

# THE JOURNAL OF INDUSTRIAL RELATIONS

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## The Federal Basic Wage—Margins

Case, 1965

J. E. ISAAC

Monash University

FOR the second year in succession the outcome of the national wage case has been determined by a bare majority of a large bench of the Commonwealth Arbitration Commission. This year, a differently constituted bench has reversed the approach taken last year and, in so doing, has rejected the basis of the 1961 Basic Wage Judgment. The significance of the sharp division within the Commission is not so much in the amount of the wage increase to be granted but, more importantly, in a fundamental difference concerning the function of the Commission.

The task of the Commission is essentially to find a balance between three inter-related considerations<sup>1</sup>—economic (the effect on prices, the balance of payments, etc.); social (the distribution of income); and industrial (continued confidence of the parties in the system). The attitude of the minority<sup>2</sup> in the present case is succinctly summed up by Mr. Justice Moore in his judgment:

"It is a question of competing priorities; whether the Commission should act as if its primary function were to attempt to create or sustain a favourable economic climate and its secondary function were to attempt to resolve the problems of industrial relations or whether the last is the Commission's primary function and the first its secondary. In my view the Commission should always give priority to problems of industrial relations" (Roneod p. 3).

The majority opinion, on the other hand, express their priority unequivocally in favour of economic consequences and, in particular, price stability.

### THE CLAIMS

The employers' claim, which was lodged ahead of the unions', asked for an increase of 1% in the total wage based on expected productivity to be applied in one of two alternative ways. Part A sought a consolidation of the basic wage and margin. This was along the lines of their Total Wage claim of last year. Part B was framed in a complicated way but in substance it asked for a simultaneous determination of the basic wage and margin with the 1% increase in the



total wage being distributed between the two parts of the wage in several ways.<sup>3</sup>

The employers proposed that as the margins adjustment was based on general economic grounds, it should be regarded as a test case and should be applied to all other margins for the ensuing twelve months. They also asked that the procedure under Part A or Part B should be applied in future hearings annually.

The unions' claim rested on the procedure laid down by the 1961 judgment.<sup>4</sup> As the 1964 basic wage adjustment was based on productivity increase since 1961, the claim this year was for a Consumer Price Index (CPI) adjustment to maintain the real value of the 1964 basic wage. The initial claim was for a 10/- average increase but in view of the further rise in the CPI, the claim was amended to 12/-. During the hearing of the case, the unions announced that a margins application would be lodged later in the year.

Before the claims were heard, a difference arose between the parties on a matter of procedure: whether the bench should comprise Presidential members only or whether it should be a mixed bench to include Mr. Commissioner Winter. The employers asked for the former; the unions opposed it. The President ruled in favour of the employers on the grounds that Part B was framed in such a way that matters related to the basic wage were "inextricably interwoven" with matters related to margins.

#### THE JUDGMENT

The Commission unanimously rejected Part A of the employers' claim for the same reasons as those advanced last year. Part A involves the abandonment of the basic wage, a traditional and well-entrenched element in the Australian wage structure; and the Commission was not persuaded of the need for compounding the two parts of the wage.

A majority of the Commission granted the procedure sought by the employers under Part B and awarded an increase in margins based on 1½% of the total wage, the basic wage being unaltered. Further, the majority agreed that in future there should be annual joint hearings of both parts of the wage. This judgment was little short of complete endorsement of the employers' claim. The minority rejected the employers' claim in total and on the procedure of the 1961 Judgment, awarded an increase of 8/- on the basic wage.

In terms of the actual amount of increase for the various grades of occupations, the difference between the majority and minority judgments is not significant. The increase granted by the majority varies

between 5/- and 7/- for most manual workers. It is in effect virtually a flat basic wage increase except that the worker on the basic wage and earning no margin gets no increase.

However, the logic behind the application of the formula is open to question. The majority argue that since the wage increase sought was based on general economic grounds (presumably, as distinct from either needs or work-value considerations), the increase should be calculated on the total wage and applied to the basic wage or margins or to both parts. Their justification for the formula is that it constitutes an automatic "tapering" of margins increases and so avoids the injustice of giving a greater proportionate increase in pay to those in the higher brackets.

The difficulty with this line of reasoning is that it is not really consistent with the practice, which the majority accepts, of distinguishing between the basic wage and margins. The traditional basis for this distinction is that marginal relativities should express relative work values. Since on the majority's assumption the increase is based on general economic grounds, there is no case for changing the relative margins structure and certainly much less for such a drastic change within the manual grades.

The formula would have been appropriate if the majority had granted Part A of the employers' claim. And this is in fact what the employers argued in support of Part A.<sup>5</sup> In accepting the Part B procedure and having admitted that it is not concerned with work values, logically four courses lay open to the Commission: to give the whole increase to the basic wage; to increase margins only by the same percentage; to increase the basic wage by a percentage and all margins by another; or to increase both parts of the wage by the same percentage.

The majority rejected the first course on the grounds that the basic wage portion had been increased the year before by nearly 7% and that, therefore, there was a case for the whole increase to go to margins this time. This argument overlooks the fact that no basic wage increase had taken place between 1961 and 1964 and that margins had been raised by 10% in 1963. Since 1959, when both parts of the wage were increased, the basic wage had risen by 12% and margins by 10%. Looked at in this light, the case for giving the whole increase to margins does not appear to be very convincing.

However, if there were grounds for believing that skill in general was being undervalued and that, in consequence, the premium for skill should be raised, then the logical course would have been to raise margins all-round by the same percentage—at any rate, so far as the

manual skills are concerned where the gap between the highest and lowest award wage is comparatively small. Whether the whole wage increase or only part of it should go to margins would depend on a judgment of the extent to which the premium for skill should be raised. In any case, the structure of margins as an expression of work values would be left unchanged.

No evidence was given to show that the financial incentive skill was inadequate nor do the majority indicate that a social case exists for a rise in the premium for skill. Under these circumstances, the logical course would have been to increase both parts of the wage by  $1\frac{1}{2}\%$ . The practical objection to such a course, as suggested by the President, is that the splitting up of such a small increase between two parts of the wage would be an administrative nuisance. On practical grounds it would have been expedient to have given the whole increase to the basic wage, bearing in mind what was said earlier about the movement in basic wage and margins since 1959 and that for the most part, in relation to the total wage the formula operates very much like a basic wage increase anyway. Moreover, this step would have conformed to the unions' request and would have avoided the situation (rare though it might be) where a person on a margin, however small, receives an increase in wages amounting to  $1\frac{1}{2}\%$  of his total wage; whereas a person on the basic wage receives no increase at all!

