

"Well sinker" shall mean an employee sinking and/or timbering wells.

*Existing Customs.*

31. Definitions, customs, and usages not specifically mentioned in this award shall remain in force.

*Scope and Operation of Award.*

32. (a) This award shall apply to members of the Australian Workers Union employed by the Commonwealth Railways Commissioner in the classes of work enumerated herein, within a radius of 30 miles of Port Augusta, or along the Trans-Australian Railway between Port Augusta and Kalgoorlie inclusive, or along the Oodnadatta Railway up to and including Oodnadatta.

(b) This award shall be binding on the Commonwealth Railways Commissioner and on the Australian Workers Union, its officers, its branches and its members.

(c) This award shall come into force on the 21st December, 1926, as regards rates of pay, and on the 2nd January, 1927, as regards conditions of employment, and shall remain in operation for a period of three years from the former date.

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COMMONWEALTH  
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Quick, D.P.

THE AMALGAMATED ENGINEERING UNION

CLAIMANT

and

J. ALDERDICE & COMPANY PTY. LTD. AND OTHERS

RESPONDENTS

(No. 61 of 1926.)

*Industrial Dispute—Standard Hours, The Commonwealth Conciliation and Arbitration Act 1904-1926, Sections 18A (4), 18B, 25—Standard Hours of Work in Engineering Industry reduced to 44 per week.*

1926.

MELBOURNE,  
August 24-27,  
30 and 31;  
September 1-2  
and 6-9.

*THE FULL COURT.—Dethridge, C.J., and Beeby, J., Lukin, J. dissenting, approved under Section 18A (4) of the Act of the reduction of standard hours of work in the engineering industry to 44 per week.*

SYDNEY,  
September 14-  
15, 20, 22, 23,  
28, and 30;  
October 1, 5-8  
and 11-12.

Per DETHRIDGE, C.J.—This Court is only concerned with the profits of an industry when dealing with the question whether particular industries under consideration can bear the result of a proposed alteration of conditions of labour.

MELBOURNE,  
October 18-22,  
and 25-27;  
November 3, 4,  
8-11, 15-18, 22-  
25, 29 and 30;  
December 1-3,  
6-9 and 13-17.

If it appears that the reduction of the working week would substantially disable necessary industries or public functions to a greater extent than the retention of the present standard would, the Court must refuse the reduction.

The Court is not to be influenced by political considerations, but it cannot ignore economic conditions merely because they have been created partly or wholly by political or governmental action.

1927.  
February 24.  
Full Court.

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A just standard of hours of labour in industry is that which places the workers in all industries on what is really, and not merely superficially, the same footing in point of leisure. A uniform standard working week in all occupations, whether it be of 48 or 44 hours, involves an unfair sharing as between workers in one and those in another industry of such leisure as is permitted by the inexorable need for the community to work in order to maintain itself.

Even amongst the industries whose work is of such a nature when compared with that in other industries as to create a higher claim to the shorter working week, its indiscriminate adoption may do much harm. Industries may be so assailed by overseas competition, or may be in such financial stress that the shorter week, instead of being a boon, would be a bane to both employees and employers.

The conditions of employees generally in the engineering industry in respect of strain imposed by the work performed, confinement, monotony, and unremitting concentration of attention so affect the opportunity or capacity for rational enjoyment of leisure as to warrant the Court in reducing the standard hours of work from 48 to 44 per week.

The evidence submitted has not established that the engineering industry is, or will be, unable to maintain itself with the 44-hour working week.

Employees under similar disadvantages in other industries may be entitled to a similar reduction, but no justification has been shown for a general reduction of the standard week of 48 hours.

If workers whose normal standard working week is 44 hours should be engaged as constant employees in an industry in which a longer working week prevails, and it should not be reasonably practicable to carry on the operations of that industry unless such workers work the longer week, it would be necessary for them to treat that longer week as their standard so long as they were so engaged.

Per LUKIN, J.—Whether the normal standard of 48 hours per week now obtaining in this industry should be reduced to 44 hours per week is the direct and formal question arising in these proceedings; but the decision will operate as a strongly influencing factor in determining a claim for a similar reduction in many other industries within the jurisdiction of the Court.

The determination should be based on a consideration of what is fair and right in relation to industrial matters having regard to the interests of persons immediately concerned and of society as a whole.

Those seeking to unsettle presently settled conditions have cast on them the burden of establishing that in accordance with what is "fair and right," regard being paid to interests of employer and employee and of the Commonwealth, the application should be granted. Section 25 of the Act casts upon the Court the duty to inform its mind as best it may in order to determine the matter according to equity, good conscience and the substantial merits of the case; but if after the acquisition of such information and a consideration of the evidence and arguments of each side, the balance does not bring a solution favorable to the applicants clearly within the area of what is fair and right, the doctrine of the onus of proof so operates as to make it improper for this Court to unsettle the present settled conditions.

The conclusion to be drawn from the evidence is that the reduction of standard hours is no more justified now than it was in either of the two previous Full Court cases. It spells retrogression, or at the best stagnation, and not

progression. It means a decrease in the output when a substantial increase is absolutely necessary and increased cost of such reduced output, the accumulative effect of which is difficult to foresee; the weakening of our power to develop our own resources and consequent delay in doing so; the weakening of our power to resist foreign competition and its inroads and the consequent weakening of our financial stability; the weakening of our power to recapture the balance of trade by making our exports exceed our imports and provide us with the wherewithal to meet our heavy overseas debts; the discouragement of our manufacturers to continue in some cases a hopeless struggle or to invest further capital; the discouragement of prospective manufacturers to invest and commence business in Australia under such adverse conditions when conditions more conducive to business success prevail in other parts of the world; the delay in commencing and carrying into effect further public utilities so necessary to our advancement; the still further weakening of our primary industries which have already been overstrained by existing conditions and which are competing and must continue to compete on prices determined by competition in world markets; the creation of further dissatisfaction in the rural worker whose hours and conditions of labour appear to be out of fair proportion with that of the city worker and whose drift, already very serious, to the city, its attractions and its better living and wage conditions will be accentuated.

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Per BEEBY, J.—The legislature has delegated to this Court so far as it controls industry by making awards in settlement of industrial disputes, the responsibility of saying whether the standard 48-hour working week should be altered; a power, in effect, to legislate in an area in which the Commonwealth Parliament itself under the Constitution, cannot directly legislate.

No principles are laid down for the guidance of the Court, and in exercising this quasi-legislative power the Court may approach its task in the same way as the Legislature; it must survey the whole field of economics and act more on opinions formed than on the nice balancing of such evidence on facts as may have been adduced.

The broad issues before the Court are—

- (1) Is the claim in the present stage of economic development just;
- (2) Can Australian industries, both self-contained and in competition with foreign countries, continue to expand and develop satisfactorily with 44 hours as the standard working week?

This application does not involve the introduction of some novel change in industrial relationship, but rather the removal from industry of one of the most prolific causes of unrest; and there is much in the applicant's contention that the removal of such a cause of discontent may lead to a better co-operation between management and workers.

Production may be stimulated by systems of payment by results. The present attitude of unionism to this is one of opposition, but this is a wrong remedy, inasmuch as all unnecessary restrictions upon production reduce the possibility of continuing to improve standards of living and to provide for the needs of increasing population.

There exists in every State means of creating machinery adequate to safeguard systems of payment by results from abuse.

The proportion of trained mechanics with manipulative skill becomes less each year and the increasing use of machinery renders work more monotonous and the argument that hours of labour on repetitive work should, on the ground of monotony, be reduced is one to which regard should be given in weighing the ethical and economic issues involved in fixing standard hours.

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Reasonable conclusions to be drawn from an analysis of statistical data from States which have adopted the 44-hour week are that industry has adapted itself to new standards and that the additions to wage cost attributable to reduced hours have not arrested development.

The evidence submitted by the metal trades employees does not outweigh the evidence as to the need and wisdom of removing a continuous cause of disputes from the path of industry.

The Court should approve a reduction of standard hours to 44 per week except in regard to (a) direct production; (b) industries in respect of which it is proved that the reduction would imperil their continuance; (c) the traffic section of railways (other than steam locomotive drivers and their assistants); (d) occupations which call for no serious physical or mental effort, e.g., caretakers, watchmen, gatekeepers, &c.

The above-mentioned dispute was referred into Court under section 19(d) of the Act on 30th March, 1926. In the log of wages and conditions of employment served upon the employers by the claimant Union was a claim for the reduction of the standard hours of employment in the industry to 44 per week.

Pursuant to section 18B (1) of the Act the Attorney-General on behalf of the Commonwealth gave notice of his intention to intervene in the public interest insofar as the question of standard hours in the industry was in dispute; the prescribed notification was published in the *Commonwealth Gazette* and the matter was listed for hearing in Melbourne on 24th March, 1926.

The States of New South Wales, Victoria, South Australia, and Queensland and several organizations of employers and employees and associations of employers applied, as interested parties, for liberty to be heard on the matter and, leave having been given by the Court, appeared in the proceedings.

*C. E. Mundy* for the Amalgamated Engineering Union;

*J. McNeil* for the Australian Workers' Union;

*H. C. Gibson* for the Federated Engine Drivers and Firemen's Association;

*D. McNamara* for the Australasian Society of Engineers;

*B. V. Keane* for the Australian Railways Union;

*C. Crofts* and *E. J. Holloway* for the Trades and Labour Council of Australia and the Commonwealth Council of Federated Unions;

*A. W. Foster*, of counsel, for the State of New South Wales;

*Stanley Lewis*, of counsel, and *Russell Martin*, of counsel, for the Central Council of Employers of Australia, the Victorian Chamber of Manufactures, the Graziers Federal Council of Australia, the Gas Companies Association of Australia, the Melbourne Woolbrokers' Association, the Northern Collieries Association, the Federal Council of Mill-owners of Australia, the Overseas Shipping Representatives' Association, the New South Wales Coastal Steamship Owners' Association, the Master Builders Association of New South Wales, the Electrical Employers' Association of New South Wales, the Master



Builders' Association of Melbourne, the Colonial Sugar Refining Company Limited, and several respondents in the Engineering case members of the Victorian Chamber of Manufactures and the South Australian Employers' Federation;

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*R. G. Menzies*, of counsel, for the Commonwealth Steamship Owners' Association, the Australian Mines and Metals' Association, the Broken Hill Pty. Co. Ltd., McPhersons Pty. Ltd., and Thompsons Engineering and Pipe Company Ltd.;

*Sir Robert Best*, solicitor, for the Melbourne and Metropolitan Board of Works;

*T. W. K. Waldron*, solicitor, for the Hoskins Iron and Steel Company Limited;

*J. L. Moore* for H. Jones & Co. Ltd., Peacock Jam Company Ltd., Australasian Jam Co. Ltd., Hoadleys Pty. Ltd., Rosella Preserving & Mfg. Co. Ltd., Studley Preserving Co. Pty. Ltd., W. D. Peacock & Co. Ltd., and also for the members of the Commonwealth Jam Preserving and Condiment Manufacturers Association, the Tasmanian Sawmilling Association, and the Tasmanian Master Carriers' Association, Huon Timber Co. Pty. Ltd.;

*W. C. Myhill* for the Metal Trades Employers' Association of New South Wales, the Chamber of Manufactures of New South Wales, the Motor Traders' Association of New South Wales, and the Agricultural Implement Makers of Victoria and New South Wales;

*F. H. Corke* for the Sydney and Suburban Timber Merchants' Association, the Newcastle Timber Merchants' Association, and several other employees engaged in the Sawmilling and Box and Case Manufacturing industries in New South Wales;

*H. L. Wallis* for the respondents members of the Employers' Federation of New South Wales;

*P. J. Carolan* for the Victorian Railways Commissioners;

*W. W. Alcock* for the Timber Merchants and Sawmillers Association of Western Australia, the Melbourne Timber Merchants' Association, and the Country Sawmillers Association of New South Wales;

*P. F. Cherry* for the South Australian Railways Commissioner;

*H. Cresswell* for the State Government of South Australia in regard to its various activities with the exception of the South Australian Railways;

*J. J. Hanby*, solicitor, for Herbert Walker & Co. Pty. Ltd.;

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*C. Knight* for the Board of Land and Works for the State of Victoria, the Minister of Public Instruction of the State of Victoria, the Master of the Victorian Branch of the Royal Mint, the Maffra Sugar Company, the State Rivers and Water Supply Commission of Victoria, and His Majesty the King in the right of the State of Victoria;

*H. A. L. Binder* for the State Electricity Commission of Victoria;

*A. C. Cook* for the Melbourne Harbour Trust Commissioners;

*J. F. Kirby* for the Fuller's Theatres Ltd., Hugh J. Ward's Theatres Pty. Ltd., the Majestic Amusements Ltd., Frank Neil, Union Theatres Limited, Haymarket Theatres Limited, the Greater Wondergraph Limited, Winter Garden Theatres Limited, and the Australasian Films Limited.

On 17th December, 1926, the Court reserved judgment.

On the 24th February, 1927, the following written judgments were delivered:—

Dethridge, *C.J.*

*DETHRIDGE, C.J.*—The propositions adduced in support of the reduction of the standard working week from 48 to 44 hours, may be stated broadly as follows:—

1. It is both just and desirable that employees should have greater leisure than they enjoy at present, in order to give them an opportunity to improve their lives in their physical, social and mental aspects.

2. The betterment of their lives would tend to be a real benefit to the whole community by helping to remove existing discontent, and to banish friction between parties to industry.

3. In the conditions of work in modern industry, a 48 hours week while not obviously injurious to the health of male workers in most industries, does so far exhaust their vigour as to deprive them of the mental or physical strength needed to take a fair share in the interests of civilized life other than that of earning their livelihood.

4. Production in industry has so increased by reason of modern machinery and methods, that the needs of the community can be satisfied without the employees working more than 44 hours per week.

5. So far as the introduction of the 44-hour week may cause immediate loss of production, that loss will tend to be compensated by the improved methods and machinery which will be more readily adopted by employers when stimulated by the necessity to make up the loss.

6. So far as the loss of production is not thus made up, either the employers and capitalists should bear the burden of the loss by taking smaller profits, or if that is not possible, the community as a whole should bear it by reducing its consumption of goods or services or by paying higher prices.

7. The employees form the great bulk of the community; therefore they form the great bulk of the consumers of manufactured products,

and therefore manufacturing production and business generally would be stimulated and made more profitable by giving to the employees high wages to spend, and more leisure in which to cultivate and develop better ways of spending their wages.

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8. In Great Britain, Europe and America, there has been, since the war, a great decrease in the length of the working week as compared with that in existence previously, which was far longer than the then existing Australian standard of 48 hours, and the tendency there, is to a working week of 48 hours at most in Europe and to a working week of 44 hours in Great Britain and America.

9. In Great Britain and America, in some industries, hours have been largely reduced to 44, while in Great Britain in the engineering iron and steel and metal trades a week of 47 hours now predominates in most branches.

10. In New Zealand the 44-hour week has been largely, though not universally, established.

11. In Australia, in the building and some other industries, a 44-hour week some time ago became universally recognized, and although this was ostensibly for so-called special reasons, those reasons to some extent at any rate apply to the industries now in question.

12. In New South Wales and Queensland the State Legislatures have introduced the 44-hour week in all manufacturing industries, while in Western Australia it has been introduced into Government Departments and has been adopted as the general standard by the State Arbitration Court, and therefore prevails in those States except in so far as this Court has otherwise awarded when dealing with inter-State disputes.

13. That having regard to the existence of the 44-hour week in Australia and in some of the States as already indicated, the continued maintenance of the 48-hour week amongst employees in other industries in the same community, which industries are similar in character or in their conditions to those enjoying the 44-hour week cannot fail to cause continual disturbance or discontent in those other industries and thus diminish production.

To these propositions, the opponents of the reduction claimed have made in substance these answers:—

1. The working week of 48 hours does not injure the health of the employees, and does not involve any inhumanity, and therefore the leisure gained by a reduction to 44 hours is not a reasonable object of desire but is a luxury.

2. The shortening of the working week to 44 hours will result in either a loss of production, or an increased cost of production, which can never be completely recovered by improved methods or machinery so as to make the production of the community the same in amount as if the 48-hour week had continued.

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3. The profits of the employers in industry are not larger than are necessary to pay for management, to attract capital, or to increase capital for the necessary further development of industry, and such profits therefore cannot be reduced so as to meet the loss or increased cost of production, and consequently the burden of such loss or increased cost must be imposed upon the community.

4. The community cannot afford this loss or increased cost of production because:—

- (a) The country is developing itself and therefore requires to maintain at least its present rate of production per head of population;
- (b) The country has not yet recovered the rate of production per head of population which it had reached in the years 1911 to 1914;
- (c) The foreign indebtedness of the country has greatly increased during and since the war and production has to be maintained so as to help to pay abroad the interest thereon;
- (d) Some primary industries would be directly handicapped by increased labour costs, and all primary industries by a general rise in prices;
- (e) Public utilities, such as railways, roads, irrigation and electric power, would be subjected to greater cost in respect of labour and materials, and so the development of the country would be checked.

5. It is necessary for the economic independence of the country and for its military self-defence that secondary industries should be developed, particularly the engineering and iron and steel and metal industries.

6. The engineering and iron and steel and metal industries are subject to keen foreign competition, and would be in danger of failing to withstand that competition if subjected to further production cost.

7. Those industries are as well equipped as is as practicably possible in Australia, and cannot by any improvement in methods or machinery avoid the loss of, or increased cost of, production that would be occasioned by a reduction in the working week.

8. Although in Great Britain, Europe and America, the length of the working week has been considerably reduced during and since the war, there has lately been some reaction towards a working week longer than 48 hours in Europe and America, and only in rare cases does the 44-hour week prevail.

9. Although in New Zealand the 44-hour week has been largely adopted that country is only to a small extent a manufacturing country.

10. Industries now working a 44-hour week generally throughout Australia, only acquired a shorter week by reason of special circumstances; industries having a 44-hour week by reason of State laws or

State awards are subject to awards of this Court in case an interstate dispute is created involving hours of labour, and such interstate disputes would probably be created by employers so as to give this Court jurisdiction (if it chose to exercise it) to make awards over-riding such State laws and awards and restoring a uniform standard 48-hour week throughout Australian industries except where special reasons exist to the contrary.

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In recent years in the industrial countries of Europe and America, as well as in Australia, public opinion has tended to the conclusion that if industry can with an eight-hours' working day provide for the needs of the community the manual worker may fairly claim to be relieved from longer labour. Although modern industrial methods have largely banished severe bodily effort by the introduction of machinery, they require instead a more intense and continuous concentration of attention. In manufacturing industry, the monotony of much of the present-day work is unrelieved by the variety of old-fashioned craftsmanship, and machines allow little respite to the men who wait upon them. In some parts of the transport and communication industry, too, increased concentration of attention upon the worker's task has become necessary, and also greater responsibility because of the appliances now used, although there is not the same degree of monotony as is to be found in factory work. In the building industry, machinery does not play so extensive a part, and so far as it has been introduced probably has rendered manual work less rather than more onerous; and the same may be said of the ordinary labourer's work, such as navvying, which, however, has always involved strenuous muscular activity. Education has spread among manual workers, their desires are more extensive and more varied, their interests and tastes have developed, they are largely organized, their political power has enormously increased, and they are able to get a hearing for their aspirations. It is a natural consequence that they should hope for a time to come when they would not have to spend quite so much of their energy in earning a living, when at the end of the day's work they would have more leisure and vigour with which to take a share in the other interests and pursuits of civilized life. This hope is not one to be deprecated any more than the desire of an employer to find leisure for other pursuits than his business. If an employer, without neglecting his business, and without injuring the community, devotes some portion of his time to objects not associated with his industry, he is thereby the better man; and, likewise, if employees could, without damaging their livelihood or the community, gain greater leisure and capacity for interests in life other than that of earning a living, they would be better men. If this achievement is feasible it is not unworthy, and it would be rather extravagant to call it a luxury, as was suggested during the hearing of this case. It would more fitly be regarded as one of the comforts of life that the increasing wealth of

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the world has made permissible. In Australia, the Saturday half-holiday has now come to be recognized as such a comfort, and no one thinks of calling it a luxury. Experience seems to show that eight hours' work per day, well and honestly done, with a half-holiday on Saturday, would not be so short as to slacken the moral fibre of men which the wholesome necessity of working for a living keeps taut. It may fairly be assumed that in Australia, at any rate, there are few people who would not agree that the 44 hours made up of five eight hour days and one four-hour day is desirable, and, if practicable, is likely to be beneficial, not only to the manual workers themselves, but indirectly to the whole community. Whether the 44-hour week, involving a whole holiday on Saturday, is desirable is more disputable. In some cases economic conditions may make it preferable; but it would involve more than eight hours' work per day, and would retain some of what are alleged to be objectionable features of the 48-hour system. It is not at all clear that the full holiday on Saturday would be for the welfare of the worker.

Granted that the 44-hour week in one at any rate of its forms is desirable, has it now become practicable in Australia? It is true that neither employer nor employee can, in an ideal sense, "live by bread alone." But neither can live at all without sufficient bread. If an industry can only maintain itself under a 48-hour week, and would be seriously injured by the introduction of the 44-hour week, the result for the employees would not be the enjoyment of a fuller life; it would be the suffering of a stinted life. The standard of living to which he has become accustomed would be lowered by unemployment or lessened real wages. Employees cannot live the life they desire without earning wages sufficiently high for that purpose. Wages do not come from the pockets of employers or capitalists. They can only come from what the employees make or do, with the aid of employers as managers, and with the aid of capitalists as providers. If the product now being obtained by working a 48-hour week is being distributed so as to give the employers and capitalists only a fair share, employees cannot reasonably hope to obtain greater leisure at the expense of the employers. If, on the other hand, the employers or capitalists are taking an unduly large share, the workers are entitled to complain; and it would, perhaps, not be unnatural for them to say that, instead of attempting to obtain a larger share of the product for themselves, they would prefer to procure substantial justice by working fewer hours, and thus by reducing the total production of wealth for the community 'deprive the employers and capitalists of their unfair surplus, and at the same time gain greater leisure for themselves. Let us assume, for the moment, that employers and capitalists are deriving an unduly large share. Any such attempt to take away the unfair surplus by working shorter hours would certainly injure the community more than

the employer or capitalist, and the community consists chiefly of employees. If the employer or capitalist were to continue in business notwithstanding the shortening of the working week, he would succeed in passing most of the extra cost of production caused thereby on to the public. If he were to cease or diminish business, production and wages would fall, prices and unemployment would rise. In either case, employees, as a class, would suffer most. It was suggested at the hearing that the shortening of the working week is the only method of getting a permanent benefit for the employees, inasmuch as any rise in money wages is shown by experience to be nullified by increased cost of living; and so, in effect, employees themselves have to pay for their rise in wages. How far this is true need not be discussed here, but it seems clear that if the leisure gained by a reduction of working hours were to result in a loss of, or increased cost of, production, employees, as a whole, will have to pay for the leisure almost wholly out of their own pockets. They cannot make the employer or capitalist bear more than a small share of the burden. This is true in the main, although in some cases where employers are faced with foreign competition or a falling demand they may curtail profits in order to retain business. If the shorter working week in an industry results in a loss of, or an increased cost of, production, the whole community must suffer by consuming less or by paying higher prices; while the persons engaged in the industry itself, including employees, must in addition suffer such injury to the industry as is occasioned by that loss or increased cost. To some extent in the hearing of this case this position was recognized by the advocates of the shorter working week, but its full effect perhaps was not clearly apprehended. At times some of them appeared to think that it was possible to make employers or capitalists bear substantially the whole cost of the shortening of the working week. It appeared to be assumed, as a matter of little doubt, that an unfair share of the product of industry was going to them. The works of a number of writers who attack or criticize the present industrial system were referred to and put in as evidence. These works charge employers and capitalists with greed, with incompetence, with wasted and misdirected activity. Suggestions were made during the hearing that excessive profits are gained in industry, which are not publicly disclosed and are hidden by secret reserves or by other devices in order to conceal the fact that wage-earners or the public are being exploited. It is not the function of this Court to determine how far these charges are well-founded as regards employers and capitalists in general. No inquiry of that nature with the means of information available could lead to any satisfactory conclusion as to the facts, and even if all the facts are ascertained there would still be the extreme difficulty of determining what is a fair reward for management and for the risks capital has to take. Opinions of equal worth upon that point would probably vary greatly. This Court is only concerned with the profits of industry

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when dealing with the question whether particular industries under consideration can bear the result of a proposed alteration of conditions of labour. The evidence submitted to the Court on this point was pertinent chiefly to the engineering and the iron and steel and metal trades, and was concerned with only a comparatively few establishments, some prosperous, some not. When dealing with the question whether excessive profits are being made in a particular industry as a whole, both successful and unsuccessful enterprises should be taken into account. Close examination of the evidence submitted did not elicit anything suggesting that excessive profits are being made in these trades as a whole. In some businesses, including very important ones, quite inadequate profits are being made, in others they are adequate, and in a few very good. In these latter cases, however, much of the profits had apparently not been distributed, but had been used as capital to provide for expanding business; so that, to some extent, those profits were in that way operating beneficially for employees as well as for employers. In an expanding business, for the sake of all engaged in it, capital must be obtained from somewhere, and it cannot be obtained from the owner of the business, or elsewhere, without being fairly paid for. In a few instances the profits thus used for capital purposes had returned to the owner more than market rates of interest; but these were not typical. There was nothing in these cases to suggest that employers in these trades, as a whole, were making such a profit as would enable them personally to carry a substantial loss of, or a largely increased cost of, production, even supposing that, contrary to what has been said, it were possible to prevent them from passing the burden on to the community. In other industries of a monopolistic nature the profits may be sufficiently large. But there seems to be a widespread sincere belief among employees that the profits of employers generally are unduly large. And there seems to be a popular belief, equally sincere, that if the length of the working week be reduced the cost of the reduction will be borne by the employers. The claim for a shortened working week is frequently treated as a claim against employers, but it is really a claim against the community. Whether the reduction of working hours be just or unjust, the cost, if any, must substantially be paid by the public at large, and the extent of that cost is therefore a matter for very serious consideration. The existence, however, of the belief that employers take very excessive profits should not be ignored; it breeds suspicion and discontent, which have an evil influence on industry. Close contact between employer and employee is rare in these days of big business, when most large undertakings are carried on by corporate bodies; and this remoteness increases the distrust that prevails, and will continue to prevail, amongst the workers until some means is found of informing them of the real gains of employers and capitalists, and of the use made of these gains in business. Employers might think it worthy of attention whether the advantages arising from



imparting a knowledge of these matters to employees would not outweigh the disadvantages arising from the risk of rivals in business gaining information that might be used detrimentally.

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But although the community has to pay the cost of the reduction, it may be that in respect of some classes of workers that result is just. If some employees are working 48 hours while the remainder of the community enjoy better conditions as to the duration of their work and their mode of living, it might be considered fair that that remainder should bear its proportionate share of this cost. That, in effect, is the position as put by the advocates for the reduction. The question therefore has to be considered whether, apart from the well-to-do, other sections of the community are enjoying such better conditions. Employers and capitalists form the bulk of the well-to-do, and the difficulty of imposing the whole cost of reduction upon them has already been noticed. The number of idlers in this community, rich or poor, is negligible. Statistics show that the independent class in Australia is shrinking in numbers, being, in 1921, only 0.9 per cent., as compared with 1.4 per cent. in 1901. However ideally just it may be to make the idlers either pay or work, so as to give the workers a spell, they are too few and not rich enough for the purpose. The evidence given concerning the primary industries showed that persons engaged therein do not enjoy an advantage as to duration of labour compared with manufacturing or commercial workers, but generally they are not subject to the confinement or strain incidental to work in modern factories. Brain workers in the professions, or elsewhere, are forced by the nature of their functions to work without any definite limitation of hours. Many female workers in factories now work only 44 hours—it would probably be beneficial on the whole if that were made the maximum for all females who are engaged in similar work. The male manual workers who now work for 44 hours or less, otherwise than by virtue of State laws or awards, do so either because the special nature and conditions of their employment make it seem just that the work should be so limited, or because they are able by reason of the demand for their services to exercise economic pressure upon employers and the public, as in the case of some of the sheltered industries. Such workers are thus able to get an advantage, part of the cost of which their less fortunate fellow workers in competitive industries have as members of the community to pay, and being in this position of vantage they could, and would, just like capitalists and employers, try to pass on to the rest of the community any burden cast upon them by the shortening of the working week of their fellow workers. If the cost of living should rise as a result of that shortening, they would demand an increase in wages, or, it may be, an increase in their own leisure, and thus try to maintain their existing relative superiority in working conditions. In industries in which the workers are able at present to

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gain shorter working hours really by means of their economic strength, whatever ostensible reason may be given, they claim them, notwithstanding that ultimately their less fortunate co-workers, while themselves working longer hours, are compelled by the operation of economic forces to bear the bulk of the cost of what may be thus obtained.

But the certainty that men, whether employers or employees, will use any economic advantage they possess should not blind us to existing real inequality in respect of leisure among workers. The true criterion of comparison, however, in respect of working hours is not the mere number of hours worked. The just ideal is that different industries should, as far as is economically practicable, afford to the workers an equal real and not mere nominal enjoyment of leisure. We must look at substance and not at mere labels. Eight and three-quarter hours of work in an occupation not attended with confinement, strain, or fatigue, or with a soiling which takes a long time to remove, may afford as much real leisure as eight hours work in an occupation subject to these disadvantages. To put all on the same footing as to hours would be unfair to the latter. Mr. Philip Snowden, the well-known Socialist leader, in his work *Labour and the New World*, at page 218, in his chapter dealing with the working day in the social organization which he hopes will be established, has the following pertinent comment:—

“Under no system of industrial organization will the working day be uniform for all industries and occupations. The working day will vary in different industries, according to the nature of the work and its intensity or disagreeable character.”

The railway porter, for instance, at the end of eight and three-quarter hours work, is in a position to obtain just as much real enjoyment or leisure as the machine worker in an engineering shop would get after finishing an eight-hour day of strain and toil. If it should appear desirable that the latter should have the 44-hour week, it does not at all follow that the 44-hour week should be made universal amongst all industrial workers. Machine and factory workers, who have to work within four walls, frequently in the midst of nerve-racking noise, with a monotonous continuation of the same motion, and an unbroken concentration of attention upon uninteresting toil, have a higher claim to consideration than most others, and may have some reason to feel that they are not enjoying equality of treatment, seeing that workers in other occupations have already obtained the 44-hour week, although there was nothing in the nature of the work done to justify that priority.

It may be stated, broadly, that throughout Australia—

Clerical workers work 44 hours or less.

Building trades, boot trades, waterside workers, flour-millers, and shearers work 44 hours.

Some classes of storemen and packers work 44 hours.

Shop assistants—47 hours or less.

Rubber workers—Male, 46; female, 44.

Clothing trades, mostly females—44.

Printing—Largely 44.

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Those now working 44 hours in particular States by reason of State laws or awards or determinations are here disregarded. Machine and factory workers now working 48 hours may fairly say that, as compared with the workers in the occupations enumerated, their real opportunities for enjoyment or leisure are not equitably adjusted. It is questionable, for instance, whether the engineering trades, as between themselves and the building trades, have not been put at a disadvantage. The members of the Builders Labourers' Federation obtained the shorter working week because, as it was put, they had to "follow the job"; that is to say, to spend time in going from their homes to the various places where their work called them. But they do not seem to be substantially worse off than factory workers generally. The instances of hardship in this respect cited by Mr. Justice Higgins in the report of that decision<sup>(1)</sup> are no greater than many existing in other industries.

It was argued that the manual workers have not received their fair proportion of the benefit that has flowed from the introduction of machinery; that "labour-saving devices have not saved labour," although many of those devices have been discovered by manual workers. Some weight has been given to this contention on other occasions when the 44-hour week has been under discussion. So far as the inventions are due to manual workers, their actual discoverers should get whatever reward may fairly accrue, but the general body of manual workers are no more and no less entitled than the rest of mankind (other than the idlers) to benefit by them. Whether improvement in wages and conditions of the manual workers has kept pace with the increase of wealth arising from the use of modern machinery and methods was questioned. Those methods and appliances in many processes undoubtedly produce a hundred, and it may be a thousand, times as much as old methods, but it would be fallacious to take these instances as measures of the increase made thereby in the total wealth that is to be distributed. The total wealth has not been manifolded to the extent frequently thought. Machinery has not wrought a new miracle of the loaves and the fishes. It is estimated that during the last three-quarters of a century the productive power of workers, on the average, has been only increased between two and three times.

(1) 7 C.A.R. at p. 229.

Professor Edie, in his *Principles of the New Economics*, published in 1922, at pages 73-4, citing King's *Wealth and Income of People of the United States*, says—

“The paramount significance of the mechanical equipment is that it serves to increase the output from a given amount of labour. Owing to the use of machinery, the average worker produces to-day more than two and a half times as much as in 1850. The worker to-day has a productive equipment four times as valuable per capita as that of his father working back in 1850. This increased investment in productive capital, by giving the worker a superior mechanical and scientific equipment, has nearly trebled his productive capacity. As King summarizes it—‘Evidently the popular impression is true that, as far as dwelling, vehicles, clothing, &c., are concerned, we live in a state of luxury that our fathers knew not of.’”

Of course, not all of this increased production is available for consumption. A great part of production is machinery and materials to be used for further production. By no means is all of the output in the nature of clothing, or food, or furniture, or drugs. In large part it is new buildings, new transportation facilities, new machinery, and new equipment for the carrying on of all the processes of economic life. . . .

On the average, between one-seventh and one-fifth of the total product goes to the making of these non-consumable goods. Any notion of productive efficiency due to the mechanical and material equipment must take this non-consumable portion of the full national product into account. With due allowance for this factor, it is estimated that the net efficiency of the labourer in making consumable goods has been, at least, doubled. Progress in the future depends upon improvements in this mechanical, material, and scientific factor. Only by this means is it possible substantially to increase the output from a given amount of labour, and to increase to a maximum the available wealth for human consumption.”

This matter is also referred to in the second American edition of Gide's *Political Economy*, at pages 103-6. The immense development of mechanical horse-power in the United States is there indicated, and the expectation indulged in by some people that, as a result of that development, four hours of labour, or perhaps less, per day would suffice to produce more wealth than is necessary to satisfy the national needs is alluded to in the following terms:—

“Furthermore, an analysis of the above fantastic predictions would show that these hopes are greatly exaggerated. The larger part of the mechanical energy used in modern industrial life is applied exclusively to transportation by means of steam-boats and

locomotives. Machinery does, to be sure, multiply our productive energy, but a large number of workmen are employed both in producing it and in attending to it while in use."

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The manual worker shares with the rest of the community the cheaper and more rapid transport and travel, the advantages of public utilities and other instruments for the satisfaction of his present day wants, which have been made possible by the modern development and use of mechanical power. But it seems to be thought that he, although he gets this benefit, is not being allotted his fair share of the increased productivity due to this power; that he, as a consumer or as a wage-earner, suffers from the exactions of persons who control that power, and that these persons unjustly, by means of their control, take substantially the whole benefit thereof. However, careful investigations in the United States by unprejudiced authorities indicate that, even if other classes obtained no more than is reasonably due to them, the average wage-earner's income would not be very greatly increased. If this be so, his increase of wages cannot be lagging far behind the increase in wealth resulting from machinery. Edie, who is unquestionably sympathetic with labour, at pp. 135-6, deals with this question. He says:—

"Any considerable increase in the real wages of the masses of people depends upon an increase in the total productivity of the country. Labour may make gains here and there in squeezing out of the present fund of production some of the excessive gains which go to profiteers, but any substantial progress in the form of more of the necessaries, comforts, and luxuries of life, is conditional upon an advance in the productive efficiency of the whole people. On this point, the careful statistical studies of W. J. King are authoritative. His conclusions are stated as follows:—

'Thus it would seem improbable that with our present national productive power any feasible system of distribution could increase the average wage-earner's income in purchasing power *by more than one-fourth*, and this is an extreme rather than a moderate estimate. While such a change might or might not be desirable, it would at least work no startling revolution in the condition of the employees of the United States. The grim fact remains that the quantity of goods turned out absolutely limits the income of labour, and that no reform would bring universal prosperity which is not based fundamentally upon increasing the national income.'

King's findings were based on pre-war figures. Post-war investigation has been made by David Friday in which the observation is essentially the same. The practical conclusion that follows from all this is that the source of real wages must be found in production, and not in a redistribution of the product of industry.

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Those who had hoped to augment the labourer's real wages by making short shrift of the whole matter and adding to the labourer's wages what the entrepreneur now receives as profits, will be disappointed by this analysis of the situation.

That a 20 per cent. increase in productive output is possible was demonstrated during the war. That the co-operation of labour is necessary to any such programme is obvious. But the possibility of that co-operation was also demonstrated. Given an aim that appealed to the imagination, that made labour an integral part of the body politic, it demonstrated its willingness to co-operate. But there had to be a worth-while end, and there had to be recognition of labour as a factor equal to the other partners in the industrial life of the nation."

These estimates and comments are made concerning the United States—a high-wage country. Turning to Australia, also a high-wage country, very useful information is contained in the book, *The National Dividend*, by Mr. J. T. Sutcliffe, of the Commonwealth Bureau of Census and Statistics, who was an important witness in this inquiry, and who has rendered very valuable assistance by his researches and tabulations of results. In that book Mr. Sutcliffe has the following passage:—

"The Labour Report, published by the Commonwealth Statistician, gives particulars of average wage rates for male and female workers. These are computed by taking the average of several thousand occupations covering hundreds of industries.

The averages for the year 1920-1, that is, the year ending June, 1921, were as follows:—

Males ..	..	90s. 2d. per week =	£234 per year.
Females	..	45s. 5d. per week =	£118 per year.

Averaging these two according to the proportion of male and female workers, 77 per cent. males and 23 per cent. females were getting an average of £210 per annum. Some allowance must be made for unemployment as the rates quoted are the rates fixed for a full week's work. Unemployment during the year averaged 9.5 per cent. If allowance is made for this the annual average rate becomes £190."

Reference to the Labour Report shows that this average rate may fairly be taken as that of manual workers. Mr. Sutcliffe estimates the total national dividend or income of Australia on page 13 by one method at £537,400,000, and on page 27 by another method at £536,200,000. These totals include income of all kinds—tangible goods and intangible services paid for in money. At page 25 he points out that in that year, according to the Census, there were 2,316,716 breadwinners, which number includes all property owners, all employers and all capitalists, as well as all other persons who earn or receive income except pensioners.

Of these, 410,600 were juniors, estimated by him to have an average income of £70 each, aggregating £28,700,000. Omitting these juniors and the amount they earn we have 1,906,116 adult breadwinners receiving an aggregate income of, say, £537,000,000, less £28,700,000, equal to £508,300,000, or an average of about £266 12s., which average covers all the income of all these breadwinners. This result substantially agrees with that obtained in the United States. In view of these facts the assumption that the increase of wages in Australia has greatly failed to keep pace with the increase of wealth due to modern machinery and methods is not warranted. We have not the material before us with which to ascertain how far if at all it has not maintained its proper proportion. It may be that here as elsewhere some profiteers obtain an undue proportion of that increased wealth, but their identity and the extent of their operations is not known, and for the workers to make a change in general industrial conditions affecting all employers and employees alike, merely to deprive these profiteers of their spoils, would be suicidal.

