

IN THE COMMONWEALTH CONCILIATION AND ARBITRATION
COMMISSION

In the matter of the *Conciliation and Arbitration Act* 1904-1969

and of

NATIONAL WAGE CASE, 1969

and of

THE METAL TRADES AWARD, 1952

(Nos 11 of 1949; 430 and 439 of 1950; 254 of 1954)

(C Nos 331, 1196 and 1412 of 1969)

and of

THE AUSTRALIAN WORKERS' UNION

Claimant

v.

AAVELING EARTHMOVING CONTRACTORS PTY LTD

and others

Respondents

(C No. 241 of 1969)

Variations of award—Restoration of basic wage and provision for quarterly Adjustment—Increase in minimum wage and provision for quarterly adjustment—Wage rates—Conciliation and Arbitration Act 1904-1969 s. 34—Decision issued.

Industrial dispute—Wages and working conditions for employees in the construction and maintenance industry—Principles in work value cases—Decision issued.

On 30 May, 25 July and 2 September 1969 applications were filed on behalf of The Federated Ironworkers' Association of Australia, The Amalgamated Engineering Union and others and the Association of Architects, Engineers and Surveyors and Draughtsmen of Australia for orders varying the above award dated 16 January 1962 as reprinted on 1 November 1968.⁽¹⁾

Notification of a dispute between the above parties was given pursuant to section 28 of the *Conciliation and Arbitration Act* 1904-1968 by The Australian Workers' Union.

The dispute and applications first came on for hearing before individual Commissioners of the Commonwealth Conciliation and Arbitration Commission on separate dates. In each matter an oral application was made pursuant to section 34 (3) of the Act that the matter should, in the public interest, be dealt with by the Commission constituted as provided by section 34 (1) namely, by not less than three members of the Commission nominated by the President, at least one of whom is a presidential member. On 22 and 29 August and 18 September 1969 the President granted the directions so sought.

The matters came on for hearing before the Commission (Moore, Williams and Franki JJ., Deputy Presidents, Senior Commissioner Taylor and Commissioner Winter) in Melbourne on 30 September 1969.

R. J. Hawke and R. Willis with—

J. E. Heffernan, T. J. Murphy and T. Devereux for The Amalgamated Engineering Union and another;

T. J. Murphy and E. Heagney for The Federated Ironworkers' Association of Australia;

1969.
MELBOURNE,
Sept. 30;
Oct. 1-3, 7-10,
14-17, 21, 22,
24, 28-30.
SYDNEY,
Nov. 5-7;
Dec. 1.
—
Moore J.,
Williams J.,
Franki J.,
Senr Commr
Taylor,
Commr
Winter.

⁽¹⁾ 125 C.A.R. 281

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- W. H. Speed* for The Australian Workers' Union;
D. L. McBride for the Electrical Trades Union of Australia;
N. Polglase for the Australasian Society of Engineers;
P. Scott for The Boilermakers' and Blacksmiths' Society of Australia;
A. McLagan for the Federated Moulders' (Metals) Union of Australia.
- W. Richardson* and *G. Butcher* for the Association of Architects, Engineers, Surveyors and Draughtsmen of Australia.
- J. G. Robinson*, of counsel, and *B. J. Maddern*, of counsel, for the Metal Trades Employers Association and others.
- T. Reid* for The Victorian Chamber of Manufactures.
- J. S. Luckman* for the Master Builders' Association of Victoria.
- A. P. Aird*, Q.C., and *I. E. Douglas*, of counsel, for Her Majesty the Queen in Right of the State of Victoria and with *G. M. Wight* for the Melbourne and Metropolitan Board of Works.
- W. J. Smith*, *D. Linehan* and *P. Munro* for the Administrative and Clerical Officers' Association, Commonwealth Public Service and others (intervening).
- R. D. Williams* and *W. Richardson* for The Australian Bank Officials' Association and others (intervening).
- L. S. Cunningham* for The Professional Officers' Association, Commonwealth Public Service and others (intervening).
- L. B. McCalman* for The Association of Professional Engineers, Australia (intervening).
- E. J. Nicholls* for the Australian Public Service Federation (intervening).
- C. G. Polites*, solicitor, for the Australia and New Zealand Bank Limited and others (intervening).
- E. A. Woodward*, Q.C., and *J. A. Keely*, of counsel, for the Attorney-General of the Commonwealth of Australia (intervening).

On 1 December 1969 the Commission issued the following statement:

STATEMENT

We have reached a unanimous decision in these cases and we have reduced our reasons to writing.

We reject the unions' claims for the reintroduction of basic wages and their automatic adjustment and also for the introduction of automatic adjustments to minimum wages for adult males.

