IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

In the matter of the *Conciliation and Arbitration Act* 1904-1974

and of

the *Public Service Arbitration Act* 1904-1973

and of

NATIONAL WAGE CASE—MINIMUM WAGE

and

NATIONAL WAGE CASE—APRIL 1975

and of

THE METAL INDUSTRY AWARD, 1971

(C Nos 1128 and 1853 of 1971)

(C No. 1933 of 1974)

and of

THE METAL INDUSTRY AWARD, 1971—PART II—DRAUGHTSMEN, PRODUCTION PLANNERS AND TECHNICAL OFFICERS

(C No. 1909 of 1967)

(C No. 1978 of 1974)

and of

POSTAL TELECOMMUNICATIONS TECHNICIANS ASSOCIATION (AUSTRALIA)

Claimant

v.

THE AUSTRALIAN BROADCASTING CONTROL BOARD and OTHERS

Respondents

(C No. 3619 of 1974)

and of

THE PROFESSIONAL OFFICERS ASSOCIATION COMMONWEALTH PUBLIC SERVICE and OTHERS

Claimant

v.

THE PUBLIC SERVICE BOARD and OTHERS

Respondents

(C No. 3620 of 1974)

Variation of awards and determinations—Rates of pay—Minimum Wage—Wage indexation—Effect of productivity upon total wage—Principles of wage determination—Validity of summonses to witnesses—Discretion of the Commission—Examination of the economy—Role of the Commission—Conciliation and Arbitration Act 1904-1974 *ss.* 34, 36, 39, 40, 41, 44A—*Public Service Arbitration Act* 1972-1973 *s.* 15A—*Decision issued.*

1974. MELBOURNE, Nov. 11. — Moore *J.*, Dec. 3, 4, 10, 18.

On 17 and 28 October 1974 applications were filed by the Electrical Trades Union of Australia (C No. 1933 of 1974) and the Association of Architects Engineers Surveyors and Draughtsmen of Australia (C No. 1978 of 1974) for orders varying the above awards.

Group L—Fur Trade

The weekly wage for every description of work done in connection with the making and/or altering and/or remodelling and/or repairing and/or work incidental thereto of all types of garments or articles such as coats, jackets, capes, headwear, scarves, collars, cuffs, neckwear, muffs, rugs, mats and toys made in the establishment of a furrier from furred and/or haired and/or woollen skins shall be as follows:

Number	Classification	Weekly wage
		$
	Adult Males	
240	Cutter, marking in and/or cutting out	110.50
241	Head of a table or bench of machines in charge of four or more persons—$3.30 above appropriate machinist rate	
241A	Fur machinist	97.50
242	Machinist, other than fur machinist	95.50
243	Nailer	96.90
244	All others not herein classified	86.00
	Adult Females	
245	Head of a table or bench of machines in charge of four or more persons—$3.30 above appropriate machinist rate	
246	Machinist (other than on fur machine) and/or table hand	90.30
247	Fur Machinist	90.30
248	All others not herein classified	85.30

Group M—Artificial Flowers and Brushed Silk Emblems

The weekly wage for every description of work done in connection with the making and/or work incidental thereto of all types of artificial flowers and brushed silk emblems shall be as follows:

Number	Classification	Weekly wage
		$
	Adult Males	
249	Cutter and/or stamper	94.90
250A	Dyer	97.10
250	All others not herein classified	86.00
	Adult Females	
251	Shaper of petals by hand, with the aid of a curling iron and/or bowler and assembling the petals so shaped	89.50
251A	Pressing and/or making and/or tying artificial flowers	88.00
252	Tiers and/or cutters and/or brushers of emblems	88.00
253	All others not herein classified	85.30

H The abovementioned variation shall operate as from the first pay period to commence on or after 27 March 1975 and shall remain in force for a period of 1 month.

1975.
Jan. 21–24, 29–31
Feb. 4–7, 11–14, 25–28;
Mar. 5–7, 11–14, 18–21;
April 2, 3, 30.

Moore *J.*,
Robinson *J.*,
Ludeke *J.*,
Isaac *D.P.*
Arb. Taylor.
Commr Portus.

On 21 and 24 October 1974 applications to vary Determinations No. 2 of 1939 (C No. 3619 of 1974) and Nos 19 of 1961, 245 of 1967 and 42 of 1965 were lodged by the Postal Telecommunication Technicians Association (Australia) and The Professional Officers' Association Commonwealth Public Service and others.

Applications C Nos 1933 and 1978 of 1974 were listed before the Australian Conciliation and Arbitration Commission (Mr Justice Moore, President) in Melbourne on 11 November 1974. On 13 November 1974 the President directed that both applications would come on for hearing on 3 December 1974.

Matters C Nos 3619 and 3620 of 1974 were listed before Mr Public Service Arbitrator Taylor on 11 November 1974. In each matter an application was made that the matters should, in the public interest, be dealt with by the Commission as provided by section 15A (1) of the *Public Service Arbitration Act* 1904-1973, namely by at least two presidential members of the Commission and the Arbitrator. On the same day the President directed that the applications should be so dealt with.

The applications came on for hearing before the Commission (Mr Justice Moore, President, Mr Justice Robinson and Mr Justice Ludeke, Deputy Presidents, Mr Deputy President Isaac, Mr Public Service Arbitrator Taylor and Mr Commissioner Portus) in Melbourne on 3 December 1974, on which day, pursuant to section 44A (2) of the *Conciliation and Arbitration Act* 1904-1974, the President, being of the opinion that a question is common to two or more of the said matters and that he considered that it was desirable to do so for the purpose of facilitating the hearing and determination of those matters, directed that the said matters would be heard by the Commission as so constituted and the hearing proceeded accordingly.

R. A. Jolly, J. Marsh, R. Sweeney, J. Caesar, R. Scott and *R. Morgan* for the Australian Council of Trade Unions.

W. Richardson and *G. L. Walker* for the Association of Architects Engineers Surveyors and Draughtsmen of Australia.

R. L. Gradwell for the Postal Telecommunication Technicians Association (Australia).

W. F. Cox for The Professional Officers' Association Commonwealth Public Service.

B. J. Maddern, of counsel, for the Metal Trades Industries Association of Australia and others.

T. Orange, V. Moloney and *A. Fitzpatrick* for The Australian Public Service Board.

W. Mansfield for the Postal Telecommunications Commission.

R. E. McGarvie, Q.C., *J. Staples* and *H. Natham*, of counsel, for the Minister for Labor and Immigration (intervening).

R. L. Gradwell and *I. Oldmeadow* for the Council of Commonwealth Public Service Organizations (intervening).

W. Richardson for the Australian Council of Salaried and Professional Associations (intervening).

G. J. Nicholls and *J. R. Andrews* for the Australian Public Service Federation (intervening).

W. F. Cox and *P. Baines* for the Council of Professional Associations (intervening).

S. P. Crosland for the Australian Journalists Association (intervening).

J. A. Keely, Q.C., and *P. Dalton*, of counsel, for Her Majesty the Queen in right of the State of Victoria and others (intervening).

J. Macrossan, Q.C., and *W. C. Lee*, of counsel, for Her Majesty the Queen in right of the State of Queensland (intervening).

J. J. Macken, of counsel, with *A. G. Knox* and *A. C. Mills* for Her Majesty the Queen in right of the State of New South Wales (intervening).

M. J. Dowling, of counsel, and *G. A. Johnson* for Her Majesty the Queen in right of the State of Western Australia (intervening).

F. D. Westwood for Her Majesty the Queen in right of the State of Tasmania (intervening).

D. E. Packer for Her Majesty the Queen in right of the State of South Australia (intervening).

W. C. Wentworth in person (intervening).

On 18 December 1974 the Commission (Mr Justice Moore, President, Mr Justice Robinson and Mr Justice Ludeke, Deputy Presidents, Mr Deputy President Isaac and Mr Commissioner Portus) issued the following decision in connection with application C No. 1933 of 1974:

The claims before the Commission fall into three broad categories:

- claims to increase the minimum wage
- claims to increase total wages
- claims for wage indexation

Mr Jolly for the Australian Council of Trade Unions submitted that we should first deal with the minimum wage claim so that an early decision could be given consistent with the Commission's intention expressed in May of this year to review the minimum wage level 'within six months'.

We accepted that submission but in taking this course we appreciate that the rights of the parties and interveners must be reserved to argue minimum wage issues in the wider context of the total claim.

Mr Jolly's main case was for an increase of $22.94 calculated by taking 90 per cent of average Federal award rates to restore the relationship which existed between the first minimum wage of 1966 and the then average award rate figure. He put to us a number of alternatives calculated in different ways. He was supported by all other unions and union groups.

The Australian Government asked us to increase the minimum wage by the movement in the Consumer Price Index since May 1974 which would result in an increase of $6.39, to which it submitted we might add an amount of $2.50 for productivity increases. A number of different ways of arriving at $2.50 were put to us.

The private employers argued there was no case for any increase in the minimum wage, that as a concept it had ceased to have meaning and that it should be allowed to wither away.

None of the States made any submissions to us.

Because of the point in the proceedings at which we are giving this decision we propose to be brief. We do not wish to prejudge any of the remaining issues nor be seen to be prejudging them.

