

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

and

Public Service Arbitration Act 1920

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

METAL INDUSTRY AWARD 1971 - PART III - PROFESSIONAL ENGINEERS
[163 CAR 388]

(C No. 679 of 1980)

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

AUSTRALIAN TELECOMMUNICATIONS COMMISSION CLERICAL,
MANIPULATIVE AND OTHER GRADES (SALARIES AND SPECIFIC CONDITIONS
OF EMPLOYMENT) AWARD 1977 [Print D3584]

(C No. 680 of 1980)

And in the matter of an application by the Electrical Trades Union of Australia and others to vary the

METAL INDUSTRY AWARD 1971 [Print D1611]

(C No. 687 of 1980)

And in the matter of a direction by the President pursuant to section 15A of the *Public Service Arbitration Act* concerning

THE AUSTRALIAN PUBLIC SERVICE ASSOCIATION (FOURTH DIVISION
OFFICERS)

and

THE MINISTER FOR DEFENCE and another

(C No. 743 of 1980)

in relation to wage rates

SIR JOHN MOORE, PRESIDENT
MR JUSTICE WILLIAMS
MR JUSTICE ROBINSON
MR DEPUTY PRESIDENT ISAAC
MR ACTING PUBLIC SERVICE ARBITRATOR WATSON
MR COMMISSIONER VOSTI

MELBOURNE, 14 JULY 1980

REASONS FOR DECISION

THE APPLICATIONS

Following the movements in the Consumer Price Index of 3 per cent for the December quarter 1979 and 2.2 per cent for the March quarter 1980 applications were made for variation of a range of the Commission's awards. This has been the fourth six-monthly hearing since the Commission's decision of September 1978. The claims and attitudes of the parties and interveners were as follows:

Australian Council of Trade Unions)	
Council of Australian Government Employee Organizations)	5.3 per cent plus catch up
Council of Professional Associations)	
Australian Council of Public Service Federations)	5.3 per cent
New South Wales)	
Tasmania)	
Private Employers)	
Commonwealth)	
Victoria)	No increase
South Australia)	
Western Australia)	
Queensland		Percentage increase less than 5.3 per cent
Northern Territory		Moderate increase
Master Builders' Federation of Australia		Increase not exceeding 2 per cent

SUBSTANTIAL COMPLIANCE

The private employers and the Commonwealth claimed that there had not been substantial compliance and they both said that for this and other reasons no increase should be awarded. The Commonwealth's submissions were supported by South Australia and Western Australia.

Queensland did not argue that there had been lack of compliance since the last hearing but said that there should be some discounting to reflect the impact on the economy of industrial disputation. It did not quantify by what amount we should discount.

The Northern Territory while submitting there had been substantial compliance in that Territory was of the view that the level of industrial disputation was extremely serious.

The Master Builders' Federation said that the provisions in the guidelines had not been adhered to and that we should impose a penalty for lack of compliance.

The unions, New South Wales and Tasmania claimed that there had been substantial compliance and that there should not be any discounting.

The issue of whether the unions carry an onus to satisfy the Commission on substantial compliance was debated before us. The Commonwealth submitted:

“ . . . the onus is clearly on the unions to demonstrate compliance.”

The private employers were more specific:

“ . . . in our submission, the onus is placed upon the applicants to persuade the Commission as to substantial compliance with the totality of the principles before it can expect Principle number 1 to be brought into operation and the reverse onus implied in Principle 1 to then apply.”

Western Australia generally supported the Commonwealth and South Australia described substantial compliance as a threshold requirement.

The ACTU disagreed strongly that such an onus existed and said:

“Not only is no other party put to the test of compliance on each and every occasion but now we are requested to report on whether or not we can pass the test that applies solely to us.”

The Principles contain the preface:

“A prime consideration will continue to be whether there has been substantial compliance with the Principles.”

As the decisions of the Commission on this issue make clear, rulings on substantial compliance require the exercise of broad discretion and judgment on wide-ranging and often conflicting material. At each hearing the Commission must be satisfied that substantial compliance exists. It has been the practice of the parties and interveners to contribute by way of argument or material on the issue.

We agree with the ACTU that the test of compliance is not confined solely to the actions of the trade union movement. All participants have a responsibility to comply. It follows that questions of onus do not arise. That conclusion in no way lessens the importance of substantial compliance as an integral part of the indexation package.

The private employers, as well as referring to the level of industrial disputes as shown in Australian Bureau of Statistics figures drew the Commission's attention to a large number of strikes, stoppages and bans which had occurred since October 1979 many of which, they said, were in support of wage increases and improvements in conditions outside the guidelines. The ACTU pointed out that some of these disputes had been settled prior to the end of the previous National Wage hearing. Certain disputes were referred to by the Commonwealth as demonstrating a lack of compliance.

In addition, on a number of occasions during the hearing the private employers asked for adjournments because of a campaign by the metal trades unions for a 35 hour week. As part of the campaign it was decided by the unions that in one week in each month only 35 hours would be worked with a demand for 40 hours pay and that overtime would be limited to 8 hours per week. We refer to this dispute in more detail later.

As to the incidence of industrial disputes the ABS figures for working days lost show a significant increase for 1979 over 1977 and 1978 as set out in Table 1.

TABLE 1
INDUSTRIAL DISPUTES: AUSTRALIA

Year	Working days lost ('000)
1974	6292.5
1975	3509.9
1976	3799.2
1977	1654.8
1978	2130.8*
1979 (p)	3964.4**
Months	
1980	
January (p)	116.1
February (p)	416.4

(p) Preliminary

* Including effects of Medibank stoppages

** Including effects of Western Australian Union officials strikes

Source: ABS Industrial Disputes - Australia, 6321.0

For the five months ended February 1980 there were 957,600 working days lost compared with 776,400 in the five months to February 1979.

It is clear from the statistics and also from the information given to us by the private employers and the Commonwealth about individual disputes that there has been an increase in both the incidence and the seriousness of industrial disputes during the period under review.

The private employers again criticized the wages policy of the ACTU as expressed by the Biennial Congress in September 1979. As to this we repeat what the Commission said in Decision No. 1 of January 1980 relating to the June and September 1979 quarters National Wage Case, namely, that -

“the history of wage determination since April 1975 has shown the need to distinguish formal statements of policy on wage objectives from the actual experience” [Print E1681]

In this connection the ACTU has demonstrated its concern for the continuation of the system by its activities in a number of significant disputes including in recent months those concerning wool stores, the metal industry campaign for a 35 hour week and the recent SECV dispute in the Latrobe Valley. We are also mindful that the majority of employees have accepted the package and have not embarked on industrial action.

Our attention was drawn to movements in award rates and earnings. We deal with the economic impact of work value increases later in this decision but those considerations do not lead us to a finding of non-compliance. We have also considered whether or not there has been a significant earnings drift over the relevant period. On a proper analysis of the statistics before us little or no drift is apparent.

In the circumstances, despite the increase in the number and the seriousness of disputes which have been and still are occurring, having regard to the overall situation we have decided that the condition of substantial compliance has been met. However, the metal industry 35 hour week campaign gave us particular concern. In view of the prominent part played by this campaign both during the proceedings and since, we will discuss it in detail at the end of our decision.

Although we are satisfied that there has been substantial compliance, stoppages by unions and employees seeking wage increases and improvements in their own working conditions regardless of their effect on other sections of the community, have had a cost impact on the economy on a scale which cannot be ignored. We dealt with this later in our decision.

