Mis 188/82 MD Print E9700

IN THE AUSTRALIAN CONCILIATION AND ARBITRATION COMMISSION

Conciliation and Arbitration Act 1904

and

Public Service Arbitration Act 1904

NATIONAL WAGE CASE 1982

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

STOREMEN AND PACKERS' (GENERAL STORES) AWARD, 1972
[Print C3544; (1974) 161 C.A.R. 149]

in relation to wages, conditions and quarterly C.P.I. adjustments

(C Nos 1734 of 1981 and 157 of 1982)

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

PROFESSIONAL ENGINEERS (VEHICLE INDUSTRY) AWARD, 1964
[Print B86; (1964) 107 C.A.R. 191]

in relation to wage rates and quarterly C.P.I. adjustments

(C No. 190 of 1982)

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

THE AUSTRALIAN PUBLIC SERVICE ASSOCIATION (FOURTH DIVISION OFFICERS)

and

THE PUBLIC SERVICE BOARD and others

(C No. 208 of 1982)

and

PROFESSIONAL OFFICERS ASSOCIATION, AUSTRALIAN PUBLIC SERVICE

and

MINISTER FOR DEFENCE and another

(C No. 209 of 1982)

in relation to wage rates and quarterly C.P.I. adjustments

SIR JOHN MOORE, PRESIDENT
MR JUSTICE WILLIAMS
MR JUSTICE ROBINSON
MR JUSTICE LUDEKE — MELBOURNE, 14 MAY 1982
MR DEPUTY PRESIDENT ISAAC
MR PUBLIC SERVICE ARBITRATOR WATSON
MR COMMISSIONER BROWN

REASONS FOR DECISION

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INTRODUCTION

When the Commission abandoned the indexation system on 31 July 1981, [Print E7300; (1981) 260 C.A.R. 4], it said that any application for adjustment of wages or conditions on economic grounds would not be heard before February 1982. Later, in connection with an application by the Australian Road Transport Federation to vary the Transport Workers Award, 1972 [Print B8561; (1972) 147 C.A.R. 363], the Commission said on 1 September 1981:

> *"If the Union persists in seeking some increase capable of being applied across-the-board throughout the transport block, it seems inevitable on the material before us that the only grounds available must be of general relevance, having application beyond either the 1972 Award or all the transport awards.*

" The historical fact that work value has been processed since World War II by way of specific rounds is a matter which neither the Commission nor the parties can ignore. No doubt the actions of parties to Federal awards, and the peak councils of unions and employers who represent the parties, will determine priorities between general and sectional cases. We emphasize the point which has often been made that there is an obvious overlap between changes in work value and national productivity movements.

" Should it be desired to proceed with a claim of general application, the matter would be listed for hearing as soon as practicable. No doubt at such a hearing arguments would be put as to whether the Commission is or should remain constrained by the February 1982 schedule determined by the National Wage Bench on 31 July 1981 (Print E7300) in respect of any application for adjustment of wages or conditions on economic grounds." [Print E7520; (1981) 261 C.A.R. 664]

The invitation for the matter of a general wage adjustment to be heard before February 1982 was not taken up by the unions.

Instead, the unions, some working under the co-ordination of the ACTU, proceeded to make claims and to negotiate on an award by award basis in a wide range of industries and occupations. As a result many awards covering a substantial proportion of wage and salary earners in many industries and occupations have been varied, mostly by consent, involving diverse pay increases and in some cases shorter hours of work. Among these awards was the Metal Industry Award 1971 [Print D1611; (1977) 191 C.A.R. 598] in which a package agreement was the subject of a consent variation by a Full Bench of the Commission on 18 December 1981. The agreement for a term of twelve months included an increase of $25 per week in the fitter's rate and proportionate increases in other classifications; a $14 per week increase to be effective from 1 June 1982 in the fitter's rate and proportionate increases in other classifications; increases in supplementary payments; and a reduction in standard weekly hours from 40 to 38 to take effect on 15 March 1982. There were other items in the agreement notably an undertaking by the unions not to make any further claims for the term of the agreement.

THE CLAIMS

The formal applications before us are typified by the application of The Federated Storemen and Packers Union of Australia in relation to the Storemen and Packers' (General Stores) Award, 1974 [Print C3544; (1974) 161 C.A.R. 149] which was in the following terms:

"1. To increase all wage rates, in line with movements in community standards, of wage and salary earners not in receipt of such increases other than for special reason.

AND

2. To introduce automatic quarterly cost of living adjustments. Such adjustment to include movements in 6 capitals C.P.I. for the quarter ending December 1981."

In the course of its submissions, the ACTU indicated that the current claim differed from past national wage claims in that it did not seek a general wage increase based on economic factors for all wage and salary earners covered by Federal awards. Notwithstanding the wording of the formal applications the ACTU explained that in effect it sought on behalf of its members a declaration to direction from this Bench on number of points which would form the basis of subsequent award adjustment case by case. The substance of the claim may be summarized as follows:

1. The ACTU argued that since the end of 1981, a clear community movement has emerged and that movement is in the order of $25 at the tradesman level as exemplified by the metal industry settlement and other major industry settlements. It seeks a direction for a flow-on of this $25 tradesman standard, with appropriate relativity increases in other classifications, to all wage and salary earners. "The $25 should represent an arbitrated level which parties could proceed to have written into awards by various members of the Commission." The increase claimed was characterized as a catch-up and it was submitted that

   ". . . there is no expectation amongst ACTU affiliates that they can expect a decision handing down a general wage rise as a result of this hearing. Large sections of the workforce have received increases which reflect the standard we are seeking to have extended to other workers".

