SIX WAGE CONCEPTS

by J. Hutson

AMALGAMATED ENGINEERING UNION
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E R R A T A

p.3	-	ref 3 - delete January 1, insert February 14
p.5	-	3rd line - delete $220, insert $110
		3rd line - delete 1904, insert 1902
		4th line - delete $440, insert $220
p.12	-	ref 28 - delete A, insert L
p.36	-	2nd line - delete 1901, insert 1902
		14th line - delete 1907, insert 1908
p.75	-	ref 2A - delete A, insert L
p.200	-	7th line - delete 275, insert over 408
		7th line - delete $58,160, insert $89,000
		8th line - delete $83,000, insert $187,000
		8th line - delete seven, insert six

Dedication

To the members of the new Amalgamated Metal Workers Union, of which the Amalgamated Engineering Union will become a part in 1972, as a contribution to their thinking on wages.

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colleagues and I who conducted it for the Commonwealth Government were appalled to discover that there were in this affluent country, apart altogether from pensioners, 250,000 low income families representing 1,000,000 persons who are living below a miserably low poverty line."[60]

In the face of a problem of such magnitude, the trade unions cannot just stand aside and shrug their shoulders.

LIVING WAGE BIBLIOGRAPHY

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[60] Address given on the 28th June, 1970, at the opening of the Salvation Army Fund Drive: Roneoed copy at p.2.

Concept No. 3

The Total Wage

12—The 1964 Basic Wage Inquiry and Total Wage Case

The adoption by the Arbitration Commission of the total wage concept in 1967 was the first fundamental change in the principles of wage fixation introduced into the Commonwealth arbitration system since 1907, when the two-part structure of basic wage and margins was formulated by Judge Higgins. It is easy to examine the establishment of this as it is contained in one document, the Harvester Judgment. The establishment of the total wage is however, not so easy to follow as it is spread over a number of wage cases. It was therefore considered that it would be useful to bring together the wage cases which were held from 1964 to 1968, for in them the Arbitration Commission moved from rejection in 1964 to acceptance in 1967 and to confirmation in 1968.

THE unions lodged three claims with the Commission in relation to the Metal Trades Award, according to the practice accepted by the Commission that the case would be a test case for all the awards of the Commission. Also according to the accepted practice of the trade union movement the carriage of the case was in the hands of the A.C.T.U., which used its Research Officer as the main advocate.

The first claim for an increase of 52s. ($5.20) in the basic wages prescribed in the Metal Trades Award, and the restoration of the quarterly adjustments of the basic wage.

The 52s. ($5.20) was calculated on the basis of the increases in prices and productivity from September, 1953 (when the automatic adjustment of the basic wage was abolished) to June, 1961. The years of 1962 and 1963 were not included because there had been no price increases according to the Consumer Price Index. The price movement according to the "C" Series and then the Consumer Price Index gave an increase of 20s. ($2.00) on the existing six capitals average basic wage of 288s. ($28.80), a total of 308s. ($30.80). The productivity claim was based on the

assumption of a rate of increase of 1% per year, which compounded over the same period gave an increase of 10.4%. This applied to 308s. ($30.80) gave a round figure of 32s. ($3.20). The 20s. ($2.00) for prices plus the 32s. ($3.20) for productivity gave the 52s. ($5.20) claim.

Another claim was made by the Australian Workers' Union for an increase of 52s. ($5.20) in the basic wage, restoration of the adjustments, and the elimination of the 1s. (10c) difference in the basic wage for Station Hand and Shearer, as prescribed in the Pastoral Industry Award. The reason for this separate application was that the A.W.U. at that time was not affiliated to the A.C.T.U., so it handled its own case.

The employers' claim was made by the Metal Trades Employers' Association, the Victorian Chamber of Manufacturers, and the Metal Industries Association of South Australia, as nominal applicants for all employers, for the deletion of the basic wages prescribed in the Metal Trades Award and the consolidation of the separate basic wages and margins into a single total wage for each classification. If the unions agreed to this the employers were prepared to pay increases in the total wages of 8s. (80c) for adult male tradesmen, and of 7s. (70c), 6s. (60c), 5s. (50c) for adult male non-tradesmen. In addition, adult females would be paid 4s. (40c), and 5s. (50c), and proportionate increases would be paid to apprentices and unapprenticed juniors. If the unions did not agree to the claim in seven days it would be referred to the Commission for determination.

In their submissions later on, they said that they did not wish their application to be granted unless it was also agreed that movements in wages were to be kept within the limits of movements in national productivity. This was a proposition which the employers began to press in 1963 as it would be an effective restraint on the amount by which wages could be increased, because the most that could be granted would be limited to the average increase in productivity of 2.5% a year. It would also freeze the distribution of the national income between employers and employees at the current figure. The increases offered by the employer were in fact calculated according to this principle, but on the basis of conceding only 1% of the increase in productivity.

In their press release the employers called their total wage claim "The New Look Wage Plan", and said that it was designed to alter procedures and not existing wage rate differentials. It dramatically served notice on the unions that the employers were mounting a dangerous offensive on wages after years of taking the defensive stand of just flat opposition to the claims of increases by the unions in national wage cases, or even, as in the 1959 Margins Case, of seeking a reduction. That this was also the first time that the employers had ever offered an increase in a general case was a measure of the importance that the employers placed on their new concept and of a new and dangerous flexibility in the employers' thinking on wage fixation.

The claims came before Commissioner Winter, (who was responsible for the metal trades industry), on the 5th February, and he referred them at the request of the unions to the President of the Commission, Sir Richard Kirby, for the claims to be determined by a Reference Bench. The employers had argued for the exclusion of a Commissioner as they contended that their total wage claim was in essence a claim for the alteration of the basic wage or the principles upon which it was computed. If this was so, a Commissioner would automatically be excluded because basic wage matters were outside his jurisdiction.

On the 7th February, the President announced that a Presidential Bench would be constituted to hear the basic wage matters consisting of himself with Judge Gallagher, Judge Moore and Judge Nimmo, with Commissioner Winter present as an observer so that he could be fully informed on material that would be relevant to the employers' total wage application. With regard to this, a Full Bench would be constituted to hear it consisting of the members of the Presidential Bench with Commissioner Winter. This arrangement was not to be regarded as a joint hearing.

The hearing commenced on the 19th February but only dealt with procedural matters. Submissions commenced on the 25th February, with Bob Hawke, the A.C.T.U. Research Officer, opening with the case for the trade unions, which consisted of a demonstration of the capacity of the economy to pay the increase claimed and strong opposition to the introduction of the total wage. The main case for the employers was put by James Robinson, the advocate of the Employers' National Policy Committee. His case was a refutation of the economic arguments of the unions, and a strong plea for the adoption of the total wage. The Commonwealth Government opposed any increases in wages as being detrimental to the economy, but neither supported nor opposed the introduction of the total wage.

After 23 sitting days the hearing concluded on the 14th May. On the 9th June,1964, a unanimous Basic Wage Judgment and a unanimous Total Wage Decision were handed down.[1] The following were the main points from them:

1. The basic wages in all Federal awards were to be increased by 20s. ($2.00), from the beginning of the first pay period to commence on or after the 19th June.
2. The rates for juniors and apprentices of both sexes were to be increased by the appropriate percentage of the basic wages as prescribed in the Metal Trades Award and other awards.
3. The basic wages for adult females were to be 75% of that for adult males.
4. The application by the unions for the restoration of quarterly adjustments of the basic wage was rejected.

[1] 106 C.A.R. at pp.629-702.

5. The A.W.U. application for the elimination of the 1s. (10c) a week lower basic wage for Station Hands and Shearer was granted.
6. The application of the employers for the introduction of the total wage was rejected.
7. The date of operation was to be from the beginning of the first pay period commencing on or after the 19th June, 1964, subject to special cases.

In relation to the unions' basic wage claim the four Judges were unanimous that an examination of nine economic indicators had shown that the economy was buoyant enough to sustain an increase, but they had disagreed as to the actual amount. The President and Judge Moore had agreed that it should be 20s. ($2.00), but Judges Gallagher and Nimmo had agreed that it should be only half that at 10s. ($1.00). The issue was resolved by the President exercising the power given to him in the Arbitration Act, and he ruled in favour of the 20s. ($2.00).

The employers' claim for a total wage was rejected by the Commission on the grounds that the parties were in fundamental disagreement on the issue, that as it was the function of the Commission to prevent and settle industrial disputes there would have to be more cogent reasons than tidiness before such a drastic change should be approved, and that a case had not been made out for the abolition of the basic wage. The Commission then said that it could, if it so desired, create a wage that had no basic wage element in each industrial dispute which came before it, but the question of the basic wage had to be seen against a background of Parliamentary recognition and perhaps even approval of its continued existence.

The employers' proposal for the adjustment of wages according to movements in national productivity was dealt with extensively in the decision, and it was rejected for the following six reasons:

1. The Commission was not prepared to put the proposals into operation in the absence of material showing its successful implementation in other countries.
2. If it were applied it would be in a situation where there was no overall consideration of incomes and no overall authoritative control of prices.
3. The Commission not only did not fix all incomes but did not even fix all wages and salaries.
4. The lack of reliable statistics whereby productivity could be calculated made it appear an impossible task to equate future movements in wages with future actual movements of productivity.
5. The proposal would reduce the flexibility of wage fixation and diminish the likelihood of work value cases.
6. The proposal would prevent the Commission increasing wages even when in its view wages would not be just and reasonable unless increased.

The A.C.T.U. considered that the 20s. ($2.00) increase was worthwhile, and expressed satisfaction at the Commission's acceptance of its submissions as to the principles of fixation and acting upon them. History was soon to show that these were to be famous last words.

13—The 1965 National Wage Cases

THE unions lodged claims for an increase of 12s. ($1.20) in the basic wages prescribed in the Metal Trades Award to compensate for the rise in the Consumer Price Index since the last fixation of the basic wage in 1964, and for the restoration of the quarterly adjustments. The Australian Workers' Union also applied for the same increase in the basic wage in the Pastoral Industry Award, and for the restoration of the adjustments.

The application of the employers was again for a total wage, which indicated their determination to achieve it. Their claim was in a more ingenious form than that of 1964 and was in two parts. The first part sought the replacement of the basic wages and margins by a total wage for each classification in the Metal Trades Award. If the Commission did not grant this and introduced the total wage, the second part sought the simultaneous consideration of the basic wage and margins and that 6s. (60c) be taken from the basic wage and added to margins to compensate for what they considered was the excessive increase of 20s. ($2.00) in the basic wage in 1964, and then both be increased in 1%. If either part of their application was accepted by the trade unions the employers were prepared to increase the total wages of tradesmen by 4s. (40c) and those of non-tradesmen by 3s. (30c), which was equivalent to a 1% increase in award rates and national productivity.

The employers' application gave the Commission a choice of either granting the total wage, or increasing the basic wages, or increasing margins, or increasing both basic wages and margins.

The claims came before Commissioner Winter on the 25th January, and he referred them at the request of the unions to the President of the Commission for the claims to be determined by a Reference Bench. On the 4th February the President said that the employers had so inextricably mixed the matters that a Commissioner could not sit on a Bench hearing any of the claims. He

then constituted a Presidential Bench consisting of himself, with Judge Gallagher, Judge Moore, Judge Sweeney and Judge Nimmo, and directed that it would hear all the claims concurrently, with the comment that it was a "contrived bench", as it surely was.