THE ECONOMY

There are some signs of small improvements in the economy. Over the two quarters under review, employment continued to rise, unemployment fell slightly on the corresponding months a year ago, rural prosperity was maintained and non-farm products grew at a faster rate. However, the declining unemployment trend was reversed in May when unemployment rose above its level of a year earlier. Moreover, economic recovery is not firmly or broadly based. The fact that its source is net exports rather than the domestic sector makes recovery susceptible to the current slowing down of the world economy. Further, the large build-up of non-farm stocks poses the question of the extent to which stock accumulation has been involuntary and at the expense of future growth.

Recorded unemployment in May remains high at 6.3 per cent and the average duration of unemployment is lengthening. The renewed acceleration of inflation noted by the Commission in the last National Wage case has gained force as shown in Table 2:

TABLE 2

		Percentage increase from corresponding quarter of previous year	Percentage increase from previous quarter
1978	March	8.2	1.3
	June	7.9	2.1
	Sept.	7.9	1.9
	Dec.	7.8	2.3
1979	March	8.2	1.7
	June	8.8	2.7
	Sept.	9.2	2.3
	Dec.	10.0	3.0
1980	March	10.5	2.2

Source: ABS Consumer Price Index, 6401.0

The private employers described the Australian economy as being “*delicately balanced on a knife edge*” and added that worrying features about the present and future remain. The ACTU expressed doubts whether the improvements in the economy would be sustained and said:

“While some economic indicators provide limited evidence of economic improvement . . . such improvements are marginal, tentative and are insufficient to make significant inroads into current levels of unemployment . . .”

The Commonwealth submitted that:

“It is important to realize that although the economy’s recent performance has been encouraging and has been at least as strong as the budget forecast implied it is still below what was considered normal prior to the mid-seventies. If we are to make greater inroads into the unemployment problem further progress must be made towards achieving once again those earlier growth rates. However, progress represented by the budget time projects and their achievement cannot be much surpassed in the present environment of still high inflation, remaining economic imbalance, and the difficult world economic situation.”

In general terms, New South Wales supported the analysis of the economy made by the ACTU. Victoria drew attention to the serious social implications of long periods of unemployment not only of young people but also of persons of mature age with families. It was pointed out that in February 1980, 19 per cent of all unemployed males were in the 35 to 54 years age group and the average duration of their unemployment was almost 10 months. Queensland noted limited growth with signs of tentative recovery but saw the overall future prospects as being hedged with uncertainty.

The substantial agreement on the state of the economy is in contrast to the sharp divergence among the parties and interveners on the underlying causes of the economy’s problems and the appropriate action we should take in respect of wages.

The thrust of the unions’ submission is that full indexation and the restoration of wage and salary earners’ purchasing power would help to ensure the maintenance of private consumption growth, a key factor in economic recovery. The ACTU submitted in support of this argument that the net effect of partial tax indexation announced by the Commonwealth in March 1980 will result in a reduction of the real disposable income of a majority of taxpayers who will have to pay a higher proportion of their income in tax.

In its January 1980 decision, the Commission commenting on a submission by the ACTU in support of full indexation as a means of promoting consumption said that such an argument:

“...oversimplifies the issue. On the material before us, it is far from clear that either full or partial indexation decisions have had any noticeable effect on the level of consumption.” [Print E1681 at p.15]

Nothing which has been put to us on this occasion leads us to a different conclusion.

While agreeing with the unions that consumption and investment growth is necessary for economic recovery, the private employers, the Commonwealth and others opposed to a wage increase contend that an increase in wages would impede recovery. The Commonwealth said that the core of its economic submission was that:

“...one way or the other, an additional wage increase now - that is, an increase additional to those occurring as a result of work value increases now spreading through the work force - would have adverse implications for economic activity and employment.”

The rationale of this point of view is that any further increase in wages would lift the inflation rate and inflationary expectations and would erode business and consumer confidence.

In connection with the latter it was said that the insecurity generated by increased inflation would encourage householders to refrain from spending and increase their savings while a reduction in the inflation rate resulting from no wage increase would encourage householders to draw on their savings to maintain consumption. We are not persuaded by the evidence of recent movements in the savings-income ratio to place reliance on this argument.

The depressed share of profits below historical levels was again raised as a factor discouraging investment activity. However figures submitted by the private employers showed a substantial recovery in the share of Total Cross Operating Surplus since 1975. Allowing for cyclical factors, the relevance of which is acknowledged by the employers, the present share may be regarded as little short of the average level for 1966/73. In its January 1980 decision, the Commission alluded to statistical difficulties of assuming from the depressed share of profits that “profitability”, in the sense of rate of return on investment had fallen to a low level. The material before us, including the Reserve Bank survey of profits, does not remove these difficulties. The expected upward revision in the national accounts profit figures further complicates the issue.

In support of the case for a return to the historical levels of profit shares by a reduction in real wages, the Commonwealth drew attention to the concurrence during the 1960s of those profit levels with low unemployment, high economic growth and modest inflation rates. The casual connections between the various economic entities referred to are highly complex and the inference to be drawn about the part played by wage movements is by no means as simple as suggested by the Commonwealth. It would be inconsistent with the terms of Principle 1 to grant no increase or indeed to depart from full indexation on the basis of such an argument.

In this connection we note that in the March 1980 Survey of Industrial Trends in Australia undertaken jointly by the Confederation of Australian Industry and the Bank of New South Wales and referred to us by the private employers, it is reported that “insufficiency of new orders remains easily the dominant constraint on increased production”.

Once again the Commonwealth sought to rely on the “wage overhang” concept reflected in the rise in real labour unit costs, to support its case for no wage increase. This concept, about which the Commission has expressed difficulty in previous cases, is related to the income shares argument. Apart from the validity of the doctrinal basis of this concept, on which there are differences of opinion, we are deterred from relying on it in determining the appropriate wage increase for two reasons - the unavailability after 1977/78 of non-farm market sector productivity which is generally regarded as the appropriate productivity measure; and the inclusion of non-wage items such as payroll tax and workers’ compensation premiums under labour cost.

The various arguments considered so far do not provide adequate grounds for or against granting the claim pursuant to Principle 1. We now come to the resurgence of higher inflation rates as a justification for no increase in wages. In its January 1980 decision, the Commission noted that this development could not be attributed to domestic wage pressures but to other factors - the Commonwealth Government's decision to raise the price of domestic oil to full import parity in one step; the continued rise in the world price of oil; and the sharp rise in world prices of meat, wool, metals and various raw materials.

In the period under review, identifiable non-wage factors again appear to have dominated the increase in prices. The contribution of certain non-wage factors is shown in Table 3 submitted by the Commonwealth -

TABLE 3
CONSUMER PRICE INDEX EXCLUDING FOOD, PETROL,
HEALTH SERVICES AND INDIRECT TAX EFFECTS

Quarter	Percentage change on same quarter a year earlier	
	All groups CPI	Excluding food, petrol, health services and indirect tax effects
1978 March	8.2	8.0
June	7.9	7.0
Sept.	7.9	7.0
Dec.	7.8	6.5
1979 March	8.2	6.2
June	8.8	6.4
Sept.	9.2	6.6
Dec.	10.0	6.8
1980 March	10.5	7.6

Source: ABS Consumer Price Index, 6401.0

Table 4 based on a Commonwealth exhibit compares wage and price movements. Table 5 based on an ACTU exhibit compares prices of manufactured articles produced with prices of materials and award wage rates suitably lagged. We conclude from these tables that they endorse the validity of the ACTU submission -

“. . . that the non-wage factors remain the predominant contributing factors in the continuing acceleration of inflation as measured by the CPI for the two quarters under review.”

