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ARTICLES

Industrial Relations, 1964-1965[1]

J. R. KERR

Sydney

INDUSTRIAL DISPUTES

THE practice on these occasions has been to begin by looking at disputes. The statistics show that there was a considerable increase in the level of industrial disputation over the 1963 figures. During 1964 there were about 1,300 disputes in Australia producing a loss of 911,358 working days. The figures for 1963 were 1,250 disputes and a loss of 581,568 working days. This figure of working days lost was the highest since 1956, although it was still below the figures recorded between 1945 and 1950. The year was therefore one of considerable industrial turbulence.

Included among the disputes were the unprecedented postal workers' strike in New South Wales, the costly stoppage at the plants of General Motors-Holden, the long and complex dispute at the Mt. Isa Copper Mine (which continued well into 1965), strikes among government instrumentalities, both Commonwealth and State (which seem to be looming much larger nowadays) and a series of waterfront strikes against apartheid in South Africa. The break-up of the dispute figures shows that over 460,000 days were lost in the engineering and metals groups—45% of the total. The figure for 1963 was 26.3%. The General Motors-Holden stoppages in October and November caused a loss of 260,000 man-days, the 24-hour stoppage of employees of the Victorian State Departments and instrumentalities in May caused a loss of 100,000 man-days, and the Mt. Isa stoppage 43,000 man-days up to the end of the year.

The first three months of 1965 continued the trend with about 206,000 man-days lost by comparison with about 154,000 man-days during the first three months of 1964.

In my survey of industrial relations for 1963-64, presented at the last Terrigal conference, I related the story of disputation during 1963-64 to the activities of area and shop committees. These activities had engaged the attention of the A.C.T.U. The doings of these committees were, as I then saw the position, constituting a challenge to the "establishment" of the trade union movement.

Some consideration was given to the question whether what was

taking place resulted mainly from Communist strategy, or whether there was significant rank-and-file discontent and disillusionment with trade union leadership. We also discussed relationships between the union branch and the shop in the dispute situation. The connection of all of this with the penalties system also received attention. Amongst other things, the suggestion was made that the penalty system sometimes provided the union leadership with a talking point and an excuse in getting back to work men who were striking against union policy.

After a discussion of these points I said:

> "Looked at from another point of view the questions are—When unions cannot control the actions of area and shop committees, is there not some reason for retaining the penalty system as an aid to restraining the committees' strike activities? Or does the very existence and use of this system further exacerbate relations between union and committee, leading to more and more independence and disputation by the committees contrary to union policy?
>
> It will be interesting to see how the trend develops and to assess whether shop committee activity in opposition to union policy increases, accompanied by growing penalties, and growing attempts by unions to avoid them by trying to get men back to work. If this is the trend, the union headquarters may actually end up by paying increasing fines, becoming more isolated from the shops, and more regarded as being a disciplinary instrument. It may thus be caught up in a vicious circle."

The A.C.T.U. had, prior to the last Terrigal conference, decided to call a Federal conference of unions on the penalties-shop committee problem. Its recommendation was to be that a delegation should go to the Government seeking withdrawal of penalties. It wanted more control by the A.C.T.U. in stoppages where penal proceedings were likely and it wanted shop committees and unions reminded that under a 1963 A.C.T.U. Congress decision they must not take strike action without consulting the A.C.T.U. or the State Trades and Labour Councils.

In point of fact, as a result of the increased strike activity during the period under consideration, there were many actions in the Industrial Court against unions. During 1964, 119 fines were imposed amounting to a total of £29,500. During the whole period from 1956 to 1963 there were only 100 fines totalling £30,710. The total fines for 1963 were £12,500. Agitation continued for the removal of the penal provisions and, after further discussion within the trade union movement, there was a deputation by the A.C.T.U. to the Prime Minister. Ultimately the Minister for Labour and National Service stated in the House of Representatives, on the 11th November, 1964, that the Government had no intention of removing the penalty provisions, but that it would pro-

vide in clearly defined cases where there was a threatened breach of an award, for a 14 days cooling-off period before the sanction provisions could be used.

In due course a Bill was introduced into the House of Representatives in April 1965. This proposed the insertion of a new Section 109(A) which provided that before the Industrial Court could commence the hearing of an application to enjoin an organisation or person from committing a breach or non-observance of an award, it had to be satisfied that certain conditions had been fulfilled. These conditions are:

> "(a) that a Commissioner or presidential member of the Commission has been notified that the breach or non-observance is likely to occur;
>
> (b) that the notification was given without delay or if there was delay, a Commissioner or a presidential member of the Commission has certified that there was reasonable cause for it; and
>
> (c) that a period of fourteen days or such longer period as a Commissioner or a presidential member of the Commission has determined, has elapsed since the notification was given, provided however that this particular restriction will not apply if the applicant for the injunction satisfies the Court that the breach or non-observance is likely to occur within the next ten days."

