector began in earnest, resulting in the loss of 75,000 public sector jobs by 1997 (Teicher, 1999). Compulsory competitive tendering of public health services required health workers to compete with private corporations to retain their own jobs. This process ignored the inherently more complex and specialised role of public health services.

Staff numbers were cut while services were not. Most regional public pathology laboratories were privatised. One study has shown that in the long term, privatisation and contracting out were to inflict more lasting damage on the professional unions than the anti-union legislation itself (Kelly R. and Bremner J., 2000).

Psychologists in mental health were faced with the introduction of the 'case management' model of healthcare. This model saw allied health professionals and psychologists appointed to 'case manager' positions, rather than to positions within their own specialist disciplines. Case managers were then allocated to patients on the 'taxi-rank' system, rather than on the basis of patient need. Hence, a psychologist could be allocated to a patient in need of housing and a social worker could be asked to deal with behavioural disorders.

This highly problematic and contested organisational arrangement ignored

the widely differing bodies of knowledge on which these health disciplines were based, as testified to by Jeanette Milgrom in her evidence to the 1987 IRCV hearings (see Chapter 7). Throughout the course of the Kennett regime, the author came to understand that treating these disciplines as though they were interchangeable created unresolved industrial problems, led to tensions between the health professionals themselves, placed the quality of patient services at risk, and threatened to waste scarce public health resources.

The problems for psychologists were serious; case management threatened to undermine their employment by replacing them with cheaper allied health professionals. Patricia Miach recalls that at Monash Medical Centre there were 18 psychologist positions in Adult Psychiatry in 1992. As part of a forced restructure, half of these were converted into case manager positions open to any allied health discipline (Miach, 2013).

The author's experience was that case management also put downward pressure on psychologists' wages by encouraging cash-strapped public hospitals to erroneously classify them according to allied health criteria. Many health services, either knowingly or through ignorance, treated Psychologist Grade 1 as the entry level for a fully registered psychologist, rather than the Grade 2 entry point established by the 1987 Psychologists Award (which in any case at this point existed only by reference in individual employment contracts). This then led to under-classification at higher points in the structure, placing the psychologists' career structure under constant challenge.

One study has shown that in the long term, privatisation and contracting out were to inflict more lasting damage on the professional unions than the anti-union legislation itself.

Case management also had adverse implications for patients and public health resources. The 'taxi rank' system exposed patients to the risk of inadequate and inappropriate care, through mismatching patients with healthcare professionals.

Further, scrapping of specialist psychologist positions meant that patients would have reduced access to psychologists in the public health system. This was a serious problem for the profession, for VPA and for public patients.

As they no longer had access to awards or compulsory arbitration, Victorian unions had few means of protecting their members. In response Melbourne and regional Victoria witnessed some of the largest protest rallies ever held in the state.

Thousands of people marched through the streets of Melbourne on 10 November 1992 to protest against the Kennett Government's legislative assault on Victorian workers.

Melbourne's streets became the site for thousands of protesters to challenge the newly elected Government's attack on the rights of Victorian workers.

Almost immediately, VPA and MSAV membership levels fell sharply because of the cancellation of payroll deductions. Although both unions made intensive efforts to persuade members to move to direct debit payment of dues, this was a slow and time-consuming job. By the end of the 1993 financial year, MSAV's financial

troubles were demonstrated by a $56,000 deficit (Bramwell, Giles, Leechman & Associates, 1993). Given that, under the service agreement between them, 90 per cent of VPA's membership income was held by the MSAV, VPA was automatically placed under financial stress as well. This was a crisis. Escape into the Federal system appeared to be the only solution. The vexed amalgamation issue was once more on the agenda – and this time, with an even greater sense of urgency than in the past.

Re-election of the Keating Labor Government: 1993

The Federal election held on 13 March 1993 was decisive in determining the fate of employees trapped in the Victorian industrial system.

The Liberal-National Coalition, then in Federal opposition and led by John Hewson, was campaigning around its own radical, neo-liberal industrial relations policy. Part of Hewson's so-called 'Fightback' program, mirrored and complemented those policies adopted in Victoria by the Kennett Government, including dismantling the AIRC and Federal awards. The Kennett programme in Victoria has been seen as the testing ground for the national roll-out threatened by Fightback (Teicher, 1999). (Elements of Fightback were later resurrected by John Howard's Federal Coalition Government in its *Workplace Relations Amendment Act 2005*, popularly known as 'WorkChoices', and some still survive as part of the *Fair Work Act* passed in by the Rudd Labor government in 2009.)

The expected victory of the Federal Coalition in 1993 would have meant that Victorian unions had nowhere to turn.

When Paul Keating's Labor Government was unexpectedly returned to office, there were profound implications for the Kennett regime in Victoria. In the words of one commentator:

> *"the success of the Victorian industrial strategy was always dependent on the existence of complementary federal legislation. Once this expectation was dashed on 13 March the writing was on the wall"* (Tracey, 1993).

The Keating Government introduced amendments to the Federal *Industrial Relations Act 1988* that facilitated the movement of Victorian workers, who were caught under State awards, into the Federal system. A new section 111(1A) was introduced, which gave the Commission jurisdiction to hear applications for Federal awards from State employees where those employees did not have access to compulsory arbitration. (Tracey, 1993). The door was now open for the flight of up to 300,000 Victorian workers into the Federal jurisdiction (*The Age*, 19 January 1993).

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Amalgamation Frenzy Part 3. The HSUA: capitulation or strategic triumph?