The submissions opened on the 2nd March. The unions based their case on the application of the principles adopted in 1961 of prices and productivity adjustment, which had been re-affirmed in 1964 when the 20s. ($2.00) increase was granted. The Commission was urged to reject the total wage concept and retain the basic wage concept because of the wide degree of popular support for it.

The employers' case denied the validity of the 1961-64 principles, submitting that it was necessary to adopt the principle of the capacity to pay in order to ensure price stability. A strong attack was made on the use of over-award payments by the unions to justify an increase in award rates, as well as on the campaigns to obtain such payments. This was supported by extensive quotations from trade union publications, most of which were taken from A.E.U. material. The Commission was asked to unequivocally tell the unions that increases in over-award payments could not justify increases in award rates, and that it was not influenced in any way by what went on outside of the Commission. It was also argued that the granting of over-award payments far from demonstrating the economic capacity of the employers to pay, in fact demonstrated that capacity had been fully used up. The argument for the adjustment of wages according to movements in national productivity was repeated, but the employers this time did not insist that it should be a condition for the introduction of the total wage. It was suggested that there should be a simultaneous hearing of basic wage and margins cases.

The Commonwealth Government opposed the applications of both the trade unions and the employers. But after announcing a position of neutrality it got off the fence on to the employers' side to say that an increase in the basic wage would be fraught with great danger to the economy, and that the capacity of the economy to pay was the proper basis for determining changes in award rates. It also considered that margins should be decided industry by industry and not by general reviews.

After 34 sitting days the hearing concluded on the 5th May, and the decision was handed down on the 29th June, 1965.[2] It created a sensation and aroused widespread controversy as to the role of the Commission. It revealed that the Bench was even more sharply divided than in 1964, because this time it was split on the fundamental question of the principles whereby the Commission was to operate and not just on the amount of the increase to be granted. Judges Gallagher, Nimmo and Sweeney handed down a majority judgment, while the President and Judge Moore handed down separate minority judgments.

[2] 110 C.A.R. at pp.189-275.

The following were the main points from the majority judgment:

1. The margin for each classification in the Metal Trades Award was to be increased by an amount equal to 1½% of the sum of the six capital cities basic wage of £15/8/0 ($30.80), plus the margin prescribed for each classification. This gave an increase of 5s. (50c) to margins up to 58s. ($5.80), of 6s. (60c) to margins up to 125s. ($12.50), and of 7s. (70c) to margins above 125s. ($12.50).
2. Adult females were to receive 75% of the increase granted to the males employed in their particular classifications.
3. The decision was to operate from the first pay period commencing on or after the 1st July, 1965.
4. The Pastoral Industry Award matter was stood over to allow the parties to consider the Metal Trades decision, with liberty to make an application later.
5. The claim of the employers for the total wage was rejected.
6. The claims of the unions for an increase in the basic wage and restoration of quarterly adjustments were rejected.
7. A simultaneous determination of basic wage and margins was to be made annually to cover the following twelve months, at which either the basic wage, or margins, or both, could be adjusted.
8. The basis of adjustment would be on the economic grounds of the capacity of the economy to sustain any increase in the ensuing year, which should be done by one Bench on the basis of the economic indicators used from 1953 to 1960.
9. Adjustment of wages would neither be according to movements in prices and productivity as desired by the unions nor by movements in productivity as desired by the employers, but with price stability as the main objective.
10. Parties were free to raise before the Commission questions of increases in margins on a work value basis.
11. The Commission anticipated that the increases granted would flow throughout its awards, but employers in industries other than the metal trades could submit to the Commission that they did not have the capacity to pay the increases.
12. Strikes reduced the capacity of the economy to sustain wage increases, limited the ability of the Commission to grant increases, and handicapped it in seeing that economic capacity was distributed fairly amongst wage and salary earners.
13. The existence of over-award payments could not be considered as evidence of capacity to pay increases in award rates but actually reduced that capacity.
14. In national wage cases written submissions by parties and intervenors, or expert submissions on economic subjects, and the lodging of cases in writing and the speaking to them, could be followed.
15. Changes in the Arbitration Act should be made to enable both basic wage and margins to be heard by one Bench, in order to remove existing procedural difficulties.

The President in his minority judgment rejected the employers' application in full, and was prepared to grant only 8s. (80c) increase in the basic wage because of uncertain economic factors. Sufficient time should have been given to see whether the principles adopted in 1961 were valid. With regard to the total wage he said although he was not against change as such one should proceed cautiously before making radical changes. In his opinion, the problems arising from over-award payments deserved priority of thought over radical changes in award structure. He called for more information with regard to them so that the Commission could consider whether it should endeavour to progressively diminish them by, for instance, deliberately increasing the basic wage and not margins because the discrepancy between actual and award earnings might unduly benefit employees in favoured industries. He considered that it might also be desirable to give less generous treatment to those who received over-award payments than to those who did not, and also to give different treatment to those in receipt of differing amounts of over-award payments. His view was that there was no substantial reason for granting the employers' total wage application unless their proposal that it be adjusted according to movements in productivity was also accepted. He thought it could be preferable for margins to be fixed in the various industries by the Commissioners responsible for them rather than to fix all margins by a general test case before a Full Bench. He had hoped that the reintroduction of adjustment for prices in 1961 would have brought union leaders to place less reliance on strikes or threats of strikes.

Judge Moore in his minority judgment rejected the employers' application in full, and he was also prepared to grant 8s. (80c) increase in the basic wage. He said that the Commission should always give priority to problems of industrial relations, and that the chief object of the Arbitration Act of promoting goodwill in industry should not be subordinated to purely economic considerations. He saw merit in the employers' total wage application, but it should have been considered in the future so that the parties could be warned of such a drastic change. His judgment was remarkable insofar as the matters of "strikes" and "over-award payments" which had so agitated the other members of the Bench were not mentioned even once, nor did he comment on the 1961 principles.

The employers were naturally jubilant at the majority judgment as it was almost a total victory for them. Their tactic of obtaining a "contrived bench" had paid off, for Judge Sweeney who had been added instead of Commissioner Winter to the same Presidential members as had been on the Benches of the 1964 case, had been a party to the majority judgment. At the preliminary hearing their advocate had said that he would be criticising "the wilderness of

wage fixation into which the Commission had drifted." The judgment to their delight apparently brought them out of that wilderness to the Promised Land, for it brought them the following worthwhile gains:

1. A minimum increase was granted that was only an average of 2s. (20c) above the 4s. (40c) they were prepared to offer, and was half of what the unions had claimed. In effect, it was made on the basis of adjustment according to movements in national productivity they favoured as it was equivalent to 1½% increase in productivity.
2. The value of wages was reduced, for the union claim of 12s. ($1.20) would have restored the loss in purchasing power of wages since June, 1964.
3. Any flow to the white-collar salaried section was greatly reduced in value by the formula.
4. A de facto total wage was recognised as the increase was calculated virtually on a total wage basis, which opened the way for the establishment of the total wage in the future.
5. The joint hearing of basic wage and margins which they had asked for had been granted, which made future cases virtual total wage ones.
6. Their argument that over-award payments reduced the capacity to pay had been accepted.
7. The margins claim that was to have been made by the unions at the latter end of 1965 was spiked, which could have resulted in a further increase in wages.
8. The condemnation of strikes and the rejection of the influence of over-award payments on increases in award rates which they had asked for had been made in the bluntest possible terms.
9. The 1961 principles of adjustment for prices and productivity supported by the unions were rejected, and the basis for any future adjustment was confined to the imprecise grounds of the capacity of the economy to pay.
10. The elimination of the leap-frogging from basic wage to margins and vice versa would stop the unions having two bites at the wages cherry.
11. The restoration of the 36% relativity of the Fitter's margin to the basic wage, (as existed prior to the 20s. ($2.00) increase in the basic wage in 1964), which they had asked for had been carried out.
12. The Commission had demanded of the trade unions complete subservience to arbitration.
13. A hint was dropped which could mean that perhaps the Commission was considering doing something about over-award payments in the comment that unions had nothing to fear from submitting just claims to arbitration.

The majority judgment created dismay and bitter criticism among the trade unions for it had performed the totally unexpected

and undesired conjuring trick of producing an increase in margins from what they had intended to be a basic wage case. It was a total defeat that took them back to 1953, for having formulated what appeared to be a watertight case on the assumption that the 1961 principles would be those adopted, they were confronted with a judgment made on a basis which had not been asked for by either the unions or the employers nor had any chance been given them to debate its merits. The previous principles based on movements in prices and productivity despite their weaknesses could at least be roughly measured, but the concept of capacity to pay was so vague that it amounted practically to obtaining a "guesstimate" by means of crystal gazing.

This was borne out by the majority judgment when it said there was no formula which could be used to determine future capacity but then estimated that it was capable of bearing the 1½% increase for the ensuing year. The last straw was that although the Commission had made price stability its primary consideration the employers blandly stated during the hearing that even if wages were increased within the limits they themselves had asked for, price stability could not be guaranteed. The unions were not made any the happier when soon after the decision a White Paper was issued which gave an optimistic picture of the state of the economy, the Consumer Price Index rose by 4s. (40c.), and the federal Budget took about 10s. ($1.00) a week from the wage-earner in various ways.

The Commonwealth Government was satisfied with the judgment for the Commission had accepted its submissions that a large increase should not be granted.

The statement in the majority judgment that their approach would produce coherence and consistency proved to be a gross overstatement, for the industrial situation began to resemble a Mad Hatters' Tea Party.

A tribunal that had been set up to settle disputes appeared as though it required a dose of its own medicine in order to resolve its internal differences, for it turned out that the majority judgment had not been known to the minority until the morning when it was announced. Trade unions, following an instruction of the A.C.T.U., were holding up about 150 applications for variations of other awards because they were seeking some way of getting a review of the judgment, and were stoutly resisting their members being paid the increase. The employers on the other hand were just as stoutly insisting that they should receive it, even to the extent of considering seeking a High Court writ to compel Commissioners to vary the awards for the increases. Meanwhile, some Commissioners were varying awards and others were adjourning applications, while some State tribunals were granting the increases and others were not.

An additional complication was in relation to the rates for Leading Hands, for it turned out that the formula adopted produced two increases when applied to the three prescribed rates. The metal

trades employers agreed to pay the highest increase to all three to resolve the problem, but employers parties to other awards were not prepared to do this, which destroyed the previous parity of those rates.

The militant unions had pressed immediately for a 24-hour national protest stoppage, while the moderates were trying to work out some manoeuvre to get the issue back to arbitration as there could be no appeal against the majority judgment. A special meeting of the A.C.T.U. Interstate Executive was held on the 8th July which rejected the proposal for a stoppage and decided to seek a review of the principles adopted by the majority judgment, with the proviso that if this failed the trade union movement would have no alternative but to seek redress of wage injustices outside of the arbitration system.

The medium for a review used by the A.C.T.U. was an application for an increase of 13s. ($1.30) in the Fitter's margin in the Agricultural Implement Making Award on the basis of increases in prices and productivity. This, in effect, was an appeal against the majority judgment, but the employers promptly moved in with a counter application to vary the award for the increases as granted in the Metal Trades Award. At the hearing on the 19th July the unions asked that the matter be referred to the President as it was considered by them that it was in the public interest that it should be heard by a Presidential Bench. Commissioner Winter had to fly to Alice Springs to get a quick decision from the President, who was engaged on a case there.

