

**National Wage Fixation in Australia
An Employer Perspective**

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The Australian Constitution gives the Commonwealth Parliament power to make laws for the prevention and settlement of industrial disputes extending beyond the limits of any one State, by way of conciliation and arbitration. This power was exercised in 1904 with the enactment of the Conciliation and Arbitration Act.

The centralised system of workplace relations has been nothing if not central. It is a system that has intruded into every aspect of the relationship between employers and employees and it has coloured the entire framework for workplace relations. It is an institution that is unique to Australia and which has worked, when it has worked well, when those who have framed its decisions have understood both contemporary industrial requirements and the economic circumstances of the times.

The tensions that have surrounded the workings of the centralised system have been based on the triangular requirements of seeking industrial peace, economic prosperity and a sense of fairness in outcomes. The question that has, of course, been asked since the very initiation of this system is whether any such outcome as a 'fair wage' can exist that is meaningfully different from the wage that would allow all workers who wish to be employed to find jobs.

In a slightly more sophisticated form, this question asks whether the wage structure that has been imposed on the Australian economy by such centralised decisions has meant that the direction of production has been distorted in ways that have kept productivity below levels that could otherwise have been reached, and therefore has kept living standards lower than their potential had our industrial relations system developed in a different direction.

Yet the reverse question has also constantly been asked. Has the centralised system in Australia meant that Australia has had a more quiescent industrial relations system than elsewhere and has it contributed to the well recognised fact that this is a more conservative society than that found in Europe and interestingly, in the United Kingdom. Although Australia has had a long history of industrial disputes, they have been characterised in particular by their brevity. Although there have been episodes of protracted industrial conflict at certain times and in certain industries, in comparison to other economies most, but by no means all disputes in Australia have been brought to an end within a short space of time.

More importantly in this regard, it is worth asking whether because of an industrial relations system that dispenses 'fairness' that the radical types of extremist parties have never truly succeeded in Australia at the political level. Although unions have often been dominated by an extreme left-wing leadership, this radicalisation has seldom spilled across into the political sphere. It has allowed Australia to elect the first Labour Government in the world yet never to be visited by the kinds of social upheaval that have often led to mass displays industrial struggle. The 1926 General Strike in the UK would be the kind of outcome to which Australia has never been prone. The existence of a body dispensing 'wage justice' may be in large part responsible for this result.

Still the antagonism of an industrial relations system that has imposed workplace outcomes, both in wages and conditions, has weighed heavily on business. The imposition of wage levels or other workplace benefits that not all firms could afford has meant that firms have not been in full control of their own cost structures. Centralised decisions have spread increases across the entire economy with only limited regard to the individual circumstances of firms who have been compelled to pay.

It has therefore been, from the very start, an imperative amongst businesses to limit the extent to which such centralised decisions could influence outcomes within their own places of work. The ability to craft their own structure of wages and conditions suited to their own circumstances has remained at the core of employer policy across the years.

Yet while the aim has been to limit such involvement, it has not been the intent or aim to remove it altogether. There is no system anywhere in the world where governments do not involve themselves in workplace outcomes to some degree. Minimum wages are virtually universal. So too is workplace legislation that demands that employers bargain in good faith with unions or other worker representatives. There is nothing unique in any of this. What is unique is that the system in Australia is at arm's length from the government and the Parliament due to the constitutional limitation on federal governments to legislate on industrial matters.

The following provides an employer view of the history of centralised wage fixation from its inception in 1907 through to the end of indexation in 1981. In this discussion, it will be seen that employers have sought economically sustainable outcomes, the unions a continuous series of increases in wages and benefits and the tribunals have made the effort to mediate between what it saw as the 'fair' outcome. It is the pursuit of a 'just wage' which has been the aim of tribunals since the very start. It need almost not be stated that employers have thought of this as an expensive and thoroughly unattainable quest, while the union movement, at least in the eyes of employers, has shown itself almost perennially dissatisfied with whatever it has achieved.

The role of tribunals has it should be noted been circumscribed by its constitutional mandate 'to prevent and settle industrial disputes'. The aim in making determinations has

been to diminish industrial disputation, and while there may have been an overemphasis on dispute resolution at some stages relative to the need for economically productive outcomes, no one doubts that limiting the damage from industrial disputation is an important objective. It is one that is supported by employers who have worked with the centralised system over the past hundred years to achieve outcomes that are to the benefit of the entire community. That there has been fundamental and often bitter disagreement with particular decisions has not meant that there is not a shared value in limiting the damage that disputes can cause while also wanting to ensure that real wages and the working conditions of employees continued to rise alongside the growing prosperity of the Australian economy.

Establishment of the Court of Conciliation and Arbitration

The Court of Conciliation and Arbitration, established by the Act, came into existence in 1904 but it was not until 1907 that the Court, through its Harvester Judgement, first began to involve itself in the determination of national minimum standards of remuneration applicable across the broad spectrum of industry and commerce.

Since that time, the national wage decisions of the Court and of its successors, firstly the Conciliation and Arbitration Commission and now the Australian Industrial Relations Commission, have continued to assume a role of major importance in the economic policy structure of Australia.

This paper has been produced with the aim of providing an employer perspective on the major national wage decisions which have taken place through the formal system of conciliation and arbitration since 1907 and which in turn have played a major role in shaping the social and economic fabric of Australia over the past hundred years.

The Birth of National Wage Fixation

In 1907 Mr. Justice Higgins, the second President of the Court of Conciliation and Arbitration, was called upon to determine what was a 'fair and reasonable' level of remuneration for an unskilled labourer. Strictly speaking however, this task was not carried out within the context of either preventing or settling an industrial dispute.