We have looked at the economy overall in order to make an assessment of its capacity as it relates to our specific task of fixing award wages.

Having done so and notwithstanding problems inherent in the economy including those in the farm sector, it is our view that we can award an increase now.

We are conscious that if the Commission continues to award flat money increases in national wage cases such a practice must upset wage relativities established as the result of work value assessments. At the present time wages in most industries have recently been reviewed on a work value basis and relativities both within each award and between awards have been established in the same industrial environment. All in all, it is our view that this year there should be a flat percentage increase.

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The increase we propose is above the trend line movements in national productivity, but should not significantly affect prices. We have had regard to the rise in the Consumer Price Index, namely 2.9 per cent in the year to the June quarter of 1969, and the fact that since the last national wage case average minimum weekly award rates have increased by 6.5 per cent.

We would add that in the present state of the economy to refuse an increase would be industrially unfair. An important part of our task is to endeavour to maintain good industrial relations although their economic effect is rarely referred to. It is commonplace for the community to be told how much is lost through strikes and bad industrial relations, but the converse, the result of good industrial relations, is rarely mentioned.

We award an increase of 3 per cent to total award wages of adult males and females other than minimum wages for adult males. The Commonwealth gave us figures that every increase of one per cent in the total wage would increase the national wages bill by \$120m per annum and on that basis the amount we award will add approximately \$360m to that bill.

So that there will be no misunderstanding, we emphasise that this increase is a percentage of award rates only and not of actual rates.

It is inherent in this decision that male and female juniors and apprentices should receive the same percentage increase as adults, but because of the terms of the Metal Trades Award it is not necessary for us to make any order in this case about them.

We have considered the question of minimum wages for adult males separately. Minimum wage is not the same as basic wage as it relates only to males and is inapplicable unless the actual paid wage for the working of ordinary hours would otherwise be less than the minimum wage. In all the circumstances including an answer given by Mr Hawke to a question from the bench we are prepared to increase minimum wages for adult males in clause 3 of Part I of the Metal Trades Award by \$3.50 per week. We think it necessary to add that it is not our intention that any total wage other than a minimum wage for adult males which at present appears in an award should be increased because of the increase we have now granted in minimum wages.

Having had the advantage in this case of hearing arguments from many interests, we reject in substance the employers' 'wages charter' as being too restrictive and inflexible but we consider we are able to make some general observations about wage fixation in the Federal sphere which may be of assistance to those who work under Federal awards and to those who participate in making them. The observations are detailed in our reasons for decision.

We consider this to be an appropriate time to make these observations because over the last 12 months or so most awards have been brought up-to-date, principally as a result of the Metal Trades Work Value decision of December 1967. There may be some few awards which have not been brought up-to-date and to which we would not expect these observations immediately to apply. We also realise that the principles of wage fixation are dynamic rather than static and although we have made these observations in the expectation that they will assist, we make them in the current context and only for the foreseeable future. We are aware that they by no means exhaust all the problems which can arise in wage fixation.

We do not think it appropriate for a bench of this size to attempt to deal with the detail involved in deciding the claims of The Federated Ironworkers' Association and The Australian Workers' Union. We accordingly refer them back to the Commissioners concerned for hearing and determination in accordance with the observations we have already made.

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We leave to Mr Commissioner Watson the implementation in The Australian Workers' Union case of our decisions about total award wages and minimum wages for adult males.

The orders of the Commission are as follows:

The rates in clause 3 of Part I of the Metal Trades Award, namely minimum wage—adult males, will be increased by \$3.50 per week.

The rates for males and females appearing in clause 4 of Part I of the award will be increased by 3 per cent in each case, except for Divisions S, T and V, to which no increase will be applied. The increases to be applied in Divisions P, Q and R will be such that the percentage is to be applied only to the amounts which appear in those Divisions. The percentages are to be calculated and added to current wages and the result rounded off into multiples of 10c, less than 5c to go to the lower multiple and 5c or more to go to the higher.

The rates in clause 4 of section III of Part II of the Metal Trades Award will be similarly increased. The amounts prescribed in sub-clause (b) of clause 4 will be incorporated into the table in sub-clause (a) in a similar fashion to Part I of the award and sub-clause (b) will be omitted. We adopt this procedure as a matter of uniformity within the Metal Trades Award. It may or may not be appropriate in other awards. The increases in the extra rates for leading draughtsmen, leading tracers and senior production planners, will be such that the percentage is to be applied only to the amounts which appear for those classifications.

The variations will come into operation as from the beginning of the first pay period to commence on or after 19 December 1969 and will remain in force until 30 September 1970.

So much of matters C No. 331 of 1969 and C No. 241 of 1969 as were referred to us and which still require determination are referred back for hearing and determination to Mr Commissioner Winter and Mr Commissioner Watson respectively.