Although under the circumstances the trade unions had to do what they could to avert disaster their application was actually a gamble, for to be successful it could only mean the reversal of the majority judgment. This method of obtaining favourable decisions by stacking the Bench appeared to reduce wage fixation to the level of a two-up school.

On the 4th August, Commissioner Winter read the President's decision in which he refused to join the proposed two-up school by rejecting the unions' application for reference of their claim to a Bench for hearing and stating that there was no obstacle to the implementation of the majority judgment. He then used the industrial diplomat's approach to try and keep the trade unions within the arbitration fold. The A.C.T.U. was commended for seeking the review rather than resorting to direct action outside of the system. (This was cold comfort in view of its failure to get the review.) He then went on to hold out hope that all might not be lost by stressing that decisions were always open to review. (This argument was however two-edged, because if it did happen that the 1965 decision was reversed in 1966 it could well be that it could then be reversed in 1967, and so on ad infinitum. Particularly when it was borne in mind that the Commission had changed its principles of wage fixation six times from 1953 to 1965.)

The A.C.T.U. Interstate Executive met again on the 9th August to discuss this second defeat, and it was under even greater

pressure to authorise some organised protest action. This time it came much closer to action for the vote on whether a stoppage should be held was tied, but according to the rule that in such a situation the status quo prevailed the proposal was defeated. The meeting did however carry a strong resolution of condemnation of the decision, which included a call for intensification of the campaign for over-award payments as the only relief open to the workers outside of the arbitration system.

The 1965 judgment made it only too obvious that it was imperative for the trade union movement to do some creative thinking of its own on wages in order to formulate a wage policy as a counter to the initiative of the employers. The opportunity to do this was given at the 1965 A.C.T.U. Congress but it was not taken, for the old prices and productivity formula was adopted by the narrow majority of 17 in a vote of 276 to 259 against two amendments proposing a policy of a family living wage. There was apparently little alarm that a new era of wage fixation could be opening up, or little awareness that the employers were running rings around them, for the total wage concept was only mentioned in passing in the wages resolution which was carried. And it was not even mentioned, never mind analysed, from either left, right, or centre.

14—The 1966 Basic Wage, Margins and Total Wage Cases

AS the Commission in its 1965 National Wage Cases Judgment had laid down that there should be a simultaneous determination of basic wage and margins, both parties in 1966 sought a simultaneous review of both.

The unions made three claims in relation to margins. The first was for an increase of $5.90 in the margin of the classification of Electrical Fitter and/or Armature Winder in the Metal Trades Award, which had the same award rate as the Fitter. This was used instead of the usual one of the Fitter because the Electrical Trades Union happened to be the only metal union with a log of claims in the Commission with sufficient ambit ($16.80) to cover the claim of the A.C.T.U. for the increase of $5.90. The second claim was for the margins of other classifications to be set at the 1947 relativity. Two claims were made in relation to the basic wage. The first was for an increase of $4.30 in all the basic wages in the Award, and

the second was for the restoration of their quarterly adjustment.

The A.C.T.U. claims were calculated in the following way:

1. Since the last fixation of the basic wage in 1965 at $32.80, the increases in prices and productivity amounted to $4.30, giving a new basic wage of $35.10.
2. Taking the Electrical Fitter's margin to be 48.6% of that basic wage gave a margin of $17.10. Subtracting the existing margin of $11.20 from this gave the $5.90 increase to be claimed.

A separate similar application was made by the A.W.U. in relation to the Pastoral Industry Award.

The employers lodged another ingenious double-barrelled claim prior to the lodging of the unions' claim. One claim was for the deletion of the separate elements of the basic wage and margins, and if this was granted they would agree to a 1½% increase in the total award wage of the Fitter, (which was equivalent to 6s. (60c) a week), with appropriate proportionate amounts for other classifications. This was based on an estimated increase in productivity of 1½% in the next year. The other claim was that if the separate wage elements were to continue they would agree to an increase of 3s. (30c) per week in the basic wage, plus an increase in margins calculated according to the formula of 1.5% of the sum of that increased basic wage plus the existing margin of a particular classification, which gave the same increase of 6s. (60c) per week in the Fitter's total award rate.

At a hearing of the employers' claims before Commissioner Winter on the 11th January, 1966, he was requested to refer them to the President, Sir Richard Kirby, to be heard by a Reference Bench in the same way as the previous year, that is without a Commissioner. The unions concurred to the reference but urged that the Bench should be constituted to include one or more Commissioners. On the 2nd February, Commissioner Winter announced on behalf of the President that the applications for reference had been granted. The parties were left in suspense as to the actual composition of the Benches or the date of the commencement of the case, but it was indicated that a Commissioner, as yet un-named, would sit on the Bench dealing with the margins claims.

The employers then made a further tactical move by serving their claim on four other unions, the Shipwrights, the Ship Painters and Dockers, the Photo Engravers, and the Vehicle Builders Employees' Federation. This apparently was designed to create a situation where the Commissioner for a single industry could not be used, because the claims were for awards for which different Commissioners were responsible.

On the 21st February, the President announced that he had nominated two Benches. The first was a Presidential Bench consisting of Judge Wright, presiding, with Judge Gallagher and Judge Moore, who would hear the basic wage claims of the unions and the part of the employers' claim relating to the basic wage. Commissioner Winter would also sit in as an observer, so that he would

become familiar with material relevant to the employers' total wage application. The second was a Full Bench consisting of the members of the Presidential Bench plus Commissioner Winter, who would hear the margins claim of the unions and that part of the employers' total wage claim which did not seek to alter the basic wage.

The comments of the press such as, "brilliant manoeuvre", "master stroke", "musical chairs on wages", on the adroit way in which the President had outmanoeuvred both parties showed that the industrial diplomat had not lost his touch. Unfortunately it also gave the impression that wage fixation by the Commission had become more a matter of personalities than of argument.

The subtlety of the President's decision was that Judge Gallagher and Judge Moore had taken opposing positions in the 1965 case, while Judge Wright had not sat on a national wage case since 1958. There was rejoicing in some sections of the trade union movement in what was considered a blow to the employers in obtaining a "friendly" Bench, because only one of the Judges who had been party to what they regarded as the disastrous 1965 decision was on it.

The employers were somewhat taken aback, for while in 1965 the President had constituted a single Bench to hear their claims because their claims were so inextricably interwoven, in 1966 he had constituted two separate Benches when their claims were no less interwoven. They applied to the High Court for an order prohibiting the setting up of the two Benches in the manner proposed, but their application was rejected on the 2nd March[2A] on the grounds that the President had the power to exercise his discretion in the way that he had. On the same day the President directed that the claims would be heard together, and the submissions commenced.

The unions' case pressed for the restoration of the principles adopted by the Commission in 1961, 1963, and 1964 of adjusting wages according to changes in prices and productivity. It was said that arbitration was on trial, because if the Commission could not maintain the real value of award wages the trade union movement would have to find means outside of the Commission to maintain that value.

The employers' case was that increases in wages should be confined to the increase in national productivity, because if they exceeded it prices would rise. They proposed that any increase that was given should be on a total wage according to the capacity of the economy to pay, and that work value cases could be heard on behalf of skilled workers who were not satisfied by the general increase. They again demonstrated their capacity for taking the initiative by proposing that a minimum wage inquiry should be held to establish the level of wages below which employees could not be employed. They submitted that this could be a modern substitute

[2A] 114 C.A.R. at p.648.

for the basic wage, which was now ineffective in fulfilling its original purpose of protecting the low wage-earner. (This was an ingenious way of undermining the basic wage, of meeting objections to its abolition, and of supporting their total wage concept.)

The hearing was enlivened by some dramatic incidents. There was a sharp exchange between Judge Gallagher and the unions' advocate over the right to strike. Exception was also taken by the Bench to the submissions of the Commonwealth Government that it would be a great pity if strongly opposed judgments were the outcome of the case, and the Bench said that it was not very helpful when the Government expressed vague support for only a moderate increase but refused to quantify this. The most dramatic incident was when three available members of the Vernon Report Committee were subpoenaed to be examined by the unions' advocate because of the claim by the employers' advocate that the Report supported their contention that the share of wages and salaries of the national income was constant. Under cross-examination the Committee members conceded that because of additional data that had become available there would be something in the unions' contention that the share had been falling.

The marathon hearing totalled 41 sitting days and concluded on the 6th June. A unanimous decision was handed down on the 8th July, 1966[3] in which the Commission repeated its 1965 performance of turning a somersault on the principles of fixation, for it again made a proposal for wage fixation which was unexpected and unasked for by either the unions or the employers. The following were its main features:

1. The basic wages in the Metal Trades Award were increased by $2, to be operative from the first pay period commencing on or after the 11th July, 1966.
2. The increase was to be of general application to the awards of the Commission, subject to special cases.
3. Proportionate increases were to go to adult females, juniors and apprentices according to award provisions.
4. The unions' claim for restoration of the quarterly adjustments of the basic wage was rejected on the grounds that the Consumer Price Index was not constructed to enable differences between the capital cities to be accounted for.
5. The unions' claim for the margin of the Electrical Fitter to be 48.6% of the basic wage was rejected on the grounds that there was no relationship between the two as they were each fixed on a different basis.
6. The basic wage in the Pastoral Industry Award were increased by $2.
7. With regard to the unions' claim for a $5.90 increase in margins, it was considered unwise to award any general increase in margins until a work-value investigation had been made of the classifications in the Metal Trades Award

[3] 115 C.A.R. at p.93.

in order to review their out-of-date structure. Commissioner Winter was authorised to carry out the investigation and report to the Commission what re-arrangement, redesignation or additional classifications were necessary to bring them into accord with present-day requirements, and what, if any, alteration of margins were justified upon grounds of work-value, economic considerations, or any other reason.

8. Pending Commissioner Winter's report immediate relief to be given to wage earners on low margins. An interim provision was made for a margin of $3.75 below which an adult male employee should not be paid. (This was the current margin for a Tradesmen's Assistant.) The increase would not apply in the case of any employee in the 31 classifications affected if they were already receiving the new minimum wage by means of over-award payments. There would be no automatic flow of the minimum wage to other awards.
9. Over-award payments were declared to be irrelevant to the considerations of the Commission, as their existence was no evidence of a capacity to pay higher award rates.
10. The employers' total wage application was to be deferred pending further consideration of the present structure of margins and further argument.

The decision was a bombshell for the trade unions as it obviously opened the way to the introduction of the total wage, for it gave the basic wage the kiss of death.

Judge Wright had had some reservations about the jurisdiction of the Commission to introduce the total wage, but said that they had been dispelled by the ruling of the President in 1964 which held that there was jurisdiction, and by the opinion of the current Bench. He said that:

> *"Two basic considerations and several subsidiary ones led one to the conclusion that the time is opportune for the adoption of the concept of a total wage. In saying that I mean no more than that in my view a total wage rate has advantages over a bifurcated one in the circumstances of today."*[4]

He saw no great difficulty in the adoption of the total wage by the Commonwealth Public Service, the Coal Industry Tribunal, or any embarrassment to State wage-fixing authorities. But although on merit favouring an immediate change to a total wage, as a matter of practical convenience he saw some advantage in deferring it until after Commissioner Winter's report in order to give the State authorities longer notice of the Commission's intentions. He also said that if the total wage was adopted a firm decision could be made as to whether there was any point in retaining the higher differentials of the basic wage at Broken Hill, Whyalla and Iron Knob.

[4] 115 C.A.R. at p.107.