The Federal Parliament in 1906 had passed the Excise Tariff Act, which imposed duties of excise on certain goods, with provision for exemption in the case of goods manufactured under conditions which, as to the remuneration of labour, were declared by the Court to be 'fair and reasonable'. The first application for a certificate of exemption came from an employer engaged in the manufacture of agricultural implements and thus the case became known as the 'Harvester Case'.

In determining what should be a fair and reasonable level of remuneration, Higgins J. decided to adopt, as a primary test, a standard based on 'the normal needs of the average

employee, regarded as a human being in a civilised community.’ His determination of what was a fair and reasonable wage for an unskilled labourer was based on two factors.

Firstly, he gave consideration to a number of household budgets by ‘housekeeping women of the labourer's class’; in this regard he gave particular emphasis to a family unit of five persons. Secondly, he looked at rates ruling elsewhere, particularly in public bodies which did not aim at profit.

In his decision Higgins J. also stated that in his view, since the fairness and reasonableness of remuneration is a condition precedent to exemption from duty, the remuneration of employees should not depend upon the profits of the employer. Against this background he decided that a minimum of 7s. per day would be a fair and reasonable rate for an unskilled labourer.

In his judgement Higgins J. also recognised the need for those who had acquired a skilled handicraft to be paid more than the unskilled labourer's minimum. Accordingly, in deciding on a ‘fair and reasonable’ minimum rate for skilled workers he recognised the importance of maintaining, as far as possible, the old margins between the unskilled labourer and the skilled employee.

Although the Excise Tariff legislation was declared invalid in 1908 the concept of a ‘fair and reasonable’ level of remuneration for unskilled labourers evolved by Higgins J. was soon adopted by the Court of Conciliation and Arbitration and applied in subsequent cases.

It was not until 1911, however, that this minimum ‘living wage’ for unskilled labour acquired the name ‘basic wage’.

From 1907 to 1913 the Harvester wage of 7s. per day remained unaltered. Even though applications were made to the Court for an increase in the Harvester Wage based on increases in the cost of living, evidence in support of these claims was not sufficient to persuade the Court.

The Adjustment of Wages for Prices

In 1912 the Commonwealth Statistician, for the first time, published an index of retail prices. This index (The ‘A’ Series Index) covered food, groceries and rent.

In the following year, the Court adopted this index as a measure of the change in the cost of living and in the Federated Gas Employees Case this index was used by Higgins J. as providing sufficient reason for increasing the basic wage by 1s. for Melbourne, with varying increases for other areas depending upon the price index for those particular areas.

Mr. Justice Higgins, in his judgement in the Meat Industry Case of 1916 again increased the basic wage, taking it to 10s. per day for Melbourne, largely because of the increases that had taken place in the cost of living as measured by the 'A' Series Index. However, he stated that:

‘It must be clearly understood that this is an abnormal time; and as soon as there is a substantial fall in prices, a marked reversion to normal conditions as before the war, the basic wage as prescribed by this award will have to be reduced.’

Although he decided to increase the basic wage by reason of the increase in the cost of living he refused to increase the secondary wage or margin on the same basis. Rather, he simply added to the increased basic wage the old margin between the labourer and the skilled man.

While he accepted that increases in the cost of living effected the secondary wage just as much as the basic wage; he expressed the view that although it was necessary to protect the employee on the basic wage, for after all this wage was based on need, ‘it is by no means so imperatively necessary to secure to the skilled worker to the full extent all the other commodities to which he has been accustomed.’

At the same time, however, he recognised the necessity to do nothing which would ‘diminish the recognised margin between the man of skill and the man without skill.’

Throughout 1920 it appears that the practice developed whereby provisions for the automatic quarterly adjustment of the basic wage according to variations in the 'A' Series Index were inserted into some awards by the agreement of the parties. This automatic adjustment clause soon became a standard feature of the Court's awards and remained so until 1953 when the practice was discontinued for reasons which will be discussed below.

Inquiry into the Cost of Living

For a number of years, members of the Court of Conciliation and Arbitration and also other concerned persons and bodies had made repeated requests to the Government for an inquiry into the cost of living.

These requests were eventually acceded to and in 1920 a Royal Commission (The Piddington Commission) was appointed to inquire into and report upon, ‘the actual cost of living according to reasonable standards of comfort, including all matters comprised in the ordinary expenditure of a household for a man with a wife and three children, under fourteen years of age.’

The Royal Commission reported in November 1920 and found that the actual cost of living at 1st November 1920 varied from £ 5.17s. in Sydney to £ 5.6s.2d. in Brisbane with an overall average covering seven major cities of £5.16s.6d. As a result of findings

of the Inquiry, the Court early in 1921 found itself confronted with a claim by the Federated Gas Employees Industrial Union for the basic wage to be increased to £5.16s.6d. (15 CAR 838).

In the light of the importance of this issue, the President of the Court, Powers J., agreed that all unions with current basic wage claims before the Court should be allowed to join in the application and the same should apply to all respondents seeking to oppose the claim.

In his decision refusing the claim Powers J. referred extensively to the findings of the Royal Commission and argued that those findings could not be related to the Court's basic wage arising from the Harvester Judgement of 1907. Above all, however, he relied for his decision on the fact that the nation simply did not possess the economic capacity to satisfy the claim.

This marked the turning point from a 'needs based' basic wage to a consideration of economic capacity to pay when assessing the basic wage.