[*The Commission*

In our view the minimum wage is a most important concept and we cannot accept the view of the employers that it now has no place in the awards of the Commission. We see the minimum wage as a desirable floor below which the wage actually paid to any employee for ordinary time shall not fall. Actual pay of course includes over-award payments as it has always done. The minimum wage does not appear to us to be less important for the reason that after June next it will equally apply to males and females whether or not they have a family to support. We believe that the community would expect us to make special efforts to ensure that those on low wages have special protection.

The amount of the minimum wage must always be the result of a value judgment made by those who assess it from time to time. We reject any concept of a mathematical formula tied to any wage series. We also reject going back beyond the last fixation of the minimum wage.

In view of the rise in the Consumer Price Index and wages generally since May and bearing in mind that our decision earlier this year to review the minimum wage was intended to deal with 'the rapid erosion in the real value of the minimum wage', we consider that at this time an increase of $8 would be proper to each male minimum wage. Females will receive proportionate increases in accordance with the phasing in which we introduced in May.

Although no material was put to us about the number of people in receipt of the minimum wage it is our view that even with the increase we now award the number of employees protected by the minimum wage will not be great and therefore our decision should have no serious impact on the national economy.

As this is the first occasion when the minimum wage has been reviewed separately from the general level of award rates, we feel it is necessary to stress that our decision affects only those employees whose actual pay currently falls below the wage floor we now establish. Specifically it cannot be used as a reason or excuse to seek any review of other award rates. As we said before—'The fixation of the minimum wage as the amounts mentioned, does not give any reason for any change in award rates of pay which are below or above the appropriate minimum wage'.

We are not prepared to alter the way in which penalties are calculated.

The increase will operate from the beginning of the first pay period to commence on or after 1 January 1975 and the Metal Industry Award will be varied accordingly, the variation to operate for a period of three months. The form of order* necessary to give effect to our decision will be settled by the Registrar with recourse to a member of this Bench.

The matters again came on for hearing before the Commission (Mr Justice Moore, President, Mr Justice Robinson, Mr Justice Ludeke, Deputy Presidents, Mr Deputy President Isaac, Mr Public Service Arbitrator Taylor and Mr Commissioner Portus) in Melbourne on 21 *January* 1975.

On 7 *February* 1975 *the Commission issued the following decision:*

In these matters the State of Victoria had issued from the Registry summonses directed to a number of union secretaries to give evidence and in one case to produce records. These summonses were taken out without the knowledge of the members of this Bench. Acting on our own motion we initiated a debate as to whether we should require compliance with these summonses. The State of Victoria informed us that there were a number of summonses yet to be taken out but action on them had been deferred until this debate had taken place.

* The order is printed separately—*see* serial number C2203

The witnesses under summons or about to be under summons are all of a particular category, namely secretaries of unions some of which are parties to the proceedings now before us while others are parties to the proceedings in the Commission's list similar to the proceedings now before us. Two of the unions whose secretaries have already been summoned namely the Association of Architects Engineers Surveyors and Draughtsmen of Australia and the Postal Telecommunications Technicians Association of Australia are appearing before us as parties and another party, the Federated Storemen and Packers Union of Australia is represented by the Australian Council of Trade Unions, of which it is a member.

It was put to us that as a matter of law we could take no action to prevent the normal operation of these summonses because the State of Victoria, an intervener in these proceedings, had exercised a right which was open to it under our Act and regulations. It was argued that having been given leave to intervene the State had all the rights of a party including the right to call evidence. It would be a denial of natural justice it was submitted if we prevented the State from calling such witnesses as it thought necessary for its case. When asked what evidence the witnesses would give Counsel for the State of Victoria declined to be specific and indeed it is likely that he is not able to be specific because as we understand it the witnesses who have been summoned are not volunteers.

In the alternative we were asked to exercise our discretion in favour of the State.

We do not agree that there is a legal right for any person, intervener or party, to call such witnesses as it thinks fit. We adopt without elaboration the first paragraph of a ruling[1] made by the Full Bench in the 1959 Margins Case (Transcript p. 394).

> '1. The Commission is of opinion that the power conferred by sub-section (n) of section 41 to compel the production before it of books, papers, documents and things is discretionary and not mandatory.'

We consider the whole scheme of the Act and in particular sections 39, 40 and 41 confer on the Commission wide ranging discretion as to the conduct of its proceedings. This wide ranging discretion conferred on the Commission is statutory recognition of the complex exigencies which permeate industrial relations. What procedures are fair and reasonable in the handling of a dispute must depend on the particular mix of factors involved and inevitably calls for the exercise of broad discretion and judgment.

Our discretion under section 39 (1) includes if necessary our testing any undertakings given by the Australian Council of Trade Unions or others by questioning their representatives or making suggestions to them which may assist us in resolving the industrial dispute.

We are concerned to ensure that natural justice is not denied to anyone appearing before us be they parties or interveners but we do not find it necessary in this decision to draw a distinction between them. We must consider the circumstances before us because concepts of natural justice will vary amongst other things according to the nature of the Tribunal and of the proceedings before it. We refer to the High Court decision in what is known as the *Angliss case.* (R v. Commonwealth Conciliation and Arbitration Commission).[2]

We are a statutory body with statutory rights, duties and discretions to which we have already referred. The matter before us is an arbitration about a major industrial issue and the principal parties to that arbitration namely the

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(1) The ruling is printed as annexure 'A' at the end of the decision of 30 April 1975 (2) 122 C.L.R. 552

unions and the private employers are united in their opposition to the course proposed by Victoria. The Australian Government without taking any particular attitude of opposition has predicated for us certain principles which if accepted would lead us to reject Victoria's submission.

As a statutory body we have a grave responsibility in the area of industrial relations. One of the chief objects of the *Conciliation and Arbitration Act* is to promote goodwill in industry and one of the discretions given to us by section 41 is 'to do all such things as are necessary or expedient in the expeditious and just hearing and determination of the dispute'.

Having regard to all the submissions put to us, the nature of these proceedings and the various discretions reposed in us by the Act, we are of opinion that we should set aside the summonses already taken out and that other similar summonses should not issue.

The power under the Act to require the attendance of witnesses is a power given to the Commission under section 41 (1)(n) and it is in the exercise of this power that we take the course we have just indicated.

On 30 April 1975 the Commission (Mr Justice Moore, President, Mr Justice Robinson, Mr Justice Ludeke, Deputy Presidents, Mr Deputy President Isaac, Mr Public Service Arbitrator Taylor and Mr Commissioner Portus) issued the following decision:

The applications before us raise in somewhat different forms three separate matters, namely the introduction of indexation, an increase in the total wage and an increase in the minimum wage.

We do not propose to set the applications out in detail because of their length and complexity but we have given close consideration to them all and we are aware of their importance to each of the applicants. The substantive elements of the claims are discussed under specific heads below.

THE ECONOMY

In the 1974 National Wage Decision[1], the Commission noted that despite the increased intensity of inflation, the economy was generally buoyant and prosperous and that this state of affairs appeared to be well sustained by the prospect of a continued high level of capital and consumption expenditure. The Commission concluded:

> 'Overall, the submissions made to us differed only in the degree of optimism about the near future of the economy, the differences arising mainly from the varying assessments concerning the international situation. Nobody suggested that a major general decline in economic activity was imminent in Australia.'

The course of events proved otherwise. The tables appended show the dramatic change in the economy. The unemployment rate has risen to the highest level in the post-war period. In real terms, private investment fell sharply during 1974 and private consumption expenditure declined during the second half of 1974. Productivity growth for 1974 was negative. A very large build-up of unsold stocks has taken pace. Inflation has accelerated to the highest rate since the early 1950s but it has been outstripped markedly by pay increases. The combination of these inter-related factors is reflected in the abnormally large increase in the share of wages and salaries in Gross Domestic Product and the corresponding squeeze of profits measured by Gross Operating Surplus of Companies. Because of the reasonably high level of international reserves, the only feature of the economy which has not caused undue concern is the adverse movement in the balance of payments during 1974.

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(1) 157 C.A.R. 293

The Australian Government has taken budgetary and monetary measures to encourage economic recovery. Quotas, tariffs and exchange rate depreciation have been used to blunt the edge of import competition. And further measures are under consideration to speed up recovery. But because of unpredictable lags in economic response to all these measures, the outlook for the immediate future appears to be very uncertain. The information available to date allows various possible interpretations and it is difficult at this stage to be sure whether the decline in the economy is continuing, whether it has stopped or whether an upturn has occurred with the promise that economic recovery is on its way. There is general acceptance of the prospect of no significant improvement in economic activity before the second half of 1975 and that even then general recovery is likely to be slow. The optimism of the unions that there are signs that this recovery has already commenced is not shared by others in the proceedings before us.

THE COMMISSION'S ROLE

In the circumstances of the current serious economic situation, two questions which are raised perennially in national wage cases assume added significance. First, in making its decision, to what extent should the Commission be influenced by the economic consequences which may emanate from the decision? And second, should the Commission fit its decision into the economic policy of the Australian Government and if so, to what extent?

As far back as 1959, the Commission answered these questions in the following way:

> 'The true function of the Commission is to settle industrial disputes. In the settlement of disputes involving payment of wages, such as this one in which such issues have been raised, the Commission will bear in mind the various economic submissions made to it, including those about price rises and inflation; it will also bear in mind the fiscal and economic policies of the Government. It will not ignore the consequences to be expected from its actions but it will not deliberately create situations which would need rectification by Governmental action.'(1)

We affirm this interpretation of the Commission's role. Under the Act, the central function of the Commission is the prevention and settlement of industrial disputes. But in doing so it is required to have regard 'to the state of the national economy and the likely effects on that economy of any awards' that it makes. And to repeat what we said in the 1974 National Wage Decision, although the economic consequences of the Commission's actions are often referred to as though they are separate and distinct from the industrial consequences, it should be understood that there often is a high degree of interaction between the two.