The form of the orders will be settled by the Registrar with recourse if necessary to a member of this bench.

On the same day the following judgment was issued by the Commission:

REASONS FOR DECISION

We have before us the following four matters:

- (1) An application by The Amalgamated Engineering Union and others to restore basic wages and to increase the last existing basic wages by an amount of \$12.30 computed by adding, first, an amount calculated for price movements in full to June 1969 and then productivity movements in full to 1967-68 to the 1953 Six Capital Cities basic wage of \$23.60 and deducting from the resultant figure the sum of the last Six Capital Cities basic wage of \$32.80 together with the amounts of \$1.00 and \$1.35 awarded in 1967 and 1968. This application also seeks reintroduction of the quarterly adjustment of basic wages according to movements in the Consumer Price Index.

In the alternative, the applicants seek an increase of \$12.30 in minimum wages for adult males, together with a provision for their automatic quarterly adjustment and an increase of \$9.65 in total award wages.

The last increase is calculated by taking the weighted average of minimum weekly award rates payable under Commonwealth awards at September 1953 and by adding first an amount calculated for price

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movements in full to June 1969 and then productivity movements in full to 1967-68. From that figure is deducted the weighted average of the minimum weekly award rates payable under Commonwealth awards in March 1969 which on the figures available at the time of the application was \$49.30. To the resultant figure is added \$2.75 which is the applicants' estimate of the general effect of the Metal Trades Work Value decision of 1967.

- (2) An application by the Association of Architects, Engineers, Surveyors and Draughtsmen of Australia for an increase of 19 per cent to total award wages.
- (3) An application by The Federated Ironworkers' Association of Australia to vary certain total award rates in Division O of clause 4 of Part I of the Metal Trades Award.
- (4) So much of a dispute created by The Australian Workers' Union as sought increased wage rates in the construction and maintenance industry.

By consent the hearing of the first two applications was joined and we ruled that so far as they raised principles concerning work value cases the last two applications should be heard concurrently with the first two in order that those principles could be argued adequately. We then said:

'We have given serious consideration to the arguments advanced to us this morning and we have made a unanimous decision. We are conscious of the necessity to proceed as expeditiously as possible with all these matters consistent with justice being done to all parties and interveners. We think the most expeditious and just method of dealing with the situation in the very special circumstances presently existing is for us to hear concurrently with the two national wage cases the other two applications so far as they raise the principles concerning work value cases. We do this only to enable those principles to be argued adequately. We therefore request the parties and interveners to present such relevant material, evidence and argument as they deem proper as to the principles appropriate to be applied in work value cases and as to the issues raised in the national wage applications.

At the conclusion of this hearing and after a period of consideration of the material before us we anticipate giving a decision in the national wage cases and probably one on the other matter to be debated. Consideration will then be given to the remaining aspects of the two work value cases.'

Basic Wage and Automatic Adjustments

The Commission explained in 1967⁽¹⁾ why it introduced total wages and it is not necessary to recapitulate what was said then. Nothing has been put to us in these proceedings to cause us to abolish total wages and reintroduce basic wages.

As to automatic quarterly adjustments we reiterate what has been said before that the Commission should retain control over its own award wages and should not allow any form of automatic adjustment to them. Accordingly we reject the claims for the reintroduction of basic wages and their automatic adjustment and also for the introduction of quarterly adjustments to minimum wages for adult males.

Matters to be decided

The remaining matters for decision are:

1. Should there be any increase at all to wages in Federal awards?
2. If there is to be an increase, what form should it take and, in particular, should it be a flat money amount or a percentage?
3. If there is to be an increase what should be its extent?
4. Should any special consideration be given to minimum wages for adult males?

(1) 118 C.A.R. 655

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5. Should we approve of the employers' 'wages charter' and if we do not, should we say anything about the principles of wage fixation?
6. What action should we take about the 'work value' cases to which we have heard concurrently with the national wage cases so that the principles of wage fixation could be discussed?

Should there be any increase at all to wages in Federal awards?

Broadly the unions attempted to recover what they allege has been lost to employees since 1953 (the year in which automatic price adjustments were abolished) through the failure of the Court and the Commission in the intervening years to reflect in full movements in prices and productivity in award wages.

The private employers argued strongly that no increase should be awarded at all, basically because wages have been moving too rapidly and certainly ahead of productivity movements. They argued that in the last three years wage increases have far outstripped increases in productivity, that the economy was 'overdrawn' and that to allow productivity to catch up to the substantial increases in wages which have occurred in the recent past there should be no increases now.

