

The Basic Wage and Standard Hours Inquiry in Australia, 1952-53

by

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Few problems are of greater concern to workers throughout the world than those concerned with wage policy. Consequently wide interest has been aroused by the recent decision of the Commonwealth Court of Arbitration in Australia to abolish, after 33 years of operation, the system of automatically adjusting the basic wage to changes in the cost of living. In the following pages Dr. Isaac, a specialist in the economics of wage policy, discusses the case that led to this decision.

The Court was called upon to give judgment in a claim by employers for a reduction in the basic wage, an increase in the standard hours of work (40)¹ and the abandonment of the system of cost-of-living adjustments to the basic wage, and a counterclaim by the trade unions for an increase in the basic wage. The author presents and comments on the arguments of the parties and the findings and reasoning of the Court and concludes with a discussion of the function of the Court and the suitability of its present procedure and composition.

ON September 12 1953 the Australian Commonwealth Court of Arbitration and Conciliation announced its decision to abolish the system of quarterly automatic cost-of-living adjustments to the basic wage.² This system of wage adjustment had been in

¹ See O. de R. FOENANDER: "The 40-Hours Case and the Change in Standard Hours in Australian Industry", in *International Labour Review*, Vol. LVIII, No. 6, Dec. 1948, p. 717.

² The basic wage is the lowest wage payable to the unskilled adult worker. Additions known as "margins" are made to this wage for skill, responsibility, disagreeableness, etc., involved in the job.

The national basic wage is fixed by the full Court, and margins are fixed independently by conciliation commissioners. The basic wage is a common element in all award rates and thus a change in the basic wage affects the wage rates of skilled and unskilled to the same absolute extent. For a brief account of the wage regulating machinery in Australia, see COMMONWEALTH BUREAU OF CENSUS AND STATISTICS: *Labour Report*, 1951, No. 40.

The abbreviation C.B.C.S. will be used for references to the Bureau. The Commonwealth Court of Conciliation and Arbitration will be referred to simply as "the Court".

operation since 1921.¹ It had marked a pioneering venture in the field of wage determination and until recently was one of the least questioned features of wage regulation in Australia.

EVENTS LEADING UP TO THE CASE

It may be useful first to outline briefly the events leading up to the present case. In October 1950 a majority decision of the Court raised the real basic wage by £1 or 14 per cent.² This decision was announced at a time when the economy was in an extremely buoyant state. Unemployment was practically non-existent—less than 400 persons were receiving unemployment benefit, and more than 130,000 vacancies were registered with the Commonwealth Employment Service. Stimulated by stockpiling on the outbreak of the Korean War, the wool-selling season had just opened with prices nearly 50 per cent. above those ruling at the close of the previous season, and they kept on rising from auction to auction to reach a peak in March 1951 at a level 150 per cent. above the level at the close of the previous season.

The high income from wool and the general feeling of optimism that it produced added considerably to the slight inflationary pressure prevailing at the time. The Government's economic policy was completely inadequate to counteract this pressure, and thus the whole economy responded to the unprecedented boom in the export sector, the most important single determinant of Australian prosperity.

However, the second half of 1951 saw a reversal of these tendencies. Stockpiling of wool had ceased and at the opening of the 1951/52 season it became apparent that wool prices had settled to approximately the level ruling before the opening of the extraordinary 1950/51 season.

While income from exports fell, imports flooded the country at an unprecedented rate and drained away the large accumulation of international reserves. The level of unemployment began to rise. The rapid accumulation of unsold stocks and high taxation resulted in extreme tightness of liquid funds, in spite of the large expansion of bank advances. In the midst of all this wage rates continued to rise. Quarter by quarter, the system of automatic cost-of-living adjustment added sizable amounts to the wage level (see table I).

It was in this setting that the metal trades employers applied for an increase in the working week from 40 to 44 hours in October 1951. The unions lodged in reply a claim for a 30-hour week.

¹ For the early history of the system see G. ANDERSON: *Wage Fixation in Australia* (Melbourne, University Press, 1929).

² See J. E. ISAAC: "The Claim for a £10 Basic Wage in Australia", in *International Labour Review*, Vol. LXIII, No. 2, Feb. 1951.

TABLE I. COMMONWEALTH BASIC WAGE
(Average of Six Capital Cities)

Quarter	Basic wage (shillings)	Quarterly increase	
		Absolute	Percentage
1950 Nov.	142	—	—
Dec.	162	20	14
1951 Feb.	169	7	4
May	176	7	4
Aug.	189	13	7
Nov.	200	11	6
1952 Feb.	210	10	5
May	216	6	3
Aug.	227	11	5
Nov.	231	4	2
1953 Feb.	231	0	0
May	234	3	1
Aug.	236	2	1

Source : C.B.C.S. : *Monthly Review of Business Statistics*.

In January 1952 the claim of the metal trades unions for increased " margins " was rejected by Mr. Galvin, the Conciliation Commissioner, after a lengthy hearing. Margins (payments for skill, responsibility and other special qualifications), which represent the part of the wage in excess of the basic wage, had been steadily declining in relation to the basic wage as the latter rose. The relative premium for skill was, therefore, falling. A rise in the margins of metal trades workers would have been followed widely in the rest of industry because traditionally the engineering fitter's margin was used as a yardstick for the determination of margins generally.

The Conciliation Commissioner realised that his ruling, one way or the other, would have widespread repercussions. He argued that under the prevailing conditions of serious inflation he felt compelled, in the public interest, to refrain from increasing wage rates which were bound to add to the pressure of inflation.