We should also emphasize that the Commission is not an arm of the Government's economic policy. It is an independent body and is required under the Act to act 'according to equity, good conscience and the substantial merits of the case'. All submissions from the parties and interveners are treated on their merit.

These points were fully acknowledged by Mr McGarvie who appeared for the Australian Government in this case. He emphasized not only the critical part which wage movements will play in the economic recovery but also that 'The only way in which a policy with regard to wages can be implemented in practice is by the Commission making decisions'. He further said 'The Government submits to the Commission that it should now make a decision which is of the first importance to those needing work, to the Australian community and to the Australian system of industrial arbitration'.

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(1) 92 C.A.R. 801

These submissions were not disputed by any of the parties and the interveners in this case who are all anxious to see inflation moderate and unemployment fall as soon as possible and who all regard the role and status of the Commission as of fundamental importance to these aims. Indeed, what they said implied that the Commission should act in a way which will promote economic recovery in a socially equitable and industrially harmonious way. To strike the right balance between economic, social and industrial considerations is a difficult task, particularly when important differences exist on the causes of the economic difficulties and how the Commission should act in the current economic circumstances. But this is the task which is reposed in the Commission by the Act under which it works.

THE UNIONS' CLAIMS

The unions' claims may be summarized as follows:

1. Wage indexation in the shape of automatic quarterly cost of living adjustments of the total wage based on the Consumer Price Index (referred to hereafter as CPI).
2. An increase in the total wage on account of productivity and to varying extents of CPI movements before the March 1975 quarter.
3. An increase in the minimum wage and indexation of that wage in the same way as the total wage.

They argued that by granting their claims, the Commission would at one and the same time meet the requirements of equity, good industrial relations and economic recovery. The private employers denied this contention and asked the Commission to reject the unions' applications completely. The States of New South Wales, Victoria, Queensland and Western Australia supported the private employers except as to minimum wage about which they made no submission. The Australian Government and the States of South Australia and Tasmania gave qualified support to the unions' claims.

The claims of the unions must necessarily be considered in the context of the state of the economy and the fact that in 1974 wages by far outstripped productivity and price increases. In real terms, i.e. after allowing for CPI increases, Average Weekly Earnings have risen by 7.2 per cent; Male Minimum Weekly Wage Rates (Federal Awards) have risen by 11.9 per cent; and Female Minimum Weekly Wage Rates (Federal Awards) have risen by 21.2 per cent. The increase in Average Weekly Earnings would have been higher but for the substantial fall in overtime during 1974, a direct consequence of economic decline, and the disproportionate increase in Female Minimum Weekly Wage Rates was the result of the implementation of equal pay. A further relevant consideration is that these increases cannot be regarded as a recovery of lost ground following a period of depressed real wages. For the period 1967-68 to 1972-73, Average Weekly Earnings and Male Minimum Weekly Wage Rates (Federal Awards) rose in real terms on average by 4.5 per cent and 3.8 per cent per annum respectively, these increases exceeding the unions' estimate of 3.6 per cent trend measure of productivity.

These circumstances pose an immediate problem for the Commission. If we are not to impair economic recovery we must have regard to the relevance of the magnitude of the 1974 wage increases for profitability and investment.

Mr McGarvie submitted that:

'The material before the Commission shows that there has been a very marked shift in the distribution of income away from profits. Reducing returns on capital and expectations of reducing returns in the future have been major causes of unemployment. An objective

[*The Commission*

assessment of the economic facts in Australia today makes it clear that the programme necessary to restore full employment must include the taking of deliberate steps to restore business confidence through stimulating profitability.'

He also put in a statement by the Minister for Labor and Immigration in consultation with the Treasurer. The statement concluded that:

'. . . the prospects for the economy in the immediate future will depend crucially on the behaviour of wages and the extent to which business profitability can be restored without stimulating further rounds of wage increases. The expansionary measures that the Government has taken in recent months can be expected to lead to renewed growth in private spending provided confidence is restored and maintained.'

The views of the private employers and the four States opposing the unions' applications were in accord with these submissions on the need for a restoration of profitability as a crucial factor in promoting recovery. The three economists, Professors Hogan, Whitehead and Gates, who were called as expert witnesses by the States of New South Wales, Victoria and Queensland respectively, and the academic writers relied on by the unions in support of indexation, stressed the critical importance of restoring profitability in the recovery process. In the long run, it was contended, adequate profitability was also a vital element in normal investment and continued productivity growth, the main source of real wage increases. The witnesses also said that the official statistics relating to the movement of profits understated the decline in profitability because these statistics did not reflect the inadequate depreciation allowance on capital equipment at a time when replacement cost was rising at a rapid rate.

There was general agreement that the fall in profitability was due to a combination of factors, the magnitude of wage increases, the operation of the Prices Justification Tribunal, import competition and negative productivity growth resulting from the decline in activity. But there were significant differences of emphasis on the relative importance of the different factors.

Mr Maddern, for the private employers, blamed 'the unprecedented explosion in award wages' for the current economic difficulties and argued that unless a halt or at least a considerable slowing down was called to wage increases, company profits would not recover especially as, in his submission, productivity was expected to decline further in the period ahead. In these proceedings, therefore, no wage increase should be granted. He quoted statements made by the Prime Minister and senior Ministers and referred to the evidence of the expert witnesses in support of his argument that excessive wage rises were behind the increase in unemployment and inflation.

However, Mr Jolly, for the Australian Council of Trade Unions, blamed the excessive restrictions in the money supply as the main cause of unemployment and economic recession; and he saw budgetary and monetary corrective measures taken by the Australian Government late in 1974 and since together with further measures contemplated as providing the basis for recovery later this year. This recovery would result in an increase in the share of profits. By granting the unions' claims the Commission would not impede economic recovery. Indeed, indexation as sought by the unions would promote moderation in overall wage claims, reduce industrial unrest and assist in economic recovery.

While there is some substance in Mr Jolly's submission, insofar as part of the fall in profitability was the effect rather than the cause of the economic recession, we are persuaded by the weight of evidence and argument that the size of wage increases last year was also an important cause of the exceptional fall in profitability and the consequent decline in economic activity and business confidence. This fact has a bearing on how we should deal with the claims to which we now turn.

[*The Commission*

INDEXATION

It is fair to say that indexation loomed as the main issue in this year's national wage proceedings. The time taken up in evidence and argument exceeded by far the time devoted to this question even in the 1974 case. In our decision in that case, we said:

'The question of whether indexation should be introduced is inseparably bound up with the several unresolved areas already discussed, namely, the challenge to the three-tiered system, the double counting involved in consideration of common criteria in national and industry cases, the assumption concerning abatement of wage claims and industrial disputation and the fundamental conflict attaching to the alternative methods of implementation. The industrial relations elements of the conflict are crucial to the case for the applicants and central to the operations of the Commission.

We have been impressed by the suggestions that indexation could have positively beneficial economic, social and industrial implications but, having regard to what we have said, we are not prepared to add indexation to the available methods of wage fixation.

The applicants for indexation and the Australian Government explicitly complain about the results of the present wage fixation methods. Private employers and the Victorian Government are equally critical of the present wage environment. There appears to be general dissatisfaction with the current situation with no opportunity being given for a consensus on change.

. . . We believe wage and salary earners generally would favour changes taking place in existing methods of wage fixation so that a form of indexation could appropriately attach. The submissions put by the Australian Government also seem to suggest that some change in present wage fixation methods may be justified.

There may well be a give and take package on wage fixation procedures under which employers and employees would be prepared to include some form of indexation. These procedures may require both employers and employees to move from their present expressed positions but in an atmosphere of compromise we would hope that interaction between the conflicting views may well produce a satisfactory result.

The Commission in 1974 has been provided with a fresh approach to the case for indexation and if this 'new look' can provide the catalyst for significant long term improvement in industrial relations for Australia, then bold experimental steps should be adopted by the Commission for the fullest exploration of its potential.

For this purpose the President will call a conference of the principal parties who appeared before us and will seek the full assistance, co-operation and facilities of the Australian Government. The main purpose of the conference will be to see whether consensus can be reached on the two interacting issues—wage fixation methods and wage indexation'.[1]

After a series of informal discussions, the conference took place on 7 and 8 August and 15 October 1974 and although it provided a useful forum for a frank exchange of views, it failed in its main purpose of establishing adequate consensus on wage fixation methods and wage indexation.

We should point out in passing that although there was no confusion among those who participated in this case, there has been reference in public discussions to the 'reintroduction' of automatic quarterly adjustments and this does not show sufficient appreciation of the history of cost of living adjustments and of the issues before us.

What we are being asked to do is to apply quarterly adjustment to total wages, a principle which is significantly different in scope from the old quarterly adjustment of the basic wage. Because there is no longer a federal basic wage we can exemplify this difference only by reference to state systems where the basic wage remains. In New South Wales for instance the total rate for a fitter in the Engineers (State) Award is $106.90 of which the basic wage represents only $47.80. In Queensland, we were told, on average the basic wage is about half the total award wage. It follows that what we are being asked to do has little resemblance to earlier automatic quarterly adjustments. If we were simply

(1) 157 C.A.R. 293

'reintroducing' the old system and assuming a federal basic wage of similar proportions to those in New South Wales and Queensland, we would be introducing automatic quarterly adjustments to about one half or something less of the total wage.