TABLE 4

INDICATORS OF PRICE AND WAGE CHANGES

	Percentage change on same quarter a year earlier				
	1978		1979		1980
	June	Dec.	June	Dec.	Mar.
WAGES:					
Adult male minimum wage rates	6.5	5.7	6.9	7.7	8.4
Average weekly ordinary Time earnings s.a.	9.4	7.8	6.5	9.2	8.1
CONSUMER PRICE INDEX:					
All groups	7.9	7.8	8.8	10.0	10.5
Excluding food	7.4	7.2	7.3	9.0	9.3
Excluding hospital and medical services	7.8	9.0	10.4	9.5	10.0
IMPLICIT DEFLATORS:					
Private final consumption s.a.	8.1	9.0	9.6	9.0	9.9
Major GNE components s.a.	7.7	7.7	8.8	9.1	10.0
Gross non-farm product s.a.	7.7	6.4	8.1	8.3	10.1
SECTORAL INDEXES:					
Manufacturing Industry -					
Material used	6.9	20.4	37.7	34.5	33.5
Articles produced	7.7	9.4	14.5	16.3	16.8
Building Industry -					
Material used in -					
Home building	6.8	5.3	8.2	12.2	14.0
Other building	7.6	6.0	8.7	12.4	13.9

	Percentage change on same quarter a year earlier				
	1978		1979		1980
	June	Dec.	June	Dec.	Mar.
FOREIGN TRADE:					
Implicit deflators -					
Exports of goods and services s.a.	1.4	16.6	18.9	16.1	14.1
Imports of goods and services s.a.	6.6	8.1	14.0	17.3	19.0
Export Price Index	0.3	8.7	22.4	24.4	25.1
Import materials used in manufacturing	2.8	4.2	15.3	31.5	39.4

Source: ABS: Wage Rates Indexes, 6311.0;
Average Weekly earnings, 6302.0;
Price Index Used in Manufacturing Industry, 6411.0;
Price Indexes of Articles Produced by Manufacturing Industry, 6412.0;
Price Index of Material Used in House Building, 6408.0;
Price Index of Material Used in Building Other than House Building, 6407.0;
Quarterly Estimates of National Income and Expenditure, 5206.0,
and Export Price Index, 6405.0

s.a.: - Seasonally adjusted.

TABLE 5

ANNUAL INCREASES IN PRICES OF ARTICLES PRODUCED, MATERIALS USED
AND IN AVERAGE AWARD WAGES IN MANUFACTURING

		Lagged 3 months			Lagged 6 months	
		Prices of articles produced	Materials used	Average award rates	Materials used	Award award rates
A.	Percentage increases over same month of preceding year					
1980	Jan.	16.6	33.3	7.7	36.5	8.9
	Feb.	17.2	32.6	8.9	31.1	8.6
	March	16.6	34.5	4.8	31.5	7.7

B. Percentage increases over the period June 1979 to March 1980

11.7 20.1 4.6 27.3 3.5

Source: ABS: - Price Index of Materials Used in Manufacturing Industry - 6411.0

Wage Rates, Australia - 6312.0

Price Indexes of Articles Produced by Manufacturing Industry - 6412.0

In commenting on similar increases in the prices of raw materials used in manufacturing between June 1978 and June 1979, the Commission said in its January 1980 decision:

“In part, these price increases reflect gains to certain sections of Australian rural producers and the mining industry as well as having a favourable effect on the balance of payments. After a number of depressed years, real farm income for 1978/79 is estimated to have doubled on the previous year and returned to the peak of 1973/74. Subject to the vagaries of seasons and world demand, the outlook for 1979/80 continues to be bright.” [Print E1681 at p.9]

This conclusion holds substantially on the material before us. Furthermore, the improvement in Australia’s international competitive position noted in the January 1980 decision and reflected in the first column of Table 6 has been maintained. Since that decision, on the latest figures, the relative CPI differential between Australia and various OECD countries has further widened in Australia’s favour.

TABLE 6

INCREASES IN CONSUMER PRICES

	Six months to September 1979 annual rate %	Twelve months April 1980 annual rate %	Six months to April 1980 annual rate %
United States	14.1	14.7	15.7
Japan	7.4	8.4	9.6
Germany	4.4	5.8	7.4
France	12.9	13.9	14.4
U.K.	22.6	21.8	22.5
Canada	8.6	9.2	9.7
Italy	16.8	20.9	23.7
New Zealand	20.5	16.3	16.3
Major Trading Partners (weighted average)(a)	12.0	12.7	13.6
OECD	12.9	13.9	15.0
Australia	10.3	10.5(b) 10.0(b)*	10.8(c) 9.5(c)*

- (a) The Major Trading Partners average is derived by weighting the rate of price change in each country by that country's share in Australian trade.
 - (b) Twelve months to March Quarter 1980.
 - (c) Six months to March Quarter 1980 an annualized rate.
- * Excluding hospital and medical services

Source: OECD Main Economic Indicators and
ABS Consumer Price Index - 6401.0

The need to maintain Australia's comparative advantage is, of course, not only important to rural and mineral exports but also to manufacturing exports which generate greater employment than the other sectors. In this connection, signs of a faster growth in labour costs are a matter of concern. These are evident in the figures in Table 7 relating to unit labour costs.

TABLE 7

UNIT LABOUR COSTS

(Non-farm wages, salaries and supplements, seasonally adjusted, per unit gross non-farm product at constant prices)

	1978	1979	1980
	Percentage increase on corresponding period of previous year		
March	8.4	6.2	8.0
June	6.1	7.4	
Sept.	7.1	6.8	
Dec.	3.3	8.3	

Source: ABS: Quarterly Estimates of National Income and Expenditure,
March Quarter, 1980, 5206.0

These considerations relating to the economy and the increase in the rate of inflation raise the question of how far in equity and consistent with Principle 1, wages should be held back to help to slow down the rate of inflation. We return to this question later.

DISCOUNTING

Those opposing full indexation have advanced a number of grounds for discounting: the effects of the oil levy and health care financing, work value increases, lack of substantial compliance and the economic effects of industrial disputes. It follows from our conclusion on substantial compliance that no discounting for this factor is justified. We deal with the other items for which discounting was argued.

Oil Levy

The effect of the oil levy imposed by the Commonwealth Government to keep domestic prices in line with world parity was argued in respect of direct and indirect effects on the CPI.

As to the direct effect, the Commission has in the past discounted the CPI because of the particular nature of the oil problem and the prevailing economic circumstances, especially high inflation and unemployment.

The ACTU referred us to the fact that Australia is now a net exporter of energy, a fact which it said allows a higher standard of living for the Australian community. The Commission should therefore not discount on account of oil imports at world prices, the ACTU contended. Rather, it should deal with the question of energy imports and exports under Principle 6 as a matter concerning national productivity.

We are here concerned with the effects of the levy on oil prices at a time of high inflation and unemployment. There is no evidence before us of the extent if at all to which the standard of living can be raised by reason of Australia being a net exporter of energy.

The ACTU has argued that the inflationary effects of oil prices are no different from those of the price of fish or other commodities, yet the Commonwealth does not seek discounting for the inflationary impact of any increase in the price of fish. The sources of price rises, the ACTU says, should not be distinguished.