These objections to the formula do not amount to a major criticism of the judgment. But since the majority dwell at some length to justify it, there is some point in exposing the logical and practical difficulty involved in advancing the formula while at the same time rejecting Part A and acceding to Part B of the claim. Repeated applications of the formula could lead to a serious distortion of established marginal relativities and make a widespread readjustment based on work-value unavoidable.

This is not to say that apart from the important consideration of deep-rooted conventions, there is no merit in the formula as applied to Part A. Indeed, the Australian division of wages is unique and, as a basis for fixing relative wages, it is by no means the most expedient device for relating *total* wages to job requirements.

As for the size of the increase, it might be argued that it was somewhat overcautious. Even the increase of 2% proposed by the minority would have been a modest increase by comparison with past increases. However, the interesting aspect of the judgments is not in the amount of wage increase or in the application of this increase to

Commission. This is shown by the attitude of the majority and the minority on the various issues raised by the case to which we now turn.

#### SIMULTANEOUS ANNUAL DETERMINATIONS

For various reasons, the majority found the argument for a simultaneous determination of the basic wage and the general level of margins to be overwhelming.

First, the practice had become established for any increase in the award of metal trades margins on economic grounds to apply to margins generally. Employers had come to accept the view expressed by the unions that economic progress should be shared in both portions by periodic reviews of the wage. "The only matter remaining in dispute was the method by and the times at which this sharing should take place" (p. 8). Second, increases in both parts of the wage were based on the same general economic considerations. Third, there were dangers and difficulties in determining the two parts independently of one another in the same year, as happened in 1959 when the basic wage was increased by 15/- and margins by 28%. "The capacity of the economy to sustain additions to award wages is not increased by bringing claims under different headings" (p. 21). A simultaneous determination of both parts will be more likely than separate hearings "to produce coherence and consistency in decisions on national wage cases" (p. 22).

The majority also saw merit in *annual* reviews since more frequent changes in wages would avoid the difficulties of the economy having to withstand sharp movements of the kind which occurred in 1964 when the Commission increased the basic wage after an interval of three years.

Mr. Justice Moore advanced substantially the same arguments in support of simultaneous annual hearings on both parts of the wage; but while he agreed in principle to its application in future, he was not persuaded to accede to it in this case for a number of reasons. In the first place, because this particular case was complicated by the fact that fundamentally different applications of employers and unions were argued at the same time; and certain involved issues "may well have not fully emerged in these proceedings much less have been fully argued" (p. 9). Second, because of the absence from the bench of a Commissioner in a case which involved the issue of margins, a matter in which Commissioners are given primary responsibility by the Act. Third, because there should be notice of the possibility of such a drastic change in procedure. And finally, because the rise in prices since last



year called for an increase in wages to be devoted first to a restoration of the real value of the basic wage.

The last point would not have been inconsistent with the principle of simultaneous hearings even in this case. For it would have been open for the Judge to award the whole increase to the basic wage. A possible explanation for Mr. Justice Moore's stand, despite his admission about the economic wisdom and procedural elegance of simultaneous hearings, is that he may have been persuaded to refrain from acceding to the employers' Part B procedure for "industrial relations" reasons. This aspect is given a more direct emphasis by the President in his rejection of Part B:

"... in my thinking, one should proceed slowly and cautiously in adopting against reasoned opposition fundamental or radical changes in long established features of the Commission's award structures, policies and approaches. Sudden and violent changes which naturally tend to destroy on the part of participants in the system their faith and confidence in it should not only be avoided in regard to the well-established features but also in regard to recent changes deliberately, unanimously and thoughtfully accepted as were those of 1961 in a decision which went to great lengths to explain the reasons for the changes" (pp. 46-7).

The industrial fears of both judges may be well founded particularly as the opposition of the unions to a simultaneous determination may reduce the scope for "leap-frogging" and so slow down the size of award increases. But one may question the view that the *procedure* of annual joint hearings would constitute a "fundamental or radical" change or that the unions provided any strong "reasoned" opposition. A careful reading of the transcript suggests that the opposition of the unions was directed mainly at the *principles* on which wages should be adjusted rather than at the *procedure* or *timing* in relation to the parts of the wage. As pointed out by the majority, on the procedural aspects the attack of the unions was very largely aimed at Part A. "The main burden of their attack on Part B was that it should be refused because it sought to attain the same objective as Part A by different means" (p. 8). Indeed, Mr. Hawke, the union advocate, came very close to conceding the case for frequent adjustments so long as the principle of productivity-plus-prices (to be discussed below) was applied.<sup>6</sup>

Nevertheless, the interesting difference which emerges between the majority and minority approach on this procedural matter is the concern of the latter for the industrial implications of granting Part B.

#### CAPACITY TO PAY

For many years, capacity to pay has been advanced by all sides as

the appropriate concept on which to base general wage changes. But this concept has a chameleon-like quality, changing in meaning and significance depending on who uses the concept. This arises because the concept is often used without explicit reference either to the object of the wage adjustment or to the effects desired from any wage change. Consequently, capacity to pay gives rise to different and often contradictory principles.

Thus in one sense, the economy has the capacity to sustain any rise in the money wage level. In some of the South American countries money wages have risen by 40% or more per annum for years on end. But what are the effects of such a rise in money wages on the price level, exchange rate, income distribution, productivity, political stability, etc? In another sense, capacity to pay is limited by increases in internal productivity (i.e., unadjusted for changes in the terms of trade) if the objective is price stability. However, if the objective is stability in the share of wages rather than stable prices, some increase in prices may be consistent with capacity to pay. Moreover, if the objective is an increasing share to wages, an even greater price rise may be tolerated. The wisdom of such a move depends on balancing the extent to which the share of wages can be increased against the consequences of price increases for the balance of payments, for the fixed income sectors and for productivity in general.

