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Industrial Relations 1963-64[1]

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1. Strikes, Area and Shop Committees and Penalties

THERE was an increase during 1963 in the incidence of industrial stoppages and of working time lost thereby, by comparison with the position in 1962. A total of 581,568 man-days or less than 1½ hours per wage and salary earner were lost during 1963 compared with 508,755 man-days in 1962. These losses resulted from 1,250 disputes compared with the 1962 figure of 1,183. In the latter half of the year there was a rise in the number of disputes (especially in the December quarter) in most major industry groupings.

In general it can be said that the statistics as to stoppages do not as yet show a serious national position. Nevertheless the stoppages raise for consideration two important national issues. First, the problem of the activities of area and shop committees vis à vis the ACTU and the head offices of its affiliated unions and, secondly, the problem of penalties imposed on unions in connection with strikes of their members.

In his survey of industrial relations at the Fifth Convention last year Professor Isaac said:—

> "The increasing activity of shop and area committees, both official and unofficial, in Victoria and New South Wales, evoked strongly-worded resolutions from the ACTU Executive in March and October last year. The ACTU condemned the repeated stoppages by sections of workers in violation of collective bargaining agreements and stoppages directed to increased margins without the authority of Labour Council. Clearly, more than strongly-worded resolutions are required to control unauthorised local action; and it may be that these resolutions are directed as much to the unions, especially at the Branch level, as to the Shop Committees. For it is primarily the lack of close contact between the branches and the shops which gives rise to the independence of shop and area committees."

This matter of shop and area committees acting independently of the established ACTU and Union machinery and policy for the handling of industrial disputes presented a continuing problem for the ACTU during 1963, and at the December meeting of the Executive of the ACTU it was decided to remind all affiliated unions by circular, of ACTU policy with regard to the proper role of these committees.

The ACTU Executive in April decided that there should be a protest on penalties but no stoppage. It has called a Federal Conference of unions on the penalties-shop committee problem. It recommends a delegation to the Government seeking withdrawal of penalties. It also recommends more control by the ACTU in stoppages where penal proceedings are likely and that shop committees and unions should be reminded that under a 1963 ACTU Congress decision they must not take strike action without consulting the ACTU or the State Trades and Labour Councils.

It seems that it can now be said that the doings of these committees are constituting a challenge to the "establishment" of the trade union movement. The main centre of this activity has been in Victoria but it is not the only centre. The recent Post Office dispute took on a shop aspect since the Union and the N.S.W. Branch were alleged to be opposed to the stoppage. Doubtless this general development is being used by both factions of the Communist Party, but a question arises whether it can really be said that it is due only or mainly to Communist strategy. Is there a sufficient wave of discontent and disillusionment with the trade union "establishment" to make this discontent and disillusionment an important factor? If so, is this due to a certain loss of energy and enthusiasm at the top of the union movement together with the lack of a big enough machine for the investigation of matters and for the servicing of the leaders conducting negotiations?

The right wing unions make no bones about asserting that the shop and area committees are Communist inspired and controlled, that their spread has been pursuant to a deliberate strategy of the Communist Party to provoke strikes at the plant level, and that part of the Communist strategy is specifically aimed at getting the unions involved in strikes which they do not approve, and then heavily fined. It must be a matter of opinion whether the Communist Party's activities constitute the main operative factor in regard to the shop and area committees. If they do, or if the shop and area committees constitute a real threat to the union movement, the way to handle that threat must be seriously thought about by the unions.

It will be interesting to see whether there is a real trend in the direction of more industrial turbulence. The man-days lost during the first three months of 1964 are about double those lost for the same months last year. The disputes and stoppages caused by or connected with the agitation and activities of area and shop committees is a matter for special consideration from the point of view of union and branch leadership. Professor Isaac in the passage quoted above referred to lack of contact between branch and shop being the cause of the trouble.