The object of this 14 days cooling-off period is to enable the Commonwealth Conciliation and Arbitration Commission to step in and do something about the dispute if it is so minded. Where direct action has already occurred the previously existing law is left unchanged. Where there is a threat of direct action the employer, if he wants a speedy injunction, must quickly notify the Commission. The Industrial Court is to be unable in the ordinary case to begin the hearing of an application for an injunction until the expiration of 14 days after notification. The Commission can extend the 14-day period, but presumably would not do so without assurances of good behaviour.

It is appreciated that employers sometimes may not wish to give the appropriate notice to the Commission. If the employer elects not to give notice or does not give it promptly and is refused a certificate, he will not be able to get an injunction restraining a future breach. However, if a breach of the award thereafter does occur he can apply to the Court for an order that the organisation or person breaching the award comply with it, or for an order enjoining the organisation or person from continuing the breach. This could in due course lead to a fine for contempt.

An incentive to employers to notify promptly is to be a provision that costs of the proceedings taken after breach for an order or injunction will be granted only if the applicant, being aware of the threat that gave rise to the breach, notified the Commission promptly.

This proposed amendment was to have been debated in the House of Representatives. It does not appear to go far enough to satisfy the A.C.T.U. However, there is some similarity in principle between this amendment as proposed for Federal purposes and the amendment brought down in New South Wales earlier in the year. Both aim at trying to get the merits of a dispute dealt with by arbitration before penalties are considered and dealt with.

During September-October 1964 an Act was passed in the New South Wales Parliament under which proceedings against a union for participating in an illegal strike can be commenced only if the Commission's permission is first obtained.[2]

One point of difference between the New South Wales and the Federal amendments is the specific defence now open in New South Wales that the union did not support, aid or abet the strike. In the Federal field the Court rather readily finds that a union was involved in a strike and a similar philosophy could extend to the new State amendment. However, a specific defence such as that provided in the State Act would normally be strictly applied in a criminal matter. If unions can, because of this defence, escape penalty in cases where the stoppage was "wild-cat" or against union policy, or the result of shop or area committee initiative and direction, the result might perhaps be for the union to stay clear of some such strikes rather than risk penalty by getting involved, providing leadership and later trying to get the men back to work. However, when a strike occurs, not on union initiative but on the job, it is extremely difficult for a union not to try to provide leadership, and it would frequently lose the benefit of this defence.

It would seem, therefore, that the union movement has made some progress on the penalties since last year. In my survey last year I came to the conclusion that there ought to be a penalty system, but queried whether the then existing one was as good as it could be. I said that it was an important matter how the system was administered and with what kind of discretionary approach. More discretionary factors have now been introduced.

After the A.C.T.U. directive, early in the year, as to the position of unions and area committees it seems that the number of small outbreaks, of which there were many last year, may have, relatively speaking, decreased. This year has been characterised by rather more of the bigger stoppages. Nevertheless, a basic question still exists, namely, the

extent to which the unions were in control of these bigger stoppages. It can, I think, be stated that there is still a most complicated problem within the Australian trade union movement as to the extent to which effective strategic and tactical control of disputation is in official hands.

Important campaigns are of course officially directed, aimed at increasing over-award payments. These are continuously proceeding but take on a new strategic quality when the time is coming for an application to the Commonwealth Arbitration Commission for an increase in margins or in the basic wage. It appears to be a basic strategy of the union movement to endeavour, by threat, pressure and sometimes by strike action, to build up the extent of over-award payments and hence the level of average weekly earnings as part of the attempt to demonstrate a high level of capacity to pay increased award wages. The significance of over-award payments in the big Federal wage cases has been the subject of close debate in recent years. These union-led struggles produce some of the fines which are imposed. However, it is still the case that quite serious disputes appear to take place under circumstances in which the major union involved does not seem to be taking the initiative or succeeding in controlling the situation. Classic attitudes of loyalty which once attached to the union and to union policies appear to be increasingly attaching themselves to other, sometimes unofficial, groups.

There are various forces at work producing this situation. First, there are the tactics of the Communist Party. Secondly, there are internal factional problems within unions. Thirdly, there is the big question referred to last time of the lack of effective and sufficient organisational strength within the official structure of the unions to enable them to give detailed and effective leadership in the various situations that arise. Fourthly, there is the question whether the trade union establishment is dynamic enough in its leadership.

It will be a task each year to assess the extent to which the real initiative in disputation is being displaced from official trade union leadership and the nature of the consequent problems.

We could perhaps benefit from some comparative studies of similar situations overseas. The special Australian character of the matters under discussion derives from the fact that we enjoy a system of compulsory arbitration and the imposed solution seems to require compulsive processes and penalties to ensure the observance of its arbitral solutions.