Judge Gallagher in his decision said that he had changed his opinion from that expressed in 1964 that the case for retention of the basic wage was beyond argument to one that the time was approaching for the introduction of the total wage. He considered that the introduction of the minimum wage of paramount importance for his change of opposition to the total wage in the 1964 and 1965 cases.

Judge Moore in his decision said that he was now inclined to the view that the Commission should probably accept the concept of the total wage. If proper principles of wage fixation were applied to the total wage, both in economic and work value reviews, there was no reason why wage and salary earners should suffer from what was in some ways no more than a procedural change. He considered however, that it should be deferred for further argument by the parties as to its adoption until after the work value review was concluded.

Commissioner Winter in his decision could not see any wrong principle in a total wage, but would long hesitate before removing a basic wage component which could be clearly indentified.

In the Announcement of the Decision the following was said about the operation of the new minimum wage:

> *"It is intended that the minimum rates now specified shall apply only to adult male employees and shall be applied for all purposes of the award — for example, in the calculation of overtime and other penalty rates, piecework, casual employment, sick leave and annual leave. . . ."*
>
> *"This provision for a new minimum wage for adult male employees is designed to meet the circumstances of employees in the lowest classifications who are in receipt of award rates and no more. It is not intended to affect the wage of any employee who is already receiving the prescribed minimum through over-award payments."*[5]

Some in the trade union movement claimed the decision to be a victory because of the $2 increase and the adoption of wage adjustment by the prices and productivity principle. But it was in fact a hollow victory compared with what the employers gained, even though they did grumble at the $2 increase, for as a press commentator said:

> *". . . this is the clearest victory the employers have achieved before the Commission. Some of the more far-sighted among them have already taken the view that the $2 basic wage award is a cheap price to pay for adoption of the total wage concept."*[6]

The Commission had also adopted another of the employers' wage concepts in the form of the new minimum wage, which appeared to open the way for the killing of the basic wage. In any case very few of the employees covered by the Metal Trades Award

[5] 115 C.A.R. at p.103.

[6] *The Australian Financial Review*, 11/7/66.

would actually benefit from the minimum wage as most of them would be receiving over-award payments to an extent that would make their wage greater than the minimum wage. As the Federal Secretary of the Metal Trades Federation said, it was like granting a wage increase to every red-headed man in a factory.

15—The 1966 Margins and Total Wage Cases (Interim Margins)

THE A.C.T.U. applied on the 28th of October, 1966, for an interim increase in the margin for the Electrical Fitter and/or Armature Winder because of the probable long delay in finalising the work value review of the Metal Trades Award which had commenced. It was to be a test case, the results of which could flow to all awards.

At the opening hearing on the 15th of November the claim was stated to be $2.35, which was calculated on the increases in prices and productivity that had taken place since the fixation of margins in 1963. Since then prices had increased by 11.8% and productivity by 10.2%, or 22% in all. This percentage of the 1963 margin of $10.60 gave $12.95, which with the addition of the 60c increase granted in 1965 gave $13.55, or an increase of $2.35 over the existing award margin of $11.20.

When the hearing opened the Commonwealth Government advocate obtained an adjournment until the 5th December because the federal elections were to be held on the 26th November, which they said raised practical and constitutional difficulties. The employers sought to have the unions' application stood over or dismissed, but the Commission decided to adjourn the hearing until after the elections. As the President of the A.C.T.U. said, it appeared that the Commonwealth Government wanted to say at the hustings that the economy was sound, and then if it was returned to power to say to the unions' application that no increases in margins should be granted because the economy could not afford them.

The hearing proper commenced on the 5th December before a Full Bench consisting of Judge Gallagher, presiding, with Judge Moore and Commissioner Winter. (Judge Wright would normally have presided, for the interim claim was a continuation of the 1966 National Wage Cases but he was unable to do so because of sickness.)

The unions' case was that there should be an interim increase in margins as suggested in the decision of the Commission in the 1966 National Wage Cases Decision, and that it should be on the general economic grounds of compensation for increases in prices and productivity. The employers' case was that they had no case to answer and that the claim was premature, so the hearing should not continue. But if it did they wanted to argue fully the principle of a total wage, and proposed that any increase granted should be expressed as a total wage. The Commonwealth opposed the unions' application, saying that it should be deferred until after Commissioner Winter's work value review because a second general wage increase in six months could have serious implications for prices and costs. The Victorian Government opposed the application and asked to be excluded from any increase because of the financial burden that it would impose on its finances.

The case was remarkable for its brevity for it concluded three days later on the 8th December, and the decision was given on the 22nd December, 1966.[7] But this time it was not a unanimous one for Judge Gallagher considered that an interim increase should not be granted as the economy could not reasonably be said to have the capacity to meet general increases. While Judge Moore and Commissioner Winter considered that an interim increase should be granted on the basis of the following percentages of the sum of the margin of a classification plus the six capital cities average basic wage of $32.80.

For margins of less than $5	1%
For margins of $5 or more but less than $7.50	1½%
For margins of $7.50 or more but less than $11.20	2%
For margins of $11.20 or more	2½%

The decision was to be operative from the beginning of the first pay period to commence on or after the 23rd January, 1967, and it was to flow to the other awards of the Commission. The formula gave $1.10 to the Electrical Fitter and 40c to the Process Worker. The reason given for the sliding scale was that it was considered desirable not to further close the gap between skilled and unskilled, so the most should be awarded to the more skilled.

The formula was a new one for granting increases and was significant in being calculated on a total wage basis, showing a further acceptance of the total wage concept by the Commission. The concern for the skilled worker was also an ominous hint as to its likely approach in the work value inquiry which was taking place.

[7] 115 C.A.R. at p.93.

16—The 1967 National Wage Cases

THE unions made three claims. The first claim was for an increase of $7.30 in the basic wages in the Metal Trades Award. (This was later on increased by 10c to $7.40 because of a rise in the Consumer Price Index which occurred after the claim had been made.) The second claim was for the restoration of quarterly adjustments. The third claim was for an increase of $5.90 in the margin for an Electrical Fitter and/or Armature Winder.

The basic wage claim was calculated in the following way:

1. *Prices Element*:
   - (a) The Consumer Price Index rose from 102 points at August, 1953 to 138.4 at December, 1966 = an increase of 35.7%.
   - (b) The basic wage at August 1953 was $23.60.
   - (c) $23.60 × 35.7% = $8.42, to the nearest 10c.
   - (d) $23.60 + $8.40 = $32.00.
2. *Productivity Element*:
   - (a) The increase in productivity from 1953 to 1966 based on a 1% increase compounded = 25.3% (an A.C.T.U. Research Office calculation).
   - (b) $32.00 × 25.3% = $8.9.6c, say $8.10 to the nearest 10c.
3. *Full Claim*: Prices plus Productivity Elements.
   - (a) $32.00 plus $8.10 = $40.10.
   - (b) $40.10, less present six capitals average basic wage of $32.80 = $7.30 increase to be claimed.

The employers lodged a simple claim for the adoption of a total wage, and made no offer of a wage increase if it was adopted by the trade unions as they had done before. There was no claim in relation to the Pastoral Industry Award because the A.W.U. had become affiliated to the A.C.T.U. in 1965, and consequently was now covered by their claim.

On the 23rd March, The President of the Commission announced through the Industrial Registrar that he would be presiding over a Presidential Bench to hear the basic wage because of the illness of Judge Wright. With him would be Judge Gallagher and Judge Moore, and Commissioner Winter would sit in as an observer. A Full Bench, consisting of the members of the Presidential Bench plus Commissioner Winter would hear the margins and total wage claims. (Oddly enough, this time both sides regarded the Benches as likely to be "friendly" to their arguments!)

After dealing with some procedural matters on the 1st April,

the hearing proper opened on the 5th April with a lecture from the Bench to five metal unions for holding a four-hour stoppage in Victoria in support of the unions' claim. The employers also obtained an important procedural success, for the Commission rejected the submission of the unions that the employers' application for the total wage should be adjourned until after the conclusion of the work value review of margins being carried out by Commissioner Winter. In addition, the employers obtained the right to speak first, which gave them the right of reply.

A feature of the case was the employers' success in transforming the hearing of the claim of the unions for an increase in the basic wage and margins into a hearing of their claim for a total wage. This was demonstrated by the four days the employers' advocate devoted to the total wage, and the one day he devoted to the basic wage and the margins claims of the unions. While the unions' advocate spent three days opposing the introduction of the total wage, and only a day on their wage claims.

His submissions were that an increase in the basic wage was justified as it was worth only 80c more in real value in 1967 as compared with 1953-54, while the share of wages in the gross national product had declined from 67.4% in 1952-53 to 61.2% on the latest figures.

The general tenor of the employers' submissions was that there should not be any increase in wages at all in 1967 because of the amounts that had been granted over the past two years. Confidence in their total wage claim was such that their advocate claimed it as a right and demanded its immediate implementation. At one stage he put his arguments so forcibly that the President took strong exception to them as being grossly improper, so he demanded and received an apology.

The employers' advocate also pressed strongly for the total wage to be adjusted according to movements in national productivity. He argued that the 7% increase in award rates which had been obtained by the unions over the past two years had not been matched by a similar increase in productivity. This meant that there was a legacy of 4% which was unmatched by any increase in productivity.

The employers received strong support from the Commonwealth Government, which abandoned its previous "impartial" attitude and put forward for the first time a specific policy by advocating that the growth of productivity should constitute the limit of permissible wage increases. It also opposed any wage increase, and said that the Commission had a heavy responsibility to avoid decisions likely to have inflationary consequences. It was non-committal about the adoption of the total wage.

After 13 sitting days the hearing concluded on the 10th April, and on the 5th June, 1967, the President made a Pronouncement on behalf of all the members of the Bench.[8] It was remarkable for

[8] 118 C.A.R. at p.655.

its brevity, as it ran to only 4½ pages compared with the 73 pages of the 1964 decisions and the 86 pages of the 1965 decisions.

But its brevity did not by any means reduce its impact, for it made the most far-reaching proposals in the history of the Commission. The most momentous part of it was to abolish the basic wage that had existed for sixty years and replace it with the total wage. But other important principles were also laid down for future national wage cases as can be seen from the main features of the Pronouncement:

1. Award rates in the Metal Trades Award were to be expressed in a single figure as a total wage, and there was to be no further mention of the basic wage in the awards of the Commission. Although it had served the workers of Australia well for over 60 years and had been a keystone of the wages system, the time had come to overhaul the time-honoured system because a course was now open more consonant with modern requirements and which would give better protection to employees. The Commission was creating up-to-date fixation procedures but was not changing principles.
2. A $1 increase on the total wage was to be granted to all male and female adult employees on the grounds that the economy could sustain it, to be operative from the beginning of the first pay period to commence on or after the 1st July, 1967.
3. The $1 increase was to flow to all other Federal awards, and juniors and apprentices were to receive the increase according to their prescribed percentages of the adult rate.
4. The minimum wage concept introduced in July, 1966 on an interim basis was to be retained, and the $1 increase was to be added to it.
5. The A.C.T.U. and the National Employers' Policy Committee were to confer immediately to ensure speedy applications to vary other awards for the increase.
6. The new procedure on wage cases would be that an application should be made each year by either the unions or employers for an economic review of the total wages in the award, but the next application was not be to submitted until on or after the 6th August, 1968.
7. The various economic matters considered included adjustment for price movements, which was of particular significance; price stability; productivity movements; and above all the economic capacity to pay. When settling interstate industrial disputes involving an economic review it was considered that the Commission must have regard to the economic consequences of its decisions.
8. The Commission would be able to handle reviews of the total wage flexibly, for any increases granted at an economic review could be expressed as either a flat amount, or a flat percentage, or varying percentages, or in other ways.