At the instigation of the Chief Judge of the Commonwealth Arbitration Court, Sir Raymond Kelly, a number of conferences were held from February to June 1952 between employers and unions in an attempt to reach agreement on working hours. The Chief Judge submitted a memorandum to the employers and unions, in which he outlined the economic problems (as he saw them) confronting the country and advanced for the consideration of both parties a long list of suggestions to meet these problems.¹

¹ These suggestions included the following :

(a) a reduction (by means of a special tax) of 10 per cent. per annum over a period of three years in the incomes of the shareholders ;

The Chief Judge's motives in this regard were of the highest merit, but neither his analysis of the problems confronting the nation nor his suggestions showed much understanding of economic principles. Furthermore, his suggestions were completely unrealistic and unpractical as a basis for discussion between employers and unions, because while some of the suggested remedies (such as the proposal for a reduction in wage rates) were within the control of the two parties, others (for example, the special tax on dividends) were completely beyond their control. It was not at all surprising that the Chief Judge's memorandum was rejected by both employers and unions, who nevertheless persisted in their discussions with a view to reaching a mutually acceptable agreement on hours. These discussions, however, eventually broke down, whereupon the Metal Trades Employers' Association asked the Court for an early hearing of the following claims :

- (a) a reduction in the basic wage ;
- (b) a reduction in the basic wage for women from 75 per cent. to 60 per cent. of the basic wage for men ;
- (c) an increase in the standard hours of work from 40 to 44 ; and
- (d) the abandonment of the system of adjusting the basic wages automatically to changes in the cost of living as indicated by a retail price index.

The metal trades unions lodged a counterclaim for an increase of 23 shillings in the basic wage with an immediate increase of ten shillings " to compensate for declining money values ".¹

The hearing of these claims began in September 1952, and the case concluded in August 1953. The Court rejected all the claims except one : it agreed to abandon the system of automatic cost-of-living adjustments.

(b) a reduction of 10 per cent. per annum of the adjusted basic wage over a period of three years ;

(c) freezing of margins at the present rates for the next three years ;

(d) the first half-hour of overtime on any day or the first four hours of overtime in any week to be paid at ordinary rates ;

(e) encouragement of rural production by—

- (i) the establishment of a national resources trust fund (derived from the 10 per cent. tax on dividends and tax revenue obtained as a result of any further adjustments in the basic wage) to finance loans for the purchase of land, implements, seed, etc. ;
- (ii) the abandonment of control on prices of primary products ;
- (iii) a progressive modification of tariffs ;
- (iv) a general policy of less reliance upon governmental aid to secondary industry.

¹ However, the unions concentrated on opposing the employers' claims and did not press this counterclaim very strongly.

It is proposed in the following pages first to discuss the submissions of the employers and the unions¹, then to deal with the reasons of the Court for its judgment and finally to consider critically some important aspects of the case.

THE SUBMISSIONS

Basis of the Employers' Claim

The basis of the employers' claim for reduced wage costs was that the present high level of wage costs in Australia was beyond the capacity of the economy. Wage rates in Australia had risen disproportionately to wage rates in other countries in recent years, and since the 1950 basic wage award the capacity of the economy had fallen. A reduction in the level of wage rates, it was argued, was necessary to restore employment to a high level and, indeed, to prevent a further increase in unemployment.

To support their claims, the employers called a large number of "industry" witnesses (managers and directors of prominent firms in a variety of industries), who described conditions in their particular industries, and Mr. R. Randerson, a business and financial adviser, who analysed the problem on a national scale. The common theme of the "industry" witnesses was that wage increases had largely been responsible for the increased cost of production; that overseas competition had increased; and that, in certain cases, employees had had to be dismissed. It was on Mr. Randerson's evidence, however, that the case of the employers largely depended. The unions, in opposing the claims of the employers, relied heavily on the evidence of Mr. H. P. Brown, Reader in Economic Statistics at the Australian National University.

The claims of the employers raised three main issues: (i) Was there an economic recession? (ii) If so, what were its causes? (iii) What action should be taken by the Court?

Was there a Recession?

Both parties agreed that there had been a recession. They conceded that the level of employment had fallen, and some unemployment had resulted. There was no agreed measure of the extent of unemployment because of the difficulties involved in estimating the size of the work force.² Unemployment among trade union

¹ The author is indebted to Mr. H. J. SOUTER of the Amalgamated Engineering Union for placing at his disposal transcripts and exhibits relating to the case.

² At the height of the boom, under the pressure of excess demand, many who would normally not be employed were brought into the work force—married women, retired persons and others who would normally be regarded as unemployable because of some occupational defect.

members reached a peak at 65,700 (4.1 per cent.) in the December 1952 quarter. Under cross-examination Mr. Randerson admitted that he did not regard the present level of unemployment as serious but rather that the trend would give cause for alarm if it continued.

The parties agreed that there had been a decline in retail sales, in building activity and in the production of a variety of commodities. They agreed that the level of international reserves had fallen substantially in 1951/52, largely because of the sharp fall in exports and a large rise in imports (table II). However, although there was some measure of agreement on the existence of a recession, and the employers took a very gloomy view of the future, arguing

TABLE II. BALANCE OF PAYMENTS (AUSTRALIA)

(£ million)

	1948/49	1949/50	1950/51	1951/52	1952/53 ¹
CURRENT ACCOUNT					
Exports f.o.b.	521.7	592.9	975.1	664.2	847.7
less Imports f.o.b.	415.1	538.1	741.9	1051.5	512.7
Trade balance. . . .	106.6	54.8	233.2	-387.3	335.0
less Invisible balance . .	75.3	99.4	131.6	197.7	164.0
Balance on current account	31.3	-44.6	101.6	-585.0	171.0
CAPITAL ACCOUNT					
Increase in international reserves	178.2	185.7	192.9	-464.0	186.2
Inflow of private capital ² . .	137.6	228.9	83.2	81.1	-37.1

Source : C.B.C.S. : *The Australian Balance of Payments 1948/49-1952/53*.

¹ Preliminary figures.

² Includes balancing items.

that the recession would be a prelude to a major depression if appropriate corrective measures were not adopted, it became clear as the hearing proceeded and the unions presented their evidence that, far from growing worse, the level of unemployment was falling, export income was recovering, rural production was increasing and the level of international reserves was rising.

Causes of the Recession

In searching for the causes of the recession, Mr. Randerson found that neither budgetary nor monetary policies could be blamed. On the contrary, he argued, they had prevented a serious

deterioration in the economic position. However, these measures, together with import restrictions, could be expected to give only temporary relief. The "fundamental" adjustment, in the form of a substantial wage reduction, still had to be made because the excessive rise in the level of Australian wage costs had largely been responsible for the country's economic ills.