HSUA HAD MADE A FURTHER SIGNIFICANT STEP TOWARDS GAINING A Federal award with the finding of a dispute between the HSUA and employers in Victoria on 10 January 1992 (Australian Industrial Relations Commission, 1993). At the time, this was the second step after the service of a log of claims to the making of such an award. Once the dispute had been found, it appeared inevitable that an HSUA Federal award would be made and that, as a consequence, the days of the professional unions were numbered.

However, the confluence of circumstances which existed by March 1993 created both threats and opportunity for VPA, MSAV and AHPV: while the HSUA dispute finding in January 1992 and the scrapping of the IRCV in March 1993 certainly threatened the future viability of these unions, the election of the Keating Government that same month opened a window of opportunity to escape the clutches of the Kennett Government.

The professional unions – driven by their survival instincts and the dire predicament of members who were working with scant legal protections – became

more pragmatic about their amalgamation options. A grudging acceptance was emerging that a merger with HSUA may be unavoidable. However, given the recent failure of the SPSF merger, this was not a decision that could be taken lightly or without informed membership consent. After all, the long history of anti-HSUA sentiment amongst members could not be wished away, even in the pressing circumstances that existed at that time. As a result, the decision-making process was slow and thorough, taking until October 1993 to reach a conclusion.

HSUA becomes the front-runner

By December 1992, three potential Federal partners were identified: APESMA, HSUA…and once again, the SPSF, now under new leadership. By early 1993, MSAV appeared to be preparing its membership for amalgamation with HSUA. Its newsletter, the *Stat Report*, dated 25 January 1993 described the situation in these terms:

> *What would be the steps to be taken to obtain a Federal award for all our members?*
>
> *APESMA. Rule changes would need to be approved by Federal Council and then certified by the Industrial Registrar. If the rules are certified, then an interstate log of claims would have to be served and a dispute found by the Federal Commission. If a dispute is found, the application for an award could be arbitrated.*
>
> *HSUA is in a position to progress a Federal award immediately for MSAV/AHP/VPA members. The process was commenced more than 18 months before the election of the Kennett government, and a dispute has now been found by the Federal Commission.*
>
> *SPSF The process would be similar to that for APESMA* (MSAV, 1993(b)).

For three small organisations experiencing a financial crisis due to loss of membership income, it appeared that HSUA was the only feasible option. This was a bitter realisation for VPA. Ever since 1974 psychologists had fought to distinguish themselves from 'allied health professionals', at times having to forfeit better terms and conditions of employment to do so. An amalgamation with HSUA once

again raised the threat that psychologists would be absorbed into the allied health grouping – the very prospect that VPA had resisted so strenuously in 1987, when it fought to keep psychologists out of the Health Professional Services Board.

But it was facing a 'Hobson's Choice': either it could negotiate with the HSUA, and put VPA's future at risk through potential loss of independence; or it could continue to resist amalgamation, also putting its future at risk through a likely takeover. This was a fraught situation. Negotiation did, however, have two advantages: it offered the prospect of fast-tracking members into a Federal award; and it also opened the possibility of influencing the form of the amalgamation.

Pharmacists go their own way

The AHPV was conducting its own negotiations, wanting to preserve its autonomy and separate bargaining position, but there was evidence of growing conflict between MSAV and VPA, on the one hand, and AHPV, on the other. While AHPV accepted that amalgamation with HSUA was inevitable, it wanted a separate branch for pharmacists, while MSAV and VPA were looking at a single Branch – to be designated as HSUA Victoria No. 4 Branch – that would cover all three groups. The HSUA seemed to also favour the one Branch approach. AHPV saw the one-Branch policy as an attempt by MSAV to 'poach' the pharmacists (Eichenbaum,S. (1993, 2 June)). This falling-out, combined with arguments over staffing allocation for the AHPV, led to the termination of the service agreement between MSAV and AHPV on 1 April 1993 (MSAV, 1993(a)).

VPA and MSAV fight to protect their identity

Negotiations with the HSUA were stepped up. The VPA and MSAV bargaining position was consistent with their craft union culture and history. Their priorities were to push for terms that preserved their separateness, and to protect their existing classification coverage.

This was going to be difficult to achieve, because at that time, HSUA's Victoria No. 3 Branch had Federal rules coverage of all the classifications covered by the professional unions, including psychologists. For these three unions to retain their coverage, HSUA No. 3 Branch would have to voluntarily forfeit its own potential for membership growth by transferring a large number of these classifications into the new Branch. This appeared to be unlikely, particularly in relation to psychologists, where HSUA No. 3 Branch's industrial history gave it a strong claim to coverage. As discussed in Chapter 8, VAHPA – HSUA No. 3 Branch's precursor organisation – enjoyed joint award coverage of psychologists with VPA under the old Victorian system by virtue of its seat on the Psychologists Board in Victoria, until that body was dissolved in March 1993. VAHPA's old Board seat and its attendant privileges gave HSUA No. 3 Branch a strong basis to resist VPA's demands for sole coverage of psychologists under HSUA's Federal rules.

A confidential letter from HSUA to MSAV in August 1993 confirms that, underlying the talks between the amalgamation parties, coercion was at play (HSUA, 1993(c)). This letter gave a commitment that the National Secretary of HSUA would not seek to have awards made in the public and private sectors for medical scientists, arising from the dispute findings which had already been made, until after an affirmative amalgamation ballot of MSAV members and certification of the HSUA rules by the AIRC to give effect to the amalgamation. (By inference, psychologists would appear to be included in this undertaking.) However, the caveat was crucial: "This undertaking is without prejudice to HSUA's rights in the above matter where *for any reason* HSUA believes that there is no longer any prospect of amalgamation between the HSUA and MSAV" (author's emphasis). In

other words, if VPA and MSAV did not reach an agreement with the HSUA, Federal awards would be made over their heads.[11]

The stakes were high for all parties. The HSUA was competing with the SPSF for national coverage of professional occupations, and sought more professional members in Victoria to strengthen its case.