The Powers 3s

In December 1921 Powers J. in the Gas Employees Case (16 CAR 4) decided to alter the traditional method of fixing the basic wage. Previously the Court had adjusted the basic wage on the basis of:

- (a) Figures showing the cost of living at the time of making of the award; or
- (b) Figures showing the cost of living for the previous calendar year; or
- (c) Figures showing the cost of living for the twelve months immediately preceding the making of the award.

Powers J. took the view that in times of rapidly rising prices, as had been encountered over the previous few years, these traditional methods of adjusting the basic wage had not, because of the time-lag involved, allowed the basic wage to maintain its Harvester equivalent and he assessed an amount of 3s. as necessary to restore the basic wage to its Harvester equivalent in terms of purchasing power. This 3s. was to be an amount separate from any increase or decrease in the basic wage resulting from quarterly adjustments.

This decision of Powers J. was confirmed by the Full Court in 1922 (16 CAR 829).

Adjusting Margins for the Cost Of Living

As mentioned previously it had been the general policy of the Court that the secondary wage or margin for skill should be based on the value of the work in the market place. In

1924 the Court dealt with a claim by the Australasian Society of Engineers and a number of other unions for marginal increases based solely on the increased cost of living since 1907.

Powers J. in refusing this claim stated that:

‘To fix margins for skill on any other basis than its value in the market at the time the awards are made would be contrary to the practice of this Court from its inception, contrary to the practice of every tribunal appointed to fix wages, and contrary to every State Wages Board decision in all the States of the Commonwealth. They all fix margins for skill at what it is worth when awards are made.’ (20 CAR p. 1135)

It appears that this pronouncement by Powers J. put to rest the question of adjusting margins for the cost of living until the issue was resurrected in the early 1950's.

The Depression Years

In August 1930 summonses were issued by the Victorian and New South Wales Railways Commissioners for the variation of current awards in the railways industry which sought:

- (a) The abolition of the Powers 3s.;
- (b) The adoption of the Statistician's ‘All Items’ purchasing power of money figures in lieu of figures now in use (‘A’ Series Index) for determining the basic wage and adjustment thereof.

In brief, this reduction was sought for the purpose of meeting ‘the gravest economic emergency in the history of the Commonwealth’. (30 CAR 2).

In the light of the importance of this issue the Court notified all organisations bound by awards of the Court and advised that they could intervene in the hearing.

After hearing evidence relating to the state of the economy, the Court decided to refrain from making any variation to the basic wage or in the existing method of its calculation without further inquiry; however, it came to the conclusion that for a period of twelve months and thereafter until further order, a general reduction in wages was necessary.

The Court therefore made orders for the variation of the awards covered by the applications, so as to reduce all wage rates prescribed therein by 10 percent. The operative date of the orders was 1st February 1931.

In March 1933 a number of unions made application for the cancellation of the 1931 orders reducing wages. Again the arguments presented by the unions were not sufficient to persuade the Court to restore the 10 percent wage cut.

However, a majority of the Full Court was of the opinion that the traditional method of adjusting the basic wage according to fluctuations in cost of living had actually resulted in more than a 10 percent reduction in the basic wage. The Court therefore decided to use a combination of the 'All House' ('A' Series), Statistician's Index and the 'All Items' ('C' Series) Index. for the purpose of adjusting the basic wage for the time being. The 'C' Series Index covered miscellaneous items in addition to those items covered by the 'A' Series Index.

In 1934 a number of unions again made application to the Court for the restoration of the 10 percent wage cut. This time the Court found that 'there has undoubtedly been some improvements in the industrial position of the Commonwealth during the last year', but yet 'the former prosperity is far from being restored'. (33 CAR p. 147)

The Court did however decide that the 10 percent reduction in wages should cease to operate except in those industries in a critical condition or in which other special circumstances existed justifying the continuation of the 10 percent reduction.

The Court also decided that because of the anomalies caused by the 'A' Series 'All House' Statistician's Index, for the purpose of adjusting the basic wage the 'C' Series Index should be used in the future.

It was the view of the Court that the 'C' Series Index would probably give a real basic wage about equivalent to the real Harvester wage of 1907 without the addition of the Powers' 3s. In addition, the Court decided that since the 3s. had been devised to meet a particular and temporary need which no longer existed, it should now be discontinued.

At the same time, however, the Court acknowledged that the basic wage was no longer related to the Harvester Wage of 1907, but rather it was assessed at the highest amount which the Court thought could be safely prescribed, in the light of current economic circumstances. At the same time, however, the Court termed it a 'needs' basic wage.

In the Basic Wage Inquiry of 1937 (37 CAR 583) it was argued by the unions that the national economy had completely returned to the pre-Depression level and an increase in the basic wage was required on economic grounds.

The Court agreed that economic circumstances had improved to the level claimed by the unions but yet it decided not to increase the -needs- basic wage as determined in 1934 on economic grounds. Rather, it was decided that additional loadings, termed 'prosperity' loadings should be added on top of the basic wage. These were to vary from State to State depending upon the particular economic circumstances in each State and were not to be adjustable, as was the basic wage, for movements in the 'C' Series Index.

The War Years

The basic wage was again considered by the Full Court in 1940. In this case, the unions submitted that:

- (a) further increases in prosperity since the 1937 Inquiry should be shared by wage earners;
- (b) past increases in productivity and national income had not been reflected in wage rates; and
- (c) the basic wage in its existing form did not meet the needs of an average family of five.