However, Mr. Randerson's prescription lacked a sufficiently rigorous basis and he tended to attribute causal relationship on very slender evidence. Mr. Brown, on the other hand, using more plausible techniques and arguments, was of the opinion that the main factor in the recession appeared to be the large inflow of imports induced in 1951/52 by the exceptional boom in export incomes of the previous year. These imports arrived when incomes from wool had returned to lower levels and demand had fallen, and consequently an involuntary accumulation of stocks and a slackening of local production took place. Furthermore, a vigorous economic policy (fiscal and monetary) to combat inflation contributed to the recession.

Mr. Brown argued that the over-all decline into depression had been checked. The situation seemed to be fairly well under control, and a general wage reduction might upset the present balance between inflation and deflation and lead to unpredictable results. He concluded—

The outstanding feature of Australia's post-war economic development has been the increase in available supplies of goods and services. The per capita level is some 30 per cent. above 1945/46 without allowance for increases in internal productivity, and perhaps 40 per cent. if such allowance is made. Average earnings (and presumable consumption by wage earners) in terms of constant prices have only risen about 20 per cent., much of the increase in available supplies having been absorbed in a very large programme of public and private investment and in increased consumption by farmers and other proprietors.

Some fall in available supplies will occur in 1952/53 as a result of import licensing, but is not likely to exceed 4 per cent. or 5 per cent. of supplies actually used (not added to stocks) in 1951/52. There is also some evidence that less will be absorbed by public and private investment, so that there is little reason to believe that the present level of wages is beyond the capacity of the community.¹

Wages and Profits

Was the rise in Australian wages excessive? Mr. Randerson's proof was to refer to the components of national income, which

¹ "Available supplies" are computed by adding imports to and subtracting exports from gross national product. The increase in "internal" productivity is excluded from the calculation of "available supplies per capita", but "external" productivity increases resulting from improved terms of trade and favourable seasons are included. "External" productivity increases supplies by increasing the volume of imports exchanged for exports.

showed that while the wages bill had increased by £376 million in 1951/52, all other incomes fell by £254 million.

The unions were quick to point out that the 1951/52 fall in "other income" was due solely to the fall in farm income after its phenomenal rise the year before, the other components having all increased, with one minor exception (table III). The fluctuations in

TABLE III. MOVEMENTS IN INCOME
(£ million)

	1945/46	1946/47	1947/48	1948/49	1949/50	1950/51	1951/52
Companies (excluding farm)	129	156	175	192	242	354	395
Unincorporated businesses, professions	98	137	175	210	240	315	370
Other rent and interest	11	12	19	22	24	28	36
Allowances for depreciation	43	47	52	63	96	125	100
Gross private "profits" ¹ .	281	352	421	487	602	822	901
Public authorities' business undertakings	37	26	22	12	7	6	5
Dwelling rent ²	89	91	94	99	105	115	129
Farm income ³	179	209	408	397	548	888	522
Wages, salaries, pay of members	782	769	902	1,056	1,194	1,494	1,870
Gross national income ⁴ .	1,368	1,447	1,847	2,051	2,456	3,325	3,427

Source: H. P. Brown's evidence, table XXIX, drawn mainly from COMMONWEALTH OF AUSTRALIA: *National Income and Expenditure, 1951/52*.

¹ Excluding farm but including allowances for depreciation and rent and interest paid.

² Including depreciation, etc.

³ Including companies' interest and depreciation.

⁴ At factor cost, i.e., gross product less indirect taxes.

farm income, they argued, tend to produce a misleading short-run view. By excluding farm income Mr. Brown obtained the ratios of gross private non-farm profits to wages and salaries shown in table IV.

TABLE IV. RATIO OF GROSS PRIVATE NON-FARM PROFITS TO WAGES AND SALARIES

Year	Per cent.	Year	Per cent.
1945/46	36	—	—
1946/47	46	1949/50	50
1947/48	47	1950/51	55
1948/49	46	1951/52	48

These figures suggest that 1950/51 was an exceptional rather than a normal year and that the ratio of profits to wages in 1951/52 does not justify any alarm for the non-farm sector.¹

The Export Sector

As for farm income, the figures admittedly show a decline in 1951/52. But it hardly warrants Mr. Randerson's view that "the tremendous inflation of internal labour costs in recent years is responsible, directly and indirectly, for the present problem of Australian primary industries—and represents the greatest menace to their future".

The fluctuation in farm income can be accounted for by the swings in wool prices, since the prices of other farm produce have shown a steady rise. With the exception of seasonal factors rural production has been expanding. The unions argued that in spite of the fall in income from wool in 1951/52 farming as a whole was prosperous. In spite of cost increases the prices of farm produce had more than outstripped these increases.²

Manufactured exports have always been a minor source of export income. In 1951/52 they contributed some 5 per cent. of the total. However, so far as the competitive position of these exports is concerned, the unions showed that in spite of cost increases the value of manufactured exports had risen substantially since 1951.

Competition from Imports

The rise in wage rates caused the employers great anxiety in another unsheltered sector of the economy—the sector facing competition from imports. Mr. Randerson admitted that the great increase in imports (table II) in 1951/52 was partly due to over-ordering at a time of inflated demand. But he also maintained that cheaper imports were menacing the existence of a good many industries at present protected by import restrictions. His evidence for this belief was the substantially greater relative increase in hourly wages in Australia than in other countries, as shown in table V.

¹ This is confirmed by other statistics showing that since 1949 a 40 per cent. rise in shareholders' funds has been accompanied by an equal rise in profits.

² Mr. Brown's comparison of the export prices of a number of commodities with local costs shows a substantial margin still in favour of export prices. An analysis of prices paid and prices received by farmers since 1945 shows that, with minor exceptions, farmers are in a more favourable position than they were in the early post-war period. See BUREAU OF AGRICULTURAL ECONOMICS (Canberra): *Quarterly Review of Agricultural Economics*, Oct. 1952 and Oct. 1953.