A suggestion was made that if greater leisure were granted to manual workers who themselves form the majority of consumers of manufactured products, their desire and need for such products would be developed; that thereupon the consumption thereof would increase, and this increased consumption would in its turn stimulate business and production. It was argued that the shortening of the day's work even if attended with a loss of output would thus tend to diminish unemployment and in the long run to increase output. Obviously this effect depends upon the workers having a spending power in excess of present requirements, that is to say, upon their having higher wages. It has not been shown that they can obtain substantially higher wages otherwise than by increasing output. Probably it would be sound policy generally for both employers and employees to increase output, and at the same time for employers to pay out of that output the highest wages industry can stand. But until they do so co-operate to produce more, a mere increase of leisure of course cannot stimulate production. Some form of payment by result properly safeguarded in the interest of the workers seems to be a necessary incentive, but most of the unions are officially at any rate still strongly opposed to this principle of remuneration. I have had the advantage of reading my brother Beeby's judgment so far as it deals with methods of remuneration and agree with what he says as to the injury to workers themselves arising from the unions' attitude upon this matter. I hope that a practical scheme of Unemployment Insurance can be devised which will help to remove the fear of unemployment, which is the chief obstacle to payment by results as well as to other instruments and methods of efficiency in output.

Another matter to be considered is this. It is contended that the needs of the community could be supplied, notwithstanding the shortening of the working week. What would amount to a satisfaction of the

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requirements of the country cannot be determined with any certainty, but almost all people in Australia would agree that one of the most important of those needs is that the existing standard of living should not be lowered. Any step which may so affect industry as to make maintenance of that standard difficult should be scanned with caution. For that reason as well as for certain other reasons advanced by the opponents of the reduction, we must very carefully consider its effect. It was urged with great force that Australia imperatively requires to firmly establish all secondary industries in order to secure both its economical independence and its national safety. If we do not encourage the growth of such industries, if we fail to become capable of supplying our own needs in manufactured commodities, and especially in those furnished by the engineering, iron and steel, and metal industries, our prosperity will be at the mercy of the seasons, our producers at the mercy of the foreign manufacturer, our country at the mercy of the armed invader. We must prepare for that time in the future when, for our own security, we must be able to meet our own wants from our own mines and furnaces, from our own workshops and factories. So ran the argument and it is not to be gainsaid that if the lessening of standard working hours by this Court means that the future welfare of the country is likely to be put into greater jeopardy than would otherwise exist, that lessening is not to be countenanced. We have to consider which is the better course to be taken for the welfare of those vital industries—to decide the very difficult question as to whether the reduction of working hours or the maintenance of the present standard would, having regard to existing facts, be the less likely to injure them. It may be that whichever course is taken, some injury is inevitable, that all we can hope to do is to choose the lesser risk.

It was also urged strongly that by a general introduction of the 44-hour week public utilities requiring a number of manual workers, such as the railways, irrigation and power services, would be put to a greater cost, and have their usefulness to the country diminished, that our primary industries would suffer by increased labour cost and by higher prices of goods and services and that as our foreign debt has increased very greatly any reduction in the output of the country would add to the difficulty of meeting our obligations abroad. And it was also contended that the output of the country instead of increasing since the years immediately preceding the war, had relatively to the population shrunk.

All these arguments deserve grave consideration, and if it appears that this Court, by reducing the working week, would substantially disable necessary industries or public functions to a greater extent than by retaining the present standard it must refuse the reduction.

We endeavoured to obtain evidence of the result in actual experience of the working of the 44-hour week. General prognostications of disaster on the one hand, or of uninjured prosperity on the other, are of



little or no value. Nor do we get much assistance from the fact that when in Great Britain the daily working hours were reduced to ten, and then to nine, employers and others strenuously opposed the change and made woeful predictions, which proved to be wrong. Those predictions were made either ignoring or overlooking facts now admitted to be of essential importance. The facts that an unduly fatigued worker is an uneconomical worker, that the methods and mechanical appliances of industry continue to improve, and that Great Britain had at that time a long lead over other nations in the industrial race by reason of having been first in the field, were not given due weight. But the mere fact that these predictions were wrong should not induce us to allow our view of present conditions to become coloured. It is certainly not clear that the 48-hour week system, as now worked in industry, fatigues the workers so as to make it unprofitable, and it is certainly clear that Australia is behind other competing countries in her industrial development.

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We get some assistance from the evidence of the effect upon output of reduction of longer hours to 48, but this is not of the same value as that showing the result of a reduction from 48 to 44. Obviously, if we were to go on shortening working time we must reach a point at which no possible improvement in methods or appliances will compensate for the loss of output, a point at which the reduction would mean privation for all. The question is whether it is sufficiently clear that we have reached such a point of development in industry, and particularly in the engineering and allied sections, as to make it unlikely that a further reduction of working time will injure all engaged in them as well as the community. They cannot be separated; if those industries suffer the country will suffer; if the community suffers all those industries will suffer. That point of development is probably becoming more nearly attainable by means of our increased command of mechanical power; but has it been reached yet?

The evidence presented in support of the contention that the reduction of hours would not be followed by a serious loss of production consisted, to a large extent, of published accounts of investigations and experiments made in Great Britain, Europe, America, and, to some extent, in Australia. They were almost wholly concerned with the effect of the reduction of hours to 48 from a longer period of 53 up to 60 hours, which longer period was attended with what is called by the experts "industrial fatigue." In a few cases the reduction was to 44 hours. In nearly every case the workers were engaged in piece-work. The general conclusion to be drawn from these investigations is that whatever the number of hours worked, if they result in industrial fatigue a reduction sufficient to eliminate this fatigue is advantageous, inasmuch as ultimately, if not immediately, the same output can be attained in the reduced number of hours: Industrial

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fatigue is described thus in the final report of the British Health and Munion Workers Committee, contained in the work *Industrial Health and Efficiency*.

"Fatigue is the sum of the results of activity which show themselves in a diminished capacity for doing work. Fatigue may spring from the maintained use of intelligence, the maintenance of steady attention, or the continued use of special senses. When the work is monotonous, fatigue may appear in the psychical field; monotony may diminish capacity for work; on the other hand, 'interest' may increase it. Fatigue should be detected, and its causes dealt with while it is still latent and before it becomes excessive. The tests of fatigue are diminished output, the failure of concentration as shown in increased accidents and spoiled work, staleness, ill-health, and lost time.

Without health there is no energy; without energy there is no output. More important than output is the vigour, strength, and vitality of the nation. The conditions essential to the maintenance of health are, first, personal conditions or those favorable to the body itself (e.g., food, fresh air, exercises, warmth, and adequate rest); and secondly, a satisfactory environment (e.g., a safe and sanitary factory, and suitable hours of work, good housing accommodation, and convenient means of transit)."

If it were shown that the 48-hour week, as worked in Australia, produced industrial fatigue in this sense, there should be no hesitation in reducing the length of the working week. Not only would the change be imperative for reasons of humanity, but industry and the nation would gain in material wealth after the workers had adjusted themselves to the altered times.

It was not suggested, however, that industrial fatigue prevails now to any material extent in normal Australian industries working the 48 hours, and little evidence relevant to this aspect was tendered. Dr. Badham, of Sydney, stated that he had investigated the employment of females in the textile industry here, and had come to the conclusion that the loss of production that follows from a reduction of the week's work to 44 hours would be about 4 per cent. He had not obtained precise data. This conclusion almost agreed with an instance cited in an article by Dr. Myill and Dr. Angles in the *Journal of the Institute of Industrial Psychology*, dated July, 1925, where a test was made in a card-board box factory. The majority of the workers were males. Apparently, they worked 40 hours a week for 61 weeks, then 44 hours for 31 weeks, and then 48 hours for five weeks, and showed only 3.1 per cent. increase of production in the 48-hour week as compared with the 44-hour week. Dr. Badham thought this test was adequate to give reliable results. Apparently, the operatives worked piece-work.

Dr. Purdie, of Sydney, also gave evidence, which appeared to establish that the amount of sickness among employees of the Sydney City Council was considerably less when the 44 hours five-day week was worked than under the 48 hours six-day week.

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On the other hand, Dr. Summers, of Melbourne, stated that he had not found any illness among workers in normal industries working 48 hours that could, in his opinion, be due to working so long. He agreed in substance with the conclusion of a well-known authority—Dr. Sargant Florence—in the latter's article in the *International Labour Review* for November, 1924, that probably the 48-hour week is the optimum, having regard to both health and production. He also expressed the view that although the health of women factory workers might not be injured by Saturday work, it would be beneficial, on the whole, if they were able to devote that day to their home life.

Investigators in Great Britain and America appear to incline to the conclusion that, at any rate so far as the immediate bodily health of male workers is concerned, there is little material difference between the 44-hour and the 48-hour week.

Some of the witnesses for the shorter week stated that, in their opinion, it would be followed by greater zeal on the part of the workers, and that this would help to prevent loss of output. Predictions of this kind receive some, but not much, encouragement from the evidence of actual results in New South Wales after the 44-hour week was introduced by Statute. In one case a witness, Mr. Wrench, foreman of the Purcell Engineering Company, said that he had found the men showing a greater willingness to adopt labour-saving methods devised by himself, and that he had thereby succeeded in gaining increased production in a shorter, as compared with the longer, week. But the evidence of witnesses from the Government departments of New South Wales indicates that there is no appreciable increase in the hourly output of work under the shorter week. Men in the railway and other public services do not work harder now than formerly merely because the working week has been shortened. Compensation for loss of output or service has to be sought in labour-saving appliances and methods, or bonus incentives; but it is important to remember that the removal of causes of discontent among the workers may induce them to further the success of these means.

It was contended that employers in the engineering and allied industries in Australia are not managing their businesses efficiently; that their methods and equipment are not modern, that there are too many establishments engaged in doing the same class of work, and that capital is thus wasted or misapplied. The evidence does not show whether to any material extent managers are inefficient. It suggested that in some of the more important establishments the management is on a high grade, but the material furnished was too scanty to enable

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the Court to come to a conclusion on the general question. It appears that, since 1920, additions of modern plant have been made at considerable expense, and it is not shown that the plant, as a whole, is not reasonably sufficient to meet Australian requirements. There may possibly be some superfluous establishments, or superfluous plant, in these industries; but if this superfluity does exist, it is not clear that its removal would tend materially to more economical production. Many establishments are largely occupied with repairing and replacement work, which, if concentrated in a few places only, would probably become more costly than now, when it is done in places more accessible to those requiring the work to be done. To the contention that there is overlapping in manufacture, that a greater economy of production could be attained by allotting to one establishment the making of each special product, so as to avoid unnecessary duplication of plant and overhead charges, and that the shorter working week would force employers to so re-organize their industry, the answer is that such re-organization means the establishment of a number of monopolies. Unstimulated by competition, monopolies tend to retard new and improved methods, and unrestrained by competition they are dangerously apt to operate at the expense of both consumers and workers, to put up prices and put down wages. They sometimes prevent the advancement of men gifted with capacity for original initiative management in business, which capacity is too rare and too valuable to be discouraged. Nearly all the great industrial managers have started in a small way on their own account. Henry Ford himself may not have come to the front if he had been a subordinate and not a master of his own small factory in Detroit. If the monopoly is so enlightened as to pay high wages and charge low prices, to recognize and advance business ability as Henry Ford advocates, perhaps the gain to the community of the monopoly would outweigh the risk; but it would be unwise for the workers to be over-sanguine of this outcome. This Court would be rash if it tried to force such a revolution on industry.

As might have been expected, no definite means of improving methods or machinery to compensate for the loss of production could be indicated in the evidence or otherwise. All that was possible was to express an anticipation, founded on past experience, that there would be a continued improvement, and that this improvement would be quickened by the greater necessity of replacing human labour if working time were lessened.

A great mass of evidence was given on behalf of the employers and authorities controlling public utilities in Victoria and South Australia, containing an estimate of the result of the proposed reduction. Substantially, the estimate was an increase in the wages bill of about 9.1 per cent., together with a corresponding increase in overhead charges,

and an increase in cost of materials, varying upwards from 3 per cent. Alternatively, a corresponding loss of output was anticipated. In some cases it was stated that a heavy expenditure of capital would be necessary to provide plant and equipment if a diminution of output were to be avoided, e.g., in some engineering shops and in the textile industry. This, it was alleged, had already happened in the flour-milling industry after the reduction of hours made therein by this Court some years ago, and the contention has a considerable foundation in fact.

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In addition to evidence of estimates, the Court has the advantage of testimony as to actual results upon output of the shortening of the working week by previous awards of this Court or of State Courts, or by legislative or administrative action in New South Wales, Queensland, and Western Australia. The evidence concerning work done in public utilities for or on behalf of the New South Wales Government is of special value, inasmuch as no motive of private interest could be suggested.

Mr. H. B. Edwards, Assistant Manager of the Tramway Shops at Randwick, where the work is mainly the maintenance of tramway rolling-stock and the power-house plant, stated that the shortening of the week had resulted in increased wages cost of about 5 per cent.; that he had been able by improved methods to reduce the loss to that amount chiefly by means of a bonus system of payment, but not to any great extent by a change of lay-out or improvement in appliances. He stated that he anticipated that, if the bonus system could be used fully, the loss of output due to a shortening of hours would be compensated.

Mr. G. Haskins, Inspecting Engineer of the Department of Public Works and the Water and Sewerage Board, stated that the output of work fell off one-twelfth in the very extensive undertakings within his control, which comprised, amongst other things, the construction of reservoirs, sewerage works, and of locks on the River Murray. In the main, the work is labouring and concrete work. He had not kept records, but stated his very definite opinion that the output had fallen off one-twelfth; the men were doing good work, but working no harder than they did during the 48-hour week. He hoped, by means of future improvements in plant and methods, to attain the same output with the same number of men as during the 48-hour week, but could not say how long it would be before the goal would be reached. Bonus payments, in his opinion, were an undoubted incentive to work where applicable.

Mr. F. G. Neilley, Resident Engineer in Charge of Sewerage Work in the Northern Suburbs of Sydney, gave similar evidence as to the fall in output, and also as to the effect of bonus payments.

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Mr. C. T. Stephens, Manager of the State Monier Pipe and Reinforced Concrete Works, stated that, since the 44-hour week had been introduced, the men, although on a task-work system, had ceased to work on Saturday; but that the rates of payment had been increased, so that they now earned the same money for the 44-hour week as they had previously for the 48-hours' week. The reduction in output meant that about 8 per cent. had been added to labour cost. As to some branches of the industry, such as the State quarries, he said they had been, or would be, able to materially reduce production costs by improved methods or machinery; that they were about to introduce machinery in the State metal quarries, by which the number of men employed would be reduced from 200 to 50.

Mr. W. F. Barnes, Assistant Loco. Works Manager, Eveleigh, where the bulk of the work is the repair of locomotives and tenders, said that, judging from results since the beginning of the year, he expected there would be a one-twelfth loss of output due to the shortening of the working week.

Mr. J. Fraser, Chief Commissioner of Railways, New South Wales, estimated that the increase in wages of the New South Wales railways due to the shortening of the week would be 6.07 per cent., and for the tramways 5.53 per cent. These estimates take into account all employes, including those whose hours had not been affected. He considered that the loss would be overtaken by continual improvement and appliances and methods, but that improvement would take place almost to the same extent if the working week were still 48 and not 44 hours, and therefore the 44-hour week may mean to some extent an irrecoverable loss. He anticipated a 9.1 per cent. increase in the workshop staff.

Mr. T. J. Hartigan, Chief Accountant of the New South Wales Government Railways and Tramways, in substance gave evidence similar to that of the Chief Commissioner, and also stated that the estimated increase of the cost of materials would be about 3.0 per cent.

Mr. J. W. Davidson, Commissioner of Railways, Queensland, deposed that there had been a gradual change from 48 to 44 hours since 1917 in the Railway Department until 1st July, 1925, when by statute the 44 hours became general. He was unable to indicate what increased cost had been caused prior to the latter date, but estimated that as to the classes of employees whose hours were only reduced in the latter year an increase of staff to the extent of 6.89 per cent. had become necessary because of the reduction after making all feasible alterations of service to the public and management to obtain economical working. Only fragmentary evidence of not much value was given concerning the Western Australian Railways.

Mr. L. Ennis, Director of Dorman Long and Company, in charge of the construction of the Sydney Harbour Bridge, said that the loss

of output due to the shortened week was about 9 per cent. He said that it would be possible to introduce a contract or bonus or piece-work system of payment on account of work done in connexion with the bridge, and thereby get an increased output; that even when machines are operating to their highest capacity they are not fed to their utmost without some such incentive to zeal.

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Dr. J. J. C. Bradfield, Designer and Engineer in charge of the North Shore Bridge, said that working 44 hours instead of 48 he naturally expected to get a corresponding decrease in output, and he did not suggest that the actual decrease in output had been less than 1-12th or that the increased cost or the wages cost of regaining that output would be less than about 9.1 per cent.

In addition to these witnesses dealing with public works, other witnesses were called as to the actual result upon output of the shortened week in New South Wales. Messrs. R. A. Spring, of Metters Limited; W. B. Hipsley, of Hipsleys Limited, Engineers; L. N. Thompson, of Andrew Thompson and Scougall Limited, Engineers and Ironfounders; A. Stewart, Sydney Steel Company; T. Smith, Branch Manager of Dorman Long and Company, Engineers and Ironfounders; S. G. Crane, Works Manager, Watson and Crane Limited, Brassware and Steam Valve Manufacturers; J. M. Deschamps, Managing Director of Hadfields (Australia) Limited, Steel Founders and Engineers; T. H. Silk, Managing Director of Mort's Dock and Engineering Company; J. H. Pocock, Managing Director, English Electrical Company of Australia; E. R. Coutt, Works Manager, Sonnerdale Limited, Manufacturers of Automobile Gears and other work; J. Heine, of John Heine Limited, Engineers; E. W. Mc Keon, Engineer, Docks and Wormalds; P. G. Taylor, of the Clyde Engineering Company, gave evidence, the effect of which was that the shortened working week had resulted in a corresponding reduction of output, and in some cases was accompanied with a much greater reduction of output due perhaps to the discontent and unrest prevailing among the operatives as a result of being paid 44 hours pay for 44 hours work (pursuant to an arrangement that had been made in settlement of an industrial disturbance in the industry) instead of receiving the full 48 hours pay for the 44-hour week as prescribed by the New South Wales statute.

Of these witnesses only a few kept records, but they expressed the opinion generally that there has been a falling off in output of about 9.0 per cent. or more. Little effort seems to have been made by any alteration of methods or plant to obviate the decrease of output since the 44 hours week had been in force, but sufficient time had not elapsed to enable much to have been done in that way. They said that their machines were set to run at full capacity, and that it was therefore impossible to speed them up so as to increase output. As to any

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improvements in feeding these machines they say that is not feasible, at any rate, unless piece-work is adopted, and the unions up to now have prevented that being done. Even where task work has been adopted for suitable work, the fall in output has been the same as in time work, because the rates of pay for such work having been increased so as to give the same weekly wage for 44 as for 48 hours, the task workers have decreased their output.

Mr. J. M. Michaeljohn, Works Manager, Austral Bronze Company, also gave evidence as to the reduction in output in the work done by the copper sheet metal mill, copper rod mill, and yellow metal rod mill, the increase in labour cost being respectively 5.4 per cent., 7.1 per cent., and 5.4 per cent.

Mr. Healy, Wood Worker, gave evidence to the effect that the reduction in hours had resulted in a serious loss of profit, but he did not produce precise records in support of this evidence.

It is manifest that output is greatly affected by the state of mind of the worker. In illustration of this, Mr. Deschamps in his evidence stated that the proportion of the average output per man per week in the moulding section of Hadfields Limited was in the proportion of 14 in the 48-hour week to 10 in the 44-hour week, and explained this great discrepancy by the assumption that the men did not work willingly, because they were not receiving 48 hours pay for 44 hours work as provided by the State Act of Parliament. He gave another striking example which there is no reason to regard with doubt. Men had been engaged by him in England to work upon truck wheels. When in England, where they worked on piece-work, they turned out an average of 80 per day per man. These men were brought out to Australia, and under exactly the same conditions as to appliances, but being paid upon the time-work rates agreed on—that is, the award rate plus 10s. per week—they turned out, on an average, only 35 per man. He stated that he thought that the men could easily give 50 on the ordinary day-work conditions, but they only keep abreast of the pace set in the shop by other workers.

Mr. L. J. Griffiths, Australian manager of the Broken Hill Pty. Steel Works, gave evidence to the effect that the increased labour costs per ton in the production of steel and iron on an average approximately corresponded with the reduction of hours from 48 to 44.

Mr. A. H. McDonald, of A. H. McDonald and Co., engineers, a Victorian employer, gave evidence also as to the reduction of output in certain work when the hours in the engineering industry were previously reduced by this Court, which was to the same effect; and similar evidence in respect of the timber trade was given by Mr. J. Ingram, Mr. Corke, and Mr. Moore. As to the timber trade, the evidence pointed to a reduction greatly exceeding 8.3 per cent., but it would not be safe to assume that this high reduction was due solely to a reduction



of working hours. On the other hand, there was evidence given to show that if a scientific system of piece-work had been introduced it was possible, in some industries at any rate, to increase product in a 44-hour week beyond that obtained previously in the 48-hour week with time-work or on a less-developed system of piece-work.

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Mr. V. L. G. Law, of the Pelaco Company, gave evidence that he has succeeded in doing this; that the relations between the employer and employees were quite harmonious, no hardship being occasioned to the employees by over work, while they all earned very good wages.

A similar result has been obtained in the Cadbury and Rowntree chocolate establishments in England, where the hours have been reduced to 44 with no loss of output.

Evidence was given as to the State Brickworks in New South Wales. That evidence is not of much value in the present inquiry, inasmuch as the hours worked there did not exceed 45, even before the introduction of the 44-hour week in New South Wales. These works came under the 44-hour week on the 25th May, 1923. Before that, although the nominal hours were 48, the men had never worked more than 45, so that the real reduction in working time was only one hour. The evidence does not show the result of this reduction of hours, so as to enable it to be measured. The establishment appears to have been very capably and successfully managed in competition with other establishments, up-to-date machinery having been installed, the effect of which was to largely increase the output. To some extent, of course, this case goes to show that the shortening of hours may be compensated by the instalment of such plant. A bonus or profit-sharing method of payment was in force.

Evidence was also given with regard to the New South Wales Government Printing Office, in which the circumstances were similar, except that no bonuses were paid. There the reduction in working hours was only one hour per week, and expensive modern machinery was installed, which enabled the same production to be obtained with much less man-labour.

The Sydney Municipal Council introduced the 44-hour week amongst its employees some years ago. Evidence was called with regard to its effect upon the Electric Light Department, which employs approximately 4,400 people. Mr. Mostyn, an alderman of the Council, and Mr. Maling, Deputy General Manager of the Electric Light Department, gave evidence to the effect that the reduction to 44 hours had been effected with practically no cost. The case, however, is one which is not a guide in respect of ordinary industries. It appeared from the evidence that when 48 hours were worked, the Saturday morning work was the cause of loss on account of the amount of time wasted in going to and from jobs. Nevertheless, the evidence does seem to

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show that in similar cases elimination of Saturday morning work may, if accompanied with economical re-organization, not cause loss proportionate to the reduction of the working week.

In another instance not consequent upon any reduction of working hours, strict supervision of construction work resulted in a saving of  $2\frac{1}{2}$  per cent. labour cost. This appeared in the evidence of Mr. F. L. King, Efficiency Officer of the Melbourne and Metropolitan Board of Works, in respect of sewer building done by some of the men in its employ. Mr. King, however, does not suggest that this case showed that the  $2\frac{1}{2}$  per cent. improvement could be universally obtained.

In the shearing industry, in which the 44-hour week now prevails by a re-arrangement of times of working, so as to avoid working in insufficient light, by increased shed accommodation to avoid wet sheep, and by improvements in appliances, the men shear more in the 44 hours than formerly in 48. Breeding of plain-bodied instead of wrinkled sheep has contributed to this result, but the other factors seem to have been most influential. It has to be remembered, however, that this is a piece-work industry.

In the tobacco industry, loss of production was avoided by altering the shape of the product after the working week was shortened, but there is little competition in this industry, so that it is hardly comparable with others.

In the Court of Arbitration, Western Australia, when the question of the 44-hour week was being dealt with by Mr. Justice Dwyer, he attached great weight to evidence going to show that saw-mill workers, paid on time and not piece rates, had, after working the 44-hour week for some months, so adapted themselves to the new period as almost to recover their weekly rate of production during the previous 48-hours period. It was suggested by a timber-trade witness before us that this instance was not based on reliable data, although no definite evidence on the point was given. No similar case was presented to us by direct proof. Investigations by qualified experts as to the possibility of some ultimate recovery of output by increased manual efficiency of the workers after a reduction of the working week to 44 hours have not yet been made. Where the worker is merely attending on a machine which is set to its highest capacity, all that can be looked for is that he may speed up the feeding of the machine, but where his work is more dependent on his own bodily activities, a somewhat better result may be expected. The gradual improvement of the hourly rate of productivity that has been found on a reduction of working hours to 48 will probably continue to some extent, as Mr. Justice Dwyer assumes, if a still further reduction is made, but there is not enough evidence to warrant the belief that the further improvement would ever be enough to compensate materially for the loss of four hours' work in the week.

On the evidence, one cannot escape the conclusion that in some cases the shortening of the working week to 44 hours has been followed either by a proportionate reduction of output and a proportionate delay in the completion of necessary work, or by a proportionate increase of labour and overhead costs. In others, the loss has not been so great, being compensated to some extent by more efficient management. The necessity of adopting labour-saving methods and plant is stimulated afresh with every increase in labour cost, but their discovery and application cannot be perfected instantly. Some time has to elapse before any material effect is perceived, but past experience shows that employers can, and do, respond to the need caused by the decrease of manual labour, and find means of largely overcoming loss of output and delay in completion. If zealous and effective co-operation by the employees could be secured, the loss would probably be negligible on the whole, though some industries subject to foreign competition would be more handicapped. The latest statistics as to manufactures in New South Wales and Victoria, which are brought up to 30th June, 1926, thus taking in six months of the 44-hour week period in New South Wales, are more favorable to that State than to Victoria, where the 48-hour week still prevails. They show the following results:—

	New South Wales.		Victoria.	
Output, 1924-25 .. ..	£159,608,876	..	£118,177,398	..
Output, 1925-26 .. ..	£169,413,741	..	£119,986,439	..
Value added, 1924-25 .. ..	£59,044,051	..	£48,922,079	..
Value added, 1925-26 .. ..	£64,443,597	..	£52,821,994	..

These figures, though not at all conclusive, suggest that the shortening of the working week did not, in fact, very greatly reduce factory output. The cost-of-living figures for Sydney and Melbourne tend to the same conclusion. They show the following movements:—

	Sydney.			Melbourne.				
	Index.	Basic Wage.			Index.	Basic Wage.		
		£	s.	d.		£	s.	d.
1925, 4th quarter ..	1801	4	9	6	1789	4	7	6
1926—								
1st quarter ..	1828	4	10	6	1779	4	8	6
2nd quarter ..	1868	4	12	6	1854	4	12	6
3rd quarter ..	1841	4	11	6	1794	4	9	0
4th quarter ..	1842	4	11	6	1777	4	8	0
Average for 1926 ..	1845	4	11	6	1797	4	8	0

Whether production in Australia as a whole had fallen below its pre-war rate was the subject of much controversy. On the one side the contention was that during the years 1920-24 the average production per head of population was lower than that during the years 1909-14, and on the other hand that the country had practically regained its productive capacity. Unquestionably the war injured the productive

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powers of the country, and recovery could not be expected at once. A critical examination of the position cannot be made here. Results vary according to the index number chosen to correct prices, and it is common ground that no index number is completely satisfactory. Probably one would be safe in assuming that we have now regained in the average year the same production per head as in the five years immediately preceding the war, and a considerably greater production per head of population than the average during the first decade of the century.

Statistics of factories during the last five years appear in *Year-Book* No. 19. They show the value added per head of population, and the comparative results when corrected by production price index numbers show that the total factory production during the last three years, at any rate, has remained in the same ratio to the population after considerable variation in the two preceding years of boom and depression.

On turning to factories devoted to metal works, machinery, &c., the following particulars in the *Year-Books* suggest an increase of production relatively greater than the increase of population:—

	1920-1.	1921-2.	1922-3.	1923-4.
Output ..	£57,227,952 ..	£55,542,033 ..	£54,038,984 ..	£69,982,086
Value added ..	24,637,078 ..	25,899,384 ..	26,373,611 ..	29,040,790
No. of employees ..	80,550 ..	76,798 ..	78,614 ..	88,213
			1924-5.	
Output ..			£76,250,772	
Value added ..			30,504,947	
No. of employees ..			90,888	

Imports have been in excess of exports every year since 1920-21 inclusive, except in 1924-25, this excess being due in the main, no doubt, to the large loans which have been floated abroad during those years. In respect of our indebtedness, stress was rightly put upon the necessity for production, in order that the country could be able to meet its obligations abroad.

Clearly the country cannot afford a substantial decrease of its production. Clearly, also, the manual workers will suffer by such a decrease. Unless it appears that any class of workers is at a real disadvantage in respect of its working time compared with other workers, the Court should hesitate in risking that decrease. But where that real disadvantage exists it creates a state of mind in the workers which militates against production. There can be no doubt that the discontent which prevails so widely among factory workers leads to slackness and diminished output. This discontent may in great part be based on illusory grounds, but, so far as it is due to an unwarranted real and not apparent disparity of conditions as to hours of work, in comparison with those of other workers in the community, it cannot

be dispelled. If the 44-hour week exists among other workers in the same community not more entitled to it than those factory workers now working 48 hours, the latter cannot fail to be aggrieved, nor their productive efficiency diminished. Standards of working hours different in reality cannot be maintained indefinitely in a country like Australia without producing this effect, unless it is made manifest to the workers in an industry that the industry cannot maintain itself otherwise than by working the longer hours. The existence in a neighbouring State or country of a shorter hour week has the same effect in a lesser degree.

The considerable success that has followed the efforts of workers in other countries to obtain a shorter working week also influences the minds of the workers here. This success is important, too, when considering the effect of foreign competition upon our industries.

In New Zealand, in manufacturing industry, the 44-hour week is predominant, and although that branch of industry may not be very extensive there, the country is so close and so alike to Australia in most respects that it affords an ever-present comparison to the workers here. It is worth noticing that, in the New Zealand railways the workshop and locomotive men have the 44-hour week, but the running staff work 48.

Excepting those in the Railway Department, workers employed by the Commonwealth in its various services, including the Defence Department factory and in the Commonwealth Territories, work the shorter week.

A great mass of evidence was given as to working hours in other countries. They have been much reduced from the standards prevailing before the war, and in Great Britain and America the workers' organizations have unquestionably set their minds upon the 44-hour week as the goal to be sought. In Europe the 48-hour week appears to be regarded as the objective at present, but although more or less nominally recognized in actual practice, it is commonly exceeded.

In America the 44-hour week is to be found in some union shops and factories, but the prevailing hours are 48 and over. In the engineering industry the movement for the 44-hour working week has made little progress, which may be due to the fact that most of the workshops are not union, but are open shops. In the building and clothing trades, however, 44 hours is practically the standard. It prevails also among many municipal employees, and printers, as a rule, have a week less than 48 hours. In these industries, which are strongly organized, the unions have almost, if not quite, obtained their object. It is true they are mostly sheltered industries.

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In Great Britain the present position as to working hours may be summarized thus:—

Over 48 hours in a few cases, including shift workers in lead and smelter works;

48 and 47 in about an equal number of industries, 47 being the standard recognized in the engineering and metal trades;

44 largely in sheltered industries, such as the building trades, municipal works, also in cocoa and confectionery trades, and, to some extent, in wood-working, paper-making, and a few other cases.

There can be little doubt that in Australia organized workers in the mass are strongly desirous of a shorter working week. Many may entertain beliefs, fallacious it may be in some respects as to its practicability, as to the possibility of obtaining the concession at the expense of employers only, and as to the absence of the need of maintaining output to preserve their own standard of living; but however mistaken they are on these matters, the unsatisfied desire exists and influences their productive activity. That desire, and the belief that it can be gratified without injurious consequences, has been stimulated by previous awards of this Court and of State tribunals, and particularly by Acts of Parliament in Queensland coming into force in July, 1925, and in New South Wales coming into force on 4th January, 1926, which purported to establish the 44-hour standard working week in all except primary industries. Before these two Statutes there had been a strong tendency to shorter hours in the whole of Australia. The Labour Report No. 16, at page 76, indicates that the weighted average weekly hours of labour for Victoria and for Australia for adult workers, other than shipping or pastoral, were as follows in the years 1914 and 1924, before the two State Acts referred to, and in 1925 in between those two statutes:—

	Victoria.		Australia.	
	Males.	Females.	Males.	Females.
1914—30th April ..	48.80	48.54	48.93	49.08
1924—31st December ..	46.99	46.08	46.66	46.02
1925—31st December ..	46.98	45.83	46.44	45.78

The New South Wales' statute has since still further reduced the Australian average, and so also has the State Arbitration Court in Western Australia.

A Bill to introduce the 44-hour week was passed by the Legislative Assembly in Western Australia, and rejected by the Legislative Council, but a State Arbitration Court was created which has this year, in effect, adopted the 44-hour week as the standard in all manufacturing industries. Published statements by eminent employers like Henry Ford, Lord Leverhulme, Seeborn Rowntree, and Cadbury's Limited, advocate the shorter working week, and allege its practicability without loss of production if more efficient methods are adopted. All these and other

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similar influences have operated on the minds of the workers. It is asserted that, influenced by what they conceive to be a just resentment because the boon is being withheld, they have become slack in their work, and predictions were made that if it be granted they will use more energy, and assist in increasing output. There may be some truth in this. Probably there would be somewhat more effective co-operation on the part of some of the workers, but the main cause of such slackening as may have occurred is to be found in the unfortunate belief which commonly prevails that the workers benefit by limiting output; that the smaller the loaf they make, the more bread there is to go round. The granting of the shorter working week will not, perhaps, stimulate the workers' productivity to the extent claimed, but the position to be faced is this—the 44-hour week already extensively exists in Australia in industries, the workers in which have no greater right to it than most machine or factory workers, who still work 48 hours. State laws have purported to make the shorter week general amongst most of the workers in New South Wales, the largest of the States, and in Queensland, and State arbitral awards have a similar effect in Western Australia. It exists very largely in New Zealand, and it has received support by prominent men not themselves members of the wage-earning classes. The conclusion cannot be evaded that the continuance of the 48-hour week is likely to be accompanied by an increased slackening and reduction of output among these classes of workers, which will largely off-set the output derived from the extra four hours' work per week. Strikes which may occur on questions of hours may reduce production, but their effect would be transient and innocuous compared with that of an increased continual slackening of effort.

Intensity of will to work, according to all experts, is a most important economic factor, and it is not to be overlooked by this Court. This intensity may be affected by political or Governmental action determining conditions of labour, both in those workers directly subject to such action, and in other workers in close contact with those so subjected. Disparity in conditions of workers in the same community, however created, leads to discontent and decreased efficiency among the less favoured. No supervision or discipline can effectively overcome this evil.

This Court is not to be influenced by political considerations, but it cannot ignore economic conditions merely because they have been created partly or wholly by political or Governmental action, even though that action might be considered by some people to have been ill-advised or too far-reaching. It is true, as a matter of law, that so far as the subject-matters of interstate industrial disputes are concerned, the awards of this Court are paramount over State legislation or awards. It is true also that it might be possible to create technical interstate disputes as to all industries affected by State legislation or

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State awards as to hours, and so virtually give this Court a quasi-legislative power over those industries. An attempt to so transfer substantially all industry from the ambit of State legislation to that of this Court would meet with many practical difficulties. If those difficulties were not conquered and if, therefore, any large portion of the workers retained, by virtue of State laws or awards a 44-hour week, while this Court by its awards retains a 48-hour week for workers of similar general conditions in the same State, the contrast would lead to industrial unrest and its injurious consequences. In any event, this Court cannot prevent a State Government or Legislature from continuing to grant the 44-hour week to its own employees, or from requiring it to be granted by all public bodies under its control, or by persons desiring to make contracts with such Governments or public bodies involving the employment of workers. This Court has no power to prevent any person or body from granting to his or its own employees the 44-hour week, nor has it any power to prevent any person or body from requiring a condition in contracts that the contractor shall grant the 44-hour week. In Australia a very considerable portion of the industrial workers are engaged upon State Government enterprises under the Government as employer, or as having power over the employer. If any of such State Governments choose to continue or to introduce the 44-hour week in such enterprises, it is quite free to do so, and the result would be a continued contrast of conditions as to working hours in the same industry in the same community.

Nevertheless, this consequence must be endured in respect of industries in which the 48-hour working week does not produce any real inequality of leisure as compared with 44-hour week industries, and where, therefore, reduction of working hours is not demanded by substantial equity. In such cases, if the reduction of hours would impose a serious burden by loss of output or of services upon the community, the Court should not, merely to avoid differences of standard hours between States or sections of the community, impose the burden upon those States not already subject to it, but should leave it to the common sense of the people to gradually overcome any discontent caused thereby. But factory, workshop, and machine employees, like the members of the claimant union, working the 48-hour week are on the whole at a real disadvantage as compared with most other workers, and this contrast of condition, cumulative upon any contrast created by State laws or awards or administration, will certainly diminish zeal, efficiency, and productivity. A just standard of hours of labour in industry is that which places the workers in all industries on what is really, and not merely superficially, the same footing in point of leisure. Inasmuch as in some industries the day's work deprives the workers of opportunity and capacity for enjoyment of leisure more



than in others, the number of hours to be worked must vary accordingly to secure general fair treatment. Only a rough approximation to this general fair treatment can in practice be obtained.

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Workers in industries whose conditions are similar to those of the members in general of the claimant union can put forward an equal claim for the shorter week; but others not subject to a like strain, confinement, monotony, unremitting concentration of attention, or equivalent disadvantages affecting the opportunity or capacity for rational enjoyment of leisure, have not the same right. A uniform standard number of hours in the working week in all occupations, whether it be 48 or 44, really involves an unfair sharing, as between the workers in one and those in another industry, of such leisure as is permitted by the inexorable need for the community to work in order to maintain itself. We are not here to dally with the popular fallacy that the workers would benefit by a universal process of cutting the week's work short so as to get more men put on the job.

Even among the industries whose work is of such a nature when compared with that in other industries as to create a higher claim to the shorter working week, its indiscriminate adoption may do much harm. Industries may be so assailed by overseas competition or may be in such financial stress that the shorter week instead of being a boon would be a bane to both employees and employers. It is better for a man to work 48 hours at his trade than not to work at all.