The main issues raised in connection with indexation in the present case may be classified under three heads:

1. Should indexation be approved in principle and under what conditions?
2. If indexation is approved in principle, what form should it take?
3. If indexation is approved in principle and in form, when should it be introduced?

We will deal with the indexation claim under these heads.

1. *Should indexation be approved in principle?*

The case for indexation as put to us by its proponents rested on three main grounds. First, that it would help to moderate inflation. Second, that it is an equitable basis for wage adjustment. And third, as a consequence of these two grounds, much of the heat generated in industrial relations in the last few years would be reduced and greater industrial harmony could be expected to prevail. By granting indexation, the Commission would be fulfilling its economic, social and industrial functions.

The ground related to the moderation of inflation is based on the argument that when prices begin to rise at a more rapid rate than usual (for whatever reason), in order to protect the real value of wages, there tends to be built into wage demands an element to allow for future price increases. This is referred to as the 'inflationary expectations hypothesis' which has the support of a number of well known academic writers. The greater the strength of these inflationary expectations (which may not necessarily be articulated in the wage demands), the larger will be the claims which are pressed on employers and the greater the consequent rise in prices. Thus, in trying to anticipate inflation, wage demands tend to be higher than they otherwise would be and so tend to make price expectations a reality. This self-fulfilling element in the inflationary process, so the argument goes, can be eliminated by wage indexation which would produce lower overall wage settlements and lower prices.

Both the unions and the Australian Government do not rely simply on indexation as a means of reducing the current inflationary rate but regard it as an integral part of an equitable counter-inflationary policy.

The opponents of wage indexation, including the three professors of economics who appeared as expert witnesses, do not regard the inflationary expectations hypothesis as a significant element in wage demands. Professor Whitehead argued that the removal of such expectations by indexation would not greatly reduce wage demands but indexation would on the other hand add an automatic 'fourth tier' which would lead overall to larger wage increases and accelerate inflation. Under these conditions, industrial relations may well worsen. Professor Gates put the case in the following strong terms:

> 'It is perilous self-delusion to believe that successful wage demands will be reduced by the full extent of the wage gains through indexation. The total increase in wage payments is virtually certain to be faster with indexation than without indexation'.

On the equity ground for indexation, the proponents of indexation argue that wage justice requires the maintenance of the real value of wages; and the urgency for doing so increases with the rate of inflation. The erosion in the

real value of wages is not only unfair especially to the weaker sections of the work force but it is also a source of industrial frustration and discontent. Indexation would ensure that the real pay of all workers would be protected.

The opponents of indexation point out that for some years wages have kept pace with prices and productivity and that in 1974, wages rose well in advance of prices and productivity, with the consequent unfavourable effect on economic activity. Trying to maintain the real value of a wage which has risen greatly in excess of past prices and productivity would either add to inflation or aggravate unemployment or both. It would also be inequitable to those members of the community whose incomes were not subject to adjustment. As for improving industrial relations the unions had simply asserted and had advanced no convincing argument why industrial action would moderate with indexation. The aggravation of inflation following indexation would do the opposite.

Once again, references were made by both sides to the experiences of other countries. We reaffirm what we said last year. The experiences of other countries are interesting and in some ways illuminating. But we operate in a very different institutional setting and prescriptions for Australia based on these experiences must be treated with considerable reservation. The Commission must make its decisions on the best judgment of their implications for the Australian institutional environment.

We do not believe that all the evidence and argument which has been put to us can be said to have 'proved' or 'disproved' the case for indexation. We are still left with the question whether the total increase in wages and prices in Australia would be greater, less or approximately the same with or without indexation. In the end, whether it is 'perilous self delusion' or not to believe that indexation will lead to wage and price moderation, is a matter of judgment concerning what we consider to be a critical aspect of the indexation problem namely, the question of the magnitude of pay increases outside indexation and national productivity increases. This question depends on what wage fixing principles are selected to operate in conjunction with indexation.

Our 1974 decision shows our concern about this very question and we had hoped that the President's Conference might have resolved it by consensus. That hope did not materialize and we must now make a decision on the matter by resort to judgment in the light of all that has been put to us on the likely consequences of granting indexation.

For many years, the Commission rejected the claim for automatic quarterly cost of living adjustment on the grounds that it preferred to keep wage adjustments under its direct control in national wage cases. But the Commission has always been conscious of the need to take account of price movements in national wage cases. It is true that in more recent times with large and rapid price increases and wage increases outside national wage cases, it is difficult, under the system of annual national wage adjustments, to prevent a significant erosion of the purchasing power of national wage increases.

There is undoubted merit on grounds of equity and industrial relations for ensuring that real wages are maintained unless evidence can be adduced of consequential adverse economic effects. But such a principle can be applied in national wage cases only if pay increases outside national wage adjustments and indexation are within reasonable economic limits. Otherwise it is difficult to escape the conclusion that, even if it removed inflationary expectations from wage claims, indexation carries a high risk of accelerating inflationary tendancies if it adjusts excessive wage increases automatically for price increases every

quarter. This very point was significant in leading the Commission to adopt the course which it took last year. Has anything changed since then to warrant a more favourable view of indexation?

The private employers and the four States opposing indexation say nothing has changed to allay the misgivings expressed by the Commission last year. It was put in effect that nothing can change given certain features of unionism. The power of the rank and file, the requirements of union leadership, the structure of unionism and the absence of effective co-ordination among unions, cannot be expected, especially under conditions of high employment, to provide the necessary basis for indexation to lead to wage moderation. It would encourage the opposite tendency.

We believe, however, that since last year important changes in expressed Australian Government and ACTU attitudes on wage fixation have taken place and that these have evolved prior to and especially during the proceedings before us. The approach of the Government on the wage fixing requirements of indexation has undergone a fundamental change since it argued in support of this principle in the 1974 case. In that case, the Government was prepared to give open-ended support to wage indexation while in the present case, it put forward a rigorous set of conditions to accompany the application of indexation.

The Government supported indexation based on four principles 'on condition that wage claims for the next two years are limited in accordance with assurances to be given to the Commission'. The first is that adjustments will take place quarterly and automatically upon publication of the CPI; the second and third relate to the form of indexation which restricts full percentage adjustment to award rates at and below the most recent seasonally adjusted Average Weekly Earnings figure (the 'plateau') and adjust all award rates above this figure by a flat amount derived by applying the percentage change in the CPI to the Average Weekly Earnings figure. The fourth principle is that:

'There are to be no wage increases on account of price increases except as provided above. Wage increases are otherwise limited to those on account of changes in national productivity, work value or other special circumstances, but not including changes in relativities.'

Elaborating on the meaning of work value, Mr McGarvie said:

'The Government is not seeking restrictions on wage claims or in wage increases where there is a genuine change in work value. Justifiable grounds for wage claims would be changes in the nature of the work or in the conditions under which it is performed which should be recognised as factors deserving greater remuneration.'

And later:

'The use of the term "genuine work value cases" perhaps adds nothing to the original description except that it emphasises the fact that a case is a case because of what it is, not because of what someone seeks to name it and may even successfully seek to name it. In other words, it is put that if claims came before the Commission which were said to be work value claims but were claims that did not show that changes had occurred of the type we have outlined as justifying changes in remuneration then within the Government wage indexation scheme there would be no increase in remuneration.'

Mr McGarvie emphasized that under the Government indexation scheme, a mere change of relativity between or within awards would not warrant a wage adjustment. He also suggested that 'other special circumstances' will apply in 'rare and isolated circumstances'.

On behalf of the ACTU, Mr Jolly said:

'We would add that we consider that wage increases falling under the category of relevant or special considerations are likely to be rare and isolated. The ACTU proposals in this case are in line with the position of the Australian Government. While the ACTU has not attempted to define work value, this is a matter which will be argued before the Commission and ultimately decided by the Commission.'

It is to be noted that the Government's support of indexation on this occasion is subject to certain conditions, not only in regard to the four principles but also in requiring assurances from the trade unions. It should be emphasised also that similar strictures on the operation of indexation are made by the authorities Mr Jolly quoted in support of indexation which included Professors Downing and Harcourt, Dr Sheehan and Mr Bentley and the Institute of Applied Economic and Social Research. In other words, the misgivings the Commission had last year about what would have been in effect open-ended indexation, have been given explicit endorsement by the Australian Government and by the writers Mr Jolly quoted in support of his case, in relation to the limits on wage increases beyond indexation and national productivity. What are the prospects of these conditions being supported and observed by the unions?

We believe that the final submissions made by Mr Jolly on behalf of the ACTU at the last day of the hearing mark a new and positive approach to the issues of wage fixation methods and wage indexation and deserve to be tested in good faith by experience. We quote at some length the more important passages of this significant statement of the ACTU's attitude:

'. . . The Commission can only gain control over wage fixation if it has something new, different and positive to attract wage and salary earners back in from the field. . . . Clearly there is a missing link in the submissions put by the private employers and conservative State governments. Here are industry increases as a major part of wage determination, there is a Commission with jurisdiction for fixing award rates in a rational way and there is need for a more orderly system of wage determination which requires a declining influence in industry cases and an increase in the influence of the Arbitration Commission. Words from the Commission, we submit, will not suffice even in the current situation of high unemployment and weakened bargaining power in some industries. The ACTU submits the most positive action which the Commission could take at the present time would be to introduce wage indexation. We have argued at length how the introduction of wage indexation would reduce wage increases since the price expectation element of wage claims would be eliminated and the real wage would be guaranteed in an inflationary environment. The private employers and conservative interveners have stressed the standing of the Commission in the community and how words from the Commission on wage restraint is a positive solution to the problems of wage fixation. We submit that given the consensus which exists on the status of the Commission—and I remind the Commission in particular, of Mr Keely's words quoted above—"that this Commission more than any other body in the whole of the land is ideally situated to make that call"—that there is a very real chance that wage indexation will work to the satisfaction of all if introduced by the Commission now, and the Commission using its status clearly states the terms on which its introduction is made. . . .