Whether this be so or not the Branch leadership in particular is immediately involved once a dispute occurs in the shop or area. It has to handle negotiations and has to decide its attitude to the stoppage of work when and if it occurs. Sometimes the Branch may be leading or participating in the leadership of the stoppage, behind the scenes. Sometimes it may be opposed to it but not able to say so publicly or privately to those involved. Sometimes the union is playing little part because the Labour Council takes over. In the strike situation many combinations of circumstances occur as between branch and shop. However, it must frequently happen that the Branch or Federal office believes that the locally led strike or stoppage is unwarranted or unlikely to achieve results, that it runs counter to union policy and may damage union prospects, and that it should be brought to an end. Nevertheless, the Commonwealth Industrial Court is generally able to satisfy itself that the union at the Branch or Federal level has been directly or indirectly concerned in the stoppage, and it looks to the union to see that the stoppage of work does not continue. To avoid a penalty or to minimise its amount, unions have to try to disengage themselves from the stoppage by doing their best to bring it to an end.

This must often mean that the unions are, in effect, required to do things to avoid incurring a penalty which are the very things which they want to do in any event. In other words, it doubtless is often the case that a union branch or head office, being opposed to a strike led by a shop committee, does not feel strong or courageous enough to order its cessation until this can be done under cover of the court proceedings. This provides something in the nature of an excuse for action and the court becomes the scapegoat. This is not always the position by any means, but it is nevertheless clear that in many cases the existence of the penalty system enables a union leadership to oppose area committees and shop committees in particular disputes which they do not support, whereas without the threat of the penalty system the leadership would feel it had no excuse for opposing those who are on strike. On the other hand, it is argued by many that some strikes are deliberately prolonged in order to compromise the union leadership and to get the union fined.

This situation indicates that the activities of the area and shop committees and the penalty system are inter-related. If the penalty system were to go there would probably be an increase in disputes and stoppages, and in their duration, simply because union leadership would have less excuse (according to its way of looking at things) for interfering.

It is ironic that the existence of the penalty system should have the effect of actually providing union leadership in many cases with a talk-

ing point and an excuse in getting men back to work who are striking against union policy.

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.

Looking at the matter of penalties simply in money terms the fines imposed in 1962 amounted to £9,150, of which amount more than half was incurred by the Waterside Workers' Federation. The total for 1963 was £12,500. This year up to 8th April, there had already been imposed a total of £9,350. If this trend continues this year's fines will exceed last year's very dramatically. When it is appreciated that the total for the years between 1951 and 1961 was £13,700, it can be seen that, at least in money terms, the penalty system is increasing substantially in its impact on the unions. The important point is to ascertain whether it is or is not helping to produce greater control over area and shop committees by the unions or, on the contrary, is causing growing defiance and lack of concern at the shop level about the unions' penalisation and fines.

Last year at Terrigal, Professor Isaac made some tentative suggestions about the penalty system in relation to Commonwealth awards. (*Journal of Industrial Relations,* Oct, 1963.) He pointed out that our arbitration system does not discriminate between strikes about the making of new terms of employment and strikes about the interpretation and enforcement of terms of employment once made. He argued that a strike in the course of negotiations about new terms should be free from penalty unless and until the dispute reaches emergency proportions. It can be seen that he proposed a completely different arbitration system from the one we have. His system would involve reforms along the lines of the situation in other countries where negotiation of new terms of employment is frequently accompanied by serious strike action.

In my opinion such a system is not practical politics in this country

and would in fact, if adopted, lead to a serious increase in strike activity. If a system of the kind proposed by Professor Isaac is impractical, and if we are to be left with our traditional compulsory arbitration system, then it seems, as Professor Isaac says, to be logical that a penalty system must be included which imposes sanctions on both parties. Whether the existing penalty system is the best system is another matter. It is also an important matter how it is administered and with what kind of discretionary approach. On the assumption that we retain our compulsory arbitration system and with it a penalty system, a really difficult problem is where to place the burden of the penalty. Under the present system the penalty is placed upon the union and never upon those who may be the real offenders—with all the consequential difficulties referred to previously. Is there any way to evolve a penalty system which does not complicate relations between the union and the shop committees? There is probably no way to do this because of the strong view that the individual strikers should not be punished. Is there any way of producing a discretionary form of administration of the penalty system which would have greater regard to the unions' problems in handling local situations? There may be some room for action in this direction. However, the essence of the problem is to be found, as Professor Isaac said, in branch-shop relations, in good union leadership, in strategy effectively applied to handle "outside" or Communist activity. All this may need more manpower than unions can actually afford for organising and grass root leadership.