We once used to be very proud of our pioneering work in compulsory arbitration and believed that we were far ahead of the rest of the world in our industrial relations set-up. This led us for decades, in this field as in many others, to live in self-satisfied isolation believing our system to be the envy of other countries and paying scant regard to the evolution of overseas policies and practices in industrial matters. It may be that the unions would have something to learn from overseas material about the "wild cat" strike, the strike used for factional purposes, the Communist-led oppositional strike and the dynamics of leadership and control of the rank and file. Certainly international attention is being given on an ever-increasing scale to internal industrial relations problems.

There is one series of disputes to which I should like to refer in a little detail. Early in 1964, the Waterside Workers' Federation tried to get the A.C.T.U. to place a complete ban on the handling of South African cargo. The A.C.T.U. refused and adhered to its 1963 policy which called for a consumer boycott of South African goods. This conformed with I.C.F.T.U. policy. The Sydney Branch then adopted a stoppage policy on ships carrying South African goods. These tactics spread to other ports. The tactics as to the nature of the stoppages changed from time to time. The A.C.T.U. in due course (September 1964) met with the Federal officers of the Waterside Workers' Federation to seek a solution. These had been widespread public criticism. As a result the Federation agreed to conform with official A.C.T.U. policy. On 25th September the A.C.T.U. executive announced that it had rejected a proposal by the Federation to impose a black ban on all South African cargoes. After reiterating its own policy it decided to send a deputation to the Federal Government to ask it to initiate and support in the United Nations Assembly world-wide sanctions, both diplomatic and economic as well as an arms embargo on South Africa. This was a political series of stoppages, but it shows how attitudes can build up on racialist issues and affect industrial matters.

The Aborigines

I propose now to look at some special industrial happenings during the year with an eye to other racial problems and overseas attitudes. I should like to draw attention to the industrial happenings in relation to aborigines in the Northern Territory and the indigenous people in New Guinea who work in government jobs.

This year, for the first time in any real sense, we have had to face up, in the arbitral field, to the question of our industrial relations policy towards these two groups of people. Disputes have been created and issues have been raised. These matters are current and it is, therefore,

not possible for me to do more than point to some of the ingredients. So far as the aborigines in the Northern Territory are concerned, our general national policy appears to be one of "assimilation" or, at least "integration". We appear to be reconciled to the ultimate disappearance of the separate tribal organisations and the separate culture of the aboriginal population. They are to become Australians in the full sense of the word. There will be, of course, a difficult and perhaps lengthy transitional period. But gradually it is to be expected that the award structure of Australia will be fully extended to cover them. In the long run this means that aborigines in the Northern Territory, and doubtless throughout the whole of Australia, will ultimately participate in the national wealth of the country by being fully covered by awards made with reference to the actual level of their skills and the work performed by them, upon the basis that they, like other Australians, are entitled to the highest wages which the capacity of the country as a whole would warrant. It will be a big task in arbitration to assess the actual level of those skills.

The only arbitral tribunal with jurisdiction in the Northern Territory is the Commonwealth Arbitration Commission. The general position under awards of the Commission and its predecessor the Commonwealth Arbitration Court has been that awards have made no particular reference to aborigines, and accordingly those aborigines who have taken their place in the general community and have gained employment in industries regulated by award of the Commission have been entitled to the same rates and conditions as other employees. The pastoral industry, however, which has been the largest employer of aboriginal labour, and which in many areas has had the peculiar characteristic of semi-tribal aboriginal communities living on stations and enjoying varying degrees of paternalistic treatment from the owners of the stations, has been treated as a special case. Awards of the Commission relating to the employees on stations have excluded aborigines both in the Northern Territory and elsewhere.

In 1944 Kelly J. expressed the view that this was related not so much to particular considerations of work value as to a recognition that aborigines had been accorded special treatment because of their traditions and habits and their incapacity or disinclination to compete with the descendants of European and Asiatic races in the struggles of our economic life. It was therefore desirable that the protection of the natives and the encouragement of their employment should be left to the special authorities charged with their protection who were more intimately acquainted than the Arbitration Court with the varying local problems—"problems indeed of quite a different nature from those with which this Court is equipped to deal".

In 1951 when an attempt was made to have natives on stations in the Northern Territory brought under the award, the Commissioner decided that he had no jurisdiction to interfere with the relevant ordinance. The position in the Northern Territory to date, therefore, has been, to the extent that conditions of employment and rates of pay for aborigines on stations have been controlled, it has been by legislation. However, it seems clear from recent events that the Commonwealth Government no longer desires to retain responsibility for such control through its legislation and that the matter will henceforth be dealt with by the Commission. The problem facing the Commission will be by no means as simple as persons unacquainted with the circumstances of life on Northern Territory stations might suppose, as the problems of the work value of individuals and their appropriate remuneration are closely intertwined with the complex social problems of the native communities living on the cattle stations.