Quite clearly, capacity to pay must be qualified by the economic, social and industrial effects to be sought and those to be ignored. By itself it can mean anything.<sup>7</sup>

The unions' concept of capacity to pay is focused on award wages rather than actual wages. Following the procedure laid down in the 1961 Judgment, the unions argue that award wages should be adjusted proportionately to *past productivity* and to *past CPI* changes. The productivity adjustment relates to *real* capacity and the price adjustment to *monetary* capacity. The first justifies a change in real wages and the other a change in money wages to maintain the real wage level.<sup>8</sup> Last year a (retrospective) productivity adjustment of £1 was made. In the present case, the task of the union was to show that monetary capacity existed to restore the loss of 4% in real award wages since the 1964 basic wage increase. The employers' admission that real capacity had risen since that date was proof enough that the real 1964 basic wage could be maintained. It was not necessary to go beyond this evidence. The unions denied that the rise in prices provided evidence that the 1964 standard was beyond the real capacity of the economy. As for the possible effects of the proposed wage increase on prices and other economic consequences, the unions maintained that these should not

stand in the way of adjustments according to productivity and prices. In sum, the unions asked that real award wages should reflect the proven performance of the economy since the last wage adjustment was made to ensure that award wages were "fair and reasonable". *Future price increases were irrelevant to the question of relating award wages to past and established productivity performance.*

The employers summarized their submission as follows:

- "1. Whatever decision the Commission makes as a result of the three applications which are before it will be determined on a proper application of national economic capacity to pay.
- "2. The proper application of national economic capacity involves an assessment by the Commission whether the increase proposed is compatible with stability of prices.
- "3. To take any other view of the meaning of 'capacity to pay' is to move outside the economic framework within which the Commission operates and lays the Commission open to the criticism that this tribunal is itself acting as an economic planner or counter-planner.
- "4. Practice of using the traditional indicators as the sole determinant of economic capacity—and I emphasise the word 'sole'—should be abandoned.
- "5. The increase in wages which is compatible with stability of prices requires an active judgment by the Commission within limits of a range based on the record of Australia's economic performance.
- "6. The economic material presented to the Commission points strongly to an increase at the lower limits of that range.
- "7. The applications before the Commission clearly raise the issues whether the increase allowed by economic capacity should be applied to a total wage, basic wage and margins, or basic wage alone.
- "8. There is no inhibition, statutory, historical, social, or economic, which would either prevent or inhibit the Commission from adopting either a total wage approach or simultaneous consideration of basic wage and margins.
- "9. The facts of industrial life show that the terms 'basic wage' and 'margins' are emotive relics which have no distinction or separateness except as the means of or excuse for conducting industrial campaigns using this Commission as the central symbol.
- "10. The tactics and policies of the registered organisations represented before the Commission provide an independent reason why total wage consideration is an urgent problem and why the total wage approach must be accompanied by a forthright condemnation of the way in which judgments of this Commission and claims to vary awards of this Commission have been flagrantly misused.
- "11. We have issued an open invitation to the Commission to determine the appropriate levels of basic wage and margins on economic grounds. Sufficient material is before the Commission to show that deferment of margins consideration on economic grounds is merely putting off the evil day. As equal parties to this Commission we submit that postponement is neither rational nor equitable and we ask for the determination in these proceedings.
- "12. Industry reviews, based on work value considerations, require a properly assessed total award wage for the various classifications,

based on economic grounds. Proper work value reviews require that that is done, and there is no incompatibility between industry reviews by individual judges and commissioners and economic reviews by Full Benches of this Commission.

"13. Price movements can never supply an independent reason for increases in award wages unrelated to economic capacity. *Prima facie* justification for price adjustment is, by definition, an untenable proposition.

"14. There is no justification on Australian experience to support the proposition that the national price level has risen because aggregate profit incomes have sought and obtained an increase in aggregate profit margins. Statistics belie such an assumption."

The majority endorsed the employers' submission almost entirely. They rejected the monetary capacity concept and insisted that the only relevant concept of capacity in *any* general wage adjustment was in real terms. "A judgment of capacity in real terms involves an estimation of what is going to happen to future GNP in real terms, that is at constant prices" (p. 38). The approach taken here, in contrast to that of the unions, is prospective. And again, in sharp contrast to the unions' approach, the main consideration is to ensure price stability.

"We have decided to grant wage increases which we consider will not be incompatible with price stability because, in our view, any wage increase granted at the present time without due regard to this question would not confer a real or lasting benefit upon wage and salary earners. The Commission cannot, of course, guarantee price stability but it should in present economic circumstances take care not to make decisions which it recognizes as a threat to it" (p. 47).

Two matters in the majority's reasoning need to be clarified. In the first place, it is not entirely clear whether price stability should under *all* circumstances be the Commission's objective or whether this objective is only desirable under the *present* circumstances. There are, it is true, references here and there which suggest that the majority base the objective of price stability on the present and expected state of the economy for the year ahead.<sup>10</sup> The majority are aware of the redistributive effect of wage-induced price increases. But they appear to be opposed to such a redistribution because there was no case for any corrective action resulting from a shift to profits (p. 45) and because a rise in prices "could press most heavily on those on fixed incomes and in the lower income groups, both classes being largely composed of wage and salary earners either past or present" (p. 46). It is possible to read into the reasoning of the majority that any increase in prices at any time would not be to the advantage of wage earners. This is, of course, not necessarily true. There are lags in price adjustments and there are important areas of non-wage fixed incomes which could be squeezed by price increases induced by increases in wages. Moreover, one way in which a rise in export incomes could be shared by wage



# ANNUAL RATES OF PRODUCTIVITY GROWTH BY FOUR ALTERNATIVE METHODS OF CALCULATION

1953/54 to 1963/64

| Year    | GNP at 1959/60<br>prices per head of<br>Civilian Employment<br>(1) | GNP at 1959/60 prices<br>per head of "Working<br>Population"* less employers<br>& self-employed<br>(2) | GNP at 1959/60<br>prices per head of<br>"Working Population"*<br>(3) | GNP at 1959/60 prices<br>adjusted for terms of<br>trade, per head of<br>"Working Population"*<br>(4) |
|---------|--|--|--|--|
|         | % Change on<br>Previous Year                                       | % Change on<br>Previous Year   | % Change on<br>Previous Year   | % Change on<br>Previous Year   |
| 1953-54 | +2.0   | +2.6   | +3.0   | +1.6   |
| 1954-55 | +1.6   | +1.6   | +2.4   | +0.6   |
| 1955-56 | +0.2   | +0.8   | +0.7   | +2.3   |
| 1956-57 | +0.9   | +1.2   | +1.2   | -0.2   |
| 1957-58 | +5.4   | +5.6   | +5.8   | +3.9   |
| 1958-59 | +0.7   | +1.0   | +1.5   | +2.6   |
| 1959-60 | +1.3   | +1.6   | +2.0   | +1.5   |
| 1960-61 | +1.2   | +1.2   | +1.0   | +1.3   |
| 1961-62 | +2.2   | +2.4   | +2.9   | +3.8   |
| 1962-63 | +1.3   | +1.6   | +2.1   | +3.8   |
| 1963-64 |  |  |  |  |

Source: Exhibit R.63, computed from data in Exhibits R.6 and H.12-15.