In passing a point could be made about the Qantas pilots' dispute. This dispute is interesting on the penalty question. Some years ago the Pilots' Association was heavily penalised as a result of strikes by its members. All pilots resigned from the Association, which was registered as an organisation under the Commonwealth Act. They then formed a new Federation which was not registered under the Act. This did not prevent an industrial dispute from arising between Qantas and its pilot employees and, after a test case in the High Court, that dispute was settled by a registered industrial agreement which had the effect of an award. When the recent pilots' strike occurred Mr. Commissioner Portus inserted a bans clause in the "agreement-award". This would raise the question of using the penalty provisions directly against the striking employees. No resort was made to these provisions in the case of the pilots' strike, because mediation was arranged after the pilots returned to work. However, the strike showed the special problems that arise in what was doubtless a strike of Professor Isaac's emergency kind, when difficulties exist about penalising the organisation or union itself, and the only resort of the employers is against the individual strikers.

The general and particular disputes between Qantas and its pilots

which led to the recent strike have also highlighted for the second time the problems of a procedural kind which arise when there is no corporate body to represent one of the disputants, and to be served with process. It is a matter for future decision whether the new Pilots' Federation can be left to enjoy the procedural advantage of its non-corporate existence or whether it must have a corporate quality thrust upon it.

A further point of importance is the development which led to the Department of Labour and National Service playing a mediating role in the dispute by getting the parties to accept a mediator nominated by it. Doubtless there is not much room in our system for the development of a mediation service in the Department, but it would perhaps be willing to move in that direction if there were.

II. Significant Issues of the Year

Professor Isaac last year referred to the Bill which had been introduced into the House to amend the Conciliation and Arbitration Act. The main feature of this Bill was the attempt to ensure that the States retained control of the salaries of their public servants, more especially those in administrative, clerical and professional jobs. The Bill was aimed, in effect, at changing the law which had been declared in the High Court in the Professional Engineers' Case. Of course the constitutional position could not be changed but it was open to the Commonwealth Parliament to limit the jurisdiction of its Arbitration Commission and to circumscribe its powers in relation to State employees. However, wide protests resulted, and in May the Bill was withdrawn on the motion of the Minister. The Bill had been aimed at limiting the discretion conferred on the Commonwealth Conciliation and Arbitration Commission under s. 41 (1) (d) of the Act.

Until the Professional Engineers' Case it had been thought that the Commission, in exercising its discretion under s. 41 (1) (d), to refrain from further hearing or determining a dispute if that dispute is being dealt with or is capable of being dealt with by a State Industrial Authority, would generally do so in such a way as to ensure that State administrative, clerical and professional officers would have their salaries determined by State tribunals rather than by Commonwealth tribunals. This would not mean that substantially different standards would exist in Commonwealth and State services, for the obvious reason that the States would need at least to match Commonwealth standards if they were to develop efficient services. New standards, for example, for engineers would inevitably spread to State services and instrumentalities without them being bound by or under direct threat of a Commonwealth award.

However, in the Engineers' Case it was made quite apparent that the Commission had shifted in its view of the nature of its discretion and the way it should be exercised. It was then indicated that the previous principles which had guided the discretionary approach of the Commonwealth Industrial Commission were not to be regarded as exhaustive or as imposing a fetter on the exercise of that discretion. The view was taken that Parliament had meant, from the plain and ordinary meaning of the language it had used, to leave the discretion unfettered.