New Guinea

Whereas there is no doubt that the economic capacity of the country will ultimately be available equally for the future remuneration of aborigines and other Australians upon the same basis, the position in New Guinea is more complicated. New Guinea's future is not as part of the Commonwealth of Australia. It would seem to be clear that it will be based upon the idea of self-government and independence. The alternative policy of incorporating New Guinea into Australia as a seventh state appears to have been rejected. This is understandable because the two million people in our New Guinea territories, if they were to become Australians and their country were to become a State of the Commonwealth, would be entitled to come and go in Australia like other citizens, to share in our economic capacity and to enjoy the extension to them of an award structure based upon Australian economic capacity. All this, of course, would be on the assumption that, as Australians, they would not be made second-class citizens.

Many of the indigenous people in New Guinea would like to see their country become a State of Australia. But this is not practical politics in Australia, would not be approved internationally, and ultimately, for various reasons, would not really suit the New Guineans themselves. This being so, the salaries and terms and conditions of work in New Guinea are going in the long run to depend upon the capacity of the New Guinea economy. This is the problem which is at the heart of the case to be heard in New Guinea in the coming months.

Australians in the New Guinea Public Service are paid at rates which reflect Australian standards of remuneration deriving from the capacity

of the Australian economy and which, in addition, take account of the need to attract Australians to work in New Guinea. The decision has been made that indigenous people working in the Public Service are not to be paid at this rate, but at a lower rate said to be nearer to what the New Guinea economy can sustain. What was done seemed to some to be discriminatory and racialist. It was not accepted by the local people and there is to be an arbitration in New Guinea to fix the salaries of indigenous government servants.

Of course everybody realises that the New Guinea economy is going to have to be underwritten and subsidised by Australia in substantial amounts both before and after independence, and indeed for many years if there is to be any prospect of stable government. It follows that whatever level be fixed for the salaries of those involved will, in the last analysis, not be based upon an unsupported New Guinea economy. Nevertheless, some attempt will have to be made to look at the New Guinea economy and some assumptions will doubtless be involved as to future Australian support. It is said that the Public Service Association in New Guinea has sought help from the A.C.T.U. in the preparation and presentation of a case on behalf of the indigenous public servants. Mr. Monk has recently been in New Guinea, and there are signs that the Australian trade union movement has become interested in the terms and conditions of employment not only of Australian aborigines but also of New Guinea natives.

Whatever may be the outcome of these two cases, the fact that issue has been joined in relation to aborigines and New Guineans and that the Australian trade union movement is in one way or another involved, indicate that that movement is raising its sights and beginning to be active in an area in which some overseas interests are prone to assert that Australia adopts a racialist posture.

The year, therefore, has brought to the forefront two issues of a kind that will doubtless receive some attention in the councils of the world. Both of these issues, and indeed the whole of aboriginal and New Guinea policy, are connected in the minds of overseas people with what is still called by some the White Australia policy. In the eyes of the Afro-Asian countries there has been a growing tendency to regard this policy, our policy towards New Guinea and our policy towards our aborigines, as all being to some extent discriminatory and racialist in character. We are at the risk of being manoeuvred in international debates into something of a South African position, though not of course to anywhere near the same extent. It is becoming increasingly a task for all of us to evolve policies which will enable this point of view to be rebutted. We are going to find that overseas people from Asia and

Africa coming here as visitors in increasing numbers, will tend, more and more, like Mr. Mboya to point to these three areas of policy as areas in which Australia is vulnerable. All three areas have an industrial relations aspect.

The trade union movement has direct institutional links with the Australian Labour Party, which still refers to the White Australia policy as part of its platform. It would be a big step forward if this could be removed. The trade unions and the Labour Party after the last war faced up to sizeable immigration from Europe which has come into this country under controlled schemes without threatening employment conditions and without causing unemployment. The trade union movement accommodated itself to European immigration to the limit of our growth capacity, provided that it did not have an adverse effect upon the employment conditions and opportunities of Australians.

A big question is going to be whether the new experience gained by the trade union movement in relation to resistance to South African apartheid policies, the terms and conditions of employment of aborigines, and the terms and conditions of employment in New Guinea of the indigenous people there will help it to see the problem of Asian immigration and perhaps New Guinea immigration in better perspective. No one argues, of course, that we should do more than get rid of discriminatory processes in all three areas of policy. The trade union movement could give a very important lead in relation to limited non-white immigration, whilst protecting its own standards of living. What is really wanted is selected Asian immigration of persons with education or skills, able to fit into our society. I am not suggesting that this is only a problem for the labour movement and for trade unions. It is a national problem and we do not want to produce a heterogeneous country with built-in racial problems, nor do we want our New Guinea policy to lead in Australia, to serious troubles such as have arisen in the U.S. from unrestricted Puerto Rican immigration and in the U.K. from unrestricted West Indian immigration. But, to the extent that our immigration policy is currently rationalised in economic terms it is primarily a matter for the trade union movement to lay down the conditions for acceptance of limited non-white immigration of a kind which will enhance and not imperil our prospects of economic growth. It doubtless would not like to be on the receiving end of international attacks of the kind it is supporting against South Africa.