The Commonwealth, after presenting a comprehensive survey of the economy, summed up its position as follows:

'The Commonwealth appreciates the difficulty the Commission faces in arriving at a practical decision on the basis of the complex and conflicting considerations put before it. In our view, the central issue in this case, as in every national wage case, is the extent to which there is economic capacity to increase wages without adding to cost pressures. In this connection we have drawn attention to the increases in productivity that have occurred and are in prospect and to the fact that the rate of increase both in award wages and in average weekly earnings has run far ahead of productivity. This comparison leads to the conclusion that the economic capacity which has become available during the past year has already been heavily overdrawn. Some abatement of the upward pressures on costs in the year ahead is vitally needed.

For the reasons we have explained on other occasions the Commonwealth does not intend to present a precise recommendation as to what the Commission's determination should be. We consider that the determination should be made only after taking account of current economic problems and prospects and, in particular, should not lead to such an increase in wages as would add to inflationary pressures on unit costs and prices.'

The Commission has consistently declined to go back to 1953 as a starting point and we decline to do so now. We see our task mainly as one of examining the economy both over the year past (*i.e.* since the last national wage assessment) and the year to come insofar as we can forecast and of assessing as a matter of industrial justice what alteration, if any, should be made to total wages in Federal awards.

We do not propose to attempt to deal in detail with the variety of statistical and other material put to us. We have looked at the economy overall in order to make an assessment of its capacity as it relates to our specific task of fixing award wages.

The information before us discloses the following facts. In 1968-69 the Australian economy grew at a record rate. Gross National Product at constant prices is estimated to have increased by 8.7 per cent, due as to about 2 per cent to the recovery of primary industry from drought. There was a large increase in employment and a run down in unemployment which at August 1969 stood at 0.87 per cent of the workforce. There was also a big inflow of migrants. There has been a marked tightening of the labour market and overtime in larger private factories is being worked at record levels. Output rose in all sectors including the rural sector and the high rate of manufacturing output has continued into this year.

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The strongly increasing levels of production and employment in 1968-69 were more than matched by the buoyancy of demand. In particular total private investment increased by 13 per cent. Personal consumption expenditure rose by 6.7 per cent and retail sales, which moved ahead last year, are continuing to expand this year.

Exports increased by \$278m in 1968-69, largely due to substantial gains in exports of minerals and manufactures. In total, exports amounted to \$3,219m. Imports increased by only \$35m to \$3,195m. This left a trade surplus of \$24m. The 'invisibles' deficit increased by \$1,015m chiefly because of a further rise in investment income payable overseas. Capital inflow was sustained and the net balance of payments result was a surplus of \$158m. Expectations are that the balance of payments situations at the end of 1969-70 will not be as satisfactory as at the end of 1968-69.

Although the above factors would appear to indicate that the economy is strong, there are certain factors which require special consideration.

The Commonwealth submitted that its monetary policy measures from early in 1968-69 were designed to discourage growth of inflationary trends without inhibiting the underlying strength of the economy but it stated that 1969-70 began with the economy 'perceptibly warming up' and that 'undesirable inflationary pressures had developed in the economy especially over the latter half of 1968-69'.

The marked tightening of the labour market has been contemporaneous with an increase in average weekly earnings of 8.4 per cent and award wages of 6.5 per cent during 1968-69. The Consumer Price Index rose by 2.9 per cent in that year. The overall impact of the Metal Trades Work Value decision of December 1967 and consequential award variations was to increase average Federal award wages by \$3.82 per week in addition to the \$1.35 increase in the *National Wage case of 1968*. The above percentages and amounts are calculated from 'Wage Rates and Earnings, July 1969' published by the Commonwealth Statistician.

We were asked to give special consideration to the rural industries and in particular to the position of the wool industry, our largest export earner. Although sheep numbers and productivity have increased so that 56 per cent more wool is being produced now than in 1953, wool prices have declined by more than 34 per cent with the result that over the period the gross value of wool produced has remained virtually stationary. This represents a decline in real value of 29 per cent. During the period farm costs have increased to the extent that the ratio of wool prices received to prices paid by farmers has declined from 100 in 1953 to 47 now, an example of the 'cost price squeeze'. The wheat industry is having considerable difficulty in disposing of its products and at present stocks of unsold wheat in Australia amount to 330m bushels. The meat industry is having difficulty in selling its products to the U.S.A.

It would seem therefore that the prospects for the immediate future are for increasing production, accompanied by increasing demand for goods and services. On the other hand award wages have increased at a rapid rate, inflationary tendencies seem to be emerging and some sections of the rural industries are facing difficulties.

Looking at the situation overall and notwithstanding problems inherent in the economy including those in the farm sector, it is our view that we can award an increase now.

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What form should the increase take?