It will be gathered from what I have said that, in my opinion, the general shortening of the 48-hour working week would be fraught with danger to the workers themselves. No sufficient margin of production, actual or potential, beyond our present needs has been shown to exist which would justify the Court in sanctioning an all-round easeup. But I have come to the conclusion that the circumstances of the engineering industry, and of other industries whose workers are at a similar real disadvantage in respect of leisure, warrant the adoption of the 44-hour working week of five eight-hours' days and one of four-hours' day as the normal standard in those industries, subject to the safeguard that this Court, constituted of three Judges, upon a majority thereof being satisfied that an industry is or will be unable to maintain itself with the 44-hour week, may retain or revert to a standard week for that industry not exceeding 48 hours. There is strong evidence that in work continued after eight hours in such occupations, efficiency begins to wane, and therefore a distribution of the 44 hours which does not involve a longer daily period of toil is advantageous in this respect. In many industries, too, the intermission of work throughout the whole of Saturday leads to grave loss and inconvenience. If employers consider the 44-hour week worked in five days preferable, they could arrange such a scheme of working hours by agreement, but the Court should not impose it upon them.

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If workers whose normal standard working week is 44 hours should be engaged as constant employees in an industry in which a longer working week prevails, and it should not be reasonably practicable to carry on the operations of that industry unless such workers work the longer week, it would be necessary for them to treat that longer week as their standard, so long as they were so engaged.

The evidence submitted has not satisfied me that the engineering industry is, or will be, unable to maintain itself with the 44-hour working week, and I approve of the reduction of the standard working hours in that industry to 44 hours per week as from the coming into operation of the award to be made herein.

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LUKIN, J.—Whether the normal standard of forty-eight (48) hours per week, now obtaining in this industry, should be reduced to forty-four (44) hours per week is the direct and formal question arising in these proceedings.

Whether the normal standard of forty-eight (48) hours per week now obtaining in normal industries in Australia whose industrial disputes are within the jurisdiction of this Court, should be reduced to forty-four (44) hours per week, is the indirect and substantial question that is involved.

Our decision in form will directly determine whether the hours in this industry are to be reduced to forty-four (44) as claimed, but that decision will operate as a strongly influencing factor in determining a claim for a similar reduction in the many other industries coming within our jurisdiction.

Section 18A of the Commonwealth Conciliation and Arbitration Act provides that notwithstanding anything contained in the Act, the Court shall not have jurisdiction to make an award reducing the standard of hours of work in any industry to less than forty-eight (48) hours per week unless the question is heard by the Chief Judge and not less than two other Judges and the reduction is approved by a majority of the members of the Court by whom the question is heard.

*Trades Hall Resolution.*—The Trades and Labour Council of Australia has passed resolutions in effect directing that all unions working more than forty-four (44) hours per week should thereafter include in their log a claim asking for a reduction of hours to forty-four (44). In accordance with such direction there are now pending in this Court a number of applications in interstate industrial disputes in which that claim for reduction is made. The application of this union as being that of a normal industry has been selected as the one in which this all important question should be heard and determined.

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Consequent on such application the Attorney-General on behalf of the Commonwealth acting under section 18B of the Act has, by giving notice in writing of his intention so to do, intervened in the public interest. The Registrar, thereupon, as required by the Act, has caused the prescribed notices to be published. A large number of persons, organizations, and associations of employers and employees, as interested parties, have applied to the Court for and were granted liberty to be heard and to examine and cross-examine witnesses.

The States of New South Wales, Victoria, South Australia, and Queensland, also made the same application. New South Wales, Victoria, and South Australia have offered very material evidence on the questions involved. Queensland, in which there has been some experience of a general reduction to forty-four (44) hours, that would have been valuable and helpful to us, has thought fit not to supply the Court with any evidence, notwithstanding the Court's intimation to that State's representative of the Court's desire that it should do so and ultimately withdrew from the proceeding. Western Australia and Tasmania were not represented at all. The Commonwealth Government did not appear either to support or oppose.

## ATTITUDE OF COMMONWEALTH GOVERNMENT.

At the opening of these proceedings in Court the Commonwealth Attorney-General explained that the Commonwealth Government did not propose to take further part in the proceedings; that the sole purpose of his intervention was to enable the parties concerned to bring evidence and arguments as to the standard of hours in a normal industry before this Court; that he desired to make this point clear so that it would be plain to the community that this inquiry was being left entirely to the Court and that the Government, in accordance with declarations made from time to time, did not desire to take any further part in the matter, but left the whole question to the Court to determine on the evidence and arguments submitted. The Commonwealth Government seems to have taken up the same attitude on the same question in 1920 in the Australian Timber Workers' case.<sup>(1)</sup>

I have referred to what the Attorney-General has said on this question because it was suggested that the inference to be drawn from the absence of the Commonwealth Government as a party to the application was that it saw no serious objection to it. (See address of Mr. Foster, page 5471, and page 2 of Summary of Address). I understand the Government's attitude is one of neutrality leaving the matter to be determined by three Judges of this Court as the duly constituted authority under the Commonwealth Constitution, an authority uninfluenced by political feeling or political expediency, or by any

<sup>(1)</sup> 14 C.A.R. p. 846.

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other desire than the due performance of their duty according to the best of their ability and minded only to make an impartial, complete, and thorough investigation into the matter, and then to embody its conclusions in an award or awards.

PREVIOUS DECISIONS ON THE QUESTION.

The question of the standard hours has been on many occasions considered by our predecessors in this Court. The Court, from its first proceedings under the Act seems to have determined that forty-eight (48) hours per week should be the normal standard of hours.

In 1913 Higgins, J., in the Australian Builders' Labourers' case,<sup>(1)</sup> said:—

“In the Australian communities forty-eight (48) hours constitute the generally accepted standard of working time.”

He adds:—

“In *establishing* generally a limit of forty-eight (48) hours for the week Australia has achieved a result which is the envy of many other nations.”

In 1915 in the Waterside Workers' case<sup>(2)</sup> the same learned Judge says:—

“As I have stated in previous cases, I do not feel justified in departing from the Australian standard of forty-eight (48) hours without special reason.”

In 1919 in the Gas case<sup>(3)</sup> the same Judge said:—

“I have frequently said that I do not feel at liberty to reduce the Australian standard of forty-eight (48) hours without strong grounds.”

In 1920 in the Amalgamated Society of Engineers' case<sup>(4)</sup> His Honour said at the outset of the hearing in that case:—

“A change in the standard hours of work is, of itself, a tremendous social change, of far-reaching consequence.”

Again later on in the same year in the Australian Timbers Workers' Union case<sup>(5)</sup> he again refers to this matter in these words:—

“At present we have established in Australia a standard of forty-eight (48) hours per week.”

In this last-mentioned case after a lengthy inquiry into the working of similar industries, on which inquiry at His Honour's request the Trades Halls of the respective States and numbers of employers of the different States, as well as the parties to the dispute, were represented, he delivered a considered judgment on the question whether forty-eight

<sup>(1)</sup> 7 C.A.R. p. 228.

<sup>(2)</sup> 9 C.A.R. p. 300.

<sup>(3)</sup> 13 C.A.R. p. 455.

<sup>(4)</sup> 14 C.A.R. p. 28.

<sup>(5)</sup> 14 C.A.R. at p. 841.

(48) hours were necessary or appropriate for industries generally *under present conditions*, and on the 12th November answered the question in the negative and allowed a reduction to forty-four (44) hours. At page 869 *inter alia* he said:—

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“It was by no means clear that in the net result the employers would not get more output on the whole from the forty-four (44) hours, as asked, than the forty-eight (48).”

What the learned Judge in this judgment thought was by no means clear was in the later cases and has been in the present case clarified beyond any possibility of doubt. It must be noted that he considered the question “under (then) present conditions” and the test he appears to have applied was the necessity and appropriateness of the forty-eight (48) hours. In his judgment he referred to a report shortly before made to the New South Wales Government by my brother Beeby as a Commissioner. The “present conditions” then obtaining were of the best. The inquiry on which he based his judgment was held in the months of August, September, and October, 1920, when prices and wages were at their highest peak and future prospects looked brightest. My brother Beeby made his report under apparently similar prevailing conditions. He has explained it to us in this Court (see page 191 of the transcript) in these words:—

“At that time New South Wales was at the peak of what I might term the post-war boom; it was very prosperous. The opposition to the forty-four (44) hour week *was not very formidable* the main line being that if we were to have forty-four (44) hours it should apply to the whole of Australia. I want to make it clear that the 1920 report was on the state of affairs existing in 1920.”

Later Higgins, J., made a similar reduction from forty-eight (48) to forty-four (44) hours in the Amalgamated Society of Engineers case<sup>(1)</sup>:

“In accordance with my decision in the Timber Workers’ case.”

In the year 1921 the question was reconsidered by Powers, J., (successor to Higgins, J., to the office of President of this Court) and two other Judges of the High Court acting as Deputy Presidents on an application to vary.<sup>(2)</sup> At this time the boom had burst and the high prices of 1920 were no longer obtainable and conditions generally had altered.

Powers, J., as President referred to a part of Higgins, J., judgment delivered in the Australian Timber Workers case, *supra*, which I think is sufficiently relevant and important to set out here. Powers, J., says,<sup>(3)</sup> “Further after setting out long lists of industries in which

<sup>(1)</sup> 15 C.A.R. p. 320.

<sup>(2)</sup> 15 C.A.R. p. 1044.

<sup>(3)</sup> *Ibid* at pp. 1055-8.

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in 1919-1920 44 hours were the hours of work in England, Canada and in the United States and elsewhere, Higgins, J., said:—

‘Some of the returns for the several countries have not been brought up to date; but there is plenty of evidence that the movement for 44 hours to which the organizations of labour in Great Britain and the United States have committed themselves is everywhere advancing, never receding.’

Powers, J., proceeds:—

“The statements quoted may have correctly stated the position in September, 1920, but the position in September, 1921, is entirely different.”

“The evidence tendered in these five cases, and in other cases at present pending in this Court proves that that position has been entirely changed since the late President delivered his judgment. It has receded everywhere but in Australia.”

And at page 1058, after referring to cablegrams, trade journals and other documentary evidence, Powers, J., goes on to say: “It will therefore be seen that hours have been increased since November, 1920, and wages reduced elsewhere to an alarming extent considering the higher rates paid here, notwithstanding the firm conviction of the late President last year that they “were advancing, never receding.” And at page 1059, “Since September, 1920, and even since November, 1920, when the Timber Workers’ award was made, the rates of wages in all countries have dropped considerably and the hours of labour increased except in Australia.”

The evidence given before us confirms the view that Powers, J., expressed as to the position being entirely changed and negatives the inferences Higgins, J., seems to have drawn as to the future. In the case then under consideration Powers, J., as President came to the conclusion “that it is impossible for industries in Australia working forty-four (44) hours a week at much higher wages than are paid in England to compete successfully with industries in England, Canada, and the Continent, where the wages are less and the hours of work longer, and where men are willing and anxious to accept piece-work. The reduction of hours from forty-eight (48) to forty-four (44) generally in Australia at the present time for the reasons mentioned would be a serious blow to industry generally and to workers particularly and would greatly add to the ranks of the unemployed in Australia.” In the result that Court could not see its way under the (then) present conditions to alter the principle and practice of the Court laid down and observed by the Court from its establishment up to the date of the Timber Workers’ case as to standard hours in Australia, or as he put in the later case, “that the standard hours in industries in

Australia, generally forty-eight hours a week, should not at that time in the interests of employees, employers, or the public, be reduced except on special grounds."<sup>(1)</sup>

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In 1922 the question again came up before the Full Court constituted by Powers, *J.*, President, Sir John Quick and Webb, Deputy Presidents, on applications to vary awards in the timber trade and in other industries.<sup>(2)</sup> Again the grounds of Higgins, *J.*'s, judgment were canvassed and forty-eight hours were again declared to be the standard hours and an order was made to conform therewith.

It thus appears that with the exception of two judgments of Higgins, *J.*, given at a time when prices and wages were at their highest and business was at its brightest, and given on evidence not quite sufficient and on expectation and belief as to the future that were not fulfilled, the normal standard hours of Australian industries have been considered throughout the Court's existence as forty-eight hours per week.

In 1926 the question has again arisen and this Court is now to consider it afresh, acting in accordance with the provisions of section 25 of the Act.

Various tests of a somewhat indefinite nature have been applied to ascertain the proper solution of this problem. Is such a reduction fair? Is it just? Is it reasonable? Is it necessary? Is it appropriate? Would the reduction materially effect production? Would the reduction cause serious injury to the industry? The chief objects of the Act are enumerated in section 2 in the light of which all other provisions are to be considered, but the only test supplied by the Act to guide the Court seems to be one contained in the definition of "industrial matters" in section 4, where, after enumerating the various subjects that come under the terms of "industrial matters," the definition of that term ends with these words:—

"And includes all questions of what is fair and right in relation to any industrial matter having regard to the interests of the persons immediately concerned and of society as a whole."

The "persons immediately concerned" are the employers and employees concerned in the particular industry. "Society as a whole" is the community of the Commonwealth of Australia. I propose to base my judgment on a consideration of what is "fair and right" in relation to industrial matters, having regard to the interests of persons immediately concerned and of society as a whole, which involves what is fair, what is just, what is reasonable, what is necessary, and what is appropriate; and a consideration of how the reduction will materially affect production or cause serious injury to industry. The line of demarcation between the areas of what is "fair and right" on the one hand, and what

<sup>(1)</sup> 16 C.A.R. at p. 656.

<sup>(2)</sup> 16 C.A.R. at p. 649.

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is not fair and right on the other may at times be indistinct, and shade gradually from the one into the other, but the material placed at our disposal, and the arguments addressed to us, I think place the solution of this question distinctly within one or other of these areas.

#### ONUS OF PROOF.

In all judicial inquiries involving the determination of disputed questions of fact submitted for consideration the question always arises as to the onus of proof. It is authoritatively recognized that such onus is on the disputant alleging the substantial affirmative of the issue involved. Here the present standard of forty-eight hours obtains, and the applicants are seeking an alteration, that is alleging that it is "fair and right," that there should now be a reduction of four hours. I think it is quite clear in reason and in fairness that those seeking to unsettle presently settled conditions have cast on them the burden of establishing that in accordance with what is "fair and right," regard being paid to the interests of employer and employee and the Commonwealth of Australia, this reduction should be made. At the same time I think a duty is cast on the Court by section 25 of the Act to inform the Court's mind, as best it may, in order to determine the matter "according to equity and good conscience, and according to the substantial merits of the case"; but if after the acquisition of such information, and after a consideration of the arguments advanced on each side, the balance does not clearly bring a solution favorable to the applicants clearly within the area of what is "fair and right," then the doctrine of the onus of proof so operates as to make it improper for this Court to unsettle the present settled conditions.

Higgins, J., appears in the Timber Workers case<sup>(1)</sup> to have been of opinion that the burden of proof that lower hours will not involve a lower output lies in all fairness on the employees.

#### EFFECT OF STATE LEGISLATION.

Throughout these proceedings a great deal has been said, and greater weight than is justified has been placed on the existence of certain State laws providing for forty-four hours in New South Wales and in Queensland, and on what has been said to be "the declared will of the people" of those States by reason of these State laws. I think so far as such legislation deals with intra-state disputes it is a State law passed by and existing in accordance with the policy of the political party in power. Directly it is no declaration of the will of the people of the particular State, for that could only be obtained through the medium of a referendum, and not through the medium of an election, where it is only one of many varying component issues. Indirectly it represents theoretically, and possibly in fact, the opinion of the majority of the electors of the State on intra-state disputes.

<sup>(1)</sup> 14 C.A.R. p. 862.



It, however, certainly does not either theoretically or in fact represent the opinion of the Australian citizens of New South Wales or Queensland on any matter involved in an interstate dispute which comes within our jurisdiction. Each and every State of the Commonwealth before Federation had full exclusive jurisdiction to deal with all industrial disputes within their respective boundaries; but on the formation of the Commonwealth each and every State by its agreement to federate gave up to the Commonwealth under section 51, so far as it could, and the States all mutually agreed to the Commonwealth acquiring the power to legislate in interstate disputes, and thereby to over-ride any and every industrial State law in regard to intra-state disputes so soon as the intra-state dispute extends beyond the boundaries of such State and becomes an interstate dispute. That is to say, the people of Australia, including the sections of them in New South Wales and Queensland, expressed their will that such Federal law should be made and exist throughout Australia as might be determined by the Federal authorities or its duly appointed Court under a delegated power to legislate. Or to put it in another form:

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As citizens of the Commonwealth with cognizance of its laws the Governments and Legislatures of the State must be presumed to have acted or legislated in the light of, and outside the sphere of, the Commonwealth law where it is paramount. And the citizens of the State must read State legislation general in its terms with knowledge of its limitations, being aware that their duty as Australian citizens is owed to the Commonwealth in those matters in which the Commonwealth has rightly acted or legislated under the Constitution. It is, therefore, obviously fallacious to speak of forty-eight hours in regard to the present industrial union, which is under a Federal award, as being in conflict with the will of the people or any section of the people in any part of Australia. The will of the people as to every interstate dispute is and must be, pursuant to the Constitution, taken to be such as may be determined by the proper exercise by this Commonwealth Court of its powers.

#### POSITION AND PARAMOUNTCY OF THIS COURT AS STATED BY THE HIGH COURT OF AUSTRALIA.

I think it is not out of place here to quote some of the dicta of the Judges of the High Court in recent cases upholding the paramountcy of this Court and declaring the purpose and position of this Court in regard to interstate disputes and its relation to the State Courts and State laws.

In the *Clyde Engineering Co. Ltd. versus Cowburn*,<sup>(1)</sup> Isaacs, J., in several passages referred to the national aspect of the jurisdiction

(1) 37 C.L.R. p. 466.

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exercised by this Court, some of which passages are particularly pertinent to the arguments used and questions arising in this case. He says,<sup>(1)</sup> at page 478—

“The questions arising for determination are of great magnitude and far-reaching influence. They test the power of the *Australian nation as one component organism to regulate or define, by means of conciliation and arbitration where interstate disputes occur, the working conditions of its industries on a broad, national basis, and therefore with a due regard to the general welfare of its people as a whole, free from disturbing and in all probability mutually opposing elements* which particular States may for their own separate objects desire to introduce into the practical working of the national scheme.”

and at page 479—

“But all the Court has to concern itself with is to ascertain from the Constitution, by ordinary legal methods, which alternative is correct, *whether the Commonwealth as a whole is empowered to deal with its most momentous social problem on its own broad scale, unimpeded by the sectional policy of the particular States, or whether its legal adjustments of the reciprocal claims and moral rights of organized labour, on the one hand, and organized capital on the other, so as to secure their peaceful collaboration in the interests and on the uniform basis of the larger Australian community, are to be in the first place prevented or afterwards antagonized, and in effect undone, by additions, qualifications, or negations dictated by the more limited objects of a State, and that in actual working vitally alter, or neutralize, or even destroy them.*”

The Court upheld the first alternative mentioned above. At page 490 he says—

“In the first place, the Commonwealth Arbitration Act not only empowers its tribunal to settle an interstate dispute, but by sections 23, 24, 25, and 28 and 29 indicates its intention that, however extensive the dispute may be, the *Arbitration Court is to investigate and decide it and every part of it so as to end the dispute and thereby conclude the parties. Assuming the existence of an interstate dispute, the Federal law is to be obeyed. No State law can, in the presence of section 109 of the Constitution, be permitted to stand in the way of the settlement so authorized or directed. No State law can prevent that settlement by direct prohibition, either wholly or partly. And what it cannot do directly it cannot do indirectly.*”

And at page 492—

“The Constitution clearly intended that, ‘once the Common-

(1) 37 C.L.R., p. 466.

wealth settled' an interstate dispute, that settlement should stand, and that its terms should be framed by the one hand, other hands being necessarily excluded."

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Starke, J., says,<sup>(1)</sup> at page 523—

"Any tribunal erected by the Parliament pursuant to its constitutional powers is necessarily bound by law. But what law? There is no express provision in the Constitution that the Federal authority is bound by the laws of the States, and powerful reasons exist against the implication of any such limitation. Any tribunal erected by the Parliament under the industrial power conferred by the Constitution necessarily operates over a field— industrial disputes extending beyond the limits of any one State— that no State law can cover."

In the King *versus* the Commonwealth Court of Conciliation and Arbitration and others,<sup>(2)</sup> Isaacs, J., says—

"But the Commonwealth Constitution, where it created subjects of national concern and entrusted them with all necessary incidental powers to a Parliament in which the people of every State were represented, made effective provision in section 109 by which the people of no single State could impede the general welfare."

#### IMPORTANCE OF ISSUE.

In determining this matter, then, we have to deal with this momentous social problem on the Commonwealth's own broad scale, unimpeded by the sectional policy of any of the particular States. That this is a momentous problem and requires scrupulously careful consideration and very cautious handling is obvious. If it be not obvious, it becomes so when one considers that, according to evidence, the result to Australia, if forty-four hours is made the maximum standard in normal industries, is calculated at the present juncture to affect more than half a million workers and to cost the community an amount of £10,000,000 per annum at least, and still further continuously increasing amount with an increase in the number of persons employed forty-four hours who would otherwise be engaged for forty-eight hours. This amount of £10,000,000, as an annual figure probably progressively increasing, is somewhat alarming. Still, if this comparatively young country in its present condition, can reasonably afford such a sacrifice of so much time and so much energy in regard to all its industries, primary and secondary, and the claim reasonably comes within the area of what is "fair and right," regard being had to the interests of those concerned in the industry and to the interests of the community of the Commonwealth as a whole, by reason of the benefits arising from the extra leisure, it should be granted.

Several general questions have arisen for consideration about which I think I should, at this juncture, express an opinion.

<sup>(1)</sup> 37 C.L.R., p. 466.

<sup>(2)</sup> 38 C.L.R., p. 570.

## COMPARISONS.

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Comparisons of hours in Australia with hours of work in other parts of the world may be regarded from two points of view—

- (1) As to the number of hours that may reasonably be worked without unreasonable or injurious fatigue and without injury to health.
- (2) To ascertain how the actual working hours of particular industries favorably place foreign competitors to Australia's disadvantage.

In the former it is important for the purpose of ascertaining what the world in general accepts as a reasonable and proper standard of hours for the man of average competence, health, and strength, and what is thought to be necessary to limit the hours of employment in order to prevent overstrain of the employee, conserve the national health, and promote general social and industrial welfare and progress.

In Australia, as pointed out above, 48 hours, prior to its establishment in this Court, was regarded as the optimum. Its establishment was said to have achieved a result which is the envy of many other nations. One of the fundamental provisions of the Treaty of Versailles was that there should be established an eight-hour day or 48 week.

At the first International Labour Conference held in Washington, at which conference 35 nations were represented, pursuant to the Treaty, the limitations of the hours of work in industrial undertakings to eight hours in the day and 48 hours in the week were prescribed, with a proviso enabling an extension to be made to nine hours a day so as to make possible a working week of 48 hours with a Saturday half-holiday.

A. C. Pigou, Professor of Political Economy in the University of Cambridge, in his book on the *Economics of Welfare*, on page 429, says, in reference to this subject—

“In quite recent times Doctor Abbe, of Zeiss's works, maintained, on the strength of experiments conducted by himself, that, among at least three-quarters of all industrial workers, a greater absolute product—not merely a greater product per hour—may be expected from regular work of between eight and nine hours a day than from regular work of any longer period. In his own works, in 253 different kinds of work, he found that a 4 per cent. larger output was obtained in nine hours (than in ten), using exactly the same machinery; and a number of similar instances are on record from elsewhere both before and during the period of war.”

In his book, *The Human Factor in Business*, Mr. B. S. Rowntree (as Mr. Crofts calls him, “the well-known reformist writer”) has something interesting to say about 44 hours per week. He deals with experiences

in his own factory, but at page 18 expresses a general view in these words—

“Experience seems to point to forty-eight hours as the length of the working week which may suitably be regarded as the standard in most industries, and I should say that any deviation from it must be justified by the facts. A reduction should only be made if it is necessary for health, or if it can be taken without materially increasing the cost of production. As for longer hours, they should only be allowed if they result without detriment to the health of the workers.”

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#### HEALTH AND FATIGUE.

There is little or no suggestion that the standard hours of forty-eight in Australia, of which it has so often been said Australia had reason to be proud as having led the van of progress, is such as causes unreasonable fatigue or any ill-health to the worker. Nor does it appear that the eight and three-quarter hours per day for five days, so as to secure the Saturday half-holiday, causes such unreasonable fatigue or any injury to health. It is significant that in Australia the employees have in some industries worked nine hours—where there is a limitation of forty-four hours per week—in order to secure Saturday as a day entirely free from labour. There is no suggestion that these employees have suffered fatigue or ill-health. The logs of the present claimant union and of other union claims filed in this Court contain a proviso to their claim to work forty-four hours in six days—that by written agreement between the employer and the claimant union forty-four hours may be worked in five days, that is, eight hours forty-eight minutes per day. Exhibit M.15, which is a copy of the application by the Stove, Piano frame moulders and Stove-makers employees' union, contains a provision that the 44 hours per week should be worked on Monday to Friday of each week both days inclusive; 8 hours 48 minutes per day. Of the evidence given on this question, the most valuable was that of Dr. W. E. Summons, whose qualifications are Doctor of Medicine, University of Melbourne, holder of the Diploma of Public Health of that University, Member of the Public Health Commission of Victoria, Health Officer of the City of Hawthorn, who had specialized in industrial health conditions, who had inquired into a large number of occupations from the health point of view, had examined various employees over a period of twenty years, and made investigations into the physiological effects of the forty-four hours against forty-eight as normal hours in industry. He is of opinion that the Australian is physically in the forefront of the world's people and is surpassed only by the New Zealander. He says statistics show that our population is healthier than that of any other part of the world. He is of opinion that the eight-hour day physiologically and sociologically is probably the most

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just. He agrees with the view expressed by Dr. Sargent Florence, Professor of Economics in the Cambridge University and Secretary of the Industrial Fatigue Board, in an article published in the *International Labour Review*, November, 1925, on "The Forty-eight-hour Week and Industrial Efficiency." He quotes the Professor as saying at page 755 (page 3186 of the transcript):—

"Taking into account types of industrial operations as a whole, and also all types of economic consideration, it would seem that there is as much to be said in favour of hours shorter than 48 per week, as in favour of hours longer than 48 per week, and if one standard of hours is to be chosen rather than another, a total of 48 hours per week seems the economic optimum."

At page 756—

"This weekly total ('that is 48 hours') may, however, be distributed over the days of the week in several different ways. The distribution which is becoming standardized in England is that of working about eight and three-quarter hours five days of the week and four and a quarter hours on Saturday."

At page 757—

"To sum up. Since one standard length of working week must be chosen, the 48-hour week probably best satisfies the criterion of maximum output with minimum accidents, lost time, and overhead charges and at the same time permits an efficient distribution of work throughout the days of the week and the parts of the day. At any rate this seems to the writer the teaching of all the scientific investigation hitherto attempted."

My brother Beeby, whose experience in Australian Arbitration Courts is of some years standing, during the progress of this witness's evidence expressed his opinion in these words:—

"When you get down to fifty hours or below, the condition of health and fatigue in normal industries are not worth considering. Personally I do not think they play any part."

The witness explains that he regards it as necessary that a worker should, between periods of work, get complete rest and complete restoration of energy. He was of opinion that no ill-health results from the working of eight and three-quarter hours or of forty-eight hours a week, but there is a possibility of ill-health arising from working too hard in a shorter period, that is to say that, if a worker does a reasonable amount of work in forty-eight hours, when he endeavours to do the same amount of work in forty-four he is liable to overstrain and thereby do injury to himself.

During this witness's evidence by way of interjection the Chief Judge said (page 3189 of the transcript):—

“Up to now no attempt has been made to show that the present 48-hour week in Australia has injured the health of the workers. That is not the reason that has been put forward why the hours should be reduced to 44 per week. I think I am correct in saying that the reason given is that the worker is entitled to a little more leisure than he is now getting, he is entitled to four hours more which he can use in any way he likes, not because his health is now being injured but because he requires the extra time, it may be for enjoyment, or self-improvement, or for something else. If that is not so I would like to have a statement to that effect.”

Mr. Holloway.—“Your Honour Dethridge, C.J., has exactly outlined the position.”

Beeby, J.—“That is how I understood it right from the start of the case.”

It appears then that by very cogent evidence and by Mr. Holloway's statement that no question of fatigue or ill-health makes forty-eight hours objectionable in a normal industry. The applicant union's claim is based on the ground that the four hours in question is desirable from a leisure point of view, which it claims that the community and the employers can afford to give. The respondents reply that the claim is one of luxury, of unnecessary and unproductive leisure and of enforced unnecessary idleness, which neither the employers, the employees, nor the community of Australia can afford.

#### COMPARISONS.

Comparisons have from time to time in these proceedings been made as to the comparative cost under 48 and 44 hours. It has been urged for the applicant union that consequent on improved machinery, improved standardization, improved methods, improved organization, that which is now produced in forty-eight hours would later be produced in forty-four hours, which of course means at some unascertained indefinite future time. That is a comparison of the present with the future when other conditions, particularly that of the value of the product will have changed. It seems to me that when these comparisons are being made they must be made in regard to a definitely fixed point of time or as close to the one point of time as possible, whether in the past, present, or future. To say that the improvements in the future under forty-four hours will make up for the deficiency now between forty-eight and forty-four is to assume covertly that the improvement will arise only under the forty-four and to ignore the fact that improvements have always been going on, and would continue to go on under a forty-eight hour week. No doubt under a compulsory limit of forty-four hours, besides

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the ordinary improvements that under any number of hours would be made, dire necessity will cause many experiments in improvements to be attempted in the future, that would not otherwise be risked, for the purpose of saving some of the business of the industry or perhaps even the industry itself. Some of them successful perhaps, some of them unsuccessful and only further adding in the result to the burden occasioned by the loss of the four hours. If one could definitely attribute an improvement as being consequent only on the reduction, and not on what would in the ordinary course of events have happened, then such improvement, if it be identifiable, and if its added value be ascertainable, could be used in conjunction with the production at the lesser hours for comparison with that of the greater. I think it almost impossible, in a very great majority of cases, to identify such an improvement or to ascertain its value. When comparisons are to be made, whether now, or say in January, 1930, or January, 1935, or January, 1940, the comparisons should be made or estimated at the particular given moment, and not as to forty-eight (48) hours now and forty-four (44) hours at some uncertain date years hence when like conditions are not, but different trade conditions are obtaining either here or in other parts of the world in competition with Australia.

When considering the likelihood of improved machinery, method and organization, counterbalancing and making good lost production due to a reduction of hours, it must be borne in mind that the improvement of machinery, method and organization is not peculiar to Australia but takes place on the whole contemporaneously in most of the other parts of the world, so that any resultant increase in production per hour will not *ipso facto* necessarily increase Australia's ability to meet the foreign competition which it is now encountering, and from which it is now suffering.

A further important matter in regard to comparisons is the necessity for seeing that the matters compared have the same common basis, that is relevant to the purpose of comparison; for instance is it of any value to compare either forty-eight hours or any other maximum limit of hours under an award of this Court—which has the force of law binding on both parties unalterable and irrevocable, without the authority of the Court—with an agreement between employers and employees as to the maximum limit of hours of work where the mere contractual condition is alterable and revocable at any moment by the consent of the parties. In the former case the Court in altering or rescinding an award has to consider not only the interests of the parties but the public interests—"society as a whole," as the statute says. In the latter case the immediate parties to the contract only are concerned. In the former it is in the nature of a general law affecting the whole industry, in the latter it is a contractual term binding only on the contracting parties.



Comparisons can only be of service when the essential and relevant particulars are like in each case. To compare a number of independent agreements between employers and employees here and elsewhere is probably relevant and of value. To compare the limitations placed by law or by an award having the force of law on the power to contract as to maximum hours in Australia with similar limitations placed by law in other places, is also probably relevant. But to say that at any place by agreement the hours of work although unregulated by law are comparable with these regulated and limited by law, is to make a comparison of the unlike in essential and relevant particulars.

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Again it is said that the past history of industrial disputes shows—a fact I think beyond dispute—that by the existence of friendly relations and co-operative efforts much more work is done in consequence of the content of the employee arising from the grant of some special privilege. It is said if the hours are now reduced to forty-four that reduction will spur the employees on to special exertion and the deficiency will thereby be made up. To a great extent it appears to be true that when the employer concedes something to the employees which acts as an incentive to better effort and better work, they give that better effort and better work because they appreciate the advantage thus conceded and also because they realize that if the further effort in response is not forthcoming the concession will be revoked and lost. But what happens when the concession is practically not revocable? What has happened when, not by concession of employers but by awards having the force of law, the Courts have in advance of the rest of the world limited standard hours to forty-eight in normal industries. Have the workers in consequence given as full and as fair a return for such reduction and limitation as they might have done under a voluntary concession, and if not, why not? Since the establishment of the forty-eight hour week by this Court have not the representatives of the workers in effect continually said:—

“Give us some incentive, some spur to further effort, by a concession of hours or by other concessions from that forty-eight hours, something more than the law has secured to us and we will then give better work and better results.”

We have abundant evidence in these proceedings that the worker in the majority of cases can reasonably do more, reasonably put more effort into his work than he does, reasonably give greater output than he does. This is shown in many ways—by the rules of the unions which impose fines for exceeding certain limits of work (pages 812-813 of the transcript), by the pronounced opposition to piece-work, by the greater production given, and the less time consumed where payment is made according to results, by frank statements made by some of the witnesses that the workers always have “a little up their sleeve”, by comparison of what the same workers will do in one place and at others under

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exactly similar conditions. Mr. Holloway dealt with the question very frankly in a manner which recognized the existence of this slackness to the extent of 25 per cent., but attributed it to lack of co-operation.

One singular instance of what workers will do in one place and at others, under exactly similar conditions, is given by J. M. Deschamps, managing director, of Hadfields (Australia) Limited. The evidence (see pages 2134-5 of the transcript) as recorded is:—"A.—In the case of truck wheels, we engaged men in England who were then turning out 80 per day. That is, there was a piece-work rate for the work, and that is what they averaged. Q.—Was that 80 a day? A.—Yes, per man. One man does practically the whole of the work, closing and knocking out. We brought these men to Australia, and we have not been able to average, under identically the same conditions as to tackle and everything else, more than 35 per man. Q.—The same men? A.—Yes. Q.—Have you ever asked for an explanation of that? A.—Yes; but we naturally would not expect here, under ordinary day work conditions, the same output as was obtained under piece-work conditions. We would naturally expect them to give us 50. I think the men could give us 50, but the conditions in the shops are that they set a pace, and the output is governed really by that pace which is set." This evidence was not contradicted by the applicants.

The effect of a limitation to 48 hours in an award has prevented any agreement for work at ordinary rates for any hours more than that number. All those agreements made under the conciliatory spirit of co-operation—no doubt to the mutual advantage of employers and employees, and to the advantage of the general public—are made either wholly or partly in consequence of a concession of something better than that provided by an existing award, generally of either something below 48 hours per week, or for a greater rate of pay on piece-work or time work. All future co-operative agreements would have to be made on a 44-hour basis, if the reduction claimed is allowed. Would such an allowance result in the employees claiming, and endeavouring to enforce, a further concession from the 44-hour basis, corresponding to concessions previously made from the 48-hour basis, on the same ground that something more than that secured by law must be conceded in order to induce the co-operative spirit to operate, and a reasonably greater effort on the part of the worker to be given? Is a similar attitude to be adopted with every reduction secured by an award having the force of law?

I notice by the newspapers that in Queensland the building trades group of unions are out on strike for a further reduction to forty (40) hours in five days after a reduction to 44 hours by legislation, or by an award in that State.

*Hours.*

I think I may here deal shortly with the hours in Australia and abroad. In Australia there has been from time to time reductions made below the normal standard of hours by the Arbitration Court in certain industries, for special reasons, in the following occupations:—

Clothing trades.  
 Carpenters and joiners.  
 Builders' labourers.  
 Journalists.  
 Timber workers in towns.  
 Flour millers.  
 Rubber workers.  
 Stonemasons.  
 Shearers.  
 Clerks.

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In New South Wales, in industrial matters within the jurisdiction of the State Court, there has been a reduction by Act of Parliament from 48 to 44 hours; a subsequent increase to 48 hours still later, and presently existing, a reduction to 44 hours as a consequence of political action in each case, in accordance with the political views held by the party for the time being in power. In Queensland, there has been a reduction to 44 hours in industrial matters within the jurisdiction of the State Court, by Act of Parliament. As pointed out above, these enactments fail to operate in cases coming within Interstate disputes, where the questions involved in the dispute are determined by this Court free from political influence and tendencies, and after a full and complete inquiry upon economic and national bases into the relevant facts and matters involved in the dispute. Many workers are also working under agreements for less than 48 hours. The number of those working 48 hours in Australia is not obtainable even approximately, but it appears to be in excess of 500,000.

*United States.*—We have been supplied with a large number of exhibits, from which it appears that the average weekly hours is more than 48. Some exhibits were produced showing that, in particular cases and in particular businesses, a less number of hours than those usually obtaining were secured by agreement, but the proportion was so small that the average, for instance in foundries, ranged between 48 and 52. (Exhibits L. 34 and L. 129.)

Exhibit M. 23, a report from the Daily Mail Trade Union Mission to the United States, gives some interesting reference to hours. One extract says:—"There is no such thing as a recognized industrial standard for American workmen either in regard to hours, wages, workshop conditions, or standard of living; that there was a strong feeling in the United States that we (that is England) are stressing too much

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the importance of getting the working week in all branches of industries down from 60 to 48 hours, for farmers say things are now costing too much." Extracts from these reports show hours varying from 48 to 54, and even 60 obtaining for moulders, machine men, pattern makers, machine tools, mill and frame work.

*Canada.*—The hours are regulated by consideration of the hours of labour worked by her neighbouring competitor, the United States. They appear to be greater than the hours obtaining in Australia. In some of the industries in competition with Australia they are much larger, e.g., saw-milling, 48 hours to 60; grain elevation, 60 hours (see Exhibits J. 20 and L. 54).

*South Africa.*—Forty-four hours to 50 a week, 48 being the usual (Exhibit L. 122).

*New Zealand.*—Has in regard to its manufactories in recent years been awarded a 44-hour week. In their primary industries which the respondents claim are the most important in that country, wool, butter, cheese, bacon, &c., the hours fixed by awards appear to be 48 and over (Exhibits L. 124, A. 101, Nancarrow at p. 2,943).

*European Countries.*—The respondents point out that, notwithstanding the provisions of the Treaty of Versailles and the first conference thereunder at Washington, the tendency in favour of the shortening of hours therein contemplated has been checked, and such tendency has receded and has led practically to an increase under cover of extensions, exemptions, decrees, definitions, &c.

*Great Britain.*—In some industries for special reasons, as in Australia, the hours are reduced, but in normal industries as a general rule they vary from 47 upwards. In metal, engineering, and ship-building works, the hours vary according to the nature of the work from 42 to 56 (see Exhibits A. 29, L. 17, L. 18, L. 19, and L. 20).