TABLE V. INCREASE IN HOURLY WAGES, 1939/52

Period	Percentage increase		
	Australia	United Kingdom	United States ¹
June 1939 - June 1947 . . .	38	73	75
June 1947 - Sep. 1952 . . .	124	34	34
June 1939 - Sep. 1952 . . .	208	131	136

Source : COMMONWEALTH BANK OF AUSTRALIA : *Statistical Bulletin*.

¹ Average weekly earnings.

Other statistics comparing the movement of wage rates in general and in particular occupations also showed substantially greater increases in Australia than in other countries since 1939. There was no reason to suppose, the employers argued, that Australia had made greater progress in the field of efficiency and productivity than her competitors.

The unions admitted the rise in wage costs in Australia. It was undoubtedly true that the prices of certain imported goods were lower than Australian prices, but this, they argued, was a common and indeed a desirable competitive feature of international trading which in the near past had not been in sufficient evidence because of a world shortage of commodities. This fact and an artificially low level of wage rates in Australia had encouraged the growth of a number of uneconomic industries. Their problem was one for the Tariff Board. The recent report of the Tariff Board, which the employers had exhibited to the Court, showed that there was no case yet for general tariff increases.

In his approach to this problem of import competition Mr. Brown rightly argued that prices and wages ruling in overseas countries were in themselves not directly relevant to the problem of Australian producers in competition with imports. The import prices (plus duty) of these goods were directly relevant. In order to assess the position of the industries competing against imports, Mr. Brown made a comparison of an index of import prices and an index of local costs.¹ These statistics showed that the greater rise in local costs in recent years had simply absorbed the great comparative advantage that Australia enjoyed in the early post-war years. In fact, there still appeared to be a small advantage to the credit of local costs.

The use of the import index for the purpose of this argument might be criticised on two grounds. First, the index includes a

¹ Obtained by combining the index of average earnings (wage and salary) with the index of wholesale prices of basic materials.

good many items that are not strictly competitive with Australian produce, e.g., raw materials, oils, tea and coffee. However, even if only the more relevant component groups are considered (metals and machinery and other manufactures), it will be seen that a comparative advantage still exists. Secondly, Mr. Brown did not distinguish between imports from the United Kingdom (Australia's main competitor) and imports from the dollar area, which can hardly be regarded as competitive since, under the prevailing system of exchange control, only goods that are essential and unprocurable from other sources are admitted from dollar countries. It will be seen from table VI that an analysis of import prices by source of origin shows a less favourable position for Australian costs. On the other hand, the index of local costs excludes increases in productivity, which are likely to have moderated the increase in local prices—unless, of course, the whole of productivity increases have been absorbed by profits.

However, these qualifications do not invalidate the general tenure of Mr. Brown's contention: that in spite of relatively greater wage increases in Australia since 1938/39, there is no evidence of any marked disadvantage being suffered in general by industries competing against imports.

TABLE VI. IMPORT PRICES AND LOCAL COSTS
(1936/39 = 100)

Period	Price index			Import price index by sources of origin			Index of local costs
	All imports	Imported metals and machinery	Other imported manufactures	United Kingdom	Rest of sterling area	U.S.A. and Canada	
1945/46 . . .	203	192	230	—	—	—	148
1946/47 . . .	234	211	266	—	—	—	151
1947/48 . . .	272	237	304	—	—	—	168
1948/49 . . .	285	252	323	—	—	—	191
1949/50 . . .	309	276	333	290	340	338	213
1950/51 . . .	375	310	399	322	473	413	260
1951/52 . . .	416	352	465	374	473	449	318
1952 Sep. qtr.	391	363	417	366	382	453	345
Dec. qtr.	385	364	401	360	375	456	349
1953 Mar. qtr.	382	363	396	358	363	453	349

Source: COMMONWEALTH BANK OF AUSTRALIA: *Statistical Bulletin*, Oct. 1953, and H. P. BROWN'S evidence, table XXXVI.

Buyers' Resistance

Finally, the employers argued that the rise in wage costs had not only affected the unsheltered area of the economy adversely: even the sheltered sectors were feeling the strain of high wages.

The reduction in retail sales and building activity was, according to Mr. Randerson, due to "buyers' resistance" to higher prices resulting from the wage increases.

It is true that the fall in these activities was associated with increases in wage rates, but this is hardly an adequate basis for deducing causal relationship.

Mr. Brown was able to suggest more convincingly that an "income effect" rather than a "price effect" lay behind the fall in retail sales. There had been a reduction in disposable income due to both a fall in personal income and an increase in taxation. Net indirect taxes and direct personal taxes rose from 21.3 per cent. to 26 per cent. of national income between 1950/51 and 1951/52. In an attempt to maintain consumption, savings were cut down and a larger proportion of income was devoted to consumption expenditure.

As for the decline in building activity, particularly of dwellings, Mr. Brown suggested that the decline of consumer income, credit restrictions on the purchase of homes and the expectation of lower tenders were mainly responsible.

The Automatic Adjustment System

The employers named the system of automatic cost-of-living adjustments as the chief villain in the rapid rise in wages because, they argued, this system causes a "spiral of successive price and wage increases", and it was, at best, only a fair-weather friend. The following figures were quoted to show that before 1946 the fluctuations in the "C Series" retail price index used for the purpose of adjustments were comparatively small:

1923/27	Dec. 1933	June 1939	Dec. 1946	June 1953
1,000	806	917	1,156	2,293

Between November 1946 and November 1952 the basic wage (average for six capital cities) rose from 98 shillings to 231 shillings. This rise of 133 shillings was made up of two increases by specific judgments¹ of the Court amounting to 27 shillings and automatic adjustments amounting to 106 shillings. Mr. Randerson suggested that these adjustments were "cumulatively self-perpetuating".

The meaning of this phrase is not at all clear, but in so far as it suggests that the effect of a basic wage increase is to produce continued, self-defeating and undiminished wage and price increases, Mr. Brown was able to demonstrate that this line of reasoning is false. The direct effect of a particular basic wage

¹ "Interim" increase of 7 shillings in Dec. 1946 and 20 shillings increase in Dec. 1950.

increase is to produce a series of sharply diminishing quarterly adjustments. The simple reason for this is that, assuming there is a direct connection between costs and prices, the basic wage forms only a portion of production costs and hence of prices. Margins, exportable and imported materials, indirect taxes and overheads of various kinds are not automatically adjustable.