In the discussion of the proposed amendment the merits of the argument that State Public Servants should be left to have their salary adjusted by State tribunals became inextricably involved with arguments about whether the salaries of State Public Servants should or should not be adjusted in line with the salaries of Commonwealth Public Servants. This complication arose partly from the fact that the proposed amendment might have deprived the Association of Professional Engineers of access to the Commonwealth Commission to press home the full consequences of its successes in relation to State Public Services and authorities. In the result the whole problem became so complicated in discussion and such strong attitudes were developed that the attempt proved abortive and nothing was done.

What happened is important in industrial relations for two main reasons. First, the attitude of the Commonwealth Conciliation and Arbitration Commission seems to indicate that it will be much more ready in the future to make awards settling disputes involving State Public Servants than was formerly the case. Indeed, the decision in the Professional Engineers' Case and the recent decision in the Long Service Leave dispute would indicate that nowadays, in acceptance of its role as the national wage-fixing tribunal, it will only be in exceptional cases that the Commission will refrain from dealing with a matter on discretionary grounds. Secondly, the implications for State Public Service unions are very important. They have a mixture of members, some of whom are clearly persons who may be bound by Federal awards and some of whom are clearly persons who cannot be bound by Federal awards. Unions of this kind have considerable legal difficulties standing in the way of their registration as Federal organisations. They are accordingly at the risk that their membership may be whittled away by the process of Federal awards being made at the instance of other unions which are Federal organisations. It was doubtless for this reason that some kind of amendment was attempted to the Commonwealth Act designed to protect their position before the State tribunals.

Discussion of this matter leads naturally to consideration of the developments in relation to the salaries of public servants, particularly

Commonwealth public servants, professional employees and white-collar workers generally.

"White-collar" organisations were active during the year. The High Council of Commonwealth Public Service Associations and the Australian Council of Salaried and Professional Associations combined with the ACTU to make claims for increased margins in their respective fields. The position in the Commonwealth Public Service appears to have been central in the white-collar campaign and the case for increased margins in the Commonwealth Public Service became a kind of test case in the eyes of white-collar workers. The claims concerning the Second, Third and Fourth Division officers of the Service were referred to a Full Bench of the Commission. As to the Third and Fourth Divisions, settlement was reached by conciliation. The Fourth Division received a 10% increase. There was a more comprehensive review of the Third Division and an opportunity was taken to re-structure the salary classifications of this Division. In the outcome these officers were granted a 10% increase plus an addition. As to the Third Division some say that what was done in effect reversed and even partially compensated for the earlier tapering. On the other hand it would be argued by the Commonwealth that the concession of 10% increase plus the additional sum granted was not a reversal of tapering but that the Third Division salaries are still tapered. It would be argued that it was a genuine settlement of important questions of salary structure. In other words, it would be argued that the increase was not granted on purely economic grounds. The Second Division Officers' claim was joined with claims by higher grade Public Service Engineers and went to a hearing. This claim will be mentioned later.

Engineers (lower grades) and legal officers received further increases from the Public Service Arbitrator after the Full Bench had limited him to an upper limit of 10%. He gave increases ranging between 3.4% and 4.6% because there had been earlier work value cases. This decision of the Arbitrator applied the tapering principle previously enunciated by the Commission.

There was a work value hearing in the case of Scientists, which illustrated the process by which the engineer work values are being partially spread with appropriate adjustments and qualifications.

The Commonwealth presumably would argue that it is practising what it preaches in the National Wage Cases so far as its own servants are concerned, namely, that it is desirable to proceed on a work value basis, and examine the work and value it profession by profession and group by group. In doing this group by group it has regard not only to work value but to economic grounds and all relevant factors. The Commonwealth Public Service Board has apparently taken seriously the statement in the Engineers' Case which sought to make that case no precedent for other professional groups. It is apparently seeking to get an entirely new approach to service salary fixation. But will it succeed? Some say that these group by group fixations disguise an underlying movement gradually to re-establish old relativities.