'The introduction of wage indexation as envisaged by the ACTU would bring back immediately under the Commission's umbrella control over the majority of wage increases—price increases would be automatic for all and would not be sought on an industry basis—productivity hearings would be held annually and succinctly and would replace the larger national wage cases which now exist. Work value cases as traditionally defined would be arbitrated by individual members of the Commission. Other increases—which would be "unusual" or "rare and isolated" would be under the control of the Commission.'

Various other statements were made by the ACTU and by the peak councils of the white collar unions on certain key aspects of the indexation proposals. Considerable debate took place as to the meaning of the statements and the adequacy of their coverage, whether affiliates are sufficiently obligated by statements of their group councils, whether the statements amounted to undertakings or assurances, whether undertakings or assurances are an essential precondition to the introduction of indexation and so on.

In view of the decision we have come to, a detailed examination of these issues would not be very helpful at this stage. The various statements have been noted by the Commission as have the allegations of their shortcomings made by the private employers and the four States supporting them.

The course we have adopted will allow us to observe the performance of the unions rather than to interpret the words that have been used. There is much commonsense in the approach adopted by Mr Gradwell for the Council of Commonwealth Public Service Organizations where he pointed to the difficulty of giving an advance commitment to an unknown set of wage fixation conditions. We will remove this uncertainty by laying down what we believe to be the appropriate conditions under which indexation should operate; and the next few months will provide the opportunity for the viability of these conditions to be tested.

We take this course as we are of the view that some form of wage indexation would contribute to a more rational system of wage fixation, to more orderly, more equitable and less inflationary wage increases and to better industrial relations, *provided* that indexation was part of a package which included appropriate wage fixing principles and the necessary 'supporting mechanisms' to ensure their viability. This conclusion is not inconsistent with much of the evidence and argument put in opposition to indexation.

We spell out later the principles of wage fixation which we believe should be applied with indexation but briefly stated the effects of these principles are broadly in line with Mr Jolly's and Mr McGarvie's expectations and the views of the academic writers Mr Jolly quoted, namely, that wage increases other than those by way of quarterly indexation and national productivity would need to be small. The fundamental point of agreement between the proponents and opponents of indexation is that indexation would produce grave economic results unless increases in wage costs, outside indexation and national productivity, were small.

In this connection, Mr Jolly's expectation that 'work value and increases related to special considerations have a negligible effect on the total wages and salary bill.' take on a special significance and it is no exaggeration to say that this statement taken in the context of the ACTU's submissions on the last day of the hearing quoted above, has had a material influence on the outcome of these proceedings. Indeed, if the expectation is not realised, indexation would seem to have no future. It should be understood, of course, that 'work value and other increases', which the ACTU agrees, 'would be under the control of the Commission', must include those sought by consent. To suggest otherwise would render meaningless Mr Jolly's expectation on outside wage increases.

It follows from what has been said that indexation can either be a plus or a minus in terms of the interests of society as a whole. We have recognised its potential virtues but we are equally aware of its potential dangers. Regardless of the reasons for increases in labour costs outside national productivity and indexation, regardless of the source of the increases (award or overaward, wage or other labour cost) and regardless of how the increases are achieved (arbitration, consent or duress), unless their impact in economic terms is 'negligible', we believe the Australian economy cannot afford indexation.

The 'supporting mechanisms' needed to sustain these wage fixing principles would require the co-operation of all concerned in their application. Every award wage increase other than those by way of indexation and national productivity and whether by consent or opposed, will be monitored by the Commission and in our view should be refused unless it conforms with the principles.

The Australian Government has not only made a major contribution to the debate on indexation, it has also made a number of positive suggestions as to how it would act to ensure viability of indexation. We are conscious that the conclusions we have reached do not conform in all respects with the concepts put forward by the Australian Government, but we believe firmly that its support is vital to the success of our proposals. The Australian Government has said that it will intervene in relevant cases before the Commission; and it will also ensure observance of the wage fixing principles in the federal public sector. Although the detail of this policy was not spelt out, we understand it to mean that advantage will be taken of the procedure under the *Public Service Arbitration Act* to lodge objections in cases, thereby permitting the Public Service Arbitrator to monitor pay claims made under the Act. The Australian Government will make submissions to the Prices Justification Tribunal that wage increases including overaward payments which are inconsistant with principles of indexation be disallowed as a factor justifying price increases. In this connection, amendments to the relevant legislation would be considered if thought necessary in the light of experience.

We would add that an important adjunct to indexation, underlined by the trade unions and by the expert witnesses, is the structure of income taxation. It was stressed by the three witnesses who appeared before us that the 'tax-bite' must have been an important element in the size of wage claims in recent times. Professor Hogan, who opposed wage indexation, put it this way:

> 'It seems reasonable to suggest that some part of wage demands advanced recently, involving substantial percentage increases in pay, are based upon a recognition of the impact of the tax structure as much as anything else. Hence the appropriate techniques for anti-inflationary policy are to be found as much in the fiscal area as elsewhere when handling the wage/cost inflation process. This would involve negotiating and increasing the relative proportion of total money wages taken home. This 'take-home-pay' determines the standard of living of each salary and wage recipient. Accordingly, one major aim of policy would seem to be for progressive reviews of the existing income tax structure so as to curtail the impact of that tax structure on all income groups. It provides a basis on which there is a trade-off between reducing excessive demands for total money wage earnings and an increase in take-home-pay. There is an additional impact here because it reduces the wages cost to firms and other groups in the community.'

The need for 'progressive reviews' if not income tax indexation was stressed by all the unions as an important part of the overall scheme to moderate wage demands. The Resolution of the ACTU Special Conference on 25 September 1974 stated that 'until indexation of taxation is introduced, there can be no adequate protection against the erosive effects of inflation on real after-tax income. This effect has continued to be a significant factor in the level of wage and salary demands'.

It is not for the Commission, of course, to suggest what is an appropriate level and structure of taxation but we believe we have a duty to point out that we are impressed with the contention that the size of wage demands, especially in a period of rapid price change, is related to the level and structure of personal income taxation; and that the viability of our wage fixing principles will depend in part on the Government's constant sensitivity on this point. In this connection we note that currently there is a committee of inquiry on this very matter whose report to the Australian Government is expected shortly. It goes without saying that fiscal action which adds to costs and prices will have a direct and rapid effect on wage movements through indexation.

2. *What form should indexation take?*

We noted in lasts year's national wage case that there was a difference among the unions on the form of indexation. The ACTU unions asked for a flat amount adjustment resulting from a percentage application of the CPI to the average federal award wage rate. The other unions claimed the full percentage form to be applied to all award rates. The Australian Government supported a flat sum based on the application of the CPI to the Minimum Wage.

In the present case, all the unions have asked for full percentage indexation of award rates, while the Australian Government has proposed full percentage adjustments of award rates up to and including the most recent seasonally adjusted Average Weekly Earnings figure; all award rates above this level would be adjusted by the same amount, this amount being the CPI percentage of the Average Weekly Earnings figure. The Australian Government called its formula 'plateau indexation', Average Weekly Earnings being the plateau. Under its plan, there are further requirements related to indexation of overaward payments, but the maximum amount which may be awarded under this formula to any combination of award rates and overaward payments is the CPI percentage applied to the 'plateau', this sum being referred to as the 'level amount'.

In view of the gravity of the current economic situation and the substantial fall in profitability, the concern of the Government for a scheme which in the next two years will minimize the increase in the wages and salaries bill is understandable. But the evidence presented by the Government shows that its plateau indexation scheme as compared with full indexation, would involve a difference to the wages and salaries bill estimated at between 0.5 per cent and 0.7 per cent in the first year. This is not a substantial amount and must be balanced against other considerations.

Plateau indexation along the lines proposed by the Government perhaps in the face of a large price increase over the next two years, would lead to a considerable and rapid compression of relativities as well as a loss of real income to those above the plateau. It is clear from the submissions of the white collar unions that such a prospect would be strongly resisted by those unions, especially as a marked compression has already occured during the last few years.

The economic-industrial aspects of adjusting wages to prices are far from simple or constant over time. Two elements are involved—maintenance of purchasing power and maintenance of relativities. The first is concerned with real income and the 'standard of living' which it affords, and the other with economic incentives and with the status which attaches to wage and salary levels at the place of work and in the community. Any system which gives less than full percentage indexation leads to a decline in real income; and a system, like the plateau system, which gives those above the plateau a declining percentage increase, leads to both compression of relativities and a decline in real income of those above the plateau. Moreover, the real income at various levels of pay can be altered by the tax scale and by social service benefits without affecting pay relativities.