To this we say that the Commission has made it clear that the question of discounting for any factor must be decided not as a matter of principle but on the merits of the particular case. In the September 1978 Principles Case, in connection with the Commonwealth's request that the Commission should rule in principle that all policy induced CPI increases should be discounted, the Commission said:

"We agree with the ACTU that we should not rule in principle on this question but should leave it to the particular bench faced with an application for discounting(to decide the question in the light of all the circumstances before it.)"[Print D8400 at p.15]

There is a vast difference between discounting for fish, discounting for oil or for that matter discounting for health care. In discounting for the oil levy, the Commission has pointed to the urgency of conserving oil in the face of a serious continuing world shortage. It has noted that the levy and the consequent increase in the price of oil is a means of conservation. And it has expressed concern about passing on the levy to wage costs in the prevailing economic circumstances.

These circumstances still apply and we propose to discount for the direct effect of the oil levy on the CPI.

In view of the lengthy submissions on the substitution and income effects of the rise in the price of oil, we should point out that only the latter is relevant to the question of wage adjustment. There is nothing before us to suggest that the size of this effect is significant and should form the basis of the case for discounting.

The Commonwealth has estimated the direct effect on the CPI in the two quarters under review to be 0.62 per cent. This figure was supported by the private employers and others in favour of oil discounting. We note that the basis of calculation has been changed from retail price to wholesale price. On the ACTUs calculation the change in the method of calculation has resulted in the figure being 0.04 percentage points higher. However, this difference does not effect the rounded figure of 0.6 per cent.

The ACTU submitted that because of price-cutting among petrol retailers, the petroleum products component of the CPI for the two quarters increased by only 0.45. Any discount factor, it said, should not be greater than this figure because the Commission should not discount for retail price increases which had not in fact occurred. Price cutting among retailers, the ACTU argued, was the direct result of the Government's oil levy policy which has resulted in an oversupply of petroleum products. The Government, it said, has taken no action to constrain the supply of oil, which is determined by the oil companies, in the face of declining demand.

Against this the Commonwealth argued that for purposes of arriving at the discount factor the contribution of the oil levy to the CPI should be isolated from the countervailing or reinforcing influences on the CPI resulting from other factors affecting the price of oil. The Commonwealth drew attention to the fact that in the previous case it had ignored in its calculations the effect of reduced price cutting which had caused the CPI increase to be higher than the discount sought for the levy. Further, in calculating the present figure it did not claim that special levies imposed by the Victorian and South Australian Governments and other such items affecting the price of petrol should be discounted. This is in keeping with its past practice.

On the material before us a departure from the Commission's past rationale on oil discounting is not warranted and we will confine the discounting to the calculated effect of the Commonwealth Government's oil levy on the CPI. We will, therefore, discount by 0.6 per cent.

As for the indirect effects, both the private employers and the Commonwealth argued that the case for discounting for these effects is in principle the same as that applicable to the direct effect: they are both induced by the Government's energy policy. The private employers argued that to insulate wage and salary earners against the indirect effect of the increase in oil prices would frustrate the Government's oil conservation policy. It would also mean that this section of the community was "being protected against the reduction in real income for the community as a whole".

The Commonwealth submitted that to discount only for the direct effect would mean that a substantial proportion of the total effect of the Government's oil policy "would be indexed into wages". Further, it said, the measurement difficulties which deterred the Commission in the past from discounting for the indirect effects no longer apply.

The indirect effects work their way through the economy over an extended period, estimated by the Industries Assistance Commission to be longer than 18 months. The Commonwealth seeks discounting for the effects of the increased levy imposed in August/September 1978 following the announcement of the move to full parity in the 1978/79 Budget. It argued that 18 months had elapsed since then and that most of the indirect effects would have occurred. The appropriate discount factor to take account of these effects it estimated at 0.46 per cent.

The private employers sought a discount for all the increases in the levy between August 1978 and April 1979, including therefore those levy increases which have so far only had a limited effect on the CPI.

Unlike the direct effect of the oil levy which has an identifiable impact on the CPI in a particular quarter, the indirect effects are diffused over a long period of time. The Commonwealth said that:

"A major ground for seeking discounting for the indirect effects on this occasion is thus the avoidance of the potential inflationary impact of policy induced price increases for oil."

It seems to us that the gradual spread of the indirect effect reduces the economic need for discounting on this ground.

We are also concerned at having to discount on equity grounds for effects spread out in this way. To discount by the amount sought by the Commonwealth based on a long retrospective approach savours of the catch-up claim of the unions which the Commission has rejected repeatedly. The private employers seek in addition discounting for price increases which have not yet occurred. Furthermore, the percentage mark-up basis of pricing allows profits to be increased following an increase in the cost of petroleum products. It appears that this basis of pricing under competitive conditions is acceptable to the Prices Justification Tribunal. Very likely this basis is commonly applied in the business sector in which no distinction is made between an increase in the cost of oil as against other materials used in production of goods and services.

For all these reasons it would be inequitable to discount wages for the indirect effects of the levy. In rejecting the case for discounting indirect effects previously, the Commission noted that:

“The Commonwealth’s energy policy which rests fundamentally on the relative price rise of petroleum products, should not be affected by this decision.” [Print D7262 at p.7]

This point applies also in the present case. We will therefore not discount for indirect effects.

Health Care

The CPI for the December quarter 1979 was affected by changes in the Commonwealth’s health care financing arrangements. The Commonwealth supported by the private employers seeks to discount for the effects on the CPI resulting from -

- (a) a 25 per cent increase in in-patient charges; and
- (b) requiring patients other than pensioners and disadvantaged persons to be responsible for all medical costs up to \$20 per scheduled service.

These effects were calculated to have increased the hospital and medical component of the CPI by 0.54 percentage points. The Commonwealth asked that this percentage be applied to the adult male minimum award wage rate in September 1979 and the resulting 90 cents be used as the discounting factor. The private employers and some others sought a discounting factor of 0.54 per cent.

As we noted earlier, the Commission has in the past refused to rule in principle on the question of discounting. It has said that any application for discounting would be considered in the light of the circumstances before it. The Commission said in its September 1978 decision on the Principles:

“... parties and interveners should have the opportunity of convincing the Commission on the extent and manner by which discounting will affect government policy objectives.” [Print D8400 at p.15]

The argument advanced by all the proponents of discounting for health care in the present case is that policy induced price increases for fiscal management purposes and/or the re-allocation of resources should not be passed into wages because to do so would defeat the purpose of such a policy. The Commonwealth stated that the changed method of financing health care was prompted by the Government’s policy “to help reduce the budget deficit and thereby contribute to a reduction in inflation.”

Since the indexation system came into being, changes in health charges resulting from government policy, have affected the CPI in both directions. The introduction of Medibank in 1975 reduced the CPI increase in the September quarter of that year by 2.1 per cent. But the Commission did not augment the CPI to allow for that factor in its wage decision.

The CPI for the December 1976 quarter rose by 3.2 per cent as a result of a change in the method of financing Medibank. In respect of that policy- induced price increase, following negotiations between the Commonwealth and the unions, the Commonwealth agreed that it would not be arguing for discounting for that increase. In the subsequent proceedings, the March 1977 National Wage case, while the private employers argued for discounting the full 3.2 per cent the Commonwealth submitted that the Commission should award an increase of \$2.90 per week, that being the maximum compulsory contribution payable by a single person for basic medical and hospital care. The Commission decided on the arguments before it to award that amount.

In its June 1979 decision in respect of the CPI for December 1978 and March 1979 quarters, the Commission did not augment for the effect on the CPI of a reduction in the cost of health insurance.

Over the whole indexation period, the ACTU has shown that the net effect on the CPI of the various changes in health care financing was neutral.