On the other hand, neither VPA nor MSAV had many weapons in their arsenal. They were fighting to survive. After the cancellation of payroll deductions and the effective scrapping of State awards in March 1993, the rapid decline in the membership of many Victorian unions was eroding their bases. This was having a disproportionate impact on VPA and MSAV because of their small memberships and the weakened financial position in which they were left after the SPSF episode (Bramwell, Giles, Leechman & Associates, 1993).

In order to strengthen their negotiating position, VPA and MSAV set up a process that pitted the three Federal merger contenders against each other. Each contender was asked to respond to the same series of questions about their attitude to autonomy, classification coverage and changes needed to obtain a Federal award. General meetings of members were held to allow each contender to make its case directly to them (MSAV, 1993(c)). The effect of this process was to create competitive pressure to maximise the concessions that each Federal suitor was prepared to make.

In April 1993, the three replies were compared in MSAV's *Stat Report* (MSAV, 1993(c)). The first conclusion reached from this analysis was that APESMA was for all practical purposes out of contention, because it would require rules changes to cover psychologists and pharmacists in the public sector before an award could be made. As HSUA already had this coverage, it could be expected to vigorously contest such a move, creating a significant obstacle to obtaining a Federal award.

11. In the event, however, an opportunity unexpectedly occurred later that year for Federal awards to be made earlier than expected. With the agreement of all parties, the first Federal awards were made in December 1993, prior to the ballots of VPA and MSAV members. These events are detailed in the following chapter.

Also, APESMA had a centralised structure, which would not allow for branch autonomy, and therefore could not meet the requirement to preserve the separate identity of both State unions.

According to the *Stat Report*, SPSF, by contrast to APESMA, was willing to try to effect rules changes that would allow for branch autonomy, but its looming amalgamation with another Federal union, the Community and Public Sector Union (CPSU), made long-term commitments difficult. Also, as with APESMA, rules changes would be required before it could obtain award coverage. This again would have SPSF running up against HSUA's existing coverage, with all the formidable legal implications that this entailed.

However, SPSF, whilst hardly ideal, remained a plausible option. HSUA could have been expected to see that, although taking the SPSF route would have been complicated for VPA and MSAV, HSUA would also have been faced with protracted legal proceedings with an uncertain outcome. The historic antagonism between VPA/MSAV and the HSUA and its predecessors may have given the latter body pause to consider that the professional unions may very well have opted to take the more difficult route. So although HSUA appeared to have the 'whip hand', it was nonetheless under competitive pressure.

MSAV commissioned independent legal advice from Arthur, Robinson and Hedderwicks (ARH). It was asked to draft alterations to the HSUA rules so as to entrench the autonomy of the proposed new branch.

In May 1993, ARH provided two memorandums of advice which addressed the susceptibility of HSUA branches to control by the National Office of the HSUA, despite the scheme of the rules giving branches a wider sphere of autonomy then applied in most Federally registered unions. The memorandums pointed to the likelihood of conflict between the HSUA's Victoria No. 3 and No. 4 branches. It stressed the need to negotiate detailed eligibility provisions to specify every classification and sub-classification over which the MSAV and VPA claimed coverage.

Further, the unions were advised to seek an 'entrenched rule', which would give a higher level of protection to any new branch from forced amalgamation. The terms of this proposed rule were:

- *Notwithstanding any other provision of these Rules, the continued existence and classification coverage of Victoria No. 4 Branch shall not be altered except with the approval of the members of the Victoria Branch No. 4 assembled in general meeting.*
- *The requisite approval of Victoria Branch No. 4 will only be obtained if, at a special general meeting (called in accordance with Rule 61), a vote is held and a majority of the members present vote in favour of the alteration.*
- *For the purpose of interpreting these rules, this is an Entrenched Rule and the provisions of this clause shall extend to any proposal or action for the alteration of this sub-clause (Clause 46(d)C).* (Arthur, Robinson and Hedderwicks, 1993 (a)).

The agreement to transfer rules coverage of all registered psychologists to the new No. 4 Branch brought resolution to the long-running battle between VPA and VAHPA (now HSUA No. 3 Branch) over the right to represent psychologists. VPA was finally victorious.

None of the other branches of the HSUA had such protections built into their rules. With a total of 1450 members of the proposed HSUA Victoria No. 4 Branch coming into an organisation of 90,000 (or just 1.6 per cent of its total membership), it could have been expected that HSUA would resist such a claim (HSUA Victoria No.4 Branch, 1994). It threatened to place constraints on the HSUA National Office, by installing a barrier to any future attempt to forcibly amalgamate the Union's five Victorian branches.

Finally, ARH warned about the risk of discriminatory levies being raised by the national HSUA to financially penalise a dissident Branch (Arthur, Robinson and Hedderwicks, 1993 (a)).

These key issues were central to the amalgamation discussions. Slowly, progress was made as the HSUA increasingly accepted the determination of MSAV and VPA to preserve their autonomy. On 10 June 1993, the HSUA National Secretary, Chris Randall, made decisive concessions (HSUA, 1993(b)). He agreed to the 'entrenched rule' in its entirety; and he accepted the MSAV's and VPA's proposed eligibility provisions, including giving the Victoria No. 4 Branch sole coverage of psychologists (subject to No. 3 Branch retaining child psycho-therapists). In-principle agreement was given to effect a rule change that would prevent the imposition of discriminatory levies on HSUA Branches.