Since introducing the total wage concept, the Commission has consciously and deliberately adopted a flexible approach to the form of national wage increases—flat rate, uniform percentage and a combination of both have been applied—in the light of industrial, social and economic considerations. If indexation is to be introduced, the same flexibility of approach would seem to be indicated. However, this is a matter which needs to be further debated, and in particular we would invite constructive suggestions from the private employers and the State

governments which have opposed indexation in principle and, understandably, have not made any submissions on the form of indexation. Consensus between the parties on the form would, of course, have a significant influence on the Commission's decision on the matter.

In the present case, views were expressed on the Government's plateau form and the unions' full percentage indexation. There are intermediate forms which have not been discussed. For example, it would be of interest to have views on the merits of a form which applies the full percentage CPI movement to say, a rate of pay up to $300 per week, and half of this percentage to that part of pay over $300. It would, of course, be possible to vary the pay limit for full percentage indexation as well as varying the percentage to be applied to the higher portion of pay. For instance, the amount might be $200 and the fraction of the full percentage might become three-quarters. Further, it may be wise to adjust fully all rates of pay when any quarterly change in the CPI is less than 2 per cent.

We invite discussion on the form of indexation and the case for a more flexible approach to it in the context of other matters related to indexation. We should point out, however, that the question of its form and frequency of change in the future is a matter which would have to be settled in the light of the submissions of the parties, the size of the increase to be made and other relevant circumstances. It is our present view that the Commission should be unfettered to decide each quarter the form by which CPI adjustments should be made, and we invite comment on this procedure. Experience may show that changes in form need not take place as frequently as each quarter.

3. *When should indexation be introduced?*

The Australian Government submitted that indexation should commence from the March 1975 quarter and, subject to their total wage claims which are considered later, all unions agreed with this. The question then is whether indexation should commence with the CPI for the March 1975 quarter or later.

We have decided to deal separately with two matters. The first is to consider whether a CPI adjustment should be made immediately on the March quarter figure; and the second, to put forward details of wage fixation principles including indexation which we would expect to be debated following publication of the June quarter CPI in July. As we have said earlier, because during the proceedings much more attention was devoted, understandably, to the case for and against indexation on principle rather than the precise details of any order we might make, we believe that an opportunity should be given for all to make submissions on our proposed indexation package which embodies ideas which have not been fully debated. We are especially conscious that the private employers and the Governments of New South Wales, Victoria, Queensland and Western Australia concentrated on total opposition to indexation and did not deal with the details of indexation which we believe are crucial to its success.

For this reason we are not prepared now to adopt an integrated wage fixation package which includes indexation but nevertheless we find it possible for reasons we explain to adjust wages for the Consumer Price Index movement in the March quarter. This course will allow the viability of the proposed conditions and the proposed supporting mechanisms to be observed and it will also allow the results of such observation to form part of the subsequent debate.

(a) *The March Quarter Adjustment*

The current state of the economy, the uncertainty in the immediate economic outlook and the fact that the increase in real wage rates in 1974 was well above normal, are all highly relevant to the question of whether any further general increase in pay on whatever basis—productivity or prices—should take place now. The absence of up-to-date statistical information to indicate whether the economic recovery has begun adds considerably to our difficulty.

On estimates supplied by Mr McGarvie, the implicit deflator (Gross Non-Farm Domestic Product), which by common consent is a better indicator of profit recovery than the CPI, would have to rise by about 16 per cent for the two quarters December 1974 and March 1975, to catch up with the increase in unit labour costs since the September 1973 quarter, a quarter chosen by him as the base period. The December 1974 quarter has provided an increase of only 4.3 per cent of the estimated 16 per cent required for this catch-up. From the economic evidence before us, it seems highly unlikely that the gap will be adequately filled by the movement in the implicit deflator in the March 1975 quarter. The continued rise in the seasonally adjusted unemployment rate in March points to further caution in any move which adds to costs.

Against this, Mr Jolly has submitted that there are various elements in the CPI (the slowing down in food price increases, the reduction in sales tax on motor cars, the decreasing proportion of excise tax in costs, increased subsidies on government services and the slowing down of international price rises) which will ensure that in the immediate future this index will rise relative to the implicit price deflator at an even slower rate than in the last few quarters. The use of the CPI for wage indexation means that this margin reflects the difference between the resulting wage increase and the prices received by employers and, therefore, recovery in profitability should take place despite the wage increases. In addition, the upswing in economic activity should be accompanied by an increase in productivity as the scale of production moves to a more efficient level and overheads are more fully used.

We believe that Mr Jolly is unduly optimistic both about the significance of the substantial reduction which has occurred in profitability and the extent to which it will recover in the immediate future with indexation. From the point of view of ensuring economic recovery and a lowering of unemployment from its present high level, the safest course might be not to add to wage costs for the present. We note again Mr McGarvie's submission that 'The prospects for the economy in the immediate future will depend crucially on the behaviours of wages and the extent to which business profitability can be restored without stimulating further rounds of wage increases'. Despite this, the Australian Government asked us to introduce its form of indexation from the March quarter. Bearing in mind the whole of our decision and our expectations in this case, we believe that for industrial relations considerations it would be unrealistic for us to allow real wages to fall as a result of the rise in the March quarter CPI. Provided that in the immediate future the general wage level does not rise much above the movement in the CPI we believe that economic recovery will not be unduly impaired.

We note that although he was opposed to indexation in any form, Professor Whitehead, in response to questions, suggested that while the Commission should not increase award rates at present, it should announce that if, over the next 6 months, average earnings kept within the increase in the CPI, the Commission would then award a total wage increase of say 2 per cent as

a positive encouragement to wage restraint. The question posed by Mr Jolly is whether these wage adjustments for prices should come piecemeal and unevenly in the field or from the Commission by indexation. Provided that the strictures on industry increases apply, we are clear in our preference that the increases on account of prices should come from the Commission.

It is on this expectation that we have decided to adjust all award rates for the CPI increase in the March 1975 quarter. As to the form of increase, we have had regard to the very small difference in cost between full percentage adjustment and the Government's plateau form noted earlier, to the marked compression of relativities which has taken place in recent years, to the advisability of avoiding industrial disputation on this issue in the period before further debate, to our decision on total wage and to the impending report of the committee of inquiry on the related issue of income taxation. For all these reasons, we have come to the conclusion that it would be wise to adjust all ordinary award rates and rates for leading hands by the full 3.6 per cent increase in the CPI for the March 1975 quarter.

(b) *Principles of wage determination*

We will sit again this year following the publication of the June quarter CPI in July to hear submissions on the following wage fixing principles and we also invite submissions as to the period for which they should operate:

1. The Commission will adjust its award wages and salaries each quarter in relation to the most recent movement of the six-capitals CPI unless it is persuaded to the contrary by those seeking to oppose the adjustment.
2. For this purpose, the Commission will sit in April, July, October and January following the publication of the latest CPI. We expect the time of such hearings to be short.
3. Any adjustment in wage and salary award rates on account of CPI should operate from the beginning of the first pay period commencing on or after the 15th of the month following the issue of the quarterly CPI.
4. The form of indexation will be determined by the Commission in the light of circumstances and the submissions of the parties, provided that an increase of less than 2 per cent in any one quarter should be applied fully to all award rates.
5. No wage adjustment on account of the CPI will be made in any quarter unless the movement in that quarter was at least 1 per cent. Movement in any quarter of less that 1 per cent will be carried forward to the following quarter or quarters and an adjustment will occur when the accumulated movement equals 1 per cent or more.
6. Each year the Commission will consider what increase in total wage should be awarded on account of productivity.
7. In addition to the above increases, the only other grounds which would justify pay increases are:
   (a) Changes in work value such as changes in the nature of the work, skill and responsibility required, or the conditions under which the work is performed. This would normally apply to some classifications in an award although in rare cases it might apply to all classifications.

(b) Catch-up of community movements. As a result of a series of industry wage increases last year a firm base has been widely established with appropriate relativities between and within awards on which indexation can be applied. However, there may be some cases where awards have not been considered in the light of last year's community movements. These cases may be reviewed to determine whether for that reason they would qualify for a wage increase but care must be exercised to ensure that they are genuine catch-up cases and not leapfrogging. It will be clear that this catch-up problem is a passing one and should not occur under the orderly system of wage fixation we propose as the basis of indexation.

It is to be understood also that the compression of relativities which has occurred in awards in recent years does not provide grounds for special wage increases to correct the compression. Compression is a matter which could be raised for consideration in cases dealing with the form of indexation and in cases dealing with national productivity distribution.

8. Any applications under paragraph 7 above whether by consent or otherwise will be tested against the principles we have laid down, and viewed in the context of the requirements for the success of indexation. This does not mean the frustration of the process of conciliation but it does mean that the Commission should guard against contrived work value agreements and other methods of circumventing our indexation plan. We draw attention to section 4 (1) (q) of the Act which says that the meaning of 'industrial matters' 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'.

It should be understood that these principles also apply to matters under the *Public Service Arbitration Act*.

We realise that our decision in respect of paragraph 7 may create difficulties in cases which involve claims going beyond the limits of the principles we have set down; but we believe that these issues should not be dealt with until the later hearing has provided an opportunity for all such issues to be discussed and a decision on them has been made.

As part of the proceedings before us to discuss the principles, we will hear submissions as to what should be done about the CPI movement in June. It is our present intention that provided there has been substantial compliance with conditions 7 and 8 above we will apply our principles to the June figure but on this occasion, because of the longer hearing which may be involved, it may not be possible to grant any increase which would operate from as early as 15 August.