9. In the future, Commissioners would be able to fix total wages in a work value review of an award in the knowledge that economic factors, including price movements, would have been taken account of at the annual economic review of all total wages.
10. No statement was considered necessary as to the future course or nature of the work value proceedings of which Commissioner Winter's inquiry formed part.
11. It was considered that the total wage presented no serious problems for State tribunals or the Commonwealth Public Service.
12. The payment of the same increase to male and female adults and the adoption of the concept of the total wage made it possible to take an important step forward in regard to female rates. The unions and employers were invited to study the matter further for the payment of equal total wages for work of equal value by gradual implementation.
13. There was no comment on the employers' claim for the adjustment of the total wage according to movements in national productivity.
14. The question of the abolition of the locality differentials was mentioned as being open to investigation and debate.

The specific reasons given by the Commission for the introduction of the total wage were that it:

". . . will enable the Commission to act flexibly, to ensure that economic gains are reflected in the whole wage each year, to give more reality to its award-making both in economic and work-value cases, and to give proper attention to the low wage earner. It will simplify the procedural difficulties in economic cases, which would not be entirely overcome by the unions' agreement to simultaneous hearings of basic wage and margins cases. It will eliminate the present awkward necessity for different benches contemporaneously dealing with different parts of the wage; it should simplify the rapid and proper spread of economic decisions throughout awards and determinations under this Act and the Public Service Arbitration Act; and it should put those who give and receive over-award payments in a better position to deal with their problems."[9]

The new concept of a minimum wage which was introduced on an interim basis in the 1966 Case was confirmed on the grounds that:

"The minimum wage will give better protection to those whose take-home pay would otherwise be below the standard assessed by the Commission and will give the Commission more flexibility in assisting them because we will have more scope to give them special consideration."[10]

[9] 118 C.A.R. at p.659.

[10] 118 C.A.R. at p.658.

The employers were naturally jubilant at winning their claim for a total wage, and although their plea that no increase should be granted had been rejected they had received some compensation in the granting of a fourteen-month "pay pause" until August, 1968. The Commission had also accepted the proposition which the employers had put forward in 1964 that the total wage only meant changing procedures and not principles.

The Commonwealth Government was apparently also satisfied with the result for the Treasurer, Mr. McMahon, said in a press statement that the Commission had recognised the vital importance of preserving general price stability. (The Government then promptly increased postal charges to the tune of $67 million a year, which would inevitably have increased prices.) The Commission had also adopted the proposal which the Commonwealth had put forward in the 1965 National Wage Case that margins should be decided industry by industry and not by general reviews.

The decision was another bombshell for the trade unions. They bitterly condemned it with statements such as "shocking result", "hopelessly inadequate", "an insult", "wicked travesty", "heavy blow", and so on. They had good cause for such a reaction for they had received only a paltry $1 out of their claim of the $7.40 required to fully restore the purchasing power that the basic wage had lost since 1953. This meant that its real value was less than 2% above the 1953 level, and that the basic wage portion of the total wage had been frozen at that reduced value.

Moreover, the basic wage had been buried without the Commission even shedding a tear for an old and faithful friend. All the previous strong opinions expressed against the introduction of the total wage had dissolved in the soothing syrup of the Pronouncement that the fears of the trade unions were groundless as the total wage would produce better results for those concerned than had the previous method.

The decision also created the odd situation that margins had been abolished in the middle of a major review of margins, which gave the impression of indecent haste on the part of the Commission to introduce the total wage. Whereas the trade unions had expected, on the basis of the clear statement in the 1966 decision that argument on the merits of the introduction of the total wage would have been deferred until after the conclusion of Commissioner Winter's work value inquiry into the Metal Trades Award.

The $1 increase flowed to the other awards of the Commission by the adoption of a proposal agreed upon by the A.C.T.U. and the National Employers' Policy Committee that the Commission should move on its own motion to have its awards varied. This eliminated a lot of paperwork as no formal applications to vary had to be made, so the total wage quickly found its way into the awards of the Commission.

The employers attempted unsuccessfully to settle the matter of the total wage beyond doubt by asking the Commonwealth Government in April, 1967, to amend the Arbitration Act to delete the

provisions relating to the basic wage before the next national wage case in August, 1968. But the Government refused to do this.

Although the Pronouncement blandly said that the total wage presented no serious problems for the State tribunals, only Victoria adopted it. The Industrial Appeals Court for that State had no legislative restraint on its power to deal with the basic wage so it made an order for the deletion of references to a basic wage and margins in all Wages Board Determinations, and added $1 to the sum of them to give a total wage per week. The Court assumed that the Commission would not abolish the total wage now that it had adopted it.

In Tasmania, the Wages Boards had no legal restraint on their power to deal with the basic wage. But in a test case on the Electrical Engineers Wages Board, the Chairman decided that there did not appear to be a need for undue haste in adopting the total wage and added the $1 increase to the basic wage component of the Determinations.

In Queensland, the Industrial Commission was bound by the Industrial Conciliation and Arbitration Act to retain and vary a State basic wage, so increased adult male and female award rates by $1.

In New South Wales, the Industrial Commission was bound by the Industrial Arbitration Act to prescribe and vary a State basic wage, so it added $1 to the adult male and female basic wages as a "July 1967 economic loading". It contended that the basic wage should be retained because it was the sheet anchor for lower paid employees, it had a specially protective value in remote areas, it reduced wage cutting where employees were in a weak bargaining position, it allowed arbitrators in work value cases to isolate the secondary or marginal element of the award wage, and it had an important social and moral value. It said that in any case it was for the State Parliament to decide whether the basic wage should be retained or the total wage adopted, and the introduction of the total wage would entail amendments to sixteen Acts beside the Arbitration Act, such as the Industrial Arbitration (Basic Wage) Amendment Act, the Workers Compensation Act, the Landlord and Tenant Act, etc. Parliament did not however, move to introduce the total wage, but did legislate for the "economic loading" to be incorporated into the State basic wage as from the 1st January, 1968.

In Western Australia, the Industrial Commission was bound by the Industrial Arbitration Act to prescribe a basic wage so it increased the wage rates of adult workers by a "special loading" of 60 cents per week, which was to be treated as if it were an increase in the basic wage. In South Australia, the Industrial Court was bound by the Act to find a living wage (equivalent to a basic wage), so it increased that wage by $1.

In Queensland, the Industrial Commission was bound by the Act to declare a basic wage, so it increased the wage rates in its awards by $1.

There was no problem introducing the total wage into the Commonwealth Public Service salary structure as salaries had always been expressed as a single figure, although this was taken to contain a notional basic wage to enable increases in the basic wage to be passed into the structure. The wage-paid section, which had a clearly defined basic wage, was dealt with in the same way as in the case of Federal awards by the deletion of the provision for a basic wage and the prescription of a total wage.

17—The 1968 National Wage Cases

THE unions made the three following claims:

1. The restoration of the basic wage, and its increase by $11.40 to compensate for the increases in prices and productivity outstanding from March, 1953.
2. The restoration of the quarterly adjustment of the basic wage according to changes in the Consumer Price Index.
3. If these two claims were rejected, an alternative claim that the present total weekly wage rates in the award to be increased by $7.70.

The claims were calculated in the following way. It demonstrates the complexity of the wage formula being used at the time by the A.C.T.U. for it resembled something designed to split the atom and would be beyond the comprehension of most trade union officials and quite beyond explanation to rank and file members.

Basic Wage Claim.

1. Prices Element
   (a) the six capital cities average Consumer Price Index figure increased from 101.6 in March, 1953 (when the automatic adjustment of the Federal basic wage was abolished), to 144.6 in June, 1968 (the latest figures available prior to the claim being lodged). This was an increase of 42.32%.
   (b) The basic wage at August, 1953 was $23.60.

(c) $23.60 × 42.32% = $9.987, say $10.00 to the nearest 10c.
(d) $23.60 + $10.00 = $33.60.

2. Productivity Element
   (a) The increase in productivity from 1953 to 1968 was 31.4%. (An A.C.T.U. Research Office calculation.)
   (b) $33.60 × 31.4% = $10.55.
3. Full Claim
   (a) Prices plus productivity elements = $33.60 + $10.55 = $44.15.
4. Increase Claimed
   (a) Full claim minus the six capitals average basic wage at June, 1967 (when the total wage was introduced) = $44.15 — $32.80 = $11.35 claim for increase in the basic wage. (This was amended prior to the hearing to $11.40 because of an increase in the C.P.I.)

Total Weekly Wage Rates Claim.

(1) The Federal award rates published by the Commonwealth Statistician as at September, 1953 gave an average of $27.96.
(2) This figure adjusted for the same increases in prices and productivity as was used in the basic wage claim calculation = $52.30 at August, 1968.
(3) The federal award rates average as at December, 1967 (the latest figure available) = $44.70.
(4) $52.30 — $44.70 = $7.60 claim for increase in total wage. (This was amended prior to the hearing case to $7.70 because of an increase in the C.P.I.)

The employers made no counter-claim, relying this time on flat opposition to the union claims.

After a preliminary hearing on procedural matters on the 6th of August, submissions commenced on the 20th of August before a Presidential Bench consisting of the President, with Judge Gallagher and Judge Moore. As there was now no margins or basic wage with the introduction of the total wage, there was no longer any need for the complications of either a reference to the President or the setting up of separate Benches with a Commissioner on the margins one.

The unions' case was that six members of the Commission in six separate judgments before 1966 had rejected applications for a total wage. The basic wage had got as low as it had because the Commission had fallen down on its job. It was so abysmally low that the Commission had not wanted to live with it any more, so it had abolished it. The introduction of the minimum wage in 1966 could be seen as a method of solving the dilemma with which the Commission imagined it was confronted, but it was not an adequate

basis for abolishing the basic wage because it was demonstrably too low.

The employers presented two cases. The first case, on behalf of the National Employers' Policy Committee, covered the most ground on the basis of five main points. The first point was that the employers considered that 1968 should be a "no general increase year" as the "cupboard was bare", and far from being entitled to a wage increase the trade unions in fact owed money to the employers as they had obtained more than the capacity of the economy entitled them to. The second point was that wage increases should be confined to the limits of increases in national productivity. The third point was that the recent increases granted in the Metal Trades Award were not based on what the employers considered to be work value criteria, and had therefore deprived the Commission of the opportunity of granting a general increase. The fourth point was that the unions should withdraw the equal pay claims they had made under other awards and have the matter dealt with at the next national economic review. The fifth point was a proposal for a new charter of wage fixation which is dealt with in detail in concept No. 5 — Work Value. The essence of it was that work value and economic cases were not separate but were associated considerations which should be assessed together within the limits of the capacity to pay.

The second employers' case on behalf of the Metal Trades Employers' Association, argued that work value was a half-truth which the Commission should discard from its vocabulary. It was misleading to say that because factors relating to work value had been taken into account, economic consequences had thereby been excluded. In fighting the employers over the absorption of the metal trades award increases and seeking a flow-on to other awards the unions had exhausted any capacity to increase wages in the current case.

The Commonwealth Government opposed the restoration of the basic wage and its adjustment, as well the adjustment of the total wage. It stressed the need for the Commission to exercise the restraint the economic situation required, but if the Commission were to find that the economic capacity allowed for an increase then it should be a small one.