In the light of this historical background, we do not think we should now discount for the effect of health care financing on the ground that the Government's intention in respect of this matter was "to help to reduce the budget deficit and thereby contribute to a reduction in inflation". All the changes in health care financing noted above affected the budget deficit in one direction or another and we are not persuaded on the arguments before us in this case to depart from the course taken by the Commission in the past. We will, therefore, not discount for this factor.

Work Value Increases

In its January 1980 decision the Commission referred to the extent of work value increases which it said went against the expectations of the Commission and all the parties and interveners when the Principles were first formulated. It said further:

"The nature and magnitude of technological and other changes which have affected work over the last five years and which have resulted in across-the-board wage increases could not have been foreseen at the time. But should a general increase averaging \$8 to \$9 per week spread throughout the economy in a short period of time and should it be maintained in real terms by indexation, the economy might well become overloaded.

However, we have, decided not to take action on account of these increases at this stage because the available statistical and other evidence does not permit proper assessment of the overall magnitude and incidence of the work value wage increases particularly as there are still many cases before various tribunals.' [Print D1681 at p.15]

The Commonwealth presented us with the following statistics on the incidence of wage and salary earners affected by work value increases under Principle 7(a) between May 1978 and May 1980:

Wage and salary earners affected
by work value increases:

	those under Federal Awards		those under Federal and State Awards
	*	**	**
As a percentage of wage and salary earners covered by Federal Award	48.5	53.9	
As a percentage of wage and salary earners covered by Federal and State Awards	21.8	24.3	30.8

* Only those who have had a work value increase.

** Including those for whom decisions on work value claims are pending.

The private employers making certain adjustments to the data used by the Commonwealth said that 34.1 per cent of all award-covered persons received 7(a) work value increases in the two years to May 1980. These figures exclude those under the jurisdiction of Commonwealth and State public service tribunals as well as wage and salary earners who are award-free. As there is no information before us on the extent to which these categories have been affected by work value increases, they cannot be usefully considered.

From the above it could be said that something like one-third of those covered by awards would have received 7(a) work value increases in the two years ended May 1980.

The employers, assuming the average work value increases to have been \$9 or 5.1 per cent of \$175.55, this figure being the Average Award Rate for February 1980, sought a minimum discount of 1.7 per cent (34.1 per cent of 5.1 per cent) to remove the estimated increase in wages due to work value from any national wage adjustment.

The following ABS statistics show movements in the percentage of wage increases attributable to national wage:

Year ending	Male Awards	Female Awards
December 1978	97	99
June 1979	93	98
January 1980	86	96

It is clear that increases outside national wage have become a larger component of total wage movements. But the size of this component is rather smaller than might be suggested by the Commonwealth's and the private employers' estimates of those affected by work value increases.

On the most recent statistics movements in ABS average minimum weekly wage rates in the 12 months ended March 1980, show the following:

Adult Males

Increase of	\$14.81, \$12.73, \$ 2.08,	of which was for national wage and or 1.3 per cent of the total wage in April 1979, was due to other increases.
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Adult Females

Increase of	\$12.11, \$11.70, \$ 0.41,	of which was for national wage and or 0.3 per cent of the total wage in April 1979, was due to other increases.
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For the period under review, namely October 1979 to March 1980, the corresponding figures were as follows:

Adult Males

Increase of	\$9.11, \$7.56, \$1.55,	of which was for national wage and or 0.9 per cent of the total wage in September 1979, was due to other increases.
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Adult Females

Increase of	\$7.36, \$6.93, \$0.43,	of which was for national wage and or 0.3 per cent of the total wage in September 1979, was due to other increases.
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It is likely that the average minimum wage rates series based on award wage movements does not fully reflect the extent of work value increases in several respects - the industry weighting of the series goes back to 1954; certain award classifications are not covered; those awards which relate solely or mainly to salary earners are excluded; and a time lag is involved in the recording of award adjustments. The Statistician notes that "there is generally an unavoidable, and sometimes considerable, delay in the receipt of notification of changes in wage rates in respect of occupations included in the indexes."

However, while it is not possible to say with any confidence to what extent the minimum wage rates figures understate the increase due to work value, in our view the size of discount sought by the private employers could not be justified for several reasons.

First, the estimate goes back two years. We do not believe that such a long time coverage is reasonable. The stricture relating to excessive wage increases outside national wage contained in the guidelines must be related to a narrower time-span which should be closer to the period under review.

Secondly, the Commission should bear in mind that even on the employers figures only one-third of wage and salary earners covered by awards have received the benefit of 7(a) increases. To discount the pay increase of two-thirds of wage and salary earners who have not had work value increases by the extent proposed by the employers would seem to us to be unjust.

Finally, the Commission should not go too far beyond the facts as revealed by official statistics.

All peak union councils strongly opposed any discounting for work value increases. The ACTU said among other things that:

“. . . the work value cases conducted and decisions handed down have been and are consistent with principle 7(a) in its pre-March 1980 wording, and thus increases granted under 7(a)(iii) cannot be categorised as an act of non-compliance. It follows in our submission that if the work value cases meet the criteria established by the Commission in decisions 1 and 2, and we strongly submit that they do, it would not be an act of industrial relations expediency to take those increases away under another principle. Indeed, the Commission itself in decision No. 2 when rejecting the private employers' proposal to halt the application of 7(a) in the last case did so for industrial relations reasons.

While we consider this to have been a realistic assessment we consider it to be unrealistic to now take those increases away under principle 1. If this occurred those groups who had received the increase would feel cheated because they had acted within the guidelines yet were still deprived of full indexation adjustment for that reason.”

Such a view oversimplifies the issue. It cannot be said unequivocally that 7(a) increases could not under any circumstances limit what might otherwise be granted under Principle 1 or Principle 6 if the overall economic burden is excessive. Although the Commission in Decision No. 2 of March 1980 did authorize the application of the averaging and across-the-board approach to those awards which had not had the benefit of this approach, it also said:

“Despite the qualification contained in 7(a) that general wage increases of this kind would be rare, the circumstances under which the various work value cases were processed made it difficult to identify their cumulative effect until a substantial part of industry had been affected. However, it is now clear that the scale of this development is inconsistent with the central concept underlying the indexation principles that increases outside national wage should be small.” [Print E2370 at p.11]

We are reluctant to discount for increases properly obtained within the guidelines. But in view of the assumptions of the total indexation package, the scale of wage increases due to work value must be seen in the context of the renewed acceleration of inflation and must form part of the background against which we consider the increased cost of industrial disputes to which we now turn.

Industrial Disputes

We have already indicated that in our view industrial disputes have had a cost impact on the economy on a scale that cannot be ignored. As can be seen from the table set out earlier, the number of working days lost has increased significantly since 1977. Indeed the level in 1979 is the highest since 1974.

In Decision No. 2 of 28 March 1980 relating to the June 1979 and September 1979 Quarters the Commission said that:

“...in measuring the extent of stoppages, the Commission would be assisted if the parties could more accurately identify industrial action which is in pursuit of pay and conditions in violation of the principles and action related to other matters.” [Print E2370 at p.6]

Information tendered by the Commonwealth following the above request was of assistance to us and shows the following increasing trend in working days lost for the September and December Quarters 1976-1979 on account of disputes relating to wages and hours of work. Although interpretation of the data requires some care due to the categorisation and method used by the Statistician, we are satisfied that these reservations do not affect conclusions which can be drawn from the order of movement shown by the figures.

	September Quarter '000s	December Quarter '000s
1976	163.7	201.7
1977	296.3	427.2
1978	247.9	398.3
1979	477.2	1141.5

Figures on the same basis are not yet available for the March Quarter 1980 but the global figures for lost time in January and February continue the alarming trend.