On these grounds it was claimed that the basic wage should be increased by 14 percent and that the 'prosperity' loadings should be incorporated into the basic wage.

Employers, on the other hand, argued that:

- (a) since the fixation of the basic wage in 1937 there had been no increase in aggregate production which could justify any wage increases; indeed, there had been a regression;
- (b) the existing state of war and its present and probable future economic effects on the country must preclude the Court from granting any increase.

In its decision the Court gave particular attention to the concept of the 'average family' and also to economic factors in determining the basic wage. In particular, it said:

'The Court has always conceded that the "needs" of an average family should be kept in mind in fixing the basic wage. But it has never, as a result of its own inquiry, specifically declared what is an average, or what is the cost of a regimen of food, clothing, shelter and miscellaneous items necessary to maintain it in frugal comfort or that the basic wage should give effect to any such findings. In the end economic possibilities have always been the determining factor.' (44 CAR p.47)

With respect to the unions' claim for an increase based on productivity the Court rejected their submissions that the Court should determine what share of productivity should go to wages and stated that, 'the deliberate rearrangement of the division of national income among the different factors of production is simply beyond the Court's power and capacity.' (ibid. p.49)

In the final analysis the Court found that in the present war-time conditions the future was so unpredictable that it should refuse to grant any increase or alter any principle with

respect to the basic wage. The application was not, however, dismissed but rather stood-over for further consideration after 30th June 1941; however, because of the war it was November 1946 before the 1940 basic wage application came before the Full Court again.

In February 1942, as part of its war-time economic control programme, the Government pegged the general level of wages, and it was not until March 1946 that this pegging was relaxed to the extent that the Court was given power to again alter the basic wage.

However, it was the Attorney-General for the Commonwealth and not the unions, who made application for the restoration to the Court's list of the 1940 adjourned basic wage applications.

Following the action by the Attorney-General the Australian Council of Trade Unions made an application to the Court for an interim basic wage declaration.

The Court, after considering all evidence and the submissions of the parties granted a 7s. increase to the so-called 'needs' basic wage and stated that all 'loadings' on the basic wage were to be retained at their existing amounts until otherwise ordered. (57 CAR 603).

The Mooney Formula

In February 1947 Mr. Commissioner Mooney, in dealing with a dispute in the Metals Industry concerning margins, adopted a formula (commonly referred to as the 1st Mooney Award) which revised the relativities between the skilled, semi-skilled and unskilled workers. (58 CAR 551).

In this case, Commissioner Mooney increased margins by giving an additional 9s. to those with a margin over 27s. per week, 7s. to those with margins between 20s. and 27s. and 5s. to all others.

This decision was rejected by the Amalgamated Engineering Union and a series of strikes followed. The dispute was then referred to the Full Court, which decided to investigate that situation to determine if any injustice had been done by the Mooney Award.

In June 1947 the Court decided (58 CAR 1088) that the highly skilled tradesmen in industry were not receiving sufficient margins to compensate them for their skill and made an entirely new award which increased margins significantly for skilled workers, with lesser and in some cases no increases for less skilled persons. The award restored relativities to the position existing before Mooney's decision.

The result of this decision was that the semi-skilled person felt badly done by, while the tradesman realised that the widened differential between himself and the semi-skilled could actually react to his detriment in the labour market.

Shortly thereafter, the Government amended the Conciliation and Arbitration Act giving Conciliation Commissioners complete jurisdiction over margins and subsequently the issue of wage differentials in the metal trades was again before Commissioner Mooney.

In November 1947 he handed down what was to become known as the ‘Second Mooney Award’ which gave differing margins increases to various classifications so as to narrow the differentials created by the Court between the semi-skilled and skilled workers. The relativities created by Commissioner Mooney in this case (59 CAR 1272) were to be the dominating feature of relativities issues over the following fifteen years.

The 1949-50 Basic Wage Inquiry

The 1949-50 Basic Wage Inquiry was actually a continuation of the 1946 Basic Wage Case, from which an interim increase had been granted. In essence this Inquiry involved a claim for an increase in the basic wage so as to raise the real purchasing power of wage earners. The submissions in support of this claim rested on two principal factors.

Firstly, it was argued by the unions that the existing basic wage had fallen below the equivalent of the pre-war wage; and secondly, that the real purchasing power of the basic wage should be increased on the basis of increased national prosperity and the need to redistribute national income. The unions also claimed the same basic wage for all adults. In a majority decision (Foster and Dunphy JJ., with Kelly C1 dissenting) the Court acknowledged that it was very difficult indeed to find a ‘basic wage earner’ employed in industry simply because of the existence of ‘loadings’ additional to the ‘prosperity loading’ and further margins over and above those prescribed by the Court.

However, the Court found that in times of such rare general prosperity, with no control over many price levels, the sum of £1 could be added to the ‘needs’ basic wage and the prosperity loadings. In addition, the Court decided to combine the ‘needs’ basic wage and the prosperity loadings and held that these two items together should constitute the basic wage in the future.

With respect to the female basic wage the Court rejected the claim that the female basic wage should be equal to the male basic wage. The Court noted, however, that although this was the first time the Court had been empowered to fix a basic wage for females, State tribunals had tended to fix the female basic wage in the vicinity of 54 percent of the male basic wage. Nevertheless, the Court expressed the view that ‘there have been vital changes in industry in recent years in regard to the employment of women and perhaps it is time for a revaluation of their base standard.’ (68 CAR p. 838)

On this basis the female basic wage was established at 75 percent of the male basic wage.