\* As used by Mr. R. J. Hawke to include in addition to civilian employment, rural and domestic workers and members of the defence forces.

earnings is through a rate of wage increase which could result in a rise in the price level.

*What the Commission must decide is not simply whether it favours price stability as such but whether it is prepared to accept the kind of income distribution which is a concomitant of price stability.*

Secondly, given the objective of price stability, it is not clear what the majority's basis is for assessing capacity to pay. It rejects the unions' retrospective approach and it also appears to reject the employers' principle of a range of expected productivity increase (based on recent performance of the economy) of 1% to 2%—the particular end of the range to depend on various indications of the economic outlook for the coming year. Although the majority say "A judgement of capacity in real terms involves an estimation of what is going to happen to future GNP in real terms, that is at constant prices" (p. 38), they do

not spell out by what criteria they will establish the particular figure for what "is going to happen to the future GNP in real terms".

It is true, as the figures in the Table show, that there have been deviations from the 1%-2% range in past movements of productivity as submitted by the employers (column 1). But apart from 1958/59, the deviations have been small. This is true also of the alternative estimates of internal productivity (columns 2 & 3) based on different deflators for the number of workers. On the other hand, column 4 shows that effective productivity (internal productivity corrected for terms of trade changes) had a wider degree of dispersion. Yet, any act of judgment about future GNP (which the majority accepts as the basis for wage adjustment) must have some plausible range of productivity movement in mind. (See page 234.)

It is possible that the majority may have misunderstood the employers' argument in this connection but a more probable explanation for their somewhat vague approach is perhaps an unwillingness to lay down any rigid mechanical formula which *promises* to maintain real award wages at any given level let alone increase it. The majority's strong rejection of the 1961 procedure lends support to this explanation.

"Any statement in one year that the Commission is prepared to make assumptions about the capacity of the economy in future years is unnecessary and dangerous. It is difficult enough to estimate capacity in respect of the year immediately ahead. . . . The capacity of the future depends upon many variable factors while it is the hope of all that the real value of wages will be maintained and increased, this hope cannot be brought to reality by the Commission indicating in advance a willingness to make assumptions 'prima facie' or otherwise. . . . It cannot safely be inferred from the fact that over the long term capacity of the Australian economy has shown a tendency to increase that it will in fact rise over a given short period with which a particular decision is primarily concerned. A tendency shown by the economy over a long term in the past may found on inference as to its likely performance over a similarly long period in the future but it would be dangerous to assume that such a trend will apply in a short period in the future. To do so would be to ignore the history of ups and downs which our economy and those of all comparable countries have suffered" (pp. 31-32).

In this respect, the majority appear to be, on the one hand, more cautious and conservative in their wage policy than the employers; and on the other, unduly ambitious in trying to adjust the actual wage level through awards year by year on the more difficult assessment of short-term performance rather than on basic long-run developments.

## OVERAWARD PAY

A related problem which may throw further light on the majority's process of assessing future capacity is the question of overaward pay.

The 1959 and 1963 Margins Judgments conceded that overaward pay should be taken into account in support of a rise in award margins. This point had been pressed by the unions in their statistical evidence of overaward pay. A case was made for ensuring that award wages were not unrealistically behind market rates and for assuming that overaward wages proved the ability of the economy to pay higher award wages.

This line of reasoning is not new in Australian wage fixing. It was clearly re-stated by Mr. Justice Kelly in the famous 1947 Printing Trade Case,<sup>11</sup> the essence of which was that margins for a particular group of workers should be fixed by reference to the standards of wages being paid in the market for the same or similar skills. This procedure is normally followed in work-value cases.

There is, of course, an important difference between the circumstances exemplified by the Printing Trades Case and the margins cases which have come before the Commission in recent years. The former relates to the work value of a specific range of skills in which the main issue is the appropriate relationship between one group of margins and other margins. The latter concerns the value of skill in general, the main issue being the relationship between the general level of award margins representing the reward for skill and the basic wage representing the wage of unskilled work. The question here is to what extent a general increase in productivity should be reflected in the real value of award margins. As has been pointed out above, an increase in the general level of margins involves almost identical economic considerations as an increase in the basic wage. Nevertheless, there is a common aspect to both types of cases: the need claimed by the unions to keep award wages in line with market wages.

At any rate, the support given to the unions' argument on overaward pay in successive judgments has stimulated unions to apply pressure to increase overaward pay and to use such evidence of market rates to justify an increase in awards. In the present case, the employers pressed the Commission to clarify its attitude on the question of overaward pay.<sup>12</sup> Arguing that since overaward pay was not in practice absorbed, the employers claimed that far from increasing economic capacity to pay higher award wages, overaward pay reduced the ability to increase award wages consistent with price stability.<sup>13</sup> This point also received the support of the Commonwealth Government.<sup>14</sup>

Persuaded by this line of reasoning, the majority rejected the relevance of overaward pay as evidence of capacity to pay (p. 52). They say further "if a party adopts the policy of resorting to industrial force to extract concessions, it should recognise that it does not thereby add to capacity to increase award wages but reduces it" (p. 53). It is not

clear from this whether evidence of overaward pay was entirely ignored by the majority or whether it influenced them to fix a lower award increase. Nor is it clear whether the majority believe that only overaward pay exacted by union pressure reduced the capacity to grant award increases or whether *any* increase in overaward pay has this effect. The emphasis given to strike action suggests the great importance of overaward pay arising from this source.

The stress on strike action as *the* factor in overaward pay is somewhat dubious as there is no clear evidence to support it. Indeed, the evidence appears to be the contrary.<sup>15</sup> All that could be said in support of the employers and Commonwealth argument is that there is a strong case for believing that real earnings appear to have been closely related to effective productivity increases; and that with a given productivity, an increase in overaward pay arising from whatever cause, reduces the capacity for award increases without adding to the pressure on prices *so long as award increases are not absorbed by overaward pay*.