Acceptance of the entrenched rule and sole coverage of psychologists were decisive concessions to the VPA negotiators. The entrenched rule gave the prospective HSUA No. 4 Branch unique protections against forced amalgamations within the national organisation. The agreement to transfer rules coverage of all registered psychologists to the new No. 4 Branch brought resolution to the long-running battle between VPA and VAHPA (now HSUA No. 3 Branch) over the right to represent psychologists. VPA was finally victorious.

Over the coming months, a formal Memorandum of Understanding was slowly drafted, which incorporated the key MSAV and VPA demands. Specifically:

1. Continued separate existence of the VPA, MSAV and AHPV.
2. Branch No. 4 to have rules coverage of all classifications covered by the former State Psychologists, Medical Scientists and Pharmacists Awards.
3. A guarantee of autonomy for the Branch, underpinned by the entrenched rule.
4. Representation of Victoria No. 4 Branch, in proceedings before the AIRC, to be determined jointly by the National Secretary and the No. 4 Branch Secretary.
5. Rule changes to be approved by the Registrar of the AIRC before the amalgamation ballot. (As events transpired, the need for speed meant that, with the agreement of MSAV and VPA, the ballot came after certification of the rule changes.)

6. Guarantees that discriminatory levies would not be applied to the Branch (HSUA, 1993(a)).

HSUA amalgamation endorsed

From here, events moved quickly: on 14 October 1993 the MSAV Council authorised a Memorandum of Understanding with the HSUA; it was also subsequently authorised by the VPA Committee of Management. On 23 December the HSUA Federal Council approved rule changes to create the Victoria No.4 Branch, which were certified by the Registrar on 25 February 1994 (MSAV, 1994). However, the ballots of MSAV and VPA members to approve the amalgamation weren't conducted until April 1994. In each ballot, two questions were put: firstly, whether the member supported *affiliation* to the HSUA; secondly, whether the member supported a move to a Federal award. The use of the word 'affiliation' reinforces the view that neither VPA nor MSAV saw this new relationship with the HSUA as a genuine amalgamation – which, under the terms of the Deed, it arguably was not, as the professional unions retained their separate identities outside the structure of the HSUA.

The outcomes of the ballots were not a surprise. In the case of VPA, 97.5 per cent of respondents supported affiliation, and 100 per cent endorsed the move to a Federal award.[12] The move into the ranks of the HSUA, so strongly opposed by MSAV and VPA for so many years, had become uncontroversial.

There was, however, an element of *fait accompli* about the 1994 amalgamation ballots. As detailed in the following chapter, by this time Federal awards had already been made that covered the entire VPA, MSAV and AHPV membership, with the strong support of all three unions. There was little likelihood of members voting against affiliation subsequent to those awards being made, as this would have left MSAV and VPA without the capacity to represent them in the AIRC.

12. In the MSAV ballot, 94 per cent supported affiliation, with the same proportion endorsing the making of a Federal award.

Why did the HSUA amalgamation finally succeed?

Why was the HSUA prepared to make such significant concessions to organisations as small as the MSAV and VPA, with which it had a history of discord? There were several likely reasons: the national leadership of the HSUA had a different agenda from that of the Victoria No. 3 Branch, which had been the chief rival of VPA and MSAV throughout much of the 1980s. The national organisation had less interest in the historical rivalries between VAHPA, MSAV and VPA than it did in securing a more strategic position for the HSUA within the national union movement, and more specifically within the health industry. Although MSAV and VPA had small memberships, they were strategically significant. Had they chosen to go into the SPSF, HACSSA would have been likely to follow, because it was acting in concert with them. This would have given the SPSF a beachhead in the Victorian health industry that would have weakened HSUA's prospects of winning its demarcation dispute with the SPSF in the Federal Commission. This could have resulted in the Commission transferring HSUA's constitutional coverage of professional classifications to the SPSF, thereby compromising the former's growth potential and strategic influence within the broader union movement.

Further, although the rules of the HSUA gave ultimate power to its National Council and Executive, they nonetheless provided a greater degree of Branch autonomy than did those of many other registered organisations. The demands of the MSAV and VPA were therefore more acceptable to the HSUA than they would have been to some other unions.

Additionally, the author has been informed that Michael Maloney, the VAHPA Secretary who had so resolutely pursued psychologists in the 1980s, resigned prior to these negotiations commencing – fortuitous timing for VPA. The Federal leadership of the HSUA, and the new leadership of the No. 3 Branch in Victoria, appeared to be less interested in psychologists than Maloney had been, as none of these parties contested their coverage under the rules of No. 4 Branch.

The tactics of the MSAV and VPA themselves – creating rivalries between the

Federal union contenders, to put pressure on the HSUA to make concessions on amalgamation – were also effective. The HSUA may not have made the concessions that it did, had it not believed that other unions might have done so. Further, the independent legal advice obtained by VPA and MSAV, gave the two organisations a clear understanding of the means of achieving Branch autonomy and the confidence and authority to prevail in negotiations. Patience and persistence in pushing their autonomy agenda paid off.

Under the terms of the Memorandum of Understanding, the transitional Committee of Management of the HSUA Victoria No. 4 Branch comprised all 18 existing positions across both the MSAV Council and the VPA Committee. Three positions were reserved for psychologists: one Vice President, one Trustee, and one Committee member. The AHPV, which had severed its ties with the MSAV in April 1993, was brought into the Branch later as a result of a separate rule change. Three positions were then reserved for the pharmacists: one Junior Vice-President; and two Committee members. Elections to the No. 4 Branch Committee were held on 4 October 1994. Psychologists secured five positions: their three specifically reserved positions, plus two general positions.

Under the rules of the new Branch, the MSAV, VPA and AHPV were given the status of 'component associations'. The MSAV continued as a Victorian registered Union under the *Trade Union Act 1958*, as did the AHPV. VPA was later incorporated in 2003, under the *Victorian Associations Incorporation Act 1981*. Hence, the three professional unions achieved one of their key objectives: to ensure their survival as separate legal entities.