The Discontinuation of Automatic Adjustments

The 1952-53 Basic Wage and Standard Hours Case involved claims by a number of employers for a reduction in the basic wage for males and females, the abandonment of the system of quarterly adjustments and for increased standard hours. The unions on the other hand claimed an increase in the basic wage.

In its decision the Court again restated-its view that the concept of 'needs' played no part in the assessment of the current basic wage and went on to say that:

'No evidence was proffered in this inquiry suggestive of the inadequacy of the basic wage in its character of a "foundation wage" to provide, a just and reasonable standard of living to employees whose income is based or dependent upon it.' (77 CAR p. 496)

With respect to automatic quarterly adjustments the Court decided that there was no justification for continuing this system.

The Court gave a number of reasons for this decision; however, in particular it stated:

'Whatever justification there may be for applying such an adjustment system in a closed economy, there can, so it seems to the Court, be none in an economy such as ours where so much of our production effort depends for its value upon prices of exports and imports beyond the control of any Australian authority.' (ibid. p. 497)

The Court went on to say that the frequency and unpredictability of price and wage changes had made the planning of any business or financial transaction very difficult.

Most important of all, however, the Court made the point that rises in the cost of living measured by the 'C' Series Index bore no relationship to the capacity of industry to pay the increased wages which resulted from increases in the Index.

Metal Trades Margins

In 1953 the Amalgamated Engineering Union, the Electrical Trades Union and a number of other unions party to the Metal Trades Award applied for increases in margins for all workers covered by the Award.

The applications came on for hearing before Mr. Conciliation Commissioner Galvin who decided that they raised matters of such importance that, in the public interest, they should be dealt with by the Court.

The unions' claim was for an increase in the fitter's margin of 28s. per week with proportionate increases for all other classifications.

The employers counter claimed that existing margins for skill should remain unaltered and that margins paid to semi-skilled and unskilled workers should be reduced. In its judgement in February 1954 the Court held that a prima facie case had been made for a reassessment of margins but the economic climate at the time did not permit such a comprehensive review and the claims were adjourned until November 1954.

In August a number of unions filed applications that the case be brought forward and hearing of the claim resumed in October.

In its judgement delivered in November the Court reassessed the marginal structure of the Award and raised the current margin to two and one-half times the amount of the margin that had existed in 1937. In effect this decision increased the fitter's margin by 23s. Unskilled or only slightly skilled classifications received no increases.

This decision in effect completely overrode the relativities established by the second Mooney formula in 1947. The Court stated that while its decision related only to one particular industry, it was expected to afford general guidance to all other wage fixation tribunals and authorities. In its reasons for decision the Court stated:

The Court went on to state that its decision to reassess margins resulted largely from the cumulative effect of the 1941 loadings and the Mooney awards which had distorted the position of the skilled worker relative to that of the unskilled worker. There was therefore a dire need to return the skilled worker to the position where his level of remuneration more accurately reflected his level of skill vis a vis the unskilled.

The Years 1956 to 1959

The Basic Wage Inquiry of 1956 involved among other things a claim by unions for a restoration of the system of quarterly adjustments plus a general increase in the basic wage. In its judgement the Court decided to increase the basic wage for males and females by 10s. and 7s.6d respectively but stated that:

‘It may be taken that the increase would have been more if the burden on the economy of the increases in the State basic wages had not been imposed.’ (84 CAR p.227)

With respect to the claim for the restoration of quarterly adjustments the Court refused the application and stated that:

‘So long as the assessment of the basic wage is made as the highest which the capacity of the economy can sustain, the automatic adjustment of that basic wage upon price

index numbers cannot be justified, since movements in the index have no relation to the movements in the capacity of the economy.' (ibid p. 175)

The Early 1960's

The 1960 Basic Wage Inquiry involved a claim by the unions for the restoration of the quarterly adjustments and an increase in the basic wage of about 22 s. In this case both employers and the Commonwealth Government opposed any increase' because of the basic wage and margins increases (which together increased wage levels by about 10 percent) awarded by the Commission in 1959.

They argued that the effects of these increases had not as yet been reflected in the economy and without knowing the economic effects of these increases it would be dangerous to further increase the basic wage at that time. The Commission reacted favourably to these submissions and refused the unions' -basic wage claim.

The claim for the restoration of quarterly adjustments was also refused for substantially the same reasons previously expressed by the Commission and the Court.

The 1961 Basic Wage and Standard Hours Inquiry involved a claim by the Metal Trades Employers' Association for an increase in the standard hours from 40 to 42 per week and claims by the unions for the restoration of quarterly adjustments and an increase in the basic wage of 52s. This, the unions submitted, reflected 30s. for increases in the cost of living since 1953 and 22s. for increases in productivity since that time.

It appears from the decision of the Commission that the unions' claims were the dominant consideration in this case and the employers' claim seems to have been given very little consideration other than to be rejected.

The Commission rejected the unions' claim for automatic quarterly adjustments; however, it reached the conclusion that the principle of maintaining the purchasing power of the basic wage should be adopted.

In an endeavour to achieve this end, the Commission decided to reject the old 'C' Series Index as providing a realistic measurement of increases in the cost of living and to adopt the Statistician's newly introduced index, the Consumer Price Index (CPI), as providing an accurate measurement of such increases.

In coming to a decision as to how this new index should be used in fixing the basic wage, the Commission decided that the consideration of prices should take place annually. In effect, the Commission decided that movements in the CPI should be reflected by movements in the basic wage unless it was persuaded otherwise by those seeking to oppose any increase.

