IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

and

Public Service Arbitration Act 1920

NATIONAL WAGE CASE 1983

In the matter of applications by The Amalgamated Metals Foundry and Shipwrights' Union, the Australasian Society of Engineers and The Federated Ironworkers' Association of Australia to vary the

Metal Industry Award 1971[1]

(C Nos 3071, 3087 and 3088 of 1983)

And in the matter of an application by The Federated Engine Drivers' and Firemen's Association of Australasia to vary the

Metal Industry (Engine Drivers' and Firemen's) Award 1979[2]

(C No. 3133 of 1983)

And in the matter of an application by the Pulp and Paper Workers' Federation of Australia to vary the

Pulp and Paper Industry (Production) Award, 1973[3]

(C No. 590 of 1983)

And in the matter of an application by The Australian Textile Workers Union to vary the

Textile Industry Award 1981[4]

(C No. 591 of 1983)

And in the matter of an application by The Australian Boot Trade Employees Federation to vary

The Footwear—Manufacturing and Component—Industries Award, 1979[5]

(C No. 592 of 1983)

And in the matter of applications by the Association of Draughting, Supervisory and Technical Employees to vary the

Municipal Officers' Association of Australia (State Electricity Commission of Victoria) Award, 1975[6]

(C No. 596 of 1983)

Vehicle Industry (Leyland) Technical Employees Award 1982[7]

(C No. 597 of 1983)

Metal Industry Award, 1971. Part II—Draughtsmen, Production Planners and Technical Officers[8]

(C No. 598 of 1983)

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[1] Print D1611 [M039]; 191 C.A.R. 598
[2] Print E1884 [M187]; (1980) 236 C.A.R. 277
[3] Print C1063 [P030]; (1974) 156 C.A.R. 893
[4] Print D358 [T007]; (1976) 182 C.A.R. 297 [title change Print F0237]
[5] Print D8962 [F063]; (1979) 219 C.A.R. 267
[6] Print C4802 [M088]; (1976) 174 C.A.R. 785
[7] Print F0640 [V030]
[8] Print D7213 [M041]; (1978) 209 C.A.R. 355

And in the matter of applications by The Manufacturing Grocers' Employees' Federation of Australia to vary the

Manufacturing Grocers Award, 1982[9]

(C No. 615 of 1983)

Nabisco Pty Limited (Cereal and Biscuit Processing etc.) Award 1974[10]

(C No. 617 of 1983)

And in the matter of an application by The Australian Rope and Cordage Workers' Union to vary the

Rope, Cordage, Thread Etc. Industry Award, 1981[11]

(C No. 616 of 1983)

And in the matter of an application by The Federated Miscellaneous Workers Union of Australia to vary

The Saddlery, Leather and Canvas Workers Award, 1979[12]

(C No. 3115 of 1983)

And in the matter of applications by The Federated Storemen and Packers Union of Australia to vary the

Storemen and Packers (Skin, Hide, Wool and Produce Stores) Award, 1979—Part I (Victoria, South Australia, Tasmania and Albury)[13]

(C No. 626 of 1983)

Storemen and Packers (Australian National Line) Award 1980[14]

(C No. 627 of 1983)

Storemen and Packers (Carbon Black) Award, 1979[15]

(C No. 628 of 1983)

Brushmaking Industry Consolidated Award 1979[16]

(C No. 629 of 1983)

Storemen and Packers (Wool Selling Brokers and Repackers) Award, 1973[17]

(C No. 630 of 1983)

Storemen and Packers (Grazcos Co-operative Limited) Award 1977[18]

(C No. 631 of 1983)

Storemen and Packers (Skin and Hide Stores) Award (Victoria and Tasmania) 1981[19]

(C No. 632 of 1983)

Storemen and Packers (Bond and Free Stores) Award, 1973[20]

(C No. 633 of 1983)

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[9] Print F0598 [M003]; (1982) 282 C.A.R. 287
[10] Print F0597 [N001]; (1982) 282 C.A.R. 153
[11] Print F0128 [R006]; (1982) 282 C.A.R. 634
[12] Print F3230 [S001]; (1980) 240 C.A.R. 101
[13] Print E1604 [S092]; (1979) 231 C.A.R. 127
[14] Print E8686 [S027]; (1982) 270 C.A.R. 227
[15] Print E226 [S030]; (1979) 223 C.A.R. 864
[16] Print E1992 [B010]; (1980) 236 C.A.R. 636
[17] Print C4733 [S049]; (1974) 160 C.A.R. 998
[18] Print D5627 [S106]; (1978) 200 C.A.R. 171
[19] Print E6213 [S071]; (1981) 255 C.A.R. 709
[20] Print C720 [S028]; (1974) 156 C.A.R. 22

Storemen and Packers (A.C.T.) Award 1973[21]

(C No. 634 of 1983)

Australian Paint Industry (Storemen and Packers) Agreement 1976[22]

(C No. 635 of 1983)

International Duty Free Stores Employees Award, 1980[23]

(C No. 636 of 1983)

Storemen and Packers (Container Depots) Award 1982[24]

(C No. 637 of 1983)

Storemen and Packers (Materials Handling—Brambles) Award 1976[25]

(C No. 638 of 1983)

And in the matter of an application by The Association of Professional Engineers, Australia to vary the

Professional Engineers (General Industries) Award 1982[26]

(C No. 561 of 1983)

And in the matter of an application by The Australian Public Service Association (Fourth Division Officers) to vary

Determination No. 10 of 1929[27]

(C No. 620 of 1983)

And in the matter of an application by The Association of Professional Engineers, Australia to vary

Determination No. 19 of 1961[28]

(C No. 621 of 1983)

in relation to wage rates

SIR JOHN MOORE, PRESIDENT
MR JUSTICE WILLIAMS
MR DEPUTY PRESIDENT ISAAC
MR JUSTICE MADDERN
JUSTICE COHEN
MR ACTING PUBLIC SERVICE ARBITRATOR BOOTH
MR COMMISSIONER McLAGAN

MELBOURNE,
23 SEPTEMBER 1983

REASONS FOR DECISION

[21] Print C1661 [S073]; (1974) 158 C.A.R. 645
[22] Print D2454 [A117]; (1977) 186 C.A.R. 699
[23] Print E5602 [I018]; (1981) 252 C.A.R. 416
[24] Print F0363 [S100]
[25] Print D3001 [S039]; (1977) 193 C.A.R. 423
[26] Print F1735 [P067]
[27] 9 C.P.S.A.R. 15
[28] 41 C.P.S.A.R. 169

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INTRODUCTION

a On 23 December 1982, the Commission imposed a pause on improvements in pay and conditions. This was subject to a number of exceptions for which guidelines were formulated. The Commission came to that decision because of the seriousness of the economic situation, the worst since the 1930s, arising from the combined effect of a deep and prolonged international recession, a serious drought
b and a substantial increase in labour costs. All eight Governments agreed that a pause was necessary on economic grounds. The Commission imposed the pause until 30 June 1983 and thereafter until altered or rescinded by a National Wage Bench. On 28 June 1983, the pause was specifically continued until altered or rescinded by this Bench.

During May/June 1983, a number of unions made applications to the
c Commission which were generally in the following terms:

"1. To adjust wages paid by 2.2% to compensate for the movements in prices for the quarter ending March 1983 so as to maintain the real value of wages as of December 1982.

2. To increase all allowances expressed in monetary terms by 2.2%.

d 3. To provide a centralized system of wage fixation based on automatic quarterly cost of living adjustment for each subsequent quarter.

4. Consistent with the objective of maintaining real wages over time to recognize that the ACTU believes, that there is a further claim of 9.1%, representing movements in CPI for the quarters ending June, September and December 1982 being such movements which have not been taken into account in adjusting wage levels
e generally. Such a claim to be pursued over a period consistent with economic progress.

5. Such other variations as are appropriate to establish the wage fixing system to operate in the context of the Prices and Incomes Accord.

Grounds in Support

f 1. To implement the essential ingredients of the Prices and Incomes Accord in respect of wages and allowances.

2. To ensure that the real value of wages is not further reduced during the course of 1983.

3. To provide for a stable and equitable basis of wage fixation.

g 4. To remove the current uncertainty as to the method of wage fixation which will apply in the future.

5. Any other reasons which the Commission believes fair and just."

On 19 August the Australian Council of Trade Unions (ACTU) on behalf of the unions amended the claim by adding the June quarter increase in the Consumer Price Index (CPI) of 2.1% making a total claim for an adjustment of 4.3%.

h The Confederation of Australian Industry (CAI), while supporting the return to a centralized system, opposed the ACTU's claim saying that there should be no increase in labour costs until at least the end of 1983. It emphasized that there is nothing in the Communique issued by the National Economic Summit Conference which supported the adjustment of wages for prices and submitted that
j there should be no increases in wages prior to a review of the economy which should not occur prior to February 1984.

On behalf of the Business Council of Australia the CAI also expressed opposition to the claim and made a submission on behalf of the Iron and Steel Industry Association stressing the downturn of its financial position.

The Federal Government, all State Governments and the Northern Territory intervened in the proceedings and all supported a return to a centralized system. The Federal Government, Victoria, South Australia and Western Australia in substance supported the ACTU claim except that they favoured half yearly adjustments of wages in accordance with movements in the CPI in lieu of quarterly. However, Victoria and South Australia said that they supported quarterly adjustments in the long term. a

New South Wales and Queensland while both supporting adjustments in accordance with movements in the CPI preferred a flat money adjustment to all rates calculated on a minimum or basic wage concept. However New South Wales also said that if there was insufficient support for its approach it would support the Federal Government's proposals. b

Tasmania and the Northern Territory were opposed to the ACTU's approach. Tasmania submitted that there should be an annual review at which the price factor was only one of a number of other factors taken into account including productivity, economic capacity, inflation and unemployment. The Northern Territory claimed that the wages pause should be continued until at least the end of 1983 and said that if an increase were granted it should be "absolutely minimal". c

The State Public Services Federation and the Australian Public Services Federation intervened to support the application. They particularly identified themselves with the ACTU's submission regarding the form of any wage adjustments and strongly opposed flat rate or plateau increases. They claimed that there was a disparity between the wages growth in the State public service area and that of wages generally stating that there should be provision in the guidelines aimed at establishing an effective base for salary adjustment and that the principles should contain provisions for dealing with structural pressures which existed within the State public service area. d e

The Council of Professional Associations intervened to support a return to a centralized system provided it was a fair and equitable one. It generally supported the ACTU's case for quarterly indexation in line with movements in the CPI from March 1983 but said that it "could live with" half yearly adjustments. It drew particular attention to claimed inequities and anomalies in the public service area arising from boss/subordinate situations and difficulties regarding related categories. It stressed the necessity to create an equitable base particularly for professional officers such as professional engineers and scientists. f g

The Local Government Association of South Australia and various Councils in South Australia intervened to give qualified support for a return to a centralized system preferably based on adjustment of wages in line with CPI movements on a six monthly basis. It was said on behalf of Councils in South Australia and Western Australia that care would need to be taken to ensure that certain awards in those States which already provided for some CPI movements were not subject to double counting. h

The National Council of Women, the Women's Electoral Lobby and the Union of Australian Women also intervened to support the return to a centralized system. They supported the system of wage fixation proposed by the ACTU. While there were different emphases, it was central to all three submissions that the major part of the female work force is employed in unskilled and low wage areas, that it is less unionized and includes a large number of part-time employees; being in a weaker bargaining position, women were said to be more vulnerable in a decentralized system. j k

BACKGROUND

a The unions' applications were made against the background of three significant developments since the pause was instituted last December.

1. *The Accord*

First, the announcement in February 1983 of the Statement of Accord by the Australian Labor Party and the Australian Council of Trade Unions on a prices
b and incomes approach to economic management. The Accord evolved as a result of negotiations extending over a number of years between the ALP and the ACTU and it was overwhelmingly endorsed at a special conference of unions affiliated with the ACTU on 21 February. The Accord featured as a prominent part of the ALP's election platform in February/March and with the election of the ALP to
c Federal Government on 5 March 1983, it became an integral part of the Government's economic policy.

The Accord is seen by the parties to it as offering the best prospect for prolonged higher rates of growth in the economy, employment and living standards. The achievement of this objective is based on direct processes to ensure the resolution of conflicting income claims at lower levels of inflation than would otherwise be the
d case. "With inflation control being achieved in this way", the Accord states, "budgetary and monetary policies may be responsibly set to promote economic and employment growth, thus enabling unemployment to be reduced and living standards to rise".

The parties to the Accord agree that while a prices and incomes policy

e "... must remain flexible to some degree ... there are various fundamental features of effective prices and incomes policies that are essential to its acceptance and continued viability.

These features are:-

- The policies should aim to ensure that living standards of wage and salary earners and non-income earning sectors of the population requiring protection are
f maintained and through time increased with movements in national productivity.
- Government policy should be applied to prices and all income groups, rather than, as has often been the case, to wages alone.
- The policies should be designed to bring about an equitable and clearly discernible redistribution of income.
- g There must be continuous consultation and co-operation between the parties involved.
- Government policy at all levels should be accommodating and supportive."

The Accord has this to say about the principles of wage fixation:

"The principles of wage fixation should be such as to provide wage justice to employees whilst seeking to ensure that wage increases do not give added impetus to inflation or
h unemployment. The maintenance of real wages is agreed to be a key objective. It is recognized that in a period of economic crisis as now applying that this will be an objective over time.

Accordingly it is agreed:

- A centralized system of wage fixation is desirable for both equity and industrial
j relations reasons and will be advocated by both parties.
- To protect the purchasing power of wages and salaries the adoption of a system of full cost of living adjustments will be strongly supported in tripartite consultations and before industrial tribunals.
- Where overaward payments exist the Government will support the maintenance of those levels in real terms to ensure consistency between paid rates and amounts
k paid under minimum rates awards.

- Wage and salary earners may share in increased national productivity through either increased real incomes or reduced hours of work, or an appropriate combination of both.
- In formulating claims for improved wages and conditions at the national level the unions will have regard to government economic policy and will consult with the Government on the amount of such claims.
- Both parties recognize that if the essential conditions of the centralized system are met that there shall be no extra claims except where special and extraordinary circumstances exist. The no extra claims provision will apply to both award and overaward payments.
- Bargaining based upon achieving increased productivity via changes in work practices or procedures as a means of reducing hours at negligible cost increases, will continue to be supported, provided the standards created are not in excess of community or emerging standards, and, if possible, involve the standardization of hours within the enterprise or industry."

In respect of non-wage incomes the Accord lists a number of measures, including the establishment of an effective prices authority, to ensure that these incomes do not move out of line with movements in wages and salaries.

On the question of taxation, the Accord states among other things that:

"• ... the Government will substantially restructure the income tax scale to ease the tax burden on low and middle income earners.

- In the context of a fully operational prices and incomes policy, the Government, in conjunction with the trade union movement, will annually review the tax scale so that the tax burden will not rise automatically with inflation. It is agreed that in the context of concerted government action in respect of job creation less than full tax indexation may apply."

The Accord envisages the development and implementation of various "supportive policies" as part of the prices and incomes policy. These include legislation designed to improve industrial relations and appropriate action on social security, occupational health and safety, education and health. The Accord states that:

> "The government will aim to eliminate poverty by ensuring wage justice for low wage earners, reducing tax on low income earners, raising social security benefits and making other improvements to the social wage."

It is also important to note that the Accord envisages the financing of the health insurance programme by a 1% tax levy the effect of which would be to reduce the CPI by two percentage points. A revised estimate puts the figure at close to three percentage points.

The ACTU submitted that the Accord represented a dramatic shift in the direction of economic management by the Federal Government based on the prime objective of full employment whilst attacking inflation at the same time. In this connection, the ACTU emphasized that the task would be gradual, that the policy was designed for the long term and that the successful introduction of a rational wage fixation system was a key feature of the prices and incomes approach.

The Federal Government also emphasized the key role of the Accord, the nature and purpose of the Government's commitment as reflected in the Accord and its general support for the system of wage fixation proposed by the ACTU. It said:

> "...It is in the face of the serious economic situation existing that the Government's overall approach has been developed over some considerable time prior to and since taking office. Central to that approach is the prices and incomes accord and establishment of a properly structured centralized wage system.

a It is against that background that the Commission's decision in this case must be seen as having repercussions beyond the area of industrial relations and as affecting the whole thrust of economic strategy for recovery. It is the Government's expectation that the centralized wage fixation system it is proposing in this case, together with its overall approach, of which wage fixation is an integral part, provides a firm foundation for a new deal to be developed on a broader front by the Government and the parties, which will bring lasting benefits for all Australians."

b Further,

"The Government's approach to achieving sustained recovery in economic activity is through an expansionary fiscal policy in the context of the prices and incomes policy, supported by monetary policy which accommodates feasible growth in activity but not avoidable inflation. The uniqueness of this approach, at least in the Australian context, derives from the prices and incomes policy. It is that ingredient of the Government's
c economic strategy which opens up the possibility of attacking unemployment and inflation simultaneously. In this sense it may be seen as the corner-stone of the Government's approach.'