The Victoria No. 4 Branch elected representatives to the HSUA National Council and National Executive, but little changed in the day-to-day operations of its three component organisations. VPA and MSAV maintained their office at the Victorian Trades Hall Council, and continued to hold their own assets. MSAV remained the body that employed staff. VPA's operations were largely unaffected. It maintained its financial and service arrangements with the MSAV; recruitment and representation of psychologist members continued under the VPA banner; elections to its

committee positions were held when they fell due; and VPA committee and annual general meetings were conducted as before.

Though for all practical purposes, the HSUA connection had changed nothing in the VPA's internal operations, it did give VPA the means to operate in the Federal industrial jurisdiction. VPA members now had access to the Federal Commission (usually being represented by the MSAV, appearing as the HSUA No.4 Branch, without any involvement of the HSUA national office). The No. 4 Branch paid capitation fees to the HSUA, and each component association (including VPA) was levied for its share.

After all the de-stabilisation and anxiety caused by the waves of amalgamation frenzy that had commenced in 1991, the HSUA amalgamation was in its own way a survival story for the professional unions. In 1992, they had seemed doomed to disappear; just two years later, they re-emerged in Federal form, nominally transformed but with their distinct identities intact. It could have been different – and almost was. Both luck and some (belated) good judgement calls were at play here: the negotiation process adopted by the VPA and MSAV proved to be effective; the choice of HSUA as the amalgamation partner could be seen at that time as the right decision; and the Memorandum of Understanding negotiated with the HSUA provided essential protection. Overall, the HSUA amalgamation, while perhaps appearing to be capitulation to the inevitable, could be judged a strategic success.

First Federal awards: 1993

HSUA had taken early steps to gain a Federal award, which had resulted in a dispute finding having been made by the AIRC in January 1992. (As detailed earlier in this chapter.) Many other Victorian unions had also taken this path in response to the effective scrapping of State awards. The Kennett Government attempted to stem this flow, by challenging dozens of these dispute findings in the High Court, including that of the HSUA. However, in a surprise move in late 1993, the State

Government withdrew its opposition to the HSUA award application. (The reason for this was not made public, but it could be surmised that the Government's own legal advice was that it was likely to lose its case in the High Court (Tracey, 1993)).

By this stage, Christmas was approaching. In order to regain the public holiday entitlements that had been scrapped in Victoria, the HSUA sought an urgent Commission hearing to seek to have Federal awards in place before the commencement of the Christmas holiday period. As there were no longer any objectors, the making of the awards was a foregone conclusion.

Consequently, the first public and private sector Federal awards covering the membership of VPA, MSAV and AHP were made in rushed proceedings on 23 December 1993. The order creating these awards also covered other health workers whose Victorian awards had been effectively cancelled by the Kennett Government. The form of these new Federal awards overcame potentially time-consuming complexities in determining terms and conditions of employment, by simply 'rolling in' the applicable cancelled Victorian awards by reference to them. Hence, the AIRC framed clause 3 of this new Award – the Health Services Union of Australia (Victoria – Public Sector) Interim Award 1993 – in the following terms:

> *Subject to Clause 4, Clause 5 and Clause 6, each employer shall accord to each and every employee referred to in Clause 1 hereof the terms and conditions prescribed in the following former awards of the Industrial Relations Commission of Victoria prior to 1 March 1993 as is applicable to that employee:*
>
> - *Health and Allied Services Award*
> - *Health Professional Services Award*
> - *Dental Technicians Award*
> - *Hospital Pharmacists Award*
> - *Health and Community Services (Management and Administrative Staff) Public Sector Salaries Interim Award*
> - *Ambulance Superintendents and Senior Administrative Officers Award*

- *Chief Executive and Deputy Chief Executive Officers Award*
- *Medical Scientists Award*
- *Psychologists Award.*

The private sector award – Health Services Union of Australia (Victoria – Private Sector) Interim Award 1993 – had a similar provision.

Hence, within the framework of these two omnibus Federal awards covering the membership of Victorian HSUA Branches 1, 3, 4 and 5, the former Victorian Psychologists, Medical Scientists and Pharmacists Awards were restored in their entirety including reinstatement of the public holidays that fell over the 1993-1994 Christmas/New Year period.

The making of these Federal awards was a defining moment for VPA, AHPV and MSAV. After the tumult created by their search for an amalgamation partner and their bitter experiences under the Kennett Government, the awards ushered in a period of stability and certainty during which they could again turn their attention to building their unions. Despite the anxieties of many members about joining forces with the HSUA, psychologists and other health professionals nonetheless had reason to celebrate the restoration of their rights at work.

{14}

Conclusion

VPA EMERGED IN 1986 AT A TUMULTUOUS TIME IN AUSTRALIAN industrial history, when neo-liberalism became the dominant discourse in social and economic policy. This had far-reaching consequences for labour market and industrial relations policies. As in most Anglophone countries around the world, a consensus developed between Australia's major political parties of the need for labour market deregulation that threatened the survival of the union movement.

In response to this challenge, the ACTU pushed for union amalgamations and rationalisation, underpinned by Federal legislation. This was intended to strengthen unions within a de-regulated labour market, by centralising resources and creating greater efficiencies; but it also rang the death knell for small, professional unions.

Adding to the turbulence created by moves to amalgamate unions, Victorians in 1992 voted in the Kennett Government, whose radical neo-liberal and anti-union actions threatened the survival of organised labour and hastened a rush by many State unions to join large, Federally registered organisations.