Whilst on the question of New Guinea one point might be made in passing. The political institutions in that country are in the process of emerging. Its newly formed trade unions will doubtless play a significant role in the party organisation of that country. It may be that a one-

party system, rather than a two-party system, may evolve in New Guinea as in other colonial areas. The trade unions coming into existence in New Guinea may or may not find it convenient to join or assist in the formation of a New Guinea Labour Party rather than a New Guinea National Party. Whether they form a New Guinea Labour Party or not, they would, I imagine, be appalled to find that the Australian Labour Party supports the White Australia policy and would accordingly be forced to impose a blanket opposition to any immigration at all from New Guinea. It would obviously be disastrous for New Guinea leaders to contemplate any form of affiliation with or close connection with a party down here on the mainland which maintained its support for a White Australia policy.

Our own trade unions would need to be very careful about seeking to persuade the New Guinea trade unions to form a New Guinea Labour Party which had close connections with one of the Australian parties. It would be far better for the embryonic party organisation in New Guinea to be a party of national unity. New Guinea is not ripe for a Labour Party in the traditional sense. Such a Nationalist Party would be related to New Guinea conditions and would not seek to derive strength from some artificial institutional connection with one of the Australian parties.

As can be seen this is an area of policy in which the trade union movement in Australia has to begin to look overseas for comparative experience in handling matters with which it is going to be more and more directly concerned.

Wages Problems

This is a convenient point to develop an observation I made earlier that we have in the past tended to regard ourselves as more or less self-sufficient in our arbitral arrangements for the settlement of wages and conditions of employment. Nowadays, however, there are signs that we are becoming more and more under the influence of ideas from other parts of the world. It is, I believe, largely due to the influence and writings of academics that ideas on wages policy and incomes policy which have been developed in Europe and America are becoming influential in Australia, and are beginning to affect the decisions of the Commonwealth Arbitration Commission. It is of some importance to note that in recent judgments opinions have been quoted from various articles by Professor Karmel and Miss Maureen Brunt, Professor R. I. Downing, Professor Isaac, Professor Cochrane and Professor Laffer. In recent years evidence has not been given from the witness box by economic experts. The last occasion when this happened was in 1961.

The tendency nowadays is for expert opinion to be put before the commission through published writings.

In a presidential address which I gave in 1961 I discussed the difficulties which have in the past arisen because of the application of forensic techniques to witnesses called to give expert evidence. I referred to the reluctance of such experts to give evidence at all when subjected to these techniques and went on to note that the Commission receives opinions contained in published articles and lectures. I said there were a number of criticisms of this method of proceeding.[3] Nevertheless the Commission does get a lot of useful information in this way—information which would not otherwise be available. Whether it gets all the relevant information in the periodical and other literature is, however, doubtful.

It is unfortunate, as I said in 1961, for the Commission to be entirely, or mainly, in the hands of the parties in relation to the economic material available to it.

Doubtless the Commission and the parties will gradually evolve satisfactory methods of profiting to the full from the pool of expert opinion in Australia and obtaining in this way a critical assessment of relevant overseas theoretical developments. Certainly academic economists should continue their debate on the range of problems confronting the commission. It would be most healthy if a body of expert opinion, developing in this way and crystallising economic issues, provided an intellectual framework within which both the commission and the parties were increasingly compelled to work.

The 1964 Basic Wage and Total Wage Cases were the most important concluded cases during the year. Economic opinion of the academics was important in these cases. The Commission increased the Basic Wage by £1, rejected the application by employers for deletion of the basic wage clauses from awards and the substitution of "total wage" provisions. The employers had offered an increase of 2% in the total wage conditional upon acceptance of the concept that increases in the total wage should not exceed productivity movements.

It is perhaps sufficient to say here that the President and Mr. Justice Moore re-affirmed their 1961 judgment under which there was a prima facie assumption that the basic wage fixed would be regularly adjustable for price increases to maintain its real standard, and an enquiry every three or four years to see whether the real basic wage could be increased and if so by how much. Mr. Justice Gallagher had no basic objection to the 1961 procedures provided that the employers in object-

ing to adjustment for price increases should have the right fully to raise capacity to pay. He said that the 1961 judgment, as he saw it, did not constitute a departure from the principle that capacity to pay was the predominant issue but, he said, if there has been such a departure he would to that extent respectfully refuse to apply that decision. He also indicated that he would be inclined to the view that adjustments for productivity, if they are to be made, should be effected at fairly frequent intervals in order to avoid the serious impact upon the economy flowing from a substantial increase. Mr. Justice Nimmo disagreed with the 1961 procedures. He was in favour of annual reviews. Both Mr. Gallagher and Mr. Justice Nimmo disagreed on amount with the other judges and believed that an increase of ten shillings not £1 was within capacity. The views of the President and Mr. Justice Moore, as a statutory majority, prevailed.