In his Budget Speech for 1983-84, the Treasurer said:

"The performance of the economy over 1983-84 and beyond will be heavily influenced
d by our economic policy approach.

The essential elements of that approach are by now well known: an expansionary fiscal policy, with the Prices and Incomes Accord as a major anti-inflation instrument, supported by non-inflationary monetary policy."

The Accord was supported by Victoria, South Australia and Western Australia.

e 2. *The National Economic Summit Conference*

The second important event since the wage pause came into effect was the National Economic Summit Conference initiated by the newly elected Prime Minister. The commitment to such a Conference was made by the ALP in the Federal election campaign which brought it into office.

f The Conference took place during 11-14 April 1983 and was attended by a wide cross-section of the community—representatives of Federal and State Governments, the trade unions, business and employer organizations and other interest groups.

The essential ingredients of the Conference were announced by the Prime
g Minister as being:

"— assessing the economic and industrial relations situation, and

— finding a consensus among the participants which would set the frame-work for the implementation of a recovery strategy during the next three years."

The Conference deliberations resulted in a Communique which was endorsed
h by all the participants at the Conference except the representatives of the Queensland Government.

We refer to a number of items in the Communique which are of more immediate relevance to the matter before us:

"4. The participants recognize the challenge facing the nation, as outlined by the
j Treasurer in his submission to the Conference. The Australian economy is in deep recession. Economic activity and employment are continuing to fall and unemployment is still rising. Profits are depressed, and wage earners have had to accept deferral of improvements and maintenance of living standards. Inflation and interest rates remain high. There are signs of improvement in the world economy and of an end to the drought in the eastern States. There is wide
k agreement, however, that sustained economic recovery and significant inroads into the unacceptably high level of unemployment will require a steady improvement in

business and consumer confidence and more effective processes of income determination. There is also wide recognition that Australia's economic problems are deep-seated and not amenable to rapid solution. *a*

8. It is a legitimate expectation that income of the employed shall be increased in real terms through time in line with productivity.

12. Participants in the Conference recognize the importance of tackling the problems of unemployment and inflation simultaneously. The Conference agrees that to achieve the necessary rates of growth in activity and employment will require the maximum fiscal stimulus consistent with the need to reduce inflation and to avoid upward pressure on interest rates. An effective incomes and prices policy is essential if an expansionary fiscal policy is to be pursued without adverse consequences for inflation. Monetary growth should be adequate to support real growth in activity and employment without being inflationary. *b*

14. The Summit stresses that the Conference was never intended as a forum to negotiate the timing or quantum of wage increases. It is accepted that this is a matter for the Australian Conciliation and Arbitration Commission. *c*

19. All parties believe that the principles of wage fixation should be such as to provide wage justice to employees whilst seeking to ensure that wage increases do not give added impetus to inflation or unemployment.

20. It is believed that a centralized approach to wage fixation is the most equitable means by which the objectives can be met. It is recognized that if a centralized system is to work effectively as the only way in which wage increases are generated, a suppression of sectional claims is essential except in special or extraordinary circumstances proved before the centralized wage fixing authority. *d*

21. This Summit therefore proposes that the parties should as a matter of priority develop the option of a return to a centralized system under the auspices of the Australian Conciliation and Arbitration Commission. *e*

22. To progress the development of a centralized wage system a conference should be convened by the President of the Commission.

23. The centralized wage fixing principles developed by the Conciliation and Arbitration Commission should provide the framework for the operation of other wage-fixing tribunals in Australia, but the Summit recognizes the authority and autonomy of these tribunals. *f*

24. Employers, for their part, recognize that during the period of wage restraint, dividend increases should also be restrained, and they will so recommend to their organizations, and will expect the Government to so recommend to all public companies. *g*

25. In like fashion, Governments agree to exercise, as far as possible, restraint in their charges.

26. The employers accept that the Government has a mandate to establish a price surveillance mechanism. Many employers believe this is unnecessary but they are prepared, together with Government and unions, to be involved in an examination as to the most appropriate form and functioning of a prices surveillance mechanism. It is agreed that this examination will be conducted by a representative working committee. *h*

28. If restraint is to be exercised then such restraint should be exercised universally. As such, it is important that non-wage incomes are not increased faster than movements in wages. This principle should be followed where there are existing authorities in this area, and where there are no such authorities, groups should be encouraged to agree to have their fees determined on a voluntary basis by members of the Australian Conciliation and Arbitration Commission. *j*

49. The Summit believes that governments have a responsibility to their own employees and consequently accept that their overall wages and conditions should be commensurate with recognized general standards while they should not be used as pace-setters." *k*

Before us, the CAI said that it could not emphasize too strongly the importance of the Summit consensus in these proceedings. The Communique, it said, was the path which brought the parties to the Commission and not the Accord which is nothing more than an agreement between the ACTU and the ALP and with sections of which it "expressly disagrees". Nevertheless, it should be noted that although the Communique made no commitment to the Accord, certain elements of the Accord are underlined in the Communique—support for a prices and incomes policy, a centralized approach to wage fixing, the suppression of sectional claims under such a system, collective restraint from all sections of the community and the legitimacy of the expectation that the real income of employees should increase through time in line with productivity. However, notwithstanding the wide range of consensus expressed in the Communique, especially in regard to wage fixing processes, significant differences between union and employer representatives on wage fixing principles were evident in the proceedings of the Conference.

3. *The President's Conference*

The third event of importance since the wage pause was the Conference convened and chaired by the President of the Commission. In response to the request from the ACTU and the CAI arising from paragraph 22 of the Communique, the President sent invitations to the CAI, the ACTU, the Federal Government and all State Governments. Subsequently, invitations were extended to the Council of Professional Associations and The State Public Services Federation.

The Conference met on 28 April, 23 May and 3 and 17 June 1983. The submissions to the Conference and the areas of consensus and disagreement are set out in the President's Report on the National Wage Conference. The Report identifies for convenience 23 issues which were dealt with at the Conference and it summarizes the outcome on each of these issues. However, it warns that the submissions of the parties must be viewed in their totality.

The Conference established general agreement on the desirability of a return to a centralized system but the parties differed on the way the system should operate. We list below those issues on which there was consensus between the ACTU, CAI and the Federal Government. It should be noted that the parties expressed their position on particular issues in words different from those used below.

1. The objective of the centralized system should be to increase real incomes through time in line with productivity.
2. Price movements are a relevant consideration in national wage cases. There should be no double counting for movements in prices.
3. The Consumer Price Index is the best measure available of increase in the prices of consumer goods and services purchased by wage and salary households.
4. Wages should continue to be expressed and dealt with as total wages.
5. National wage cases should continue to be at the core of a methodical system of wage fixation. Economic considerations, including unemployment and inflation are relevant issues in national wage cases.
6. In respect of national productivity:
   (i) The distribution of gains in national productivity should be considered in national wage cases.
   (ii) There should be no double counting of productivity.
   (iii) The method of distributing national productivity may take forms other than wage increases.

7. Increases generally should be in a percentage form.
8. A provision for no extra claims except where special and extraordinary circumstances exist (see 16 below) should be a feature of a workable centralized system.
9. A role exists within a centralized system for a limited and genuine provision covering changes in "work value".
10. Any claims for a reduction to 38 hours per week should be the subject of close examination using tests applied currently by the Commission.
11. Allowances should be determined in a manner consistent with a centralized wage fixing system.
12. The concept of no extra claims and substantial compliance are related.
13. There is need for periodic reviews and the principles should in general apply for a specified period.
14. Conditions of employment are relevant factors to be considered in the context of a centralized wage fixing system.
15. Extreme care needs to be exercised in the making of paid rates awards if they involve the conversion of minimum rates to actual rates.
16. Provision should be made for special and extraordinary circumstances based on anomalies and inequities.
17. There is need for consistency within the Commission and between Federal and State tribunals.

Except for New South Wales and Queensland which did not favour uniform percentage national wage adjustments, all the other participants at the Conference generally approved or did not disapprove the above items. Queensland was also opposed to the total wage concept preferring instead a two-tier structure of basic wage and margins.

There was disagreement on a number of important items, more specifically, on whether national wage adjustments should reflect CPI movements, on the periodicity of national wage adjustments, on whether CPI adjustments should be automatic, on the starting time of adjustments, on the question of catch-up, overaward payments and the Minimum Wage. We elaborate on these issues in due course.

THE COMMISSION'S TASK

The Commission has noted in the past[29] that in the Australian industrial context, centralization or decentralization is a matter of degree. The wage fixing arrangements before 1975 were less centralized than those which prevailed from 1975 to 1981. The special feature of the latter period is that the whole area of wage fixing was subject to a coherent set of principles under which national wage adjustments were the predominant source of pay increases. The consensus referred to above is for a centralized system of this highly structured type. This is the sense in which we use the term centralized system. Our task is to decide whether there should be a return to a centralized system, the principles on which such a system should operate and the time for it to come into operation.

The case for a centralized system was summed up by the Federal Government as follows:

> "First, with a piecemeal approach to wage settlements it is difficult to assess the cumulative economic effects of such settlements. The case-by-case approach simply does not enable a thorough investigation of national or international economic conditions and their ramifications for the overall capacity of the economy to afford

[29] Print E6000, p. 4; (1981) 254 C.A.R. 341 at 344

wage increases. Consequently, there is no protection for the community as a whole, including the unemployed and those living on fixed incomes. Second, there is no macroeconomic or national industrial relations incentive for the individuals involved in negotiating a wages settlement to exercise restraint because there is no assurance that others will do likewise. In fact, a free-rider effect exists in which each individual considers his action to be insignificant although, when considered in totality, such actions have serious consequences."

The ACTU saw advantages and disadvantages in both centralized and decentralized wage fixing systems, but it said:

"The priority the ACTU has placed in the past and now places on a centralized system of wage fixation results from an assessment on balance of the advantages and disadvantages of various approaches to wage fixation. This assessment has been made in the particular circumstances of Australian industrial relations, the Australian economy and union objectives. As shown in our section on wage developments, the union movement endeavoured both after the abandonment of indexation and after the rejection of our national wage case claim in May 1982 to endeavour to ensure a centralized approach because of the priority accorded to the equity and egalitarian features of such an approach."

The ACTU saw the "key attributes" of the centralized system in these terms:

"... it is the most equitable form of wage fixation in that all wage and salary earners are treated simultaneously and collectively; inflationary expectations are not built into wage demands as workers are confident that their real wages will not be eroded ... industrial disputation will be lessened and a major source of disputation will be removed from bargaining."

The President's Conference revealed an impressive degree of consensus on the rules for operating such a system but fundamental differences remain. The question arises whether in those circumstances and with the breakdown of the previous centralized system still fresh in mind, we should attempt a return to such a system.

The strong and universal desire for a centralized system expressed in the Accord, at the Summit, at the President's Conference and before us, compel us to find a way of dealing with the important differences which still remain between the parties, and to formulate principles which will provide a reasonable chance of establishing an industrially and economically viable centralized system. We should note that the Federal Government has said that if the Commission were to decide not to support the establishment of a centralized system of wage fixation:

"... the consensus reached in the Accord and at the Summit would be undermined. It might not be possible for the Government to meet its commitment to bring about sustained economic recovery through an expansionary fiscal policy as the achievement of community restraint in terms of income claims depends on the successful implementation of the prices and incomes policy. Even short term stimulus could be ruled out.

The task of reducing unemployment would be made more difficult and dependent almost entirely on external factors and on the extent of recovery of the world economy in particular. Some may suggest that the current economic crisis and in particular the high rate of unemployment and fear for job security would temper demands for wage increases. While this is an arguable position, the government's view is that probably would not be so."

We leave aside until later the question of the appropriate time for putting such a system into operation and thus effectively bringing the wage pause to an end.

As has been noted, there is general agreement that real wages and salaries should be increased through time in line with productivity. This objective has the support of history. But a fundamental difference exists on how this objective can be achieved without undue inflation, unemployment and other undesirable economic

effects. That difference is highlighted in the principles for determining national wage adjustments proposed by the ACTU on the one hand and the CAI on the other. a

The ACTU has argued for a principle which maintains real wages by full indexation of CPI movements and for another principle which, less frequently, increases real wages in line with productivity. These principles flow directly from the statement in the Accord that: b

> "The policies should aim to ensure that living standards of wage and salary earners ... are maintained and through time increased with movements in national productivity."

The CAI, on the other hand, while agreeing that real wages should be increased through time in line with productivity, does not accept the proposition that there should be any assurance that real wages "should be maintained". It follows that although over time real wages should rise, there may be times when they should fall. Hence, the CAI's strenuous objection to any formal linking of wage movements to the CPI, whether automatically or prima facie. Hence also, the CAI's principle for national wage adjustment, namely, annual adjustment by reference to economic capacity which includes consideration of productivity, prices and other factors relevant to capacity. c d

With stable prices, there would be little to choose between the CAI's proposal and that of the ACTU. Both principles would ensure that real wages were maintained and were rising through time. It is in the realistic context of rising prices that a difference of substance arises. As the ACTU has submitted "The fundamental area of disagreement upon which this Full Bench is being asked to arbitrate is the issue of the role of prices in a centralized wage fixation system". e

The ACTU emphasized that the confidence of wage and salary earners in a centralized system with its attendant restraints rests critically on a provision which would maintain real wages. The ACTU said:

> "It is our very strong view that prices must be accorded a key role in any wage system including a centralized system. The acknowledged equity role of such a system has little meaning in the absence of a role for maintaining real wages. The stronger the link, the more transparent and understood is that role, then the greater will be the longer term benefits to the system." f

The Federal Government supported the ACTU's view that the centralized system "must give wage and salary earners confidence that their living standards will be protected from loss of consumer purchasing power". g

Since the inception of the arbitration system in Australia the question of the role of prices in the fixation of wages has varied from time to time. There have been periods for instance from 1921 to 1953 when there was automatic adjustment to part of the wage for movements of the relevant price index. In other cases for instance, in 1961, there was adopted a principle of the prima facie adjustment of part of the wage for prices. For the rest of the sixties, although they were regarded as highly relevant, prices were not as significant as they had been in earlier years. With the introduction of indexation in 1975, prices were once again given a prima facie role. But as the commitment of the parties and governments to the requirements of the system weakened, the Commission abandoned indexation in July 1981. h j

The differences in approach demonstrated by this brief history indicate that the attitude of the tribunal has varied from time to time depending on the particular circumstances under consideration.

The question which must be asked is whether circumstances have changed sufficiently since 1981 for the Commission to feel reasonably confident that it can embark on a system which gives assurance of real wage security without damage to the economy. k

The Federal Government which said that it had "an overriding responsibility for the state of the national economy and its future prospects" supported the ACTU's claim and submitted:

> "Fundamental in the government's approach to the centralized system is the high degree of real wage security it must offer to wage and salary earners. Only in exceptional and compelling circumstances should any departure from full indexation occur. In our submission, without this degree of certainty the system could not provide the stability in wage determination for the medium and longer term that is crucial in the government's prices and incomes policy."

It also said,

> "The government does not approach this case in isolation from its medium and longer term wages policy and industrial relations objectives. Indeed the government sees overall benefits in taking a medium/longer term view. The government considers short term economic considerations, which if viewed alone might lead to the placement of greater weight on reducing real labour costs, must also be set against the need to foster a stable and sustainable wage determination system. The government considers that the industrial and economic consequences of an approach whereby wage increases are regularly discounted, as occurred under the previous indexation system, leads inevitably to greater wage pressures outside of the system, the breakdown of the system, and to economic instability in the medium to longer term.
>
> Reference has already been made to the Accord where it is recognized that in a period of economic crisis the objective of maintaining real wages must be pursued over time. This statement clearly recognizes that in exceptional and compelling circumstances wages may not be fully adjusted for movement in prices. On the other hand, it clearly rules out a policy where partial adjustments are frequent or sustained."

The CAI argued that building into a system expectations which may not be met would lead to a loss of confidence in the system. We agree with this contention. It was for this reason that the Commission ultimately departed from the prima facie assurance of full indexation inherent in the earlier principles after it had repeatedly awarded less than full indexation on economic grounds. The Commission remarked that "A principle in which the implied rule becomes the exception is unsatisfactory".[30]

The CAI also argued that if we are to bring down the high levels of inflation and unemployment and restore profitability to the business sector then "it must become a first priority to achieve a real wage reduction". Unless this is done, so it argued, Australia is in for a long and protracted recession. It maintained that the ACTU/Federal Government package, including adjustment of wages for movements in prices, should be rejected for this reason.