Concurrently with the earlier Public Service Cases the claims of the Banks Officials in private industry were considered. The Full Bench re-affirmed the principle of tapering and referred the matter back to the Commissioner. In the meantime the Reserve Bank and the Commonwealth Banking Corporation gave increases not dissimilar to those granted in the Public Service. Thereafter the Bank Officials Case was settled on a basis similar to that which had resulted in the Commonwealth Banking Corporation.

The claims of the Second Division officers which went to a hearing before the Full Bench in combination with the claims of higher grade engineers were disposed of when the Commonwealth Public Service Board granted increases at a late stage in the hearing and the Commission decided that these were high enough and accepted them. The increases granted were accompanied by a restructuring of Departments, and a re-examination of the functions of Second Division officers. It was, so the Commonwealth argues, a work value exercise in which all relevant grounds including economic grounds were considered and it was endorsed by the Commission in a work value case.

These developments in the Commonwealth Public Service represent a significant change of approach by the Commonwealth Public Service Board. The 10% increase was granted to the Fourth Division after the Metal Trades Case. This was done apparently without a struggle, and without the involvement of the Public Service Arbitrator as conciliator.

As to the Third Division, settlement resulted from early conciliation. It displaced the process of arbitration whilst it was going on. In the Second Division Case the Public Service Board in reality considered what the decision should be and virtually made that decision itself without any preliminary conciliation or negotiation.

The Public Service Board, under new management, has quite obviously switched from the policies which it formerly followed for wages matters in the Public Service. Some say it reversed its attitude to tapering. The Board, it is said, gave recognition to and accepted the argument that the 1954 decision and the 1960 decision had worked an injustice in relation to Commonwealth Public Servants. The Commonwealth, however, apparently does not concede this. In any event, the

way things were handled demonstrated that the Board was adopting a positive approach. Previously it had been claimed against the Board that it would not negotiate or conciliate but that it merely forced matters to arbitration. In recent claims the Board has more than matched the associations in desiring negotiation, in working out what it considered to be fair rates, and in giving effect to them by regulation of the Board rather than by waiting until the rates were thrust back upon the Board by the Arbitrator or the Commission.

It would be interesting to know exactly how the Board has viewed the role of Arbitration, because it seems to have had an actual strategy to which it was working. When it allowed the processes of arbitration to proceed it did so apparently because the time was not opportune (perhaps for political reasons) for it to make its decision. However, in due course, and without finally losing the initiative, it acted before the process of arbitration was complete, and the Commission seems to have been glad enough to accept its decision.

All this means that the Board apparently now has, and will follow, an active and positive industrial relations policy based on negotiation, conciliation and regulation. This will doubtless be a flexible policy, and will be on the work value basis, but apparently economic grounds will also count. The real argument about what has gone on in the Public Service is whether it amounts to disguised acquiescence in the "broad-sweep" approach to wage fixation or whether it is the result of a true attempt to move on a group by group basis. The latter tactic of having groups dealt with separately on work value and all relevant grounds would amount to an attempt to detach the Public Service from the general movements following Metal Trades Judgments. This is perhaps to run head on into habits of thought now current in many quarters. If the Public Service Board is trying to move in this way it would be in line with suggestions from the Commission. But it is impossible to go behind the known facts. History will doubtless tell us which of the two theories about salary fixation in the Public Service is the true one.

Meanwhile in N.S.W. there were cases in which Academic Officers and Forestry Officers were dealt with. These cases were part of the inevitable movement by other professional groups to have their work revalued in the light of the decisions relating to Professional Engineers. There were two important points which emerged in these hearings. The first was that the principle of the Metalliferous Miners' Case—to the effect that other awards are a guide only if the work was comparable, i.e. similar, to the work under discussion—was sacrosanct, and therefore the Professional Engineers' Awards were of no help. Secondly, it has now been held that since the 1959 amendments in N.S.W., the

N.S.W. Industrial Commission is no longer confined in jurisdiction to fixing minimum rates without regard to economic factors, prosperity of the industry and general prosperity or capacity. It can now do more or less what is done in the Federal field, if it is so minded. This could possibly lead in time to big changes in approach to wage fixation in N.S.W. A test case could perhaps be the current hearing in relation to the steel industry.