This was an inauspicious time for a small, specialist union to be formed. And yet VPA, founded in this period, not only survived, but also prospered. From a small original core of less than 30 financial members, it grew into a successful craft union that preserved the separate professional identity of psychologists.

Throughout the VPA's foundation period, the craft union imperative was so dominant that psychologists chose to remain award-free between 1975 and 1987 with the consequences that many of them forfeited better terms and conditions of employment and rates of pay, rather than accept a merger with an occupationally mixed union. It took 12 years of effort to find a means of unionising that enabled psychologists to obtain award protection, while at the same time preserving their separate professional identity.

In the long run, 'going it alone' was a beneficial strategy. Preservation of the craft identity of VPA was the key to its survival during the turbulent years after its formation in 1986, up until its amalgamation with the (then) HSUA in 1994.

Preservation of the craft identity of VPA was the key to its survival during the turbulent years after its formation in 1986, up until its amalgamation with the (then) HSUA in 1994.

These years threw up many challenges, any one of which could have destroyed VPA: the concerted battle for a separate conciliation and arbitration board in 1987; the aborted amalgamation with SPSF in 1991; the crises caused by the Kennett Government's sweeping privatisation and deregulation agenda in 1992-1993 and the amalgamation with HSUA in 1994. These were all very major threats to the survival of a fledging union, which had only existed since 1986. Had it not been for the craft impulse, which created close bonds between psychologists, they may have abandoned their allegiance to VPA during these turbulent times.

Over the course of the 1990s, VPA benefited from large membership increases, that outpaced the recruitment levels of scientists into the MSAV (Kelly R. and Bremner, 2000, p. 11). The author's contention is that this came about in spite of the amalgamation with the HSUA. It was rather the result of the preservation of VPA's autonomy and separate identity which ensured that psychologists retained control of their own union.

That craft unionism is an enduring and successful feature of organised labour in Australia is illustrated in the current industrial landscape, where craft unions number amongst the largest or the most powerful of ACTU affiliates. Examples of these highly successful craft unions are the Australian Education Union (AEU), the Australian Nursing and Midwifery Federation (ANMF), and the Australian Salaried Medical Officers Federation (ASMOF), (Australian Council of Trade Unions, 2014). VPA is a case study of this success. The enduring appeal of craft unionism has significance for future forms of industrial organisation, because it suggests that large, industry-based unions, long supported and promoted by the ACTU, may not attract the knowledge workers of the twenty-first century. Smaller, skill-based groupings are likely to provide a more positive basis for the recruitment of professional employees.

The professions and craft unions can be seen as interdependent. The professional ethos serves as 'glue' that binds people with like qualifications together, creating a community of interest between an organisation's members that acts to preserve its character and identity. Craft unions like VPA succeed when they are able to complement these communities by: protecting them through industrial measures such as the making of awards and agreements; creating career paths with increased remuneration for specialist skills and knowledge; gaining support for professional codes of ethics; and lobbying governments and regulatory bodies to protect professional interests. By their nature, multi-occupational unions cannot fit into or serve these communities.

If public policy and discourse in the first half of the twenty-first century becomes more hostile to unions, VPA may again find itself at risk. Its survival may come to depend on its ability to find strategic opportunities for further integrating itself into the professional community of psychologists. This may present challenges, but its history shows that VPA's success has been the result of preserving its autonomy and specialist identity. In the heavily contested field of industrial relations, unions that are in tune with the wishes of their members are the most likely to survive.

Bibliography

The Age (1993, 19 January), '300,000 May Quit State IR System', MSAV Archive, MSAV, Melbourne.

The Age (1991, 3 September), 'Trotskyist Wild Card in Public Sector Unions', MSAV Archive.

Arthur, Robinson and Hedderwicks (1993(a), 11, 24 May), Memorandums of Advice, MSAV Archive.

Arthur, Robinson and Hedderwicks (1993 (b), 5 July), Memorandum of Understanding, MSAV Archive.

Association of Hospital Scientists of Victoria (1978, 6 December), Letter, VPRS 005464/P/0000; 000011; 75/1207, Public Record Office of Victoria (PROV), Melbourne.

ASWU (1986, 15 September), Application to vary the jurisdiction of the SACS C&A Board, VPA Archive, VPA, Melbourne.

Australian Council of Trade Unions (1990, 23 October), Circular no. 827/1990: Union Rationalisation, ACTU, Melbourne.

Australian Council of Trade Unions (2014), National Union Directory, ACTU.

Australian Industrial Relations Commission (1993, 10 December), Print L0442, MSAV Archive.

Beck, U. (1994), 'The Reinvention of Politics: Towards a Theory of Reflexive Modernisation', in, *Reflexive Modernisation: Politics, Tradition and Aesthetics in the Modern Social Order*, U. Beck, A. Giddens and S. Lash,Polity Press, Cambridge, UK.

Bramwell, Giles, Leechman & Associates (1993, 30 June), MSAV Financial Statements, MSAV Archive.

Catanese, A. (1987, 20 October), Letter to VTHC, VPA Archive.

Catanese, A. (1988, 29 March), Letter to the Spastic Society, VPA Archive.

Catanese, A. (1988, 20 April), Letter to Spastic Society, VPA Archive.

Department of Labour and Industry(Victoria) (1975 (a), 7 July), Memorandum, VPRS 005464/P/0000;000011;75/1207. PROV.

Department of Labour and Industry(Victoria) (1975 (b), 19-June), Memorandum for the Chief Industrial Officer, VPRS 005464/P/0000; 000011; 75/1207 PROV.

