Early in September the Standing Committee of Consumer Affairs Ministers who were meeting in Brisbane expressed concern at the lack of co-ordination and progress in the development of appropriate safeguards for protecting the interests of consumers in relation to electronic funds transfer systems. They ordered the urgent preparation of a code of practice to overcome the one-sided nature of the consumer liability under present arrangements. The Ministers asked for the code to be negotiated with financial institutions and finalized for their approval early in 1986. Some Ministers indicated that they would have to consider the legislation unless acceptable progress is achieved.

employment issues

> In sum, the truth is that we luxuriate in the comfortable assertion that women enjoy equality. We have salved our consciences by eliminating the more obvious discriminations like unequal rates of pay for work of equal value. But, in fact, we have not eliminated the inheritance of the millennia that women are lesser beings, an inheritance which still manifests itself in a whole range of prejudice and other forms of discrimination.
>
> Robert James Lee Hawke,
> *The Resolution of Conflict,* 1979

the right of part-time work. The English Employment Appeals Tribunal has recently decided that the refusal of a Government Department to grant a mother part-time work after her maternity leave from full-time employment contravenes the English Sex Discrimination Act 1975. (*Home Office v Homes* [1985] 1 WLR 71)

The English Act, like its Australian counterparts, outlaws indirect discrimination. An employer will be guilty of indirect discrimination when he or she imposes a condition or requirement which a disproportionate number of the complainant's sex are unable to comply with. The imposition of these conditions or requirements must be unreasonable in all the circumstances.

The Tribunal decided that the requirement to work full-time was a requirement that unfairly prejudiced women. It was assumed that child care placed a greater burden on women than it did on men. It had also been decided that the Home Office was reasonably able to provide part-time work. The Tribunal did, however, emphasise that future cases would turn on their own facts.

It remains to be seen whether Australian working mothers will use the sex discrimination legislation to buttress demands for part-time work. In the meantime, the *Canberra Times* has predicted (31 August 1985) that there will be an avalanche of applications when the Commonwealth Public Service releases 3000 part-time jobs later this year. The scheme to introduce permanent part-time work was first announced in December 1983, but has been held up by disputes over overtime rates and difficulties over the transfer of superannuation entitlement. The overtime rates issue was resolved on 28 August 1985 when Mr Justice Ludeke of the Arbitration Commission determined that overtime should be available for permanent part-time workers on a twelve month trial basis.

part-time workers have part-time rights? Speaking at the ANZAAS Festival of Science held in Melbourne in August, at a Forum on Equal Pay, Deena Shiff an Australian Law Reform Commission law reform officer commented on the disadvantages of part-time work.

> Seventy-eight percent of the part-time labour force are women. Even where part-time hourly rates of pay match those of full-time workers, part-time workers are frequently denied employment benefits such as occupational superannuation and long service leave ...

Another recent English decision illustrates the diminished job security that may come with part-time work. Mrs Kidd was amongst 19 part-time workers who were dismissed when redundancies had to be made at her factory. Relying on *Homes v The Home Office,* she lodged a complaint under the Sex Discrimination Act that the selection of part timers for redundancy discriminated against women. The Employment Appeals Tribunal

in this case said that the Industrial Tribunal was entitled to reject the proposition that more women would be affected, without statistical or other evidence to this effect. Moreover the Tribunal was entitled to find that the 'marginal advantages' to the employers in terms of cost and efficiency in operating one shift of full-time workers rather than two shifts of part-time workers justified the decision to dismiss the part-time workers. (*Kidd v DRG (UK) Ltd* [1985] IRLR)

'*... shall i compare thee? ...*' The keynote speaker at the ANZAAS Forum on Equal Pay was Jenny Acton of the ACTU.

Ms Acton is preparing a 'comparable worth' test case on behalf of nurses to put before the Commonwealth Conciliation and Arbitration Commission. The case is expected to test the scope of the 1972 'equal pay for work of equal value' decision of the Arbitrtion Commission.

Comparable worth cases have been pursued in the United States as a way of testing the pay equity of jobs traditionally occupied by women. Work value scores which use gender neutral assessments such as skill, effort and responsibility are used to measure the relative earnings of employees. For example, in San Jose, California, a comparable worth study of public employees was commissioned which revealed that female dominated occupations were systematically undervalued in comparison to men's, so that, for example, principal clerks (mostly women) earned less than painters (mostly men) even though the clerks job scored higher.

The comparable worth test case will not only test whether the 1972 Equal Pay Decision embraces comparable worth. It will also test the application of the Commonwealth Sex Discrimination Act 1984 to proceedings before the Conciliation and Arbitration Commission.

pay increase for nurses. Meanwhile the *Australian* reported on 1 October 1985 that the Victorian Government will offer nurses pay rises of 40 per cent – up to $150 per week. Victoria has a shortage of between 500 and 1000 nurses in the public hospital system. New South Wales has even more vacancies and it and other States have been forced to recruit from of overseas. The Royal Australian Nursing Federation is reported to be seeking a flow-on of the increases for nurses throughout Australia.

iron workers. The *Australian* (1 October 1985) reported that 34 female iron workers succeeded in an action against Australia's largest company, BHP, for sexual discrimination. The company faces a total compensation payment of up to $2.2 million. The *Australian* reported that their action centred on 55 claims of sexual discrimination filed between 1980 and 1983. Some had been refused employment as production iron workers and had their names placed on waiting lists of up to seven years before re-consideration for employment. Others had been retrenched or threatened with retrenchment on the basis of protective legislation in relation to the lifting of weights exceeding 16 kilograms.

The *Australian* reported that the women had all been rehired by BHP. The case was heard in Sydney by the Equal Opportunity Tribunal headed by NSW District Court Judge Richard Barbour.

odds and ends

■ ***victorian inquiry into sentencing law and practice.*** The Victorian Government recently announced the appointment of Sir John Starke, retired Victorian Supreme Court Judge, as convenor of a Committee to enquire into Sentencing Law and Practice. They will soon be announcing the terms of reference and the other members who will make up the Committee. The Australian Law Reform Commission looks forward to the finalisation of the Committee as they are also working on sentencing for the Commonwealth Government and so look forward to a close productive relationship with the Committee.