When total wages were introduced in 1967 it was made clear that it would be the responsibility of each national wage bench to decide how it should distribute to employees under Federal awards their share of the fruits of national growth, and in the past two years the Commission has awarded flat money increases. The blue collar unions have again asked this year for flat money increases. On this occasion there is one additional factor which must be taken into account, namely, that representatives of the white collar unions appearing through the Australian Council of Salaried and Professional Associations, the Council of Commonwealth Public Service Organisations, the Council of Professional Associations, and the Australian Public Service Federation have asked that we should award a flat percentage increase instead of a flat money amount. The Commonwealth Public Service Board submitted that if any increase were to be awarded it should be as a percentage.

We are conscious that if the Commission continues to award flat money increases in national wage cases such a practice must upset wage relativities established as the result of work value assessments. At the present time wages in most industries have recently been reviewed on a work value basis and relativities both within each award and between awards have been established in the same industrial environment. All in all, it is our view that this year there should be a flat percentage increase.

What should be the extent of the increase?

We have considered, as mentioned earlier, our assessment of the state of the economy and we all agree we should consider the possible results of the increase which we award. In the present buoyant state of the economy employees can reasonably expect some increase, but we consider that a large increase might well cause prices to rise steeply. On the other hand a modest increase would not only be industrially just but would not cause a significant increase in the general level of prices. It may make the income position of farmers, particularly in the wool industry, somewhat more difficult, but they have not asked for special treatment in this case. In any event we do not see how this Commission can resolve their fundamental economic problems.

The increase we propose is above the trend line movements in national productivity, but should not significantly affect prices. We have had regard to the rise in the Consumer Price Index namely 2.9 per cent in the year to the June quarter of 1969 and the fact that since the last national wage case average minimum weekly award rates have increased by 6.5 per cent.

We would add that in the present state of the economy to refuse an increase would be industrially unfair. An important part of our task is to endeavour to maintain good industrial relations although their economic effect is rarely referred to. It is commonplace for the community to be told how much is lost through strikes and bad industrial relations, but the converse, the result of good industrial relations, is rarely mentioned.

We award an increase of 3 per cent to total award wages of adult males and females other than minimum wages for adult males. The Commonwealth gave us figures that every increase of one per cent in the total wage would increase the national wages bill by \$120m per annum and on that basis the amount we award will add approximately \$360m to that bill.

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It is inherent in this decision that male and female juniors and apprentices should receive the same percentage increase as adults, but because of the terms of the Metal Trades Award it is not necessary for us to make any order in this case about them.

Minimum Wages for Adult Males

The unions' claim for an increase of \$12.30 per week to minimum wages for adult males was opposed by the employers. Minimum wage is not the same as basic wage as it relates only to males and is inapplicable unless the actual paid wage for the working of ordinary hours would otherwise be less than the minimum wage.

The unions placed much reliance on this aspect of their case and presented material in the form of documents and oral evidence in support of their claim. The purpose of the oral evidence was, as explained by Mr Hawke, to give us some indication of the difficulties encountered by low wage earners in providing for their family needs. The unions asked us to regard the material as something which would help us to come to the conclusion that special attention should be given to people on low incomes.

Although Mr Willis made the most of it, the material was incomplete and was confined almost entirely to Melbourne whereas we must make a national decision. Two of the documents were based on two surveys of living conditions in Melbourne carried out in 1966 by the Institute of Applied Economic Research, University of Melbourne. Although both disclosed real pockets of poverty in Melbourne in 1966, neither suggested wage increases as a means of overcoming the problem and on the statistics appearing in each, a number of classes of poor people, e.g., pensioners and unemployed, could not be assisted by us. Two other documents were publications by the Brotherhood of St Laurence dealing with housing and with schools, again disclosing problems most of which could not be helped by any decision we may make. Written material as to fares, rents, electricity and gas were also produced and we were given some information about medical and hospital benefits. There was also a good deal of discussion about the average number of children per family.

Two employee witnesses on comparatively low incomes were called to explain to us the personal difficulties confronting them in housing, feeding and clothing a family and in educating children. There was an issue raised as to the credibility of these witnesses which we will not decide, but we do point out that they were both special cases, one being a recent migrant with little knowledge of English and the other having a somewhat complicated domestic situation. We also had oral evidence from a social worker as to the cost of feeding a family in Melbourne and from a dietician as to the cost of feeding a family in Sydney.

The evidence does not enable us to draw any firm conclusions as to the appropriate level of the minimum wage. It did however point to the conclusion which we are prepared to make that people on low incomes have special problems which we can to some extent alleviate.