On Mr. Brown's calculations and assumptions an initial increase of 10 per cent. in the basic wage would lead to an ultimate increase in the basic wage of about 15 per cent., a 10 per cent. rise in the general wage level, a 6 per cent. rise in the general price level and a 5 per cent. rise in the retail price index. Thus the £1 increase in the real basic wage in 1950 should have led to a direct total increase of only 30 shillings in the basic wage. It is clear, therefore, that other factors (such as higher profits, higher import prices and over-award payments) must have been constantly present to push up prices and thus to generate cost-of-living adjustments.¹

The Basic Wage for Women Workers

In 1950 the Court fixed the basic wage for women workers at 75 per cent. of the basic wage for men. Mr. Justice Foster argued that there was no satisfactory evidence concerning the "needs" of the female worker, and he would simply accept the prevailing standard of rates for women workers as an indication of what industry was able to pay. He found that 75 per cent. was the prevailing standard and fixed the female rate at this level. Prior to this, although there was no basic wage for women workers as such, a minimum wage for women workers existed in each industry, though the rate varied. The 75 per cent. standard meant a substantial rise in award rates but a much smaller increase in actual rates, because that standard was, in fact, being widely applied.²

In the present case the employers sought a reduction in the 75 per cent. standard to 60 per cent. on two grounds: first, that the present rate gave a higher relative standard of living to a single adult female than to adult males assumed to have family responsibilities; and secondly, that the 75 per cent. imposed an additional burden on employers at a time when the economy was adversely affected by the level of wage costs.

¹ It should be noted that award margins have increased very little since Dec. 1950, being held down by the impact of the Galvin judgment referred to earlier. But even if the total real wage (and not simply the basic wage portion) had been increased by 14 per cent., the rise in the retail price index resulting from this would, on Mr. Brown's reasonable assumptions, have been only 14 per cent.

² For a brief account of the female wage before 1950, see "The Claim for a £10 Basic Wage in Australia", in *International Labour Review*, Vol. LXIII, No. 2, Feb. 1951, pp. 166 ff.

The unions disposed of the first ground (rather paradoxically, in view of their past submissions) by pointing out that once the Court had raised the basic wage for male workers above the bare "needs" standard and fixed its level on the capacity of industry to pay, no justification existed for basing the rate for women on relative needs. So far as capacity to pay was concerned, the basis of the unions' opposition to the employers' claims was that it was within the capacity of industry to pay the present basic wage, both the men's and the women's.

THE COURT'S REASONS

In giving the reasons for its judgment the Court affirmed its support for the now well established principle that the basic wage should be the highest that the capacity of the community as a whole "in all its primary, secondary and auxiliary forms"¹ could afford. Similarly, on the matter of standard hours, the real question to be considered was whether the economy was in a sufficiently healthy and prosperous condition to sustain the prescribed standard working week.

The Court noted the difficulties involved in assessing the general wage-paying capacity of the total industry of a country. However, it found that the evidence relating to the financial experience of individual employers had not been helpful in assessing the wage-paying capacity of industry in general. In future inquiries, the Court suggested, the parties to disputes should direct their attention to the broader aspects of the economy, as indicated by the following : employment ; investment ; production and productivity ; overseas trade ; overseas balances ; competitive position of secondary industry ; retail trade.

The Court then proceeded to consider each of the above "indicators" in relation to the present case and concluded that, although there were some disturbing features in the economy, no case had been made for a reduction in the basic wage or for an increase in

¹ This is the first time that the full Court has made a clear statement on this principle. Apart from Mr. Justice Foster's forthright rejection of the "needs" principle in the last basic wage case, other judges have in the past clung to both the "needs" and the "capacity" principles in a vague and seemingly inconsistent manner. In the present judgment the Court has not thrown out the "needs" principle, but it will only be considered should a "drastic reduction in wage costs" become unavoidable. The present male basic wage, the Court reasoned, included an amount of 50 shillings a week which "certainly has no relation at all to any assessment of needs". This dogmatic assertion is a little mysterious, since in reviewing the history of basic wage fixation the Court argued that even the "Harvester" wage (the basic wage fixed in 1907) was not assessed as a "living wage designed to provide a particular standard of living to a typical family". Whence the 50 shillings ?

standard hours. On the other hand there were no grounds for an increase in the basic wage, as was claimed by the metal trade unions.

The Court rejected the claim for a reduction of the ratio between the basic wage for women and the basic wage for men on the grounds that, first, no evidence had been presented to enable it to assess "the reasonable needs either of a family group, typical, average or appropriate, or of a typical average woman wage-earner"; and secondly, there was no reason to suppose that the present wage was beyond the capacity of the economy.

The Court granted, however, the application for a suspension of the automatic adjustment system for the following reason. It argued that the justification for providing automatic adjustments lay in the purpose to maintain a minimum standard of living. This was in part the "living wage" or "needs" principle that had been abandoned by the Court in favour of the "capacity to pay" principle as the dominant factor in basic wage determination. There was no reason to suppose, the Court maintained, that the economy's capacity to pay would vary with the cost of living.¹

Thus, in future the basic wage would only be varied if, in the course of a dispute, it was shown that the capacity of the economy had altered.

SOME CRITICAL COMMENTS

The Basic Wage and Standard Hours

The evidence relating to the causes of the recession and the subsequent recovery clearly justified the decision of the Court to refrain from changing the basic wage and the standard hours of work. To have taken any other action would have meant upsetting the state of comparative stability that prevails at present. True, there is a small margin of unemployment of perhaps less than 3 per cent. The pressure of competition has increased. The buying public has become more discriminating. But these are symptoms of a healthy economy, symptoms that were absent in the years of inflation. These are also the necessary conditions for greater productivity.

It is arguable that the £1 basic wage increase in December 1950 was a little excessive but, as Mr. Brown pointed out in his evidence, with the passage of time it is more than likely that the increase in productivity has neutralised this excess.