Before leaving the matter of "white-collar" developments, reference must be made to the co-operation between the ACTU, ACSPA and the High Council. In the latter half of 1963 a special conference composed of representatives of these bodies was convened for the purpose of discussing matters relating to basic wage, margins and hours of work. During the conference it was recommended that all "white-collar" organisations, whether affiliated to these bodies or not, should participate in a "vigorous and widespread campaign" to achieve a claim for a 52/- increase in the Basic Wage. The Conference also declared its support for the maintenance of the present system of wage and salary fixation and for a 35-hour working week.

It is interesting here to speculate whether this trinity will have very long term existence as such. Their real interests at other times should keep them apart. However, interests at the moment appear to coincide sufficiently for united action and in these circumstances the ACTU, for reasons of history, is acceptable as the leader. Will the future give more significance to ACSPA, or will the ACTU break away to press the claims of the manual worker for a bigger slice of the cake?

The relative position of the skilled and unskilled can and does cause tensions inside the ACTU, and pressures for widening or narrowing the gap between them develop from time to time. Nevertheless the ACTU in national wages cases always seeks to get its increases upon the basis that the tradesmen and the semi-skilled workers maintain their position relative to one another. Of course after a basic wage increase the gap necessarily narrows, in percentage terms, but in due course the attempt is always made to bring the marginal structure back to the same relative position as between classifications, looking at margins as a percentage of the total wage. It does not follow that such a claim will always be granted. The co-operation between the three bodies referred to above may perhaps represent and express the same forces at work over the whole wage structure as are at work inside the ACTU. All appear at the present to be opposed to tapering. All seem to wish to receive the same percentage increase in margins. So far the same type of pressure which exists inside the ACTU for moving the relative position of the semi-skilled workers upwards has apparently not developed in relations

between these three bodies. In other words, the ACTU has not seen fit so far to press the position of the "blue-collar" workers along the lines that the gap between them and the more highly paid workers should be narrowed. Perhaps this may indicate that in this technical and technological age a real power shift is taking place and the white-collar workers are coming into their own. However, it could be that the ACTU, not acquiescing in this position, may ultimately seek a show-down with the white-collar unions.

If the process of solidification in the overall wage structure is taking place so that there is, in fundamental terms, no disputation likely to arise on union initiative to disturb relativities and to advantage the lower paid workers as against the higher paid workers, then this is one fact which has to be borne in mind when the Total Wage Case and the issues it involves are being considered.

We should, however, first proceed to consider in more detail what happened generally after the 1963 Margins decision. So far we have discussed only the position in the Commonwealth Public Service.

Although the Commission made it clear in the 1963 Case that its margins decision should not be considered as having any general application outside the metal trades industry, most awards, both Federal and State, were varied subsequently to effect an increase of 10% although there were, in some instances, proceedings of some length before tribunals. Exceptional cases in which the full 10% was not granted included some awards in which margins had been varied comparatively recently (and these gained only partial benefit from the increase), and awards covering certain white-collar workers. In the latter, which covered railway officers, bank officers and clerks employed by oil companies, there was some recognition of the tapering principle.

It seems from what happened in 1954, 1959 and 1963 that when margins are fixed purely on economic grounds in the metal trades, without a work value enquiry, there is a great risk of a wide national spreading of the same percentage increase throughout industry and indeed little chance of any very effective tapering. It is within the power of the parties to require work value investigations and when they occur there is some ground for isolating them and refusing to spread the work value standards which emerge in a particular industry to other industries. This is because of the operation of the principle in the Metalliferous Miners' Case referred to above. If all industries could be constantly induced to have work value reviews regularly then the awards would all be dealt with in relative isolation and no "across the board" movement would take place. This is the kind of thing that has been happening in N.S.W. for years, though there it was in effect forced upon the

parties by the minimum wage jurisdictional concept, which prevented economic prosperity and general economic factors from being taken into account.