Towards the end of the hearing Mr Willis was asked from the bench whether the Commission could assume that if it gave preferential treatment to the minimum wage the difference of the award to the minimum wage would not be sought to be added to all wages. On the following day Mr Hawke, President-elect of the Australian Council of Trade Unions, answered the question as follows:

The Commission will appreciate our alternative application contemplates a larger increase in the minimum wage than for total wage rates which of course represents the traditional particular concern the trade union movement has felt for the lower paid sections of the community. We would therefore welcome any action taken by this Commission which could

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be regarded as a significant attempt to improve the lot of the people concerned by a substantial increase in the level of the minimum wage. As we say, an increase in the minimum wage of an amount above that awarded to total rates generally would, to coin a phrase, be not incompatible with our alternative application.

We would not therefore in such circumstances seek, as a movement, to use a differential increase in the minimum wage as a basis for a similar increase in all total rates.

Obviously Your Honour who asked the question and other members of the bench would appreciate that the wages policy of the A.C.T.U. which is reflected in the application before the Commission is based upon the fact that award rates of themselves do not provide full wage justice for the workers of this country. I understand Your Honour, in asking the question, would not expect that our answer to your question involves a moratorium upon the discharge of the obligation we have to seek over-award payments that together with awards fixed by this tribunal will provide a proper remuneration for our people at all levels of skill and responsibility. Having, as I think the tribunal will agree, properly made that point, I repeat: we, as a movement, would not in the circumstances I have referred to seek to use a differential increase in the minimum wage as a basis for a similar increase in all total rates.'

In all the circumstances including the answer quoted above we are prepared to increase minimum wages for adult males in clause 3 of Part I of the Metal Trades Award by \$3.50 per week. We think it is necessary to add that it is not our intention that any total wage other than a minimum wage for adult males which at present appears in an award should be increased because of the increase we have now granted in minimum wages. When the minimum wage was introduced in 1966 it was described as being 'designed to meet the circumstances of employees in the lowest classifications who are in receipt of award rates and no more. It is not intended to affect the wage of any employee who is already receiving the prescribed minimum through overaward payments'.⁽¹⁾ The new amounts of minimum wages have been arrived at with the same intention.

Principles of wage fixation

The private employers asked us to revise wage fixation principles in a way which in their submission would lead to greater clarity and certainty and would assist to keep the economy stable. They said that since the *Metal Trades Work Value decision* of December 1967⁽²⁾ there had been significant increases in award wages as the result of a series of work value reviews, the combined effects of which were greater than the last two national wage cases. They asked us to spell out in detail the relationship between national wage cases and work value reviews which they sought to have re-named 'classification reviews'. Their basic proposition was that in 'classification reviews' there would be no changes unless an old classification had changed to such an extent that it was really a new classification, or unless a new classification had emerged. In such a case but in no other the classification could be awarded a new rate. The fruits of productivity, which include changes in methods of work, would be distributed in national wage cases. Their proposals were strenuously opposed by the unions, as they were in 1968 when somewhat similar proposals were made. Mr Hawke submitted that an adoption of the employers' proposals by the Commission would amount to a fraud on the trade union movement, would result in the denial of wage justice and would lead to reductions of real wages. He also argued that the proposals amounted to an infringement of the intention of Parliament to give Commissioners a significant role in the wage fixing processes of the tribunal, that they were basically unconstitutional and that they involved the tribunal going outside its proper role of settling industrial disputes and making decisions in a manner directed towards the achievement of particular economic results. In particular the unions relied on the Commission's statement made when introducing total wage in 1967:

'We emphasise the fact that this Commission retains control over the fixation of its award rates and that it will continue to apply proper principles of wage fixation. The new

⁽¹⁾ 115 C.A.R. 93 at p. 103 ⁽²⁾ 121 C.A.R. 587

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procedures will ensure greater industrial justice to all concerned with our wage fixation. We are creating new up-to-date fixation procedures and not changing principles of wage assessment."⁽²⁾

Both the Commonwealth and the State of Victoria asked us to lay down principles of wage fixation for the guidance of those interested.

In the 1968 *National Wage case* the Commission said:

'The employers submitted that we should lay down a policy for the conduct of future work value cases. This issue did not arise directly from the applications by the unions and in our view would more properly be dealt with by a bench which the President could on appropriate application specially constitute for that purpose and before which everyone concerned could advance their views.'⁽³⁾

It is our view that the cases now before us present the opportunity there forecast, a view which is supported by the terms of the directions of the President constituting this bench under section 34 for all four matters. We announced at the beginning of these proceedings that we would hear concurrently with the national wage cases the other two cases so far as they raise the principles of wage fixation. Accordingly everyone who might be interested was given, if they so wished, an opportunity to join in the debate. In the event we have had submissions from unions of both blue collar and white collar workers, from private employers generally, from the Commonwealth and from the State of Victoria. Having had the advantage of hearing arguments from all those interests, we reject in substance the employers' charter as being too restrictive and inflexible but we consider we are able to make some general observations about wage fixation in the Federal sphere which may be of assistance to those who work under Federal awards and to those who participate in making them.