	January '000s	February '000s
1976	71.2	192.7
1977	28.4	109.9
1978	30.5	69.7
1979	51.0	233.0
1980	116.1	416.4

Indeed with the exception of the year 1974, when industrial chaos accompanied the wages explosion, the January/February 1980 lost time levels are very much higher than any year since 1961.

The ACTU tendered information on major disputes involving 5,000 working days or more and two employers or more over the period October 1979 to February 1980. The purpose of the material was to show that a relatively small proportion of disputes were concerned with wages. However it was pointed out by the private employers that disputes on conditions equally impinge on the guidelines and that when properly classified and interpreted, the material confirmed the general high level of dislocation on relevant issues.

The Australian economy has become more vulnerable to industrial disruption. Great reliance is placed by industry on energy, transport and communication. Sever or impede any of the supply lines to the normal running of a business and the expectation must be that costs will be affected. The growing interdependence of firms as a result of advances in technology extends the cost of industrial disruption well beyond the firms directly affected. The published figures of man days lost due to strikes take no account of these indirect effects which may well be more costly than the direct effect. For instance, in the recent SECV dispute a strike by some 200 to 250 power workers at Latrobe Valley led to the stand-down of an estimated 200,000 employees in Victoria on four successive days. These considerations on the cost of industrial disputes require us to take them into account in determining the wage increase to be awarded on this occasion.

CONCLUSION ON DISCOUNTING

We have refused to discount for health care financing and the indirect effects of the oil levy but have decided to discount by 0.6 per cent for the direct effect of the said levy.

The breadth and depth of dislocation over the most recent period will have loaded industry with a substantial and widespread cost increase at the same time as it is seeking to absorb, in an uncertain and difficult economic climate, across-the-board work value increases on a scale beyond that contemplated by the indexation package in addition to a sharp upswing in the cost of materials including energy. These circumstances call for some relief to the economy by way of discounting, and we have decided that in addition to the 0.6 per cent discount for the direct effects of the oil levy, a further discount of 0.5 per cent should be applied to provide this relief.

We have deliberately minimised the discounting for the economic cost of industrial disruption in the belief that the conference to be chaired by the President should be given one further opportunity of discussing an acceptable approach to indexation and the conditions which should attach to such a system. Without appropriate conditions and without substantial compliance with those conditions we believe the Australian economy cannot afford indexation.

AMOUNT OF INCREASE

In view of the submissions of the private employers, the Commonwealth and others that on economic grounds no increase at all is warranted, we should consider whether a further adjustment on those grounds is called for in addition to the above discounts.

The private employers laid great stress on the relationship between wage increases and anticipated productivity movements as the basis of capacity to pay and submitted that:

“We have demonstrated to the Commission that there is a link between wages and productivity and inflation and we have shown that in our expectation the movement in productivity in the period ahead is of the order of 2 per cent. The claim before the Commission is for a 5.3 per cent wage increase for only half a year and to grant that claim against the expectation of a 2 per cent increase in productivity in the next 12 months and to continue with a formula which envisages another increase in wages at the end of this calendar year must produce a climate in which inflation will continue to be fed by wage increases themselves....

.....The material which I have put to the Commission to date demonstrates that price rises such as those which form the basis of the present claim do not of themselves demonstrate increased capacity to pay higher wages and the material I have put to the Commission demonstrates that a substantial contribution to the current rate of inflation in Australia has been made by wage increases in Australia, by increases in excess of productivity. In our submission it would be improper for the Commission to continue on a course which would increase wages based on price rises. The process is self defeating and inconsistent with the Commission maintaining stability within the economy in terms of its statutory responsibility as spelt out in section 39 of the Act.”

In our opinion, inherent in the employers’ argument is a rejection of the intent and spirit of Principle 1. The employers seek a return to the “capacity to pay” concept of the 1960s in conjunction with the restraints of the Principles but without indexation, prices being one of a number of factors to be considered annually. In the Principles case of September 1978, the Commission rejected this approach.

The Commission has explained its function under the Act on a number of occasions since indexation was introduced and we do not propose to dwell on the subject at any length. However, we are bound to say that the employers’ suggestion that it is the Commission’s statutory responsibility to maintain economic stability, overstates the position under section 39(2) which is:

“In proceedings before the Commission under sections 31 or 34, subsection (4) of section 34A or section 35 or 36A, the Commission shall take into consideration the public interest and for that purpose shall have regard to the state of the national economy and the likely effects on that economy of any award that might be made in the proceedings or to which the proceedings relate, with special reference to likely effects on the level of employment and on inflation.”

The requirement in the Act to “have regard” cannot be construed as vesting the Commission with the responsibility, in the words of the employers, of maintaining stability within the economy. Economic management is clearly outside its charter. That is a task for governments. The Commission’s task is to settle industrial disputes and in doing so to have regard to those matters mentioned in section 39(2).

The employers also argued in connection with section 39(2) that in the public interest the Commission:

“...must spell out in its decision the likely effects on employment and inflation of any order it makes.”

The Act neither states nor implies such a requirement. In any case, the Commission’s experience with predictions made by parties before it on the likely effect of wage increases emphasises the hazardous nature of such an exercise. The effects will clearly depend not only on the size of the wage increase but on a variety of other factors which are outside the control of the Commission. Furthermore, the Commission would need to speculate on the size of the wage increase which would occur in the absence of the increase it awarded. It is perhaps sufficient for us to point out that over the period of indexation, inflation declined significantly until a year ago since when it has been influenced by factors largely unconnected with domestic wage pressures. We also refer to the Commonwealth’s remarks in connection with the restoration of Australia’s international competitiveness which it said had:

“. . . not simply been a matter of making adjustments to the exchange rate. As overseas experience demonstrates, there are very few recent instances of successful depreciations - that is, there are very few cases where the inevitable upward pressure on prices as a result of a depreciation has not been fully reflected in the domestic price level resulting in no net change in international competitiveness. That Australia has, to date, accomplished a real depreciation can be attributed to the firm anti-inflation policies which have been maintained since the depreciations of the Australian dollar.”

It will be apparent that the successful depreciation occurred in a period of wage indexation.

The Commonwealth has submitted that:

“ . . . if the acceleration in the rate of increase in wage costs is to be reversed the present situation requires no national wage increase on this occasion. A decision otherwise . . . will have adverse implications for economic recovery.”

And further:

“ . . . the economic situation provides a compelling case for granting no national wage increase at this time. We will also submit that there is no case on industrial relations grounds for any increase. However, should the Commission for industrial relations reasons, consider that some increase is warranted then any such increase should be minimal.”

We have already dealt with the industrial relations issue and have taken account of the costs of industrial disputes in the discount factor. In our review of the economy, we noted that non-wage factors were predominately responsible for the acceleration of inflation, that the price increases behind this acceleration in part reflected gains to certain sections of the Australian economy, and that Australia's improved international competitive position has been maintained.

On the other hand, it will be seen from Table 8 that viewed either from the time indexation was introduced or more recently since March of last year, wages have lagged behind prices somewhat.