We acknowledge that there are risks with the package outlined by the ACTU and the Government but we do not believe that in the present circumstances the approach advocated by the CAI would provide the necessary restraints in overall wage movements. The CAI submission overlooks the fact that the adjustment of wages for movements in prices is only part of a broad strategy to achieve economic growth through the implementation of a prices and incomes policy based on the Accord. In particular the proposed ACTU/Federal Government package is based on movements in the CPI and the "ACTU is prepared to undertake that following the introduction of Medicare the published CPI estimates for the March and June quarters 1984 will be accepted as the proper basis of wage adjustment provided the centralized system we propose is fully operational and meeting the primary objective of maintaining the real value of award wages". This specific circumstance provides an opportunity to maximize the anti-inflationary potential of a centralized system in the immediate future. As the Federal Government submitted:

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[30] Print E5000, p. 7; (1981) 250 C.A.R. 79 at 85

"The slowing in the rate of increase in the Consumer Price Index will be assisted by the changes associated with the introduction of Medicare, which is expected to reduce the index by around three percentage points. This factor will make an important contribution to winding back inflation in 1984 as the lower wage outcomes feed through into prices and also contribute to some restoration in business profitability". a

The CAI submission also overlooks the fact that the ACTU submitted that "If we have a system based on cost of living adjustments in line with the claim, then the ACTU does not envisage a productivity hearing for some time" depending "on the timing and strength of any economic upturn". The ACTU's submission was supported by the Federal Government. b

The attitude of the CAI to adjustment of wages for prices also needs to be considered in the light of the agreement by the ACTU that there should be "a review of the system say every eighteen months or two years" and that the agreement between the ACTU and the Federal Government contains several other essential terms such as agreement that no extra claims will be made except where special and extraordinary circumstances exist. c

The ACTU also points out that a number of the pressures on the earlier indexation system have been substantially rectified, including:

"... catch-up for partial wage indexation leading to earnings drift; the slippage in paid rates relativities, reversing the earlier relationship between total rates and paid rates under minimum rates awards... less pressure emanating from the shorter working week campaign; industrial disputation associated with the factors referred to." d

The substantial rectification of these pressures, the ACTU submitted, should allow a centralized system of the kind sought to operate more successfully now. e

In summary, the changed circumstances since indexation was abandoned in July 1981 are reflected in the following:

- the Federal Government's prices and incomes policy, which it described as the "corner-stone" of its economic strategy
- the Accord, on which the prices and incomes policy is based, regarded by the Federal Treasurer as "a major anti-inflation instrument" f
- the endorsement of "an effective prices and incomes policy" and a centralized system in the Summit Communique
- the overwhelming support of the trade union movement for the Accord
- the expressed firm commitment of the ACTU to the no extra claims provision except where special and extraordinary circumstances exist. g
- the effect on the CPI arising from the introduction of Medicare
- the decision of the ACTU to defer any productivity claim "for some time" depending "on the timing and strength of any economic upturn"
- the substantial rectification of the pressures on the earlier system h

Together, these factors constitute a profound change in the context in which a centralized system would operate. These circumstances and the condition that the system is subject to review at the end of two years, have persuaded us that it would be in the public interest for the Commission to try once again to operate a centralized system based on prima facie full indexation. We do so in the expectation that it would lead to a more stable industrial environment and that it would provide the basis for a more rapid economic recovery than would occur in any alternative system. j

We now consider more fully the requirements of such a system.

k

REQUIREMENTS OF FULL INDEXATION

For a system based on full indexation to be sustainable economically and industrially, a number of requirements must be met. These requirements are severally recognized in the submissions of the parties, the Accord and the Summit Communique.

1. Increases outside national wage must constitute a very small addition to overall labour costs. It is immaterial whether these increases are in the form of wages, allowances or conditions, whether they occur in the public or private sector, whether they be award or overaward—they all add to labour costs. The extra labour cost increase would feed into prices and back into wages through indexation, with perverse economic effects. The various principles must be framed to ensure that this condition is met and we refer to them later. But we should note now that the round of large work value increases during 1978-81 overloaded the system and was one of the more important factors contributing to the breakdown of the indexation system.

The Federal Government submitted that the system must contain "an acceptable and workable procedure for dealing with non-conformists". To this end, it suggested that the Commission should require undertakings from applicant unions seeking a flow of national wage increases that they will not pursue any extra claims outside national wage, by award or overaward payments, inconsistently with the Principles. The Federal Government submitted that an award should not be adjusted for national wage unless all unions, parties to that award, are prepared to give such an undertaking.

The CAI went further and said that the Commission ought not to "vary any of the awards to which a union is respondent unless it is prepared to give a commitment, a global commitment in respect of all its areas of operation—commitment to the system".

In connection with such undertakings, Mr Kelty, Secretary of the ACTU, said:

> "The ACTU has, in the course of these proceedings, accepted that sectional claims would need to be justified in the context of a centralized system. We have submitted that unions cannot have it both ways: they cannot expect the results of the centralized system without giving the necessary commitments to make the system work. We have made that position clear to the unions and the Commission.
>
> It remains our desire to ensure that the ACTU itself is a vehicle for collective responsibility—both to give it and to take it. However, it would be an abrogation of that collective responsibility if a small group of employees, whoever they may be, dictated the terms and conditions upon which that responsibility is given and taken. The ACTU is not prepared to abandon the interests of the overwhelming proportion of the workforce.
>
> In these circumstances, as we have explained to unions, there is a need for them to be equally committed in exercising their share of collective responsibility. If they are not committed then they, rather than the totality of the union movement, must ultimately be accountable . . .
>
> . . . The Commonwealth Government has asked for a commitment from each and every union. We would believe that if a system was introduced which was consistent with the prices and incomes accord, this would be a formality. Our preferred view is for the Commission to accept the collective responsibility given by the ACTU because there is a clear and demonstrated collective commitment, notwithstanding the delay and uncertainty which currently exists.
>
> Further, if there were genuine doubts in the mind of the Commission, which could detract from a decision being given consistent with the prices and incomes Accord, we believe that in the necessary procedural application to obtain the national wage increases such questions could be asked."

In the light of these submissions we have decided that an undertaking should be obtained from unions in the terms suggested by the Federal Government, namely, award by award. The global undertaking proposed by the CAI is not a practicable approach in the procedures normally followed by the Commission in award variations.

We are reinforced in making this decision by the circumstances which led to the abandonment of indexation in July 1981. We cite the following passages from the Commission's decision on that occasion:

> "Since April 1975 the Commission has operated a centralized system of wage fixation based on indexation. It was expected that such a system would be more orderly, more rational, more equitable and less inflationary and would therefore reduce industrial disputation.
>
> The essential feature of such a system was the need to regulate and limit wage increases outside National Wage to allow high priority to be given to the maintenance of real wages. It was accepted by all that a set of rules would be necessary to achieve this priority.
>
> The viability of the system depended on the voluntary co-operation of all participants in industrial relations including those not directly represented at National Wage hearings. Monitoring of sectional claims through the processes of conciliation and arbitration was fundamental to its operation ...
>
> The events since April have shown clearly that the commitment of the participants to the system is not strong enough to sustain the requirements for its continued operation. The immediate manifestation of this is the high level of industrial action in various industries including the key areas of Telecom, road transport, the Melbourne waterfront and sectors of the Australian Public Service. In many cases action was taken on the pretext that the claims could not be processed because of the principles. Some of these disputes have resulted in substantial increases being agreed without regard to the test of negligible cost or the implications of flow-on."[31]

In accordance with Mr Kelty's suggestion, the ACTU will be notified in cases where the no extra claim undertaking is an issue.

Notwithstanding the commitment given by the ACTU for the future, we express our great concern at the industrial actions proceeding currently to obtain sectional claims about pay, hours and conditions which may unsettle relativities and generate flow claims inconsistent with the principles about to come into operation. Such a circumstance would mark an inauspicious beginning of the system and throw doubt on the integrity of the Accord. It is not sufficient for the ACTU to say that there is currently no system in place to which a commitment can be given or that the wages pause was imposed in the face of opposition from the ACTU. The results of such actions could make the ACTU's "essential conditions" of adjusting wages generally for prices and productivity impossible to achieve.

The ACTU supported by the Federal Government emphasized that the no extra claims provision should extend also to employers and that it should not be open to employers to be excluded from any national wage adjustments awarded by the Commission on grounds of incapacity to pay or any other ground. The ACTU said:

> "The thrust of a centralized system is to provide an orderly and rational system of wage fixation in which all groups are treated equally. To allow employers to opt out of that system and to deny the application of a centralized system to some section of the work force would completely undermine the essential features of a centralized system. If, as the CAI suggests, the no extra claims provision does not apply to employers, it applies to no one. If employers are free to deny the centralized system on the grounds of incapacity, that is to pursue sectional claims, it follows that employees must be free to pursue their sectional claims in excess of increases arising out of that centralized system in cases where capacity for additional wage increases exists."

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[31] Print E7300, p. 2; (1981) 260 C.A.R. 4 at 5

We believe that the ACTU's argument has considerable force. While we would not debar argument being advanced on economic incapacity we would emphasize not only the long established principle of wage fixation that those seeking to argue incapacity to pay must present a strong case, but also that the fundamental basis of a centralized system is uniformity and consistency of treatment. In particular in cases involving the adjustment of rates in line with national wage decisions the Commission should not refuse an increase except in extreme circumstances.

2. The nature and requirements of the centralized system must be understood at all levels of the trade union movement. This is accepted by the ACTU which stressed the long period of consultation in the development of the Accord and its final overwhelming approval by the unions affiliated to the ACTU. This has resulted, the ACTU said in a much greater understanding of the requirements of the system than existed in 1975 when the previous indexation system was introduced. The ACTU submitted that:

> "... if the Commission did introduce the system along the lines that we are advocating, we would agree and undertake to in fact promote that system, not just at the ACTU Executive level but throughout all levels of the union movement. We do understand that that is the requirement of the system if it is going to work and it must be fully understood by all the workers."

This requirement was also underlined by the Federal Government when it said that commitment to the centralized system must be present at all levels and that:

> "... there must be an understanding of the operation of the centralized system and support for it at the shop floor and the award level if the system is durable. The Government seeks to bring about commitment and compliance to the centralized wage system by means of a positive approach to the whole gamut of relevant issues. In our submission, the way to achieve this objective is through the adoption of a positive and supportive role to make all aware of the benefits and obligations that attach to it."

It will be clear that the responsibility for ensuring that this requirement is met rests on the parties to the Accord—the ACTU and the Federal Government.

3. There should be acceptance that it may be necessary to grant less than full indexation on rare occasions because, as the Federal Government has put it, of exceptional and compelling circumstances. This is consistent with the Accord, as has been emphasized by the Federal Government. The Federal Government also said:

> "It is recognized in the Accord that adjustments in the social wage can provide a basis for maintaining and improving living standards other than by simple money wage increases. The benefits of innovations of this nature for wage fixation are only possible when undertakings reached by Government and the parties can be considered at the national level by the Commission in the context of a centralized wage system."

4. Restraint on prices and non-wage incomes is an important factor in sustaining wage restraint. It provides evidence that restraint is not being imposed only on wage and salary earners but throughout the community; it also discourages employers from granting wage increases and other improvements beyond the limits set by the principles if such increases in labour costs cannot readily be passed on.

The Accord provides for the development of mechanisms such as a Price Surveillance Authority and taxation measures to ensure that non-wage incomes in general do not move out of line with movements in wages and salaries. As to this the Federal Government has already indicated that it proposes to set up a prices surveillance authority in the near future. Price surveillance mechanisms are already operating in New South Wales, Victoria, South Australia and Western Australia.

5. The impact of taxation, both direct and indirect, on the incomes of wage and salary earners also has a bearing on wage claims. During the period of indexation 1975-1981, the Commission repeatedly referred to the relationship between the weight and structure of taxation on the size of wage demands and it emphasized the importance of taxation policy as a supporting mechanism to sustain the orderly centralized system. In particular, the Commission drew attention to the impact of increased indirect taxation on the CPI and warned that repeated discounting of the CPI for such increases could lead to the breakdown of the system. *a* *b*

We endorse those remarks and make special note of recent commitments and developments relevant in this connection. The Accord contains the commitment that "The Government will endeavour to reduce the relative incidence of indirect taxation because of its regressive and inflationary nature". The Summit Communique records that "Governments agree to exercise, as far as possible, restraint in their charges". *c*

We also note the establishment of the Economic Planning Advisory Council (EPAC) and the Advisory Committee on Prices and Income (ACPI). Both bodies will have union and employer representatives. EPAC will "broaden the provision of economic information, provide a forum for community participation and facilitate consideration of medium term and long term economic assessments and policy requirements". ACPI will "monitor and advise on the implementation of the various elements of the prices and incomes policy, advise on its co-ordination and consistency, and review and report on its effectiveness".[32] *d*

However, we should express our concern at what seem to us to be substantial increases in recent times in some State Government charges and those of some Federal Government undertakings. We are also concerned at the increase in indirect taxes in the recent Federal Budget which is estimated to add directly some 0.4% to the CPI with a smaller impact later. The effect of increased government charges and taxes will also feed into the CPI indirectly in so far as they add to business costs and these are passed on. These price increases will whittle away the beneficial effects on the CPI, estimated at about three percentage points, arising from the introduction of Medicare. In view of our responsibilities under section 39(2) of the Act, we are bound to express our anxiety at these developments. *e* *f*

6. The ACTU has stressed repeatedly that the essential conditions, as it saw them, of a centralized system required the adjustment of wages for prices and productivity increases over time. The no extra claims provision was acceptable to the ACTU only if those conditions were met. The exceptions to the no extra claims were community catch-up ($39 metal industry tradesman standard), work value changes and the processing of anomalies and inequities. It is implicit in the ACTU's approach that the overall increases outside national wage should be small. *g* *h*

It follows from the ACTU's own requirements and from what we said in (1) above that a national wage catch-up of the order of 9.1% could not be accommodated in such a package without adding significantly to inflation and unemployment, leading to the breakdown of the principles. It is true that that 9.1% is "to be pursued over a period consistent with economic progress". But "economic progress" itself is the basis of future productivity increases which will be reflected in national wage increases under the Principles of the system. Thus the 9.1% or any such national wage catch-up would necessarily overload the system bearing in mind especially that the system is not being launched in the context of excess profitability which could be redistributed to wages. *j*

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[32] National Wage Conference—Report by President, Vol. 2, pp. 153-4 (1983)

7. The primary basis on which the Commission introduces a centralized system is that in all the circumstances it is in the public interest to do so. The Principles are framed with the view to sustaining the system. To ensure the integrity of the Principles, they must apply not only to arbitrated cases but also to agreements and consent awards. Consistency is an essential element of the system. Any other approach would give rise to pressures for flow-ons and threaten the survival of the system. It follows that it would not be in the public interest for the Commission to certify agreements or make consent awards unless they are consistent with the Principles.

8. The Principles must be applied consistently and rigorously by all members of this Commission. Further, it was at the heart of many of the submissions put to us that a centralized system of wage fixation could not really work unless there was consistency between the State tribunals and this Commission. We have already quoted paragraph 23 of the Communique of the National Economic Summit Conference which made this very point.

Some of the submissions put to us on this matter are as follows. The CAI said:

> "We stress with respect to the Commission and whilst acknowledging the independence of state tribunals we do say that it is imperative if the system is going to work properly that all tribunals in this country apply the same rules. To the extent that differences are permitted, there is a potential for increases outside those contemplated by the system to occur and there is a potential to create so-called anomalous or exceptional circumstances. We stress the absolute need to ensure that the system is uniform as between state and federal jurisdictions. We submit strongly that this Commission should in the decision it makes call for such uniformity."

In its closing submissions the ACTU said:

> "We wish to now put a submission on the CAI's submission on consistency between federal and state tribunals and we concur with the submission of the CAI on this issue. We recognize that in moving towards a more centralized approach centering on the Federal Commission, the particular circumstances in each state will need to be considered. For this reason the ACTU has indicated to each of its state branches that the ACTU in co-operation with each state will co-ordinate the application from the unions' side of an acceptable central system to particular states having regard to the practices and circumstances in each state."

The totality of the agreement between the CAI and the ACTU on this issue is significant and its significance is underlined by submissions put to us by governments. For instance the Federal Government said:

> "We believe that commitment ought to be approached in a positive manner whereby attention is focused on the real security the system offers in return for restraint of sectional interests. The Government endorses the views expressed by the ACTU, by the CAI and several state governments concerning the collective responsibility required of all parties and the need for consistency between and within all our industrial tribunals."

In opening its submissions New South Wales said:

> "In supporting a centralized wage fixation system, the New South Wales Government has placed and still places special importance on the desirability of uniformity of approach in regard to the application of economic adjustments in New South Wales awards and Federal awards."

The following submission was put on behalf of Victoria:

> "It is appreciated by Victoria that the consistency necessary to bring about a fully coherent wage determination system depends on the support of state tribunals and internal public sector wage determining bodies . . .
>
> In order to ensure that as great a consistency as possible is established between the Victorian Industrial Relations Commission and the Federal Commission, the Victorian Government will present the same general submission before the Industrial

Relations Commission as is presented before this Commission. We will undertake to urge the Industrial Relations Commission to take a view of wage determination consistent with that embraced by this Full Bench. Such a policy will also be adopted in cases before the Victorian Public Service Board, the Victorian Police Services Tribunal, the Post Secondary Education Remuneration Tribunal and the Victorian Education Conciliation and Arbitration Commission."

South Australia said:

"... it is the South Australian Government's intention that following the establishment of any centralized wage fixing system by this Commission it will initiate or intervene in proceedings in the South Australian Industrial Commission and flow on the decisions of this Commission into the South Australian state award system with such minor amendments as may be necessary to make the system workable in the State sphere."