The unions' advocate in his final submissions strongly criticised the Commonwealth Government and the employers for attempting to create an atmosphere for their submissions by attacks on the Commission prior to the hearing by Senior Ministers and spokesmen of the employers. The Commonwealth submissions were condemned as unreliable, lacking in objectivity and concealing relevant factors. Although it had spent some time on the dangers of a wage drift it had not mentioned that the Budget had assumed that average earnings would increase by 5.5%, which would mean an increase in award wages of $1.70. (This was later amended to $1.60.) The proposed wage charter of the employers was trenchantly attacked,

and the Commission challenged to go through the last three wage case decisions to establish proof of the value of the total wage. It was told that if it was not scrapped, national wage cases would become a farce.

After 13 sittings days the hearing concluded on the 20th September, and a brief unanimous Judgment was handed down on the 4th October, 1968.[11] This appeared to be the confirmation of a new trend in the wage decisions of the Commission which had been set by the 1967 decision, possibly with the aim of improving its public image by eliminating the differences between members of the Commission which had been revealed in past decisions. Possibly to evade the energetic "rubbishing" of past decisions by advocates of both the unions and the employers which at times had amounted almost to open abuse, to which the past long-winded decisions were open to because of their loose thinking, economic absurdities, contradictions, and changes in thinking as to what the role of the Commission should be.

The following were the main points from the judgment:

1. The adult male and female rates and the minimum rate for adult males were all to be increased by $1.35 per week, to be operative from the first pay period to commence on or after 25th October.
2. Apprentices and male and female juniors were to receive increases according to the provisions of the award.
3. The application of the unions for the restoration of the basic wage and adjustments thereof was rejected.
4. The increase could be of general application to all the awards of the Commission, following on applications being made.

In the judgment it was said that the factors taken into account by the Commission as a basis for granting the increase were the movements in prices and productivity since the last assessment of the total wage in 1967, the current and projected state of the economy, the granting of significant increases as a result of work value reviews, the economic review presented by the Commonwealth, the position of primary industry, public interest and the capacity to pay. They had not however, been able to agree among themselves as to what weight should be given to these factors, but had been able to agree that the total wages in the award should be increased and on the amount of the increase. All relevant statistical information had left a clear impression that the economy was sound and expanding, so it was capable of carrying the increase granted. In the current context they thought it necessary to be cautious, but because of a desire to do the best for the low wage earner they had decided to grant a flat increase. This however, should not be taken as an indication that this would happen again in the future.

The employers had asked that a policy should be laid down

[11] Print No. B 3554.

for the conduct of future work value cases, but the Commission considered that this would best be dealt with in the future by a Bench with an appropriate application before it to which everyone concerned could put their views. It was also said that the flat increase would give the States, particularly New South Wales, time to adjust their wage fixing systems to a total wage basis.

The employers' proposal for the productivity adjustment of wages was unequivocally rejected in the statement that:

> *". . . the employers again advanced the argument that we should attempt to implement the ecoomic theorem about movements in wages and movements in productivity but for the reasons we have given in earlier decisions we decline to do so. "We all agree that in the present circumstances of full employment and in the absence of an incomes policy it is just not practicable for increases in wages and salaries to be kept confined within productivity increases. To believe otherwise is to ignore what has happened and is happening in other countries of the western world."*[12]

The trade unions were disappointed with the judgment, for the increase granted was well below their full claim, hardly compensated for the increases in the Consumer Price Index since the 1967 case, and the total wage had been confirmed. The employers were critical as they considered that an increase should not have been granted. The Commonwealth Government however had the satisfaction that the increase was below the $1.60 anticipated by the Budget assumption of a 5.5% increase in average earnings.

This national case put the seal on the total wage in Commonwealth awards, for it was said in the judgment that:

> *". . . nothing put to us in this case has caused us to change our views as to the desirability of total wage. As was explained in June, 1967 the Commission has embarked on a new course and we see no sound reason either to restore the basic wage or to change our repeatedly expressed views about automatic adjustments."*[13]

The question of the adoption of the total wage by the State tribunals was still left unresolved, because despite the broad hint from the Commission that they should adopt it none of them did so when the employers pressed for its adoption at the hearings of the unions' successful applications for the flow-on of the $1.35 increase in the various States. This left Victoria as still the only State which had adopted the total wage.

After the 1969 National Wage Cases no other State followed Victoria in adopting the total wage. The 3% increase in total wages

[12] Print No. B 3554 at p.4.
[13] Print No. B 3554 at p.3.

granted was passed on by the New South Wales, Queensland and Tasmanian tribunals by increasing both the basic wage and margins by 3%.

The South Australian tribunal prescribed the 3% as a separate "interim economic adjustment..' Legislation was then passed to empowed the Full Commission to eliminate this and to vary the living wage and/or margins as was considered appropriate.

In Western Australia the automatic recognition of Commonwealth wage decisions came to an end in 1968 when the Industrial Commission was given the power to fix the State basic wage when an appropriate application was made to it for this to be done. Although the Commission also had the power to abolish the State basic wage it refused to do so. Instead it adopted an independent fixation of the basic wage when an appropriate application came before it. This resulted in a $1 increase in November, 1969 and a $2 increase in October, 1970.

Just how long the States can hold out against the total wage remains to be seen, as there is no sign of them changing their attitude. But so far as the area of Federal Awards is concerned the change to the total wage caused hardly a ripple among the majority of the employees affected by it. In fact most of them are probably even unaware that such a thing as the basic wage has gone, because for some time prior to the introduction of the total wage workers were thinking in terms of a total wage when making claims on their individual employers. That is, the claim would be set by them at a single figure which included the award rate and an over-award payment. Union officials would usually go through the formality of separating the claim into basic wage plus margins plus over-award payment when negotiating with the employer, but such a breakdown did not greatly concern their members.

The minimum wage concept came to be adopted by all the States except New South Wales, and they adopted the same figure until 1970 when Western Australia broke away with an independent fixation of its own above the federal one. In the federal sphere, the minimum wage was given the same increase as the total wage in the 1967 and 1968 National Wage Cases. In the 1969 and 1970 cases, however, the minimum wage was given a separate fixation as the total wage was increased on a percentage basis. In the 1969 case the unions agreed that it could receive a separate fixation which they would regard as standing on its own.

The existence of two different wage structures in Australia adds another oddity to the wages scene. How odd became apparent to me when I tried to explain to a visiting Research Officer of S.O.H.Y.O., the Japanese trade union centre, the subtleties of the total wage, the minimum wage, the basic wage and the award wage. It was clear from the bemused look which came over his face that he was finding the inscrutable Australians a bit hard to fathom — and one doesn't blame him.

18—The Long Shadow of the Total Wage

WHEN the total wage was first put forward by the employers in the 1964 national wage case, it appeared to many trade unionists to be something new which had appeared out of the blue.

This was not the case. As early in 1960, an article in a journal financed by business enterprises and individuals[14] discussed whether the time had not come to abandon the basic wage and adopt a total award rate. In the 1960 Basic Wage Decision, Judge Kirby, the President of the Arbitration Commission, commented on the difficulty encountered by the Commission in the hearing of separate basic wage and margins cases.[15]

In 1963 there was speculation in some trade union quarters as to the possibility of the employers advocating in a national wage case that wages should be assessed on a total wage basis. The speculators considered that it was likely to be raised in 1966, when the next periodic margins case was likely to coincide with the annual basic wage case. I was employed at the time in the now defunct Arbitration Office of the A.E.U. in Melbourne, and as one of the speculators drew the attention of the Commonwealth Council to the possibility in August, 1963. After considering the matter, they in turn wrote to the A.C.T.U. calling upon it to oppose the total wage concept.

As it turned out, the employers moved more smartly than was expected by those in the trade unions who were aware of the possibility, for they applied for the introduction of the total wage in the 1964 national wage cases. But the shadow of the total wage goes back much further than the developments in the 1960's.

The expression of wage rates in awards as a total rate was the practice of the old Arbitration Court in the first eighteen years of the history of the arbitration system. There was, however, a clearly distinguished basic wage element in award wages that made the practice quite different from the employers' total wage concept which did not contain a basic wage.

For example, the Amalgamated Society of Engineers' Case of 1922[16] prescribed a base minimum rate for the eleven classifications in the Award, among which was that of a Fitter with a single rate of £5/1/0 ($10.10). The actual rates for a Fitter in the ten localities prescribed in the Award were obtained by means of a

[14] *"I.P.A. Review"* January-March 1960: Institute of Public Affairs: Melbourne.

[15] 96 C.A.R. at p.572.

[16] 16 C.A.R. at p.282.

proportionate formula. This gave £5/3/7 ($10.36) as the rate for Melbourne and varying amounts for the other localities. But in the Amalgamated Engineers' Case of 1927,[17] separate basic wages were prescribed for the ten localities, and margins were prescribed separately for the classifications in the Award.

The large sector of public servants have always had their salaries prescribed as a single figure, although a notional basic wage content was recognised on the basis of the six capitals average to enable them to obtain any increases granted in the basic wage. The State tribunals expressed the rates in their awards on the basis of a basic wage and margins, but they took into account the totality of wages when fixing margins.

In some decisions of the old Arbitration Court and the present Commission hints can be found that on occasions they too looked at wages in their totality when formulating decisions, as can be seen from the following quotations. In the judgment on the 1937 Basic Wage Inquiry it was said that:

> *"But in comparing the real wage level of the years 1926-1929 with the present day level there must be brought into account not only the difference in the basic wage but also increase in marginal rates made since those years" . . . "A substantial increase in the basic wage may compel temporary or permanent reconsideration of the higher margins. But that is a matter for the future."*[18]

In his judgment on the 1949-50 Basic Wage Inquiry, Chief Judge Kelly said that:

> *"Beyond all question it is right and proper that consideration of the appropriateness, that is to say, 'justice' and 'reasonableness' of a 'basic wage' with reference to economic adversity or prosperity, easiness or strain, cannot, therefore, ignore movements in the level of both total wage rates and total earnings, attributable to the circumstances of that very adversity or prosperity, or to the effects of that economic easiness or strain in either particular industries (as, for instance, where competition for labour is keen; or again, where orders are few) or in industry as a whole."*[19]

In its judgment on the 1956 Basic Wage Inquiry the Arbitration Court supported the above comment and then went on to say that:

> *"With those observations this Court agrees, for in its view the basic or foundation wage cannot be looked at in isolation. It must be fixed in its proper place as part of the whole wage structure, for the reason at least that in considering the capacity of the economy to sustain a basic wage, that question cannot be divorced from its capacity to bear also the existing*

17 25 C.A.R. at p.389.

18 37 C.A.R. at pp.592-3.

19 68 C.A.R. at p.771.