Increases in the basic wage resulting from productivity increases should, the Commission decided, take place at less frequent intervals, such as every three or four years.

The Commission decided further that the basic wage which it intended to fix took into account productivity increases which had taken place since 1949-50 (which it considered to be the most appropriate starting point for the measurement of productivity).

Against this background the Commission determined that an increase in the basic wage of 12s. was the highest the economy could sustain and was sufficient to restore the 1960 basic wage to its purchasing power as measured by the CPI.

It was the view of the Commission that this new basic wage combined its conclusions on three fundamental factors:

1. 'it was fixed at the highest level the economy could sustain;
2. it adopted, as a standard, that set by the 1960 basic wage; and
3. it took account of productivity increases up to and including 1959-60.' (97 CAR p.413)

The applications before the Commission were then adjourned until 20th February 1962 when the Commission would hear argument, if any, as to why the basic wage should not be adjusted in accordance with movements that had taken place in the CPI.

When the applications again came before the Commission on 20th February 1962 (Basic Wage Inquiry 1962) the CPI had shown virtually no change from the March quarter to the December quarter 1961 and as such there was no increase granted in the basic wage.

At that time, however, the employers submitted that in any hearing involving movement in the basic wage the parties; must be free to discuss economic capacity to sustain the basic wage at any given level and the principles upon which it was computed. The applications before the Commission were again adjourned until 19th February 1963; however, it was left open to the parties to raise any issue relating to the fixation of the basic wage that they wished at that time.

The adjourned applications were again listed before the Commission as the 1963 Basic Wage Inquiry on 5th February 1963.

Again there was no substantial increase in the CPI justifying a basic wage increase.

However, in this case employers submitted that certain matters were essential considerations in determining any application seeking to increase wages or improve conditions on a national basis. These were:

- (a) The role of the Commission in relation to government economic or fiscal policies, inflation, etc;
- (b) The justification of adjustment of wages by reference to a price index either automatically or prime facie, including the relationship between movements in a price index and variations in capacity of the national economy;
- (c) The relationship between the capacity of the economy to absorb increases in wages or labour costs and the movements or likely movements in national productivity.

The Commission ruled that it was not the appropriate time to deal with the matters raised by employers and the basic wage applications and all other related matters were stood over to 18th February 1964. (105 CAR p.558)

Immediately following the conclusion of the 1963 Basic Wage Inquiry the Commission was confronted by an application filed by unions covered by the Metal Trades Award for an increase in margins.

The unions claim for margins increases again -sought a restoration of the 1947 relativities established by the Second Mooney formula which in essence involved a \$5.30 increase in the fitter's margin with proportionate increases to all other classifications.

However, the Commission held that as margins were awarded for skill and other factors which are not included in an assessment of the basic wage, there is no reason why any margin should, after a period of time, necessarily be restored to any earlier relativity which it may have had with any earlier basic wage.

On the other hand, the Commission concluded that because national economic capacity including productivity had increased since the margins were last fixed for this award, and all economic indications pointed to continued improvement into the foreseeable future, a 10 percent increase in margins was justified. (102 CAR 138)

It is interesting to note that, in its reasons for judgement, the Commission made several references to the lack of information concerning 'work value' which would enable it to make a more accurate assessment of the value of the work in respect of the assessment of margins. The Commission also stated that this decision was not intended as a general increase to apply automatically to all other awards of the Commission; rather, it said that the use of this increase as a guide in other disputes would be a matter for the parties and for individual members of the Commission.

Total Wage

The 1964 Basic Wage Inquiry (106 CAR 629) involved a claim by unions for a basic wage increase and the reintroduction of automatic quarterly adjustments to the basic wage based on movements in the CPI. Employers on the other hand sought the abolition of the basic wage and margins and the substitution of a 'total wage' with increases ranging from 50 cents to 80 cents.

The Commission decided to hear the unions claims' first but to reserve its decision until completion of the employers' total wage case to be heard immediately after the basic wage case.

The Commission was unanimous in its rejection of automatic quarterly adjustments but was divided as the amount of increase to be granted. With respect to the total wage application the Commission was unanimous in the opinion that the employers' application for the deletion from awards of the basic wage provision and the insertion of a wage expressed as a total wage should be rejected. In brief, the Commission gave six reasons for this rejection:

1. It had not been shown that the proposal could successfully be put into practice by the Commission;
2. The proposal could not be applied by the Commission in a community where a prices and incomes policy did not exist;
3. Since the Commission did not fix all wages and salaries the proposal could not work in the manner envisaged by employers;
4. There were technical problems of deciding on the most appropriate method of determining productivity and of choosing between award rates or average earnings and the base from which to apply the proposed formula;
5. The application if granted would reduce the flexibility of wage fixation by the Commission; and
6. The proposal if accepted could prevent the Commission increasing wages even when, in the view. of the Commission, wage increases may be just and reasonable. (106 CAR pp.691-693)

The 1965 National Wage Case (110 CAR 189) commenced in March 1965 and involved a claim by the unions for an increase in the basic wage proportionate with the rise in the CPI (\$1.20 p.w.)

Employers on the other hand submitted a two part claim. Part A of the claim was for the abolition of the concepts of basic wage and margins and their replacement with a total wage made up of the sum of the amounts expressed in terms of the basic wage and a margin plus an amount equal to one percent of such sum.

Part B asked that for the ensuing twelve months, the level of the basic wage and the level of margins, insofar as the latter is determined on general economic grounds, should be decided simultaneously. In effect, this left it open to the Commission to increase the basic wage alone, increase margins alone or to increase or refuse to increase them both together.