We think we can properly make the following observations:

(1) As was stated in the 1967 *National Wage case* when total wage was introduced:

'This new approach will ensure that under our awards wage and salary earners will annually have applied to them the increases for economic reasons which it is common ground they may normally expect and the increases will be applied to the whole wage instead of only to part of the wage as at present.'⁽⁴⁾

This approach eliminates the old problem which bedevilled arbitrators when dealing with the secondary wage of adjusting that wage for economic considerations including price movements. Arbitrators often faced difficult decisions about this, particularly as to the base from which any economic adjustment should be made. This problem has now disappeared with the introduction of the total wage and its annual review.

Each award of the Commission will each year be brought up-to-date for economic considerations (including regard to movements in prices and productivity) by the decision of the national wage bench. Therefore these aspects should not be considered in work value cases. Unless there is some dramatic change in the growth of the Australian economy increases of one kind or another may normally be expected each year in the national wage case.

(2) Any increase awarded by a national wage bench, as was explained in 1967, could be a flat money amount, a flat percentage, varying percentages or in other ways. The way any increase is awarded will reflect the view of the particular bench as to the proper way of distributing to employees generally their share of the product of national growth. We consider that the awarding of the same percentage to everyone, the course we are adopting this year, has merit

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because it does not change relativities. But our decision this year cannot and indeed is not intended to attempt to bind future national wage benches in their approach to the distribution of the product of national growth.

(3) The task of fixing wages in work value hearings will involve consideration of the non-economic factors which used to be considered in fixing the secondary wage, namely, things such as period of training, skill required, arduousness, conditions under which work is usually performed, etc. In such cases it will not be appropriate to bring the total wage up-to-date for economic reasons (including consideration of price and productivity movements) because this will be happening continuously through national wage cases. Whereas prior to 1967, periods of much longer than a year often elapsed between the fixation of secondary wages even on economic grounds, employees can now each year normally look forward to having their whole wage increased for economic reasons.

(4) In our view it is not practicable in the absence of consent to make a proper assessment of the work value of classifications about which there is no information before the Commission. This is a confirmation of principles which have always existed about marginal fixation but they are principles which became clouded when margins were being dealt with after major marginal decisions such as those in the Metal Trades Award of 1959 and 1963. When in the past arbitral authorities assessed the value of the work for secondary wage purposes in most cases they did so by examining the work done and making their assessment of it. If they were reassessing classifications which had appeared in a preceding award they would decide whether there were any changes in the work which warranted changes in the secondary wage. In making a new award they would of necessity look for guidance from other comparable awards and fit the new award into existing patterns.

We would expect these approaches to be followed in assessing the total wage for work value, though we repeat that under the new system each time work is looked at in a work value case the total wage for that work will be in up-to-date money terms because of national wage cases. We would also point out the great difficulty which may be experienced industrially when tribunals change relativities of rates either within one award or between one award and another. We would therefore suggest that there should be a good reason before relativities are changed. Now that there has been almost a full round of work value examinations undertaken since the introduction of the total wage we would expect that in most future work value inquiries there would normally not be a case for moving all classifications though there well may be a case for moving some. We also consider that on rare occasions it may be considered desirable that for work value reasons the whole structure of a particular award should move.

(5) We do not think concepts such as team work can be relevant in work value assessment, except in rare cases. We think that team work must exist to some degree in all industries otherwise they would fail to function, and the results of team work and similar factors will be reflected in economic growth which will be properly considered in national wage cases.

(6) A principle existed for many years in the work value assessment of the secondary wage that once such an assessment had been made for a given period then unless leave had been specifically reserved for a particular purpose, only in exceptional cases should that assessment be changed during its currency. Subject to decisions in national wage cases we think this principle should be applied to the total wage. We would also think the well established principle that generally speaking awards should operate prospectively, should continue to apply and unless there is some special reason retrospectivity should not be awarded.

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(7) Although we have made it clear that in work value reviews an arbitrator should not concern himself with attempting to bring awards up-to-date for economic reasons, he is not absolved from giving consideration to the economic consequences of what he is doing. To the extent that wages fixed by the Commission affect the economy it is the sum total of those wages which must be considered, though national wage cases are likely to have the greatest effect. In the blue collar area the work value review which is likely to have the most significant impact on the economy generally is that of Part I of the Metal Trades Award, although there may be others the impact of which may be significant. General increases in Part I of the Metal Trades Award are likely to flow into other awards whether the arbitrator intends it or not, and that flow combined with the numbers covered by the award itself, may have general economic effects. Similarly general increases in other awards may have such effects. In any event we do not think that the labelling of an application as a 'work value' review relieves the arbitrator from considering any general economic results which may flow from his decision. Arbitrators would probably be best able to give consideration to this question if they bear in mind what is happening in other areas of Federal wage fixation.