Tasmania said:

"My client will use the powers available under the Public Service Act and the Industrial Relations Act to endeavour to implement whatever principles of wage fixation finally emerge from this case."

These expressions of views from the parties immediately concerned and from Governments underline the desirability which was expressed in the Communique that our Principles should provide "the framework for the operation of other wage fixing tribunals in Australia". The Summit recognized the authority and autonomy of those tribunals and so do we. But we have reached our conclusions both as to amount and as to Principles in the hope and expectation that the State tribunals will find themselves able to accept in substance what we have done for the period for which we have done it.

It will be clear that the conditions stated above as being necessary for full indexation to be viable, industrially and economically, go to the minimization of labour cost increases outside national wage, consistency in the application of the Principles generally, the honouring of undertakings and the existence of supporting mechanisms which ensure restraint on prices and non-wage incomes, restraint on government charges and taxation especially those which feed into the CPI, and attention to the social wage.

We turn now to formulate the Principles of the new system.

PRINCIPLES

Consistent with what we have said earlier, the Principles have been formulated on the basis that the great bulk of wage and salary movements will emanate from national adjustments. These adjustments may come from two sources—CPI movements and national productivity. There will be no extra claims beyond these except where special and extraordinary circumstances exist. This is consistent with the Accord which states:

"Both parties recognise that if the essential conditions of the centralized system are met there shall be no extra claims except where special and extraordinary circumstances exist."

The "essential conditions" were defined by the ACTU as the adjustment of wages for prices and productivity over time. In the current circumstances, the ACTU has identified three classes of "special and extraordinary circumstances" which may warrant increases beyond national wage. These are work value changes, community catch-up and anomalies and inequities. The last includes consideration of claims for reduced hours below thirty-eight.

The Principles we have formulated are in essence consistent with those terms of the Accord relating to wage fixation. In particular, the Principles have been designed to ensure that the ACTU's "essential conditions" can be met. We should note that we have decided not to bring all the Principles into operation at the same time.

We now consider the various Principles of the system.

CPI Adjustments

There is general agreement that the CPI provides the best available measure of price changes of consumer goods and services purchased by wage and salary households and that it is an appropriate index for consideration in wage fixing.

In rejecting the employers' submission for annual adjustments based on economic capacity, we indicated that we favour in the present circumstances prima facie full indexation in line with CPI movements. The questions which remain to be answered are the form of adjustments, the frequency of adjustment and whether adjustment is to be automatic or not.

On the question of automaticity, it follows from our preference for prima facie full indexation that we reject automatic adjustments. The unions were alone in pressing for automatic adjustment. The ACTU argued that such a system would provide maximum real wage security and would impart greater commitment to the package. While this may be true, we are not prepared to build such a guarantee into the system especially in view of the difficult and uncertain economic outlook. We adhere to the view which the Commission has taken for many years that prior to a national wage adjustment taking place, an opportunity should be provided for argument to be heard on the economic consequences of any adjustment. However, we will go some way to meet the unions' position by requiring those opposing full indexation to convince the Commission why the adjustment should not be made.

We note in this connection the Federal Government submission that:

> "Fundamental in the Government's approach to the centralized system is the high degree of real wage security it must offer to wage and salary earners. Only in exceptional and compelling circumstances should any departure from full indexation occur."

The Federal Government also referred to the Accord which it said clearly recognizes that in exceptional and compelling instances wages may not be fully adjusted for movement in prices.

On the other hand Tasmania expressed itself as being opposed to a system of the kind in operation between 1975 and 1981 where the burden of proving that no adjustment should be made was placed on those who opposed the adjustment. Anything other than a minimal increase was also opposed by the Northern Territory.

The employers again submitted in this case that the Commission has no jurisdiction to make a decision granting what the employers call "quasi-automatic" adjustments. This argument was dealt with in the 1981 Inquiry into Wage Fixation Principles[33] and we reject the submissions for the reasons given then.

As to the form of adjustment, apart from New South Wales and Queensland, there was strong support for uniform percentage adjustment to all award rates. New South Wales favoured percentage indexation up to a plateau of $210 and a flat amount thereafter, pending an inquiry on the Minimum Wage. Queensland wanted flat increases by the application of the CPI percentage increase to the Minimum Wage which, it also said, should be the subject of an inquiry.

We see difficulties in plateau indexation or flat increases as the normal form of adjustment. Such a form of adjustment compresses relativities and reduces the real pay of sections of employees and, in the face of strong resentment from those affected, pressures are created for a restoration of relativities. Accordingly, we will provide that the percentage form will apply unless the Commission decides otherwise in the light of exceptional circumstances.

On the matter of frequency the ACTU pressed for quarterly adjustments. It said this would reduce the lag between the loss of purchasing power due to price rises and its restoration by wage adjustment: quarterly adjustments are therefore more

[33] Print E6000, p. 12; (1981) 254 C.A.R. 341 at 352

equitable and would give greater confidence in the system. In a six-monthly adjustment the lag due to delay in compiling and publishing the CPI and hearing the application for adjustment could be nine months or more from the time price increases occur.

Victoria supported the concept of quarterly adjustments to come into operation later when the new system is established but initially the Commission should introduce a system based on a six-monthly adjustment. South Australia took a similar view. New South Wales, Queensland and Western Australia supported six-monthly adjustments.

While we understand the ACTU's argument on equity grounds, we agree with the Federal Government that six-monthly adjustments have been widely accepted and that in the current economic circumstances, the employers would be assisted by less frequent adjustments. We will therefore provide for six-monthly CPI adjustments.

Overaward Payments

The problem of overaward payments arises in connection with several issues—

(1) Whether the Commission should make recommendations to alter overaward payments in the settlement of individual disputes.

(2) Whether the Commission should make recommendations for the application of national wage adjustments to overaward payments.

(3) Whether the Commission should make paid rates awards by the compounding of minimum rates and overawards.

(4) Whether the Commission should incorporate overaward payments into the award by absorbing them as supplementary payments.

We deal with the last two issues later.

In respect of the first two issues, there was no consensus at the President's Conference. The ACTU argued that to strengthen the centralized system, it is essential that overawards are not exempt from the system. The Commission should not vacate the field of overawards but endeavour to maximize its influence in this area. The CAI on the other hand submitted that the Commission should avoid becoming involved in overaward payments and should leave them to the parties.

On the question of whether the Commission should make recommendations on overaward pay in the settlement of industrial disputes, we reaffirm what the Commission said in 1981:

> ". . . recommendations on overaward pay tend to have the force of awards of the Commission and can be used as an argument justifying an increase in prices. Experience shows that recommendations . . . tend to be inconsistent with the spirit and intent of the Principles of a centralized system. Apart from producing unwarranted differences between groups of employees and thereby generating industrial tensions, the growth of such overaward payments could produce an earnings drift which would then call for discounting and reduce the pay entitlements of those who have not deviated from award provisions.
>
> We consider, therefore, that the Commission should not make recommendations on overaward pay even when sought by both parties . . . This should not be taken as impairing the task of the Commission in conciliation which is to assist the disputing parties to resolve their differences amicably on any matter. However . . . the size of overaward payments should be regarded as the responsibility of the parties and not of the Commission and should be seen as a matter to be handled consistently with the requirements of a centralized system."[34]

[34] Print E6000, p. 36; (1981) 254 C.A.R. 341 at 376

In view of the undertaking in the Accord that the no extra claims provision will apply to award and overaward payments, it would seem that intervention by the Commission to make recommendations to alter overaward pay in the settlement of individual disputes should not be necessary in any case and we will not provide for it.

On the second issue, the ACTU argued that the adjustments of overawards in line with national wage was consonant with the no extra claims provision in the Accord being applied to both award and overaward increases. Not to allow such adjustments, the ACTU said, would create inconsistencies between paid rates awards and awards incorporating supplementary payments on the one hand, and minimum rates awards on the other. Relativities would be disturbed and real wage maintenance would not be achieved for those on minimum rates awards. The ACTU argued that the failure of the Commission during the indexation period to recommend the adjustment of overaward payments had encouraged an earnings drift and had led to arguments for discounting on account of the drift which weakened commitment to the system.

The proposition that overawards should be adjusted in line with national wage was supported by Victoria and South Australia and opposed by Tasmania, New South Wales and Queensland.

There is merit in the argument on consistency grounds. The widening of differentials in total pay between those covered by paid rates awards and those under minimum rates awards would create tensions and make the no extra claims undertaking on overaward pay difficult to sustain.

We note what the Commission said in its 1978 review of the Indexation Principles:

> "... by their very nature, overaward payments have been made for a variety of reasons. They have also been increased from time to time, frequently for reasons unknown to the Commission. They vary substantially as to amount and take a variety of forms. As stated by the Commission in September 1975 it would not in our opinion be appropriate to make any global order or recommendation about them. However, we acknowledge that particularly where they are expressed as fixed sums of money they must lose their real value if they are not adjusted and that the total wages payable under minimum rates awards could in many instances fall behind those prescribed by paid rates awards for similar work. These circumstances have led to industrial discontent."[35]

In the circumstances of the Accord we think it would be appropriate for the Commission, after hearing the parties to an award and being satisfied that a proper case has been made out, to recommend the indexation of overaward payments are indexed. We will provide accordingly.

In connection with overaward pay, we refer also to the special submission of the employers in the paint industry to the effect that if we proposed to grant an increase the paint industry should be excluded. This was based on three grounds, first that wage increases have considerably exceeded the metal industry standard, second that there had been no wages pause in the industry, and third that the economic circumstances of the industry are at least as bad as they were in December last. If we rejected this primary submission we should "encourage" the absorption of any increase into overawards. The fact on which these employers rely is that there are significant overawards in this industry which had been agreed to, although, it was submitted, under duress.

If we were to accede to the request it would be open to all employers who were paying overawards to seek to have national wage increases not applied to them. In our view this would introduce a new principle which would be destructive of the concept of national wage cases and we decline to do what the paint industry asks.

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[35] Print D8400, p. 37; (1978) 211 C.A.R. 268 at 304

Current Awards with Built-in Indexation

Special submissions were put to us on behalf of Local Government in Western Australia and South Australia. We were told that, because of the desire of Local Government authorities to predict ahead accurately, three monthly indexation had been built in to the Municipal Officers (South Australia) Salaries Award and the Professional Engineers (Local Governing Authorities South Australia) Salaries and Special Contractors Award. Similar indexation provisions had gone into four Western Australian Local Government awards, the Local Government Officers (Western Australia) Award and the special awards for the Cities of Perth, Canning and Stirling. We were asked to exclude these awards from any order we might make in this case. Given the special history and provisions of these awards, we do not propose that these and awards with similar provisions should be varied automatically as a result of this decision. What should happen to them can be decided by a member of the Commission after hearing argument from all interested parties.

National Wage Adjustment

In the light of the above considerations we have decided on the following, which will be *Principle 1 - National Wage Adjustment:*

(a) Subject to Principle 3, the Commission will adjust its award wages and salaries every six months in relation to the last two quarterly movements of the eight-capitals CPI unless it is persuaded to the contrary by those seeking to oppose the adjustment.

(b) For this purpose the Commission will sit in February and August following the publication of the CPI for the December and June quarters respectively.

(c) The form of indexation will be uniform percentage adjustment unless the Commission decides otherwise in the light of exceptional circumstances. It is to be understood that any compression of relativities which may have occurred in recent times does not provide grounds for special wage increases to correct the compression.

(d) It would be appropriate for the Commission, after hearing the parties to an award and being satisfied that a proper case has been made out, to recommend the indexation of overaward payments when award payments are indexed.

National Productivity

We referred above to the consensus on national productivity achieved at the President's Conference, namely that:

- the distribution of gains in national productivity should be considered in national wage cases
- there should be no double counting in respect of productivity
- the method of distributing national productivity may take forms other than wage increases.

The ACTU said that if a system based on cost of living adjustments in line with the claim existed "then the ACTU does not envisage a productivity hearing for some time; the exact time will depend on the timing and strength of any economic upturn". Its immediate priority is to maintain rather than to increase living standards. However, it submitted that a provision should be made now for such adjustment within the system.

The Federal Government submitted in similar terms. New South Wales, Victoria and South Australia also supported productivity hearings.

Consistent with its argument for annual adjustment based on economic capacity at which productivity, prices and other factors relevant to capacity should be considered, the CAI does not seek a separate principle to provide for national productivity adjustments.

In view of our decision on CPI adjustments, we provide a separate Principle for national productivity adjustments. We do so on the clear understanding that there will be no productivity adjustment until the economy has recovered substantially and can sustain an increase in national wage beyond CPI adjustment.

As we mention later, we have fixed a two-year term for the Principles. Because of the general economic outlook for a slow recovery we believe that realistically there can at best be only one productivity inquiry during this term. We propose that any application for a productivity based national wage increase should not be heard before 1985. This is consistent with the ACTU's submission that it did not see that there would be a "role for productivity in the foreseeable future".

The question of how productivity should be measured for purposes of national wage adjustment is in issue between the ACTU and the CAI. The latter made submissions against the concept of productivity related to the market sector favoured by the ACTU. However, we have decided that the question of measurement together with the matter of double counting of productivity should be debated fully when an application for productivity distribution is under consideration. The matter will then be for the Bench concerned to decide.

Productivity will be determined in accordance with *Principle 2—National Productivity* as follows:

> Upon application and not before 1985, the Commission will consider whether an increase in wages and salaries or changes in conditions of employment should be awarded on account of productivity.

Other Claims

As we stress repeatedly, improvements in pay and conditions beyond those provided by Principles 1 and 2 must be limited and strictly controlled in accordance with the Principles we set down below. To emphasize the importance we attach to this requirement we formulate the following *Principle 3—Other Claims:*

> Any claims for improvements in pay and conditions other than those provided by Principles 1 and 2 must be processed in accordance with Principles 4 to 11 below. No application for a national wage adjustment to an award will be approved by the Commission unless all the unions concerned in the award give an undertaking that for the duration of these Principles they will not pursue any extra claims, award or overaward, except in compliance with the Principles.

Where an award has not been varied to provide for an increase pursuant to Principle 1 because the unions have not given the undertaking required by Principle 3, the terms of the Principles relating to other award changes will nevertheless apply to the said award.

Work Value Changes

As noted earlier, it was generally recognized at the President's Conference that a role exists within a centralized system for a limited and genuine provision covering changes in "work value". The ACTU submitted a provision to allow work value changes to be reflected in awards. This provision, it said,

> "... on the basis of past history, must be tightly worded so as to ensure that genuine cases are dealt with and appropriately provided for without leading to flow-on or to undermining of the intent of the no extra claims provision or the intent of the centralized system."

The Federal Government submitted that:

> "The impact of continuously changing methods and technology has ramifications upon work value, and a centralized system needs provisions to accommodate such

effects if the central tenets of that system are to be upheld. However, in the context of a centralized system, where work value changes impact generally on the work force, they should be dealt with in national productivity cases."

We agree with this submission and we will write it into the Principle.

The Principle dealing with work value changes applying before the abandonment of indexation in July 1981 was as follows:

"*3. Changes in Work Value*

Changes in work value arising from changes in the nature of the work, skill and responsibility required, or the conditions under which the work is performed. Except for an award which has not been subject to averaging or across-the-board increases since 30 April 1975 it is not permissible under this Principle to alter the rates of all classifications or the substantial proportion of classifications or employees covered by an award unless the Anomalies Conference has found that there is a special and extraordinary problem.

(a) Prima facie the time from which work value changes should be measured is the last movement in the award rates concerned apart from National Wage and Indexation. That prima facie position can only be rebutted if a party demonstrates special circumstances and even then changes can go back only to 1 January 1970.

(b) Changes in work by themselves may not lead to changes in the value of work. The change should constitute a significant net addition to work requirements to warrant a wage increase.

(c) Where a significant net addition to work value has been established in accordance with this Principle, an assessment will have to be made as to how that addition should be measured in money terms. Such assessment should normally be based on the previous work requirements, the wage previously fixed for the work and the nature and extent of the change in work. However, wherever appropriate, comparisons may also be made with other wages and work requirements within the award or to wage increases for changed work requirements in the same classification in other awards.

(d) The expression 'the conditions under which the work is performed' relates to the environment in which the work is done.

(e) Reclassification of existing jobs is to be determined in accordance with this Principle."[36]

The ACTU proposed a principle which is substantially similar to the above except that the prima facie datum point from which work value should be measured is not fixed in terms of the last movement in the award apart from national wage. Instead, the proposed prima facie position would require a party seeking the work value change "to demonstrate that the work or the alleged change in question has not been valued previously".

We foresee considerable difficulty with such a provision particularly in relation to rates which were determined by consent and without any formal work evaluation. In view of the extensive round of work value cases which commenced in 1978, we propose to restrict the datum point to the last work value adjustment affecting an award but in no case earlier than 1 January 1978. Care should be exercised to ensure that changes which were taken into account in any previous work value adjustments are not included in any future work evaluation under this Principle.