¹ The Court also mentioned two minor reasons in favour of abandoning the system: first, it had been an accelerating factor in the rapid increase in prices; and, secondly, the frequency and unpredictability of price and wage changes created added difficulties for business undertakings.

The view might be advanced that, though the general level of wage costs might not be too high, yet because of the increased basic wage the distribution of the wage bill might be excessively biased against skilled workers. The ratio of award margins (for male workers) to the basic wage for all groups was 22 per cent. in 1946 (December quarter), 32 per cent. in 1950 (September quarter) and 21 per cent. in 1953 (June quarter).¹ The relationship between margins and the basic wage were admitted to be rather low at the end of the war, and margins were substantially raised in 1947 and 1948 by the Court. Since 1950, when the £1 basic wage increase was awarded, a significant fall in the ratio of margins to the basic wage is shown.

Automatic Adjustments

The suspension of automatic adjustments has been the subject of a great deal of industrial comment and political manoeuvre. Obviously it represents a sharp break with tradition, but so far it has resulted in little industrial unrest. The probable reason for this is that for most of the country the change in the retail price index has been small. The decision of the Court has so far meant that, with the exception of Tasmania, wage earners have been deprived of an adjustment amounting to about 1 per cent. of the basic wage. In Tasmania, however, the decision has involved a loss of some 4 per cent. of the basic wage.²

It is possible that the cost-of-living index may show a fall in the near future, and this uncertainty has been a moderating factor in the reaction of the unions. Should a substantial increase in the cost of living take place, however, it would be surprising if the absence of the automatic adjustment device did not provoke widespread unrest.

With the exception of the state industrial court of Queensland, all other wage tribunals have conformed with the Commonwealth Court's decision to delete the automatic adjustment clause. How-

¹ Figures taken from C.B.C.S.: *Quarterly Summary of Statistics*. The figures for margins are weighted averages. The "all groups" ratios might be a little high for 1950 and 1953 because of the excessive weighting given to the farming sector in the index over a period of disproportionate wage increases in this sector. On the other hand, while bonuses, etc., on account of the high farm prices are written into the awards of farm workers by consent variations (i.e., changes in wage rates arrived at by mutual agreement of employers and unions and registered with the Court to have the force of an award), over-award payments made in other sectors of industry are not shown in these figures, and there is thus a tendency to understate the ratio of margins to the basic wage. The question of margins has been referred to the Court by Mr. Galvin, and a judgment is pending.

² The greater rise in the index in Tasmania was due to the relaxation of rent control in that state and a seasonal rise in meat prices.

ever, except in South Australia, Labour Governments are in power in the states. The Government of Victoria has recently passed a Bill specifically providing for automatic adjustments in all awards of state tribunals. But the Governments of New South Wales, Western Australia and Tasmania appear to be taking a more cautious stand in this matter.

The existence side by side of awards providing for automatic adjustments and awards not providing for such adjustments is bound to increase industrial tension if marked changes in the cost of living take place. The Court could perhaps be absolved from all blame if there were good reasons for discontinuing the long-standing automatic system. A study of the Court's reasons, however, does not reveal a sound case for the abandonment of the system.

The argument that the automatic system can only be justified on the "needs" principle may be disputed. Although the Australian cost-of-living adjustment system owed its origin to the "living wage" idea, a strong case can be made for the consistency of the automatic system with the "capacity to pay" principle. The "capacity to pay" principle is a real concept, and it is proper that it should be related to a real wage and not a money wage—any other view would make nonsense of the principle. An increased capacity calls for an increased real wage, and the very purpose of the basic wage inquiries since 1931 has been to determine in each case whether, in view of the prevailing conditions in the economy, a change in the real basic wage was justified.

The Court, however, says that "there is no ground for assuming that the capacity to pay will be maintained at the same level or that it will rise or fall coincidentally with the purchasing power of money".¹ Herein lies the Court's main justification for suspending the automatic system. As it stands this statement is probably true, but it does not invalidate the use of the system of automatic cost-of-living adjustments for a number of reasons.

First, it is reasonable to expect that the adjustment of the money basic wage to the cost of living will generally raise or lower the wage in the same direction as the change in economic capacity, although perhaps with a short time-lag. For the Australian economy, with its great dependence on income from exports, the movement in export prices may be regarded as an important indicator of changes in the direction of economic capacity. Table VII compares the export price index with the retail price index. It will be seen that the latter shows greater stability in movement and also tends to lag a little behind the changes in export prices. The widespread alarm at the sight of a continued rise in the retail

¹ *Basic Wage and Standard Hours Inquiry, 1952-53* (mimeographed), p. 18.

price index in 1952 when export prices were falling was probably due to an insufficient appreciation of this lag factor and of the grossly disproportionate rise in export prices in the previous year. But clearly, to justify the automatic system, it is not necessary that the two indices should rise and fall "coincidentally". It is sufficient that they move in the same direction within a comparatively short space of time.

Secondly, so long as the real basic wage is not set at too high a level, the existence of margins (which are not subject to automatic cost-of-living adjustments) and over-award payments provide an opportunity for small changes in economic capacity to be accommodated without the intervention of the Court. Mr. Brown showed in his evidence that the post-war increase in over-award payments

TABLE VII. EXPORT PRICE INDEX AND RETAIL PRICE INDEX
("C" SERIES)

(Average of three years ending June 1939 = 100)

Year	Export price index ¹	Retail price index	Year	Export price index	Retail price index
1928/29	117	115	1942/43	114	127
1929/30	96	115	1943/44	117	127
1930/31	73	104	1944/45	130	127
1931/32	72	96	1945/46	146	128
1932/33	71	91	1946/47	203	131
1933/34	90	91	1947/48	283	139
1934/35	75	93	1948/49	332	153
1935/36	95	95	1949/50	383	167
1936/37	114	97	1950/51	654	191
1937/38	102	100	1951/52	473	234
1938/39	83	103	1952/53	482	255
1939/40	98	105	1952 Sep. qtr.	—	252
1940/41	104	111	Dec. qtr.	—	253
1941/42	106	118	1953 Mar. qtr.	—	256
			June qtr.	—	259

Source : C.B.C.S. : *Monthly Review of Business Statistics*.