> *level of marginal wages. Moreover, the present level of wages in the community as a whole must be regarded, whether the wages are paid under awards of this Court or otherwise."*[20]

Conciliation Commissioner Galvin in his 1952 Metal Trades Award Decision, made a number of comments on the need to look at the total wage when fixing margins, as for example:

> *"The duty cast upon me is to fix fair and reasonable minimum wages. To do that, I think there is a clear obligation on my part to have regard to the totality of the wage rate. In the early years of the Court's history, awards were not expressed, as now, as consisting of two parts; they were expressed as a complete wage, but provision was made for the adjustment of the basic wage portion thereof. This division of the wage into two or more elements appears of late to have given rise to all sorts of false impressions. A number of pronouncements both by the Court and other wage-fixing tribunals, have been made to this effect from time to time, and perhaps I need do no more than quote one of the most recent, that of the Full Bench of the Industrial Commission of New South Wales in what is known as the Plumbers' case, as given on 18th May, 1951, in which it said:—*
>
> > *"The minimum rate of wage fixed in a particular case may be said to consist of two parts — the basic wage and the margin for skill or other relevant consideration. But it is the whole wage sum which must ultimately be looked at critically by the tribunal fixing the wage and that tribunal must be satisfied that the said sum represents a fair and adequate minimum wage having regard to all relevant considerations. . . ."*
>
> *"In adopting that pronouncement I would add that I see nothing either in the decisions of the Court on the basic wage or in the language of section 13(b) of the Act itself which would prevent me from having regard to the whole wage sum when examining the marginal portion thereof."*[21]

Of some interest is the comment made by a John Moore, a Sydney barrister, in a paper he gave in 1952 to a forum on wage fixation. The interest is that he was appointed a judge of the Arbitration Commission in 1959, and was a member of the Bench which introduced the total wage in 1967. The comment in the paper was:

> *"It had been, and still is, recognised as a principle of wage fixation that in determining a proper wage to be paid one should look to the whole amount which an employee receives. Under the present division of powers both the Court and the Commissioners are labouring under some difficulty in that*

20 84 C.A.R. at p.185.

21 73 C.A.R. at p.344.

neither tribunal can fix the whole wage but acting independently they each fix a part."[22]

In the discussion a Miss J. Arnot advocated the abolition of the basic wage and the introduction of a single wage.

In 1960, Judge Foster considered prescribing a total wage in the Seamen's Award, but refrained, as can be seen from the comment in his judgment that:

"I gave thought to the idea of departing from tradition by fixing a total wage instead of basic wage and margin; this method has some interesting merits. There are no basic wage earners in this industry and the concept of basic wage having now changed from the amount needed to maintain a family group in frugal comfort to the highest amount the economy can reasonably and safely bear, there seems very little reason to continue to divide wages in this industry into the two categories. I however rejected the idea because I felt that if this change is to be made it should be made on the authority of the Commission in Presidential Session, if not by the legislature."[23]

In the judgment on the 1961 Basic Wage and Standard Hours Inquiry it was said that:

"It may be correct that as an overall economic proposition the important and significant thing to be considered in relation to the distribution of productivity increases by increased wages is the overall wages paid and not the basic wage."[24]

In his decision in the Banking Margins Case of 1963, Judge Gallagher said that:

"A wage rate is to be considered in its totality, and the total wage received by an employee may be of an amount making it fair, reasonable and proper that he should not be entitled to the same percentage increase on economic grounds as that deemed necessary for another employee, such as a fitter. . . ."[25]

Apart from these hints in decisions of the Commonwealth tribunal there appears to be more concrete evidence that it looked at wages as a total wage basis in the period after World War 2. This assumption is based on the analysis of changes in marginal and total wage relativties which is given in Table 2. The two classifications of Fitter and Process Worker were chosen as they represent the typical tradesman and non-tradesman in the Metal Trades Award. But the same pattern of changes in relativities would have been revealed if any other classifications had been compared with the Fitter, although the percentage figures would have been different.

22 *The Theory and Practice of Wage Fixation in Australia*: Winter Forum of Australian Institute of Political Science, 1952; Collected papers on, *What Should We Do With the Australian Wage System*: A.I.P.S., Sydney.

23 93 C.A.R. at p.833.

24 97 C.A.R. at p.392.

25 103 C.A.R. at p.747.

TABLE 2.

RELATIVITIES OF FITTER'S AND PROCESS WORKER'S WAGE RATES IN THE METAL TRADES AWARD

Year of Decision	Basic Wage (Capital Cities Average) (1) $	Fitter's Margin (2) $	Fitter's Wage (3) $	Process Worker Margin (4) $	Process Worker Award Rate (5) $	Process Worker Margin Percentage of Fitter (6) %	Process Worker Percentage of Fitter B/W Case (7) %	Process Worker Percentage of Fitter Margins Case (8) %
1930	9.05	2.40	11.45	0.60	9.65	25	—	84.2
1934	6.50	2.40	8.90	0.60	7.10	—	79.7	—
1935	6.60	2.70	9.30	0.60	7.20	22.2	—	77.4
1937	7.00	3.00	10.00	0.80	7.90	26.6	—	79.0
1937	7.30	3.00	10.30	0.80	8.20	—	—	—
1941	8.60	3.60	12.20	1.10	9.70	30.6	79.6	79.5
1946	10.50	3.60	14.10	1.10	11.60	—	—	—
1947	10.70	5.20	15.90	2.20	12.90	42.3	82.2	81.1
1950	16.20	5.20	21.40	2.20	18.40	—	—	—
1953	23.60	5.20	28.80	2.20	25.80	—	85.9	—
1954	23.60	7.50	31.10	2.20	25.80	29.3	89.5	82.9
1956	24.60	7.50	32.10	2.20	26.80	—	—	—
1957	25.60	7.50	33.10	2.20	27.80	—	83.4	—
1958	26.10	7.50	33.60	2.20	28.30	—	84.4	—
1959	27.60	7.50	35.10	2.20	29.80	—	84.2	—
1959	27.60	9.60	37.20	2.80	30.50	29.1	84.9	81.9
1961	28.80	9.60	38.40	2.80	31.60	—	—	—
1963	28.80	10.60	39.40	3.10	31.90	29.2	82.2	80.9
1964	30.80	10.60	41.40	3.10	33.90	—	—	—
1965	30.80	11.20	42.00	3.60	34.40	32.1	81.8	81.9
1966	32.80	11.20	44.00	3.60	36.40	—	—	—
1967	32.80	12.30	45.10	4.00	36.80	32.5	82.7	81.9
Total Wage (Melbourne Male)								
1967			46.00		37.70			81.9
1968			53.40		39.30			73.7
1968			54.75		40.65			74.2
1969			56.40		41.90			74.2
1970			59.80		44.40			74.2

The relativities between them have been given at either basic wage or margins cases when the relativity would have been disturbed, except for 1953 when the quarterly adjustments of the basic wage were abolished in October. The Melbourne relativity was used as it provided some notional continuity in the figures, for when the federal basic wage was abolished in 1967 the six capitals average was $32.80 and the Melbourne basic wage was $32.70.

Taking the postwar period, an examination of the marginal relativities as given in column (6) shows no significant pattern. But when the total wage relativities as given in columns (7) and (8) are examined they show a pattern of instability in relativities and how they were periodically stabilised.

As can be seen there was a built-in cause of instability created by the increases in the basic wage which gave proportionately more to the Process Worker than to the Fitter. This disturbance was apparently periodically corrected by the tribunal by using the margins cases as the medium for establishing the total wage relativity within 2% over the twenty years of 1947 to 1967 at the time the decisions were made. The 1953, 1954 and 1959 Margins Cases demonstrate the operation of the mechanism most clearly because of the big divergencies at those years.

Between 1948 and 1953 margins had been frozen and the basic wage had more than doubled, so that by 1953 the total wage relativity had increased to 89.5% in favour of the Process Worker. Drastic action was therefore required to pull it back towards the average. This was done by means of the abolition of the automatic adjustments in 1953, and then the margins decision of 1954 which gave 23/- ($2.30) to the tradesmen and nothing to most non-tradesmen. The combined effect of these two decisions was to reduce the total wage relativity from 89.5% to 82.9%. By 1959, four increases in the basic wage had increased the total wage relativity to 84.9%, but the margins decision of 1959 reduced it to 81.9%.

The later percentage increases in margins of 10% in 1959, 28% in 1963, 1½% in 1965, and 1%, 1½%, 2% and 2½% in 1966, were mathematically those which were required to maintain the average total wage relativity in the face of a number of increases in the basic wage.

It is difficult to believe that such a remarkable consistency in the adjustment of total wage relativities when margins cases occurred was not intentional but just a series of sheer coincidences. But whether it was intentional or not that is what happened. In fact, given a two-part wage structure one part of which increased more frequently than the other, it would be the only way of ensuring some stability in that wage structure over a period.

The abolition of the quarterly adjustments in 1953 slowed down the increase in the basic wage and so made it easier to maintain

consistency in the total wage relativities, but the built-in instability was still there. The use of the margins cases to periodically maintain consistency was obviously a clumsy way of doing this, but the total wage provided a way of maintaining consistent relativity between wage rates as can be seen from the figures for 1968, 1969 and 1970 in column 8 of Table 2.

In fact, the National Employers' Policy Committee put forward just that proposition in its press release of the 20th January, 1964, on the total wage, for it was said that each basic wage increase destroyed marginal relativities so a great advantage of the total wage would be the elimination of this injustice. Could it be that the employers had hit on the Commission's total wage relativity approach, and so could therefore anticipate that such a proposal was likely to be acceptable to the Commission if they pressed it strongly enough?

Another interesting thought is that if the relativity table had been available to the trade unions in the early postwar period, it would have been possible for them to have forecast with reasonable accuracy just what increases would have been granted in margins. This is however, only profitless speculation, for the idea of working out the table only occurred to me shortly before margins went out of existence. Like everybody else in the movement concentration on the separate parts of the wage structure of basic wage and margins had blinded me to the total wage relativities until the employers aroused my curiosity about this when they began talking of the total wage. So the arbitration system bamboozled all of us to overlook that important aspect of the wage structure.

There were also other indications of the shadow of the total wage elsewhere. The Commission adopted the practice of regarding margins cases based on the Metal Trades Award as being general test cases as well as the basic wage cases. This blurred the distinction between the basic wage and margins for they were argued on the same economic grounds. This became apparent in the 1959 Margins Case, (the first one that was heard by the Commission), when the unions used much the same economic arguments as had been used in the 1959 Basic Wage Case earlier in the year. This approach was continued in the 1963 and 1965 Margins Cases. In the 1966 National Wage Cases there was a simultaneous hearing of the basic wage and margins claims of the unions because of the 1965 decision of the Commission, and the same economic arguments were used by the parties in relation to the two separate components of the award wage.

The relativities which were established in 1947 were acceptable to the metal unions because they were the product of an agreement with the employers, and the unions adopted them as official policy. The Arbitration Court, and then the Commission, were also prepared to accept them as a guideline in view of the consistency shown in column 8 of Table 2 for twenty years from 1947 to 1967. When the 1947 relativities were upset by the

1967 Work Value Inquiry the metal unions reaffirmed their support for the 1947 relativities. And in 1971 when the claims were made directly on the metal employers the formula for the wages part was based on a ratio of 100 for a Fitter and 82 for a Process Worker, with the 1947 relativities for the others. The Commission, however, apparently prefers to maintain the 1967 relativities.

19—Simplification of the Wage Structure

CO-ORDINATION of the movements of wage rates in Federal and State awards was not a matter of much concern up to 1930. Each tribunal tended to go its own way, while taking the precaution of keeping a weather eye on what went on in the other tribunals. In 1930 however, the Commonwealth Arbitration Court cut the wage rates in its awards by 10% as an emergency measure to assist recovery from the severe economic crisis which existed.