The CAI submitted a proposed principle also based on the Commission's earlier principle. However its proposal differed in the following ways:

(a) It suggested that the datum point should be the commencement of the wages pause. We think this is unduly restrictive and would lead to avoidable anomalies and inequities. As we have already indicated the datum point will be no earlier than 1 January 1978.

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[36] Print E6000, p. 46; (1981) 254 C.A.R. 341 at 386

(b) The CAI does not use the term work value, preferring "New Classification" and
a "Reclassification" instead. We favour the retention of "Work Value" as a heading because of the commonly accepted terminology but we will effectively provide only for changes in work value which warrant a new classification. This point emphasizes the basic test underlying our Principle, namely, that no change in work value should attract a new rate of pay unless the work change is
b sufficiently significant as to warrant the establishment of a new classification. We will not have a separate heading "Reclassification" because of the confusion it may cause. We see "reclassification" as a reclassification of persons into existing classifications rather than as reclassification of jobs.

(c) In valuations of work, the CAI objects to any comparisons being made outside the award under review. While we understand the danger of comparisons
c across awards, there may be occasions where no appropriate comparison can be made with previous work requirements or with classifications within the award. It should be possible in such situations for the Commission to refer to other awards in which the same changes have occurred. We will include a provision specifically calling for the Commission to guard against contrived
d classifications and over-classification of work.

The provision in the old work value principle for averaging is no longer appropriate, the work value rounds of 1978/81 having been completed. We will therefore delete it.

We should emphasize that "averaging" affecting either more than one
e classification or various aspects of work within a classification is fraught with dangers of wide flow-on. Where significant change has been identified which affects only some persons within a classification or affects all persons but for only some of the time, it should be dealt with by the payment of a special allowance when that new work is being performed. We note that the Federal Government expressed itself against any averaging and said that "increases
f ought to be limited to where they have actually occurred and to the groups that they have actually occurred within".

South Australia said there should be a procedure for dealing with genuine work value changes. However such claims should most often be limited to a specific classification and would not involve averaging. Victoria submitted that "the
g centralized system should be required to process only minimal, special and extraordinary claims, i.e. inequity, anomaly and work value adjustments". Tasmania said work value claims should be allowed for specific classifications within awards provided they did not have the potential to degenerate into a general wage round.

h The National Council of Women, the Union of Australian Women and the Women's Electoral Lobby contended that in female occupational areas the implementation of the Commission's equal pay decisions had not been accompanied by proper work value exercises. The WEL asked that there be provision for a re-evaluation of this work in any centralized system the Commission should introduce, such work value exercises to be carried out as the individual awards
j came up for variation or through an anomalies or inequities procedure. We consider that such large scale work value inquiries would clearly provide an opportunity for the development of additional tiers of wage increases, which would be inconsistent with the centralized system which we propose for the next two years and would also be inappropriate in the current state of unemployment especially
k among women. Moreover, many of the problems which the WEL has raised are a matter for management, unions and governments rather than for award provision.

In the light of the above we formulate the following *Principle 4—Work Value Changes:*

(a) Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification.

These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed in accordance with this Principle.

However rather than to create a new classification it may be more convenient in the circumstances of a particular case to fix a new rate for an existing classification or to provide for an allowance which is payable in addition to the existing rate for the classification. In such cases the same strict test must be applied.

(b) Where new work justifying a higher rate is performed only from time to time by persons covered by a particular classification or where it is performed only by some of the persons covered by the classification, such new work should be compensated by a special allowance which is payable only when the new work is performed by a particular employee and not by increasing the rate for the classification as a whole.

(c) The time from which work value changes should be measured is the last work value adjustment in the award under consideration but in no case earlier than 1 January 1978. Care should be exercised to ensure that changes which were taken into account in any previous work value adjustments are not included in any work evaluation under this Principle.

(d) Where a significant net alteration to work value has been established in accordance with this Principle, an assessment will have to be made as to how that alteration should be measured in money terms. Such assessment should normally be based on the previous work requirements, the wage previously fixed for the work and the nature and extent of the change in work. However, where appropriate, comparisons may also be made with other wages and work requirements within the award or to wage increases for changed work requirements in the same classification in other awards provided the same changes have occurred.

(e) The expression "the conditions under which the work is performed" relates to the environment in which the work is done.

(f) The Commission should guard against contrived classifications and over-classification of jobs.

(g) Where through technological or other change the impact of work value change on the work-force is widespread or general, the matter should be dealt with in national productivity cases under Principle 2.

Standard Hours

There is consensus that any claims for a reduction to 38 hours per week should be the subject of close examination using tests currently applied by the Commission. These tests are drawn from the technique of productivity bargaining under which productivity or cost offsets derived from change in work practices provide the basis for the reduction in hours.

In view of this consensus, we remove the present restriction to agreements entered into before 23 December 1982.

The Commission should continue to apply the tests to ensure that all possible cost offsets can be drawn out of changes in work practices. In rare cases, where the Commission is satisfied that work practices in a firm or industry are so efficient as to exclude any reasonable cost offsets, the 38-hour week may be awarded with little or no cost offsets.

The ACTU argued for reduction below 38 hours to be allowed by recourse to the special and extraordinary provision of the Principles. This submission was opposed by the Federal Government and Queensland.

New South Wales said that any reduction in hours below 38 should be possible only in special or extraordinary circumstances. Victoria adopted a similar view as did South Australia.

In view of the difficult economic circumstances at present and in the near future, we have decided that no reduction in hours below 38 should be approved or awarded by the Commission during the life of this package. The risk of flow-on is ever present. While full cost offsets may be available in one company, industry or region, they may not be available in others which may be subject to flow-on pressure.

Accordingly, we provide as follows for *Principle 5—Standard Hours:*

(a) In dealing with agreements and unopposed claims for a reduction in standard hours to 38 per week, the cost impact of the shorter week should be minimized. Accordingly, the Commission should satisfy itself that as much as possible of the required cost offset is achieved by changes in work practices.

Opposed claims should be rejected.

(b) Claims for reduction in standard weekly hours below 38, even with full cost offsets, should not be allowed.

(c) The Commission should not approve or award improvements in pay or other conditions on the basis of productivity bargaining. These improvements should only be allowed on the basis of the appropriate Principles.

Anomalies and Inequities

There are three aspects to be considered in this connection:

(a) The treatment of anomalies.

(b) The treatment of inequities.

(c) The procedure for dealing with anomalies and inequities.

(a) *Anomalies.* The Anomalies Principle as it applied before the abandonment of indexation in July 1981 was as follows:

> "The resolution of anomalies and special and extraordinary problems by means of the Conference already established to deal with anomalies and in accordance with the procedures laid down for them."[37]

The Anomalies Principle was introduced following conferences of the principal parties before the President of the Commission as a result of the decision in the National Wage Case of September 1975.

In that decision the Commission, in commenting on the question of anomalies which had been raised by a number of people, said:

> "We have given anxious consideration to this matter because we are conscious of the existence of anomalies. We have already pointed to the multiplicity of systems, organizations and arbitrators, the force of historical relationships and the loose

[37] Print E6000, p. 47; (1981) 254 C.A.R. 341 at 387

application of comparative wage justice. These factors combined with an elastic meaning of anomaly create substantial difficulties in evolving a concept and a procedure to deal with this matter without opening the gates wide to claims and pressures for flow-on on a scale which would destroy the concept inherent in our indexation principles, i.e. that increases apart from national productivity and indexation should be negligible."[38]

The National Wage Case decision of May 1976, which formally introduced the Anomalies Principle into the guidelines, makes clear that:

"Partly as a result of the attitudes of various parties and partly because it was found to be impracticable to categorise anomalies, the conference which commenced on 2 December dealt with individual anomalies and did not attempt to categorise them."[39]

However, in introducing the Principle formally into the guidelines in that case the Commission commented on the restrictive nature of the word "anomalies". In particular, it commented on the ACTU's agreement that special and extraordinary problems referred to in the Principle were limited and that "an inevitable test which would have to be considered would be the degree of rarity and isolation of those circumstances".[40]

In essence, the National Wage Case decision of May 1976 endorsed the basis on which the early anomalies cases were decided by Full Benches namely that "a party seeking rectification of a claimed anomaly must show compelling circumstances of a special and isolated nature requiring the rectification of the anomaly".[41]

An examination of the numerous decisions of the Commission under the anomalies procedure confirms the view expressed in the May 1976 National Wage Case that it is impractical to categorize what constituted an anomaly under the previous guidelines. Several decisions provided that:

(i) Supervisory personnel receiving less than their subordinates should receive an allowance to bring them to parity with those supervised "for the duration of the relationship"; and

(ii) agreements made prior to the introduction of the "wage indexation" system in April 1975 were acceptable provided that the agreement could be justified on its merits.

However, the overwhelming majority of situations held to be anomalies (and/or special and extraordinary problems) depended for their acceptance on the particular facts of the case in question and on the Commission being satisfied that the applications were justified on their merits.

Negatively, the cases established in particular that:

(i) Decisions which were inconsistent with the principles enunciated in the April 1975 National Wage Case decision would not be followed.

(ii) The doctrines of comparative wage justice and maintenance of relativities could not be relied on to establish an anomaly because "there is nothing rare or special in such situations" and because resorting to these concepts would "destroy the overriding concept" of the principle.

The history of the provision which we have outlined sets out the background of the submissions made in this case concerning anomalies. We should note that we use the term "anomalies" to cover the earlier concept of "anomalies and special and extraordinary problems" to avoid confusion with the use of the term "special and extraordinary problems" used in another sense by the ACTU to include work value and community catch-up as well as anomalies and inequities.

Although all parties agreed that an anomalies provision was required on this occasion, no party suggested that we should attempt to be exhaustive in defining the coverage of the Principle and we do not propose to do so.

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[38] Print C2700 p.7; (1975) 171 C.A.R. 79 at 85
[39] Print C5500, p.14; (1976) 177 C.A.R. 335 at 348
[40] Print C5500, p.14; (1976) 177 C.A.R. 335 at 348
[41] Print C6353, p.2; (1976) 176 C.A.R. 3 at 4

The ACTU submitted "There will be some public sector awards and determinations where it is arguable that the employees have not received the $39 metal industry standard but the ACTU believes that such cases would be comprehended in the proposed anomalies covering this area . . ." and that the Commission should identify as an anomaly the "special problem involved where paid rates awards have fallen behind the established relationship with rates paid in the market". In making this latter submission, the ACTU relied on the GMH/Ford decision of 31 July 1981[42] where the Commission decided that the two awards in question had a special history, that they were true paid rates awards and that increases could be awarded ". . . to restore to the rates under the awards the relationship which they had when established vis-a-vis rates actually paid for similar work in industries located near the establishments of these two companies". The ACTU also referred to the fact that the National Wage Case decision of May 1982 did not preclude the conduct of such cases. The ACTU indicated that this special problem remained within the Australian Government and some State Public Service areas in particular, and that its rectification would be consistent with the Accord and the Summit Communique.

We deal with metal industry catch-up and the adjustment of paid rates awards later in this decision but would indicate here that we are prepared to allow the metal industry standard claims to be processed through the Anomalies Conference.

As for the adjustment of paid rates in both the public and private sectors to establish an equitable base we point out elsewhere the practical difficulties associated with market surveys and the grave potential risk of general flow-on from such adjustments. It should be understood that the application of the Anomalies Principle calls for a broader meaning of "flow-on" than is normally given to this term. Normally, flow-on refers to the consequential demands generated by the granting of a particular claim. In connection with the Anomalies Principle it also means that the particular case is not sufficiently rare and isolated, and that the frequency with which the Principle would be invoked to deal with such cases would effectively make it a vehicle for a general increase in wages.

In the section on paid rates awards below, we deal with the question of future adjustments in a paid rates award which has fallen behind the market.

The ACTU also submitted that claims for standard hours below 38 should be processed through the Anomalies Conference. We have discussed this submission earlier under Principle 5 where we decided that for the duration of this package no reduction in hours below 38 should be approved.

The Council of Professional Associations and The State Public Services Federation sought rectification of anomalies where employees of different callings had a "functional relationship" such as the boss/subordinate situation. Decisions under the previous Anomalies Principle recognized the boss/subordinate relationship and we do not consider it desirable for the Commission to go beyond those decisions.

The Council of Professional Associations and Victoria contended that agreements made during the period following the abandonment of indexation should be examined and ratified by the Commission. The Commission should in our view be prepared under this Principle, to ratify agreements made prior to the date of this decision if the agreement is consistent with the Principles which existed at the time the agreement was made. It should be clear that the period of the wage pause was covered by the guidelines laid down in the decision of 23 December 1982.

The State Public Services Federation also asked for a provision to deal with situations where the Commission has previously expressly recognized a direct

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[42] Print E7273; (1981) 260 C.A.R. 3

relationship between employees in different callings, occupations or vocations and to allow adjustment when that relationship has been disturbed without good reason.

To allow such a provision would open the door to a wide range of relativity adjustments which would be inconsistent with the earlier decisions of the Commission that comparative wage justice and maintenance of relativities cannot be recognized if the requirement that increases outside national wage cases should be negligible is to be met. We therefore refuse to make such a provision.

CAI asked us to include the wording previously adopted by the Commission but to make it clear that anomalies must not be vehicles for general increases in wages and conditions. In particular, CAI submitted that an anomaly should not be identified with respect to comparative wage justice considerations, or by reference to decisions and/or agreements which depart from this Commission's Principles.

Taking into account the CAI's submission and the Commission's experience on anomalies matters, we have decided to formulate *Principle 6 (a)—Anomalies* as follows:

(i) In the resolution of anomalies, the overriding concept is that the Commission must be satisfied that any claim under this Principle will not be a vehicle for general improvements in pay and conditions and that the circumstances warranting the improvement are of a special and isolated nature.

(ii) Decisions which are inconsistent with the Principles of the Commission applicable at the relevant time should not be followed.

(iii) The doctrines of comparative wage justice and maintenance of relativities should not be relied upon to establish an anomaly because there is nothing rare or special in such situations and because resort to these concepts would destroy the overriding concept of this Principle.

(iv) The only exceptions to (iii) are that catch-up for the metal industry standard and adjustment of paid rates awards to establish an equitable base may be processed as anomalies. All such claims should be lodged by 31 December 1983.

(b) *Inequities.* The Inequities Principle applying in July 1981 was as follows:

"Inequities

(a) The resolution of inequities existing where employees performing similar work are paid dissimilar rates of pay without good reason. Such inequities shall be processed through the Anomalies Conference and not otherwise, and shall be subject to all the following conditions:

(i) The work in issue is similar to the other class or classes of work by reference to the nature of the work, the level of skill and responsibility involved and the conditions under which the work is performed.

(ii) The classes of work being compared are truly like with like as to all relevant matters and there is no good reason for dissimilar rates of pay.

(iii) In addition to similarity of work, there exists some other significant factor which makes the situation inequitable. An historical or geographical nexus between the similar classes of work may not of itself be such a factor.

(iv) The rate of pay fixed for the class or classes of work being compared with the work in issue is a reasonable and proper rate of pay for the work and is not vitiated by any reason such as an increase obtained for reasons inconsistent with these guidelines as a whole.

(v) Rates of pay in minimum rates awards are not to be compared with those in paid rates awards.

(b) In dealing with inequities, the following overriding considerations shall apply:

(i) The pay increase sought must be justified on the merits.

(ii) There must be no likelihood of flow-on.

(iii) The economic cost must be negligible.

(iv) The increase must be a once-only matter.

(c) The requirements of (a) and (b) above shall be observed in the Anomalies Conference and by a Full Bench to which an inequities application might be referred. The peak union councils must initiate these claims and, in particular, assist in the resolution of issues as to possible flow-on."[43]

This Principle arose from submissions made in the September 1978 review of the Principles when the ACTU and other peak councils sought greater flexibility in the application of the Anomalies Principle. The Commission adopted almost entirely the terms of a principle proposed by New South Wales which became the above Inequities Principle. This provided for a limited form of comparative wage justice but the Commission warned against "any suggestion that the proposal signalled the re-establishment of the doctrine of comparative wage justice without fetter . . ."[44]

The inequities provision had only limited application under the previous centralized system consistent with the intention of the National Wage Bench which inserted the Principle.

The ACTU submitted that the Inequities Principle should be continued but also submitted that the present provision which states that "an historical or geographical nexus between similar classes of work may not of itself be such a factor", should be altered to provide that "an historical or geographical nexus between similar classes of work may constitute a significant factor".

The CAI expressed its concern that an inequities principle could become the vehicle for general increases and, in particular, it contended that, to prevent this occurring, when work is being compared, broadly similar designations of classifications and/or approximations should not be accepted.

We are not prepared to vary the inequities provision in the way claimed by the ACTU because we are not prepared to relax its operation, and the Principle as it stands is consistent with it being only a limited exception to a no further claims provision.