TABLE 8

PERCENTAGE INCREASES IN WAGES AND PRICES

		Average minimum weekly wage rates (adult males)	Average weekly earnings (seasonally adjusted)	Average weekly ordinary time (seasonally adjusted)	CPI
March quarter to March quarter	1975 1980	64.6	65.1	65.8	66.7
On corresponding quarter of previous year					
March quarter	1979	7.2	9.1	9.3	8.2
June “	1979	6.9	7.4	6.5	8.8
Sept. “	1979	8.4	7.8	7.4	9.2
Dec. “	1979	7.7	9.8	9.2	10.0
March “	1980	8.4	8.6	8.1	10.5

Source: ABS: Wage Rates Indexes 6311.9,
Average. Weekly Earnings 6301.0,
Consumer Price Index 6402.0

The private employers have criticised comparisons of the kind contained in Table 8 on the grounds that some of the series are seasonally adjusted while others are not. Apart from the fact that the Minimum Weekly Wage Rates and CPI series are not seasonally adjusted by the Statistician, the method of comparison used in Table 8 for purposes of assessing real wage movements accords with convention. The alternative method proposed by the employers, involving a four quarter moving average of all the series unadjusted for seasonal factors, is likely to be more distorted by seasonal influences. In any case the difference in result for the period since indexation is not significant.

We should note that material presented by the ACTU shows that the decline in real wage rates in a number of important federal awards was much greater than the average fall for industry generally shown in Table 8.

In the light of these wage movements and the economic background against which they must be seen, we return to the question posed earlier, namely, how far in equity and consistent with Principle 1, wages should be held back to slow down the rate of inflation.

It should be understood that we are not engaged in an exercise in pure economics. As the Commonwealth has said:

“The Commonwealth recognizes the Commission as an independent body having the statutory responsibility to pursue and maintain industrial harmony. The Commonwealth acknowledges that the maintenance of industrial harmony has, in itself, substantial benefits for both the economy and the community. Equally, the Commission’s decisions have widespread economic ramifications.

The Commonwealth also recognizes the difficulty facing the Commission in balancing the many and often conflicting economic and industrial relations factors which enter into its considerations and decisions. This is especially so in national wage cases in which the need for wage restraint has been a fundamental issue.”

Principle 1 is based on the expectation that full indexation will be applied unless the Commission is persuaded by those opposing it to the contrary. For the reasons already given, we have been persuaded to depart from full indexation to the extent indicated. To go beyond this extent would be to impose upon wage and salary earners an undue burden in reversing the inflationary trend when the acceleration of this trend must be ascribed mainly to factors other than wages. The industrial consequences of an action which would be generally seen by wage and salary earners to be inequitable must be weighed against the presumed economic advantages of such action.

Accordingly, we have decided that no further adjustment would be appropriate and that award wages should be raised by 4.2 per cent.

METAL INDUSTRY CAMPAIGN FOR A 35 HOUR WEEK

We have previously stated that despite the increase in the number and seriousness of industrial disputes we have decided having regard to the overall situation that the condition of substantial compliance has been met. This, of course, was a general statement and did not mean that the increase would necessarily extend to all awards, regardless of the extent of industrial disputation in the industries concerned. The Commission stated in the Wage Fixing Principles case of September 1978 that:

“The Commission would be reluctant to withhold an increase from the working community generally if an identifiable section was creating problems. However we see no reason why individual members of the Commission given appropriate circumstances would not withhold increases in particular industries or establishments.” [Print D8400 at p.8]

The metal industry 35 hour week campaign has given us particular concern and in accordance with the above statement we have considered whether we should withhold the National Wage increase from the Metal Industry Award.

In the section dealing with substantial compliance we have indicated the essential elements of the industrial action associated with the campaign and we do not do so again.

The situation was first brought to our attention by the private employers on 21 May 1980 when they requested us to adjourn the proceedings until unqualified assurances were given that the campaign of industrial dislocation would be called off. On the same day we said:

*“We are of the view that if the campaign goes on as forecast the whole indexation package will be in peril...
We consider that the campaign should be called off.”*

The matter was raised again on 22 May 1980 and on the following day we asked all parties including the ACTU to take what steps they could to have the campaign of industrial dislocation called off. On that occasion we pointed out that:

“Our ruling in this matter should not be regarded as touching on the merits of the shorter week claim.

Nor do we place any restrictions on claims for increased leisure in which, in the words of Mr Hawke, the unions:

‘. . . are looking to considerations of productivity as a basis for improving real standards and absolutely consistently with the rewording of the principles in 1978 by the Commission.’

Our concern is with the manner in which this objective is to be pursued.”

We also emphasised that:

“The indexation package relies for its existence on the voluntary acceptance of guidelines by all parties to the industrial relations process.”

Despite our statement, on Friday, 30 May 1980 a large number of the employees concerned stopped work for 5 hours, No estimate was given to us as to the number of employees who stopped work but we were advised that some 35,000 to 38,000 attended meetings on that day.

On 4 June 1980 Mr Hawke for the ACTU explained that at a meeting between officers of the ACTU and the national negotiating committee of the metal trades unions on 28 May 1980 it had been recommended, inter alia, that the industrial action should be called off to enable the present case to be concluded. That recommendation was defeated at meetings of metal trades union delegates on 3 June 1980. The Federal Executive of the ACTU further considered the situation at a meeting on 5 June 1980, when it passed a resolution in which it called upon the metal trades unions:

“. . . for an immediate indication that they will call off the industrial action associated with the 35 hour week campaign for the period necessary to allow the conclusion of the current national wage case proceedings to the point of decision. In the absence of such indication to us we indicate that any union continuing to act in defiance of our request will, in all respects, do so without the support of the ACTU”.

After hearing submissions on 6 June 1980 we stated that in order to give adequate time for the resolution to be complied with we were prepared to go on with the hearing but would continue to keep the position under review. In proceedings on 11 and 12 June 1980 we were advised that some but not all the unions concerned had accepted the ACTU’s call. During those proceedings Mr Hawke expressed the disappointment of the ACTU executive that its call for a suspension of industrial dislocation had not been complied with by all the unions involved. He said:

“We hope that the fact, of that resolution being passed will get through not merely as it may not have done to some officials of the unions but will get through to the membership of unions and make them understand that the interests of the great majority of wage and salary earners and their dependants in this country must be given priority.”

We decided to continue with the proceedings at that stage because we were satisfied that the ACTU had done what it could to call off the industrial campaign. It seems, however, that despite the action taken by the ACTU there was a division within the unions comprising the negotiating committee and that a considerable number of them was in favour of continuing the campaign.

On Thursday, 26 June 1980 there was a further stoppage of 5 hours, during which meetings of members of the unions concerned were held on a national basis. From figures supplied to us by the parties, it appears that only about 13,400 votes were recorded at those meetings and that approximately 9,000 of them supported the continuation of the campaign.

Following a joint request by the ACTU and the private employers the case was relisted on 10 July 1980 to hear submissions about the present situation in the 35 hour week campaign and on the question whether or not any increase the Commission may award should flow to employees under the Metal Industry Award. At the outset of the hearing we said:

“We wish to make it clear that the step we have taken in sitting this morning is an extraordinary one.

We have listed the National Wage Case for this morning at the joint request of the ACTU and the private employer., We point out that we have been considering all the submissions put to us and have now reached firm conclusions on all issues which we have been called on to decide in the case apart from the matters raised in the joint request. Those matters are the present situation in the metal industry 35 hour week campaign and the question whether or not any increase we may award should flow to employees under the Metal Industry Award.

The Metal Industry Award is one of the awards in the proceedings before us, the campaign in the metal industry has been a matter of frequent reference during the hearing, and the parties directly concerned have jointly requested this sitting. In these circumstances we consider argument must be strictly limited to the award concerned and the campaign in question.”

It was submitted by Mr Hawke that the ACTU was opposed to the non-application of any National Wage increase to the unions concerned and that:

“people completely innocent of any suggestion of not abiding by this Commission’s principles and the strong recommendation of the ACTU should not be penalised by the non application of a decision of this Commission.”