We note that the Australian Government has said that it intends to set up a standing tripartite commission 'to review the composition and structure of the price index used for the purposes of indexation, and to supervise its compilation', should indexation be introduced. However, we would draw attention to another statistical problem. We referred earlier to our difficulty in having to make a decision in a period of rapid change on inadequate information and published statistics which are several months behind. We understand the unavoidable lag in the publication of statistics but we would nevertheless urge all concerned with

the later hearing to assist us, especially on wage changes, with material which is as recent as possible. The President will convene a conference of the principal parties and representatives of the relevant government departments to consider the problem we have just raised.

We stress that our decision to adjust the total wage for the March CPI movement and our present intention to make a further CPI adjustment following the June quarter movement are based on the expectation that the relevant terms of our proposal are substantially complied with until we have had an opportunity of further debate. It is our earnest hope that all sections of the trade union movement will be able to express their co-operation on the conditions of indexation when our proposal is being considered. It is our view that indexation cannot work unless the same wage fixing principles apply to all our awards.

If we appear to be somewhat over-cautious about introducing indexation, it is because it is a momentous step going well beyond the old system of basic wage cost of living adjustments in scope; it is because we are concerned about the current difficulties which the economy faces and do not wish to add to them; and it is because indexation can have far-reaching consequences—economic, social and industrial—which may be good for the country but which, if the conditions we have set down for indexation are violated, will be seriously detrimental to the country. Violation even by a small section of industry whether in the award or non-award area would put at risk the future of indexation for all. Moreover, the success of indexation rests heavily on the supporting mechanisms which are outside the Commission's control. The Commission does not operate in an institutional vacuum and the outcome and the future of indexation will, therefore, depend not only on the Commission's decisions but also on the extent to which unions, employers, the Australian and State Governments and ultimately the public at large are prepared to lend their weight to the conditions necessary for the success of indexation.

TOTAL WAGE

The unions also sought an increase in the total wage on account of productivity and to varying extents of C.P.I. movements before the March 1975 quarter. The total wage so adjusted would then be the base on which indexation would apply as from the March 1975 quarter.

Three issues were raised in this connection:

1. An increase in the total wage.
2. Whether the increase on account of productivity should be a flat amount or on a percentage basis.
3. How productivity should be measured.

On the first issue, the outstanding considerations are the increase in real wages which has occurred in 1974, especially since the last national wage decision, and the circumstances, current and in the immediate future, of the economy. It is clear from the statistics we have quoted that wage and salary earners have enjoyed during 1974 on the average more than twice the normal increase in real wages despite a period of declining productivity. Most of these wage increases have occurred outside the 1974 national wage decision. Mr Maddern showed that between the 1973 and 1974 national wage cases (May to May), federal male award rates increased by 27.5 per cent, of which only 5.8 per cent could be attributed to national wage. In the six months after the national wage decision of 1974, there was a further increase of 9.9 per cent in award wage rates.

We have also taken account of the Australian Government's decision late last year to reduce personal income tax rates specially to compensate wage and salary earners for price increases in order to avoid the need for CPI adjustments before the March 1975 quarter.

In view of what we have proposed above in connection with indexation and the immediate adjustment of the total wage by the March quarter CPI, we believe that any further increases would delay economic recovery and may also aggravate the inflationary and unemployment situation—an outcome which is not desired by anybody before us. However, we have come to this decision not only on economic grounds but also because we believe that ample wage justice has been served by the magnitude of the general pay increases during 1974 which have, on the ACTU's own standards, more than anticipated two years normal growth of productivity.

The question of a productivity adjustment could well be considered later in the year and preferably in six months' time when it is generally hoped the economy will be in a better state.

Our decision on the first issue makes it unnecessary for us to deal with the other two questions. However, in view of the importance placed by the unions on the market sector as providing the appropriate basis for productivity measurement in annual national wage cases, we would record the Commission's interest in a fuller discussion of the matter. The Australian Government has set up a working party to study this question and the private employers, while maintaining the validity of the traditional Gross Domestic Product measure, decided to await the working party's report before making any detailed observations.

MINIMUM WAGE

It remains for us to consider the minimum wage application.

On 18 December 1974, we awarded an increase of $8 in the minimum wage on the understanding that 'the rights of parties and interveners must be reserved to argue minimum wage issues in the wider context of the total claim'.

The ACTU, supported by the other unions, has re-submitted its claim for a rise in the minimum wage on the basis of 90 per cent of the most recent figure of the average federal award rate, a mathematical relationship which existed at the time of the first minimum wage was fixed in 1966. On this basis, an increase in the minimum wage of $17.76 or 23.4 per cent would be required to make it equal to 90 per cent of the December 1974 average federal award rate. In addition, full indexation as from the March 1975 quarter is claimed.

The ACTU also put forward for the Commission's consideration an alternative approach to take account of more recent price and productivity movements. The minimum wage increase on this approach would range from $5.18 to $6.88. The minimum wage so adjusted would form the base on which indexation should apply as from the March 1975 quarter.

The private employers rejected the claim for any increase while the Australian Government and the States made no submission on this part of the claim.

In our December decision we rejected the concept of a mathematical formula for the purpose of fixing the minimum wage as well as references going back beyond the last fixation of the minimum wage. We do so again now.

Since our December decision, the relevant new material which has been brought to our notice relates to the state of the economy and the movement in the CPI. The tax concessions made by the Australian Government in

[*The Commission*

November 1974 for the specific purpose of obviating the need for wage adjustments to compensate for the increase in the December 1974 quarter are also relevant to the minimum wage. We note that the $8 increase applied to the Melbourne Male Minimum Wage in December represented an increase of 11.8 per cent which may be compared to the increase of 9.4 per cent in the CPI covering the June and September 1974 quarters. The question of an increase on account of productivity will be considered together with the total wage later this year. In these circumstances, we have decided that an increase in male minimum wages of $4 inclusive of the increase on account of the March 1975 quarter CPI movement is fair and proper.

This makes a total increase of $12 in male minimum wages as a result of this case. A further CPI adjustment will take place on the June quarter figure unless the Commission can be persuaded to the contrary.

As determined last year, the female minimum wage will stand at 90 per cent of the male minimum wage until 30 June 1975 whereafter the full male minimum wage will apply.

The explanatory note signifying that the new minimum wages do not provide any reason for any change in award rates of pay which are below or above the appropriate minimum wage, will be retained in awards.

FORM OF ORDERS

The variations* of the awards and determinations we make will operate from the beginning of the first pay period to commence on or after 15 May 1975. The variations of the awards will operate for a period of 3 months therefrom. Weekly rates payable are to be calculated to the nearest 10 cents and annual rates to the nearest dollar. Where necessary, junior rates will be adjusted by the same percentage as rates for adults, namely 3.6 per cent. The form of the orders necessary to give effect to the decisions under the *Conciliation and Arbitration Act* will be settled by the Registrar with recourse to a member of this Commission. The form of the determinations will be settled by the Public Service Arbitrator.

All matters before us are stood over to a date to be fixed.

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* The orders are printed and published separately—*see* serial numbers C2203 and C2204

TABLE 1

Persons Registered as Unemployed with the Commonwealth Employment Service and Hours Per Employee of Overtime Worked

Period	Percentage of labour force registered as unemployed (Seasonally adjusted)	Average number of hours of overtime worked per employee (Seasonally adjusted)
1974—January	1.5	3.9
February	1.4	3.9
March	1.4	3.8
April	1.4	3.7
May	1.4	3.7
June	1.4	3.5
July	1.7	3.5
August	2.1	3.3
September	2.4	3.1
October	3.2	2.9
November	3.6	2.5
December	4.1	2.2
1975—January	4.1	2.1
February	4.4	2.3
March	4.6	

Source—Department of Labor and Immigration

TABLE 2

Percentage Changes in Weekly Wage Rates, Average Weekly Earnings and Consumer Price Index

Quarter	Weekly wage rates—Adult Males—Federal Awards		Weekly wage rates—Adult Females—Federal Awards		Average weekly earnings per Employed Male Unit (Seasonally adjusted)		Consumer Price Index (six capitals)	
	A*	B*	A*	B*	A	B	A	B
1973—March	2.5	11.1	1.5	9.2	1.9	8.4	2.1	5.7
June	5.7	13.8	9.3	15.2	4.2	11.7	3.3	8.2
September ..	4.6	16.1	4.3	18.6	5.3	14.2	3.6	10.6
December ..	1.3	14.9	4.8	21.3	2.8	14.9	3.6	13.2
1974—March	1.3	13.6	5.0	25.9	3.6	16.8	2.4	13.6
June	18.6	27.3	13.7	32.8	6.0	18.8	4.1	14.4
September ..	7.6	30.2	13.1	42.7	10.9	25.2	5.1	16.0
December ..	4.8	35.0	4.8	41.5	4.9	27.7	3.8	16.3
1975—March							3.6	17.6

A = Increase on previous quarter.

B = Increase on corresponding quarter in previous year.

* Based on monthly averages.

Source—Australian Bureau of Statistics
Wage Rates and Earnings—Various
Consumer Price Index—March 1975

TABLE 3

Percentage Increases in Real Wages

Period	Real Male Minimum Award Rates (Federal) (Based on monthly averages)	Real Average Weekly Earnings (Based on quarterly averages)
1968–69	4.8	4.7
1969–70	1.7	5.1
1970–71	3.4	6.0
1971–72	4.1	3.0
1972–73	5.0	3.5

Source—Australian Bureau of Statistics.
Wage Rates and Earnings—Various Issues
Consumer Price Index—December Quarter 1974.