Indeed we go further. Although we do not vary the existing words we would emphasize that it is necessary for the Inequities Principle in common with the Anomalies Principle to be strictly applied so as to ensure that it does not become a vehicle for general increases in wages or conditions and to discourage "any suggestion that the proposal signalled the re-establishment of the doctrine of comparative wage justice without fetter". Thus, in our view, the term "class or classes of work" in the Principle should not be interpreted as allowing comparisons between employees who are not in the same occupation or profession. Groups of employees in different occupations or professions should not be compared with each other. For instance, it may be valid to compare one identifiable professional group, e.g. professional engineers with another group of the same profession but it would not be valid to compare a range of jobs loosely described with the same name, e.g. clerical with another group of the same name unless the Commission is satisfied that the work is the same. In summary, it will be necessary to ensure that only those employees whose work is properly comparable in a strict sense receive increases as a result of the inequities procedure and this only if the other conditions are met.

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[43] Print E6000, p. 47; (1981) 254 C.A.R. 341 at 387 [44] Print D8400, p. 31; (1978) 211 C.A.R. 268 at 298

In view of the narrower interpretation of "classes of work" we give to the Principle, cases which have previously been approved will not necessarily satisfy the Principle in the future.

With minor changes, the words in the new *Principle 6(b)—Inequities,* will be the same as those in the Inequities Principle applying in July 1981.

(c) *Procedure for dealing with Anomalies and Inequities.* On 11 December 1975 the following statement issued by the President on behalf of the Full Bench set out the procedure which had been evolved at conferences:

> "A procedure has been evolved whereby the peak trade union Councils namely, ACTU, CAGEO, ACSPA and CPA bring to the Conference specific anomalies which they seek to have rectified. There is then a discussion with the employers concerned and other interested parties at the Conference are permitted to make observations. The broad principles of processing the anomalies which are raised are:
>
> (1) If there is complete agreement as to the existence of an anomaly and its resolution and I am of opinion that it is a genuine anomaly I will make the appropriate order to rectify the anomaly.
>
> (2) If there is the situation where there is agreement as to the existence of an anomaly but not as to its solution the matter will go to a full bench of the Commission to be dealt with.
>
> (3) If there is no agreement at all one of two situations can arise. Either I will hold that there is no anomaly falling within the concept of this Conference which would mean an end of the matter as far as these Conferences are concerned or on the other hand I could hold that there was an arguable case which would then go to a full bench of the Commission for consideration.
>
> This procedure can be departed from by agreement and with my approval and in the case of matters in the Australian Public Service they may have to be dealt with somewhat differently in order to comply with the provisions of the Public Service Arbitration Act."[45]

In submissions to us, it was agreed by the parties that the second part of the procedure announced by the President had never been applied. We have therefore not included it in these Principles. There was, however, no agreement on the amendment suggested by the ACTU which sought to provide:

> "If there is agreement between the direct Employers, the Union and other Parties no single party should have the power to veto. Although we accept that there may be a limited application of this provision, we believe that the President should have the power to determine an anomaly in these circumstances."

Having regard to the Commission's previous experience we reject this part of the ACTU's submission and we have determined that there should be no other changes to the procedure save for those changes which are necessary to give effect to the amalgamation of the ACTU, CAGEO and ACSPA.

Accordingly, there will be *Principle 6 (c)—Procedure* as follows:

(i) An anomaly or inequity which is sought to be rectified must be brought to the Anomalies Conference by the peak union councils, namely, the ACTU and the CPA, or by any union not affiliated with those bodies.

(ii) The matter is first discussed with the employers and other interested parties at the Conference.

(iii) The broad principles for processing the anomaly or inequity raised are:

(1) If there is complete agreement as to the existence of an anomaly or inequity and its resolution, and the President is of the opinion that

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[45] Print C5500, p. 14; (1976) 177 C.A.R. 335 at 348

there is a genuine anomaly or inequity, the President will make the appropriate order to rectify it.

(2) If there is no agreement at all, one of two situations can arise. Either the President will hold that there is no anomaly or inequity falling within the concept of the Conference which would mean an end of the matter as far as the Conference is concerned or on the other hand the President could hold that there was an arguable case which would then go to a Full Bench of the Commission for consideration.

(3) This procedure can be departed from by agreement and with the President's approval.

(4) In the case of matters in the Australian Public Service they may have to be dealt with somewhat differently in order to comply with the provisions of the Public Service Arbitration Act.

Catch-up

The ACTU sought two types of catch-up:

(1) Based on the CPI movements of the June, September and December quarters of 1982 amounting to 9.1%.

(2) Based on the metal industry standard of $39 per week at the tradesman level referred to as the "community catch-up".

The adjustment of paid rates to establish an equitable base has also been characterized as a catch-up but we deal with this issue later in the section on paid rates awards.

The first catch-up is contained in the unions' claims (item 4) to which we referred in the early part of this decision which says that the claim is "to be pursued over a period consistent with economic progress".

Although the ACTU did not make any submissions on this part of the claim and did not ask us to grant any part of it now, the CAI argued that the Commission should dismiss it. Otherwise, the CAI said, it would be used "to create expectations and to fuel fires of deprivation".

We do not wish to generate unrealistic expectations. In the light of the Principles we have formulated, there is no scope in any future national wage increases beyond CPI movements and productivity. As we said earlier, we see the pursuit of this part of the claim as inconsistent with the whole concept underlying the new centralized system.

The metal industry community catch-up claim is related to the ACTU's submission for a "firm and equitable base of relativities from which an effective system based on cost of living adjustments can operate".

The Federal Government and Victoria urged the bench to allow catch-up for the metal round to all workers. South Australia submitted that an equitable base for the introduction of a new system would be the relative wage position as at the end of indexation in 1981 plus an appropriate comparative wage adjustment related to the metal industry standard: provision for this form of catch-up should be made in any new guidelines adopted by the Commission in establishing a centralized system.

The metal industry standard has spread to a larger section of the work force since the ACTU's claim that it should be declared a community standard was rejected by the Commission in May 1982. The translation of this standard to awards with no trades classifications has caused difficulties in some cases and has varied substantially between awards. The position is not comparable to the $24 catch-up of 1975 or the work value round of 1978/81. To concede the ACTU's claim could open up a whole host of claims for catch-up and top-up from those for whom the metal industry flow has already been resolved.

To meet the requirement of a firm and equitable base but to guard against raising false expectations and a flood of applications, we will allow metal industry standard cases to be processed through the Anomalies Conference. Such claims will be dealt with in accordance with the provision contained in the Commission's decision of 23 December 1982, as to awards which have not been varied at all since the abandonment of indexation or which have moved by less than the metal industry standard, namely:

> "... prima facie no further increase should be awarded if a first instalment and mid-term adjustment have been made consistent with the National Wage decision of 14 May 1982 [Print E9700]. That decision contemplated that adjustments less than the metal industry standard might be appropriate. Further, where the first increase is less than the first instalment of the metal industry standard, it does not necessarily mean that the mid-term adjustment should be correspondingly more."[46]

We note that the ACTU said that only a limited number of persons would be affected by this catch-up provision. We would expect the peak union councils to cull applications rigorously to ensure that the Anomalies Conference is not overloaded with weak claims. To expedite the resolution of community catch-up claims, all such claims should be lodged no later than 31 December 1983.

Paid Rates Awards

Many paid rates awards result from the compounding of minimum rates and overaward payments. In the making of such awards there is an express understanding that the union will not pursue overaward payments and the employer will not offer such payments. There are also paid rates awards which are effectively both minimum and maximum but which as a matter of history have not been associated with the payment of overaward amounts because the employers' policy is not to make such payments.

Two issues arise in connection with paid rates awards—the making of paid rates awards and the adjustment of such awards.

Dealing with the first, the President's Conference showed that there was general agreement that extreme care needs to be exercised in the making of paid rates awards if they involve the conversion of minimum rates to actual rates.

In its 1978 review of the Indexation Principles the Commission said in this connection:

> "It goes without saying that any attempt to convert a minimum rates award into a paid rates award would result in general increases in total rates unless absorption of overaward wages was accepted by the parties. Further difficulties could arise as regards an award covering a large number of respondents particularly where there was a wide range of overaward payments. In such a case it would be extremely difficult to make a paid rates award without causing wage increases, a practice which would be contrary to the Commission's principles. These problems would be far greater if the award was being made by arbitration.
>
> It is our view that except in special circumstances, for example, in some cases of first awards, paid rates awards should not be made except by consent of all parties. Notwithstanding consent, the Commission should be satisfied that a paid rates award is practicable and such awards should only be made where there are either no increases in the wages actually paid to the employees concerned or, if there are increases they are of negligible economic cost to the industry concerned. In all other respects paid rates awards should be subject to the same principles of wage fixation as minimum rates awards."[47]

The advantage to wage earners of paid rates awards in a system based on indexation is that their total wage rates are indexed. In the circumstances of the present package, the need for new paid rates awards is greatly reduced since

[46] Print F1600, p.9; (1982) 287 C.A.R. 105 at 113 [47] Print D8400, p.36; (1978) 211 C.A.R. 258 at 303

overaward payments are subject to no extra claims and there is provision for
a national wage adjustments to be applied to overaward amounts. The making of paid rates awards, particularly awards which cover many employers paying substantially different award amounts, exposes the system to unnecessary hazard. It would be wise for the duration of the new Principles to minimize any strain on the system. Accordingly, even though the CAI did not oppose the making of paid
b rates awards, we are of the view that the Commission should refrain from converting minimum rates awards in whole or in part into paid rates awards during the currency of the new Principles. This restriction will not apply to first awards of the Commission which are in the nature of paid rates awards provided the conditions for the making of first awards are complied with.

We would further encourage the conversion into a minimum rates award of a
c paid rates award which failed to maintain itself as a true paid rates award. The conversion of a lapsed paid rates award back into a minimum rates award would of course involve valuation of the classifications in it by comparison with similar classifications in other minimum rates awards.

Turning to the adjustment of paid rates awards, two points have been raised.
d One concerns the establishment now of a firm and equitable base on which national wage adjustments will henceforth apply. The other is a matter for the future—to ensure that paid rates awards are kept in line with the market.

Dealing with the second point first, it is clear that if the Principles are adhered to and in particular if the no extra claims provision in regard to award and overaward increases is honoured, there should be no need for any future adjustment in paid
e rates awards. However, the ACTU has asked that if in time it appears that a paid rates award has fallen behind the market for equivalent classifications, the Commission should allow an adjustment to the award to bring it into line with the market to protect "those who have operated within the system". It seems to us that if such a claim were to be made in the future, it would mean that the Principles had
f broken down. The proper course in the circumstances would be to review the future of the whole system rather than adjust the paid rates award.

On the first point, the establishment now of a firm and equitable base to existing paid rates awards which have fallen behind the market, we have provided for the metal trades catch-up to be processed as an anomaly and this should ensure that an equitable base would be established generally. The ACTU has asked for a
g provision going beyond this catch-up and has suggested the following principle to be processed as an anomaly:

> "Paid rates—paid rates awards that have previously been adjusted on the basis of market rate comparisons may warrant an anomaly adjustment to establish an equitable base. In determining such an anomaly:
>
> h 1. It must be demonstrated that there is a disparity with actual rates paid to comparable employees and there is justification to re-establish a relationship with those rates.
>
> 2. There must be a comparison of actual rates paid and not increases received.
>
> 3. Each case must be judged and determined on its own merits and there shall be no flow-on of increases granted under this provision.
>
> i In putting this forward, we would wish to emphasize that the tests being applied would require the applicants to demonstrate that:
>
> (a) The paid rates awards in question have been adjusted on the basis of market rate comparisons in the past. It would not be accepted that a new basis of wage fixation could be established.
>
> k (b) An anomaly exists by way of comparison with actual rates. Increases in comparable rates are not by themselves justification for any increases.
>
> (c) There is no flow-on."

While on its face such a principle may seem to be unexceptionable, we are concerned about its practical implications for two reasons. First, we have misgivings about the representativeness of market surveys as a basis of adjustment. There is a danger that in trying to establish an equitable base for the paid rates award under consideration, a series of inequitable bases may result elsewhere, opening up the prospects of leapfrogging despite the provision in the ACTU's proposed principle that there should be no flow-on. Notwithstanding wage movements during the wage indexation period from 1975 to 1981 and the general round of wage increases since that time, it must be recognized that the words of the Full Bench in the Potato Marketing Board Case[48] still apply, namely, "The relevant background against which the indexation principle was introduced contained an irregular pattern which no system of wage fixation could entirely reconcile".

Recognition of market surveys for certain paid rates awards would be one method of changing the irregular pattern of wage rates to establish what the ACTU contends is an equitable base but it may lead to the parties demanding, and the Commission granting, on equity grounds, an extension of the concept to other comparative wage justice or maintenance of relativity exercises for the same reason. In the result it is difficult to see how the Commission, in this case, could be assured that increases in wage rates outside National Wage Cases would be negligible.

Our second concern, which is in part related to the first, arises from the interaction of wage and salary rates within the public sectors, Federal and State, and between the public and private sectors. This is a complicated area which has given rise to leapfrogging in the past but which has not to our knowledge been fully investigated. Consideration of any claim for adjustment of paid rates awards to establish a firm and equitable base should involve a detailed examination of this problem.

Thus despite all the precautions written into the principle proposed by the ACTU and despite the Summit resolution that the public sector should not be used as a pace setter, we are concerned that the opening up of the principle as sought by the ACTU could result in the breakdown of the whole system. We say this not to stop any attempt by any party to seek to establish an equitable base through the anomaly procedure but as a warning of the grave danger to the system of going beyond the metal industry catch-up in order to establish an equitable base.

We are not prepared in the circumstances to provide a principle for dealing with the adjustment of paid rates awards along the lines suggested by the ACTU. If a claim for such an adjustment is put as an anomaly, the matter would have to be processed through the Anomalies Conference in accordance with the procedure of the Conference. The concern we have expressed in connection with the adjustment of paid rates awards will no doubt be noted by the Anomalies Conference and due weight will be given to the need for careful enquiry into the issues raised before any adjustments are made.

To give the Anomalies Conference a proper perspective of the range of claims sought to be adjusted and of any interrelationship between them, all such claims should be lodged by 31 December 1983.

In the light of the above considerations we will provide the following *Principle 7—Paid Rates Awards:*

(a) Except in the case of first awards, the Commission will refrain from making any new paid rates awards. In the making of first awards the conditions as provided in Principle 10 below must be complied with.

[48] Print C6985, p. 2; (1976) 176 C.A.R. 16 at 17

(b) The Commission may convert into a minimum rates award a paid rates award which fails to maintain itself as a true paid rates award. The conversion of such a lapsed paid rates award into a minimum rates award will involve the valuation of the classifications in it by comparison with similar classifications in other minimum rates awards excluding supplementary payments.

(c) Claims for the adjustment of existing paid rates awards to establish an equitable base should be processed as anomalies through the Anomalies Conference as provided in Principle 6. All such claims should be lodged by 31 December 1983.

Supplementary Payments

This is another area into which overaward payments intrude for consideration by the Commission. A supplementary payment is an overaward element which is incorporated into an award and becomes for practical purposes an integral part of the award. It is maintained as a separate item in the award merely to identify it as an ex-overaward element.

The ACTU regards supplementary payments as a means to increase the relevance of the award rate and to minimize the dichotomy between minimum rates and paid rates awards. Effectively, it is seen as a step towards a paid rates award and it seeks provision in the Principles for the introduction of supplementary payments. However in doing so the ACTU recognizes that normally there should be consent to supplementary payments and that certain strict criteria should apply:

1. There is a need for surveys.
2. There must be a complete and total commitment on the need for absorption.
3. With the exception of those awards where there has been prior agreement to the insertion of supplementary payments they could be referred to a National Wage Bench.
4. Actual wage increases would need to be consistent with the needs of a centralized system.

The proper procedure adopted for establishing supplementary payments is to do a survey of overaward pay of the respondents covered by the award and to establish a figure for a supplementary payment which would allow it to absorb overaward pay and not add to the actual wage rates payable by any respondent employer. The determination of supplementary payments in the Metal Industry Award, for example, involved an extensive and rigorous survey because of the wide differences in the size of overaward pay in an industry with a very large number of employers. In approving the introduction of the scheme a Full Bench of the Commission required the parties to satisfy it that absorption would in fact occur and that the overall cost impact would be negligible.

It should be clear that the purpose of determining supplementary payments as conceived in the past was not to increase actual wage rates. The move towards supplementary payments occurred during the indexation regime when paid rates awards were being fully adjusted for national wage increases whilst overaward payments were not so adjusted. Supplementary payments, being part of the award, enabled the growing gap arising between those on paid rates awards and those on minimum rates awards to be narrowed. The determination of supplementary payments like the establishment of a paid rates award has always been by agreement between the parties.

Although the CAI does not oppose the insertion of supplementary payments into awards, it calls for the provision of a number of strict criteria for such purpose - the parties must agree to the insertion, the insertion must not involve wage increases to employees under the award and there must be a complete and total commitment on the absorption of overaward payments into the supplementary payments increase. While we regard these conditions as appropriate in order to prevent supplementary payments becoming a vehicle for wage increases, we consider that in the result few if any claims for supplementary payment would succeed under them. Nevertheless, in the current economic climate we should avoid raising expectations which may not be realized. Moreover, our decision to allow recommendations for national wage adjustment of overaward pay makes the inclusion of new supplementary payments in awards of no substantial benefit to the employee.