The stage was thus set for the developments of 1964-65. Many believed that the £1 increase was beyond capacity and would cause or contribute to price instability. Inevitably a review for price increases was to be expected from the unions in the new year and having regard to the fact that the Commission was split on the proper principles to be followed a major debate on principles was to be expected in the first part of 1965. Indeed prices did for various reasons rise during 1964, and by the time the 1965 Basic Wage Case began a 10/- adjustment for prices would have been necessary to preserve the real value of the 1964 basic wage. During the year full employment conditions were reached, demand was very high, balance of payments difficulties were beginning, new defence measures which would put further pressure on resources were announced, budgetary measures had been resorted to for the purpose of damping down demand and the prospect of inflationary developments was increasing. In this context it was inevitable that the 1961 procedures would come under strong attack and that a full enquiry into economic capacity would take place. It was also inevitable that in addition to a review of the 1961 procedures and the holding of a capacity enquiry the role of the Commission as an economic authority, the role of the Commonwealth and its economic policy, the possibility of the Commission adopting a wages policy and many other matters of principle would be fully argued out in 1965.

Before proceeding to see how the issues were joined in 1965 it will be necessary to note briefly some of the other main developments during 1964. This can be done only in the form of a rather summary list.

So far as salaries were concerned the 1963 increase of 10% in margins spread almost completely by the early part of 1964. The tendency of other professional groups to re-establish their old relative position *vis à vis* the professional engineers continued during 1964-5. Indeed, administrative officers were also going a considerable distance in this direction. Academic officers, as a result of the Eggleston Arbitration, also moved into a much more favourable relationship to the engineers' rates.

The professional engineers themselves continued their struggle for increased salaries in the higher levels and achieved gradually a measure of success, but in a context of rising salaries for other groups. The final result is gradually being reached that the professional engineers, instead of acquiring over the long term a new relative position at a higher level, have just been spearheading a general increase of wages for whitecollar and professional workers.

A special arbitration in New South Wales resulted in statutory salaries being considerably increased and this has, by disturbing their relative position by comparison with the officers below them, caused much tension in the administrative division of the New South Wales Public Service.

Other developments during the year included an agreement negotiated between the parties in the maritime industry ending the union-controlled recruitment system for seamen. The new system has been incorporated into the Seamen's Award. It provided for a system of registration of seamen and employers, both in the interstate and intra-state branches of the industry, the fixing of quotas of seamen on a port-by-port and national basis, leave of absence for seamen from their obligations under the system, daily attendance of seamen for employment, procedures for selection and allocation of seamen, discipline of recalcitrant seamen by suspensions with a right of appeal, and payment of attendance money to those seamen attending but not receiving a job on any day. The second part of the scheme included a number of major concessions to the seamen in full settlement of the claims that the union had been pressing. These were granted in return for the union giving up the privileged position it had enjoyed under the Seamen's Award since 1955, and since earlier times by way of practice in the industry, so far as the supply of labour in the industry was concerned.

The Department of Labour and National Service and the Department of Shipping and Transport were brought into the matter and appeared by counsel before Mr. Justice Gallagher. The departments had certain proposals to make which related to safeguards and improvements. The scheme has been incorporated as Schedule C to the Seamen's Award by decision of Mr. Justice Gallagher on the 23rd November, 1964. Mr. Justice Gallagher has expressed the view that the stabilisation system is

in the public interest, in the interest of employers, and in the interest of seamen.

Another important matter was the granting of long service leave under Federal awards in the proportion of three months for 15 years of service.[4] Also of importance during the year was the New South Wales amendment which raised the State Basic Wage to the level of the Federal basic wage for Sydney retrospectively to the 19th June, and tied the New South Wales State basic wage to the Federal basic wage by providing that any increase in the Federal basic wage for employees under the Metal Trades Award or any other award which the Governor in Council might substitute for it, was to apply automatically to New South Wales State awards. Automatic quarterly cost-of-living adjustments were abolished.

The 1965 Basic Wage and Total Wage Cases

As has previously been indicated the really important matter was the joining of issue for the big hearing on the subject of the basic wage and the employers' total wage counter-claim which took place during the early months of 1965. These cases now stand adjourned for decision.

The union claim was brought under the 1961 and 1964 procedures. The claim simply was for an adjustment of the basic wage, first for an increase of 10/- and later for an increase of 12/-, so that its real value as fixed in 1964 might be preserved. The employers' claim was a reiteration of the previous claim for a total wage fixed at the total of the then existing level of wages under the award plus the sum of 1% of that total. Alternatively the employers' claim was for the continuance of a wage expressed as a basic wage and margin; the former to be reduced by 6/- per week and the latter increased by 6/- per week with 1% added to each part of the wage.