There is also one feature of the limitation of hours question which is particularly applicable to European countries. Higgins J. described it in 1920 in these words, "In some countries, including Great Britain, the overtime rates are so low that overtime work is habitual, and the main benefit of limitation of hours is lost."<sup>(1)</sup> Those remarks are equally applicable to-day.

*France.*—48 hours "effective work" was applied by ministerial orders, and extensions were allowed for auxiliary work. (Exhibits L. 106 and L. 108).

*Italy.*—The standard hours are now nine a day (Exhibit J. 11).

<sup>(1)</sup> Timber Workers case, 14 C.A.R., p. 811 at p. 869

*Germany.*—Under a decree of 1923, the extension of hours by agreement or award up to 10 a day or 60 a week was authorized. In 1922 the hours were increased from 8 a day, 45 a week, to 8½ a day and 48 a week. In addition extensions are permissible.

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*Czechoslovakia.*—Apparently the only industry about which there is evidence of reduced hours is in the glass blowing, which comes within the class of those having special reasons for reduction.

I think it unnecessary to make references to the hours in any other country. It is correct, I think, to say that the hours of work obtaining among the important nations of the world do not indicate that Australia works a number of hours greater, but does indicate that it still works a less number of hours than its competitors. It is said that we are still in the van. Is it necessary that we should be so?

The establishment of 48 hours was not made for the purpose of placing us in that position, but because it was such as the community's representatives thought fair and right to all parties concerned, and to the community. Surely the community's wish is that all communities competing with Australia should adopt the same standard, not only as to hours and rates of pay, but as to all other necessary improvements in labour conditions, because to do so is humane and proper, and because it enables us the better to compete in our own and in foreign markets under fair conditions. Would it not be vainglorious for a young and undeveloped country, such as Australia is, regardless of the retrogressive results, to weaken its progress and productivity by always insisting upon being in the van, upon maintaining "her pride of place as the leader in industrial betterment" as it is called, and upon giving unnecessarily and dangerously, conditions to its employees still easier than those obtaining in all other countries older, more developed, much more populated and richer, when and simply because those countries, or some of them, have brought themselves up to Australia's level and have adopted the fair and just labour conditions that Australia was the first to establish? Would not such a desire, merely always to go one better, be a very rash and costly conceit that Australia could ill afford to treasure? "Conceit in weakest bodies strongest works."

#### DUTY OF INDUSTRY IN REGARD TO TARIFF ASSISTANCE.

It is claimed by Mr. Foster that it is the duty of the employers to be progressive, and that their inefficiency should not be allowed to stand in the way of the people. I take it he contends that it is a duty the employers owe to the community, including their employees, which arises out of the benefits they get from the exercise of their common law right to trade under the protection and security afforded to them by the laws of the community. That duty is coupled with the necessity to be progressive if they desire to compete successfully with rivals, local and foreign. But when the industry of which they and their

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employees are each a part, receives assistance by way of tariff protection duties, bounties, advances, financial guarantees, pool and rural credits, which are not only necessary for the progress of their industry, but for its very existence, and its continued existence, are not both the employers and the employees in that industry under an obligation, and do they not owe some duty to the rest of the community for such assistance? It is common ground that representatives of the unions have joined with employers in making representations to the Tariff Board and the Government in support of such assistance. As Mr. Crofts says:—"Unions have been the greatest advocates of tariff assistance." Under such circumstances, does not a duty spring from the obligation? Is it not the duty as well as the interest of each employer and employee to exercise every effort to keep that industry alive, and if possible make it progressive so that ultimately it may stand on its own feet, and even assist Australia, if it can, by establishing markets overseas to which its surplus products may successfully be exported? Does not the employer owe a duty to make such reasonable improvements in every direction that are reasonably possible, and to confine his profit within reasonable limit—as to which the Tariff Board may, and apparently do, see that that duty is properly and strictly carried out. In the struggle for the industry's existence do not the employees owe a corresponding duty for their present and ultimate benefit, to give a reasonable return in labour effort and to refrain from demands that would seriously affect the industry, and would appear to be unreasonable under the circumstances of its weakness, and to confine themselves to a claim for such standard of hours as will best assist the industry that secures to them at least the recognized standard of living, so long as their hours for work and their other labour conditions are not unreasonable and not injurious to their health, comfort and well being. I think it relevant to quote some of the remarks made by the Tariff Board in its annual report for the year 1925-1926 relevant to this subject, and relevant to other considerations in this case and which for convenience I set out here:—

#### TARIFF REVISION.

" . . . . In dealing with the requests by Australian industries for increased assistance, the Board has kept in mind the policy of the Commonwealth as expressed by Parliament, to afford to those industries such assistance, either in form of increased duties or bounties, as the circumstances may warrant, as will give them sufficient protection against those countries which by reason of lower costs of production are enabled to place their products on Australian markets in competition with Australian products at prices with which the local manufacturers who operate under very much higher standards of wages cannot possibly compete.

"Before recommending the granting of any request for increased assistance, the Board has satisfied itself as to the efficiency of the local industries concerned, and has also given attention to the question of costs of production in such industries. Where necessary, the Board has caused exhaustive investigations to be made by certified accountants.

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"In this connexion, the most important and most far-reaching of the matters investigated was that dealing with the iron and steel industry. This request, which was mentioned in the Board's last annual report, covered practically all the iron and steel products used in the engineering and metal working industries. The ground upon which the request was based was the inability of the local producers to compete with products from overseas countries owing to the lower standards of wages prevailing in those countries as compared with those in Australia. The application was made the subject of a most exhaustive investigation by the Board, and a large volume of evidence was taken on oath at public inquiries held in Melbourne, Sydney, and Adelaide."

#### INDUSTRIAL CONDITIONS AND AUSTRALIAN INDUSTRIES.

"As a result of the investigation into the iron and steel industry, during which certain evidence was tendered dealing with comparisons of wages between the United Kingdom, the Continent of Europe, and the Commonwealth of Australia, the Tariff Board was so impressed *with the critical nature of the industrial position into which Australian industry was drifting*, and indeed had drifted, that a suggestion was advanced that the recommendations for increases in the Tariff which were absolutely essential to the maintenance of the industry should be granted only on condition that assurances were obtained from the various industrial unions connected with the industry that no further demands would be made for wage increases or any other action taken which would have the result of defeating the effect of any increase in duties recommended. It was pointed out that the principal applicant employers had given guarantees that the prices would not be raised, and that the merchants had also agreed not to make any alteration in their selling prices in the event of the requests being granted. It was suggested by the Board that the same assurances should be obtained from the industrial unions. Certain other factors set out below influenced the Board in making this recommendation."

"Immediately following upon the increases in the tariff in regard to woollen piece goods passed by the House of Representatives on the recommendation of the Tariff Board, with a view to relieving certain sections of the industry which were suffering detriment from external competition, the industrial union embracing the operations in this industry lodged an application before the Federal Arbitration Court for heavy increases in their wages and modified working conditions. The recommendations of the Tariff Board were made on evidence tendered to it in order to assist certain of the different woollen mills

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in a time of depression, and no provision was made for an alteration in the existing conditions governing wages. The representatives of the unions who appeared before the Board in the woollen piece goods investigation gave no indication that it was contemplated, in the event of a favorable recommendation being made and Parliament granting such, that the costs of production would be raised by higher wages and different conditions. . . .

“In this way a precedent is created for passing back and forth between the Federal Arbitration Court and the Tariff Board for increments in wages and duties, which can only result in an ever increasing wage rate, and an ever ascending tariff. This course must ultimately defeat itself, and by continuously raising the cost of living bring about an *industrial paralysis*. . . .

“The competition the Commonwealth producers and manufacturers encounter from the United States is capable of being balanced by the tariff, but competition with the products of the Continent of Europe is fast becoming a matter which will be very difficult to cope with by means of increased duties. The intensity of this competition is easily seen when the current wages in these different countries are reduced to a gold basis for purposes of comparison, as for example, in the iron and steel industry as revealed during the investigation, and which can be taken as indicative of the remainder.

“In Germany the current average wage is 32s. 6d. for a week varying from 54 to 60 hours. In Belgium the wage is 23s. 6d. for a nominal week of 48 hours, in which considerable laxity as to working hours is allowed.

“In France the wage is 34s. 6d. for a nominal week of 48 hours, where again considerable laxity prevails.

“In the United Kingdom the wage is 61s. for a week of 48 hours, which is strictly enforced.

“In the Commonwealth of Australia the wage is 108s. 6d. per week for a week which was a rigid 48 hours, but which now may be permanently reduced to 44 hours.

“From considerations such as the foregoing the Tariff Board is strongly of opinion that the industrial unions of the Commonwealth should be induced to realize the critical position into which the Commonwealth is drifting, and the absolute necessity for preventing the wages gap from becoming still wider between the United Kingdom, the Continent of Europe, and the Commonwealth, otherwise the Tariff Board, placed as it is in the position to take a comprehensive and intimate view of all Australian industry, can see nothing but economic disaster ahead, and that at no very distant date.”



## ALLEGED THREAT TO THE COURT.

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One incident of these proceedings in this case I think unfortunate. I refer to what the counsel for the respondents have alleged to have been a threat to this Court uttered by Mr. Crofts as representative of the Trades and Labour Council of Australia, and by Mr. Foster, counsel for the State of New South Wales to this Court, that unless the application made is conceded certain very serious consequences will follow. I quote some of the remarks that were actually made.

Mr. Crofts, in his opening address, at page 36, said:—"In order to settle this dispute, quite apart from the evidence which we shall place before the Court, the Court has seriously to consider whether a dispute shall continue, or whether it shall settle that dispute. We might say that we have the signature of the 700,000 unionists who have determined that on and after a certain day they will not work more than 44 hours per week. With that evidence, we say to the Court, "There is our case" . . . The Court may then say we have no oral or written evidence before us except the signature of 700,000 unionists, who say they are in dispute with their employers on the question of standard hours. And they demand as from a certain date no more than 44 hours per week. We could leave our case there without submitting any other evidence. We ask the Court to conjure up in its mind, having regard to the disputes of the past, what might happen in the future if this momentous and vexatious question is not settled in a just manner in the interests of those who produce in this country. Why should the workers of this or any other country be compelled to work more than what they consider is a reasonable number of hours per week. Now we say that we have a right quite apart from any constitutional tribunal that may be set up to say that we, as a working class, should work only the hours which we think are just, providing, of course, that we do not attempt to show that we shall work only two hours. But we believe that with absolutely correct methods of production and of distribution even two hours may not be an impossibility."

And at page 5613, in his final address:—"I believe that force breeds force, and I am against war whether it is international or intra-national, but I cannot imagine that the workers of this country, having fought as they have done, to obtain this concession, and looking upon it as their birthright—the clear 8-hour day—will be content until they achieve it. If they do not succeed, I cannot imagine what would happen. Whatever my private feelings are, if I felt that the workers of this country, or of any other country where I happened to be, were being driven back, or that an attempt was being made to ride roughshod over legislation that I have fought for, then I would have to seriously consider where I stood, and if there were ways and means of achieving my object, not necessarily by means of revolution, but constitutionally, I would endeavour to use those ways and means. This

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Court, so far as I am concerned, would have no work to do so far as regards any organization I was connected with. I would be acting within the constitution, of course. I am not suggesting that I should do anything unconstitutional, but I would find ways and means of keeping my organization outside the limits of this Court, in their own interests."

At page 5520, counsel for the State of New South Wales, said:—"I suggest further that the Court will not only have regard to the facts as they are, and the evidence as adduced, but it will take into consideration as legislators what is likely to be the result of its decision. . . . If refused, we have industrial unrest and decreased output, disharmony between the classes, a bitter conflict between employer and employee, involving a conflict between State and Federal tribunals, the wrecking of Federal organizations, the existence of which is the basis of this Court's activities. . . . With regard to the first industrial unrest, although it may be suggested that there is some threat behind this matter, although there is none so far as the New South Wales Government is concerned. . . . The employees will by every possible means seek to retain the benefit of the State legislation. They will say, "We can get 44 hours under the State Law in both Queensland and New South Wales." They will say further: "If we cannot get what we want in that way, we will break up our Federal organization altogether, and rely on State law."

At page 5524, speaking of New South Wales Government, he said, "it is their task to secure peace, order, and good government in New South Wales. They fear the results of an adverse decision, and they are here to beg the Court not to embarrass them any more than it can help by reversing their legislation."

At the conclusion of the case, on counsel for the respondents raising an objection to what they termed "a threat made to the Court," Mr. Foster protested, and said, "If it will be any assistance to my learned friend, I shall make it definitely clear on behalf of the State Government of New South Wales that no threat is intended to be conveyed to the Court or to the clients Mr. Lewis represents."

It is obvious from these remarks that these gentlemen ignore the position which this Court occupies, according to the dicta of the Judges of the High Court quoted above, and do not give a proper recognition to the duty imposed on it by the Constitution and the Commonwealth Conciliation and Arbitration Act.

These quotations speak for themselves. If they or any of them contain a threat, the utterance of such words was very indiscreet and very foolish. No sensible counsel or advocate could imagine for one moment that a threat would have the slightest effect on any Court, particularly an independent one such as this Court has been made, for obviously necessary reasons. Discontent, dissatisfaction, disharmony creating industrial unrest or industrial disputes are, of course, very relevant

matters for consideration by this Court. So far as they are attributes of an Interstate industrial dispute, they call for immediate consideration and immediate action, and for the exercise of the jurisdiction of the Court by conciliation with a view to amicable agreement between the parties, and in default of amicable agreement, for the exercise of the jurisdiction of the Court by equitable award. But this Court must act and grant the relief sought for by the discontented, not merely because there is an expression of discontent or dissatisfaction, but because there is a real, warranted, justifiable, and sensible discontent.

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There would be generated a multiplicity of disputes, impossible of settlement, if merely on the expression of discontent it became the duty of the Court to settle it according to what the workers alone considered just, a line of argument which Mr. Crofts' words before the Court would seem to indicate.

Equally, when the employers are dissatisfied and discontented and in consequence industrial disputes arise, are we to settle each dispute according to what the employers alone consider just?

Regarded as an industrial dispute with possibilities of serious consequences to the community, it has been for some time, and is now commanding the closest attention, and the best efforts of this Court to settle within what the Court conceives to be "fair and right" as contemplated by the statute. And when settled by our judgment and embodied in an award it is presumed the award will be obeyed by the parties to the dispute in compliance with the laws of the Commonwealth of Australia.

Regarded only as a threat, if it be such, of serious consequences to the community in the event of the claim not being granted, such a threat in any and every case, apart from such action as the Court might take to ensure and maintain the proper conduct of its business and the dignified discharge of its duties, should be ignored.

#### INSISTENCE OF DEMAND.

An aspect of this claim, disclosed by parts of the addresses set out above, I think I should refer to here; that is the insistent claim of a great body of unionists to the grant of a reduction in normal industries to a 44-hour week because "they consider such claim is for a reasonable number of hours." I take that claim to mean that, although this great body of men have no certain knowledge of the resultant effect of such a grant, because they have not nor has any one or any Court yet had so thorough and complete an opportunity to investigate the matter as we have, they honestly believe it can be granted. So believing, by this application they have asked us to make this inquiry and if we find, as they think we can, that the community and the industries concerned can reasonably afford it, then it is "fair and right" that it should be granted, and this Court should act accordingly. But surely, if the

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inquiry establishes that the community cannot afford it and that its grant would mean very serious injury, not only to the community as a whole and to the employers in particular, but also to themselves in that it will or that it is very probable that it will lead to so great a loss of output, to such an increased cost of production and to such an increased cost of living that the community will be thrown back in the progressive development of its resources and the achievement of a sound financial and economic position, that its industries will be so hard hit that those in control of them will have to discontinue to a very great extent their manufacturing businesses, and increase their importations, thereby leading to greater unemployment and possibly and probably striking at the present standard of living of the workers; then this great body of men must realize that we would be failing in a proper regard of their own interests if we acceded to their claim. Is it necessary to say to them "I beseech you in the name of common sense to believe it possible that you may be mistaken?" They must realize that at the present time the present necessary standard of living is in itself, though not improperly so, a heavy handicap in Australia's ability to compete not only in the markets of the world but against the importations of foreign manufactures into Australia's home market notwithstanding a high tariff and the benefit of an Australian sentimental preference. No doubt this dangerous foreign competition owes its strength to the low standard of living obtaining and the low rates of wages paid in foreign parts of the world but those factors against us cannot be ignored, and we as a community have to face them and regard them as a continually threatening danger to our economic stability and advancement. Having regard to our position in and our relation to the rest of the world can we progress as effectively and as expeditiously as is necessary in conceding this claim?

Those are the questions I think we have to determine. This great body of Australians cannot and do not expect us to determine them contrary to their own real interest and the real interest of those dependent on them, even if such determination be adverse to their present wishes and desires as expressed through their representatives.

#### AFFLUENT EMPLOYERS.

In course of cross examination and in argument it has been from time to time suggested and assumed that the person, firm, or company engaged in business should be regarded from the point of view as to success, not of the particular industry under consideration but of the whole business which he, or it, carries on and also from the point of view of the independent affluence of the employer. For instance the Broken Hill Pty. Ltd. who have offered evidence in connexion with their iron and steel industry have been referred to as a very successful company and one well able to withstand the loss that may be occasioned, directly or indirectly, by this proposed reduction of hours, that is to

say, their success as the owners of mines, which pay them well, should be considered in conjunction with their business as manufacturers of steel and iron which does not pay them well. Again where a business is carried on of manufacturing and importing—it is argued as if the success of the whole business not merely its manufacturing branch, has to be considered in ascertaining whether the manufacturing industry can afford the claim made. Are such contentions reasonable or sound? Is it not apparent that if the Broken Hill Pty. Ltd.'s and any other manufacturers' capacity to pay is to be decided from such a standpoint, that such manufacturers would say, "We will go out of the manufacturing business, for it not only does not pay us, but it is a drag on the profitable part of the business and we are unfairly treated by employees and by decisions of the Arbitration Court in regard to that branch because we are successful in other branches of business." In consequence of a withdrawal so occasioned the manufacturing establishment, perhaps one necessary to the welfare of the community, would be closed, when those employers by reason of their affluence might otherwise have been induced to carry on in the hope of ultimately making it a success. This Court in the past (*Higgins, J.*) has made it one of its established principles that the remuneration of the employees cannot be allowed to depend on the profits or the losses made by the individual employer, but that the profits of which the industry as a whole is capable may be taken into account. The same principle must of course apply to other conditions of labour the cost of which in the result has to be paid out of those profits. Again, the Court has laid it down that it does not decrease or increase the minimum of wages on the ground of the poverty or of the affluence of the employer. It is not affected by the fact that one of employers can by skilful management, by enterprise, or by good fortune, make large profits. (Page 3 *New Province of Law and Order*, by *Higgins, J.*)

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I subscribe to these principles of the Court as being necessary for the proper encouragement and development of business and industry in this country, while at the same time maintaining the necessary rate of wages and standard of living of the workers.

#### THE NATIONAL ASPECT.

The necessity for dealing with this inquiry on a national basis appears from its very nature and character, from the Statute in its definition of "industrial matters" stated above, and the various dicta of the Judges of the High Court. There is involved in it, then, not merely the interests of persons concerned in the particular industry, but of society as a whole, that is, the community of Australia, which includes Australia's reputation as a progressive and solvent nation.

Australia occupies a large area of the world's surface, inhabited by a, comparatively speaking, small population spread over the wide, inhabitable areas of the continent.

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It has an area of 2,974,581 square miles, as compared with the United States, which has 3,026,789 square miles, Great Britain and Ireland with 121,633, Germany 182,213, Japan 260,738 square miles.

In 1911 Australia had a population of 4,455,005, and it has now 6,052,084, that is, 2.03 persons to the square mile, as compared with—

The United States, 114,311,000; that is, 37.77 persons to the square mile.

Great Britain, 48,225,032; that is, 396.48 persons to the square mile.

Germany, 62,539,098; that is, 343.22 persons to the square mile.

Japan and its dependencies, 83,454,371; that is, 320.07 persons to the square mile.

Sir George Knibbs draws our attention to the fact that Australia has never been able to increase its population for a series of years at the rate of 3 per cent. per annum, as did the United States of America from 1791 to 1860. He says, "It can do so only if its productive efficiency is very high and its social and economic conditions such as promote its power of increasing its population."

We are protected from foreign nations by the power of the British Empire. If we are to retain exclusive possession of this vast continent for ourselves and our posterity, is it not essential that we should develop and progress as expeditiously as possible? In order to do this is it not necessary that every Australian citizen should continuously contribute toward this end? Must not Australia develop its industries, primary and secondary, as quickly as possible to make this great country as attractive and prosperous as possible, so as to induce our fellow-members of the British Empire and other desirable members of the white races of the world to come to our shores and settle amongst us, so that when the critical time of foreign aggression arrives we will have sufficiently developed and have attained sufficient strength to resist such aggression and be enabled to retain Australia for our race?

#### THE ECONOMIC POSITION OF AUSTRALIA.

Owing to the difficulties and uncertainties of ascertaining the national dividend, a matter which I will discuss later, I think that the more important table, one which gives more reliable evidence of our progress or failure to progress, is exhibit V8, which shows a comparison of the public debt, taxation, interest on total debt, and the value of production in Australia in the years 1911 and 1925—

	Net total debt.	Taxation.	Interest on net total debt.	Value of production.
	£	£	£	£
1911 ..	273,059,605	18,546,273	9,662,753	189,098,000
1925 ..	965,870,844	74,505,273	51,113,845	449,157,000
Percentage increases between these years for each—				
	254	302	429	138

That is to say, that while our net total debt in 1925 was three and a half times, our taxation four times, our interest on net total debt five and a quarter times, our production was only two and one-third times what each respectively was in 1911.

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In 1911 the taxation per head of population was £4 3s. 10d. and in 1925 it was £12 13s. 10d., approximately three times as great as in 1911. (Exhibit L.78.) In 1911 the percentage of taxation to production was 9.8 per cent. and in 1924-25 it was 16.6 per cent. (Exhibit L.81.)

Of the total indebtedness, a sum of £400,000,000, which has been used up in war (see Mr. Sutcliffe's evidence, page 3406 of the transcript) is represented by nothing except that our race still occupies this continent under its own flag and own law. That sum, however, cannot be ignored by merely referring to it as an unnatural debt. It calls for payment in the same way as any other debt. The payment of interest on it is a clear tax on production. A consideration of the material set out above shows that the burden of this total public debt is no light one, although, apart from the war debt, it is largely not "dead-weight" debt, and the interest on it must also be paid out of production. It has been largely used in creating revenue-producing assets; but how far those assets now represent, or will represent in the future, the money which has been expended on them, and how far they will appreciate in value, if they appreciate at all, is difficult, or probably impossible, to estimate. There are involved questions as to how far these assets were, in the first place, economically constructed so that the public got full value for its money; how far they were mistaken or unwise so that they have failed or will fail of their purpose, so that they have or will have no or small comparative value; and how far they have appreciated or will appreciate in capital value, and how far they have depreciated or will depreciate. There is involved also a consideration of how far their values are or will be affected by the quality of their direction, the economy and efficiency of the management and the labour employed, and of how far they have been or may be reduced in value by substituted services, e.g., the motor traffic encroaching for long and short distances on the railway traffic. It must be borne in mind, also, that many of these assets must remain for a period of years in a state of insufficient production, and that their subsequent success primarily depends on an increase in population which will use them, but also on conditions of trade and markets and production at a price to compete, and a number of other factors. Therefore it may be, and it appears likely in regard to some of them, that the assets which we place to the credit against the debit of loans must be discounted. The evidence which has been submitted to us must lead me to agree with the proposition that the Australian standard of

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living has been maintained at its present pitch largely as the result of borrowing money from overseas to stimulate and provide the capital for local production. That money must be repaid.

One method of attempting to determine our economic efficiency and progress which has been discussed at length during this case is by a comparison of the national income or the national dividend during years and periods of years. The methods proposed of estimating the national income or dividend were varying and in disagreement. That of Mr. J. T. Sutcliffe, of the Commonwealth Bureau of Census and Statistics, which is contained in his book, *The National Dividend*, is opposed and objected to by Sir George Knibbs, lately head of that bureau; by Mr. F. C. C. Benham, lecturer in economics at the Sydney University, whose views represent also those of Professor Mills, by Mr. P. J. Pringle, and by Mr. B. Latham, for various reasons and on various grounds, many of which, it will be sufficient for me to say, appear to make it an unsafe guide.

In his book on the *Economics of Welfare*, A. C. Pigou, Professor of Political Economy in the University of Cambridge, speaks of the puzzles which hang about the definition of and the measurement of changes in the size of the national dividend. He says "these puzzles are, no doubt, of academic rather than of practical interest. But it is none the less important to re-solve them if we can, and the difficulty of doing so is great."

One thing however is clear that it is hoped by none of the protagonists of the various methods to get nearer than 10 per cent. on one side or the other to what the actual figure may be. I do not therefore propose to enter here into an attempt to determine which of these methods is the best, for the necessary data appears to be lacking and the margin of error will be so great in the best of them that the results will not be dependable enough for our purpose. Assuming however that it is sufficiently reliable for comparative purposes because in each year the National dividend has been compiled on exactly the same lines by the same process then such comparison may be valuable.

Mr. Benham's comparison of the national income, as appears in Mr. J. T. Sutcliffe's book in the totals, page 13, corrected to 1911, prices per head of population for four comparable years, which Mr. Benham refers to "as the supreme test of economic progress," is as follows:—

For the years	1910-11	..	..	£58.5
	1911-12	..	..	57.3
	1912-13	..	..	52.1
	1913-14	..	..	57.0
				—
	Average	..	..	£56.2



For the years	1922-23	..	..	50.9
	1923-24	..	..	50.1
	1924-25	..	..	58.6
	1925-26	..	..	53.4

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Average .. .. £53.2

See Table 2, "The National Dividend in Australia," p. 13, Mr. Sutcliffe's book on *The National Dividend*, and Exhibit V.4.

That is say, that the national income at 1911 prices per head of population was larger in the earlier period than in the latter.

The other method by which we may estimate our productive efficiency, that is the economic effort of this country to carry on a progressive existence while meeting the obligations of the past, is to compare the figures set out in Exhibit L.134, which are agreed to by all those who have disagreed on the national income method and which, even allowing for the errors to which index numbers are subject, does I think illustrate the position more exactly. I now set out that exhibit in full.

PRODUCTIVE EFFICIENCY INDEX-NUMBERS 1908 TO 1924-1925. \*  
(L.134.)

Based upon the persons engaged in each group of industries the value of production as recorded is divided by the persons engaged and prices variations eliminated by the use of Production Price Index:—

Year.	Agri- culture.	Pastoral.	Dairying, Poultry, and Bee Farming.	Agri- culture and kindred Industries.	Forestry and Fisheries.	Mining.	Manu- facturing.	All Industries.
1908 ..	983	807	826	859	878	948	980	920
1909 ..	1,163	933	853	989	838	943	988	996
1910 ..	1,246	1,052	987	1,110	926	951	991	1,058
1911 ..	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
1912 ..	1,241	854	967	1,000	1,069	1,044	1,015	1,008
1913 ..	1,270	991	1,025	1,085	1,090	1,053	1,026	1,053
1914 ..	550	970	1,002	770	875	1,043	1,034	863
1915 ..	1,762	706	836	1,004	776	1,110	1,041	1,022
1916 ..	1,444	693	1,008	919	675	1,081	1,049	964
1917 ..	1,188	755	1,166	919	626	1,036	1,036	951
1918 ..	942	782	1,175	864	658	1,104	1,008	913
1919 ..	752	861	1,117	818	760	835	1,043	870
1920 ..	1,390	705	1,219	979	853	913	1,032	979
1921 ..	1,291	870	1,485	1,072	956	1,017	1,044	1,032
1922 ..	1,220	830	1,399	990	910	1,103	1,054	999
1923 ..	1,311	742	1,434	936	896	1,142	1,072	976
1924 ..	1,505	910	1,779	1,122	896	1,139	1,075	1,079

"The most striking feature of the productive efficiency thus ascertained for all industries combined is the relatively small variation during the period. There are three years out of the seventeen included in the table in which the productive efficiency was more than 8 per cent. below that for 1911. These were 1914, 14 per cent. below; 1919, 13 per cent. below; and 1918, 9 per cent. In each of these years a very large proportion of the diminution in efficiency was due to

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drought. Of the remaining fourteen years, three, viz., 1909, 1911, and 1922, were practically equal; five, viz., 1908, 1916, 1917, 1920, and 1923, were from  $2\frac{1}{2}$  per cent. to 8 per cent. below that level, whilst the remaining six, viz., 1910, 1912, 1913, 1915, 1921, and 1924, were from 1 per cent. to 8 per cent. above it. There were thus in the seventeen years nine in which the productive efficiency was equal to or above that of 1911 and eight in which it was below that level. Comparing the first five years of the period with the last five there is evidence that in respect of all industries combined there has been in the twelve years from the middle of the former to the middle of the latter quinquennium an increase of  $1\frac{2}{3}$  per cent. in the productive efficiency per person engaged."

A comparison of the figures in the Exhibit L.134 must, I think, lead one irresistibly to the conclusion that the increase referred to of  $1\frac{2}{3}$  per cent. in the productive efficiency per person engaged and the increases where they occur in each of the classes of industry are quite inadequate and insufficient especially when one considers the aids to production in the way of plant and machinery which have been introduced during the course of the years.

\* Sir George Knibbs, having come to the conclusion that the ascertainment of "savings" must fail as it lacks the necessary data, turns to this exhibit, L.134, as one throwing valuable light on the question.

He says "It was apparently admitted that for the purpose of comparing the productive efficiency at different dates the four years 1910, 1911, 1912, and 1913 might very appropriately be compared with the years 1921, 1922, 1923, and 1924. The indexes for the two sets of years are given as 1058, 1000, 1008, 1053, the total being 4119, or average 1030, and 1032, 999, 976, and 1079, the total being 4086, or average 1022." He adds, "Thus one sees that despite all advance in technical organization, despite all improvements in machinery and all reactions which tend to more efficient production, there is according to these figures a retrograde effect, taking the four years into account."

This view is further strengthened by a consideration of Exhibits B.2 and V.4, Tables 2 and 3 of Mr. Benham's supplementary exhibits and the table at page 85 of the Labour Report 1925, No. 16.

It will be noted that the "productive efficiency index number" in Exhibit L.134 is calculated upon the basis of "per person engaged in the industries" and not "per head of population." Considerable argument as to the propriety of the respective bases took place during the hearing. It seems to me that where one is considering the progress of a particular industry, "per person engaged" is the appropriate basis, but when one is considering the productive efficiency of the whole community the obviously correct and appropriate basis is "per head of population."

I am strengthened in this opinion by the reasons given by Sir George Knibbs in Appendix LLI. of Exhibit L.151, in which he sums up the matter in these words: "The relative productive efficiency of a community should be measured *per capita* because its efficiency as a totality of inter-related and inter-acting units of activity is then and then only properly taken into account."

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The table IV. on page 85 of the Labour Report, No. 16, of 1925 shows the estimated relative productive activity per head of the population index numbers as follows:—

1910	..	..	..	..	..	1,060
1911	..	..	..	..	..	1,000
1912	..	..	..	..	..	989
1913	..	..	..	..	..	1,018
1914	..	..	..	..	..	813
1915	..	..	..	..	..	947
1916	..	..	..	..	..	901
1917	..	..	..	..	..	887
1918	..	..	..	..	..	853
1919-20	..	..	..	..	..	812
1920-21	..	..	..	..	..	903
1921-22	..	..	..	..	..	944
1922-23	..	..	..	..	..	913
1923-24	..	..	..	..	..	894
1924-25	..	..	..	..	..	984

Mr. Benham's table (Table 111 of his supplementary exhibits) corrected to allow for changes in export and import prices is as follows:—

1911	..	..	..	..	..	1,000
1912	..	..	..	..	..	1,013
1913	..	..	..	..	..	1,038
1914	..	..	..	..	..	832
1915	..	..	..	..	..	968
1916	..	..	..	..	..	906
1917	..	..	..	..	..	849
1918	..	..	..	..	..	773
1919-20	..	..	..	..	..	725
1920-21	..	..	..	..	..	837
1921-22	..	..	..	..	..	846
1922-23	..	..	..	..	..	872
1923-24	..	..	..	..	..	912

If the national dividend advanced by Mr. Sutcliffe is to be relied on I think we may notice its distribution as set out in Mr. Sutcliffe's book on that subject, particularly in reference to the percentage proportion of the amount received by wage and salary earners as compared with that received by others.

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In the comparable years, 1910-11, 1911-12, 1912-13, 1913-14, it was on the average approximately 60 per cent., and in 1920-21, 1921-22, 1922-23, 1923-24, 61.9 per cent. The general average for the full period 1910-1925 is 58.4 per cent.

Regard being paid to the difficulties in ascertaining the national dividend, more reliable information may be obtained from Mr. Sutcliffe's table No. 17, pages 38 and 39, which shows "Manufacturing Production"—percentage of total production received by wage earner. These percentages are based on the actual amounts paid as wages by employers:—

In the years 1910-11	..	58.3	
1911-12	..	59.6	
1912-13	..	60.5	
1913-14	..	60.3	
			238.7—Average 59.7 per cent. approx.
In the years 1920-21	..	63.3	
1921-22	..	62.1	
1922-23	..	60.8	
1923-24	...	60.8	
			247.0—Average 61.75.
			1910-1924; General average—60 per cent.

Notwithstanding the great increase in the expenditure on machinery and labour-saving devices the wage and salary earners, for the last four years, have been receiving a greater proportion, regarded from the point of view of the national dividend, or from the point of view of actual production in manufacturing, than they received in the four years of the first period, or than the general average throughout the whole period 1910-1924.

Mr. Sutcliffe, earlier in his book, in referring to the altered method of readjustment, and the addition of 3s. per week to the standard previously adopted in Australia, says that the effect of this altered method is shown in the effective wage index numbers for the years 1921, 1922, 1923, 1924, which are on the average nearly 4 per cent. higher than the 1911 level.

The evidence of Mr. Pringle is also to the effect that the share received by wage and salary earners in Australia has increased during the course of the years.

Mr. Benham (see page 3616 of the transcript) is of opinion that the normal share going to wages and salaries is about 55 per cent., and that distribution tends to that percentage not only in Australia, but in other industrial countries.

Other important comparisons are the power, value of land and buildings and plant and machinery, and wages paid in connexion with factories in the year 1911, and the year 1924-25.

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	1911.	1924-25.
Establishments using machinery (steam, gas, oil, and electricity)	9,972	17,717
Employees .. .. .	311,710	approx. 439,949
Total horse power of engines used	343,550	1,260,076
Approximate value of land and buildings .. .. .	£32,000,000	£91,000,000
Approximate value of plant and machinery .. .. .	£31,500,000	£109,000,000
Approximate wages and salaries	£27,000,000	£81,000,000

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Considering the two years, the following comparisons are obtained:—

	1911.	1924-25.
Horse power per employee ..	1.102	2.864 (Exhibit V. 10)
Value of land and buildings per employee .. .. .	104.1	207.4 (Exhibit L. 85 and 86)
Value of plant and machinery per employee .. .. .	101.3	248.3

The most effective item for comparison is that of the horse power, for it is unaffected by variations in prices, and it shows that the improvement in machinery had more than doubled per employee between the periods admittedly comparable, which have been used in this case to ascertain the progress or otherwise of the community.

The figures corrected to show the net horse-power per person engaged after excluding heat, light and power industry, show that the horse-power per person engaged has increased 88 per cent. from 1911 to 1924-1925, and that accompanying this increase in the net horse-power there was an increase of only 8 per cent. in the volume of output per person engaged. In the United States from 1914 to 1923 the net horse-power, measured in the same way, increased by 17 per cent., and there was an increase in the volume of output per person engaged of 26 per cent.

Further, there are certain obvious phenomena which should cause us disquiet.

The first of these to which I refer is the annual deficit of each of the State Governments, a deficit larger in some States than in others. For the last ten years in the aggregate all the States have shown a deficit. These deficits, in so far as the railways are concerned, do not fully allow for depreciation. Such allowance if made would, of course, show them to be greater than they are represented. (See the evidence of Mr. Clapp and Mr. Latham, and Mr. Sutcliffe's exhibits as to the South Australian Railways).

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The second of these phenomena is the increasing number and value of imports into the Commonwealth and their excess in recent years over and above exports, and the corresponding difficulties of our secondary industries.

Throughout the years from 1892 to 1920, with the exception of 1913, the first half of 1914 and 1914-1915, the exports of Australia in each year exceeded her imports. See table of the Overseas Trade of the Commonwealth, 1826-1914, official *Year-Book*, 1916, No. 9, page 543, and the similar table for the years 1826-1924-5, official *Year-Book*, 1926, No. 19, page 200. I set out the figures contained in the latter publication, which combines the figures of 1913, 1914, and 1915, and in a quinquennium giving an excess of exports as the combined result of these years in that quinquennium.

Years.							Percentage of Exports to Imports.
1891-1895	..	..	..	..	..	..	123.2
1896-1900	..	..	..	..	..	..	121.7
1901-1905	..	..	..	..	..	..	130.5
1906-1910	..	..	..	..	..	..	134.6
1911-1915-6	..	..	..	..	..	..	101.5
1916-1917	..	..	..	..	..	..	128.5
1917-1918	..	..	..	..	..	..	130.6
1918-1919	..	..	..	..	..	..	111.4
1919-1920	..	..	..	..	..	..	151.4

Compare these figures above with the percentage of exports to imports for the years 1920-1926 given below.

1920-1921	..	..	..	..	..	..	80.7
1921-1922	..	..	..	..	..	..	124.0
1922-1923	..	..	..	..	..	..	89.5
1923-1924	..	..	..	..	..	..	85.0
1924-1925	..	..	..	..	..	..	103.1
1925-1926	..	..	..	..	..	..	98.0

The actual figures for these last six years are as follows:—

Imports.							Exports.
£							£
163,801,826	..	..	..	..	..	..	132,158,912
103,066,436	..	..	..	..	..	..	127,846,535
131,757,835	..	..	..	..	..	..	117,870,147
140,618,293	..	..	..	..	..	..	119,487,164
157,143,296	..	..	..	..	..	..	162,030,159
151,558,475	..	..	..	..	..	..	148,572,270
847,946,161	..	..	..	..	..	..	807,965,187

which represent a difference of approximately £40,000,000 as balance of trade against us.

According to information which I have received from the Commonwealth Bureau of Census and Statistics, the imports for the six months

period 1926-1927 show imports £83,790,489, plus £205,674 bullion and specie, and exports £60,767,642, plus £9,171,121 bullion and specie—a total difference of £23,228,491 in favour of the imports. It is realized, however, that these half-year figures must be considered in the light of the fact that a good deal of the payments for our wheat and wool, &c., have yet to be made. It is pretty clear, however, that our imports will again for the whole year greatly exceed our exports.

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In connexion with this matter it is unfortunate, but unescapable except by greatly increased production, that the borrowing abroad which is necessary for us to maintain our present standard of living can only have the effect of increasing our imports, in other words, that the maintenance of our present standard of living can only be effected at the expense of many of our industries. Thus the prosperity of the Commonwealth, as suggested by a booming Customs revenue, is largely caused by the flotation of loans abroad, and is a mere appearance of prosperity. It is fictitious.