We have decided that any claims for new supplementary payments should be refused during the term of these Principles and we will, therefore, not provide for such a scheme. We also consider that existing supplementary payments should not be increased except for national wage adjustments.

We provide *Principle 8* to deal with Supplementary Payments as follows:

(a) The Commission will refuse claims for new supplementary payments.

(b) Existing supplementary payments should not be increased except for national wage adjustments.

Allowances, First Awards and Extensions of Existing Awards

On the submissions to us, it is clear that the Principles applying in the last indexation package worked satisfactorily and no party asked us to change them. Accordingly we will adopt them with minor verbal changes for clarification. It should be noted that building and construction site allowances will continue to be determined in accordance with the decision of the Full Bench of 25 February 1983.[49]

Principle 9—Allowances

Allowances and service increments may be adjusted or awarded only in accordance with this Principle.

(a) *Existing allowances*

(i) Existing allowances which constitute a reimbursement of expenses incurred may be adjusted from time to time where appropriate to reflect the relevant change in the level of such expenses.

(ii) Existing allowances which relate to work or conditions which have not changed may be adjusted from time to time to reflect the movements in wage rates as a result of national wage adjustments.

(iii) Existing allowances for which an increase is claimed because of changes in the work or conditions will be determined in accordance with the relevant provisions of Principle 4.

(b) *New allowances*

(i) New allowances will not be created to compensate for disabilities or aspects of the work which are comprehended in the wage rate of the classification concerned.

(ii) New allowances to compensate for the reimbursement of expenses incurred may be awarded where appropriate having regard to such expenses.

[49] Print F1957; (1983) 288 C.A.R. 273

(iii) New allowances to compensate for changes in the work or conditions will be determined in accordance with the relevant provisions of Principle 4.

(iv) New allowances to compensate for new work or conditions will be determined in accordance with the relevant provisions of Principle 10(b).

(v) No other new allowances may be awarded.

(c) *Service increments*

(i) Existing service increments may be adjusted in the manner prescribed in (a)(ii) of this Principle.

(ii) New service increments may only be allowed to compensate for changes in the work or conditions and will be determined in accordance with the relevant provisions of Principle 4.

Principle 10 - First Awards and Extensions of Existing Awards

(a) In the making of a first award, the long established principles shall apply i.e. prima facie the main consideration is the existing rates and conditions (General Clerks Northern Territory Award).[50]

(b) In the extension of an existing award to new work or to award-free work the rates applicable to such work will be assessed by reference to the value of work already covered by the award.

(c) In awards regulating the employment of workers previously covered by a State award or determination, existing rates and conditions prima facie will be the proper award rates and conditions.

Conditions of Employment

To ensure that not only pay and hours are covered by the Principles, we propose to make it explicit that conditions generally will be subject to the restraints of the system. Accordingly, we formulate *Principle 11—Conditions of Employment,* as follows:

> Applications for changes in conditions other than those provided elsewhere in the Principles must be considered in the light of their cost implications both directly and through flow-ons. Where such cost increases are not negligible, we would expect the relevant employers to make application for the claims to be heard by a Full Bench.

COMMENCEMENT OF THE NEW SYSTEM

The date on which the new centralized system should come into operation was a matter of contention before us. The issue centres on the state of the economy and whether the pause begun in December 1982 should be extended. The unions supported by the Federal Government, Victoria, South Australia and Western Australia wish the system to commence immediately with a national wage adjustment related to the combined CPI increases for the March and June 1983 quarters amounting to 4.3%.

The CAI argued that the pause should be continued at least to the end of 1983 and that the claim for the 4.3% increase in national wage should be rejected. The Commission, it said, should now announce the principles of the new system and the date of their operation should be determined following a review of the Australian economy in February 1984. The CAI justified this delay on economic grounds, saying that a further increase in labour costs now would put at risk a genuine recovery; and that if the wages pause were extended to the end of the year, "the Australian economy could be placed on a very firm footing upon which a much more substantial recovery could be built".

Before deciding this issue we turn to examine the economy.

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[50] Print B701, p. 18; (1965) 111 C.A.R. 899 at 916

The Economy

As in the case which led to the pause, there was little disagreement on the state of the economy. The ACTU described the economy as being "in a very dismal state". The CAI said that there is no indicator of economic activity which is not in a worse position than it was twelve months ago. The Federal Government submitted that the realities identified at the Summit had not changed—the economy was in deep recession and the process of recovery would necessarily be slow. The unemployment rate has risen since December 1982; the overall profitability of business remains low and interest rates remain relatively high. Our inflation rate is still seriously out of line with those of our trading partners. But there are signs of improvement in the economy.

- The drought has broken. It is estimated that the pre-drought value of rural output will be restored in 1983/84 and that the net value of rural production will be higher than it was in the year before the drought.
- There are clear signs of a recovery in international economic activity, particularly in the United States where a strong recovery is under way. The OECD forecasts a growth in Gross National Product for the OECD area as a whole of 2% in 1983 and 3.25% in 1984.
- The devaluation in the Australian exchange rate in March 1983, has neutralised to some extent the effect of the relatively large wage increases in Australia and significantly improved our international competitiveness. But this advantage can only be maintained if our inflation rate is brought down to that of our trading partners.
- Stocks have run down to a very low level and re-building should commence and add to demand.
- There are signs of improvements in consumer and business confidence.
- The unemployment rate after remaining steady for three consecutive months has fallen marginally. The level of employment which showed signs of beginning to rise has fallen back in August.
- As we have noted, the rate of wage increases has slowed substantially.
- Housing activity is recovering.

Both the ACTU and the CAI described the signs of recovery as "tentative" and both said the improvements must be seen in the context of an economy in deep recession. The Business Council of Australia warned that "wages policy should be established taking fully into account the deep relevance of the competitive requirements of the trade-competitive sector". The outlook according to the Federal Government is for a continuing increase in the rate of unemployment during 1983/84 despite the growth in employment, and a further substantial decline in private business fixed investment because of the high level of excess capacity. The Federal Government further points out that the slowing down in wage increases since the latter part of 1982 should lead to an easing of price increases in 1983/84 compared to 1982/83. This trend will be assisted by the introduction of Medicare early next year which is expected to reduce the CPI by about three percentage points. This factor, the Federal Government says, "will make an important contribution to . . . some restoration in business profitability". Overall, Gross Domestic Product could grow by about 3% in 1983/84 and at a substantially higher rate during the year.

Extending the Pause

The economic material before us supports the CAI's submission that in the interest of more rapid economic recovery, the pause should be extended to at least

the end of 1983 by which time the tentative signs of recovery may be confirmed.
a This view is also supported by a comparison of three projections of the Australian economy to 1985/86 based on different assumptions about wage movements prepared for the National Economic Summit Conference. Two of the projections are of special interest, one essentially embodying the wage adjustments assumed in the Accord and the other the wage movements and their timing favoured by the
b CAI. It appears that the latter projection involving an extension of the pause until April next year and a later start to indexation, could lead to a higher level of employment and rate of growth, and a lower rate of unemployment and inflation by 1986 than the alternative of embarking on full indexation immediately. However, these are projections and not forecasts or predictions of "likely" outcomes. In particular, the assumption that an extension of the pause until April
c 1984, with indexation commencing with the March 1984 quarter, is industrially tenable seems to us to be unrealistic. It is in any case in conflict with the essential elements of the Accord. Moreover, the projections do not reveal differences in results of such a substantial order as to justify taking the industrial and, ultimately, the economic risks of adopting the course assumed in the projection.

d In coming to our decision we have borne in mind the emphasis accorded by the Federal Government to medium and long term considerations. It said:

> "The Government is acutely conscious of the need to strike a careful balance between short and longer term economic and industrial relations considerations, having regard to what is realistic and at the same time equitable. It is therefore not only concerned with the short term economic difficulties which we face as a nation but with what must
e be done to ensure that a more durable approach to wage determination is established, a system that will provide the necessary stability and confidence to sustain and not frustrate economic recovery."

In response to this submission, the CAI has said that:

> "The risk of an outbreak of sectional claims in undermining national economic strategy
f in our view is not comparable with the damage that will be done should a general wage increase occur as a result of these proceedings, with the prospect of further regular adjustments every however many months that the Commission decides upon as a result of the claim for quarterly adjustments by the ACTU or six monthly adjustments by the Commonwealth."

It is of course a matter of judgment what the ultimate economic consequences of
g adopting the approach suggested by the CAI are, but it is our firm belief that to delay national wage adjustments beyond the time decided by us would not be sustainable industrially and that the immediate economic advantages perceived by the CAI could be more than offset by the damage done to the Government's economic policy.

h We have also given weight to the fact that the bulk of wage and salary earners covered by our awards have not had any pay increase since the middle of last year. By the time our decision is implemented the pause will have been extended to close to the end of the year. The table in Appendix B shows the movement in wages since the end of indexation, before and after the wage pause.

j We have also taken account of our decision that no claims for productivity based increases will be considered before 1985.

Finally, we have been greatly influenced by the Federal Government's strong plea that we should put a centralized system in place as soon as possible. The Government argued that any further delay could lead to the encouragement of sectional claims and considerable risks of leapfrogging. Such a development, the
k Government said, would place heavy pressure on its economic strategy and impair economic recovery.

In all the circumstances, we have decided that the Principles will come into operation at different times. As we have noted, Principle 2—National Productivity, will not be available before 1985. The remaining Principles will be introduced in two stages to allow a partial extension to the pause. This should give some relief to the economy while meeting the unions' claim for an immediate national wage increase and the processing of some other claims.

Date of Operation

Accordingly, we have decided that to give effect to the CPI increase of 4.3% for the March and June 1983 quarters, Principle 1 will operate as from the beginning of the first pay period to commence on or after 6 October 1983. This will give the unions sufficient time to establish their positions on the no extra claims undertaking required before awards will be adjusted for national wage.

(a) *Principles to come into operation immediately*

In addition to Principle 1, National Wage Adjustment, the following Principles will come into operation as from 6 October 1983:

Principle 3—
No extra claims and commitment.

Principle 5—
Hours of work.

Principle 6—
Anomalies and inequities. Anomalies will include the processing of applications for any metal industry catch-up and paid rates adjustments. All such claims must be lodged no later than 31 December 1983.

Principle 7—
Paid rates awards.

Principle 8—
Supplementary payments.

Principle 9(a)(i) and (ii) and (b)(v)—
Covering adjustments of existing allowances constituting reimbursement of expenses incurred and those which relate to work or conditions which have not changed and which may be adjusted for national wage movements.

Note: Building and construction site allowances will continue to be determined in accordance with the decision of the Full Bench of 25 February 1983.[51]

Principle 11—
Conditions of employment.

(b) *Principles to come into operation on 1 February 1984*

We extend the pause until 1 February 1984 in relation to claims falling under the following Principles:

Principle 4—
Changes in work value.

Principle 9(a)(iii), (b) and (c)—
Adjustment of existing allowances for which an increase is claimed because of changes in the work or conditions. New allowances and service increments.

Principle 10—
The making of first awards.

[51] Print F1957; (1983) 288 C.A.R. 273

Minimum Wage

a Insufficient material was put in this case for us to give separate attention to the Minimum Wage. Some suggestion was made that there should be a separate and special inquiry into the Minimum Wage but on the information before us we are not prepared to initiate such an inquiry. Minimum wages in awards will however be adjusted by 4.3%.

b *Duration*

The submissions on the duration of the package ranged from six months to two years. The ACTU favoured eighteen months to two years. We have decided that the Principles will apply until October 1985. The review of the Principles will take place close to their expiry date upon application for a review.

c *Application*

Except in the cases now before us Principle 1 will only be applied after applications have been lodged to vary the awards.

The rest of the Principles will apply to all matters before the Commission whether part heard or not, including reserved decisions, except matters in which a d decision has been given but the award not completely finalized. Matters involving a contest about the application of the metal industry standard which have already been referred to a Full Bench under either the Conciliation and Arbitration Act or the Public Service Arbitration Act and which are either part heard or listed for hearing may continue to be dealt with by those Benches.

e *Commitment*

More emphasis than usual was put in these proceedings on the requirement that unions should publicly and expressly commit themselves to accepting this decision of the Commission and to abiding by its terms. Both the ACTU and the Federal Government made this concept of commitment central to their f submissions and it was an integral part of the Federal Government support of the ACTU position. Without a commitment of the kind suggested we would have been reluctant to introduce the package and in particular to award an increase of 4.3%. We have therefore provided under Principle 3 that before any award is varied to give effect to this decision every union party to that award will be required to give a public and unequivocal commitment to the Principles. If such an undertaking is g not forthcoming from any of the unions covered by the award, the application to vary the award will be stood over, and the Commission will inform the appropriate peak council, namely the ACTU or the CPA, to that effect.

We will not in this decision vary any of the awards before us. Matters involving the Metal Industry Award 1971 (C No. 3071 of 1983, C No. 3087 of 1983, C No. 3088 h of 1983 and C No. 598 of 1983), the Metal Industry (Engine Drivers and Firemen's) Award 1979 (C No. 3133 of 1983), Determination No. 10 of 1929 (C No. 620 of 1983) and Determination No. 19 of 1961 (C No. 621 of 1983) will be listed before members of this Bench on 6 October 1983 in Sydney so that the necessary commitments can be given by the unions involved and upon receiving the commitments the Bench will formally vary the awards and determinations before it. All other matters before j this Bench are referred back to the Presidential member in charge of each panel to be dealt with after 6 October in accordance with this decision.

CONCLUDING OBSERVATIONS

a On a number of occasions the Commission has pointed out that it has no vested interest in any particular system of wage fixation. Its task under the Statute is to prevent and settle industrial disputes and to do so having regard to the interests of the persons immediately concerned and of society as a whole. It must be remembered in this connection that while it is useful to distinguish between industrial relations and economic considerations, in practice there is a close b connection between them—the costs of industrial disputes and industrial instability have a bearing on the economy and its capacity to advance the interests of employers, employees and the community generally.

It also needs to be remembered that in carrying out its task the Commission does not operate in a vacuum. For this reason, the system embraced by the Commission from time to time has changed with the relevant circumstances c surrounding wage fixation. It embarked on an indexation system in 1975 for industrial and economic reasons when circumstances made such an approach the most appropriate course. It abandoned the system when the requirements of the system no longer existed.

d The relevant circumstances have changed profoundly since then. For reasons discussed in detail, we have decided that in the current circumstances a return to a centralized system of the kind we have provided offers the best prospects for industrial stability and economic recovery. We have not come to this conclusion lightly. We have weighed carefully the arguments for and against such a system.

e However, there should be no doubt whatsoever that the success of the course we have embarked upon does not depend only on the Commission and other wage fixing tribunals. We agree with the ACTU that "the challenge which we confront is enormous" and that it "will certainly not be capable of being met without the necessary consensus and co-operation of all groups . . . The task ahead requires a commitment from all. No one group, unions, governments or employers can act in isolation from other groups". We have set out the requirements of the new f centralized system in some detail. These impose obligations and responsibilities on unions, employers, governments and tribunals. They must all accept commitment to these requirements for the system to work.

In the period ahead this commitment will be put to the test.

Appendix A

a

THE PRINCIPLES

In considering whether wages and salaries or conditions should be awarded or changed for any reason either by consent or arbitration, the Commission will guard against any contrived arrangement which would circumvent these Principles.

b The Principles have been formulated on the basis that the great bulk of wage and salary movements will emanate from national adjustments. These adjustments may come from two sources—CPI movements and national productivity. Increases outside national wage—whether in the form of wages, allowances or conditions, whether they occur in the public or private sector, whether they be

c award or overaward—must constitute a very small addition to overall labour costs.

The Commission will guard against any Principle other than Principles 1 and 2 being applied in such a way as to become a vehicle for a general improvement in wages or conditions.

d

1. NATIONAL WAGE ADJUSTMENTS*

(a) Subject to Principle 3, the Commission will adjust its award wages and salaries every six months in relation to the last two quarterly movements of the eight-capitals CPI unless it is persuaded to the contrary by those seeking to oppose the adjustment.

e

(b) For this purpose the Commission will sit in February and August following the publication of the CPI for the December and June quarters respectively.

(c) The form of indexation will be uniform percentage adjustment unless the Commission decides otherwise in the light of exceptional circumstances. It is

f to be understood that any compression of relativities which may have occurred in recent times does not provide grounds for special wage increases to correct the compression.

(d) It would be appropriate for the Commission, after hearing the parties to an award and being satisfied that a proper case has been made out, to recommend

g the indexation of overaward payments when award payments are indexed.

2. NATIONAL PRODUCTIVITY***

Upon application and not before 1985, the Commission will consider whether

h an increase in wages and salaries or changes in conditions of employment should be awarded on account of productivity.

3. OTHER CLAIMS*

Any claims for improvements in pay and conditions other than those provided

j by Principles 1 and 2 must be processed in accordance with Principles 4 to 11 below. No application for a national wage adjustment to an award will be approved by the Commission unless all the unions concerned in the award give an undertaking that for the duration of these Principles they will not pursue any extra claims, award or overaward, except in compliance with the Principles.

k

* To come into operation immediately
** To come into operation on 1 February 1984
*** Not available before 1985

4. WORK VALUE CHANGES**

(a) Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification.