The claims were referred to a full Bench of the Commission by reason of a decision of the President. The basic wage aspects of the employers' claim would have to go to a presidential session consisting of Deputy Presidents, and the President had to decide whether it was practicable for the non-basic wage parts of the claim to be dealt with by a Bench including a Commissioner.

The President distinguished what had happened in the previous year when the two cases were heard consecutively. He went on to say that this year the problems arose from the one case, namely the employers' case, in which the part of the claim dealing with the basic wage and that not dealing with the basic wage were so inextricably inter-woven

that they could not, as a matter of practicability, be dealt with separately. He decided that he had no option but to nominate Full Benches of Judges only to deal with the whole of the employers' claims. In the result the claim by the unions and the claims by the employers were dealt with by a Bench consisting of the President, Mr. Justice Gallagher, Mr. Justice Moore, Mr. Justice Sweeney and Mr. Justice Nimmo. In other words, to the Bench which was evenly divided in 1964, Mr. Justice Sweeney has been added. There was a complete re-examination of all of the principles of the 1961 and 1964 judgments.

The employers' argument, put very shortly, was along the following lines. "Capacity to pay" is the appropriate criterion in all major wage cases. "Capacity to pay" has only one proper meaning and that involves an assessment of whether or not a proposed increase in award wages is consistent with price stability. The guiding rule generally recognised here and overseas for the maintenance of price stability is that wage increases must not exceed productivity increases—increases in production of goods and services per person employed. Experience has shown that this increase is 1-2% per annum over a period of years.

Such experience indicates that workers can and should receive steady wage increases of that order based purely on economic grounds. They should receive their share of increasing national capacity. This is true of both elements of the wage—basic wage and margins. Therefore wages should increase each year by an amount within the 1-2% range. The point within the range to be chosen will depend upon an assessment of economic indicators. Evidence in the present case clearly indicates the lower limit of the range. Any increase in award wages outside this range will prejudice price stability and so interfere with the Commonwealth Government's economic planning. Such interference would mean that the Commission was setting itself up as an economic planner.

Price movements provide no justification for wage increases because there is no necessary relationship between price movements and the productivity increases which provide capacity. Thus, if wages exceed productivity, prices will rise to compensate for the fact. It would be economically wrong to alter wages further just because the economy had adapted itself to the previous increases. There is no evidence that price increases have increased company profits.

The employers put arguments as to the proper methods of wage fixation. They said that the economic arguments already summarised apply equally to Basic Wage and Margins Cases. Since they should both be increased regularly on economic grounds it is obviously sensible that they be determined at the same time.

The loss of meaning of the basic wage—evidenced by the way in which union pressures for wage increases always show a total wage approach—indicates the logic of a total wage concept. Failing this, there should at least be regular joint hearings of basic wage and margins cases. They should be increased *pro rata* unless there is a deliberate decision to alter their relativity. Such capacity as may now be available should now be consciously distributed between basic wage and margins in whatever proportions the Commission finds just in view of the 1963 Margins judgment and 1964 Basic Wage judgment. Unions should be told there is no warrant for the belief that over-award wages obtained by industrial pressure will later be accepted as reasons for award wage increases.

This does not in any way suggest that work value cases should not be put and considered wherever necessary in particular industries. Such cases would not be inconsistent with regular reviews of award wages based on economic grounds.

The main arguments for the unions were to the following effect. The basic function of the Commission is to avoid industrial disputes by securing for the worker a just and reasonable wage. The Commission should not be concerned to try to follow any particular economic policy or achieve any particular economic result. To be just and reasonable, the real value of a wage must be maintained (provided the community's output of goods and services is maintained or increased). This approach was used up to 1953 and again applied in 1961 and since, with almost unanimous approval of the Commission since 1961. In fact the evidence shows that real productivity steadily increases in Australia and therefore it must be possible to maintain the real value of the wage.

The fact that prices have increased means that monetary capacity, as distinct from real capacity, has increased. This is a further argument for adjusting for prices.

This approach recognises the undoubted economic fact that in an economy such as Australia's, prices and productivity will both tend to increase over a period of time. It is necessary to adjust wages for prices to protect the worker's position in this situation. Employers adjust their prices where necessary to ensure that they obtain the benefits of productivity increases without reduction because of cost rises.

The employers' economic theory has never been successfully applied overseas. It is not part of the Commission's function to apply that or any other such theory. It certainly ought not to be applied to restrict wage increases, except as part of a complete policy for wages and prices which would have regard to e.g. restrictive trade practices and non-wage

incomes. The Commission must deal with the applications before it. The unions are now claiming a basic wage increase. There is no evidence on which a margins increase could be given in these proceedings.