The important assumption here is that award increases are added to the actual level of wages and although more evidence on this point is desirable, there are reasonable grounds for accepting it.<sup>16</sup> It should be emphasized, however, that the argument that increases in overaward pay reduces the capacity to grant award increases does not necessarily mean that in order to maintain price stability award wages should be raised less than proportionately to productivity increases.<sup>17</sup> So long as overaward and overtime pay rise at the same rate as productivity, award wages can rise proportionately to productivity to ensure that earnings also rise at this rate. Thus with productivity rising at say 2%, earnings will rise by 2% if award wages and overaward and overtime pay also rise by 2%. If overaward and overtime pay rise faster than 2%, then clearly award wages would need to rise by less than this figure in order to maintain the earnings increase at 2%. On the other hand, if overaward pay does not increase, award wages could rise by more than 2%.

It will be seen from the foregoing that the essential difference between the employers, the Commonwealth Government and the majority on the one hand, and the unions on the other, lies in the emphasis of the latter on a *retrospective* view of award wages in relation to actual wages; whereas the former are mainly concerned with the *anticipated* effect of increased award wages on actual earnings and prices. The difference in interpretation given to capacity to pay and the different significance given to overaward pay arise from this basic difference of approach.

#### THE MINORITY APPROACH

In both the 1964 and 1965 Judgments, the President and Mr. Justice



Moore do not go as far as the unions in their retrospective award-adjustment approach. Nevertheless, their emphasis on past productivity and prices suggests that they are in sympathy with the unions' approach to wage fixing. Indeed, the unions have suggested that the 1961 Judgment proposed the productivity plus prices approach which they have articulated in the cases since 1961. However, the Kirby-Moore Judgment of 1964 suggests a greater flexibility of approach to productivity and prices not only in terms of the past but also in relation to the future. The movements in productivity and prices must be seen "in the context of the economy as a whole". They should not be applied "automatically and inevitably". "We have endeavoured to look at the economy in the round and based our decisions on its capacity since 1961, its capacity now and its capacity for the predictable future" (Roneod p. 13). The increase of 8/- proposed by them in the present case, despite the fact that an increase of 12/- was called for on the basis of CPI movement, affirms this principle.

On the face of it, this is intellectually a rather vague and unsatisfactory principle on which to fix wages. It appears as an uneasy compromise between the retrospective approach of the unions and the prospective approach of the employers. On the one hand, great stress is laid on past CPI increases which assume, in the President's words, "the dominant factor in one's consideration of a review of the basic wage so that its purchasing power would if possible be preserved" (p. 7). Mr. Justice Moore also regards past price increases as of "primary" concern but in the light of the employers' argument in the present case, is prepared to place less emphasis on past productivity increases.<sup>18</sup> On the other hand, whatever may be *prima facie* appropriate on the basis of retrospective productivity and prices considerations should be modified in the light of the future economic outlook (President p. 32, Moore J. p. 18).

Yet, taking a more practical view, the compromise is understandable. If the Commission fails to take primary notice of past price changes "not only will industrial injustice be done but also the influence of the Commission in the field of actual wages will probably diminish" (Moore J. p. 13). And again,

"The employers say that the Commission must treat price stability as an overriding consideration. The unions say that we should not concern ourselves with the consequences of our decisions, but let any results of them, including price increases, be dealt with elsewhere if action be required. In my view, the Commission has to walk the tightrope between these two extremes. It should give priority to its statutory function though it should not perform its task oblivious to and unconcerned with the consequences of its decisions on the general level of prices" (pp. 14-15).

There are two further reasons for the minority stand on the question of past price increases. First, the belief that prices may be administered and that, therefore, price increases may be due to monopolistic forces rather than excessive wages (President p. 14, Moore J. pp. 11/12).<sup>19</sup> Second, the minority have doubts about the precise relationship between wage increases and price increases.

"No evidence was given nor was anything put which shows that the 20s. increase was beyond the capacity of the economy in the general sense or that it has had the particular effect of increasing prices to the extent that they have increased since the 1964 decision was given" (President p. 31).

One may sympathise with these doubts. It is notoriously difficult to relate statistically changes in wages directly to changes in prices.<sup>20</sup> An analysis of the quarterly changes in the components of the CPI shows that between June 1964 and June 1965, of the increase of 5.1 points (or 4%), 2.2 points were due to meat and potatoes in which the effect of wage increases in this period may be entirely discounted. But it is not unreasonable to presume that for the rest the increase in wages must be held mainly accountable—bearing in mind the productivity performance of the economy. It is true that there is no guarantee that if the basic wage increase last year had been only 10/- instead of £1, the increase in average earnings would have been correspondingly halved and that the non-food components would on the whole have shown little change. The increase in earnings depends, of course, on overtime and overaward pay changes as well as on award increases. But on the very reasonable assumption that award increases are not absorbed by overaward pay, we may presume, given the degree of overtime, that generally the greater the increase in award wages, the greater the increase in earnings and, subject to varying lags, the greater the likelihood also of an increase in the CPI (excluding food). What we do not know is the precise relationship, in the short run at any rate, between changes in award rate, earnings and the CPI, one of the critical elements being the movement in overaward pay. Our ignorance on these matters must lead to an act of judgment whether largely to ignore the relationship and to be concerned primarily with retrospective considerations of award adjustments; or to keep award increases within the limits which may give greater assurance of price stability. The minority, with less inhibitions about price increases, have taken the former view; the majority, persuaded of the primary importance of price stability, have taken the latter view.

#### BASIC DIFFERENCE BETWEEN MAJORITY AND MINORITY

The above suggests two polar types of approaches to wage fixing. One is retrospective and attempts to adjust award wages by reference to

the recorded movement in productivity; and to ensure that this adjustment is on a real wage basis, the money wage is corrected for changes in the CPI whatever the cause of the change in the CPI. The effects on future prices, balance of payments, etc., are regarded as irrelevant. This is the approach claimed by the unions.<sup>21</sup> The other approach is to ignore the past entirely and to relate award wage increases to future productivity in such a way as to ensure price stability. This is the employers' approach.

The union approach is, of course, widely adopted on a micro-scale. The *prima facie* procedure for fixing the wage of a small group of workers is usually to examine wage movements which have occurred elsewhere in the economy or to consider past national productivity and CPI movements to enable this group of workers to share equitably in the economic progress of the country. The device of retrospective pay increases to make up for any lag in wage adjustment is an extension of this principle. For a small group of workers the effect on the general price level may usually be assumed to be negligible, the main economic consideration qualifying the *prima facie* grounds being perhaps any possible unemployment effect of the wage increase. Under conditions of full employment even this qualification is unwarranted.