Department of Labour and Industry (Victoria) (1979, 30 April), Memorandum, VPRS 005464/P/0000;000011;75/1207. PROV

Department of Labour and Industry (Victoria) (1980, 26 November), Memorandum to the Chief Industrial Officer, VPRS 005464/P/0000;000011;75/1207. PROV

Eichenbaum, S. (1992, 29 February), Letter to Members, MSAV Archive.

Eichenbaum, S. (2013, 11 July), Interview with the author.

Eichenbaum, S. (1993, 2 June), Letter to J. Grenville, MSAV Archive.

Felmingham, R. (1988, 27 June), Letter to Hospital Managers, MSAV Archive.

Felmingham, R. (1991, 17 June), Letter to SPSF.

Felmingham, R. (1991, December), Cancellation of Meeting Notice, MSAV Archive.

Felmingham, R. (1992, 4 March), Letter, MSAV archive.

Felmingham, R. (2013, 9 August), Interview with the author.

Gardner, M. (1997), *Industrial Relations and Human Resource Management in Australia*, Macmillan, Melbourne.

Gordon, R. D. (2014, 24 July), Interview with author.

Gordon, R. (1984), Historical Sketch of the Victorian Association of Hospital Psychologists, VPA Archive.

Grenville, J. (1984, January), '38 Hour Week and High Court Decisions' in *The Medical Scientist*, MSAV Archive.

HSUA (1993(a), June-July), Draft Memorandums of Understanding: HSUA–MSAV/VPA, MSAV Archive.

HSUA (1993 (b), 10 June), Letter: MSAV/VPA/AHPV Merger, MSAV Archive.

HSUA (1993(c), 7 September), Letter from C. Randall, MSAV Archive.

HSUA Victoria No. 4 Branch (1994, 16 August), Minutes, HSU No.4 Branch Archive.

HSUA Information Pages, *Health Services Union: History*, from http://www.hsu.net.au

Industrial Relations Act (1979) (Victoria), Government Printer, Melbourne.

IRCV (1985, 17 May), D. No.33/1985 Audiologists' Case Decision, VPRS 9599/P1. 73. 98/1986, PROV.

IRCV (1986, 18-19 February), C No. 98/1986, Application by the Victorian Association of Psychologists for the Establishment of a Conciliation and Arbitration Board for the Trade of Psychologists. Transcript, VPRS 009599/P/0001;000073/98/1986, PROV.

IRCV. (1987 (a) 27 May), Appointment of Psychologists Board: D. No.94/1987,VPRS 009599/P/0001;000073/98/1986, PROV.

IRCV (1987 (b), 20 October), Recognition of VAHPA by Psychologists Board: D. No. 191/1987, VPRS 9599/P/0001;000124;124/1987, PROV.

IRCV (1987 (c), 20 October), Recognition of VPA by the Psychologists Board: Decision, VPRS 009599/P/0001;000119;114/1987, PROV.

IRCV (1988 (a), 9 February), C. No. 217/1987, Objection to Reappointments to Psychologists Board, Transcript, VPRS 9599/P/0001;000143;217/1987, PROV.

IRCV (1988 (b), 19 April), Objection to Reappointments to Psychologists Board, D88/0070, VPRS 9599/P/0001/000143;217/1987, PROV.

IRCV (1988, 27 June), Matter No.B872497, Minutes of the Psychologists Conciliation and Arbitration Board, VPRS 9599/P2. 126. 91/1802, PROV.

IRCV (1990 (a), 13 September), Memo from McIntyre, C. to Boulton, J.:Matter No. 90/1165 . VPRS 9599/ P2;87;90/1165, PROV.

IRCV (1990 (b), 4 July), Psychologists Award No. 3, VPA Archive.

IRCV (1991, 24 April), Matter No. 91/1802, Minutes of the Psychologists Conciliation and Arbitration Board, VPRS 9599/P2. 126. 91/1802, PROV

Keir, E. H. (1975, 10 February), Letter, VPRS 005464/P/0000;000011;75/1207, PROV.

Keir, E. (1974, 26 November), Letter, VPRS 005464/P/0000; 000011;75/1207, PROV.

Kelly, R. and Bremner, J. (2000), The Medical Scientists Association of Victoria: A Case Study of Professional Trade Unionism in the 1990s, MSAV Archive.

List, D. (2013, 3 October), Interview with the author).

List, D. (1991, April), *VPA Industrial Newsletter*.

MAAV (1979, 23 April), Letter to Dept. Labour and Industry, VPRS 005464/P/0000;000011;75/1207, PROV.

Miach, T. D. (2013, 21 August), Interview with the author.

Minister of Labour and Industry (1979, 8 July) Letter, VPRS 005464/P/0000; 000011;75/1207, PROV.

Moore, G. (1992), Memorandum of Advice, MSAV Archive.

MSAV (1985), Application for Extension of the Jurisdiction of the Scientists C&A Board, IRCV No.15/1985. VPA Archive.

MSAV (1990, December), *Special Newsletter: Union Amalgamation*, MSAV Archive.

MSAV (1991, August), *Newsletter: Conduct of Ballot on Union Amalgamation*, MSAV Archive.

MSAV (1991, 4 October), Letter to David List, VPA Archive.

MSAV (1992 (a), March), *Special Newsletter: The Medical Scientist*,. MSAV Archive.

MSAV (1992, 11 March), *Stat Report*, Number 8, MSAV Archive

MSAV (1992 (b), 2 April), Council Minutes, MSAV Archive.

MSAV (1992 (c), 12 May), Council Minutes, MSAV Archive.

MSAV (1993 (a), 16 April), Council Minutes, MSAV Archive.

MSAV (1993 (b), 25 January), *Stat Report*, MSAV Archive.

MSAV (1993 (c), 16 April), *Stat Report*, 'Amalgamation Options', MSAV Archive.