The Commonwealth put arguments to the Commission, as it had done the previous year, which were based upon considerations which tell against the total wage approach. It submitted that the 1961 procedures were not appropriate, that capacity to pay interpreted broadly should be the test, and that productivity and prices increases should be thought of as only part of the picture and should not be regarded as basic or primary factors. The Commonwealth made detailed economic submissions and tendered economic material. In the past, except on two occasions, it had said that it neither supported nor opposed the claims. The exceptions were the 40 Hours Case of the unions which it supported, and the 1960 Basic Wage Case in which it positively opposed an increase. On this occasion whilst making no submission as to the actual decision which should be made it argued that an increase in the basic wage in the present circumstances would be fraught with danger for the economy. The Commonwealth was criticised because it was suggested that this last economic submission amounted to positive opposition to an increase in wages, but the Commonwealth would not be provoked into expressing its submission in any other way.

I may perhaps be permitted to make some observations and raise some questions about broad issues.

As to the role of the Commission it was suggested by the employers that the Commonwealth is the planning authority and the Commission should act within and should accept and support Commonwealth economic policy. The unions denied this, saying that the Commission is a dispute-settling authority and is not concerned about economic policy, should have no such policy, and should not be concerned to support the Commonwealth's economic policy. It should simply fix just and reasonable wages and leave it to others to worry about the consequences for the economy. The Commonwealth relied upon the statement made by the Commission in the 1959 Margins Case and repeated in the 1961 judgment, as follows:

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

particular economic result apart from altered wages although in the event the decision it makes may have other economic consequences."

All the parties therefore took it for granted that the Commission should not have an economic policy of its own, but the employers and the Commonwealth stressed the need to have regard to the economic consequences of what it did. Looming very large was the question of price stability. The Commonwealth's basic economic aims are a high rate of economic and population growth with full employment, increasing productivity, rising standards of living, external viability and stability of costs and prices. In these circumstances it was inevitable that the Commonwealth would stress the importance of price stability and the employers did likewise. The Commission was therefore urged to keep wage increases within the bounds imposed by the need to minimise rises in prices. The unions opposed this policy very strongly, saying that the Commission should do justice and should not hem itself in by any such policy. This was essential when the Commonwealth—so it was argued —had no power and refused to seek power to control profits and prices.

It is obvious enough that if the Commission is going to have regard to the economic consequences of what it does and if it will not deliberately create situations which would need rectification by Governmental action it will be difficult for it not to have an economic policy, and it will probably have to determine its attitude to Commonwealth economic policy. Whether the next stage in these matters will be for the Commonwealth to take a definite stand on the issues before the Commission is something which cannot be foreseen.

FOOTNOTES

1. A condensed version of a paper given to the Seventh Annual Convention of this Industrial Relations Society, Terrigal, on May 8th, 1965 [Further Convention papers will appear in the November 1965 issue of the Journal Ed.]
2. See "Advocatus", *Journal of Industrial Relations,* vol. 7, No. 1 p. 76.
3. See J. R. Kerr "Procedures in General Wages Cases in the Commonwealth Arbitration Commission", *Journal of Industrial Relations,* Vol. 3 No. 2. October 1961.
4. See "Advocatus" *Journal of Industrial Relations,* vol. 6, Nos. 2, 3.

Class Identification and Trade Union Behaviour: The Case of Australian Whitecollar Unions

R. M. MARTIN

Monash University

A PERSISTENT if usually implicit element in discussions of Australian trade unionism is the assumption that the way trade unions behave is ultimately determined by the way trade unionists rank themselves in terms of social class.[1] More specifically, the assumption is that a trade union whose members feel they belong to the working-class will behave quite differently from a trade union whose members think of themselves as part of the middle-class. This interpretation usually seems to start from the obvious fact that some trade unions consist of manual employees and others consist of non-manual, or whitecollar, employees; and the working-class/middle-class distinction with its presumed behavioural consequences, is commonly regarded as following from and adding merely another dimension to the more straightforward distinction based on the nature of the work of union members.

However, in an article published in 1956,[2] D. W. Rawson carried the argument a stage further by spelling out the class-identification assumption and its alleged behavioural implications with unusual precision. In doing so, moreover, he gave class-identification an independent status as a classificatory factor, in the sense that, as formulated by him, it involves the division of trade unions into two groups whose constituents are not identical with those yielded by the manual/non-manual distinction. As it happened, Dr. Rawson himself did not apply the class-identification criterion in as thorough-going a manner as consistency and the facts required. The result is that the groupings he apparently thought he ended up with do not differ greatly from those obtained by using the manual/non-manual distinction, and in the course of his article he slid now and again towards a statement of the distinction in these terms (201, 205, 206).[3] For the purpose of expounding his argument, therefore, it is reasonable, at least initially, to do so in terms of manual and non-manual, or whitecollar, unions. The qualifications which his argument involves will emerge in the course of discussion.