Thirdly, there are the difficulties of States in obtaining loan moneys, and the suggestions of hostility to further loans which have been made by people in the big centres of capital. "The fact that the London market is becoming hostile to Australian borrowing indicates that they are taking the position in a serious manner. Their opinion I feel is justified. That is my opinion and the London opinion. I feel that the recent budget speeches of the various State Treasurers support that view; Queensland, Victoria, South Australia." (Mr. Latham, page 5016 of the transcript.)

Fourthly, there is the fact that certain of our primary industries which depend on selling abroad are not able to compete in the world markets without various forms of monetary assistance from the Commonwealth Government. The position into which these industries has sunk, and the extent of the assistance which has to be given will be considered later. I think I might, however, here make a comparison of productivity per head of population of our primary industries, which tells its own tale.

Taking once again the comparable years of 1910-11, 1911-12, 1912-13, and 1913-14 with 1921-22, 1922-23, 1923-24, and 1924-25, it appears that in the former set the figures respectively are:—

1,100, 1,000, 971, 1,017—total, 4,088; average, 1,022;

and the latter:—

895, 836, 796, 914—total, 3,441; average, 860.25;

that is to say that, in the first four-year period, our productivity per head of population, as compared with the second four-year period, was in the proportion of 102 to 86. Mr. Benham, speaking of these two

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periods, says: "The two periods are more or less comparable. I think the advantage, so far as seasonal influences are concerned, would go to the latter period."

The position thus disclosed must cause every Australian grave mis-giving.

Australia's position is summed up in the evidence by Mr. B. Latham, who was subpoenaed as an independent expert, and who as actuary to the Commonwealth Bank, requiring the consideration of Australian finance, and as president of the Australian Institute of Actuaries, from his position and experience should be well fitted to express a valuable opinion on the subject. He says:—

"We are heavily in debt, and our indebtedness is increasing rapidly, while our production per head is not increasing, and anything that reduces production must, of necessity, lower our economic and financial standing. Our position is not as sound as it was before the war. It is not as sound and as healthy as we would like it to be."

As Mr. Benham says, "Australia is not at present, nor has it been over the last four or five years, in as good a position as that in which it was for the four years before the war. Owing to the fact that interest on our external debt has been increasing at a great rate above our national income, our position now is worse than it was in the pre-war years."

#### HOW THIS POSITION CAN BE FACED.

How can this increased and increasing burden of taxation be met and ultimately discharged or reduced to less ponderous proportions. How can we meet this increasing competition at home and abroad, and how can we develop this country and set it securely in the world, maintaining at the same time that standard of life which we consider necessary.

Is the answer: By a general reduction of our working hours by four, and a corresponding increase in wages rate per week leading to less production, or by an increased effective production?

It may even not be enough for our needs that we should maintain a reasonable efficiency in production, for the reason that Australia has a task, which must be carried out as soon as possible, of populating herself, of attaining economic as well as racial security by developing her industries and resources, and establishing them so that they can stand on their own feet as soon as possible. Her racial and economic security are interdependent.

There is necessity to increase our production not only to meet our obligations, and not only to ensure as soon as possible the security referred to, but also to escape the necessity of having to increase those



obligations. As Mr. Latham states at page 5009, the only way in which we can escape from the necessity of having to borrow money to maintain our present standard of living, is to increase production. Also at page 5011 he makes another statement with which I agree:—

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“If our production is to be reduced in any way, it can only be at the expense of the standard of living, unless we keep on borrowing until nobody will lend us anything, which is a state of affairs we cannot seriously consider.”

It is advisable at this stage to refer to the lack of co-operation between employer and employee which, unfortunately, largely characterizes the industrial relations in this country, but which is not peculiar to it. It has been rightly urged by the applicants that this must greatly reduce production, but the blame, to my mind, lies on both sides, and I am not inclined to enter into the difficult matter of its allotment. It is beyond the province and power of this Court to enter into experiments in the construction of a new social order.

It suffices me to say that, under any social order, and under any organization of society and industry, if this country should then be in the position in which we find it to-day, then any reduction in production would be fraught with most dangerous and, perhaps, disastrous consequences, and that any country, under any social organization, finding itself in such a position would have to set itself to increasing its production.

#### THE EFFECT OF THE APPLICANT'S CLAIM, IF GRANTED, ON PRODUCTION, COSTS, AND COMPETITION.

It is now asked by the applicants that the hours in normal industries should be reduced from 48 to 44 per week. I will proceed, therefore, to state what the evidence discloses as to the effect on production, costs, and competition. In doing so, I assume that the prescribed rate now obtaining for 48 hours will apply to 44 hours in the event of a reduction being made. The log of the applicant shows that they are seeking for greater rates than those prescribed by the present award.

#### IN REGARD TO PUBLIC UTILITIES.

##### *New South Wales Railways.*

The Commissioner for Railways' estimate is that the increased cost in labour and material due to the reduction will not be less than £577,288 for the railways for the year 1926, which he states is a low estimate (page 2052 of the Transcript). The increased cost of material included by the witness in his estimate would necessarily be associated with shorter hours (page 2052 of the Transcript).

The estimate of the increased cost of both tramways and railways is £700,000, including material for the current year, that is 1926 (pages 2052 of the Transcript).

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The percentages of the increased staff, which are responsible for the above estimates, are contained in the evidence of Mr. T. J. Hartigan, Chief Accountant, N.S.W. Railways, as follows:—

Railways estimated increased staff	..	..	5.5%
"    "    "    workshops	..	..	9.1%
			—
Average	..	..	6.46%
Tramways estimated increased staff	..	..	5.6%
"    "    "    workshops	..	..	9.1%
			—
Average	..	..	6.62%

Increases in material is estimated at about 3 per cent. It is pointed out that these estimates have been arrived at on the experience of 44 hours for the six months ending 30th June, 1926.

#### *Victorian Railways.*

The Victorian Railways Commissioners' estimate is that the increased cost in labour and material due to the reduction will be £636,256 per annum (working expenses, £566,406; capital, £69,850) (page 4487 of the Transcript).

Estimated increased staff—7.09 of the total staff; .830 of staff affected.

Estimated increased salaries—6.91.

Estimated increased stores and material—2.94.

The increases include Rolling-stock, Transportation, Way and Works, Electrical, Engineering, Signal and Telegraph Services, Stores, Accountancy, Secretaries, Traffic, and Audit Department.

#### *Queensland Railways.*

The Queensland Commissioner for Railways states that from time to time reductions have been made to 44 hours in various branches of the service in regard to which he was unable to give any estimate on account of the confusion caused by other factors. The extra cost occasioned by a reduction to 44 hours pursuant to an Act of Parliament in that State as affecting 8,358 men out of 18,000 was about £250,000 per annum.

#### *South Australian Railways.*

An inquiry was carried out by Mr. J. T. Sutcliffe as to the estimated cost of 44 hours in these railways. He estimates the annual cost of the reduction in wages and salaries will be £285,000 per annum, approximately (Exhibit S.A.R. 4).

The Railway Department also estimates that the change will necessitate an additional capital expenditure of approximately £100,000.

No evidence in regard to the extra cost to Western Australian or Tasmanian railways has been offered.

## NEW SOUTH WALES PUBLIC UTILITIES.

*New South Wales State Brick Works.*AMALGAMATED  
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The New South Wales Government claimed the output under 44 hours was equivalent to that under 48, but the increased rate of output was obviously due to the introduction of new machinery. It was stated by its representative that in order to maintain the output which became less by the lessening of the task set, some machines were installed which resulted in a heavily increased gross output at a less labour cost (page 1330 of Transcript).

It also appears that extra effort on the part of the employees was induced by a 30 percentage division of the profits among the men (page 1535 of Transcript), which came to £10,000 per annum.

*State Monier Pipe and Reinforced Concrete Works.*

So far as the pipe making is concerned the men work on the task system; they work up to a certain number, some of the men being able to do more, some less. The man who does more gets higher wages (page 1565 of Transcript).

The 48 hours were worked in 5½ days; the 44 hours are worked in five days. The loss of the half day's production has added about 8 per cent. to the labour costs (page 1666 of Transcript) of the pipe making.

The increased labour cost of 8 per cent. on reduction of four hours is found in the manufacture of the other products of the works (page 1667 of Transcript).

*Electricity Department, Sydney City Council.*

The estimate made by Mr. S. T. Maling, the Acting General Manager, of the cost of the change from 48 to 44 hours was £4,000 approximately per annum, which is ½ per cent. of the whole cost (page 2224 of Transcript).

It is explained by Alderman Mostyn, Vice-Chairman of the Commission (page 1809) that the actual cost has been saved to the City Council because the Department is worked in five days. Under a 44-hour week in five days the time on Saturday morning is not lost which was lost under the five and a half days. Under the five and a half days a man sent out to the suburbs worked actually only one and a quarter hours on Saturday, travelling time occupying the balance (page 1808). It seems also that new machinery has been introduced and a re-organization made.

It appeared in cross-examination that the wages costs of 1925 were considerably over those in 1924, consequent on an increase in staff. The record states that the causes of such extra cost were made by four different items, one of which was the working of a 44-hour week as

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against 48 per week (page 2010 of the Transcript). And also in a technical report in regard to generation on the question of running costs, it is said—

“The above increases were partly due to the adoption of a 44-hour working week in 1925 compared with a 48-hour working week which was in operation in 1924 and to an increase in the basic wage.”

It also appeared that while the profit in 1924 was £207,000, in 1925 it was only £53,000, a fall of £154,000 in a year. Of this £154,000, witness explained sums of £24,000 and £35,000, but was unable to explain the balance. (See Mr. Maling on page 2224 of the Transcript.)

#### VICTORIA—PUBLIC UTILITIES.

##### *State Electricity Commission.*

Sir John Monash, Chairman of the Commission, estimates that the increased labour cost due to a reduction to 44 hours would be £54,000 per annum (page 4542 of Transcript). The amount of increased material cost, although conceived to be a substantial amount, he is not able to estimate reliably. (The Commission will be unable to pass on the extra cost to a very great extent because of the existing contracts extending over a period of ten years.)

The Commissioner anticipates that the constructional work will go on for a number of years until the growth of population stops.

Victoria has two-hundred units *per capita* per annum standard, which is a long way behind the standards of the rest of the world.

In the United States the standard is about 650 units *per capita* per annum. In Switzerland, 800; in Sweden still greater. Victoria has a very long way to travel before it reaches what may be described as electrical saturation.

##### *Public Works Department (Railway Construction Branch).*

The total estimated annual increased cost of a 44-hour per week is £37,785, or 6.06 per cent. per annum (labour and materials).

##### *Country Roads Board.*

The total estimated annual increased cost of 44 hours per week is £80,551, being one-eleventh labour costs £57,639 and estimated added cost of works carried on under the supervision of the Board £22,912. These figures do not include additional costs incidental to railway freight, purchase of stores and materials, and overhead charges, &c., in connexion with which no reliable estimate can be furnished but which it is stated will be considerable (see Exhibit V.47).

*State Rivers and Water Supply Commission—Victoria.*

Estimated increased cost of 44 hours:—

Construction	..	..	..	£90,090
Maintenance	..	..	..	7,090
Material	..	..	..	13,200
Overhead charges	..	..	..	4,140

Total .. .. £114,520 per annum.

(See Exhibit V. 56.)

The evidence also points out that as the extra burden is approximately £100,000 per annum if the increased capital is to be paid off at the end of twenty years then interest would have to be paid on £2,000,000 at that time as progressively increasing interest from the first year when the capital was increased £100,000 to the twentieth year when the aggregate amount is £2,000,000 (i.e., assuming no extra rate is levied to pay off the increased capital every year).

*Melbourne and Metropolitan Trams.*

After a thorough inquiry the Board has estimated that the reduction would increase the cost to the following extent:—

	Per annum.
Increase in staff of 9 per cent. .. ..	£99,000
Increase in material cost at 3 per cent. ..	10,300
(Page 3560 of transcript)	
Increase in clerical staff, ticket examiners and inspectors .. ..	3,600
(Page 3562 of transcript)	
Increase on renewals—9 per cent. labour, 3 per cent. material .. ..	13,000
(Page 3563 of transcript)	
Increase on new construction covering five years would be .. ..	189,000
(Page 3560 of transcript)	

The Tramways Board would be unable to pass on this extra cost to its customers.

*Electrical Supply Coy. of Victoria*, carrying on an electric power and tramway business at Ballarat and Bendigo under a tariff fixed by Government orders and with no opportunity of raising such tariff. The tramway fares are not subject to any increase except as to sectional fares with regard to which the public is so sensitive that it is inadvisable to try to raise such fares. The estimated increased cost of 44 hours is (page 3531 of transcript):—

(a) A wage increase of one-eleventh, £4,948 on a wage bill of £54,427 per annum.

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(b) Material, £922.

(c) Coal, £996.

The effect on capital cost would amount to £4,250.

Increase on capital charges, £820.

The witness also points out that a reduction in hours will affect the company's revenue, by decreasing the demand of its customers for light and power to the extent of four hours per week, to the amount of £802 per annum for power and £1,132 per annum for lighting if a reduction of shopping hours also takes place.

*Melbourne and Metropolitan Board of Works.*

The estimated increase in Board's wages bill if 44 hours be introduced for 1927 is £40,050 if production is the same per hour. The estimated total increase to Board if 44 hours be made universal so as to include contractors, employees, and other considerations is £132,000 for 1927 (Exhibits M.B.3).

SOUTH AUSTRALIA.—PUBLIC UTILITIES.

*Adelaide Municipal Tramways.*

Estimated cost of a 44-hours week of present services and wages only:—

Traffic	..	..	£34,527
Rolling stock	..	..	7,251
Permanent way	..	..	2,899
Station Department	..	..	2,520
Overhead	..	..	263

Total .. .. £47,460 per annum.

(See page 3468 of transcript). Owing to the development of services this total amount will increase in operating costs each year about 10 per cent.:—

1st year	..	..	..	£47,461
2nd year	..	..	..	52,206
3rd year	..	..	..	57,426
4th year	..	..	..	63,168
5th year	..	..	..	69,484
6th year	..	..	..	76,432

These amounts are for wages only.

A building programme has been laid down the expenditure on which approximates £198,000 per annum on capital account, and that programme will be effected in the event of a 44-hour per week by increased cost of labour of 9 per cent. and cost of material approximately 3 per cent., making an additional capital cost of £10,452, on each £198,000 expended, which means an additional capital cost of

£52,260. To this sum of £10,452 there must be added the sum of 12 per cent. to cover cost of interest, depreciation, and renewals, which works out at £1,254 for the first year, until it reaches in the sixth year of the building programme as a recurring expenditure on account of additional capital cost the sum of £6,270 per annum. (Page 3471 of transcript).

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It is to be noted in connexion with these municipal tramways that the gross revenue for the last year was £707,000, and the deficit £90,000, so it will be seen that the extra cost occasioned by the 44 hours in this case would be very serious indeed.

*The Broken Hill Proprietary Company.*

This company, in one of its branches, carries on an iron and steel works at Newcastle, in the State of New South Wales. The importance of this industry to the community is very great. It is necessary for the treatment of one of Australia's natural products and to supply material for the engineering shops and provide our weapons of defence.

This branch of the Broken Hill Proprietary Company's operations has been established and maintained at a very great cost by this financially strong company, which has been very successful in another branch of its business, that of mining, and which is, therefore, able to supply the capital and build up an industry that is so vital and so necessary to the well-being of the community. No question is raised as to the efficiency of their machinery or the competency of the management.

It appears from the evidence offered by the company to us, and from the evidence previously offered to the Tariff Board, which had the company's books investigated and examined by a competent public officer (whose report we have seen), that the success of the industry depends upon the restriction of production costs to a competitive level and the development of a sufficient demand for the product.

The evidence shows, in some cases, that the company's product can compete on a small margin with the imported article, and in other cases cannot compete at all without a substantial measure of Australian sentimental preference, and that a further cost occasioning an increase in the cost of production would imperil the continuance of the business, or alternatively necessitate a further substantial raising of the tariff and further Australian sentimental preference to support it. Further Australian preference seems unlikely, the company's customers having drawn attention to the high cost. (Page 3963 of the transcript.)

Two comparable periods at the Newcastle works show that the reduction of four hours has led to a corresponding loss of production, an increase in the labour cost, and other indirect losses, while it has occasioned some of the employees themselves a loss of the aggregate sum of £20,000 per annum of production bonus.

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According to the evidence of the company, which has had difficulty in giving exact figures owing to the varying nature of their production at the different periods, but which has given a substantially and approximately correct figure, the loss of output on the whole plant of the reduction is 8.3 per cent. of production.

It has reduced prices since 1923-1924, and is not doing any business in steel rails other than on a preference basis.

*Broken Hill Associated Smelters Pty. Ltd.*

Prior to 1914, 50 per cent. of the output of Broken Hill was exported to smelters in Europe. This company was formed in 1915. For the year ending the 30th June, 1926, a very big tonnage came to the works, of which it was necessary to export 11,000 tons to the Continent, that amount being in excess of the capacity of the plant. That 11,000 tons returned to the mining companies at Broken Hill an amount which shows that if the whole of the tonnage had been similarly exported there would have been £78,388 more to have been paid to the mining companies. From these it appears that, but for the money actually expended in their works, it would pay the company better to export the whole of the lead concentrates from Broken Hill to other parts of the world for treatment.

The estimated increased cost of 44 hours is £34,786 on Case A, referred to in the company's exhibit, and £42,862 per annum in Case B, disregarding costs of stores, material, transport, &c., i.e., for wages only. (Page 4804 of the transcript.)

The wages costs are about 45 per cent. of the total expenditure, amounting in twelve months ending June, 1926, to £369,616. The present position is such that, if Port Pirie works were destroyed by some means or other, the present cost alone is such that it would be more profitable to export concentrates to England and have them treated there.

*Metters Limited.* (The witness was Mr. R. A. Spring, a director of the company.)

The piece-workers are one-third of the employees. It has been noted in actual experience that each hour's product is the same under 44 hours as 48. The four hours' production is lost and the rate of pay per hour increased 9 per cent., including rates to piece-workers. The time-workers' production on Saturday morning is lost. Labour costs have increased practically 9 per cent. The total costs have increased 5 per cent. and prices have been put up 5 per cent.

The company is losing money through passing on the 5 per cent. increased cost due to 44 hours, and the position will be worse if 48 hours' pay has to be given for the 44 hours.

Overseas competition in stoves is serious. In Tasmania the trade is being lost.



The worst competition experienced is in hollow ware, in which, it is said, the only orders are obtained by either sentimental preference or by the ability to give quicker delivery. (Pages 1498 and 1467 of transcript.)

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*Hipsleys Limited—Engineering.* (Page 1922 of the transcript.) (The evidence was given by W. B. Hipsley, managing director of the company.)

In the company's motor repair works four hours' production is lost under 44 hours, as compared with 48. The prices were put up in consequence 10 per cent.

The extra cost of 44 hours in the year 1922 was in experience found to be about 10 per cent.

The business was commenced in 1901, and engaged in the manufacture of numerous lines, principally sheep-shearing machinery, to which were added other lines, including motor parts and gears. It had considerable engineering plant, and purchased a further plant costing £34,250 in the last ten years.

In 1920 the company desired to extend their manufacturing business. Mr. Hipsley visited America to study manufacturing methods there. He purchased a substantial plant there, and established works at Waterloo and extended the company's manufacturing into numerous other lines of machinery. The manufacturing was carried on from 1920 to 1922. It was discontinued and sold out in July, 1923, the company being forced to sell by reason of the labour conditions &c. introduced, and the reduction of hours of labour to 44, rendering it impossible to carry on. Nothing in the way of manufacturing is done on the works.

Since April, 1926, the company now does repair work, and imports the articles previously manufactured. No industry is subject to greater overseas competition than the metal trades. The company would not consider starting manufacturing here under the present conditions.

The witness is of opinion that 75 per cent. of the shops making machinery here are in competition with overseas. (Pages 1917 and 1918 of transcript.)

*Dorman, Long and Company.*—(The witness was Mr. L. Ennis, a director of the company, and engineer in charge of the North Shore bridge construction.)

As to the North Shore bridge, the cost of reduction to 44 hours, 1st January, 1926, to 31st August, 1926, was £4,648. The estimated cost of 44 hours, if no further men are brought under it, is £28,500. The estimated cost of 44 hours, assuming all labour is brought under it, is £73,000.

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As to structural steel work, Mr. T. Smith, branch manager, says that the result of the 44-hour week is the loss of four hours' production, that is to say, the "works close down on Saturday."

Regarding competition, he gives the information that the company was a tenderer for the contract for the George's River bridge. It was the lowest Australian tenderer, and would have used Australian material fabricated at the company's Alexandria shops. The contract was obtained by Armstrong Whitworth and Company, England, the difference between the tenders being £8,000 in a price of £88,000.

*Watson and Crane Limited.*—Brassware and steam valves. (The witness was Mr. C. J. Crane.)

There is a loss of production of four hours by the loss of Saturday morning. The company is subject to severe overseas competition. Generally speaking, in larger fittings the company can compete with the imported article, but in the smaller fittings it cannot. It now imports lines it previously manufactured because it is cheaper for it to do so, although it has up-to-date machinery, 80 per cent. of which has been installed during the last five years. The extra cost of production cannot be passed on to customers except in a few lines. The witness gives comparative figures of work under the present 44-hour period.

Foundry output—

	May, June, July, 1925.	May, June, July, 1926.
Boxes per hour	.. 1.06	.. 1.04

which shows that the hourly production in the 44-hour period has been 2 per cent. less than the hourly production in the 48-hour period.

Machine shop—

Four hours' production is lost—that is about 10 per cent. altogether.

*Hadfields Australia Limited.*—(The witness, Mr. J. M. Deschamps, managing director of the company.)

The business of the company is that of steel founders and engineers. He makes a comparison of production of steel products for nine months ending prior to the advent of 44 hours a week, and nine months since its advent, which shows that the production has fallen off 15 per cent.

In the moulding the production per man hour under 48 hours to production per man hour under 44 hours, was fourteen to ten, probably accounted for, partly at any rate, by the dissatisfaction of the men in receiving only 44 hours pay for 44 hours work.

Saturday morning work is entirely lost.

The business of the company is 50 per cent. manufacturing, and in competing with imported articles it has to cut the prices below what it believes to be fair. Two hundred thousand pounds has been spent on

new plant during the last five years, the company being forced to this by increasing costs of labour. If the company had to pay 48 hours pay for 44 hours work, it would be able to continue for the local market, but the local market would have to pay for it, but with regard to manufacturing lines in close competition with overseas, it would have a very serious effect on the business. The witness examined largest works in Sheffield, and had access to all information there. The cost of producing in Sheffield as compared with Australia shows that labour cost in Sheffield was less than one-fourth of that in Australia, and the total cost less than one-half per ton. This company has been unable to pay dividends for the last two or three years.

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*Mort's Dock and Engineering Works.*—(The witness was Mr. T. H. Silk, managing director.) (Page 2157 of the transcript.)

Under 44 hours getting a little less than eleven-twelfths of the production obtained under 48. The docks are not occupied half the available time. The dock fees are exactly what they were twenty years ago, and cheaper than the docks at Glasgow or Southampton. The labour cost of painting is more than double in Australia what it is in England, resulting in ship-owners getting ships repaired in England instead of in Sydney. In the past, when wages in Australia were comparable with those in England, the company did ten times the amount of repair work to overseas ships that it is doing to-day. In this respect there has been a steady drift for years and a reduction of 48 hours to 44 here would accelerate it. At one time the company built the whole of the Manly ferry boats, and a certain number of those of the Sydney Ferries Limited. Lately all boats built for Sydney Ferries and the coastal owners have been brought out from England because the owners will not face the high wages in Australia. For the last boat brought out the company's quotation was £48,000, but the contract was obtained by a foreign competitor at £34,000. The *City of Singapore*, damaged by fire, was towed to Rotterdam for repairs because the company's price for repairing ships was too high.

The last dividend was in 1925—5 per cent.—to pay which £4,800 had to be taken out of reserves. In 1924 and 1923, dividends were 5 per cent., and, in 1922, 2½ per cent.; prior thereto in recent years, nothing at all.

*English Electric Company of Australia.*—(The witness was Mr. J. H. Pocock, the managing director.)

This company does chiefly engineering work, turbines, alternators, condensers, and general mechanical and electrical engineering. The plant is up to date. Since 1916, £160,000 has been expended on it, the greater portion of this sum since 1920. At the present time (1926)

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there is a director in England investigating latest processes, and purchasing any further necessary machinery. The company cannot compete with overseas manufacturers of turbines, being unable to quote prices as low as the prices of imported turbines. It gets orders for turbines by a recognition of preference in favour of Australian manufactures from the Railway Commissioner. The witness is unable to say what percentage of preference the company gets, but possibly it is in the neighbourhood of 25 per cent.

The effect of a reduction to 44 hours' work with 44 hours' pay would make it necessary that the sentimental preference should be greater or the company will not get orders.

The company gets about the same amount of work per hour under 44 as under 48 hours.

One result of a shorter working week has meant holding up of delivery, and the necessity for extension of times. The company is thereby rendered liable to penalties, which customers like the Railway Commissioner have under the circumstances waived. The heavy machinery department is now practically shut down and lying idle.

The last dividend was  $2\frac{1}{2}$  per cent. The company lost several large contracts, among them the Bunerong power-house for the Sydney City Council and turbines for the Railway Commissioner, the material for which is now being made in England. The company's price is generally about 25 per cent. higher than an imported article. The tariff is 40 per cent. to 42 per cent. on the whole plant, and 10 per cent. cost of shipping and freight. The company generally reckon 42 per cent. Customs tariff and a natural protection of an additional 8 per cent., placing that against the difference in wages of about 100 per cent. Therefore, it is not able to compete even with the sentimental preference.

Orders for transformers for which the company tendered were placed abroad; also for lift machinery for which it tendered (page 2181 of Transcript), in spite of the assistance of sentimental preference.

As to reduction from 48 to 44 hours, the witness shows most clearly that the company gets about the same amount of work per hour as it did before. Its own feeling is that it would be the last straw which would break the camel's back. In short, the company finds it at present very difficult to carry on. It is now doing a lot of work under cost price, and cannot continue it.

*Sonnerdale Limited*, General Engineering Works, principally automobile gears, also repair work—

The witness (Mr. E. R. Coote) states that the loss of production due to 44 hours is about 9 per cent., most of the work—machine work—being automatic and semi-automatic. Prices of his articles are, roughly, 20 per cent. higher than imported, this despite a tariff of 45 per cent. British, 55 per cent. general, plus 10 per cent. natural. Manufacture

was first started three and a half years ago when competition was possible. Since then the company's prices have been reduced 30 per cent., but now the imported articles are 20 per cent. lower than the company's. The company is unable to pass on the extra cost to its customers. At one time under a duty of 10 per cent. importers were selling crown wheels at £8 5s., against Sonnerdale's at £4. The importers brought the price down to £3 6s. 6d., in spite of a duty now at 50 per cent. The works are not busy, because the company cannot get the orders.

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*Dobson Wormald Limited.*—(The witness, Mr. E. W. McKeown, Supervising Engineer and Director.) (Page 2267 of the transcript.)

States that 44 hours a week increases the company's selling price approximately 5 per cent. There is a loss in production and an increase in overhead charges. It cannot pass on the extra cost of 5 per cent. owing to severe competition from Victoria and Great Britain. The plant is thoroughly up to date, over £7,000 having been spent on it during the last eighteen months, and during that period £6,000 worth having been scrapped. The tariff is 30 per cent., and natural protection 10 per cent. If the company has to pay 48 hours' pay for 44 hours' work it will lose on existing contracts. It has contracts totalling approximately £100,000, and there is no provision in them as to increase in wages due to the reduction in hours. The company can compete in the manufacture of special steel windows, but not in the manufacture of standard steel window frames, which has grown into a big business in England and America, and the company cannot start under existing conditions.

*Clyde Engineering Company.*—(The witness, Mr. P. G. Taylor, City Manager.) (Page 2291 of the transcript.)

Carrying on business of general engineers specializing in the manufacture of locomotives, rolling-stock, baths, water meters, electric storage batteries for electric cars and radiators.

*Foundry.*—Reduction from 48 to 44 hours causes the loss of half a day's production, i.e., four hours' output.

*Machine Work.*—Water meters, four hours' production lost.

*Carriage Building.*—Sixteen per cent. increased labour costs have been occasioned.

The plant is superior, or at least equal, to that in other countries. £130,000 has been spent on new plant within the last ten years. The company recently lost contracts of 30 locomotives for the Queensland Government which were obtained by Armstrong Whitworth and Company, at a price approximately 8 per cent. below that of this company.

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The overseas competition with overseas manufacturers of locomotives makes the position an extremely difficult one. Witness states that he is quite sure that it would be out of the question to be able to pay employees 48 hours pay for the 44 hours work, notwithstanding a 40 per cent. duty on locomotives from the United Kingdom, and the 10 per cent. natural protection.

*H. V. McKay Proprietary Limited.*—Manufacturers of agricultural machinery, internal combustion engines, steel shafting, bolts and nuts.

The evidence of Mr. R. McKay is that if hours are reduced to 44 the company loses four hours' production which could not be recovered without an increase in the plant. This applies to the manufacture of all agricultural implements. The number of kerosene and petrol engines produced in Australia to-day is not as great as ever. Overseas Bulletin No. 22 shows the following steady increase in importations:—

1922-1923	..	..	..	£166,050.
1923-1924	..	..	..	214,417.
1924-1925	..	..	..	260,888.

A reaper and binder produced and sold in America costs £40; the same reaper and binder produced and sold in Australia costs £68. The company has a plant capable of making thousands of engines per year, but it is only making a small proportion on account of overseas competition. Forty-four hours would jeopardize the industry. Manufacture is carried on in the hope of an increased tariff. Importations from America in grain binders are increasing. The tariff on agricultural implements is 45 per cent. The number of Sunshine Harvesters manufactured is considerably less than in 1914. The company has lost the Argentine trade. It cannot increase the output and decrease the cost of production. The company is unable to compete with America. The witness relies on Tariff Board Report on Agricultural Implements, 1925 (Exhibit M.2).

*D. B. Ferguson.*—Sales Manager—H. V. McKay and Company, refers to the efforts made by the American manufacturers to secure the agricultural implement trade of Australia. The witness points out that although the tariff of 1920-1921 ensured a greater volume of output from the Australian manufacturers which, together with a slight decrease in materials, has enabled the Australian manufacturers to reduce prices amounting in the average to 25 per cent., the American manufacturer has been able to follow every reduction and the imports are increasing at an alarming rate.

During the last three years imports of agricultural implements have increased 70 per cent:—

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It is evident, therefore, the witness says—

“That the Australian manufacturers must make further considerable reductions in prices, and failing further tariff protection . . . there is only one possible way to do so, viz., by reducing costs of production.” (Pages 4219 to 4231 of the Transcript.)

He drew attention to the following remark of the Tariff Board in its report on agricultural implements (Exhibit M. 7):—

“The Tariff Board has ample evidence of the desire of many overseas suppliers to crush Australian manufactures in order to obtain a field free from competition.”

“The Tariff Board has impressed upon this firm the necessity for further reductions in prices, and will, in future, keep in touch with them, and with all other firms similarly circumstanced, and press for the limit of price concession.”

“The Tariff Board is, on the other hand, disposed to recommend that when the ultimate price reduction has been reached under the present Tariff, and it be still found that there is a considerable percentage of implements coming in from overseas, that consideration should be given to further Tariff assistance so as to assure this additional percentage to the local producer, on condition that further considerable price reductions are assured, and also with the hope of inducing overseas firms to establish works in the Commonwealth.”

After pointing out that the high prices the farmer has been able to pay for farm machines of recent years has been due to the high price of wheat, the witness points to the probability of a reduction in the price of wheat because Canada and Argentine are exporting greater quantities every year and Russia is again becoming an exporting country.

*Austral Bronze Coy.*, Manufacturers of Copper Sheets and Circles, Yellow Metal Rods and Copper Rods. Mr. J. H. Michaeljohn, Works Manager.

The works manager states that since 1921 £61,000 worth of plant has been installed.

Comparisons from January to August, 1925, under 48 hours with January to August, 1926, under 44 hours, shows—

Sheet metal . . . .	Increased cost of labour per ton,	7.4%
Rod mill (copper rods)	”	9.1%
Rod mill (yellow metal)	”	7.4%

To maintain output the company employs 99 men as against 91 in the previous year. The increased cost cannot be passed on owing to

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overseas competition. In the copper business prices vary, but frequently the company's prices are  $\frac{1}{2}$ d. to 2d. a lb. above the English prices. The company could increase its business considerably were it not that Belgium copper circles are landed in this country at a lower price than the Australian cost of production. An application has been made to the Tariff Board for more protection and is being considered.

*Mr. A. J. L. Eckersley*, Manufacturer of Soda Fountains, Ice Cream Freezers, and appliances pertaining to that trade.—

The loss of production occasioned by the reduction to 44 hours was 9.09 per cent. The witness's establishment was of a modern nature, properly fitted up. He visited the United States of America and studied "elimination of waste." He found that the hours in America were in some cases ten hours a day; in others 50 a week, and that the American worker objected to a reduction in hours because it meant a reduction in wages.

He experiences competition from the United States, England and Germany, and gives the following illustrative comparisons:—Low pressure reducing valves—Australian cost of manufacture, 27s. 5d.; landed from Germany, 20s., including duty. Beer extractors—Australian cost, 31s. 3d.; landed from Germany, 19s., including duty of 45 per cent. Pressure gauges, bought locally from manufacturers 15s. 6d.; now imported from U.S.A., 6s., including 45 per cent. duty. Soda water carbonators—Australian, £34 6s. (including motor imported 60 per cent. duty); imported, £35 18s. (including 60 per cent. duty). Ice cream freezer—Australian, £21 10s. (some parts imported); landed from Sweden, £22 10s. Ice cream servers—Australian, 10s. 6d.; landed from U.S.A., 6s., including 45 per cent. duty.

*Jacques Bros. Pty. Ltd.* Specializing in road machinery.—

The witness, Mr. E. Jacques, estimates production in 44 hours would be 8 per cent. lower than under 48. He states that if the costs were increased 8 per cent. to 10 per cent. by a reduction of hours it would pay him to import rather than manufacture. He could import up to 50 per cent. of his sales instead of 10 per cent. as now, which would mean the dismissal of from 30 to 35 men. The duty is—British, 35 per cent.; foreign, 50 per cent. He gives the following comparisons of prices:—

A standard road machine in Australia costs £250.

A standard road machine in England costs £174.

A standard English road machine landed here, £260,  
which gives him a margin of only 5 per cent.

*A. H. MacDonald & Co. Pty. Ltd.*, Engineers, Richmond—Mr.

A. H. MacDonald—

The business is mostly manufacturing so far as it affects engineering but has developed as importers and machinery merchants in recent



times. The company's experience of 44 hours in 1920—the reduction of the four hours then cost from 1-11th to 1-13th additional. The witness expects a similar increase in cost if 44 hours is re-introduced. His exhibit shows that jobs took just as many hours under 44 as under 48, in some instances took longer, but variation in the hardness of steel may account for that excess.

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The company suffers severe competition from abroad, England and America. It is felt continuously in spite of a tariff of 40 per cent. British and 50 per cent. foreign on internal combustion engines. Competition is also setting in from Germany, Sweden, and other European countries. There is also competition in road rollers. The natural protection in these is £60 to £70 on £1,000. Freights between Melbourne and other State ports are approximately the same as from Europe to here.

The company's prices are too high for competition in New Zealand. Comparisons of prices of local with imported machines is difficult on account of differences in the machines. Company reduced one local machine to £77 10s., to compete with imported machines selling at £60 after paying duty. As to road rollers—local are sold for £1,100; imported at £100 less. The company imports American tractors and also English engines. The importing side of the business is growing. The company finds it easier to import, and there is much less worry and trouble, and, generally speaking, it results in greater profit. The company has most efficient machinery in its shops, is improving all the time, and maintains a very high standard. During the company's experience of 44 hours with at the same time an increased wage, the cost was so much higher that it had to lay off hands; it could not compete. On re-introduction of 48 hours the company gradually recovered some of its local trade, a duty increase of 27½ per cent. to 40 per cent. helping considerably. The company spent £14,000 in 1926 on plant, and its methods are constantly improving. On re-introduction of 44 hours the witness expects costs to go up proportionately.

*McPhersons Pty. Ltd.*—Manufacturer of tools, bolts and nuts, but principally merchant's business.

The witness, Mr. W. T. M. Eady, states that this company has the latest plant practicable for Australian conditions. As to *tools* he estimates that 44 hours would add 10 per cent. to labour costs, which is about 70 per cent. of total cost. As to *nuts and bolts* he estimates loss 10 per cent. on labour cost, which is 50 per cent. of total cost.

The company had an export trade to New Zealand, but lost it owing to competition. In machine tools the company meets severe competition in the same type of tools from Great Britain and the continent, but little or no competition from America. The tendency

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of manufacturing prices is a downward one. The last information received, dated June, 1926, shows a reduction approximately of 20 per cent. This is in marked contrast with Australian prices, the tendency of which from the wages point of view is upward. (Page 4013 of transcript.) The Australian advantage against the English manufacturer—duties and natural protection—amounts to 59.5 per cent. The advantage of the English manufacturer—lower wages, where the rate is £2 14s. for 47 hours per week in contrast with Melbourne £5 16s. 6d., plus 4s. 6d. to cover holidays and sick pay for 48 hours, and lower cost of material.

After reckoning duty, and landing costs, and other factors, the manufacturer in Melbourne is still at a disadvantage of 14 per cent. compared with the man in England (page 4017 of transcript).

As to bolts and nuts—the company undertook to use Australian material in this department, and the Tariff Board granted an increase from 27½ per cent. to 35 per cent. British, and from 35 per cent. to 50 per cent. general. The company can compete successfully in nuts of 6 inches and over, on an equal basis in nuts of 4 inches and over, but is losing business in smaller nuts. The table given by witness showed an increase in the value of nuts imported from £136,000 in 1918 to £325,000 in 1924-25. If 44 hours were introduced into the machine factory the result would be the company would import more and manufacture less.

*Thompson Engineering and Pipe Co., Williamstown and Castlemaine.*

Manufacturers at Castlemaine of high-class machinery, tires, points and crossings of different kinds.

At Williamstown of steel castings and electrically welded steel pipes. 540 are employed.

In high-speed engines the estimated increase in selling price of these articles due to 44 hours is 7.45 per cent. (not allowing any increase for material) :—

Condenser (not allowing any increase for material)	3.6 per cent.
Centrifugal pump (not allowing any increase for material)	7.4 per cent.
Boiler	5 per cent.

The explanation for the variations being shown by the proportion of the labour cost in each. This company suffers from severe oversea competition principally from Great Britain, but it is not affected by America. As far as high-class machinery is concerned, including the high-speed engines, air compressors, locomotives, and machinery of that class, in which labour plays a very important part, the company

is unable to compete under the present hours and tariff with the United Kingdom. The business which the company obtains is practically all from the Government Departments by way of Australian preference.