¹ Including gold.

was subsequently absorbed by award increases, owing mostly to the increase in the basic wage since 1950. Thus an increased degree of prosperity will induce employers to pay wage rates above the prevailing award rates and, so long as this flexible margin exists, a subsequent minor recession need not bring into operation the unwieldy process of the Court's general inquiry. In this way the Australian system of linking only the basic wage portion to the cost-of-living index leaves a good deal of room for the flexible operation of economic forces.

Thirdly, except under conditions of monetary inflation, increases in the cost of living are likely to understate rather than to

exaggerate the extent of a rise in economic capacity because of the moderating effect of productivity increases on the level of prices. This is borne out by the fact that, alongside the operation of the automatic system, the general inquiries held since 1931 have shown a substantial increase in the real basic wage.

It is true that under conditions of inflation the rise in the cost of living may generally exceed any increase in economic capacity. The suspension of the automatic adjustment system would, of course, moderate the inflationary pressure, but this is hardly a reasonable justification for abandoning the automatic system. The rise in the cost of living is simply a symptom of inflation. The inflation must be treated at its source. Moreover it could be argued that the operation of automatic adjustments is likely to be a useful method of stimulating the Government and other authorities to apply appropriate disinflationary measures more speedily.

Finally, the suspension of the automatic device would increase the need for more frequent general inquiries. According to recent experience these inquiries extend over many months. Apart from the cost of such inquiries, it would be socially unjust and, from the point of view of minimising industrial unrest, imprudent to maintain a given money basic wage in the face of rapidly rising or falling prices.

These arguments provide a strong case for keeping the real basic wage constant until it is shown that the economic capacity of the country has changed sufficiently.

The Function of the Court

The issues in the present case and the reasons given by the Court for its judgment make it necessary to reconsider two familiar but nevertheless important questions: What is the function of the Court? Is it qualified to discharge this function?

On the first question, the Court stated—

The Arbitration Court is neither a social nor an economic legislature. Its function under section 25 of the Act is to prevent and settle specific industrial disputes It is not the function of the Court to aim at social and economic changes as may seem desirable to the members of the tribunal We are of the opinion that theories and policies should play no part in its determinations.¹

It is undeniable that the Court is not a legislative body in the same sense as the Government. For example, it cannot make a "common rule" applicable to the whole of industry. It can only

¹ *Basic Wage and Standard Hours Inquiry, 1952-53*, op. cit., pp. 29-33.

make an award or order in relation to an inter-state industrial dispute with which it is called upon to deal.¹ Legally its powers are limited², but in practice the influence of the Court is wide and real. It has been estimated that about half of all employers are covered by awards of the Commonwealth Court and its conciliation commissioners³, but to this must be added the indirect influence of the Court's decisions on the awards of the other tribunals. Even in the present case, with tribunals in Queensland and Victoria continuing with the automatic system, at least 80 per cent. of awards will be in line with the Court's decision.

The dogmatic assertion of the Court in the present case that it is not a "social or economic legislature" is a little puzzling in view of the equally bold statement of the Court (admittedly composed of other judges) in the 1947 Standard Hours Case :

The evolution of the Court from an industrial tribunal, limited to the particular task in each case, to an institution having in effect wide legislative powers, is an interesting one which someone will one day explore. This legislative power is so great indeed as to occupy a field from which the Federal Parliament is excluded ; so paramount as to over-ride in appropriate cases the state legislation, and so vital as to make the law which touches them most closely and intimately, viz., their industrial relations filling half the working hours of their working days. It is a matter of striking comment that in a democracy so much responsibility and so much legislative power should be imposed on and entrusted to three men appointed for life and beyond the reach of the popular will.⁴

Whatever may be the strict legal view of the powers of the Court, two things are clear. First, the Court is not simply a judicial body like the other courts of law. It is at least a quasi-legislative body. Secondly, while it is true that its rulings need not be followed by other tribunals, in practice they are widely observed.

The Court says that "theories and policies" should play no part in its decisions. How then does it arrive at its decisions ? The Court says that "it must settle industrial disputes upon terms

¹ See O. de R. FOENANDER : *Industrial Regulation in Australia* (Melbourne, University Press, 1947), Ch. 1.

² It is interesting to notice that the Court has not only discontinued automatic adjustments in the awards of the parties who were involved in the dispute and of those employers who subsequently applied for the suspension of the automatic adjustment clause ; it has also deleted the clause from many other awards although no applications had been made for the deletion. Furthermore, it refused the requests of the New South Wales transport authorities to withdraw their applications for the deletion of the automatic clause. Whatever may be the legal niceties in these cases, the practical effect has been to apply its decision to all its awards.

³ C.B.C.S. : *Quarterly Business Survey*, No. 4.

⁴ Print No. 7703, p. 8.

which seem to it to be just, having regard to conditions which exist at the time of its decision". And, further, there is no justice if the decision is made simply on the basis of the economic power of the claimant. How, then, is a "just" decision to be reached without at least an implicit acceptance of economic theory and policy?

One does not have to probe very deeply to find the implicit acceptance of certain theories and policies in the Court's reasoned judgment. The mere fact that the Court favours the "capacity to pay" principle rather than the "needs" principle for basic wage determination is indicative of its support for a particular type of economic policy. Then, again, there seems to be implicit in the Court's reasoning the desirability of a stable price level, and indeed of reducing costs and prices. The Court also seems to favour an expansion of rural production.

The truth, of course, is that the Court cannot avoid having an economic policy—a good, bad or indifferent one.¹ In fixing the basic wage the Court is doing much more than determining the minimum wage of the unskilled worker. It is altering the general level of wages. By altering the general level of wages or the standard hours of work, the Court is in effect administering a national wage policy, with the consequent influences on the level of employment and prices, the allocation of resources and the distribution of income. This is its *de facto* function.