There are three observations to be made about a general work value approach. First, the fixing of wages from case to case, in isolation and without comparisons as happened in N.S.W., was and is a fictional business. In fact the comparisons are, and must be, made and existing relativities are maintained, substantially speaking, without very much alteration. Secondly, when in exceptional circumstances one group of employees, for example the professional engineers, whose salaries have been traditionally related to the salaries of other groups, breaks out of that relationship, this fact forces the others who have had their relative position disturbed, to engage in negotiation, agitation, and work value arbitration. After much disputation over years the tendency probably is for the original relative positions to be gradually re-established. It is hard to carry through a social revolution by a wage-fixing determination. Thirdly, in the Federal system the parties have refused or refrained from having many work value enquiries, especially in the manual fields. In most cases the unions have sought to get in their wages their share of increased productivity and to have their wages adjusted for the changed value of money. The employers have been equally content with this approach, and, for example, in the Metal Trades have long refrained from seeking a work value review. By and large the parties have also refrained from seeking to have the special prosperity or special changed productivity of their own industry reflected in rates of pay. An exception has recently been the Waterside Workers' Federation's attempt to get more than 10% increase because of the improvement in cargo handling in their industry. They succeeded in getting 6d. per hour increase instead of the 2½d. per hour which was equivalent to 10%. Whether the Commission, having distributed to industry at large what general increased productivity permitted, would encourage a further distribution on an industry basis in the more efficient industries must be doubtful. If it were contemplating this on a large scale it would have to hold back to an equivalent extent when it is distributing increased productivity on a general basis.

There have, of course, been some important work value cases, especially in the professional field, as has been pointed out, but, in the main, the parties have been content to rely on economic matters. When this has happened the spread of the result has been a feature of the system. Is this, however, inevitable, or is a return to the traditional attitude to wage fixing possible?

Some employers appear to have made some attempt to avoid the

"across-the-board" spread of the 10% increase by arguing that it should not apply to their particular industry. Whether this was token opposition or real, it was in fact unsuccessful. This almost automatic spreading so far, of metal trade industry increases is important background for the Total Wage Case.

III. Wages Policy and the Current National Wages Cases

As the current national wages cases—the Basic Wage Case and the Total Wage Case—are still under consideration it would not be proper for me, as a counsel engaged in the case, to do more than summarise the present position and outline the issues.

The present cases have arisen because the time has come for a review of the basic wage on economic grounds. The unions have claimed an increase of 52/- in the basic wage and the employers have countered with a proposal of a new kind. Their proposition is that the basic wage should be abolished and that a total wage should be awarded which should not be divided up into the two elements of basic wage and margin. They have conceded that there should be an increase in the present total wage (i.e. basic wage plus margins) of 2%, this being the anticipated increase in productivity per year. They claim that thereafter there should be a review of total wages yearly and that at that yearly review any increase should be limited to the prospective percentage increase in productivity anticipated for the ensuing year.

The Unions' case was, in outline, that it is traditional in our system for the basic wage to be adjusted for price changes and productivity or capacity to pay. The period 1953-1961 was the exception, not the rule. The facts of economic life are that in an economy such as ours there will be price rises and productivity increases. Wage earners must have their real wage preserved and must share in the rise in prosperity. Justice demands that any past rises in productivity not reflected in wage increases previously should be reflected now. Having, in 1963, adjusted margins for increases in prices and productivity since 1958-9 the Commission should now do at least as much for the basic wage.

The employers' case was that the basic wage should not be adjusted for prices and the only adjustment for productivity should be for future productivity. This should be at a rate for all benefits (wages, leave, etc.) of between one and two per cent depending on the overall state of the economy. These limits are indicated by experience of productivity increases over the years. Reviews of the economy to determine what the actual increase should be, should, the employers submitted, be annual.