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The position to-day is that the company makes an article in the same number of hours as the British manufacturer but cannot make it in less, and with the present Tariff cannot compete in high-class machinery. Take the case of locomotives—in order to build a locomotive in an equal number of hours with the British manufacturer the company requires the assistance of 60 per cent. to 65 per cent. duty in order to enable it to compete.

It has been given 40 per cent. duty with the result that unless it gets Government preference it cannot compete in locomotives. Recently tenders for 20 locomotives in Queensland were lost by Australian manufacturers, including Walkers Ltd. of Queensland, to overseas, Walkers' price being  $7\frac{1}{2}$  per cent. higher than the lowest British price. Walkers Ltd. have been manufacturing engines for a long period of years, and they apparently now cannot manufacture for their own Government in competition with the outside world.

The witness produced a list of tenders showing inability to compete with the United Kingdom. The overwhelming bulk of these tenders have gone overseas.

The company's prices in steel tires are about  $7\frac{1}{2}$  per cent. higher than those of the British manufacturer, but the company get a 10 per cent. Australian preference.

Witness is of opinion that there is little or no progress in the engineering trade. In 1920 the company could compete with overseas, but since the slump, or re-adjustment in England, cannot.

#### GENERALLY ON THE SUBJECT OF COMPETITION IN THE ENGINEERING INDUSTRY AND THE METAL TRADES.

Sir John Monash, Chairman of the Electricity Commission of Victoria, gave some useful evidence in respect to the materials which his Commission purchase for the carrying out of the Commission's undertaking. An exhibit was put in (V. 31) showing the purchases which the Commission has made in various articles over many years. The comparisons of the tender prices of foreign and Australian manufacturers of a large number of contracts shows clearly the competition which the Australian manufacturer has had to face. The witness mentioned one contract which he regarded as typical. Transmission line towers from Yallourn to Melbourne—the work was ordinary structural steel work, requiring no special knowledge or skill. A Scottish tender of £119,000, including £29,000 Customs duty, was accepted. The lowest Australian tender was £140,000, based, not upon the use of Australian steel, but upon imported steel, so that the whole difference between the two was in labour costs.

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In 1922 a Scottish company tendered at £115,000, including £10,000 duty paid, for the Yallourn power house; the lowest Australian tender, based on imported, and not local steel, was £136,000.

The Commission, the witness states, has maintained a consistent policy of reasonable preference to Australian tenderers, and he gives instances of the Commission's assistance to Australian manufacturers, referring, for example, to the manufacturing of insulators and transformers, and of the preference given to Australian tenderers as to the portion of the tar-briquetting plant.

*F. C. Healy*, woodwork manufacturer, states that the reduction to 44 hours caused loss of production to the extent of four hours. His business suffers from competition, principally from America. He is not able to raise his prices on general lines owing to such competition, and the loss of the four hours per week, making a total decline in the product of 16 per cent., of which 9 per cent. is due to 44 hours, seriously affects his business.

*Kimpton & Sons*, flour millers, Kensington Mill.

Mr. V. Y. Kimpton compares four weeks under the 48 hours with two periods of four weeks under 44 hours, and shows a loss of production of 842 tons and 900 tons for two periods of four weeks at 44 hours compared with one comparable period of 48 hours, full information of which is contained in Exhibit L.8.

The industry suffers considerably from competition. It has local and overseas markets for flour in the East, Great Britain, South Africa, Egypt, a little in Europe, and in the overseas markets there is a world competition, and a cut as low as 2s. 6d. a ton often decides a contract.

*How and Company Proprietary Limited*, manufacturers of enamelled leather, patent leathers, &c. (The evidence was given by Mr. A. H. Krohn, director.)

He estimated 8½ per cent. increased labour costs if 44 hours is introduced. The effect of increased cost would be that business would diminish for two particular reasons: firstly, that there would be no possibility of being able to compete with cloths and imitation leathers; secondly, prices are so similar that any increase in cost would swing the business over, notwithstanding duties of 25 per cent. English, 35 per cent. American. (Page 2794 of the transcript.)

The plant is up-to-date and well equipped, £8,000 worth having been added in the last three years. At present the company is just barely holding its own against certain imported leathers, and has on many occasions recently lost orders owing to a reduction of 2½ per cent. by foreign competitors.

The company is unable to compete with England because the cost of production there is surprisingly low, owing to low wages and longer hours. The witness is of opinion that the tanning trade in Australia

has not been in a good position since the war, and that it is suffering to-day because it is not able to export what it should be exporting. (See exhibit A.92, exports and imports of leather.)

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*Braithwaite Proprietary Limited*, tanners (W. E. Hooper, managing director).

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He estimated that the increased cost on reduction to 44 hours would be 9 per cent. of the labour costs. As to competition, the export of sole leather from Australia commenced some time before 1850. Australia has a plentiful supply of hides and climatic conditions second to none so far as the process of tanning is concerned. The industry was progressing until 1913, and has fallen back the past few years, while the export of hides is growing. The export trade to London, the basis on which the tanning trade was built up, is now very small. To the East there is a big trade which is practically all in offal. The export trade is on a small margin, although the demand for sole leather rests in the world's market. So far as export of sole leather is concerned, the industry in Australia has reached a stalemate and is not progressing. The company has had to stop exporting on account of our increased costs. If Australia dropped out as a supplier of leather, Britain would be able to fill the demand for sole leather, although they might have to use Australian hides for the purpose; that is to say, what we have not tanned here would be tanned overseas.

*Australian Cement Company Limited*, Geelong, employing 600 men.

Mr. W. B. McCann, general manager, states that £300,000 of a plant costing £1,600,000 was new. A comparison of six weeks prior to and six weeks after introduction of 44 hours in the quarry shows an increase in number of men 12.5 per cent., increase in overtime 45 per cent.; although hours were reduced one-twelfth, the product declined one-eighth. The increased cost of 44 hours is estimated on figures—

Shiftwork, 12 per cent.; other work, 9 per cent.; average, 9½ per cent., i.e., £10,000 per annum on the labour cost.

As to competition the overseas manufacturers companies can import the cement to Australia at a lower rate than the company is able to manufacture it at (page 3003 of the Transcript), and as the company is running very close to the overseas prices, competition is very keen. The duty is—British, 1s. per cwt., foreign, 1s. 6d. per cwt., i.e., about 45 per cent. German cement, c.i.f. and e. 10s. 10d., plus 5s. duty, equals 15s. 10d., which is 2d. below the Australian price. Cement can be bought overseas at 9s. in the country of manufacture.

*Australian Glass Bottle Mfg. Co.*—S. G. Garnsworthy, secretary, states that the cost of reduction of hours to 44, if all employees reduced, £743 12s. 1d. per week; if those employees working more than 44, £405 18s. 2d. per week. Saturday morning lost would mean a loss of £1,011 per week.

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The greatest competition comes from Japan, particularly as to small bottles. The Australian are of better quality, the Japanese of lower price. The tariff is 30 to 35 per cent., and the freight is substantial, but the Japanese Government has subsidized freight. There is also competition from Belgium and Germany. The attempts of the company to trade with South Africa failed on account of prices.

*Foy & Gibson Pty. Ltd.*, manufacturers of furniture, hosiery, knitted underwear, woollen goods.

Mr. J. MacLellan, chairman of directors, objects to a reduction of hours because of the proportionate reduction in output. It would not be possible to add to the company's woollen mills to give the increased production. To extend the mills would mean the addition of a new unit. From the middle of 1921 there was strong overseas competition. The tariff is now 5 per cent. higher, and there is an advantage to Australian factories in their being able to fulfil orders quickly. The increased cost of 44 hours is not so important a consideration as reduced output. The company cannot afford any reduction in output, because certain fixed charges have to be met. The interest on its capital renders it necessary to make a certain profit. If output is reduced by 1-12th the company would have to get as much for the remaining 11-12ths. The factory charges cannot be reduced; nor can the profits be reduced, as the margin is now very small. The witness says that 8 $\frac{3}{4}$  to 9 hours a day are not excessive.

A. Fullard, manager of woollen mills of *Foy & Gibson Pty. Ltd.*, gave evidence that the introduction of 44 hours would greatly reduce output. There would be a relative increase of costs, and a higher rate of overhead charges, and the loss of revenue would be serious to the company. The company has booked orders up to June, 1927, for future deliveries, with no provision to meet this suggested alteration. It is possible that the extra cost would make it difficult to compete with Britain, on account of its big advantage in lower wages. Woollen mills are trading close to the line. The company cannot afford experiments by the Court in hours and wages.

*Gippsland Co-operative Bacon Curing Co.*—Evidence as to the bacon industry was given by the manager of the company, Mr. W. H. Nancarrow. He points out that it is impossible as yet to adopt here the mass production methods which he saw in America, where he has recently been. Also there is there a good deal of female labour, which he would disapprove of Australian women doing. The hours in America seem to be 48.

The extra cost occasioned by a reduction to 44 hours would be 8 per cent. to 10 per cent. on a labour cost of 20 per cent. to 25 per cent., and there may be certain other increased costs of materials, coal, salt.

The importation of Queensland pigs is pointed out to be owing to the greater production in that State. The extra Australian importations, which are considerable, seem largely to come from New Zealand.

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*The Timber Industry.*—Evidence was given as to the effect of the 44 hours in certain mills. This evidence shows on the whole a similar result as that contained in the evidence which was placed before this Court in the Australian Timber Workers' case, and which is contained in Deputy President Sir John Quick's judgment.<sup>(1)</sup>

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In many cases the loss due to the reduction in hours seems to be very greatly in excess of that 9.09 per cent. which might be expected.

The industry is suffering grievously from competition, the mills in Tasmania being especially affected. Exports from Australia have dwindled and imports are increasing, and a very large percentage of the Tasmanian mills seems to have closed down.

#### PRIMARY INDUSTRIES.

The general position of the primary industries of the Commonwealth was given by Mr. E. J. Mulvaney, who, by reason of the information he has as secretary for the Commonwealth Department of Markets and Migration, is well qualified to speak on the subject.

The Department has been created, among other things, to cope with the effects of the slump in world prices, which occurred in 1920, by assisting and attempting to improve in a national way the marketing of the country's products.

The financial assistance which the Government has afforded has taken various forms, such as pools, bounties, advances, financial guarantees, rural credits, and it is noteworthy that, in the opinion of the witness, the need for financial assistance is not a diminishing quantity, but rather the reverse. (Page 2628/9 of the transcript.)

By the provisions of the *Export Guarantee Act 1924*, provision was made for the sum of £500,000 to be set aside to the credit of a trust fund to grant assistance to primary producers in marketing. He points out that the claims for assistance are made on two grounds—high labour costs owing to Arbitration Courts and Labour Tribunals, and the fiscal policy of the country. The assistance is required to enable the primary producers of this country to compete in the world's markets. There are such large surpluses over home consumption in our primary products that the necessity of exporting them to sell at prices which will give the producer such gain as is commensurate with the labour and capital involved, regard being had to the standard of living, must be obvious to every one.

<sup>(1)</sup> 16 C.A.R. p. 685, *et seq.*

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The large amounts which we export, and must export, are indicated by the following figures:—

Exports for Commonwealth, 1925-26, £148,972,000. Of this sum 96 per cent. represents agricultural, pastoral, dairying, mining, forestry, and other primary products. Of our wool, 84 per cent. is exported; of our wheat, 47 per cent.; of our flour, 42 per cent.; of our butter, 38 per cent.; of our dried currants, 63 per cent.; of our raisins, 70 per cent.; of our apples, 44 per cent.; of our canned fruits, 23 per cent. We have to meet a most severe competition in the world's market in primary products with countries paying low wages, having longer hours, a lower standard of living, and which are much nearer the markets than we are. For instance, Denmark, with her butter production, is a day's journey from London.

During the last few years, we have had a succession of good seasons, and have obtained high prices for our wool and wheat, and on this what prosperity we have has largely depended. But there is no guarantee that good seasons will continue. The losses by drought, however, are only likely to effect us temporarily. In addition, there is no guarantee or certainty that the prices which we have been obtaining for the staple products will remain at their present high level. The outlook for wool is better than that for wheat, and yet a reduction in price may be brought about by various causes. It must be remembered that, during the years 1905 to 1915, the export price of greasy wool was on an average only 9.5d., and the pastoral industry on the whole paid very poorly. The price of wheat is more likely to be affected by the probable entry into the market of large supplies from Russia.

*Dairying.*—Mr. Mulvaney is of the opinion that second to wool in the primary industries of Australia comes dairying. The allegation that the cost of production of butter here is above the London selling price is, in his opinion, maintained, and it has been recognized as being maintained by the action of the Federal Government in introducing the butter stabilization scheme, the effect of which is to make the price of locally-consumed butter 3d. per lb. above the f.o.b. price for exported butter, the latter price being regulated, on the whole, by world competition in the London market (page 2634 of the Transcript). The position in this industry seems, at the best, to be that when the farmer is able to employ his labour continuously during long hours of work throughout the whole week, such labour being provided by himself and his own family, he is able to carry on at a profit; but if he has to hire labour it is not profitable. In an industry in such a precarious position there are engaged 140,000 people, there is a large amount of capital invested, and 700,000 people depend on it for a livelihood.

There is, no doubt, considerable room for improvement in the efficiency of the dairy farmer here, as a comparison of his butter fat



production with that of the Danish farmer would indicate; but he and his advisers seem to be awakening to the situation, as the efforts to improve herds, markets, &c., the formation of co-operative companies suggest.

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The evidence of the witness Mr. H. W. Osborne, who is a member of the Dairy Control Board and Patterson Stabilization Scheme, confirms Mr. Mulvaney's opinion as to the condition of the industry. He refers to the drift out of the industry into the city. The evidence of the witness Mr. Rankin, who is a practical dairy farmer, though tinged with exaggeration of one who has suffered much, leaves a picture which shows that the lot of the dairy farmer to-day is, like that of the policeman, "not a happy one," and his evidence also shows the drift from the industry. Mr. Osborne also supplied information—that a Danish dairy farmer can hire a man and his wife for 25s. a week (page 3087 of the Transcript). There is no doubt that some of the low condition of the industry is due to an over-optimism occasioned by the purchase by the Imperial Government of butter at 2s. 6d. per lb. f.o.b., giving a fillip to production and causing men to enter the industry and invest their capital in it (page 3102 of the Transcript). Yet in regard to this it should be said that it ought to be expected that Australia, pursuing her policy in settling men on the land, ought to be able to place them in such an industry as this at least so that they may draw from it a fair wage and pay interest on the capital, and that there is something wrong somewhere if she cannot. No doubt there are some cases in which the land was bought at too high a value.

The present position seems to be that the dairy farmer if a clean freeholder must forego a good deal, if not all, of the interest which he has a right to expect from his capital, and if he is not a clean freeholder must, in order to meet his interest bill, sacrifice that same standard of living which each Australian has a right to expect.

*Dried Fruits.*—Sixty-three per cent of the currants and 70 per cent. of the raisins are exported. There are about 6,000 growers and about 40,000 in the industry. This industry became seriously depressed in 1924 owing to a fall in prices on the London market. A large number of returned soldiers had been settled in the industry. To meet this depression, an amount of £200,000 was advanced directly to the growers for the harvesting of the 1925 crop, and at the present time (1926) an inquiry is being conducted to see what proportion of the repayment of this sum is to be cancelled. There is now a Dried Fruits Control Act for the regulation of our export in marketing the crop overseas. This industry has principally to compete with the products of long hours and low wages, Mediterranean countries and districts—Greece, Spain, Smyrna, which are also, of course, much nearer the London market.

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The prices received for currants, sultanas, and lexias from 1920-24 are shown in the table below:—

AVERAGE SWEAT-BOX PRICES.

Year.				Currants per ton.	Sultanas per ton.	Lexias per ton.
				£	£	£
1920	..	..	..	53	74	58
1921	..	..	..	46	71	51
1922	..	..	..	44	71	45
1923	..	..	..	39	40	23
1924	..	..	..	29	25	11

It appears that a considerable amount of labour has to be employed in preparing the fruit for market. The Growers' Association has recently made a request for a bounty on the exported quota of currants and lexias to the amount of £10 per ton. Mr. D. C. Winterbottom, General Manager of the Mildura Co-operative Fruit Company, and representative of the Growers' Defence Committee, Mildura District, gave more particular evidence on this industry. The weekly hours of the labour employed in the industry are 48, and the Federated Council of the Dried Fruits Association has passed a resolution in the following terms:—

“That this meeting of the Federated Council of the Dried Fruits Association views with alarm the proposal to introduce 44 hours a week, as this industry is forced to compete with other countries where work is carried on from daylight to dark, and where the standard of living is lower than in Australia.”

The last log of the union concerned asked for a 44 hour per week. Mr. Mulvaney's estimate of the crop to be exported is low, according to this witness, who states that this year 80 per cent. of the currants and 70 per cent. of the sultana crop are being exported (page 2710). Moreover, it appears that there is considerable planted land which is yet to come into bearing or full bearing. By the efforts of the growers and their associations considerable economy in handling and marketing the crop has been effected (page 2710 of the transcript). The industry is described as now highly and efficiently organized, and yet its condition is bad—“parlous” is the word used to describe it—in spite also of great Government assistance in securing and developing markets.

The cost of production, that is, the working cost per acre, without taking capital costs into consideration, is given as £34 12s. per acre. The witness has taken out the returns of 90 growers for 1926 cultivating 1,500 acres of fruit as a fair example. The gross return amounts to £46 13s. per acre. After other necessary charges are deducted, the grower is left £2 2s. per acre, which is not enough to pay the interest

charge on the actual cost of outlay on the crop, and certainly not enough to pay depreciation and interest on capital charges (page 2716 of the transcript). The grower labouring in his own field seems to have been left with about a basic wage—about £4 10s. per week. If he has a larger area and has to employ labour, the probability is that he will get less. There is no doubt that many growers bought their land at boom prices; but, even allowing for that, the position of the producer in this industry, on the whole, seems shockingly poor.

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This witness estimates that the effect of 44 hours would be to increase the growers' cost of packing, transportation, manures, wages to the extent of 10 per cent., amounting to £3 13s. on cost of production—£36 12s. per acre. Increases in railway freight, say, 8s., totalling £4 1s. His estimates of a 10 per cent. increase in the cost of each of the above is probably excessive, nevertheless it appears that the increased costs must be very material, and, if not entirely, go a good way towards wiping out the economies of the last few years. It must be borne in mind that, in view of the huge percentage of crops exported and the determination of prices by competition in the London market, such increased cost cannot be passed on, but must be borne by the grower.

*Canned Fruits, &c.*—The pools in this industry for the years 1921, 1922, and 1923 resulted in an aggregate loss of £550,000, including interest (page 2647 of the transcript), when the grower received a price considered to cover the cost of manufacture. The losses fell on the Commonwealth Government. In 1923-4, the Government changed the form of assistance, and gave a direct bounty on production and an additional bounty on exportation. The bounty for 1923-4 was about £140,000. In 1924-5, the Commonwealth paid a subsidy of £12,000 on the export of peaches and apricots to Great Britain to enable successful competition with California and this year the bounty on similar fruits for the same purpose amounts to about £19,000. Up till last year about 30 per cent. of the production was exported, but in the witness's opinion the point has now been reached when 60 per cent. to 70 per cent. must be exported (page 2648 of the transcript), which means that this industry is now entering on a difficult phase of its existence.

The information at the disposal of Mr. Mulvaney shows that the canner got the price obtained by the canner plus subsidy, plus sugar rebate, 8s. per dozen, while the cost of the production is slightly above 8s. per dozen. (Page 2648-9 of the Transcript.) It is pleasing to note that the fruit is now wiping out the unfortunate reputation for bad quality which our fruit previously acquired.

It must not be forgotten, as the evidence of Mr. J. L. Moore has pointed out, that the community itself has a large amount of capital invested in this industry in the sums spent on irrigation and closer settlement in the fruit-growing districts.

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As to the local manufacture of jams from our fruits, Mr. J. L. Moore, who also gave evidence on this matter, has shown that the depressed state of the industry described in the judgment of Sir John Quick in the Amalgamated Food Preserving Employees' Union case, Nos. 25 of 1924, 93 and 94 of 1925<sup>(1)</sup> still continues.

*Citrus Fruits.*—A guarantee has been given by the Commonwealth of a return to growers on export of 5s. a case where the oranges do not realize sufficient to pay out-of-pocket expenses. The cost of placing the fruit in London is 7s. to 8s. The export this year has been negligible, because the growers do not think the guarantee sufficient.

*Hops.*—An amount of £24,500 has been paid to the Tasmanian grower to enable him to export about 2,500 bales to Great Britain. Owing to the market being so bad there it is expected that there will be a loss of between £13,000 and £14,000 on the transaction. All told, the amount paid to Tasmania amounts to £35,000.

*Effect of Reduction of 44 Hours on Primary Industries.*—The effect of 44 hours on primary industries will depend on the extent of its application—the greater the reduction the greater the injurious effect.

The evidence of Mr. Winterbottom which has already been referred to gives some idea of what the direct effect of granting 44 hours to rural workers will be on the dried fruits industry.

Assuming for the present purposes that the standard of 44 hours if it is declared will not be applied directly to any extent to the primary industries, nevertheless there will be many indirect results affecting those industries.

The primary producer must be prepared to meet higher transport costs, higher costs of materials and implements, higher water costs, and rates, &c. (See evidence of Mr. W. Catanach, Chairman State Rivers and Water Supply Commission, Victoria, on page 4708 of the transcript.) It is difficult to estimate to what extent these proportionately will affect the cost to the farmer and pastoralist, but there is no doubt in my mind that it will cumulatively be considerable.

It may be that some of the materials and implements have been reduced in price, but it should be borne in mind that such a reduction is usually not confined to Australia and that therefore the power of the primary producer to meet competition in his markets largely, and necessarily so, abroad, is not thereby improved. Increased costs and consequent loss of competitive power on the part of the primary producers must only result in further demands by them for assistance, demands which, in view of the capital and life involved, it will be difficult to refuse.

(1) 20 C.A.R. p. 60.

So also there may be expected an increase in the prices of the food-stuffs and raw materials used in the local market, that is an increase in the cost of living, or, if for reasons of cheaper implements, &c., any reduction in costs and in prices occurs, that reduction is likely to be world wide and the added cost of 44 hours will remain so that the increase in the cost of living over what it should then be will nevertheless take place.

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I propose now to deal with the applicant's case in the particular industry.

On the presentation of the applicant's case to this Court practically asking for the reversal of two previous and comparatively recent decisions of the Full Arbitration Court as to the standard hours of a normal industry—the first decision, one given by three High Court Judges, and the second given by the President, a High Court Judge, and two Deputy Presidents of this Court—I think it is reasonable to expect that a case would be presented for the particular industry showing some great change in the economic condition of that industry, some development into, and achievement of, a sound economic position and financial stability that would enable it at least to withstand, in Australia's home markets, competition with the foreign countries; something that is at least a substantial advance on the conditions prevailing when these two previous decisions were given and when the Court, even prior to those decisions, had fixed and maintained 48 hours as the generally accepted standard of working time, and its achievement was considered a result that was "the envy of many other nations," and its further proposed reduction was considered "a tremendous social change of far-reaching consequence."—(Higgins, J.)

Mr. Mundy seems, by his opening, to base his claim on these grounds:—

- (1) That the major portion of the engineering work done in Australia is repair work, or work not carried on in competition with overseas, and therefore an industry not affected by the hours in other countries.
- (2) That, so far as competition with overseas is concerned, the employers had made no serious attempt to manufacture by the use of properly-equipped shops and proper methods of organization.
- (3) That the majority of shops in Australia are in a small way and are merely carrying on as they were carried on 25, 30, and in some cases 50 years ago.
- (4) That if industrial peace is to be maintained we must share in the general reduction of hours which has taken place in all countries of the world during the last five or six

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years. That since 1919 there has been a general reduction of hours in every country in the world except in Australia. That we should be in the forefront of any progress which is made in any country.

(5) That three of the States of the Commonwealth are enacting the 44-hour week.

Nowhere in this opening or elsewhere does he suggest that any change has taken place since the two previous Full Court judgments were given, or that any improvement whatever has taken place in the industry, or that we are able to supply any of our engineering wants other than repair work, or that we are in a better position to manufacture in competition with foreign manufacturers.

He has called practically no evidence to support the allegations in the first three paragraphs except so far as a number of general statements—mostly made on information supplied by others—may be considered evidence. Some of his own witnesses give evidence in direct conflict with his contentions, and the evidence throughout the case shows them to be incorrect and fallacious.

His third contention, that a majority of the shops is in a small way, is no doubt true. But are we to understand that his union objects to the small man endeavouring to carry on the business of manufacturing with a limited capital at his disposal? Does he suggest that these small men, or some of them, and, if so, which of them, are to be forced to close down? How is the privileged one or more, who is to be allowed to remain, to be ascertained? I must confess that I do not understand the force of this assertion. Are we not bound to deal with the facts of trade as we find them, and how can we interfere so as to prevent these small men from exercising their common-law right to trade? This contention also incorrectly assumes that trading by small men is necessarily injurious to the interests of the community as a whole, which I think it obviously is not.

His further suggestion that the machinery in the shops is obsolete and inefficient seems to be unsupported by any evidence, and in many cases is contradicted by his own witnesses.

His fourth contention would be more accurately stated if he urged that as there has been a general reduction in other countries of hours from 60 or thereabouts in many cases down to 48, that therefore we should have a reduction from 48 to 44 hours, so that "we should be in the forefront of any progress that is made in any country," to use his own words.

I have dealt with that contention elsewhere in this judgment.

His fifth contention is, to the extent of intra-state disputes, correct in regard to two of the States, but the effect and relevancy of that position I have also considered above.

I will now consider the case made for the respondents.

The respondents allege that the metal and allied trades industries are in a very precarious position, the constituting causes of which are foreign competition, insufficiency of orders, the high cost of labour and material, the persistent opposition of the unions to payment by results and to the use of semi-skilled and unskilled labour in certain work, and the inability of the employers to pass on to their consumers the extra cost which would be due to the reduction of hours.

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This precarious position and the difficulties which the manufacturing business has to meet are shown by the details of the evidence which I have set out above. It is sufficient to say that in my opinion that great body of evidence indicates that the Australian manufacturer in this industry will be unable to withstand the further burden of a reduction of four hours with its accompanying decrease in output, its greater direct and indirect cost due to such reduced output and the lessened power to compete with overseas.

In many cases the Australian manufacturers have already been forced to reduce their quantity of production, in others to cease altogether the manufacture of certain articles, in others again to close down their manufacturing business.

Moreover, when the further difficulties, created by the imposition of this further burden of reduced hours, are intensified by the result of the general foreign tendency to lower prices, and by the result of the desire of any overseas suppliers to crush Australian manufacture in order to obtain a field free from competition, of which the Tariff Board says it has ample evidence—(see Exhibit "M2," Tariff Board's report on agricultural implements, quoted above under D. B. Ferguson, *H. V. McKay Pty. Ltd.*<sup>(1)</sup>)—the continuance of many further businesses will be seriously jeopardized and imperilled, and the opening of new businesses prevented.

For instance, consider the case of Metters Limited, when, as manufacturers of hollow-ware, they have a plant capable of employing 500 men, and can only get 10 per cent. of the work they could do, and can only employ 50 men. Also Hadfields, where the company has installed £200,000 worth of machinery in the last five years, but in the last two or three years the results have been so poor that it has been unable to pay any dividend. Also Hipsley Limited, Mort's Dock, The English Electric Company, Andrew Thompson and Scougall Limited, the Austral Bronze Company, Watson and Crane Limited, H. V. McKay Pty. Ltd., Walkers Limited, of Maryborough, Queensland, and others, the particulars of which I have given above.

The Tariff Board, as appears by the report of 1926 set out above, made an investigation into the conditions of the iron and steel industry, and after hearing evidence, including evidence of comparisons of wages here and overseas, was so impressed with the critical nature

(<sup>1</sup>) *Supra* p. 844.

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of the position into which Australian industry was drifting, and indeed had drifted, that it raised the question whether "the increases in the Tariff which were absolutely essential to the maintenance of industry should be granted only on condition that assurances were obtained from the various industrial unions that no further demands would be made for wage increases or any other action taken which would have the result of defeating the effect of the increase in duties recommended." The manufacturing employers and selling merchants had given guarantees against raising prices, and the Board wanted similar assurances from the unions. The Board appears to have objected to the unions getting an advance in their wages or a modification of their working conditions after an increase in the tariff, when such advance or modification neutralized the effect of the increased duty. So far as the unions' demands are necessary to secure the normal standard of living and necessary conditions of labour, I think, with all due deference to the Tariff Board, that the union are within their natural rights, but where, as here, the claim is not to secure the normal standard of living or necessary conditions of labour, but to provide unnecessary extra leisure, then the unions, as applicants with the employers for the tariff assistance, are in duty bound to the community, as I have said elsewhere, to refrain from such further claims.

Writing of the difficulties the Board has in this regard, it says in its report that the "passing back and forth between the Federal Arbitration Court and the Tariff Board . . . must ultimately defeat itself, and by continuously raising the cost of living, bring about an industrial paralysis," and the Board expresses its opinion "that the industrial unions should be induced to realize the critical position into which the Commonwealth is drifting, and the absolute necessity for preventing the wages gap from becoming still wider between the United Kingdom, the Continent of Europe, and the Commonwealth." Unless this is done, it "can see nothing but economic disaster ahead, and that at no very distant date."

From the evidence placed before us, I think the report justifiably contains words of warning which the community, the employers, the employees, and the Court cannot ignore.

Comments were made on both sides about the absence of evidence; on the one side that Queensland, with actual experience of 44 hours, had offered no evidence, as it might well have done; that New South Wales had offered no evidence, as it might well have done, in regard to Walsh Island, where 80 per cent. of the work is manufacturing; on the other side, that Hoskins, in New South Wales, did not offer any evidence, as that business might well have done. I do not think we should draw any inference, for fear of drawing a wrong one, in any of those cases.



The respondents rely on Exhibit No. 10, which gives a classified list of respondents to certain awards in the Federal Court in the year 1923, showing the names of 225 manufacturing engineering shops, in each case with the class of goods manufactured, of firms with engineering shops, numbering 78; of firms with garages, numbering 45; of firms now out of business, numbering 98; of importers, numbering 68; of firms whose names are repeated, 42; and of Government Departments, numbering 8.

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Of the 98 gone out of business, it is claimed that 90 were engineering firms, and that they have gone out of business since 1924, showing the very unsatisfactory condition of the engineering trade. These figures have not been questioned. This exhibit would seem to establish that Mr. Mundy's estimate that there were only 25 per cent. manufacturing engineering firms is not correct.

The respondents also rely on the statistical return of unemployment in New South Wales (Exhibit M. 25), and the significant comparison that there appears in the percentages of employment during the two periods, one when the 44 hours, and other when the 48 hours were in force.

It appears that, from January to July inclusive, just immediately preceding the introduction of the 44 hours, the percentage of unemployment varied from 3 per cent. to 12.6 per cent., and then rose after the introduction of 44 hours to 26 per cent. in September, to 30 per cent. in October, to 35 per cent. in December, and then continued throughout the period of 44 hours under the State award between 30 and 40 per cent. during the year, until it dropped on the introduction of the 48 hours in December, 1922, to 14.8 per cent., and throughout the year 1923 it varied from 3.2 to 11.9 per cent. only.

These facts just related, and the inferences to be drawn from them, is to be found corroborated in Exhibit 2, put in by the applicant union, on hearing before Powers, J., in 1922, a copy of which now forms part of Exhibit M. 25, showing the actual number of unemployed during these two periods. The figures are no doubt in some part affected by other factors, but I think that these variations, accompanying, as they do, so closely the changes in the hours, are significant.

This exhibit also claims to show that during the 44-hour period in 1922 some of the New South Wales works came over to Victoria, where the 48 hours were in force, and it is urged that what happened then—that is, getting the work done elsewhere—is likely to recur, but that the work will, if the hours are now reduced throughout Australia, go overseas.

If the industries of Australia can bear any further burden, I would have much preferred to have increased the rate of wage, in the hope that more effective production might be obtained, than to have reduced the hours unnecessarily and cause this dangerous restriction of output.

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I think also that it would not be unreasonable to make it a condition of this grant, if conceded, that the unions should withdraw all opposition to, and give support to, payment by results under schemes that will prevent exploitation, and secure advantages both to the employers and the employees, thereby benefiting the community and making up, to some degree at any rate, for the loss that will be occasioned by the grant of the claim for reduction of hours.

It appears to me that if this general opposition of the unions is withdrawn, schemes which will determine and safeguard rates and other matters, in an equitable manner, might in industries where payment by results is feasible, be devised without difficulty. It should be borne in mind that agreements in interstate disputes can be filed in this Court so that they stand like awards, that the Court has power to see that these agreements are properly kept, that the Court has power to appoint impartial persons to determine rates, &c., that it has power itself to determine whether rates and other matters in connexion with payment by results are fair and just.

However in considering the extent to which payment by results may make up the lost production it must be borne in mind that, in addition to there being a number of industries in which a system of payment by results is not possible, a considerable and increasing amount of work in manufacture is machine work in which the machine sets the pace so that it would not be economic to increase the speed of the machine so as to get a greater product per hour to enable the lost 4 hours production to be made up. The product per hour of the Australian workman and the workman overseas employed on similar machines must be equal or tend strongly in that direction, so that if the hours are reduced in Australia to 44, and assuming that the hours abroad are on the average 48, then the Australian workman must necessarily produce 4 hours less product than that obtained overseas.

#### CONCLUSIONS FROM THE EVIDENCE.

The conclusion to be drawn from the evidence is that the reduction of the standard hours is no more justified now than it was in either of the previous two Full Court cases.<sup>(1)</sup> It spells retrogression or at the best stagnation and not progression. Although it may not mean "industrial paralysis" or "economic disaster" as is suggested by the Tariff Board as a consequence of further increases in the cost of production, it certainly does mean in my opinion very serious injury to the community of Australia generally and to this industry in particular. It means an undoubted decrease in output when a substantial increase is so absolutely necessary to this young country, a seriously increased cost directly or indirectly of such reduced output, the accumulative effect of which it is very difficult to estimate or to foresee; the weakening of our power to

(1) "Standard Hours" case, 15 C.A.R., p. 1044; Timber Workers case, 16 C.A.R., p. 640.

develop our own resources and consequent delay in doing so; the weakening of our power to resist foreign competition and its inroads and the consequent weakening of our financial stability; the weakening of our power to recapture the balance of trade by making our exports exceed our imports and provide us with the wherewithal to meet our heavy overseas debts; the discouragement of our manufacturers to continue in some cases a hopeless struggle or to invest further capital; the discouragement of prospective manufacturers to invest and commence business in Australia under such adverse conditions when better conditions, more conducive to business success, prevail in other parts of the world; the delay in commencing and in carrying into effect further public utilities so necessary to our advancement; the still further weakening of our primary industries, which have already been over-strained by existing conditions and which are competing and must continue to compete on prices determined by competition in world markets; the creation of further dissatisfaction in the rural worker whose hours and conditions of labour appear to be out of fair proportion with that of the city worker and whose drift, already very serious, to the city, its attractions and its better living and wage conditions will be accentuated. And all for what purpose? Admittedly not for what is necessary to secure to the worker a limitation of hours necessary to prevent sweating or over fatigue or ill health but to secure to him extra leisure, reasonable I recognize, if it were not for the too serious attendant consequences which it must occasion the community as a whole and this industry in particular.

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My learned brothers differ from me in these conclusions. I sincerely hope that in the events to come my conclusions may be proved erroneous, but holding as I do a very strong opinion about them I now feel it my duty to express my disagreement with and dissent from the order the majority of the Court proposes to make.

I desire to associate myself with the Chief Judge's expression of appreciation of the service rendered in this inquiry by Mr. Sutcliffe.

I am of opinion that the proposed reduction should not be granted.

BEEBY, J.:—

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Prior to the adoption by Australia through its State and Federal Parliaments of the prevailing system of industrial regulation, the recognized hours of employment in normal industries were 48 per week. The classification of industries was different from that of to-day, and employees in a great number of callings and occupations worked longer hours than those of the normal group. But mainly through awards of industrial tribunals, these exceptions to the standard were eliminated, until for all practical purposes, 48 hours as a maximum of working

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hours became universal. In some occupations infected with extra industrial hazards, various tribunals reduced working hours to 44 per week or less. While tribunals were thus engaged in extending the 48-hour week, agitation began for a clean eight-hour day with the Saturday half-holiday, that is for 44 hours per week. Tribunals refused to entertain these claims on the ground that their delegated legislative powers were conferred by Parliaments when 48 hours was the accepted standard, and any reduction of the standard should be the result of direct legislation or of express direction to industrial courts and wages boards.

Mr. Justice Heydon, then President of the New South Wales Court of Industrial Arbitration, in 1905, in refusing an application, said—

“That however great a blessing the establishment of a shorter working week might be, it was not a principle to be introduced by the Court. It raised too important a political and economic question and must be decided by the legislature.”

Until the year 1920 the Commonwealth Court appears to have acted on the same principle. In that year, however, its then President, Mr. Justice Higgins stated that the time had come to consider the reduction of hours in normal industries to below 48, and subsequently made awards prescribing 44 hours in the Timber Industry and Engineering trades. By an amending Act (No. 31 of 1920) the Commonwealth Legislature directed that this Court should not increase or decrease working hours above or below 48 per week in any industry, with certain exceptions, unless such increase or decrease was authorized by the majority of a Full Court, for the constitution of which provision was made.

The Legislature has therefore delegated to this Court so far as it controls industry by making awards in settlement of industrial disputes, the responsibility of saying whether the standard 48-hour working week should be altered. No principles have been laid down for the Court's guidance, no limitations have been imposed on its discretion, but, to the Court is given a power to legislate in an area in which the Commonwealth Parliament itself under the Constitution cannot directly legislate.

On what principles should we proceed to exercise this power?

The foundation of every judgment is, of course, a proper weighing of evidence. But evidence is a marshalling of facts. In exercising legislative power facts alone do not determine the legislation. Opinions formed of the necessity for, and the probable result of proposed legislation must play their part, and in forming those opinions investigation of a wide range of material not usually brought before a judicial body, is inevitable. The Court in legislating should, I think, approach its task in the same way as the legislature. Where a claim is made for an important change in industrial standards, the Court is bound to consider relevant features of economic history. In considering a proposal to legislate on hours of employment, it should acquaint itself with the

history of past struggles of working people for shorter hours and higher standards of leisure and comfort, and it must trace the origin of the agitation for such legislation. It must consider past changes in methods of production, the wide expansion of machine production, the increased productivity arising therefrom, and the effect of machine and specialized processes of production on human beings. It must consider the probable future increases in production arising from further expansion of machine methods. It must conjecture the probable result of its decision, even the possibility of its legislation affecting distribution of the national income. It must estimate how far the issue before it is a source of industrial unrest and conflict. It must, in short, range through the whole field of economics and act more on opinions formed than on the nice balancing of such evidence on facts as may have been adduced.