Again, the Commission was divided on the amount to be granted but were unanimous in their view that simultaneous hearing of margins and the basic wage would probably help industrial relations and economic planning. At the same time, however, they recognised the technical difficulties involved and so did not make any decision with respect to this matter.

It is also interesting to note that the majority of the Bench completely rejected the view previously expressed by the Commission that over-award payments were evidence of capacity to pay. Rather, they stated that:

‘Our conclusion is that the Commission should not place any reliance upon over-award payments as evidence of capacity to pay award increases which are designed to add to them.’ (110 CAR p.260)

In 1966 the unions lodged claims for an increase in the basic wage and margins simultaneously. The employers again lodged a two part claim. Part A was for the two part wage (basic wage and margins) to be aggregated into a total wage and an increase of 1.5 percent to be added to the total wage obtained. Alternatively, they submitted (that existing basic wage rates be increased by 30 cents per week, margins by 1 percent and the resultant figures by 0.5 percent.

Two Benches were constituted to deal with the claim in joint session; a Presidential Bench to deal with the issues relating to the basic wage and a Reference Bench to deal with those issues relating to margins. These cases became known as the Basic Wage, Margins and Total Wage Cases of 1966. (115 CAR 93)

With respect to the employers' claims the Bench indicated that it favoured the conversion of the wage structure to the basis of a single total wage. However, it decided to defer the question of implementation pending further consideration of the margins structure.

In January 1967 the employers applied for a relisting of those matters adjourned by the 1966 Basic Wage, Margins and Total Wage Bench (i.e. application for a total wage and for an increase in margins).

Then in February the unions made application for an increase in the basic wage. Again two Benches, a Presidential Bench and a Reference Bench, were set up to deal with these applications which became the National Wage Case 1967. (118 CAR 566) The Commission reached a unanimous decision as to the applications.

Firstly, it was decided that on economic grounds a \$1 wage increase to all adult employees was justified; and secondly, that award wages should be expressed as a total wage and the minimum wage concept introduced by the Commission in 1966 should be retained.

The 1969 Wage Fixation Principles

The 1969 National Wage Case (!29 CAR 617) involved claims by the unions for a restoration of the basic wage and an increase on the last existing basic wage by an amount of \$12.30. This amount was calculated by adding to the 1953 Six Capital Cities basic wage an amount calculated for price and productivity increases to 1969 and deducting from the resultant figure the last existing basic wage, together with the amounts of \$1 and \$1.35 awarded in 1967 and 1968. The unions also asked for the restoration of quarterly adjustments of the basic wage.

Alternatively, the unions sought an increase of \$12.30 on the minimum wage, an increase of \$9.65 on the total wage and the provision of automatic quarterly adjustments of the minimum wage. All of these claims were opposed by employers.

In its decision with respect to the unions' claims regarding quarterly adjustment and the basic wage, the Commission simply restated the views it had expressed in previous decisions and rejected both claims. However, the Commission came to the conclusion that on the basis of economic prospects for the immediate future and in the light of general increases which were recently granted as a result of the Metal Trades Work Value decision there was sufficient scope for an increase in the total wage to be granted.

Further, on the basis of not upsetting the recently established relativities flowing from the recent Metal Trades Work Value Inquiry the Commission decided that any increases granted should be a flat percentage increase and should be 3 percent.

It is also important to note that in the 1969 Case the employers asked the Commission to revise its wage fixation principles in a way which would lead to greater clarity and certainty and which would assist to keep the economy stable.

The employers submitted that the Metal Trades Work Value decision coupled with increases in award wages as a result of a series of so-called work value reviews, had resulted in increases greater than those granted in the last two National Wage decisions.

The employers therefore asked the Commission to spell out in detail the relationship which should exist between National Wage Cases and work value reviews.

While the Commission rejected the employers' proposals for wage fixation as being too restrictive and inflexible it saw fit to incorporate in its decision some general observations about wage fixation. These are summarised as follows:

1. 'Each of the awards of the Commission will each year be brought up-to-date for economic considerations (including regard to prices and productivity) by the decision of the National Wage Bench. Therefore, these aspects should not be considered in work value cases.
2. Any increase granted by a National Wage Bench could be expressed as a flat money amount, a flat percentage or a combination of these and as such previous decisions are not intended to bind future National Wage Benches with respect to the form of increase granted.
3. Work value inquiries will not involve a consideration of economic factors, rather such inquiries will involve a consideration of things such as period of training, skill required, arduousness, conditions under which work is usually performed, etc.
4. In work value cases there must be good reason before relativities are changed and it is expected that in most future work value inquiries there would normally not be a case for moving all classifications though there may be a case for moving some. It would only be on rare occasions-that the whole structure of an award would move for work value reasons.
5. Concepts such as "teamwork" cannot be considered relevant in work value assessments.
6. Unless there is some special reason why retrospectivity should be awarded, awards should operate prospectively.
7. The fact that an inquiry may be labelled a work value review does not absolve the arbitrator from considering the economic consequences of what he does.
8. Arbitrators cannot ignore the existence of over-award payments nor the fact that any increases granted are unlikely to be absorbed in over-award payments.
9. The "public interest" must be a factor to be borne in mind at all times when awards, even consent awards, are being made.'(129 CAR pp.627-619)

It was the intention of the Bench that these observations should provide broad general guidelines for all parties in future national and industry level cases.