The Commonwealth intervened in the Basic Wage Case and submitted, as it had in effect submitted in the Margins Case, that the parties and the Commission were tending to put productivity on a pedestal and to make it a yardstick for increases in wages. This, in the Commonwealth's view, is wrong because capacity to pay is the only sound principle to follow. In this, productivity has a place but is only one of a number of elements. It should not be the automatic determining factor. Further adjustments of wages determined by movements of prices are wrong in principle and dangerous in practice.

I have said that it would not be proper for me, as a counsel appearing therein, to discuss the merits of the issues which have arisen in the Basic Wage Case and the Total Wage Case, though doubtless others will do so during the Conference. It would, however, be permissible for me to raise a general matter for thought and discussion by others. Today in many countries attempts are made to follow a deliberate incomes policy because of the alleged desirability of keeping increases in real income within the limits set by anticipated increases in productivity. This is said to be necessary to avoid price increases and as a necessary condition for satisfactory economic growth which is adversely affected, so it is argued, by demand or cost inflation at too great a rate. Wages constitute a very important section of incomes and the Commonwealth Arbitration Commission fixes the level of wages. It has no power over profits, dividends and prices. It is becoming an important question whether the Commission can and should follow a wages policy of its own in all its awards. The Commission's main jurisdiction is to settle disputes. Does this prevent the Commission from having an independent wages policy of its own?

In the past it has said that it would not and should not pursue its own economic policy but would bear in mind the economic consequences of what it did. Some Judges have even said that the function of the Federal tribunal is to settle disputes justly and if in doing this it causes or aggravates inflation this is not a problem for the tribunal but for the Government.

What does it mean for the Commission to have regard to the economic consequences of what it does? Does this mean that it should have a theory about what economic consequences should be avoided? Are price increases among the undesirable consequences to be avoided? If so, should the Commission inform its decisions by the adoption of a general theory or policy calculated to avoid or minimise price rises? If so, what, if any, general view or policy about productivity increases and wages is indicated?

These and related questions as to wages, prices, productivity and

dispute settling are now to the forefront in the debate in major wages cases. The answers will doubtless emerge in the coming few years. The debate on these matters inside and outside the Commission will and should be vigorous.

FOOTNOTE

1. This article is based on a paper given at the Terrigal Conference of The Industrial Relations Society, May, 1964.

A Working Definition of Fringe-Wages

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WHILST preparing an empirical study of fringe benefits,[1] I was struck by the eclectic nature of most of the available data. There are few statistical projects which employ the same working definition of fringe-wages; consequently, many of the national inter-industry tables, and international comparisons, on relative fringe burdens evaluate sets of figures lacking a joint basis of measurement.

At the beginning of this paper our definition of fringe-wages will be given and then certain of its details will be discussed in the light of other fringe definitions. Definitions cannot be right or wrong, because social phenomena are by nature defined differently when they are to serve as analytical tools or illustrations for varying exercises. We believe that it is not helpful to study fringe *benefits* per se; in view of the subjective (and contingent) nature of many fringes and the fact that they are often not available to (or used by) all workmen in one firm, fringe *benefits* do not prove a useful guide to the real additional earnings of employees. A measurement of fringe *costs*, however, can be put to many uses and is of paramount importance to those who aim at measuring the relative cost of employing a marginal increment of labour (rather than buy an additional machine or increase the input of materials). Our definition is constructed in such a way as to provide a framework for the collation of data on labour costs *per hour of labour performed*.

Some businessmen, to whom we have expounded our fringe definition, have contemptuously referred to it as an abstract exercise which can never be a guide to a business decision. It is true that the de minimis rule can properly be applied to some of the items covered in our definition and it is equally correct that if one seeks to collect fringe data at ease, our definition will not prove helpful. Those, however, who boast that they have adapted their definition to serve statistical convenience are thereby introducing woolly thinking into the discussion on the nature of fringes—even though they may earn applause for their so-called practical approach. The National Industrial Conference Board has excluded from its computation of fringe data items they know to belong properly to the fringe club, because the firms participating in its surveys do not treat them as fringes.[2] A group of American industrialists, who