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One important feature of economic history is that improvements of conditions of employment and of standards of living of working people have rarely been the result of concerted concession by employers. Proposals for industrial reform have usually been contested by those more engrossed in the material development of industry than in human problems. All epochal improvements of the past, the justice of which is not now disputed, have been the result of organized force or of legislation, not of voluntary concession. History is replete with prophecies of disaster which were to accompany legislative reductions of working hours, the regulation of child and women labour, the adoption of compulsory rules for better factory conditions, and other interferences with "freedom of contract."

Counsel for associated employers repeated the dismal forebodings which have always preceded economic change. They alleged that further extension of the 44-hour week in Australia would imperil many industries and lead to disastrous financial results. They asked the Court to be guided more by possibilities of the future than by experiences of the past.

Representatives of Trade Unions, on the other hand, under-estimated the probable results and did not seem to realize that under the present system of competitive economic organization, shortening of hours of employment must be accompanied with greater individual effort to keep up production. It is too readily assumed that this Court is an instrument created to solve the all-absorbing problem of the age, and that it must choose between rival political theories. This Court is not empowered to make awards directly and deliberately to alter the accepted scheme of economic organisation. Its awards may indirectly affect the division of national income, but any direct social change which the community from time to time regards as necessary is exclusively within the purview of the legislature.

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### PAST AND FUTURE CLAIMS OF ORGANIZED LABOUR.

Another oft-repeated objection to the granting of the present application was, that if the 44-hour week is conceded, there will follow claims for a 40-hour week, and later on for still further reductions. In the early days of industrial arbitration, when groups of working people were seeking reductions of hours of employment from 80 and 72 per week to 60 and 56, exactly the same arguments were used. It was contended that such workers as carters, cooks, restaurant and hotel employees, men and women engaged in the daily distribution of food-stuffs, and many others, would later on seek a 48-hour week. Courts and Boards, however, have always refused to be stampeded by fear of what future claims may be engendered by present concessions. In the occupations mentioned the claims were conceded wholly or in part. The great mass of unskilled and partially skilled working people, whose working hours, it was contended, must necessarily be longer than those engaged in what were then called "normal" industries, persisted in their claims, and to-day practically the whole of them have been included in the 48-hour industries without the community suffering the prophesied disasters. I decline to anticipate future demands, and deal only with the claim for shorter week in its present setting. If, in the future, claims are made to this Court for further shortening of hours, I assume that they will be dealt with on their merits in their then setting. We are called on to deal with emergencies of the moment, not to horoscope future industrial aspirations. To me, the broad issue before this Court is—

- (1) Is the claim in the present stage of economic development just?
- (2) Can Australian industries, both self-contained and in competition with foreign countries, continue to expand and develop satisfactorily with 44 hours as the standard working week?

#### SUMMARY OF THE EMPLOYEES' CASE.

The claimant unions of employees submitted the following series of propositions:—

- (1) That the claim for a clear eight-hour day with the Saturday half-holiday should be conceded as a matter of social justice.
- (2) That the great increase in the productivity of labour arising from the extension of machinery and of specialization of processes should be further shared by wage-earners in the form of further reductions in hours of employment.
- (3) That wage-earners have not received their just share of constantly increasing communal production.
- (4) That the ever-increasing use of machinery and of specialization processes has so increased the monotony of toil as to call for further reductions in working hours.

(5) That a reduction of working hours from 48 to 44 in Australia does not necessarily involve proportionate decline in production.

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(6) That by elimination of the waste which is now disregarded, and by paying closer attention to management and equipment, employers with exceptions, could maintain the present rate of production on the 44-hour standard.

(7) That by reason of its undeveloped reserve of natural resources, Australia is peculiarly advantaged and more than any other country can afford to raise standards of leisure and comfort.

(8) That the extension of the 44-hour week by means of State legislation in Queensland and New South Wales, by this Court and by Arbitration Courts in Western Australia and New Zealand, has not prejudicially affected industrial development.

(9) That the legislative sanction of the shorter working week in some States, with over-riding awards of this Court prescribing 48 hours, will be a source of grave industrial unrest.

(10) That there has, since the war, been a world-wide reduction of working hours in which, except so far as State legislation has been passed, the wage-earners of Australia have not participated.

(11) That State Legislatures and State and Federal tribunals have conceded a 44-hour week to approximately half the working population of the Commonwealth.

(12) That the Governments of four States support the application for a shorter week, and that in the neighbouring Dominion of New Zealand the concession has been made to all skilled and some unskilled trades.

#### THE EMPLOYERS' REJOINDER.

The employers' opposition to the claim can be summarized as follows:—

(1) The present Federal standard is, with exceptions, 48 hours per week. The exceptions were made because those engaged in them were able to satisfy the Federal tribunal that there existed special circumstances warranting a departure from the normal standard. That standard should not be disturbed.

(2) State laws enacting the 44-hour week, not having been the result of proper economic inquiry, should neither influence nor prevail upon the Court.

(3) The claim should not be granted without proof that real production has substantially increased; that the development of primary industries will not be retarded; and that industries can successfully thrive in the face of overseas competition.

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(4) That competition of oversea nations in which longer hours are worked and lower wages paid, renders any further increase of wage cost or loss of output dangerous to many industries.

(5) That independently of any consideration of hours worked and wages paid in competing countries, those countries have an advantage in competition by reason of large markets and facilities for massed production and specialized processes.

(6) That a shorter working week, if ever conceded, must be accompanied with an incentive to higher production arising from the introduction of piece-work and other systems of payment by results.

(7) That 48 hours is a reasonable standard fixed on the basis of how long a man can work without being impaired physically, mentally, or spiritually, and any reduction of that standard would be economic waste.

(8) That industrialists have, by participation in the general improvement of standards of living, and in the facilities for travel comfort, better hygiene, and recreation, received a proper share of the increased productivity arising from scientific discoveries, extensions of machinery and new methods of production and distribution.

(9) That it is not the function of this Court to make any change in industrial standards which will disturb the present distribution of national income between the different factors of production.

(10) That Australia's main industries are subject to great seasonal variations, and that recent years of national prosperity should not be accepted as average criteria of the nation's productive capacity.

(11) That the over-borrowing of money by governments has made our financial position unsound, and further additions to wage cost will indirectly imperil our financial position.

#### ETHICAL CONSIDERATIONS.

During the proceedings it was not seriously debated that the claim for a shorter working week was a reasonable aspiration. The submission of counsel for respondents "that 48 hours was fixed on the basis of how long a man can work without being physically harmed" has no historical support. The 48-hour week was the result of a long industrial struggle, and its real foundation was the assumption that eight hours per day was the optimum working period, and one which at the time of its adoption the country could afford. I agree that except in well-defined unhealthy occupations or those in which the work is very laborious, 48 hours may not inflict physical injury. But is that the only consideration? Is the purely physical aspect of working periods the only point at issue? Are we to disregard the development since the Great War of a new industrial outlook, and of the drastic revision of economic theories forced by the war? Are the world-wide claims of working people for more leisure,



the arguments as to increasing productivity, and the effects on mind and character of machine production to be disregarded? Are we to forget the increased opportunities for leisure which have been won by all other sections of the community, and deny the right of manual workers to participation?

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As the Chief Judge frequently stated during the proceedings, the adoption of shorter hours was "desirable" if the community could stand it. With this I agreed. In the year 1920 when inquiring into the question as a New South Wales State Commissioner, I formed the opinion that the claim was a just one, and should be conceded to all industries financially able to meet the change. I was then, however, dealing with the matter only from a State stand-point, and before the collapse of the post-war boom. Realizing that the problem was different when approached federally, and that financial and economic circumstances were different, I approached this inquiry with an open mind, except as to the ethical foundation of the claim.

I sought, through the inquiry, for all possible information as to the capacity of industry generally to adopt itself to the shorter hour standard, and on close analysis of all the exhibits, of general statistics available from Commonwealth and State sources, of the evidence, and the argument, have concluded that our industries can become adapted to the shorter working week without serious loss to the community. I now state my reasons for this conclusion.

#### HISTORICAL REVIEW.

The eight-hour day—48 hours per week—six days of eight hours each—was by agreement between master builders and sections of their skilled operatives, first introduced into Australia in 1857. Later on the agitation for a Saturday half-holiday became definite, and hours were altered to 8½ on five days, and 4½ on Saturdays. That the Saturday half-holiday could only be secured by sacrificing the eight-hour principle on five days of the week has always been resented by industrialists.

When opportunity arose to express that resentment in Arbitration Courts, claims for restoration of the clean eight-hour day were submitted. Since 1905 these claims have been a constant cause of dispute. Finding that Courts and Wages Boards did not help them, except in unhealthy occupations, organized unionism turned to the Legislature and sought direct enactment of the 44-hour week.

In 1920 the New South Wales Legislature passed a 44-hour law under which, with the exception of primary production, and a few industries which for the moment could not carry any increased labour cost, the shorter week was universally applied to the State's industries.

In the following year the Act was repealed, and the Industrial Court was directed to restore the 48-hour week (with certain exceptions) to all industries making application for that purpose. Many applications

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to restore the old standard were made, but in several industries employers were apparently satisfied with the existing state of affairs and voluntarily continued operations under 44 hours.

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In 1925 the New South Wales Legislature re-enacted the 44-hour law, and except as to primary industries, and one or two unimportant occupations, the shorter working week again became universal. A few months later the High Court, in effect, ruled that an award of this Court fixing 48 hours ordinary working time over-rode the State 44-hour law.<sup>(1)</sup> We therefore have the extraordinary position that a State law on a subject within the legislative powers of the State can be set aside by a subsidiary legislative tribunal created by the Commonwealth Legislature. I doubt whether the High Court intended its judgment to bear such an interpretation, but there seems little doubt that the dicta of the learned Justices bear that construction.

The Legislature of the State of Queensland, in the year 1923, also passed a 44-hour law.

In West Australia the Lower House recently passed a similar measure, but the Legislative Council, after agreeing that the fixing of hours of employment should be left to the Industrial Court, rejected the Bill. The Government, however, by administrative acts applied the shorter week to all railway and other State employees, and the Court has recently announced that, unless exceptional circumstances are shown, 44 hours will be recognized as the standard working week.

In three States with a population of 3,500,000 out of the Commonwealth's total population of 6,046,000, the shorter working week prevails or is in the course of general application, as the result of legislation. In other States in which there is no direct enactment of standard hours, there has been during recent years, a marked trend towards the shorter week.

Apart from State legislation, by awards of this Court or by agreements made between employers and employees, the shorter working week has been applied in all or some States to the following industries:—

Building trades, manufacture of tobacco, metalliferous mining, coal-mining, flour-milling, clothing, saw-milling, waterside workers, storemen and packers, ship painters and dockers, journalists, shipwrights, postal employees, brewery employees, boot manufacturing, quarrymen, sections of engine-drivers and firemen, munition and small arms makers, sections of glass-makers and brick-makers, and others.

It is estimated that by virtue of State laws and State and Federal awards and agreements (excluding rural industries) more than half of the industrial population of the Commonwealth, except so far as the

(1) See Clyde Engineering Co. Ltd. v. Cowburn, 37 C.L.R., p. 466.

privilege can be nullified by awards of this Court, is legally entitled to a shorter week. The suggestion that this Court should act as censor of State Legislatures and in effect repeal State laws opens up an interesting vista of possibilities.

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It was suggested during the argument that this Court should not regard 44 hours State legislation as expressing the will of the people, and should assume that such legislation was enacted without proper consideration of economic results. It was even hinted that we should regard the possibilities of changes of government and the repeal of legislation by other political parties if and when they came into power. I refused to entertain for one moment the idea that this Court should speculate on future political possibilities. I am, however, prepared to speculate on the reception which, say the High Court of Australia, would give to an argument that a law under consideration did not represent the will of the people and might some day be repealed. Even an Industrial Court exercising quasi-legislative powers must necessarily regard a law as permanent and refuse to be drawn into political controversy.

It is interesting to note that, in the adjoining dominion of New Zealand, under a power conferred by Parliament, the Industrial Arbitration Court for many years past has been quietly extending the 44-hour week to New Zealand industries. There is no record of the Court ever having been asked to hold its hand because some future Government might interfere with its power to fix hours of employment.

This Court is not asked to introduce some novel change in industrial relationship, but rather to finalize a resistless trend and remove from the path of industry one of the most prolific causes of unrest. That the 44-hour week will be further and further applied, whatever this Court does, seems certain. It has become a fixed principle in the minds of industrialists; it has the sympathetic support of many who are not manual workers but themselves work less than 44 hours; and it has the indisputable support of thinking experts in management who admit that a maximum of eight hours labour per day gives the best results.

Mr. Holloway in his final address pleaded with the Court to consider the waste of effort arising from the thwarting of an ideal which has such wide social sanction. He affirmed that the denial of a shorter week causes so much heart-burning that in many industries workmen unconsciously are only giving 44 hours results in 48-hour workshops. There is no doubt that where a very large section of workers have by various means secured substantially improved conditions, it is difficult to convince others that they should not enjoy the same privilege. I feel that there is a good deal of truth in Mr. Holloway's contention, and that the final removal of such a cause of discontent may lead to better

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co-operation between management and workers. We will never even begin the search for a better industrial relationship while one of the main causes of conflict is permitted to fester.

#### METHODS OF REMUNERATION.

In submitting that no further reduction of hours of employment should be considered unless and until systems of payments by results had been extended to all appropriate industries, counsel for employers opened up a problem of vital importance.

Officially organized trade unionism, particularly in manufacturing industries, opposes all piece-work, contract work, bonus payments and other devices for securing increased output, thus allowing individual workmen to reap rewards for higher efficiency and closer attention to work. This attitude has an historical foundation. It was alleged that in the past when there was no statutory regulation of wages and conditions of employment, bitter hostility of workmen to all forms of piece-work was engendered by the unfair cutting of rates whenever individual employees increased output sufficiently to yield them earnings much in excess of the current daily wage rates. The piece-work rates were not fixed on the capacity of the average man, but on that of the expert, with the result that very few reaped adequate return for extra effort. It was admitted by some employers that in some instances this accusation as to past practices was true, and that at one stage of our earlier industrial history the opposition to piece-work had some justification. But although the present attitude of unionism is inherited from a past decade, new reasons, some of them perverse and retrogressive, are behind the present hostile official attitude. A popular theory with some union leaders is that workmen are less likely to suffer from recurring unemployment if all give only an output measured by the capacity of the average man. Those who wish to assert their individuality or to increase their remuneration by giving free play to higher skill or greater industry, are eyed with suspicion, if not treated with open hostility.

The fear of unemployment and of the recurring breaks in employment which reduce annual income, is perfectly natural, and we cannot be surprised that when society with its growing facilities for increased production fails to provide adequate insurance against unemployment, workmen devise their own remedies. However false the remedies may be, they cannot be dismissed as anti-social in origin. If we could have so organized industrial life as to guarantee to every worthy citizen constant employment, or insurance during periods of unavoidable unemployment, the main objection to payment by results would not exist. That organized unionism is adopting a wrong remedy is beyond argument. All unnecessary restrictions upon production reduce the possibility of continuing to improve standards of living and to provide

for the needs of increasing population. All unnatural suppression of individualism, all effort to reduce the extra efficient to the productive level of the average, can only result in general deterioration which in the end will make it impossible even to maintain existing standards. With the elimination of the extra efficient, average efficiency necessarily declines, until deteriorated labour even with increased mechanical appliances, is unable to maintain the increase in production necessary for progress. The envy of inefficient and anti-social malcontents also plays a part in the shaping of opposition to piece-work; not a dominating part, at present, but sufficient to cause apprehension. So long as unemployment, partial employment, and casual interruptions of the worker's earning power are justifiable factors of discontent and unrest, it is idle to condemn unionism for its desire to "make the work go round." Those who condemn must accept their share of responsibility and join in the search for better systems of organization. Those who voice the official attitude of unionism assert that the "cutting of rates" and the unfair speeding up of past days still exists, and refuse to admit that our system of regulation of industry furnishes proper safeguards. I have no hesitation in saying that this is a mistaken attitude. In every State of Australia exist means of creating machinery which will safeguard systems of payment by results from abuse. But that machinery cannot be used unless both employers and employees approach the matter in a different spirit. I was struck with the frequent admission by employers that no organized campaign for breaking down hostility to the system had ever been started, and no scheme of guarantees against past abuses ever offered. The majority of employers still seem to think that the introduction of new methods of payment and the fixing of piece-work and contract rates are matters of management only, and not subjects for consultation with their workmen. The failure in Australia to use joint shop committees for the educative breaking down of antagonism and hostility is lamentable. The greatest need of the moment is the creation of a better industrial relationship, the achievement of closer co-operation between the factors of production. We are approaching the stage when the divorce of labour from the other factors may result in disaster. American manufacturers are at present rapidly extending a new economic policy throughout secondary industries. The main features of this policy are high individual earnings and short hours, secured by shop agreements and schemes of payment by results with guarantees against reductions of rates.

The resultant great increase in America's productivity may lead to over production and further cycles of unemployment, but for the moment industry thrives, skilled workmen and machine attendants receive higher effective wages than in Australia, and hours of employment are being reduced.

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But even without organized propaganda by employers, piece-work, contract work, and bonus payments have been introduced into Australia to a greater extent than is supposed. The evidence discloses that, notwithstanding the official attitude, some measure of payment by results prevails in nearly every industry in which mass production or substantial repetition work is undertaken.

In primary industries, coal miners and metalliferous miners work on tonnage rates. Sugar-field work, fruit-picking, log timber hauling, hop-picking, and shearing are piece or contract work; most agricultural labourers during harvesting and ploughing seasons work on contracts; much of our bush labour such as fencing, clearing, and dam excavating is done by contractors.

In secondary industries the manufacture of tobacco and cigarettes, clothing, boots and hats, or agricultural machinery, stoves, baths and sanitary appliances, nuts and bolts, type setting and other printing operations, tin canister making, fruit packing, timber box making and cardboard box making, are largely done on piece-work rates. In iron and brass foundries and engineering shops, and factories engaged in manufacturing electrical appliances, much work is done on piece-work schedules. In railway workshops and other engineering establishments bonuses for production in excess of set tasks are frequently paid in spite of the strenuous opposition of the unions. One is forced to the conclusion that the official opposition of unionism has not been able to prevent the more highly skilled, more diligent, and more ambitious workman from asserting his individuality. It is true that the official attitude retards extension of payment by results, but it has not prevented its wide application to industries which lend themselves to that method of payment. I cannot therefore agree that this Court should not shorten hours until payment by results is universally adopted. Already the system largely operates in repetitive processes, and an intelligent campaign by employers, conscious of the necessity of negotiating for, instead of imposing new methods, will, I am confident, in time break down opposition and lead to the formation of trade councils or shop committees formed for the purposes, among others, of fixing piece-work, contract, and bonus rates. Wage-earners must realize that limitation of production, the setting of uniform standards of production for individuals in different industries, will not hasten evolutionary progress. Whatever theories as to economic reconstruction may be sound, those which result in individual deterioration can only lead to lower standards of living.

In Australia particularly, wage-earners possess the right through constitutional channels to secure higher standards of living and wider participation in the results of the mechanization of industry.

Deliberate efforts to lessen or standardize output, resulting in deterioration of the individual, must be combated by all thinking men.

The most difficult and yet most necessary task of the moment is to convince union leaders that, under our system of industrial regulation, it is possible to protect workers from unfair rate cutting, from over-work, and from other abuses of payment by results.

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### MACHINE PRODUCTION.

Argument that the effect of machine production and specialization of processes justifies a claim for shorter working hours calls for careful consideration. It cannot be dismissed with the complacent conclusions of factory managers, that those doing machine repetition work either prefer it to old-fashioned artisanship, or are of low mental calibre. The expulsion of skilled artisans from industry to make way for machine operatives increases from year to year. It can be said with certainty that the proportion of trained mechanics with manipulative skill becomes relatively less each year, and that the increasing use of machinery does tend to make work more monotonous. More time for fostering other interests and for recreation is necessary to those whose natural creative instinct is suppressed by economic necessity. Militant resistance of the introduction of machinery has almost disappeared. Occasionally there may be sporadic protests, even resistance, but labour as a whole now realizes that machinery, under proper control, gives that increase in production which makes higher standards of living possible.

But is it not possible in these days of universal unrest to over-concentrate social effort on production? I realize how controversial this theme is, but venture to quote from an exhibit tendered by the applicants some remarks of an economist published in a recent issue of the *Nineteenth Century*. The writer expressed the opinion "that the problem of wealth production has been solved. The problem confronting us to-day is how to distribute the products of machine power so as to maintain its constant operation. We are menaced by a congestion of commodities, and the cry is for fresh markets. Scarcity has given place to abundance. Producers are clamouring for consumers. . . . To-day we see a world enriched as far as human experience goes, with an unlimited surplus of all the fundamental factors of wealth for giving mankind an abundance of necessities and of the so-called luxuries of life. . . ."

Many of us fail to realize that feverish concentration of social effort on increasing production brings its own retribution. Without arguing whether or to what extent individual character is lower than that of past generations, we might with advantage pay more attention to the contentions of some students of sociology that the effect of concentration on production to the detriment of distribution reacts on the whole community.

The amazing increases in productive capacity attributable to modern machinery are self-evident, and there is no doubt that, if economic

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waste were eliminated, countries which have fully availed themselves of mechanical appliances could provide for their progressing needs in much shorter working periods.

The contention that wage earners as a class have not participated in increased wealth will not bear examination. But that their participation has not been sufficient is another matter. The persistent claim of industrialists that the displacement of skilled labour by machinery, the monotony of machine work, and the increased production per man unit working with machine tools justifies reductions in working hours is, particularly in countries in which education has created new aspirations, one of the most persistent items of economic controversy.

Apart from the effect on the nervous system of work in the midst of noisy and sometimes vibratory machinery, the general morale of a community must suffer from the indifference to work and the discontent of a constantly increasing section of the community. As late as January of this year one of the largest manufacturing firms in Australia caused an inquiry to be made by experts as to the complaints of "monotony" in factory work. Dr. Creswell Howell, in his report to the management, made the following comments:—"Monotonous work may very well suit some people. To many it will mean great dissatisfaction, and to others insanity. There is little doubt that a very large proportion of repetition workers are dissatisfied. They work for the money; they care little for the quality of their labour; they leave an instant before the whistle goes, because the work itself is not of sufficient interest to engage their attention for a fraction of a second more than the regulations insist upon. The causes must either be in the work or in the worker. The work is uninteresting, or the worker is lazy, or tired, or bored. That the workers are not lazy or tired or bored is shown by the way they skip about when the chance offers. They must, therefore, be tired of doing a particular set of movements for which they are paid. The unthinking would regard such contradictions as just cussedness. As a matter of plain fact, they are bored stiff with the particular job they are at, and they will jump and dance, play, sing, or, in fact, they will do anything on earth but the job they are paid to do. Why is this? What is the actual condition of being bored? It is a condition of mental tiredness, and it can be overcome by the provision of rest intervals. One cannot place too much credence in the statement of those engaged upon repetition tasks that they 'like the work.' They will, in most cases, answer inquiries in the affirmative. One wonders is the expression comparative; do they like it in comparison with other work of the same class? Probably such misconception prevails because of the unguarded acceptance of assurances on this point from the workers themselves. . . ."

There is a mass of similar opinion available, and it is generally conceded that hours of labour on repetitive work should be reduced to



the lowest limits consistent with the maintenance of industry. Apart from machine work, "specialization" is being widely extended. A tailor or tailoress on hand work rarely makes a garment right through, but, working in a "team," is engaged continuously on one process. A bootmaker rarely makes a boot, but is continually engaged in one of a long chain of processes, some by hand, and some by machinery. In a joinery factory a "joiner" does not make a door or a window-sash, but clamps together the component portions of wood which come from specialized machines. Even in the engineering trade, much work which was once a part of a mechanic's duty is done by machine attendants constantly on the same process. These methods have greatly increased production, and the claim that the wage-earners' share of that increase should be expressed in shorter hours is natural, and must be considered in fixing a national standard of hours of employment.

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It was suggested that the objection to monotony is another way of expressing general human disinclination to work; that it is a modern statement of an ancient grudge. To avoid being lost in a labyrinth of psychological speculation, we must, I think, be content with practical comparisons. In the days when handicraft predominated in production, creative skill and pride of workmanship played their parts in the formation of national character, and men and women were more content to work long hours. But when the craftsman becomes a machine operative, and sees no direct result of his labour, his work becomes monotonous and his natural desire is to get away from a daily uninteresting routine, particularly when he knows that by substituting mechanism for manipulative skill the joint productivity of society has been so greatly increased.

The "monotony" argument in favour of reduced hours is, I think, a strong one to which proper regard should be given in weighing the ethical and economic issues involved in fixing standard hours.

#### THE EFFECT OF 44 HOURS LEGISLATION AND AWARDS ON INDUSTRY.

In considering the contention that the universal adoption of the shorter week will react disastrously on the community, it is necessary to examine the available data as to the effect of shorter hours of employment in States and on industries in and to which it has been applied.

In Queensland, where the trend toward shorter hours reached a climax by direct legislation in the year 1923, the statistical returns disclose that the steadily increasing prosperity of the State has not been interrupted.

In New South Wales, where the trend to shorter hours, beginning in 1920, reached legislative climax by the Forty-four Hour Act of 1925, both primary and secondary industries have kept up more than their average rate of expansion.

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New Zealand, notwithstanding its wide adoption of the short working week, rapidly recovered from the post-war collapse, and to-day maintains its reputation for steady progress.

In Western Australia the trend towards a shorter working week has not resulted in disaster. On the contrary, the recovery from past financial embarrassment has during recent years been most noticeable.

Generally speaking, the progress of States in which industrial legislation has been most pronounced has been as great, if not greater, than that of the State of Victoria, in which the 48-hour week predominates. Reasonable conclusions to be drawn from an analysis of statistical data of these individual States is that in all of them industry has adapted itself to new standards imposed by direct or indirect legislation, and that additions to wage cost attributable to shortening of hours of employment have not arrested development.

The table of figures included in later sections of this judgment enable comparisons of the progress of major industries since 1920.

#### THE EFFECT OF INDUSTRIAL REGULATION ON INDUSTRY.

About 70 per cent. of our industries are not materially affected by overseas competition. Any additions to their wage costs are met either by increasing prices of their products, by changes in methods of production, or by curtailment of profits distributed and undistributed.

Where the first of these devices is resorted to, the result may be a decline in consumption which is soon reflected in slackening of trade and unemployment.

Where added labour cost reduces profits below a reasonable level, a decline of investment in profit-making industries may ensue with similar results. But the probabilities of these results was fully canvassed whenever laws creating industrial tribunals were enacted.

The presumption is that legislatures, when empowering subsidiary bodies to fix what they considered were just wages, hours of labour, and conditions of employment estimated the extent of such risks. Otherwise the discretionary powers of tribunals in some way would have been limited. In the exercise of its discretion, this Court should pay regard to conclusive evidence that a proposed award will destroy or definitely prevent the development of an industry. But here again, it cannot accept pessimistic prophecies of interested parties. It must consider past experiences. I know of no instance of the suspension of an industry clearly attributable to awards of this Court, or other Arbitration tribunals. On the contrary, statistics disclose that, notwithstanding higher wage cost and shortening of hours of employment, the slightly improved standards of living of industrialists resulting from awards of this and other Courts and tribunals has not retarded development of either primary or secondary industries.

The contention that progress would have been greater without compulsory arbitration is purely conjectural. It makes no allowance for

the benefit which all industries reap from an increase of the people's purchasing power. Up to a point the increased purchasing power of wage earners, who with their dependents form the greater part of our population, is an effective set off against increased wage cost—not a complete set off, but sufficient to be taken into serious consideration. It is also significant that the last six years have seen greater investments of capital, local and foreign, than any other six-yearly period in our history.

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The investors of that capital must have known that the trend of hours of employment was downwards, and of labour costs upwards. The establishment of Ford's and other motor works, expansion of the steel, cement, and rubber industries, and of textile industries, the continued investment of money foreign and local in loans for the expansion of great public works destined to increase the nation's productivity, all point to the conclusion that past industrial regulation and fear of future industrial conditions have not hampered the flow of capital into new enterprise, or into the expansion of existing industries.

Many figures and much argument were submitted to prove that, compared with the year 1911, the actual production of wealth per head of population had declined. But to me that evidence was not conclusive. Comparisons of quantitative production were arrived at by the use of index numbers fixed on nebulous data. After the date of the first use of index numbers, provided reliable data are collected, the index numbers facilitate reliable future comparisons of quantitative production, but they are not reliable in taking the comparisons back to years before the fixing of the index numbers on data not collected for purposes of comparison. A better way of judging the increase or decline of production and of the comparative prosperity or otherwise of the Commonwealth is, in my opinion, the analysis of statistics of the five-year period prior to the war, and of the last five years. I do not propose to follow in detail the argument between Mr. Sutcliffe and Mr. Benham on this point. Mr. Benham had not given consideration to the practical matters before this Court; he had not made any inquiry as to the actual effect of the shorter week on production costs in industries, which had changed over from 48 to 44 hours; he had not applied his mind to historical facts, or the ethical issues involved. Taking available statistical figures, and applying index numbers, he ventured the conclusion that, although in the year 1926 Australia recovered her pre-war productivity per head of population, for some years previously production had been lower than during years immediately preceding the war.

I am not prepared to dispute or accept this conclusion. For reasons before stated, the accuracy of index numbers is not sufficiently established to justify definite conclusions on comparisons with years prior

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to the first use of the index number. The following is the statistical table on which Mr. Benham arrives at his conclusions:—

“A.”

ESTIMATED RELATIVE PRODUCTIVE ACTIVITY IN AUSTRALIA FOR THE  
YEARS SPECIFIED (1911-1925).

Year.	I. Estimated Value of Production.		II. Relative Value of Production per head Year 1911 = 1,000.	III. Price-Index Numbers Year 1911 = 1,000.	IV. Estimate Relative Productive Activity per head Index-Numbers Year 1911 = 1,000.
	(a) Total (,000 omitted).	(b) Per head of population.			
1911 .. ..	189,098	41.34	1,000	1,000	1,000
1912 .. ..	208,404	43.91	1,062	1,074	989
1913 .. ..	217,081	44.36	1,073	1,054	1,018
1914 .. ..	209,919	42.22	1,021	1,256	813
1915 .. ..	251,251	50.56	1,223	1,292	947
1916 .. ..	256,068	52.07	1,260	1,398	901
1917 .. ..	271,365	54.47	1,318	1,486	887
1918 .. ..	283,661	55.83	1,351	1,583	853
1919-20 ..	333,592	62.90	1,522	1,875	822
1921-22 ..	339,368	61.60	1,490	1,579	944
1922-23 ..	372,888	66.19	1,601	1,753	913
1923-24 ..	392,951	68.34	1,653	1,850	894
1924-25 ..	449,157	76.47	1,850	1,880	984

Source : Labour Report, 1925, No. 16, p. 85.

At my instance a table was furnished showing how the same method of calculation would result in estimating average production per head of persons engaged in industry, instead of per head of population, with the following result.—

PRODUCTIVE EFFICIENCY INDEX-NUMBERS.

Based upon the production in each group per person engaged in that group. Values corrected to 1911 levels by the application of production price index-numbers:—

Year.	Agri- culture.	Pastoral.	Dairying, Poultry, and Bee Farming.	Forestry and Fisheries.	Mining.	Manu- facturing.	All Industries.
1908 ..	983	807	817	878	948	978	921
1909 ..	1,163	933	842	838	943	989	996
1910 ..	1,246	1,052	973	926	951	992	1,058
1911 ..	1,000	1,000	1,000	1,000	1,000	1,000	1,000
1912 ..	1,241	854	968	1,069	1,044	1,015	1,007
1913 ..	1,270	991	1,026	1,090	1,053	1,024	1,051
1914 ..	550	970	1,005	875	1,043	1,033	861
1915 ..	1,762	706	827	776	1,110	1,049	1,023
1916 ..	1,444	693	1,017	675	1,081	1,061	967
1917 ..	1,188	755	1,178	626	1,036	1,048	954
1918 ..	942	782	1,189	658	1,104	1,018	915
1919 ..	752	861	1,153	760	835	1,051	871
1920 ..	1,390	705	1,261	853	913	1,036	976
1921 ..	1,291	870	1,568	956	1,017	1,045	1,031
1922 ..	1,220	830	1,481	910	1,103	1,062	999
1923 ..	1,311	742	1,522	896	1,142	1,077	972
1924 ..	1,505	910	1,895	896	1,139	1,080	1,077

Mr. Benham attached no significance to this second table, probably because of failure to understand the purpose for which it was called. If either table is sufficiently accurate to form a reliable guide, then the second one supports the contention that our material wealth has increased sufficiently to increase the number of the leisured class who have retired from active participation in production. It also meets the oft-repeated statement that loss in average production (if any) arises from the laxity of those actually engaged in production.

Using index numbers, it is evident from the following return that in manufacturing industries there has been, per hour of labour of employees, a noticeable increase in productive efficiency.

PRODUCTIVE EFFICIENCY INDEX-NUMBERS, MANUFACTURING INDUSTRIES,  
CORRECTED FOR THE VARIATION IN WORKING HOURS.

Year.	Productive Efficiency Index-Numbers.	Index-Number of Nominal Hours of Labour.	Productive Hourly Efficiency.
1914 .. ..	1033	1000	1033
1915 .. ..	1049	997	1052
1916 .. ..	1060	988	1073
1917 .. ..	1048	983	1066
1918 .. ..	1018	979	1040
1919 .. ..	1051	969	1085
1920 .. ..	1036	962	1077
1921 .. ..	1045	945	1106
1922 .. ..	1062	948	1120
1923 .. ..	1077	954	1129
1924-25 .. ..	1080	954	1132

If, for purpose of discussion, we accept Mr. Benham's conclusion as to decline in total productivity, the fall away could only have been in the primary area in which high prices for our products has been the feature of recent years. That decline, if any, is clearly attributable to causes other than increased labour cost.

In determining the matter of greatest moment involved in this inquiry—to what extent has added wage cost retarded progress—I look to more reliable data than that which forms the foundation of Mr. Benham's conclusions. Between the years 1919-20 and 1925-26, during which the fluctuations in money values were comparatively so slight as to render the use of price index-numbers unnecessary, I find that the annual value of all wealth produced in the Commonwealth increased as follows:—

1920-21 .. ..	385,802,000
1921-22 .. ..	399,368,000
1922-23 .. ..	372,888,000
1923-24 .. ..	392,951,000
1924-25 .. ..	449,156,000
1925-26 .. ..	Not available.

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During the same period the value of factory output increased as follows:—

1920-21	..	..	..	323,993,838
1921-22	..	..	..	320,340,765
1922-23	..	..	..	326,497,136
1923-24	..	..	..	348,577,583
1924-25	..	..	..	380,843,986
1925-26	..	..	..	Not available.

During the same period population increased from 5,457,000 to approximately 6,000,000.

During the 1920-25 period, Australia was seriously involved in the general world collapse of 1922-23, and during the same period a large increase in the living wage and much shortening of hours of employment occurred. Yet the progress of Australian industries was greater than during any other quinquennial period. From the production stand-point only, I fail to agree with Mr. Benham's forebodings.

The analysis of the Commonwealth's financial position upon which Mr. Benham relied for his forecasts, calls for separate consideration. The massed figures as to our national debt and the drain on production to meet interest charges and taxation are at first glance rather alarming. A statement that 6,000,000 people with a present annual wealth-producing capacity of £450,000,000 (out of which approximately 14 per cent. is not consumed, or is "saved") carry a public debt of £1,000,000,000, makes Australia appear the Micawber of nations. But the position is entirely different when we look below the surface and find that more than 80 per cent. of that debt has been expended on railways, tramways, electrification schemes, water and sewage works, harbour and river improvements, water conservation, and other revenue-producing works, and approximately another 10 per cent. is represented by tangible non-revenue producing assets. In all countries except Australia these public utilities are mostly reserved for private investment. If Great Britain, for instance, purchased all British railways, tramways, lighting and power plants, her debt would be enormously increased. Our dead-weight national debt, which is the proper public debt for comparison with other countries (excepting that portion which is a heritage of the war) is more in the vicinity of £60,000,000 than £1,000,000,000. It is of course obvious, as Mr. Benham pointed out, that in arriving at trading balances, and in considering whether our savings from national income are sufficient to maintain proper sinking funds, the over-sea portion of our debt is of first importance.

Mr. Benham did not attach sufficient importance to the increase during recent years of investments of local surpluses of capital in public loans. Out of our total public debt of £1,037,000,000, £551,000,000, that is more than half, has been subscribed in Australia, and of our total interest commitments of £28,000,000 per annum, more than one half is paid in Australia. This is mainly a recent development, and is one of the substantial signs of the accumulation in Australia of surplus wealth derived from primary and manufacturing industries. Even now, after much reflection on Mr. Benham's evidence, I cannot understand his persistency when considering the comparative position of countries in refusing to see any difference between a debt which is represented by great public utilities and assets, and one against which no credit entries appear. Whether during recent years we have borrowed too much, and at the present high cost of construction are loading future production with too high interest and sinking fund charges, are of course questions of great public importance. But they are purely of contemporary politics. Whether Parliaments and Governments overstep the mark is for those who create Parliaments and Governments to consider. Our main concern is whether, even if there has been reckless public finance, the productive capacity of the Commonwealth precludes favorable consideration of the claim for shorter standard hours of employment.

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It was contended that the production results of recent years were mainly attributable to exceptionally good seasons and high ruling prices for our surplus products. In a sense this is true. We still rely mainly on exports of wool, wheat and other primary products, and our prosperity is regulated by seasonal variations. But the last five yearly periods experienced these variations. It is also becoming apparent that we are learning how to counteract the result of recurring dry seasons. The expenditure of huge sums of money on cross-country railways, water conservation and highways, the more scientific cultivation of land and breeding of herds, and the conservation of fodder during bounteous years, enables us to minimize the result of droughts. Localised droughts are at times severe and still result in heavy loss, but producers aided by Governments are at last waking up to the possibilities of drought resistance.

I decline to entertain the suggestion that the just improvement of industrial standards should be arrested because in the future we might suffer again from universal droughts. That possibility has always existed, but in spite of it the Commonwealth has steadily progressed, Arbitration Courts have raised living standards, and secondary industries have steadily developed. The important fact is that secondary industries which distribute much more in wages than primary, have expanded much more rapidly during the last ten years than during any

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other decennial period. The following table comparing manufacturing industries in the quinquennial periods 1910-14 and 1921-25 shows how great that development has been:—

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	Average for Five Years.	
	1910-14.	1920-25.
Number of Factories .. .. .	14,829	19,058
Number of Employees .. .. .	318,992	412,891
Value of Plant and Machinery .. .. .	£34,571,193	£88,323,660
Value added in process of manufacturing .. .. .	£55,881,299	£130,448,493.
Value of Output .. .. .	£146,124,868	£340,050,510

ADAPTATION OF INDUSTRY TO NEW STANDARDS.