He said that the overwhelming majority of the rank and file had in fact responded to the request of the ACTU to call off the campaign.

Mr Hawke drew attention to the fact that during the last few days the Federated Ironworkers Association conference passed a resolution endorsing the ACTU executive resolution of 5 June relating to the campaign.

In addition he said that the Federal officers of the Australasian Society of Engineers will be putting an almost identical resolution to their federal council which will convene on 16 July 1980.

The private employers claimed that the appropriate course was to take account of the campaign when considering substantial compliance and in the Commission's assessment of economic capacity to grant any increase. This attitude was also adopted by a number of governments.

From the submissions put to us the following conclusions can be drawn:

- (1) No party or intervener including governments requested us to deal differentially with employees under the Metal Industry Award if an increase is awarded.
- (2) The campaign amongst rank and file unionists is fast diminishing. The employers said:

“The reality of the position is however that it is becoming more and more evident that the campaign is not having the impact that its perpetrators hoped for.”

There was no disagreement amongst the parties and interveners on this point.

The facts disclosed that whereas at meetings in May about 38,000 metal workers attended, at the meetings of 26 June the number had fallen to about 13,000 representing less than 3 per cent of the total number employed in the metal industries.

- (3) The material before us on the economic impact of the campaign is scant and taken with the fact that there is agreement that the campaign is diminishing leads us to the conclusion that it should not affect the quantum of discounting.
- (4) The fall-off in support for the metal industry campaign and the complete absence of argument in favour of excluding employees who have been caught up in the call for industrial action have left us with no realistic alternative but to flow the results of the national wage decision.

For reasons already advanced, the concern about the campaign has been principally in relation to substantial compliance. It has posed a direct threat to the continuation of a centralised orderly system of wage fixation. Our concern remains about the manner in which the campaign was initiated and pursued and its relevance to a finding by the Commission on substantial compliance.

As we said in our Statement of 23 May 1980.

“The guidelines are intended to provide the basis for dealing with a variety of claims, including an hours claim. It is inherent in the concept of substantial compliance that the guidelines call for voluntary restraint on the pursuit of claims in such a way as to frustrate the operation of a centralised and orderly system of wage fixation, a system which all parties and interveners have said should continue. The absence of such restraint, particularly in connection with a substantial claim affecting a major industry, threatens the continuance of the present system.”

We would understand that the resolution of the ACTU Executive of 5 June 1980 and the recent submissions made to us by Mr Hawke, recognise the essential validity of that statement.

Unless claims such as those for a 35-hour week are co-ordinated through the active participation of the ACTU with proper regard for economic priorities and realities and are processed in accordance with the spirit of the guidelines, they will continue to pose a threat to the indexation system. What is inimical to the system is not the making of a claim, it is the processing of the claim by industrial dislocation with the object of avoiding any test of the costs involved and the priority which should be given to the claim.

In this connection we repeat what we said on 12 June 1980:

“It has been suggested by some governments that the Commission should cease sitting on the national wage case until the industrial action in support of the 35-hour week campaign has been abandoned. We reject this submission but we point out that should there be a resumption of the industrial dislocation following our decision it will be open to any party to raise the issue of the future of wage indexation.”

We should point out that some of the submissions before us extended to matters and disputes outside the questions which were the subject of the proceedings on 10 July 1980 and we have not taken them into consideration. Disputes occurring in other industries and by employees covered by other awards would appropriately be considered when dealing with applications to extend the National Wage decision to the awards in question.

CONFERENCE

In the National Wage Case Decision No. 2 of March 1980 the Commission indicated its belief that a further review of the Principles by way of conference chaired by the President would be worthwhile. It said:

“The proposed conference will provide a forum for a full discussion of alternative combinations of principles which may be available as a workable wage fixation package. It will be obvious that a workable package does not depend solely on any one component and that attention needs to be given to the interaction of the component parts and their overall consistency with the objectives of wage fixation.” [Print E2370 at p.19.

The President will shortly announce the date for the Conference. It would not be appropriate in this decision to issue a detailed agenda. However, it would seem desirable that the Commonwealth's package of proposals should be one of the items debated. This package was raised by the Commonwealth at an early stage of these proceedings but its consideration was deferred.

Opportunity might also be taken at the Conference to discuss the issues of the proper interpretation of ILO Conventions Nos 87 and 98 and the extent to which Principle 6 should be available to authorise industry claims on conditions based on national productivity increases.

CATCH-UP

Consistent with earlier decisions the claims for catch-up are refused.

DATE OF OPERATION

The unions asked that any order we make should operate from 15 May 1980. The Commission's attitude regarding retrospectivity in National Wage cases is well known and this claim is refused. The increases awarded will operate from the beginning of the first pay period to commence on or after today.

OVERAWARD PAYMENTS

Overaward payments may be dealt with in the terms of the Commission's Decision No. 1 of January 1980. [Print E1681 at p.16]

FORM OF ORDERS

The variations of the awards and determination will operate from the first pay period to commence on or after 14 July 1980. The variations of the awards will operate for a period of 6 months.

Minimum wages will be increased by 4.2 per cent.

Additional rates prescribed for leading hands will be increased by 4.2 per cent, as will shift allowances which are expressed in money terms, rounded off to the nearest one cent if on a daily or shift basis. Other allowances may be adjusted in accordance with the provisions of Principles 8(a)(ii) and 8(c)(i).

Junior rates prescribed as money amounts will be increased by 4.2 per cent.

Weekly rates will be calculated to the nearest ten cents and annual rates to the nearest dollar.

The form of the orders necessary to give effect to the decision under the *Conciliation and Arbitration Act* will be settled by the Registrar with recourse to a member of this Bench. The form of the determination will be settled by the Public Service Arbitrator.

Appearances:

J. Marsh with R. Overall and I. Watson for the Electrical Trades Union of Australia and others.

G.D. John and S.O. Green for The Association of Professional Engineers, Australia.

G. McGill for The Australian Public Service Association (Fourth Division Officers).

C.G. Polites with M.P. Rahilly of counsel for the Metal Trades Industry Association of Australia and others.

L.J. O'Connor for the Australian Telecommunications Commission.

E.R. Cole with J.M. Fristacky for the Public Service Board.

B. Shaw, Q.C. with A. Rowlands, of counsel, for the Minister of State for Industrial Relations (intervening).

M.J. Sweeney with M.F. Moore, of counsel, for Her Majesty the Queen in right of the State of New South Wales (intervening).

J.E. Murdoch with J.W. Johnston for Her Majesty the Queen in right of the State of Queensland (intervening).

G. Muecke with B.A. Pearce for Her Majesty the Queen in right of the State of South Australia (intervening).

A. Pearce for Her Majesty the Queen in right of the State of Tasmania (intervening).

P. Dalton, Q.C. with J.F. Turner, of counsel, for Her Majesty the Queen in right of the State of Victoria and others (intervening).

J.G. Carrigg with Mr Boylan and Mr Overman for Her Majesty the Queen in right of the State of Western Australia (intervening).

R.J.L. Hawke for the Australian Council of Trade Unions (intervening).

T.J. Wallace with J.R. Andrews for the Australian Public Service Association (intervening).

G. McGill for the Council of Australian Government Employee Organizations (intervening).

G.D. John with S.O. Green for the Council of Professional Associations (intervening).

J.S. Luckman for the Master Builders Association of New South Wales and others (intervening).

Dates and place of hearing:

1980.

Melbourne,

May 14, 15, 16, 20, 21, 22, 23, 29;

June 4, 6, 10, 11, 12, 13, 17, 18, 19.