The unwillingness of the Court to admit its underlying policy assumptions, may be partly explained by two reasons: first, the constitutional and statutory limitations of the Court—legally it is doubtful whether the Court could undertake to administer a national wages policy²; secondly, the procedure and personnel of the Court closely resemble those of the ordinary courts of law. The need to preserve strict "judicial impartiality" is understandable and probably justified; but the Arbitration Court's role is so fundamentally different from the purely judicial function of the ordinary courts that its use of such vague terms as "justice" and "public interest" are not at all meaningful unless qualified explicitly by statements on economic and social policy (e.g., full employment and price stability; greater equality in the distribution of income; expansion of rural production, etc.).

¹ This is vaguely admitted in the following remark of the Chief Judge: "I think if the Court adopted an economic policy of its own, it might be going outside its constitutional power, but it might adopt what people might regard as an economic policy to save the employers and employees before it."

² The unions in their submissions pointed out that the Court was not empowered to reduce wages as an instrument of general economic policy "even if it were otherwise appropriate to do so".

Economic Qualifications of the Judges

This leads to our final point. Is the Court sufficiently qualified to exercise its *de facto* function?

It is probably fair to say that none of the judges of the Court would profess to be economists in the sense that they would qualify for the position of economic adviser to the Prime Minister, or Secretary of the Treasury, or even of professor of economics. The chief qualification for appointment to the Court is that the appointee should be a barrister or solicitor of not less than five years' standing.

The Court's procedure is to listen to economic evidence presented by parties to the dispute.¹ It listens to examinations and cross-examinations of witnesses by lawyers appearing for the parties. It questions these witnesses and the lawyers. It can call for reports from experts.

In these circumstances it could be argued that, with their long legal experience, the judges of the Court should be sufficiently competent to assimilate the economic evidence presented, to assess the relative importance of the material submitted, to reject what is irrelevant and to call for relevant information and finally to give a soundly reasoned judgment. There are two objections to this contention.

First, it is possible that economic "experts" might differ in their assessment of the advisability or otherwise of a general change in wages or of the relative importance of the factors involved in a particular economic situation. Such a situation calls for the judgment of persons with a rigorous training in economics.

Secondly, an examination of the Court's reasons for its judgment in the present case gives at least some cause for doubting the judges' understanding of basic economic and statistical material. Here are a few examples.

The Court's analysis of the Australian economy based on the evidence placed before it is confused. The Court suggests an approach in terms of employment, investment, production and productivity, overseas trade, overseas balances, the competitive position of secondary industry and retail trade. But it is not clear from a study of the Court's disjointed treatment of these matters

¹ This does not mean that the "best" evidence is always presented to the Court. The strain on witnesses of the court room procedure and atmosphere, the manner in which cross-examination of the "expert" is conducted by lawyers and the widespread, and often distorted, publicity tend to affect the quality of the evidence and to discourage other and perhaps more competent "experts" from giving evidence. See Benjamin HIGGINS: "Wage Fixing by Arbitration", in *Social Research*, Vol. 18, No. 3, Sep. 1951.

that it fully understands their inter-relationship or their significance for wage determination.¹

In the section on production and productivity the Court goes through a tedious statistical survey of a long list of rural products, showing little discrimination between important rural products and others that are less important in the question of a change in the basic wage, disregarding seasonal factors and using different base periods in the comparison of cost, price and output of different commodities. Then it says "The information as to the quantity of primary production must be viewed, of course, in the light of increased population, particularly since the war ended".² But why? Is there any economic reason why rural output should keep up with the growth of population? And why should the fall in the proportion of population engaged in rural production be regarded as "disturbing"? Is it not patently obvious that in Australia the absorptive capacity of rural production is much less than in other sectors?

On the question of productivity the Court makes this tantalising statement:

In seeking to decide what basic wage in terms of money is the highest which industry as a whole can afford, the criterion now adopted by this Court, it may be that the most helpful information would be a comparison from time to time of the *money* value of the total, by relation to the *population*, though productivity measured by the *volume* of production in industry by relation to the number of the *work-force* which produces it must also be helpful.³

Yet the Court rejects the use of "available supplies" for wage-fixing purposes because—

It will be apparent that the figures of national or personal income can be increased greatly by a substantial addition to the incomes of wage and salary earners. But this does not mean that there will be a corresponding or indeed any increase in the national production of the real wealth of the country.⁴

The Court appears to be critical of the use of price indices for deflating money values. But without apology it uses the retail price index to deflate the export value of manufactured goods.⁵

The above criticisms are not in any way intended to discredit the motives of the judges of the Court, who have applied them—

¹ Why, for example, distinguish between overseas trade, overseas balances and the competitive position of secondary industry as if they were three distinct problems?

² *Basic Wage and Standard Hours Inquiry, 1952-53*, op. cit., p. 48.

³ *Idem*, p. 49 (the writer's italics).

⁴ *Idem*, p. 33.

⁵ *Idem*, p. 59.

selves to an extremely difficult task with sincerity and devotion.¹ The anomalous position of the judges is rather a reflection of the outmoded nature of the Arbitration Court and its constitutional basis. The original purpose of the Court was simply to prevent and settle inter-state industrial disputes, and in its early history the scope and influence of the Court was largely limited to this purpose. In this limited setting there was perhaps no real need to question the competence of the Court nor to probe too deeply into the meaning and implications of a "just" wage.

The economic and institutional developments since those days have forced a different role on an ill-equipped and reluctant Court—that of administering a national wage policy with widespread economic and social impacts. This situation calls for important changes in the procedure, composition and outlook of the Court. In the present circumstances the social and economic value of the Court may be seriously questioned.²

¹ One of the judges, Mr. Justice McIntyre, sat through the hearings while undergoing treatment for an incurable disease. He died shortly after the Court's decision was announced.

² Professor Geoffrey Sawer has suggested that the Court should be reconstructed along two main lines. First, it should not consist exclusively of men with legal training but should also include economists and employer and employee representatives. Secondly, it should be equipped with a completely autonomous and highly qualified general staff. See "The Arbitration System should be Reconstructed", in *Voice: The Australian Independent Monthly*, Vol. 3, No. 3, p. 15. It should be noted that under the 1947 Act provision was made for the establishment of an office of Economic and Industrial Research to be attached to the Court.