The difficulty of applying this approach on a national scale is that general wage increases unless closely related to future output might fail to bring about the desired increases in real wages.<sup>22</sup> Moreover, the case based on distributive justice is weakened when it is shown that the kind of average real wage level claimed by the union has in fact already been achieved by market forces and that any increases in award wages are in practice simply added on to the actual wage level. This difficulty of applying criteria appropriate to particular wage adjustments to the general wage level is the basis of the employers' case. Purely as a piece of economic reasoning, the employers' case is difficult to refute, although, as mentioned earlier, insufficient allowance is made in their argument for the redistributive advantages to wage-earners which could arise from wage-induced price increases. Indeed, the logic of the employers' economic case could lead one to question the need for *any* general award adjustments by the Commission since under full employment the market seems to produce the desired distribution between wages and other incomes. The general awards of the Commission merely tend to duplicate the increases resulting from market forces and in so doing tend to lead to price increases.

But there are non-economic considerations to contend with in wage fixing. There are still an unaccountable but very likely significant number of workers who are on award wages or something close to it. What is the responsibility of the Commission towards these people even

if wage-earners as a whole have secured a "just" distribution of the national product? Should the Commission ignore the maldistribution of the wages bill? It is here that an important difference of attitude may be discerned between the majority and minority. Mr. J. Paterson, advocate for the Australian Council for Salaried and Professional Officers' Association, put the problem succinctly in the following way:

"We see the role of the Commission not in terms of adjusting the total share which wages receive in the national income—there is good reason to believe that this could be an exceedingly difficult thing to do under normal circumstances—the role of the Commission in our view is to look after the casualties of the market, to protect the relative position of the individuals whose standards cannot be maintained by a position of economic or social strength . . . ." The Commission should adopt "the protective role, that of looking after the people who are not looked after by the market, looking after people on or near award wages who cannot get overaward increases and who, if left to their own unaided efforts, inevitably would be prey to the stronger sections of the community in terms of the scramble for incomes".<sup>23</sup>

The gap between awards and earnings is indicated by the fact that for the 11 years ending 1963/64 the average annual increase in the Minimum Weekly Wage Rate Index was 2.0%, compared to 4.6% for Average Weekly Earnings. Year by year, the gap has widened as the latter has moved ahead of the former. Increases in overtime accounts for an important part of the gap but the widening of the gap must be largely due to overaward pay. To slow up award wage increases could lead to greater price stability but it might well lead to a widening of the relative gap between award and actual wages. A faster rise in awards would very likely lead to sharper price increases but it *could* reduce the relative gap between award and actual wages.

Concerned primarily with the economic limits of wage increases and price stability and conscious of the importance of *actual* wage movements in achieving these limits, the majority's reply to Mr. Paterson's plea is to suggest that the remedy lies in the hands of the unions themselves. The problem being largely one of maldistribution between those on award wages and those favoured with overaward pay, a restrained industrial policy of the trade union movement could, of course, reduce the wage drift. But it would be wrong to infer that this drift is solely or even largely due to union pressure. Competitive bidding by employers under buoyant market conditions must be reckoned as a powerful factor in overaward pay. Moreover, putting the blame on trade unions for this situation is not a constructive way of dealing with the problem. It could well be an inducement to those on award wages who have resorted to arbitration as a means of resolving their industrial claims to use industrial force in order to remedy their position.

By contrast, the minority view is one of concern for the award worker



and fear that to ignore his plight might well force him to seek redress outside the Commission.<sup>24</sup> Failing more knowledge of the incidence and magnitude of overaward pay, the minority are not prepared to depart from their statutory obligation to fix fair and reasonable award wages and to do so with reference to past productivity and prices modified, it is true, by considerations of the future economic outlook. What has been referred to as the *micro-approach* is, of course, a justifiable basis for correcting the lag of award wage-earners. The difficulty, however, is that under the present arrangement the device available to the Commission to implement *micro* principles and do justice to award earners is *macro* in its scope of application; so that not only award earners but those earning in excess of awards benefit by the Commission's action.

#### JUSTICE TO AWARD WORKERS

Ultimately, the best solution to Mr. Paterson's problem is to devise a way in which those on award wages can be given their due share of economic progress without at the same time raising every other wage and so running the risk of an undesirable degree of price increase without bridging the gap between these two groups. It is clear from our experience in recent years that the Commission's determination of the basic wage and general margins carries dangers of wage inflation without narrowing the difference between award and actual wages. The proposed procedure of annual joint determination of basic wage and general margins in place of the procedure operating since 1961 might help to slow down the wage drift. What practical alternatives are there?

Theoretically, there is great merit in the President's tentative suggestion that

"it might be found desirable from the point of view of industrial justice and for economic reasons to give different treatment to award workers who receive overaward payments than those who do not, and also to give different treatment to those in receipt of differing amounts of overaward pay. If this were found to be the case it would appear likely that variation of margins as such would be the appropriate method" (pp. 51-52).

But there is a serious practical difficulty. This approach would involve fixing different awards for people doing identical or similar work. For example, the award of tradesmen would be higher in public employment where overaward pay is generally smaller than in private employment, where it is larger.

Apart from being inconsistent with the notion that award wages are minimum and should, therefore, be uniform, the apparent inequity of the awards could well stimulate industrial discontent, particularly if the overaward element varied significantly from firm to firm within the same

industry. And to fix award wages firm by firm would be quite impracticable.

The other tentative suggestion of the President is in effect for a return to the pre-1947 situation by ensuring that the determination of margins was effectively decentralized on an industry by industry basis under the charge of individual Commissioners. This would avoid the test case procedure whereby a general standard of margins increase is determined centrally. Again, in theory there is merit in this suggestion. The practical difficulty is that the convention for award margins in the metal trades to set the standard for margins generally is so well established that, whatever the formal machinery, the pattern-setting influence of the metal trades will be difficult to avoid.<sup>25</sup>

Another possible alternative which deserves to be considered if something is to be done about the drift of overaward pay and rising prices is to change certain procedural features of the Commission to make it a more suitable agency for administering an incomes policy. The majority appear to have accepted this role but one may question the suitability of the present procedure for this purpose. An incomes policy body must also be concerned with limiting incomes other than wages and salaries; and this would involve a more active and positive government participation than is the case at present. It would necessitate a few minor but important changes in the conduct of hearings (e.g., private hearings and the abandonment of cross-examination techniques), and possibly also in the composition of the Commission.<sup>26</sup> But these changes, desirable though they may be for a more effective incomes policy, will only be practicable with the co-operation of the unions and employers; and this is only feasible if the general objectives of an incomes policy are more fully understood and accepted. There are grounds to doubt whether this stage has been reached in Australia.