MSAV (1994, 2 March), *The Medical Scientist Special Affiliation Update No.2*, MSAV Archive.

MSPA (1991), *Special Newsletter*, MSAV Archive.

MSPA (1991, 17 December), Minutes of the AHPV/MSPA/Hospital Pharmacists Committee, SPSF(V).

Noon, M. (1997),*The Realities of Work*, Macmillan Business: Basingstoke, UK.

Rossiter, J. F. (1975, 23 July),Letter, VPRS 005464/P/0000; 000011; 75/1207, PROV.

Rule, J. (1987). 'The Property of Skill in the Period of Manufacture', in P. Joyce (ed.), *Historical Meanings of Work*, (1987), Cambridge University Press, Cambridge, UK.

SPSF (1991, 9 July), Letter to MSAV re Amalgamation, MSAV Archive.

SPSF (1991, 22 November), Deed of Amalgamation between SPSF(V), MSPA and VPA, MSAV Archive.

SPSF (1991, 10 December), *A New Name, A New Union, A New Direction*, MSAV Archive.

SPSF(V) (1991, December) Letter re Disposition of Union Assets, in A New Name, *A New Union, A New Direction*, MSAV Archive.

SPSF (1992 26 March), *Report to Members: The State of Play*, MSAV Archive.

Stone, K. (1975, 4 July), Letter to Dept. Labor and Industry, VPRS 005464/P/0000; 000011;75/1207, PROV.

Teicher, J. (1999), 'Economic Freedom: Industrial Relations Policy Under the Kennett Government', in B. Costar (ed.), T*he Kennett Revolution: Victorian Politics in the 1990s*, UNSW Press, Sydney.

Thompson, P. (2009), *Work Organisations: A Critical Introduction*, Palgrave MacMillan, Basingstoke UK.

Tracey, R. (1993), The H.R Nicholls Society Inc. Website Archives, from http://archive.hrnicholls.com.au/index.php.

VAHP (1978, 3 October), Application for a Psychologists Wages Board, VPRS 005464/P/0000; 000011;75/1207, PROV.

VAHP (1980, 26 August), Letter, VPRS 005464/P/0000;000011;75/1207, PROV.

VAHPA (1985, 14 February), Application for Extension of Jurisdiction of HMAS C & A Board, IRCV C. No. 14/1985, VPA Archive.

VPA (1986, 5 August), Application for C&A Board for Psychologists, IRCV C. No. 98/1986, VPRS 009599/P/0001;000073;98/1986, PROV.

VPA (1987, 30 September), Letter re Objection to Reappointments to Psychologists Board, VPA Archive.

VPA (1987, 12 November), Log of Claims, VPRS 9600/P/0001,000088 B872497, PROV.

VPA (1988 (a), 2-May), Letter to HEF re affiliation to VTHC, VPA Archive.

VPA (1988 (b)), Membership Records, VPA Archive.

VPA (1990, August). Industrial Newsletter. VPA Archive.

VPA. (1991, 19 November), Minutes, VPA Archive.

VPA (1991, 10 December), Minutes, VPA Archive.

VPA (pre 2003), Constitution and Rules of the VPA, VPA Archive.

VTHC (1988, 24 February), Letter to A. Catanese. VPA Archive.

Whitlam Institute (2013), *Whitlam Government's Achievements* (U. O. Sydney, Producer), from http://www.whitlam.org/gough_whitlam/achievements/healthandsocialsecurity.

Williams, J.S. (1974, 26 November), Letter, VPRS 005464/P/0000; 000011;75/1207, PROV.

Williams, J.S. (1974, 2 December), Letter, VPRS 005464/P/0000; 000011;75/1207, PROV.

Workforce (1991, 8 November), *Watch on Health Industry*, MSAV Archive.

Chronology

1976
Formation of Victorian Association of Hospital Psychologists.

June 1986
Dissolution of VAHP and formation of VPA.

1986
HEF amends its Federal rules to establish a Victoria No. 3 Branch, to give it constitutional coverage of professional employees, including psychologists, scientists and pharmacists.

May 1987
Establishment of Psychologists Conciliation and Arbitration Board by the IRCV.

June 1988
Making of first Victorian Psychologists Award.

17 December 1990
HSUA Federal logs of claim served on employers.

1 January 1991
HEF amalgamates with HREA to form HSUA.

4 March 1991
Formation of Australian Federation of Health Professionals (AFHP).

3 December 1991
Amalgamation date of VPA and MSAV with SPSF.

1 March 1992
Termination of amalgamation between MSAV, VPA and SPSF.

3 October 1992
Kennett Government elected in Victoria.

December 1992
ANF wins a Federal Award.

March 1993
IRCV abolished. Psychologists Award frozen.

13 March 1993
Re-election of the Keating Federal Labor Government.

23 December 1993
HSUA National Council approves rule changes to create HSUA (Victoria) No. 4 Branch.

December 1993
First Federal Awards made that covered psychologists in public and private sectors in Victoria.

25 February 1994
HSUA rule change certified by the Registrar of the AIRC to create (Victoria) No. 4 Branch.

26 April 1994
Ballots of VPA and MSAV members vote to affiliate with HSUA.

4 October 1994
First election for positions on HSUA (Victoria) No. 4 BCOM.

SMALL IS

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This is a 'warts and all' story of how Victorian psychologists became unionised. It reveals the long and difficult path to the formation of the Victorian Psychologists Association in 1986 and its subsequent struggle to overcome a hostile environment to develop into a highly effective union.

By looking back to the historical roots of craft unionism, this study casts fresh light on the challenges of attracting 21st century 'knowledge workers' into the organised labour movement. It is a must-read for all who see unionisation as essential to the survival of the professions in Australia.

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