According to an estimate made by Judge Beeby in his judgment in 1933 on an application for the restoration of the cut, it had in practice only been applied to about half of the total number of employees in the Commonwealth covered by industrial awards.[26] This was because all the State tribunals except one refused to follow the lead given by the Commonwealth Arbitration Court. Judge Beeby also said that:

> *"The conflict between State and Federal Tribunals, the impossibility in the existing state of the law of securing purely national consideration of wage fixation, and the inability of tribunals to grade minimum wages according to the size of family units makes equitable fixation of a national minimum wage impossible."*
>
> *". . . It is more than ever apparent that what the general standard of living should be, and what wage rates are necessary for its maintenance — the most important element of national economics — can only be determined by a national tribunal or by some well-defined system of co-ordination between all existing wage-fixing authorities."*
>
> *"The Court anticipated that its analysis of the economic situation which accompanied this utterance would, within a reasonable time, lead to similar declarations by State tribunals and result in universal 10 per cent. reduction of 'real' as contrasted with nominal wages. But after the lapse of two years State tribunals (except Tasmanian Wages Boards) have not deemed it necessary to reduce wage standards, but have been content to make reductions only in proportion to the reduced cost of living."*[26A]

He went on to propose that the Arbitration Court should hold a conference with the State tribunals, as provided for in Section 35A of the Commonwealth Arbitration Act, in an endeavour to arrive at some common formula for basic wage fixation. It is not known by the writer if such a conference did take place, but a few years later there were some moves towards co-ordinating the Federal and State basic wages as can be seen from the following brief survey.

In Victoria, there was no provision for declaring a basic wage, but Wages Boards adopted a basic wage of their own fixation in their Determinations. In 1937, it was made mandatory for Wages Boards to take regard of Federal wage decisions, so the Federal basic wage was adopted. The automatic adjustments were, however, continued in the Determinations after they were abolished in 1953 in Federal Awards, but in 1956 they were abolished and parity again established between the State and Federal basic wages.

In Tasmania, there was no provision for declaring a State basic wage but Wages Boards usually adopted the Federal one. In 1959, the State basic wage was made the same as the Federal one.

In New South Wales, at the beginning a living wage was periodically declared independently of the Federal basic wage. But in 1937 the Federal basic wage and its method of automatic adjustment were adopted. The latter was abolished in 1953 when the Commonwealth adjustment was abolished, but it was restored in 1955. This caused the two basic wages to get out of step, but in 1964 they were brought back into step when the State basic wage was made the same as the Federal one and the State automatic adjustment was abolished.

In South Australia, a living wage was periodically declared independently of the Federal basic wage until 1950, when the latter was adopted. Declarations were subsequently made with the aim of preventing unjustifiable differences between Federal and State basic wages.

In Western Australia, a basic wage was declared independently of the Federal basic wage so any coincidence was a chance one until 1966. For then the State basic wage was frozen at its current figure of 70 cents above the Federal basic wage until such time as that was exceeded, whereupon it was to be increased by the difference to be made the same. After that it would increase as the Federal basic wage was increased. The legislation became inoperative when the Federal basic wage was abolished by the introduction of the total wage. In 1968, the Commission was given

[26] 32 C.A.R. at pp.103.

[26A] 32 C.A.R. at pp. 103-4.

the power to fix the basic wage when an appropriate application was made to it for this to be done.

In the case of Queensland, the State tribunal considered the adjustment of the basic wage when an application was made for it to do so. In 1965 it adopted the principle of not adjusting the basic wage unless the Consumer Price Index had moved more than equivalent to 4s. (40c.). At one time the State and Federal basic wages in Queensland were much the same, but after November, 1952, when they were the same, the State one became increasingly greater. At June 1967, when the Federal basic wage was abolished, the difference had become $2.20. In practice, this has created little difference in the total wages paid as between employers under Federal and State awards because of the competition for labour established a general market rate.

The States adopted the standard for the female basic wage of 75% of the male basic wage when this was introduced by the Commonwealth Arbitration Court in 1950. At various times they simplified their State basic wage structure by abolishing country differentials to the stage where New South Wales, Western Australia, Victoria and Tasmania have none and Queensland and South Australia have two each. The abolition of automatic adjustments of the State basic wages after the abolition of the adjustments of the Federal basic wages also assisted the levelling-up process.

As a result of the moves in various States in the area of the basic wage considerable uniformity had been established by 1967. This can be seen from Table 3, which gives the Federal and State basic wages at the capital cities just prior to the abolition of the basic wage in Federal Awards in June, 1967.

TABLE 3.

FEDERAL AND STATE BASIC WAGES

Capital City	*Federal Basic Wage* $	*State Basic Wage* $	*Difference* $
Sydney	33.50	33.50	Nil
Hobart	33.40	33.40	Nil
Melbourne	32.70	32.70	Nil
Adelaide	32.30	32.30	Nil
Perth	32.80	33.50	70c
Brisbane	31.00	33.20	$2.20

From this it can be seen that the basic wages were the same in four of the capital cities, and that in Perth there was only 70 cents difference but this lay within the general pattern. The exception was in Brisbane where the State basic wage was within the general pattern but the Federal one was well outside of it.

This trend towards uniformity in basic wages came to an end when the basic wage was abolished in Federal Awards, with Victoria the only State to follow suit. The other States, with the exception of Western Australia, continued to transmit the decisions of the national wage cases into their State Awards. But Western Australia cut itself off altogether from the Federal decisions in 1968 and adopted an independent line of its own.

A minor simplification was introduced into Federal Awards by that part of the 1969 National Wage Case Decision which said that wage rates should be rounded off to 10 cents. A more substantial simplification will be achieved on the 1st January, 1972, when full equal pay becomes operative, for this will eliminate the prescription of separate male and female award rates for the classifications in them.

The only variation in award rates will then be the locality differentials which are the product of the differences in the now defunct basic wage. Some moves have however occurred in relation to these.

The first move was made in 1960 when the unions successfully applied for the abolition of the 3/- (30c) lower difference between the basic wages in some country areas in New South Wales, Victoria, South Australian and Tasmania and the capital city basic wages. This reduced the number of Federal basic wages from 34 to 12.[27]

The matter of the locality differentials was put on the agenda again by the comment of Judge Wright in his decision on the 1966 National Wage Cases that if the total wage was adopted a firm decision could be made as to whether there was any point in retaining the higher country differentials above the capital city basic wage of 40c at Broken Hill, and 65 cents Whyalla and Iron Knob.[28]

The Pronouncement of June 1967 on the National Wage Cases said that the abolition of locality differentials called for investigation and debate, and asked the unions, employers and Commonwealth to carefully study the question.[29]

The question was put more positively on the agenda by the decision of the 18th January, 1968, of Commissioner E. J. Clarkson, on the Commonwealth Hostels Award. This covered all States except Tasmania, but only one rate was prescribed for each classification, thus granting equal pay and eliminating all the locality differentials. In relation to the differentials he said:

> *"With the introduction of total wages the Commission as presently constituted considers that this logically means that the existing State differentials should be removed if practicable and the Commission has done so in this instance. Because of this the increases granted by this award vary as between States and some employees in some classifications receive no increases."*[30]

[27] 96 C.A.R. at p.572.
[28] 115 C.A.R. at p.93.
[29] Print No. B 2200.
[30] Print No. B 4345 at p.2.

The Commonwealth Government successfully appealed against the decision on the grounds that the Commissioner had not undertaken the necessary thorough investigation, and had had no evidence or submissions put to him. The matters of equal pay and interstate differentials were then left in the position of awaiting for applications to be made for the Commission to determine them. The equal pay matter was eventually determined in general in the 1969 Equal Pay Case,[31] and in the particular case of the Commonwealth Hostels in an order handed down on the 12th November, 1969.[32] The matter of the differentials at the date of completion of this book still awaited determination.

Commissioner Clarkson handed down another decision on the 5th February, 1968, on the Gold and Metalliferous Mining Award, which covered Victoria and Tasmania.[33] He eliminated the differential between the two States by prescribing only one rate for each male classification, but this decision was not challenged.

Despite the invitation of the Commission in its 1967 decision, neither the employers nor the trade unions moved for some time on the differentials. In July, 1970 however, the A.C.T.U. Wages Committee decided that an application should be made for the abolition of the lower differential in Queensland between the Federal Metal Trades Award and the State Mechanical Engineering Award. Another decision was that an application should be made for the abolition of the lower 40 cent differential between Launceston and Hobart, but not to proceed with it at that stage.

If proceeded with, it would be surprising if the employers did not use the Tasmanian application to open up the question of all the locality differentials. In any case, who knows?, the Commission might have ideas of its own on the matter, and it would not be the first bull it had taken by the horns. But in whatever way the matter was opened up, the Commission would appear to face no great difficulty in abolishing the differentials, when one takes into account its expressed attitudes, the small proportion that the differentials now are of the total wage, the small number of workers involved, and that the abolition of the differentials would enable the Commission to give something to both parties, which it likes to do where possible. It also came out in the 1966 National Wage Cases that the Consumer Price Index does not enable differences between cities to be accounted for. The minor differentials could therefore be living on borrowed time.

If those differentials were abolished, simplification would have been taken a step further by establishing a single male rate for each classification in each State in federal awards. Taking the final step by abolishing the differentials between States and so establishing a single Commonwealth-wide rate would however, be a much bigger jump. It

[31] Print No. B 4237.
[32] 24 I.I.B. at p.1979.
[33] Print No. B 3113.

could be that this would have to wait until the time when the employers could regard interstate economic rivalry as being of not sufficient consequence to prevent them being united on the abolition of the differentials between States. This could probably take some time as the South Australian employers have always been very touchy about any rise in their lower wage levels in comparison with the two main industrial States, because it is considered that they could help to attract industry to the State. This was demonstrated in the 1949-50 Basic Wage Inquiry[34] when it submitted that if an increase was to be granted, the differential of the Adelaide basic wage should be increased from the existing 5% to 10% of the Sydney basic wage.

Although there was an attempt to establish some uniformity between Federal and State basic wages, in relation to margins the attitude of the tribunals appeared to be that of periodically raising the bidding in order to retain the goodwill of their respective customers. For example, when the margin for a Fitter was increased by $4.25 in Queensland, followed by an increase of $4.30 in Western Australia, followed by the $7.40 increase in the Federal sphere.

The introduction of the total wage, with its elimination of margins, ended this kind of one-upmanship, but it survived in a more confused form. The interesting thing is that economic forces did introduce a rough and ready levelling-up process, as can be seen from what happened to the wage levels in the metal trades industry in the two spheres over the past few years.

In 1965 and 1966 the tribunals in Queensland and Western Australia initiated movement in the Fitter's margin of $4.25 and $4.30 respectively in the State engineering awards above his margin in the Federal Metal Trades Award. Yet by December, 1968, the Fitter's award rate was $54.85 in Perth and $55.25 in Brisbane, as compared with the range of from $53.05 to $55.55 in the Federal Metal Trades Award. So although the upward movement in the Fitter's rate had started in the two States, subsequent various wage movements in both the Federal and State spheres over a period had near-enough levelled up the Fitter's rate in the two spheres.

A further example of different wage movements occured at the end of 1970 which appeared to be setting off a new upward cycle in the engineering awards. On the 18th September, 1970, the Queensland Commission increased margins in the Mechanical Engineering Award — State. This increased the Fitter's margin by $4.80 and made his award rate to $61.75. On the 10th November, 1970, the Tasmanian Wages Boards increased the Fitter's margin by $5.50, making his award rate $66.40. In comparison, the Fitter's

[34] 68 C.A.R. at p.698.

award rate in the Federal Metal Trades Award ranged from $57.90 to $61.05. Then on the 16th July, the Fitter's rate was increased by $6 by the Commonwealth Arbitration Commission, which made his rate a range of from $63.10 to $67.10.

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Concept No. 4

Equal Pay