All these difficulties do not detract from the need underlined by the whole bench in the present case for more information about the size, incidence and behaviour of overaward pay. The paucity of statistical material can only be effectively remedied by the Commonwealth Statistician. It is significant to note the President's observation that a clearer picture of overaward pay

"would enable the Commission to make a considered decision as to whether the disparity between award wages and actual wages should be allowed to continue so far as the Commission's policies are concerned or whether the Commission should by its prescriptions endeavour to make it progressively diminish" (p. 50).

#### OTHER POINTS ARISING FROM THIS CASE

A few other points call for brief comment. First, the question about

the right to strike. During the hearing of the case, a long exchange took place<sup>27</sup> between Mr. Justice Gallagher and Mr. R. J. Hawke, the leading union advocate, on the right to strike in connection with overaward pay. Mr. Justice Gallagher, while expressing himself in favour of collective bargaining, denied the legal right of the unions to strike. In their joint reasons for the judgment, the majority strongly condemn strike action as being against the national interest and the interest of wage-earners. It may be that the sharpness of their reference to strike action was induced by the statement made by Mr. Paterson "welcoming" the use of strikes by white-collar workers. On the other hand, Mr. Paterson's statement must be read in the light of the exchange between Mr. Justice Gallagher and Mr. Hawke.

In strict legal terms and in terms of the concept of compulsory arbitration, the Judge's point is undeniable. But to apply this logic to a situation of established trade unionism rather oversimplifies the issue. One of the basic tenets of trade unionism in Australia is the *right* to strike. Without it, a union is reduced to being a mere administrative agency for a group of wage-earners. Without it collective *bargaining* is meaningless. Inherent in the concept of unionism is its function as an economic pressure group. This does not mean that unions should exercise this right without restraint or any regard for the "public interest". Nor does it mean, on the other hand, that union leaders can always be expected to avoid strike action when a strong rank and file feeling exists; or that most strikes must be blamed on the unions or their members. The reference of the majority to the Mt. Isa strike and to the frequent strikes in the stevedoring industry in the context of their general condemnation of strikes was rather unfortunate because of the great complexity of the Mt. Isa dispute and because industrial relations in Australia are hardly typified by the stevedoring industry.

The view that the "Commission seeks to arrive at just results" is not necessarily a persuasive one for all unions all the time, or for the employers for that matter. "Justice" in industrial matters is not absolute; and if an arbitration tribunal is to solve industrial problems it is difficult, if not impossible, to formulate a "just" settlement without reference to the economic power situation of each dispute. For much of wage fixing, the "judicial outlook" is not entirely appropriate since this process of wage determination is quasi-legislative rather than judicial in character.

This is, of course, a controversial area and one which invites a variety of opinions of which the majority has expressed one. The point of more immediate interest is that this opinion is consistent with other aspects of their reasoning, viz., the emphasis on the economic rather than the social or industrial aspects of wage policy.

The second point which calls for comment is the composition of the bench in future joint hearings of basic wage and general margins. The doubts raised in the present case as a result of the involved log of claims of the employers will necessitate an amendment of the Act to ensure that the President is not placed in the difficult position of having to decide whether the bench should include a Commissioner or not. The majority view is in favour of an amendment to provide for a presidential bench on the grounds that the economic considerations of a margins test case are similar to those involved in a basic wage hearing. The minority favour a mixed bench in order to enable a Commissioner to bring his experience of close contact with industry to bear in a decision affecting margins.

It may be presumed that the rationale of the division of responsibilities between Presidential members and Commissioners under the Act is that the former will be concerned with matters which are broad and national in scope, whereas the Commissioners will be confined more narrowly to the problems of particular firms and industries. On matters which are referred by the Commissioners to the President because of the public interest (i.e., national implications), the Act provides that the Commissioner concerned should sit in a mixed bench constituted for the purpose of settling the dispute. The presence of the Commissioner provides the link between the problems of his industry and the national considerations with which the Presidential members are concerned. There is a great deal of sense in this arrangement only if it is admitted that non-economic issues are important and relevant in the determination even of national wages—an assumption which presumably underlies the minority recommendation.

On the other hand, looking at the matter coldly in economic terms, the same bench is appropriate for a general wage adjustment whether via basic wage or margins. If in terms of the present Act a presidential bench is required for a basic wage adjustment, once the principle of joint determination is accepted, it could be argued that the same presidential bench should determine both parts of the wage.

Both points of view are defensible depending on whether one believes that the greater industrial contact and sensitivity to industrial matters of a Commissioner are relevant in national wage cases.

Thirdly, the majority make two interesting proposals on procedure which might be discussed by the Commission at a preliminary sifting before hearing the national case next year. One relates to the submission by the parties of their respective cases in written form. This would enable members of the Commission to study and assimilate the arguments and data submitted by the parties, after which the advocates



could speak to their respective cases and comment on those submitted by others. There is much to be said for this proposal which would save time and perhaps also induce the parties to present their arguments with greater rigour and clarity. The other proposal is to enable "suitably qualified persons" to make written submissions to be tendered by the parties or the Commonwealth Government. This is simply an extension of the practice which has grown for relevant articles, addresses and excerpts from books to be submitted by the parties. It would be desirable perhaps for the Commission itself to invite submissions from individuals in order to avoid the possible taint of partisanship upon individuals who make submissions through interested parties.

Finally, a point which deserves special mention. After years of relentless and uncompromising opposition to any wage increase, repeated denials of any capacity for an award increase and grim forebodings of unemployment and/or inflation resulting from any increase in awards, the employers have in the last two national cases fundamentally reversed their standpoint and have openly admitted the justification for a regular increase in awards. Tactically, this approach has enabled the employers to advance an impressive, coherent and persuasive economic argument to counter the unions' claims and the principles on which such claims have been made. In addition, this approach has clarified the issues on which a general wage adjustment rests and, in so doing, has made a constructive contribution to the discussions before the Commission. Ironically, however, the Commonwealth Government appears to have seen fit to occupy the position vacated by the employers and to argue, somewhat self-consciously in view of its professed neutrality, against any increase in awards.

#### CONCLUDING REMARKS

This paper began with the opinion that the significance of the 1965 case does not lie so much in the division within the Commission on the amount of wage increase to be awarded but rather in the function of the Commission as revealed by the differences in thinking on the principles of general wage fixing. The rest of the paper was devoted to an elaboration of this point. It is possible to argue, of course, that the aspect of any judgment which is really important is the size of the increase to be awarded rather than the arguments of which the judgment rests. But such a view ignores the deeper reactions of the parties to any award and their expectations of the Commission's decisions in future cases.