The Lead Up to Indexation - 1970 to 1975

The 1970 National Wage Case involved claims by blue collar workers for a \$9.00 increase in the total wage and in the minimum wage and for quarterly adjustment of all rates in accordance with movements in the CPI; a claim by white collar unions for a 16 percent increase in rates and a claim by employers to increase the total wage and the minimum wage by 2 percent.

In this case the Commission was faced with what it saw as a buoyant and expanding economy and also a situation whereby unions were successfully exerting pressure for wage increases outside the Commission on the basis, as the unions stated, of the Commission failing in previous National Wage Cases to adjust wages in accordance with movements in prices and productivity.

In an effort to compensate wage earners for the former and to ameliorate the latter the Commission decided that award wages should be increased by a flat 6 percent.

Again it decided to give special consideration to the low wage earner and granted a \$4.00 increase in the minimum wage. At the same time, however, the Commission stated that it could not see how it could continue to give special consideration to the low wage earner in the absence of more information about the economic situation of these persons and of their numbers.

The unions' claim for automatic quarterly adjustments went further than the claim in earlier cases in that it sought the automatic adjustment of total wages and not merely of the minimum or basic wage. Nevertheless, the claim was again rejected for substantially the same reasons expressed by the Commission in earlier decisions.

In the 1971/72 National Wage Case (143 CAR 290) the Commission was faced with the two weaknesses of inflation and unemployment in the economy. In addition, since the 1970 National Wage Case substantial increases had been awarded in the metals area and had flowed to industry generally. (Metal Industries Interim Award Case; 140 CAR 905)

The Commission expressed particular concern that despite its statements in the 1969 National Wage Case and fears expressed in the 1970 National Wage Case there had been a strong and continuing growth in award wages and salaries emanating from industry type cases. This factor, the Commission said, could not be ignored in National Wage Case proceedings and indeed must to some extent pre-empt the ability of the Commission to grant further increases in National Wage Cases.

Importantly, the unions' claim for quarterly adjustment of the minimum wage was again rejected on the basis that the Commission preferred to keep movements in the minimum wage under its direct control.

Claims in the 1974 National Wage Case (157 CAR 293) included once again a claim for automatic quarterly indexation as had occurred during each of the previous cases in the 1970s. In this case, however, the unions were strongly supported by the Commonwealth Government in this claim. However, there were differing views among the proponents of this system as to how indexation should operate.

Firstly, the blue collar unions argued for quarterly movements in the CPI to be applied as flat money adjustments to all award rates.

The white collar unions argued in favour of movements in the CPI being applied in a percentage form to total wage rates.

The Government, on the other hand, favoured a flat money amount, derived by the application of the percentage change in the CPI to the minimum wage, with the resultant amount to be applied to all award rates.

It is clear from the Commission's decision and subsequent developments that the Commission found some favour with the concept of Wage Indexation. In particular, it expressed support for the suggestion that Wage Indexation could have positive beneficial economic, social and industrial implications, but yet it stated that it was not prepared to add indexation to the available methods of wage fixation at that time. Rather, the Commission proposed that the President should call a conference of the principal parties in the proceedings to consider whether consensus could be reached on two interacting issues - wage fixation methods and wage indexation. It was stated, however, that the conference would be concerned only with the methods of wage fixation and not with the level of wages themselves.

The Reintroduction of Adjusting Wages For Prices

The unions' claims in the 1975 Case may be summarised as follows:

1. Automatic quarterly adjustments of the total wage based on movements in the CPI (Indexation);
2. An increase in the total wage based on productivity and past price increases; and
3. An increase in the minimum wage and thereafter indexation of that wage.

In this case the Commission was confronted with a set of adverse economic circumstances of a magnitude never faced before during its entire 70 year history. Average weekly earnings, as a result of wage increases achieved outside National Wage Cases, were increasing at an annual rate of 27 percent while increases in minimum award rates were exceeding 30 percent; working days lost through industrial disputes were at a

level unequalled at any other time since these statistics were first compiled in 1919; inflation was running in excess of 17 percent and the level of unemployment exceeded four percent - the highest level achieved throughout the entire post-war era.

By far the major issue considered in this case was the concept of indexation. Those supporting this concept rested their cases on three main grounds:

1. It would help to moderate inflation;
2. It is an equitable base for wage adjustment; and
3. It would improve industrial relations.

In its decision the Commission expressed the view that the unions' claims must be considered against the background of the existing critical state of the economy and the fact that in 1974 wages had far outstripped prices and productivity increases in real terms.

Although the Commonwealth Government supported indexation, its view of the form indexation should take was not totally in line with the views of the unions. In particular, it was of the view that full percentage indexation should only apply to award rates at and below the seasonally adjusted Average Weekly Earnings (AWE) figure, with a flat money increase, equal to that obtained by applying the CPI increase to AWE, to be applied to all award rates above that amount.

It was noted by the Commission, however, that plateau indexation as proposed by the Government would probably lead to a considerable and rapid compression of relativities as well as a loss of real income for those above the plateau and as such could lead to further industrial disputation.

In coming to its decision to introduce indexation, the Commission expressed the view that 'some form of 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' (Print C2200 p. 15).

It is important to note that at no point in its decision did the Commission give any serious consideration to the economic capacity of industry or of the nation to sustain the level of wage increases which would result from indexation. Rather, it appears that the primary concern of the Commission was to ensure that in a time of rapidly rising prices, the real incomes of wage earners were protected. In other words, it appears that the Commission was leaning back towards the 'needs' concept of wage fixation of earlier years as against the 'capacity' concept which had dominated wage fixation over the past few decades.