(8) In times of full employment such as the present, arbitral authorities cannot ignore the existence of overaward payments. We consider the level of wages actually paid should not have the significance they once had in assessing work value because arbitrators must accept that probably any increases awarded will not be absorbed in overaward payments but that overawards will continue to be paid. In other words, speaking generally, an award increase or a substantial portion thereof is likely to be added to amounts actually being paid whether they be actual award figures or whether they include overaward amounts.

(9) The definition of 'Industrial matters' in section 4 of the Act 'includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole'. There are in other provisions of the Act references to the public interest and this is a factor which in our view must be borne in mind at all times when awards are being made. It cannot be overlooked even when dealing with provisions which are asked to be inserted by consent.

We consider this to be an appropriate time to make these observations because over the last twelve months or so most awards have been brought up-to-date, principally as a result of the Metal Trades decision of December 1967.⁽¹⁾ There may be some few awards which have not been brought up-to-date and to which we would not expect these observations immediately to apply. An example of this is the *Professional Engineers case* which is currently before another reference bench and there may be cases in areas such as the Commonwealth Public Service of which we are not aware. We also realise that the principles of wage fixation are dynamic rather than static and although we have made these observations in the expectation that they will assist, we make them in the current context and only for the foreseeable future. We are aware that they by no means exhaust all the problems which can arise in wage fixation.

In the *Metal Trades Margins case* of 1963 the Commission said:

'We would not ourselves have said some of the things that were said in the past about the fixation of margins nor would we have done some of the things which were done. In particular we think that any attempt to provide a detailed code of principles of marginal fixation is not helpful. However convenient it may seem to attempt to lay down for all time precise rules or formulae for the fixation of margins, the assessment of particular margins

(1) 121 C.A.R. 587

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at particular times must be an act of judgment by the person or persons making the assessment in the light of current knowledge and practice both of which are themselves susceptible of change. Current knowledge includes of course knowledge of what has happened in the past and of the reasons which have been given for past decisions."⁽¹⁾

We are of the view that this observation applies equally to the fixation of total wages.

Action to be taken about the Federated Ironworkers' Association case and The Australian Workers' Union case

We do not think it appropriate for a bench of this size to attempt to deal with the detail involved in deciding these claims. We accordingly refer them back to the Commissioners concerned for hearing and determination in accordance with the observations we have already made. We leave to Mr Commissioner Watson the implementation in The Australian Workers' Union case of our decisions about total award wages and minimum wages for adult males. As far as The Federated Ironworkers' Association reference is concerned we point out that the classifications the subject of reference to us were specifically dealt with by full benches in December 1967 and February and August 1968, and that the final award is still current. Unless there have been unexpected and exceptional changes in the work of these employees since December 1967 the Association cannot expect them to receive any further increases in the current application except of course the increases resulting from our National Wage decision.

Form of Orders

The rates in clause 3 of Part I of the Metal Trades Award, namely minimum wage—adult males, will be increased by \$3.50 per week.

The rates for males and females appearing in clause 4 of Part I of the award will be increased by 3 per cent in each case, except for Divisions S, T and V, to which no increase will be applied. The increases to be applied in Divisions P, Q and R will be such that the percentage is to be applied only to the amounts which appear in those Divisions. The percentages are to be calculated and added to current wages and the result rounded off into multiples of 10c, less than 5c to go to the lower multiple and 5c or more to go to the higher.

The rates in clause 4 of Section III of Part II of the Metal Trades Award will be similarly increased. The amounts prescribed in sub-clause (b) of clause 4 will be incorporated into the table in sub-clause (a) in a similar fashion to Part I of the award and sub-clause (b) will be omitted. We adopt this procedure as a matter of uniformity within the Metal Trades Award. It may or may not be appropriate in other awards. The increases in the extra rates for leading draughtsmen, leading tracers and senior production planners, will be such that the percentage is to be applied only to the amounts which appear for those classifications.

The variations will come into operation as from the beginning of the first pay period to commence on or after 19 December 1969 and will remain in force until 30 September 1970.

So much of matters C No. 331 of 1969 and C No. 241 of 1969 as were referred to us and which still require determination are referred back for hearing and determination to Mr Commissioner Winter and Mr Commissioner Watson respectively.

The form of the orders will be settled by the Registrar with recourse if necessary to a member of this bench.

(¹) 102 C.A.R. 140