These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed in accordance with this Principle.

However rather than to create a new classification it may be more convenient in the circumstances of a particular case to fix a new rate for an existing classification or to provide for an allowance which is payable in addition to the existing rate for the classification. In such cases the same strict test must be applied.

(b) Where new work justifying a higher rate is performed only from time to time by persons covered by a particular classification or where it is performed only by some of the persons covered by the classification, such new work should be compensated by a special allowance which is payable only when the new work is performed by a particular employee and not by increasing the rate for the classification as a whole.

(c) The time from which work value changes should be measured is the last work value adjustment in the award under consideration but in no case earlier than 1 January 1978. Care should be exercised to ensure that changes which were taken into account in any previous work value adjustments are not included in any work evaluation under this Principle.

(d) Where a significant net alteration to work value has been established in accordance with this Principle, an assessment will have to be made as to how that alteration should be measured in money terms. Such assessment should normally be based on the previous work requirements, the wage previously fixed for the work and the nature and extent of the change in work. However, where appropriate, comparisons may also be made with other wages and work requirements within the award or to wage increases for changed work requirements in the same classification in other awards provided the same changes have occurred.

(e) The expression "the conditions under which the work is performed" relates to tthe environment in which the work is done.

(f) The Commission should guard against contrived classifications and over-classification of jobs.

(g) Where through technological or other change the impact of work value change on the work force is widespread or general, the matter should be dealt with in national productivity cases under Principle 2.

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* To come into operation immediately
** To come into operation on 1 February 1984
*** Not available before 1985

5. STANDARD HOURS*

a (a) In dealing with agreements and unopposed claims for a reduction in standard hours to 38 per week, the cost impact of the shorter week should be minimized. Accordingly, the Commission should satisfy itself that as much as possible of the required cost offset is achieved by changes in work practices.

Opposed claims should be rejected.

b (b) Claims for reduction in standard weekly hours below 38, even with full cost offsets, should not be allowed.

(c) The Commission should not approve or award improvements in pay or other conditions on the basis of productivity bargaining. These improvements
c should only be allowed on the basis of the appropriate Principles.

6. ANOMALIES AND INEQUITIES*

(a) **Anomalies**

d (i) In the resolution of anomalies, the overriding concept is that the Commission must be satisfied that any claim under this Principle will not be a vehicle for general improvements in pay and conditions and that the circumstances warranting the improvement are of a special and isolated nature.

e (ii) Decisions which are inconsistent with the Principles of the Commission applicable at the relevant time should not be followed.

(iii) The doctrines of comparative wage justice and maintenance of relativities should not be relied upon to establish an anomaly because there is nothing rare or special in such situations and because resort to these concepts
f would destroy the overriding concept of this Principle.

(iv) The only exceptions to (iii) are that catch-up for the metal industry standard and adjustment of paid rates awards to establish an equitable base may be processed as anomalies. All such claims should be lodged by 31 December 1983.

g (b) **Inequities**

(i) The resolution of inequities existing where employees performing similar work are paid dissimilar rates of pay without good reason. Such inequities shall be processed through the Anomalies Conference and not otherwise, and shall be subject to all the following conditions:

h (1) The work in issue is similar to the other class or classes of work by reference to the nature of the work, the level of skill and responsibility involved and the conditions under which the work is performed.

(2) The classes of work being compared are truly like with like as to all relevant matters and there is no good reason for dissimilar rates of pay.

j (3) In addition to similarity of work, there exists some other significant factor which makes the situation inequitable. An historical or geographical nexus between the similar classes of work may not of itself be such a factor.

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k * To come into operation immediately
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(4) The rate of pay fixed for the class or classes of work being compared with the work in issue is a reasonable and proper rate of pay for the work and is not vitiated by any reason such as an increase obtained for reasons inconsistent with the Principles of the Commission applicable at the relevant time.

(5) Rates of pay in minimum rates awards are not to be compared with those in paid rates awards.

(ii) In dealing with inequities, the following overriding considerations shall apply:

(1) The pay increase sought must be justified on the merits.

(2) There must be no likelihood of flow-on.

(3) The economic cost must be negligible.

(4) The increase must be a once-only matter.

(c) **Procedure**

(i) An anomaly or inequity which is sought to be rectified must be brought to the Anomalies Conference by the peak union councils, namely, the ACTU and the CPA, or by any union not affiliated with those bodies.

(ii) The matter is first discussed with the employers and other interested parties at the Conference.

(iii) The broad principles for processing the anomaly or inequity raised are:

(1) If there is complete agreement as to the existence of an anomaly or inequity and its resolution, and the President is of the opinion that there is a genuine anomaly or inequity, the President will make the appropriate order to rectify it.

(2) If there is no agreement at all, one of two situations can arise. Either the President will hold that there is no anomaly or inequity falling within the concept of the Conference which would mean an end of the matter as far as the Conference is concerned or on the other hand the President could hold that there was an arguable case which would then go to a Full Bench of the Commission for consideration.

(3) This procedure can be departed from by agreement and with the President's approval.

(4) In the case of matters in the Australian Public Service they may have to be dealt with somewhat differently in order to comply with the provisions of the Public Service Arbitration Act.

7. PAID RATES AWARDS*

(a) Except in the case of first awards, the Commission will refrain from making any new paid rates awards. In the making of first awards the conditions as provided in Principle 10 below must be complied with.

(b) The Commission may convert into a minimum rates award a paid rates award which fails to maintain itself as a true paid rates award. The conversion of such a lapsed paid rates award into a minimum rates award will involve the valuation of the classifications in it by comparison with similar classifications in other minimum rates awards excluding supplementary payments.

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* To come into operation immediately

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*** Not available before 1985

(c) Claims for the adjustment of existing paid rates awards to establish an equitable base should be processed as anomalies through the Anomalies Conference as provided in Principle 6. All such claims should be lodged by 31 December 1983.

8. SUPPLEMENTARY PAYMENTS*

(a) The Commission will refuse claims for new supplementary payments.

(b) Existing supplementary payments should not be increased except for national wage adjustments.

9. ALLOWANCES

Allowances and service increments may be adjusted or awarded only in accordance with this Principle.

(a) **Existing Allowances**

* (i) Existing allowances which constitute a reimbursement of expenses incurred may be adjusted from time to time where appropriate to reflect the relevant change in the level of such expenses.

* (ii) Existing allowances which relate to work or conditions which have not changed may be adjusted from time to time to reflect the movements in wage rates as a result of national wage adjustments.

** (iii) Existing allowances for which an increase is claimed because of changes in the work or conditions will be determined in accordance with the relevant provisions of Principle 4.

(b) **New Allowances**

** (i) New allowances will not be created to compensate for disabilities or aspects of the work which are comprehended in the wage rate of the classification concerned.

** (ii) New allowances to compensate for the reimbursement of expenses incurred may be awarded where appropriate having regard to such expenses.

** (iii) New allowances to compensate for changes in the work or conditions will be determined in accordance with the relevant provisions of Principle 4.

** (iv) New allowances to compensate for new work or conditions will be determined in accordance with the provisions of Principle 10(b).

* (v) No other new allowances may be awarded.

(c) **Service Increments**

** (i) Existing service increments may be adjusted in the manner prescribed in (a)(ii) of this Principle.

** (ii) New service increments may only be allowed to compensate for changes in the work and/or conditions and will be determined in accordance with the relevant provisions of Principle 4.

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10. FIRST AWARDS AND EXTENSIONS OF EXISTING AWARDS**

(a) In the making of a first award, the long established principles shall apply i.e. prima facie the main consideration is the existing rates and conditions (General Clerks Northern Territory Award).[52]

(b) In the extension of an existing award to new work or to award-free work the rates applicable to such work will be assessed by reference to the value of work already covered by the award.

(c) In awards regulating the employment of workers previously covered by a State award or determination, existing rates and conditions prima facie will be the proper award rates and conditions.

11. CONDITIONS OF EMPLOYMENT*

Applications for changes in conditions other than those provided elsewhere in the Principles must be considered in the light of their cost implications both directly and through flow-ons. Where such cost increases are not negligible, we would expect the relevant employers to make application for the claims to be heard by a Full Bench.

[52] Print B701, p. 18; (1965) 111 C.A.R. 899 at 916

* To come into operation immediately
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*** Not available before 1985

Appendix B

TABLE 1

WEEKLY RATES AND EARNINGS: WAGE AND SALARY EARNERS: AUSTRALIA

	Weekly award rates adult males		Average weekly ordinary time earnings full-time adult males	
	Index Monthly	Percentage Increase	Index Quarterly	Percentage Increase
1981 July	100	—		
August	100.5	0.5		
September	101.0	0.5	100	
October	101.9	0.9		
November	103.6	1.7		
December	106.5	2.8	104.5	4.5
1982 January	108.0	1.4		
February	109.5	1.4		
March	110.0	0.5	109.4	4.7
April	110.9	0.8		
May	111.3	0.4		
June	113.7	2.2	113.0	3.3
July	115.2	1.3		
August	116.4	1.0		
September	116.8	0.3	118.0	4.4
October	117.1	0.3		
November	117.6	0.4		
December	118.1	0.4	122.2	3.6
1983 January	118.2	0.1		
February	118.2	0.0		
March	118.4	0.2	123.7	1.2
April	118.4	0.0		
May	118.4	0.0		
June	118.4	0.0	124.8	0.8

Source: ABS, *Award Rates of Pay Indexes,* Cat. No. 6401.0
ABS, *Average Weekly Earnings,* Cat. No. 6302.0

Note: The Average Weekly Earnings series is based on a sample survey and is subject to a relatively high standard error. Being unweighted, it is also subject to the effects of compositional changes in the labour force which could overstate the actual increase in average earnings in a period of large decline in economic activity.

TABLE 6

CHANGES IN COMPONENTS OF GROSS DOMESTIC PRODUCT(a)

			Six months to (b)			
	1980–81	1981–82	Sept. 1981	Mar. 1982	Sept. 1982	Mar. 1983
Gross Non-farm Product (expenditure based) (c)	3.7	1.7	2.4	0.4	-0.9	2.0
Gross Non-farm Product (income based)	4.7	1.7	3.0	-1.1	0.6	-1.7
Gross Farm Product	-11.5	15.7	17.9	19.7	-5.9	-32.7
GDP (expenditure based)	2.7	2.5	3.2	1.5	-1.2	-0.4
GDP (income based)	3.6	2.4	3.8	0.1	0.2	-3.8

(a) At average 1979–80 prices.
(b) Six monthly changes are at annual rates using seasonally adjusted data.
(c) Derived by subtraction of the statistical discrepancy from the income based estimate.

Source: ABS Cat. No. 5206.0

TABLE 4

MONTHLY UNEMPLOYMENT RATE: AUSTRALIA

(Seasonally Adjusted Percentages)

	1980	1981	1982	1983
January	6.1	5.9	6.0	9.2
February	6.0	5.6	6.3	9.6
March	6.0	5.8	6.4	10.1
April	6.2	5.6	6.4	10.3
May	6.3	5.6	6.6	10.3
June	6.4	5.4	6.8	10.3
July	6.1	5.8	6.9	10.3
August	6.2	5.8	7.0	10.2
September	6.2	5.8	7.5	
October	6.0	5.8	8.2	
November	5.8	6.0	8.7	
December	6.0	5.9	9.2	

Source: ABS, *The Labour Force*, Cat. No. 6203.0

TABLE 5

AVERAGE DURATION OF UNEMPLOYMENT: AUSTRALIA

(Number of Weeks)

	1980	1981	1982	1983
January	25.4	29.1	27.1	28.2
February	27.3	29.9	28.5	30.7
March	28.5	30.3	29.8	33.3
April	28.9	28.8	30.6	34.6
May	29.6	32.7	31.9	36.4
June	28.7	33.3	30.6	38.9
July	30.4	33.3	33.3	
August	32.1	35.1	32.8	
September	36.9	34.5	32.5	
October	34.6	32.7	31.9	
November	34.3	33.4	33.2	
December	27.6	28.0	29.6	

Source: ABS, *The Labour Force*, Cat. No. 6203.0

TABLE 3

CONSUMER PRICE INDEX: ALL GROUPS

(Weighted Average Eight Capital Cities)

Quarters		Index (a)	Percentage increase on previous quarter (a)	Percentage increase on corresponding quarter of previous year (b)
1979	June	83.0	2.7	8.8
	September	84.9	2.3	9.2
	December	87.5	3.0	10.0
1980	March	89.4	2.2	10.5
	June	91.9	2.8	10.7
	September	93.6	1.9	10.3
	December	95.6	2.1	9.3
1981	March	97.8	2.3	9.4
	June	100.0	2.3	8.8
	September	102.0	2.0	9.0
	December	106.3	4.2	11.2
1982	March	108.1	1.7	10.6
	June	110.7	2.4	10.7
	September	114.6	3.5	11.3
	December	118.0	3.0	11.0
1983	March	120.6	2.2	11.5
	June	123.1	2.1	11.2

Source: ABS, *Consumer Price Index,* Cat. No. 6401.0
Note: (a) June 1979-June 1980, Six Capital Cities
(b) June 1979-June 1981, Six Capital Cities

TABLE 2

AWARD RATES OF PAY AVERAGE WEEKLY EARNINGS AUSTRALIA

		Award Rates		Average Weekly Earnings	
		Wage and salary earners, adult persons weekly rates	Wage earners, adult persons hourly rates	Ordinary time earnings, full time adult males	Total earnings, adult males
		Percentage change on the same period a year earlier			
1979-80		8.8	9.0	9.4	9.9
1980-81		11.7	11.6	14.2	13.5
1981-82		12.2	12.6	13.8	14.5
		Monthly		Quarterly	
1982	June	13.6	15.5	—	16.4
	July	14.7	17.1		
	August	15.6	17.7		
	September	15.5	17.6	18.0	16.4
	October	14.6	17.1		
	November	13.4	16.0		
	December	11.1	12.8	17.0	14.1
1983	January	9.4	11.6		
	February	8.0	9.7		
	March	7.3	8.3	13.1	9.2
	April	6.7	7.7		
	May	6.3	7.1		
	June	4.3	4.5	10.5	6.5
	July	3.1	2.8		

Source: ABS, *Award Rates of Pay Indexes*, Cat. No. 6312.0
ABS, *Average Weekly Earnings*, Cat. No. 6302.0

Note:
1. Annual figures of award rates are based on weighted averages centered on mid point of the period. (Commonwealth Exhibit 7)
2. The Average Weekly Earnings series is based on a sample survey and is subject to a relatively high standard error. Being unweighted, it is also subject to the effects of compositional changes in the labour force which could overstate the actual increase in average earnings in a period of large decline in economic activity.

Appearances:

J. Marsh and *W. Kelty* of the Australian Council of Trade Unions for The Amalgamated Metals Foundry and Shipwrights' Union and others.

C. Polites for the Metal Trades Industry Association of Australia and others.

J. O'Neil for The Amalgamated Metals Foundry and Shipwrights' Union.

R. Moore for the Australasian Society of Engineers.

S. Green and *F. Austin* of the Council of Professional Associations for The Association of Professional Engineers, Australia.

J. Fristacky, E. Cole and *K. Heaney* for the Public Service Board.

R. Merkel, Q.C. and *G. Moore* of Counsel for the Minister of State for Employment and Industrial Relations (intervening).

C.L. Cullen, Q.C. and *B.C. Hungerford* of Counsel and P.H. Miles for Her Majesty the Queen in Right of the State of New South Wales (intervening).

M.G. Wright for Her Majesty the Queen in Right of the State of Victoria (intervening).

J.E. Murdoch of Counsel and *J.W. Johnston* for Her Majesty the Queen in Right of the State of Queensland (intervening).

G.M. Giudice and *G.J. Smith* for Her Majesty the Queen in Right of the State of Tasmania (intervening).

M. F. Gray, Q.C. of Counsel and *A.J. Dangerfield, P. Jackson* and *H. Askell* for Her Majesty the Queen in Right of the State of South Australia (intervening).

G.M. Overman of Counsel and *R.E. Cock* for Her Majesty the Queen in Right of the State of Western Australia (intervening).

J.D. Bell and *B. Collins* for the Government of the Northern Territory (intervening).

F. Tilbrook and *P. Watson* for The State Public Services Federation and the Australian Public Services Federation (intervening).

Dr J.A. Scutt and *C. Clarke* for the Women's Electoral Lobby of Australia (intervening).

S. Horne for the National Council of Women of Australia (intervening).

D.H. Greenwell for the Local Government Association of South Australia and others (intervening).

B. Olle and *J. Ellis* for the Union of Australian Women (intervening).

J.L. Trew of Counsel for the Australian Paint Manufacturers Federation (intervening).

Dates and place of hearing:

1983.
Melbourne,
June 29, 30;
July 1, 13, 14, 19, 20, 21, 26 to 28;
August 9 to 12, 16, 17, 19.