The differences in argument which have emerged from this case have focused more sharply than ever before on how far economic considerations should prevail over social and industrial considerations.

In this regard, the statutory provisions under which the Commission operates give no real guidance. They leave the matter to the judgment of the individual members of the Commission. All the Presidential members of the Commission have at some time or other sought to justify their standpoint by quoting the words of the former Chief Justice of the High Court, Sir Owen Dixon:—

"While an arbitral tribunal deriving its authority under an exercise of the legislative power given by s. 51 (XXXV) must confine itself to conciliation and arbitration for the settlement of industrial disputes including what is incidental thereto and cannot have in its hands the general control or direction of industrial social or economic policies, it would be absurd to suppose that it was to proceed blindly in its work of industrial arbitration and ignore the industrial social and economic consequences of what it was invited to do or of what, subject to the power of variation, it had actually done".<sup>28</sup>

This interpretation of the statutory function of the Commission leaves open the possibility of a wide margin of variation on the extent to which each of the different consequences—industrial, social and economic—should be considered.

Short of a constitutional amendment giving the Commonwealth Government full industrial powers, this situation is perhaps unavoidable.<sup>29</sup> Certain procedural changes noted above could facilitate the development of a workable incomes policy and would perhaps avoid the difficulties which the present procedures appear to have in formulating incomes policy. In the meantime, the balance between economic, social and industrial considerations must be resolved by the members of the Commission and some compromise effected. The frequent repetition of strongly divided judgments can only serve to damage the standing of the Commission. In this connection, it is alarming to note that the President was informed of the majority opinion in this case on the very day judgment was delivered.<sup>30</sup>

#### FOOTNOTES

1. See K. J. Hancock, "Wages Policy in Australia, 1964", *Journal of Industrial Relations*, Vol. 6, No. 3, November 1964, p. 257.
2. The President Sir Richard Kirby and Mr. Justice Moore. The majority were Mr. Justice Gallagher, Mr. Justice Sweeney and Mr. Justice Nimmo.
3. The employers sought, in the first place, a reduction in the basic wage of 6/- and an increase in margins of 6/- to correct for the undervaluation of skill resulting from last year's £1 increase in the basic wage. Secondly, it asked for one or both parts of the wage thus adjusted to be increased in total by 1% by the whole wage.
4. See R. I. Downing and J. E. Isaac, "The 1961 Basic Wage Judgment and Wage Policy", *Economic Record*, Vol. 37, No. 80, December 1961.
5. Transcript pp. 214-15.

6. Transcript p. 628. "It could be that we would say, if we were confronted with the proposition about annual adjustments for prices plus productivity, or a quarterly adjustment, that the movement would see merit in that."

7. See K. J. Hancock, *loc. cit.* "The habit of referring to capacity to pay should be replaced by a conscious and informed consideration of economic consequences" (p. 258).

8. Transcript p. 1774. The meaning of the term "monetary capacity" is not entirely clear. But it suggests a redistribution from other incomes to wages. The mere fact of price increase establishes grounds for increased monetary capacity. The reasons for the rise in prices appear to be irrelevant.

9. Transcript pp. 359-60.

10. The reference to the current drought and the prospects of reduced capital inflow (pp. 58-59).

11. Print No. 7974.

12. Transcript p. 265.

13. Transcript p. 1536.

14. Transcript p. 1482.

15. J. E. Isaac, "Wage Drift in the Australian Metal Industries", *Economic Record*, Vol. 41, No. 94, June 1965, p. 165.

16. Other calculations based on official statistics show that for Australia as a whole the Net Wage Drift from October 1962 to October 1963 was 0.8% and from October 1963 to October 1964 was 0.5%. Between March 1964 and March 1965, the Net Wage Drift was 0.5%. These figures suggest a continued increase in overaward pay rather than an absorption. (In these calculations average earnings were reduced to a 40-hour week basis on the assumption that overtime was paid at 1½ times standard pay.)

17. This misconception could arise from the statement in K. J. Hancock's paper referred to above, that the existence of a wage drift means that "to ensure that earnings grow at the same rate as productivity, award rates must be increased at a lower rate, and the growth in award rates consistent with the productivity—gearing proposal may be unrealistically small".

18. "If the Commission were to adopt the procedure of considering both aspects of wages each year, movements in productivity would be related either to the year past or the year to come subject, of course, to any union claims that productivity increases over years past should still be reflected in wage increases" (p. 17).

19. In this connection, the judges were influenced by comments on administered prices in the Organisation for Economic Cooperation and Development Report, *Policies for Prices, Profits and Non-Wage Incomes* (1964). But as the majority point out, no satisfactory evidence was produced to show that there had been a shift to profits.

20. The employers requested the Department of Labour and National Service to account for the increase in the CPI. The Secretary of the Department in reply said that it was not possible to identify the causes for the rise.

21. A variant of this approach is Professor J. K. Gifford's "Golden Guide" which seeks to adjust award wages to recorded changes in average earnings. See *The Basic Wage and Total Wage Judgments of 1964*, *Journal of Industrial Relations*, Vol. 6, No. 3, November 1964.

22. It is possible that price control could promote the redistribution income to wages. There are dangers, of course, that this device could impair productivity. But it may well be that the mere threat and prospect of imposing price control may act as a restraining influence on prices.

23. Quoted by the majority, p. 53.

24. President, p. 19; Moore J., p. 12.

25. It will be remembered that in the metal trades margins case of 1952, although formally not a test case, Conciliation Commissioner Galvin's refusal to grant any increase was influenced by the well-founded belief that any increase awarded would be reflected generally.

26. See J. E. Isaac, "The Machinery of an Incomes Policy", in *Wages and Incomes* (Economic Society of Australia and New Zealand, 1964).

27. Transcript pp. 546-554.

28. The Queen v. Kelly; ex-parte Australian Railways Union, 89 Commonwealth Law Reports 461 at pp. 474-5.

29. The Joint Committee on Constitution Review (1959) recommended that a constitutional amendment be sought to give the Commonwealth Government full industrial powers. This would enable the Commonwealth Government to legislate directly on industrial matters and provide more specific guidance on the role of wage fixing authorities. But neither the Government nor the Opposition has shown much interest in this recommendation.

30. See the President's Judgment on the application for a review of the 1965 national wage case by the Sheet Metal Working, Agricultural Implement and Stovemaking Industrial Union (Roneed p. 9).