Most of the witnesses called for the respondents alleged that in their particular industries a change from 48 to 44 hours necessarily meant a reduction of one-twelfth in output per unit, and an increase of one-eleventh in cost of production. Accepting this evidence without question, counsel argued that the wage cost of all production would be increased by 9 per cent. with consequent relative increases in the price of commodities. But this calculation will not bear analysis. It can be agreed that in some industries the added labour cost will be serious, but in some it will not, and in many it will be negligible. The presentation of a total bill based on the assumption that the wage cost of all production would be increased automatically by 9 per cent. was not impressive. Obviously, many facts were overlooked, and many wrong assumptions made. That approximately one-half of our industrial population is now working the shorter week was not considered.

It was also assumed that a 44-hour week, if granted, would apply to direct primary production. But more important than all, the capacity of industries to adapt themselves to new standards was disregarded. It was assumed that none of the production lost through a shortening by four hours of the working week could be recovered by improved methods, the installation of more up-to-date equipment or better management. Allegations were made by the claimant union that some plants were antiquated and the lay-out of many factories uneconomical. Such evidence must be submitted to comparative test. No doubt there is much waste through lack of standardization. The competition of many small plants for contracts which could be more cheaply carried out with one large plant is wasteful. But the development of a local industry must be considered in relation to its age and the market available for its products. Even in America a body of experts has reported that in the iron and machinery trades the waste



arising from lack of standardization, poor equipment and defective management amounts to 17 per cent. on total possible production. No doubt experts would report a similar state of affairs in Great Britain and Australia, but we have not evolved the perfect manager than the perfect worker. Manufacturers in Australia do not dispute that they have much to learn and can always improve their plants and methods, but it cannot be said, taking all local circumstances into consideration, that they are more backward than similar groups in other countries. In all industries calling for a large plant, Australian factory-owners appear to make proper efforts to be up to date. But in one respect the employee's contention is strongly supported by the evidence. The shorter working week does not necessarily mean a proportionate increase in wage cost in all factories. The capacity of industry to adapt itself to new standards with or without some addition to wage cost, has been amply verified during recent years. In 1918 the New South Wales Board of Trade, under the Presidency of Mr. Justice Edmonds, in declaring the living wage for the State, resolved that the time had come to reconsider the formula on which it had previously acted. The result was a declaration raising all wages 17s. per week. State and Federal tribunals soon granted similar increases in basic wages. Shortly after this unprecedented readjustment, the world's period of fictitious post-war prosperity terminated, and England and other countries, in their efforts to maintain trade, flooded Australia with cheap manufactured products. For some time local industries subject to overseas competition suffered severely, but recovered much more rapidly than was anticipated. It was alleged that industry could not survive this sudden increase in wages, and even those responsible for the change seemed apprehensive of the result. Industry and the community however, soon became adapted to the new standard. Some of the added labour costs were passed on in the form of higher prices, some of it led to reduction of profits, but statistical records forced the conclusion that some of it must have been met by improved methods and better management. The five years 1921 to 1926 show a greater proportionate development of manufacturing industry than any other five-yearly period.

Queensland, which has indulged in more drastic legislation affecting wages costs, including a 44-hour Act, has made marked progress in secondary industries during the last five years.

Since the hearing of this case, statistical returns have become available enabling a comparison of factory operations in New South Wales under the 1926 44-hour year up till June, 1926, with the preceding 48-hour year, together with similar returns from the State of Victoria in which 48 hours was the standard during both years. The figures disclose that New South Wales factories made substantial progress, whilst

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those of Victoria, in two important respects, declined, and in others remained stationary. The following is a summary of the new figures:—

	New South Wales.		Victoria.	
	1924-25.	1925-26.	1924-25.	1925-26.
Number of factories ..	7,906	8,181	7,425	7,461
Number of hands employed	165,760	173,563	154,158	152,959
Total value of manufactured output .. .. .	£159,608,873	£169,413,741	£118,177,398	£119,986,439
Total wages paid .. .. .	£31,520,849	£33,458,200	£29,057,052	£29,329,400
Margin for profits, miscellaneous charges and expenses .. .. .	27,523,202	30,985,397	20,950,478	20,336,212

These figures again show that variations in labour cost do not of themselves determine fluctuations in industrial activities.

A fair conclusion to be drawn from the facts before the Court is that up to the present Australian industries have been favoured with a margin for adaptation to new standards. Has that margin been exhausted? If so, the result of any further additions to labour costs may be serious. But whether it has been so exhausted is best determined by evidence of the survival of past changes. Very strong evidence of the capacity of individual industries to adapt themselves to new standards was before the Court.

In the year 1920, this Court awarded 44 hours to shearers. A graph prepared by the Pastoralists' Association disclosed that in the 44-hour week shearers on an average give better tallies per man than under the 48-hour week. Some of this increase was traceable to changes in the physique of sheep, but there is no doubt that the greater part arose from re-organization of methods. A more carefully-considered plan of operations, changes in starting time, and breaks for rest and the removal of a constant source of unrest enabled pastoralists to get better results under the short working week.

A few years ago the Broken Hill silver and lead mines were centres of seething unrest. Royal Commissions reported on the need of improvements in underground methods and of making provision for workmen suffering from miners' phthisis and other diseases peculiar to the industry. In the year 1920, Mr. Justice Edmonds directed that 35 hours—five shifts of seven hours each—should be the maximum for underground workers, but undertook to consider a restoration to 44 hours if and when certain recommendations of a Royal Commission were carried out. The recommendations were carried out, and operations resumed under vastly improved conditions. Since then the mining companies have not applied to restore the 44 hours. It was conclusively proved that the underground men, on an average, produced substantially

more ore in 35 hours than in 44 hours. Under both range of hours the contract system prevailed. Improved machinery and ventilation, the removal of causes of unrest, the new policy of settling disputes by conference, and the adoption of a sliding scale of payments has given continuity of operations and greater output per man under greatly reduced hours of employment.

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The boot manufacturers of Australia many years ago conceded the 44-hour week to all employees, and have since then been able to adjust all their industrial conditions without the aid of this Court. The shorter week did not arrest the normal development of their industry.

The tobacco companies of Australia, which many years ago were frequently involved in industrial strife, conceded the 44 hours, and since then have arrived at agreements with their employees without asking for restoration of 48 hours. The normal development of their industry under these self-imposed new standards has continued.

Evidence as to brick making discloses that the adoption of a 44-hour week for the main bodies of labour—drawers, setters, and pitmen—did not result in reduced output or materially increase the price of bricks. In 1918, under 48 hours, 2,875 employees produced 257,000,000 bricks. In 1924, under 44 hours, 3,792 employees produced 385,000,000 bricks, an increase of 12,000 bricks per man. The 44-hour week in quarries attached to cement works did not materially affect the production costs of cement. Evidence of Railway Commissioners of the State show that in traffic and maintenance (not in construction) the shorter working week meant an increase in running costs nearer to 6 per cent. than 9 per cent., and that some of this 6 per cent. would, in time, be cut out by closer attention to management; the increased cost in construction work was greater than 6 per cent. Notwithstanding the award of this Court reducing the hours of flour-millers to 44 hours per week, the production and export of flour (except so far as bad wheat seasons has intervened) has steadily increased. The wage cost of production in this industry undoubtedly increased, and as prices are largely determined by world conditions, profits must have been affected, but not to an extent sufficient by any means to make the industry unprofitable. The Broken Hill Steel Works, notwithstanding the disastrous 1923 year, has recovered, and greatly increased its production, and during 1926—a full year under the State 44-hour Act—does not appear to have lost ground. Figures furnished by the company disclose that the production of steel was 219,728 tons in 1922, the year before suspension of operation. In 1924 it increased to 284,668 tons, in 1925 to 331,135 tons, and in 1926 declined to 322,517 tons. It was admitted that the 1926 decline was caused by the engine-drivers' strike, not by any falling off in

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markets for the company's products. The cost of repairs and maintenance per ton of steel produced was £1 12s. 11d. in 1920, and £1 12s. 4d. in 1926. The clothing trade award of 44 hours by this Court has not arrested the proper development of the industry. How such an industry could adapt itself to a new standard was illustrated by the following statement made by Mr. J. L. G. Law, of the Pelaco Company, in 1920:—

“ . . . We had the feeling,” he said, “that welfare work would not be acceptable to Australians generally, and from close association with our own staff know that such movement would be most unpopular in our factories, so we tried to approach the problem from the Australian standpoint; and after a lot of consideration came to the conclusion that what the average Australian worker wanted was—Work in congenial company and surroundings, shorter hours, high wages, constant employment. So we set out to try and achieve these ends, and, after ten years of industrial harmony, feel that we started on the right track.

“Our Wages Board stipulated that we shall work 48 hours per week. Female employees shall receive as a minimum 28s. per week; male employees, £3 10s. Our average wages earned by females is slightly over £2 per week, whilst that earned by our males is slightly over £4 per week.”

“Up to five years ago, we used to work 48 hours per week, but after careful observation found that as great an output could be obtained in 45 hours, so shortened our hours accordingly; and we have since put in two rest periods—a quarter of an hour each morning, and a quarter of an hour each afternoon—and tea is served during these periods at our expense, and our output under these conditions is greater than it was under the 48-hour system, although we now only actually work 42½ hours weekly. We start at 8 o'clock in the morning, carry on until 10.30, a quarter of an hour's rest period, and then work is resumed at 10.45 until 1 o'clock. From 1 to 1.30 is lunch hour. From 1.30 we carry on until 3.30, then another rest period of a quarter of an hour, after which work is resumed at 3.45 until 5.30. We work only five days per week, as our factories are not open on Saturdays. We found it hardly worth while starting up for half a day, and a little over eight years ago we started working a five-day week. The health of our employees has benefited greatly through these rest periods, and the time lost through sickness, &c., has been greatly reduced, and to further encourage regular and prompt attendance we also offer to every employee, who does not lose more than 108 hours from January to December, a fortnight's holiday on full pay at their average rate of earning during the year. . . .”

Mr. Law was called, ostensibly to lessen the effect of these remarks, but in answer to a direct question stated he did not desire to qualify in any way what he had said in 1920.

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A recent statement of Mr. Seebohm Rowntree as to the results of shortening hours of employment in the Cadbury Cocoa Works to 44 per week in 1918 confirms Mr. Law's experience. "In view of the predominance of female workers in the factory," said Mr. Rowntree, "it was decided, after consultation with them, to work the hours in five days. The women workers were of opinion that they would get more benefit from the full Saturday holiday than from a reduction in the daily hours on six days in the week. The hours in the office were reduced from 41½ to 39 per week. Provision was also made both in offices and workrooms for rest periods, which are counted as hours worked. A careful investigation was made to ascertain the effect of reduction of hours on output, but the conditions in the factory varied so much, and were so affected by the re-employment of men who had been serving at the Front, that no accurate measure was possible. But the general impression of those acquainted with the facts was that in some departments, where the work was mainly hand-work, scarcely any reduction was experienced, whilst in some machine departments there was a pro rata reduction, and in others a reduction somewhat less than pro rata. As against this, however, there were certain compensations, the most important of which was a reduction of time lost by absence of employees, in the case of men from 2.7 per cent. to 1.8 per cent., and of women from 3.3 per cent. to 2.7 per cent."

The furniture manufacturers of New South Wales some years ago by agreement, conceded the 44-hour week to all employees, and since then the industry has shown greater development than under 48 hours. Employers have, in the determination of all subsequent disputes never asked Arbitration Courts to restore the 48-hour week.

It has never been seriously alleged that the adoption of the shorter week in bake-houses in Queensland and New South Wales had any noticeable effect on the production or price of bread.

The production of Queensland bacon factories was greater under 44 than under 48 hours.

The 44-hour week in the printing trades of New South Wales has not arrested the development of that industry.

Notwithstanding the fixing by this Court of 46 hours for men and 44 for women, the rubber trades of Australia have shown marked progress and the investment of new foreign capital. At present, the Rapson Tyre Company is engaged in the erection of an extensive new manufacturing plant in Tasmania.

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Whatever the effect on cost may have been, the universal 44-hour week in the building trades has not checked the phenomenal activity of building operations during recent years.

The award of 44 hours to ferry employees in Sydney may have affected the gross profits of the company, and led to slight increases in fares, but it did not impede ferry services.

The award of 44 hours to coopers does not appear to have raised the price of Australia's national beverage or removed breweries from the list of high profit-making concerns.

Illustrations of this kind completely discount the contention that the shorter week necessarily means a proportional loss in production or increase in costs.

#### INDUSTRIES SUBJECT TO FOREIGN COMPETITION.

The strongest case against the application for the shorter working week was made by those concerned in manufacturing industries which, notwithstanding tariff protection, are affected by foreign competition. But here again the Court was asked to consider individuals more than grouped industries.

As a result of shortening of hours individual firms will undoubtedly suffer from increased labour costs, and unless able to reduce other costs will find it increasingly difficult to meet foreign competition. But that has always been a feature of statutory regulation of industrial relationship. There has seldom been a dispute before an industrial tribunal in which the Court's award might not seriously affect individuals. In some cases, no doubt, compulsory additions to labour costs have driven small concerns out of business or have forced amalgamations. But if the Court had considered individuals it would never have made any effective awards. The perspective must necessarily be wide. Industries as a whole, not their personal units must be considered. Australian secondary industries have always worked shorter hours and paid higher wages than those prevailing in Great Britain and foreign countries. But with this handicap they have steadily developed. We now make practically all our own boots and clothing, every-day foodstuffs and house furniture. We not only make much of our woollen textiles, but actually export some finished products. We produce our own cement, the bulk of which some years ago was imported; a much larger and increasing proportion of commercial and structural steel used in the new type of building; our own stoves, baths, sanitary fittings, building materials, paints, motor tyres and other accessories; most of our agricultural machinery, road-making machinery, and much tool machinery used in factories. Considering our population and comparatively small local market, the development of secondary industries has been as great as that of any young nation during the first 150 years of its life. The

tariff is, of course, largely accountable for the more recent impetus to secondary production, but all through we have progressed in spite of the alleged handicap of shorter hours and higher wages.

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The Australian standard was 48 hours when that of Britain was from 54 to 56, that of Germany and other European countries from 54 to 60, and of the United States of America from 52 to 60. Taking Great Britain as our chief competitor in manufactured products, we were until the Great War able to give her an advantage of six hours in the working week and still make satisfactory progress in building up our own industries. During the war and the immediate post-war years the hours of labour in Great Britain were reduced until from 47 to 48 became the general standard in skilled trades. In France, Germany, Italy and the United States the 48-hour week was also widely adopted. After 1920, France, Germany, and Italy increased actual hours of work in many callings, but even to-day they have not returned to the long hours of pre-war days. In the United States of America after 1920 the tendency was to get away from war standards and again increase hours above 48, but during more recent years the downward trend has again set in. Under America's new economic policy of industrial co-operation great numbers of individual agreements in different plants for a 44-hour week have been entered into, the consideration being special effort by employees to maintain and increase output. In England skilled labour has clung tenaciously to its one industrial advantage gained as a result of the war. Wages have come down, but, generally speaking, the 47 or 48 hour week still prevails in most skilled and some unskilled occupations. The hours of employment handicap, if any, which Australian industries bore has, therefore, been largely reduced. On hours alone, Australian manufacturers are at the moment nearer to equality with their overseas competitors than before the war. It must be remembered that comparisons of hours of labour do not necessarily reflect comparative production costs. Many establishments working shorter hours secure a greater output per man than inefficient competitors working 48 hours. There is no way of comparing total costs of production of countries. Notwithstanding differences in standard working hours there may not be vital differences in total producing costs. It may be that our Australian manufacturers, although working shorter hours, had compensating advantages over their competitors. As far as I can ascertain no figures are available to enable a comparison of total costs of production in Australia and other countries, but the Court has always been asked to assume that higher wage costs necessarily mean higher total producing costs. Wage cost is undoubtedly the dominant factor, and in the absence of information as to other costs must be accepted as important evidence in making comparisons, but it is not conclusive evidence.

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The measure of protection afforded by the tariff and freights and charges, ranges from 45 to 60 per cent. In some instances during the recent revision of the tariff the Legislature refrained from increasing import duties because of the successful establishment of industries under the tariff then prevailing. Even with the higher tariff some individual manufacturers are struggling to meet overseas competition with portions of their products, but the proportion of this class of business to their total production is not sufficient to justify the statement that the industries will be imperilled by the reduction of working hours.

Without much tariff protection many industries became well established, notwithstanding shorter hours and higher wage rates than those of their overseas competitors. The new tariff is resulting in British and American manufacturers, with full knowledge of present labour conditions and tendencies, opening branches of their works in Australia. Whether a high tariff will lead to sound development is for Parliament, not this Court, to consider. The Court can only operate with economic environment created by the Legislature, and that environment to-day appears to be eminently favorable to further development of manufacturing industries.

I come now to the evidence given relating to the engineering and iron trades and other groups of industries.

The following tables disclose the development of the metal trades group during recent years compared with 1910-14:—

*Engineering Works, Ironworks and Foundries (excluding Railway Workshops, Stove Making, Agricultural Implement Making, Safe Making, and Spring Making).*

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	869	1,317
Number of employees .. .. .	23,916	32,507
Value of plant and machinery .. .. .	£2,067,254	£6,170,016
Value added in process of manufacture .. .. .	£3,960,061	£9,569,888
Value of output .. .. .	£7,475,548	£22,777,359

#### RAILWAYS AND TRAMWAYS WORKSHOPS.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	72	112
Number of employees .. .. .	19,075	24,524
Value of plant and machinery .. .. .	£1,643,633	£3,458,550
Value added in process of manufacture .. .. .	£2,914,274	£6,333,652
Value of output .. .. .	£5,276,379	£10,947,768



## AGRICULTURAL IMPLEMENTS.

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	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	154	149
Number of employees .. .. .	4,613	4,957
Value of plant and machinery .. .. .	£273,688	£514,706
Value added .. .. .	£733,500	£1,458,716
Value of output .. .. .	£1,539,166	£2,850,648

## CYCLES AND MOTORS.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	258	1,103
Number of employees .. .. .	2,720	12,218
Value of plant and machinery .. .. .	£95,361	£794,950
Value added .. .. .	£409,364	£3,334,221
Value of output .. .. .	£661,528	£5,579,802

## COACH AND WAGON BUILDING.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	791	693
Number of employees .. .. .	7,785	5,735
Value of plant and machinery .. .. .	£198,837	£269,620
Value added .. .. .	£1,027,846	£1,356,397
Value of output .. .. .	£1,755,259	£2,470,921

About 30 per cent. of engineering work in Australia appears to be subject to overseas competition. The remaining 70 per cent. consists of either repairs and renewals, or manufacturing which is not menaced. There is no doubt that, as to a substantial portion of the 30 per cent., employers have to rely largely on the preference given by local manufacturers, and if their prices are materially increased will find it more difficult to compete with foreigners.

But, looking at business as a whole, with odd exceptions, they have had a wider margin for adaptation to higher wage cost. Many of the best plants in Australia started with a small original capital investment, and were built up into big concerns from undistributed profits. Many of them, even under a lower tariff, progressed and prospered. Business in the past has been lost in some directions, and increased in others, and this will undoubtedly continue. In some instances, such as Metters Limited and the Sunshine Harvester Company, high profits have been

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made. In others, like Mort's Dock Limited, comparatively low dividends have always been distributed. In New South Wales there is no evidence that the industry as a whole suffered decline as the result of the legalization of the 44-hour week.

In my opinion, the evidence submitted by the metal trades employers did not outweigh the evidence as to the need and wisdom of removing a continuous cause of industrial dispute from the path of industry. I am satisfied that in the end the iron trades group will gain by the shortening of hours. For a time some manufacturers will find difficulty in adjusting cost of production of some articles to profitable selling prices; but the task is not impossible, and the compensating advantages will soon assert themselves.

Turning to other industries, little evidence was furnished in support of prophecies of disaster if the shorter week is conceded. The production of and trade in native timbers undoubtedly cannot for the moment stand any serious additions to labour cost. But the greater part of the industry is now working 44 hours. The decline of the trade is largely attributable to a cause not related to cost or production. Steel and concrete in building have largely supplanted hardwood. As compensation, however, the local production of structural steel has greatly increased.

The textile industry, after some vicissitudes, seems now to be well established, and is rapidly expanding. On 4th September, 1926, the *Australian Manufacturer* published the comments of the directors of the Australian Knitting Mills Limited, of Melbourne, on the submission of the annual balance-sheet. The most significant of these was as follows:—"Additional plant is on order, and a further increase in turnover is expected in the coming year, with no doubt a decline in overhead charges and with large profits due to the savings thus rendered possible. . . . Compared with 1923-24, the value of the company's plant, its stock on hand, and other debtors had substantially increased, and a dividend of 1s. per share was declared."

On 18th September, 1926, the same journal published the following statement:—"As a result of the increased tariff in the textile industry, there is a definite step in the direction of the migration of the British textile industries in Australia. At least three of the leading British textile manufacturers are contemplating establishing works in this country. . . ."

The same journal quotes Mr. Kerfoot, of the Riverina Woollen Mills Limited, as expressing the opinion that, "owing to the action of the tariff and other causes, the demand for Australian manufactured material made it impossible at present for Australian mills to cope with the work."

The fellmongering trade has declined during recent years, but obviously from causes other than increases in wage cost. Leather production, whilst it has declined in one direction, has increased in others. The trade in heavy hides, which we gained during the war, has largely gone back to England, but, as against that, we now manufacture nearly all our own patent and fancy leathers, and have found a profitable market in the East for the inferior portions of hides.

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No other material evidence was forthcoming of recent decline in manufacturing, and there was no convincing evidence that the decline in the three trades before-mentioned was solely attributable to increases in wage cost.

The following table of comparison of the average results of manufacturing between the periods 1910-1914 and 1920-1925 discloses that the development of manufacturing during recent years, notwithstanding increased wage cost and shorter hours, has been well maintained, and that industrial legislation in New South Wales, Queensland, and Western Australia has not resulted in any decline in the normal rate of progress of those States.

AVERAGE, 5 YEARS.

1910-1911 to 1914-1915.

Particulars.	N.S.W.	Vic.	Q'land.	S. Aust.	W. Aust.	Tas.	Total.
No. of establishments	5,128	5,305	1,729	1,322	730	616	14,756
Hands employed ..	112,188	113,475	39,538	27,756	16,245	9,788	318,991
Wages paid ..	11,136,441	9,685,694	3,586,059	2,763,854	2,078,660	828,534	31,079,240
Value of fuel used ..	1,304,529	700,833	273,033	367,993	185,269	166,786	2,998,445
Value of materials used ..	36,861,313	26,285,095	11,847,688	7,736,755	2,369,330	1,954,322	87,254,550
Value added in process of manufacture	21,444,239	17,253,896	7,769,362	4,746,038	3,005,362	1,463,018	55,880,785
Value of output ..	59,810,162	44,239,224	19,889,484	12,850,787	5,759,961	3,584,167	146,133,785
Value of land and buildings ..	14,396,969	10,259,574	3,641,332	3,221,804	1,970,390	1,082,603	34,753,473
Value of plant and Machinery ..	13,922,614	9,156,509	5,559,462	2,583,828	2,193,432	1,172,695	34,588,542

AVERAGE, 5 YEARS.

1920-1921 to 1924-1925.

No. of establishments	6,824	7,019	1,857	1,577	1,091	689	10,958
Hands employed ..	154,317	149,713	44,543	34,385	19,145	10,778	412,882
Wages paid ..	28,149,281	25,177,425	7,675,604	6,000,388	3,505,308	1,682,797	72,150,803
Value of fuel used ..	4,525,377	2,545,062	723,348	923,037	346,532	260,205	9,323,635
Value of materials used ..	86,133,445	63,384,143	24,624,369	16,270,392	6,241,947	3,624,086	200,278,383
Value added in process of manufacture	51,214,123	45,198,203	15,724,018	9,788,917	5,403,761	3,119,470	130,448,493
Value of output ..	141,872,945	111,127,428	41,071,726	26,982,346	11,982,346	7,003,763	340,050,510
Value of land and buildings ..	34,909,646	22,598,553	6,881,598	5,545,169	3,865,465	1,502,854	75,267,840
Value of plant and Machinery ..	37,717,906	24,828,788	11,458,181	5,869,644	4,103,184	4,345,957	88,323,538

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The following tables show the development of further individual industries subject to serious overseas competition:—

#### SAW-MILLS.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	1,004	1,260
Number of employees .. .. .	18,469	20,329
Value of plant and machinery .. .. .	£1,770,718	£3,543,031
Value added .. .. .	£3,250,048	£5,794,951
Value of output .. .. .	£5,828,399	£11,173,606

(Importations have greatly increased during latter period.)

#### TOBACCO.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	35	32
Number of employees .. .. .	3,473	4,383
Value of plant and machinery .. .. .	£234,460	£437,144
Value added .. .. .	£1,041,944	£1,968,957
Value of output .. .. .	£2,653,587	£6,736,709

#### WOOLLEN AND TWEED MILLS.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	26	41
Number of employees .. .. .	3,199	6,857
Value of plant and machinery .. .. .	£492,470	£2,399,554
Value added .. .. .	£421,467	£1,959,485
Value of output .. .. .	£912,566	£4,597,303

#### BOOTS AND SHOES.

	Average for Years.	
	1910-14.	1920-25.
Number of factories .. .. .	342	887
Number of employees .. .. .	13,514	20,223
Value of plant and machinery .. .. .	£398,880	£855,629
Value added .. .. .	£1,583,588	£4,709,791
Value of output .. .. .	£3,818,113	£9,866,822

A sudden reduction in working hours will be felt more in transport and construction and management of public utilities than in other industries. There is no doubt that in this area the immediate increased wage cost will be from 6 per cent. to 8 per cent. Some of this may, in the course of time, be recovered by improved methods and more vigilant search for economies.

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The New South Wales Commissioner for Railways agreed that each threatened increase of labour cost acted as a spur in keeping down total costs. In the great undertaking under his control he expected the added cost to be more in the proximity of 6 per cent. than 9 per cent. Even the most optimistic advocates of the shorter working week were forced, during the proceedings, to admit that it means an increase in the capital cost of public works with corresponding increases in interest, leading ultimately to higher charges for services rendered. But distributed over those who are served the result will not be serious. If railway freights are increased 6 per cent., the result will not be appreciable on a truck load of goods. If fares are raised 6 per cent., it means that a £3 railway ticket may be increased by 4s. If the charges for water or electricity supply are increased 8 per cent., the actual extra cost to a householder or an irrigation farmer will be hardly noticeable.

Again the matter comes down to a balancing of advantages. Is it not better to endure a slight increase of payment for services than to suffer loss in other directions by refusing to remove one of the most prolific causes of industrial unrest.

The community will, of course, have to meet the added cost, but the total cost will not be nearly as heavy as was alleged, and distributed over the whole body of consumers will not be serious. And the change will bring its own compensations. The result of conceding an equitable claim for the clean eight-hour day would, I feel certain, counter-balance any temporary disadvantage we may suffer.

#### PRIMARY PRODUCTION.

Particular emphasis was laid by counsel for respondents on the danger of imposing additional "burdens" on primary production. I realize the necessity of avoiding controversy on rival economic theories, but in an effort to give full weight to all arguments submitted during the hearing of this case, find it necessary to touch on fallacies put forward by both sides.

Treating wages as a "burden" on production is a quaint survival of long discarded economic theories; theories founded on the assumption that physical labour was a mere incident in production for which the least possible share of products should be returned in the form of wages. It seems incredible that in these days the idea still survives

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that production is the function of those in control of land, capital, and finance, and that their operations are "burdened" by payment of wages to manual, clerical, and other workers who, with their dependents, comprise more than four-fifths of the total population. It is this misconception of the functions of the different groups comprising society which has led to such wide adoption of the counter theory that those in control of land, capital, and finance comprise the real "burden" on production, and can be dispensed with. The regarding of labour as a purchaseable commodity instead of as a factor in production is responsible for much of the revolutionary propaganda of modern days, and for the unthinking assertion by a growing section of workers that labour is the only factor.

Except for the occasional recourse to ancient economists by those who resist economic change, we now recognize that the origin of all wealth is labour applied to natural resources. But the tools which labour uses are different, the organization of labour and of the exchange of products has become more and more complex, and this complexity has led to the development of other necessary factors in production. The problem is, not the elimination of any of these factors, but finding the way to harmonious co-operation between all.

In Australia, by statutory enactment of the national minimum of wages and conditions, and the maximum of hours of employment, the old theory of unrestricted labour purchase has been broken down; but even with that change, we are as much involved in the world-wide search for a proper relationship of factors of production as the peoples of other nations.

There is much misconception as to the extent to which primary production is affected by direct wage cost. Except in mining, the main contributor to primary wealth is nature, then comes the management and labour of those in possession of natural resources. Wage labour is relatively to the market value of products the smallest contributor. The direct wage cost of producing a bale of wool, a bushel of wheat, a side of bacon, a pound of butter, or a gallon of wine is comparatively small. One of the largest items in wool production—the wages of shearers—has for some years past been paid for on a 44-hour week basis, while much agricultural wage work is done by small contractors who fix their own hours. It was argued that by increasing the cost of machinery and equipment through shortening factory hours the indirect "burden" would be sufficient to materially hamper primary producers.

Assuming that the 44-hour week does increase the cost of machinery by 6 or 7 per cent., the effect of that increase on a bale of wool, a bushel of wheat, 1 lb. of butter, &c., will be infinitesimal, and one which, on the average prices received for primary products during recent years,

would not "burden" the industry. The only material direct increase would be in transport charges. Again, this would only be a small fraction of a penny on each unit of production, not sufficient of itself to cause a decline in production. Some day, I hope, this Court will have before it reliable figures disclosing dissected wage, machinery, transport, and other costs of primary production. Until that evidence is available, and for other reasons, I am prepared to agree to exemption for the present of direct primary production from a 44-hour declaration. But I am not prepared to admit that the indirect increase in costs is sufficient to exclude favorable consideration of the claim of wage earners in secondary and distributive occupations for a review of their hours of employment.

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Another argument used was that the cost of living of primary producers will go up in proportion to increased labour cost of secondary and transport industries. Of course, primary producers with all others are affected by increases in cost of living from whatever source they arise. But again intrudes the assumption that variations in wage cost alone control fluctuations in cost of living.

The experience of recent years has shown that, however important it may be, wage cost is by no means the only determinant of commodity prices. Other influences, which it is unnecessary to traverse here, affect all consumers, and the influence of unwarrantable price inflation is one in which the primary producer shares with all others. As against past increases in cost of living, primary producers have received very much higher prices for their commodities.

True it is that prices are mainly fixed in a world market, but world prices have increased owing to demands for higher returns in countries in which increased wage cost has not been so great as in Australia. It was also made apparent during the proceedings that, in many directions, primary producers by more intensive and scientific use of natural resources, by closer attention to grading and marketing of products, and by extension of co-operative effort, can increase their returns.

The tables of figures next quoted show that, as a group, primary producers, notwithstanding some instances of smaller average production, as a class have achieved much better financial results during the last five years than during the pre-war five-yearly period. There have been individual cases of great hardship arising from paying too much for land, from lack of transport facilities, from settlement being undertaken in inferior country, from drought and other misfortunes, and sometimes from ineptitude. But, again, industry as a whole, and not its component parts, must be surveyed. From that stand-point it cannot be denied that primary industry thrives, and with the huge areas of

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land in the Commonwealth not yet put to full use, is capable of continued expansion and progress.

COMMONWEALTH PRIMARY PRODUCTION.—QUANTITIES.

Commodity.	Unit.	1910-11.	1911-12.	1912-13.	1913-14.	1914-15.	Average Five Years 1910-15.
		000's.	000's.	000's.	000's.	000's.	000's.
Wheat ..	Bushels	95,112	71,636	91,981	103,344	24,892	77,393
Sugar Cane	Tons ..	2,001	1,682	1,135	2,272	2,104	1,839
Tobacco ..	Cwts...	17	23	17	25	17	20
Wine, made	Gallons	5,866	4,975	6,104	4,710	2,875	4,906
Flour ..	Tons ..	649	696	677	761	714	699
Butter ..	Lbs. ..	193,212	211,574	187,194	198,758	193,970	196,941
Cheese ..	Lbs. ..	16,537	15,887	16,160	19,743	21,240	17,913
Cond. Milk	Lbs. ..	12,491	22,984	30,060	32,684	32,053	26,045
Bacon ..	Lbs. ..	45,150	53,265	54,192	52,674	52,575	51,571
Sheep ..	No. ..	92,047	93,004	83,264	85,057	78,600	86,394
Cattle ..	No. ..	11,745	11,829	11,577	11,484	11,052	11,537
Wool ..	Lbs. ..	721,298	726,409	648,852	711,134	642,735	690,085
Coal ..	Tons ..	9,759	10,550	11,730	12,418	12,445	11,380
Gold ..	Ozs. ..	2,721	2,484	2,326	2,207	2,055	2,358
Silver ..	Ozs. ..	2,386	2,505	3,117	37	3,332	2,365
Lead ..	Tons ..	24	21	22	30	10	21
Population 31st Dec.	..	4,425	4,569	4,733	4,872	4,941	..

QUANTITIES—continued.

Commodity.	Unit.	1920-21.	1921-22.	1922-23.	1923-24.	1924-25.	Average Five Years 1920-25.
		000's.	000's.	000's.	000's.	000's.	000's.
Wheat ..	Bushels	115,874	129,089	109,455	124,993	164,559	134,794
Sugar Cane	Tons ..	1,470	2,437	2,316	2,178	3,400	2,360
Wine, made	Gallons	11,014	8,543	11,428	14,664	13,299	11,790
Flour ..	Tons ..	802	911	985	1,093	1,069	973
Cheese ..	Lbs. ..	22,668	31,709	22,869	24,464	30,641	26,470
Butter ..	Lbs. ..	190,082	247,412	215,709	207,032	294,558	230,958
Cond. Milk	Lbs. ..	62,339	57,746	51,461	64,390	62,009	59,589
Bacon ..	Lbs. ..	45,121	52,841	56,398	62,057	64,603	56,204
Sheep ..	No. ..	77,898	82,226	78,803	80,110	93,155	82,438
Cattle ..	No. ..	13,500	14,441	14,337	13,358	13,309	13,789
Wool ..	Lbs. ..	547,503	631,514	640,318	590,820	729,243	627,879
Coal ..	Tons ..	12,806	12,798	12,209	12,517	13,757	12,817
Gold ..	Ozs. ..	944	758	755	712	676	769
Silver ..	Ozs. ..	1,194	2,630	1,946	1,331	1,107	1,641
Lead ..	Tons ..	8	25	19	10	8	14
Population	..	5,411	5,509	5,633	5,750	5,874	..



## COMMONWEALTH PRIMARY PRODUCTION.—VALUES.

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Commodity.	1910-11.	1911-12.	1912-13.	1913-14.	1914-15.	Average Five Years 1910-15.
	000's.	000's.	000's.	000's.	000's.	000's.
	£	£	£	£	£	£
Wheat ..	16,458	13,303	16,645	18,769	7,657	14,566
Sugar Cane ..	1,425	1,257	895	2,575	2,416	1,713
Flour ..	5,844	5,532	5,796	6,310	6,544	6,005
Butter ..	7,664	8,658	8,703	8,203	8,586	8,283
Cheese ..	281	302	364	364	460	355
Cond. Milk ..	208	417	579	627	631	492
Bacon ..	1,168	1,311	1,459	1,670	1,867	1,495
Wool ..	28,078	26,711	26,658	28,588	25,090	27,023
Coal ..	3,684	3,930	4,418	4,628	4,620	4,256
Gold ..	11,560	10,552	9,880	9,377	8,730	10,020
Silver ..	290	254	337	339	358	315
Lead ..	279	248	343	490	429	358

## VALUES.—continued.

Commodity.	1920-21.	1921-22.	1922-23.	1923-24.	1924-25.	Average Five Years 1920-25.
	000's.	000's.	000's.	000's.	000's.	000's.
	£	£	£	£	£	£
Wheat ..	62,169	35,155	28,459	29,936	53,547	41,853
Sugar Cane ..	3,734	6,139	5,931	5,106	7,683	5,718
Wine, made ..	87	110	277	130	109	142
Flour ..	14,846	14,736	11,821	12,110	13,885	13,479
Butter ..	21,135	17,406	17,523	16,084	19,196	18,269
Cheese ..	1,177	1,399	946	1,027	1,064	1,122
Cond. Milk ..	2,401	2,403	1,943	1,964	2,037	2,149
Bacon ..	3,538	3,227	2,851	3,697	3,575	3,377
Wool ..	32,856	34,570	49,015	59,078	76,020	50,308
Coal ..	9,444	10,984	10,445	10,498	11,574	10,591
Gold ..	5,308	4,019	3,545	3,151	3,144	3,833
Silver ..	313	433	298	193	167	281
Lead ..	286	568	449	275	280	371

I concur in the findings of the Chief Judge so far as they favour a reduction of standard hours to 44 per week, but think that the judgment of the Court should favour the awarding of the 44-hour week to industries generally, with the following exceptions:—

- (a) The present hours worked in direct primary production to continue. On ascertainment of the actual direct labour cost of primary production, standard hours to be reconsidered.
- (b) The Court may exempt any industry (as distinguished from an individual employer) able to prove that further reduction of working hours will seriously imperil its continuance.

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- (c) The traffic section of railways and tramways (excepting steam locomotive drivers and their assistants) without prejudice to the right of those engaged in the occupations to apply again after the lapse of twelve months.
- (d) Occupations which call for no serious physical or mental effort such as caretakers, watchmen, gatekeepers, &c.

*After the judgments were read, His Honour the Chief Judge announced the decision of the Court as follows:—*

The effect of the judgment given by the members of the Court resolves itself into this finding: It will be observed that the finding is limited to the engineering industry. In any event, whatever finding the majority came to there would be that limitation; but it will be gathered from what I have said, seeing that my finding, so far as there is any alteration in the standard hours, is less far-reaching than that of my brother Beeby, that it must be taken as a guiding line that what I have said in my judgment indicates the probable course of the Court in future applications; that is to say, that in industries which are similar in their conditions as to leisure, or want of leisure, to the engineering industry the Court will probably apply a similar reduction as in the case of the engineering industry, but not in other industries, or not to the extent that my brother Beeby has indicated. The statement of the finding of the Court is as follows:—

The majority of the members of the Court approve of the reduction of the standard hours of work in the engineering industry to 44 per week as from the coming into operation of the award to be made herein.

THE FEDERATED LIQUOR AND ALLIED TRADES  
EMPLOYEES UNION OF AUSTRALIA

CLAIMANT

and

W. ASHTON AND OTHERS

RESPONDENTS

(No. 120 of 1925)

(No. 8 of 1927).

1927.  
ADELAIDE,  
January 26, 27.  
MELBOURNE,  
February 28.  
Beeby, J.

*Application to determine award of Court in respect of Aerated Waters section of Award in so far as respondents in South Australia are concerned—Application granted.*

On 24th January, 1927, a summons was issued on behalf of the above-named claimant union for an order that the award of the Court dated 3rd September, 1926<sup>(1)</sup>, relating to the Aerated Water section of the industry be determined, as from 20th January, 1927, in so far as it bound respondents in the State of South Australia.

<sup>(1)</sup> *Supra* p. 128.