TABLE 4

Balance of Payments—Current Account and Level of International Reserves

Quarter	Balance on Current Account (Seasonally adjusted)	Level of International Reserves
	$m	$m
1973—September	7	3,932*
December	62	3,871
1974—March	−285	3,750
June	−562	3,560
September	−562	3,348*
December	−381	3,217

* Substantially affected by revaluation of the Australian dollar.

Source—Australian Bureau of Statistics.
Balance of Payments: December Quarter 1974

TABLE 5

Components of National Income and Expenditure and Productivity

	Quarter					
	1973		1974			
	Sept.	Dec.	Mar.	June	Sept.	Dec.
Gross Private Expenditure (percentage change)						
Dwellings	+1.5	+0.5	−3.4	−4.7	−10.1	−2.6
Other Buildings and Construction	−1.2	+6.9	+0.8	−8.0	−3.7	−1.7
All Other	+10.6	+7.1	−1.7	−3.3	+7.2	−12.1
Increase in Stocks ($ *million*)						
Private non-farm	−122	127	369	284	277	353
Consumption Expenditure (percentage change)						
Private	+0.7	+0.7	+1.7	+1.1	−0.4	−0.9
Gross Operating Surplus of Companies —as a percentage of Gross Domestic Product at Factor Cost	15.9	14.6	14.9	13.2	10.6	11.9
Wages, Salaries and Supplements —as a percentage of Gross Domestic Product at Factor Cost	58.8	59.9	61.3	64.0	68.2	67.4
Productivity—percentage change in:						
(1) Gross Domestic Product per person in employment	+0.8	−0.6	+0.2	−1.1	−2.2	+1.7
(2) Gross Non-farm Product per person in employment (excluding agriculture)	+0.8	−1.0	+1.0	−1.2	−2.1	+0.4
						Year—1974
(3) Gross Domestic Product per person in employment						−0.9
(4) Gross Non-farm Product per person in employment (excluding agriculture)						−0.9

All indices based on average 1966–67 prices and all quarterly figures on seasonally adjusted data.

Source—Australian Bureau of Statistics

Quarterly Estimate of National Income and Expenditure—December Quarter 1974—Preliminary Statement

Labour Force—August 1974

Labour Force—November 1974—Preliminary Statement

[*The Commission*

ANNEXURE 'A'

On 3 September 1959 the following statement was given by the Commonwealth Conciliation and Arbitration Commission during the course of the Margins Case of 1959:

Kirby C.J., President:

In view of the Commission's time table and the program outlined in regard to the subject of over award payments, cross-examination and proof of various matters in relation to that subject, I felt that I should make this statement at the present moment.

Assuming the relevance of the subject of pressures of employers to obtain marginal increases, we are concerned that the method by which such of those pressures as may be in breach of the award or of the Act should be proved in this proceedings. Application has been made by certain employers represented by Mr Menhennitt and Mr Dey for the issue of subpoenas for the production of documents which, if scrutinised, may incriminate witnesses or organizations or officers of those organizations who are not witnesses.

Very properly, Mr Dey informed me that application would be made for these subpoenas, or was being made for them, and then it fell for me to decide whether I would deal with them or whether the Commission would deal with them or whether the Registrar would deal with them.

I have since considered the matter and have discussed it with my two colleagues. It seems to us that, at least *prima facie*, which Commission should not, in arbitration proceedings of this particular nature and in the setting of our overall task of promoting goodwill in industry, promoting conciliation and arbitration with a minimum of legal form and technicality, put persons in the position of proving or helping to prove breaches of the law by themselves or by organizations of which they are officers.

If this tentative view is correct, any party would not be barred from calling direct evidence from its own witnesses to prove any relevant fact or facts. We have a wide discretion and suggest no improper motive at all in Mr Menhennitt seeking to prove this portion of his case by cross-examination. However, our primary task is such that, at this stage, we would feel that subpoenas should not be issued in respect of the material described in the transcript by Mr Menhennitt, which Mr Hawke did not agree to produce or, more specifically, said he would not agree to produce.

I make this statement at this stage having regard to the Commission's programme for Tuesday next and the following days, so that Mr Menhennitt may be heard at the earliest opportunity, if he so wishes, and so that he may have an opportunity of making submissions to the contrary. I thought it appropriate to make this statement at this stage so that Mr Menhennitt could give some reflection to the position over the lunch hour.

On 4 September 1959 the following announcement was made in connection with the 1959 Margins Case:

Kirby C.J., President:

I will now make an announcement on behalf of the three members of the Bench in relation to the matter that was debated yesterday afternoon:

1. The Commission is of opinion that the power conferred by sub-section (n) of Section 41 to compel the production before it of books, papers, documents and things is discretionary and not mandatory.

2. In view of Mr Hawke's intimation of 2 September 1959 that the witnesses he will call on Tuesday next will produce documents of the type he indicated, the Commission decides that it will not issue a summons or summonses for the production of such documents.
3. Having regard to the nature of its functions and of these proceedings and of the issues which may be involved in the subject of over-award payments the Commission, at this stage on the material and arguments so far before it, will not issue a summons or summonses for the production of the other documents described in the pro forma summonses tendered by Mr Menhennitt.
4. The Commission will, if desirable or necessary at any later stage of the proceedings, decide, in the circumstances then obtaining, including the nature of evidence tendered by any party, whether any person or persons will be required to produce before it any books, papers or documents.
5. The present decisions of the Commission are, and its future decisions on this matter will be, taken on its judgment of what is necessary for the expeditious and just hearing and determination of the disputes before it.

ANNEXURE 'B'

On 3 May 1966, in the course of the Basic Wage, Margins and Total Wage Case of 1966, the advocate for the Electrical Trades Union of Australia and others, submitted to the Commonwealth Conciliation and Arbitration Commission that the Commission should request the Chairman of the said Committee, Sir James Vernon, to present himself to the Commission for questioning by the Commission and the parties to the proceedings, after stating that Counsel for employers generally had relied upon a report made by The Committee of Economic Enquiry.

On 4 May 1966 the Commission made the following announcement:

The Commission is not prepared to take the initiative on procuring the attendance of Sir James Vernon as a witness in these proceedings. We think that is a matter in which any party desiring his attendance should move by way of the appropriate procedures prescribed by the regulations.

On 6 May 1966 the Commission heard submissions from the principal parties to the proceedings concerning an application by the Electrical Trades Union of Australia and others for the issue of a subpoena to Sir James Vernon.

On the same day the Commission issued the following decisions:

Wright J.:

Mr Justice Gallagher and I would allow the application.

Moore J.:

The discussion this morning has raised serious problems in my mind both for the parties and the Commission. I have weighed as best I can all the submissions which were put before us, and in particular the submissions made by the Commonwealth on the public policy involved on the issue of this summons.

On balance, I would rule against the unions and I would not issue the summons requested.

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Wright J.:

The Commission will authorise the issue of the summons which Mr Hawke has sought and authorise the Registrar to execute it—seal it.

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

In the matter of the *Conciliation and Arbitration Act* 1904-1974

and of

THE GAS INDUSTRY SALARIED OFFICERS FEDERATION AND SOUTH AUSTRALIAN GAS COMPANY AGREEMENT, 1973

(C No. 1852 of 1973)

(C No. 2857 and 2858 of 1974)

Variation of agreement—Salaries—Agreement varied.

1974. ADEL. Aug. 1975. MELB April — Comr Vosti.

On 11 July 1974 applications were filed on behalf of The Gas Industry Salaried Officers Federation for an order varying the above agreement made on 16 July 1974[1] and certified pursuant to section 31 of the *Conciliation and Arbitration Act* 1904-1974 on the same day.

The applications came on for hearing before the Australian Conciliation and Arbitration Commission (Mr Commissioner Vosti) in Adelaide on 14 August 1974.

R. E. Rathbone and *T. Pierson* for The Gas Industry Salaried Officers Federation.

R. A. Ward and *P. Rosser* for the South Australian Gas Company.

On 30 April 1975 the following order was made by the Commission:

Order and prescribe:

That the said agreement be and the same is hereby varied in manner following that is to say:

1 By deleting clause 2—Rates of Pay, and inserting in lieu thereof:

2—RATES OF PAY

Subject to the provisions of clauses 3 and 5 of this Agreement the following rates of pay shall apply to the classifications shown hereunder:

Special Classes

	Per annum $
Class 1—Manager Residential Sales; Chemical Engineer; Manager L.P.G. Division; Despatch Engineer; and Planning Engineer—	
1st year of service	12,727
2nd year of service	13,116
3rd year of service	13,520
Class 2—	
1st year of service	12,082
2nd year of service	12,472
3rd year of service	12,887
Class 3—Plant Superintendent, Osborne; Mains Superintendent; Assistant Manager Industrial Gas; Manager Data Processing Division; and Manager Stores Division—	
1st year of service	11,694
2nd year of service	12,110
3rd year of service	12,525
Class 4—Accountant; Manager Customer Accounting Division; and Manager Autogas Division—	
1st year of service	11,317
2nd year of service	11,733
3rd year of service	12,123
Class 5—Manager Share Department; Purchasing Officer; and Market Research Officer—	
1st year of service	10,781
2nd year of service	11,089
3rd year of service	11,411

[1] 159 C.A.R. 370