2. In addition, the ACTU seeks a mid-term adjustment of $14 at the tradesman level based on the metal industry settlement which applies that increase from 1 June 1982. The ACTU maintained that while the mid-term adjustment did not have the same force as a community standard as the $25 increase, significant sections of industry have adopted the same mid-term adjustment.

3. While the ACTU is not arguing for the $25/$14 catch-up at tradesman level on the basis of prices and productivity distribution, the increase sought represents "the magnitude of economic factors which have been accommodated or traded off by various industry agreements on a sectional basis". In further explanation the ACTU said:

   "Thus price movements up to the end of the September quarter are part of the $25 standard, price movements up to the end of the March quarter 1982 are part of the $14 mid-term adjustment and known productivity increases since 1974/75 are accommodated in the catch-up application."

4. The ACTU argues that catch-up based on community movement should not preclude additional increases arising from special factors identified as work value, anomalies and inequities, supplementary payments and paid rates/minimum rates comparisons. Each award should be examinable on its own particular circumstances. Thus, those awards which have had less than the $25 standard at tradesman level since the abandonment of indexation would be entitled to the balance. Those awards which have only had special increases would be entitled to the full amount of *"the community standard"* economic increase. And awards which have had the $25 increase may still require rectification on account of special factors.

5. Finally, the ACTU asks the Commission to facilitate a return to a centralized system by indicating its support in principle for a centralized system based on full indexation and its preparedness to convene conferences aimed at the major parties discussing in detail the requirements and priorities with respect to such a system. While the ACTU recognized the difficulties in the way of a return to such a system, it considered that *"in relative terms . . . the current situation provides the basis for a positive outcome later this year at which time such a system could be introduced"*. Its application with regard to the future of indexation represents, it said, its *"willingness to discuss and debate constructively the difficulties which inhibit a centralized system"*.

The ACTU stressed the interrelated nature of the different parts of the claim. It sees the timing of the pay adjustments in accordance with the $25 and $14 standard as important for a return to a centralized system based on full indexation. It submitted that it was opportune that this case should proceed before a further wage round was initiated and in order *"to inhibit the emergence of a self-defeating and divisive money wage/price spiral"*. The developments since the end of indexation, the ACTU submitted, had resolved a number of outstanding issues which had accumulated during the indexation period. There were grounds for optimism for establishing a conducive environment for a centralized system to work if these developments are built upon by the Commission acceding to the ACTU's claims outlined above. This would ensure, it said, uniformity and consistency which is necessary if there is to be an acceptable base from which a centralized system can operate. The Commission, it submitted, has therefore *"an extremely important and positive role to play"*, in ensuring that a proper base is established and maintained.

The ACTU claims and submissions were generally supported by the Council of Professional Associations (CPA), The State Public Services Federation (SPSF), the Australian Public Service Federation (APSF) and Tasmania. The proposal for wage adjustments was opposed by the private employers, the Commonwealth, New South Wales, Queensland, South Australia, Western Australia, the Northern Territory and the Public Service Board. Victoria expressed no views on it, the newly elected Government not having had enough time to examine the claim.

Those opposing the ACTU's proposal for wage adjustments did so on the ground that the evidence did not establish the existence of a community movement or a community standard, and that the course proposed by the ACTU would have adverse industrial and economic results. Apart from New South Wales, it was argued that the Commission should allow the award by award approach which has developed since the end of indexation to continue without any direction or guidance on the standard of wage adjustment which should be applied in future cases.

New South Wales, while supporting a centralized system, was opposed to the two-stage proposal of the ACTU, namely, money adjustments on a community standard followed by a conference to consider a return to a centralized system based on full indexation. It argued that the whole matter ought to be dealt with as a single issue in these proceedings. To this end, it proposed a system of automatic flat rate wage adjustments every quarter based on the movement in the Consumer Price Index (CPI) applied to the national minimum wage. In addition to these automatic economic adjustments, the Commission should conduct hearings at intervals of no longer than two years to consider on a national basis the state of the economy, the need for adequate compensation for skills and qualifications and claims for changes in working conditions.

The call for a conference to consider a return to a centralized system was supported in varying degrees by CPA, SPSF, APSF, Victoria, Tasmania, Queensland, Western Australia and the Northern Territory. It was opposed by the private employers, the Commonwealth and South Australia. The Commonwealth saw futility in exploring the possibility of a return to such a system. The private employers argued that the time is not ripe to consider a return to a centralized system and said that with the completion of the current round of wage adjustments *"after the dust has settled"* then *"it may be that the parties will be in a position to more properly and rationally investigate the hope of an alternative system . . ."*.

THE ISSUES

The submissions before us raise a number of important questions for consideration. First, has there been a community movement which has established an identifiable community standard? Is the course proposed by the ACTU likely to lead to less adverse economic and industrial consequences than the unguided case by case approach pressed by the private employers, the Commonwealth and others? Third, should the Commission initiate and encourage a move towards a return to a centralized system based on indexation?

These questions should be viewed against a background of a high level of industrial disputes following the abandonment of indexation and the deterioration in the current state of the economy. The level of industrial disputes in terms of man days lost for 1981 was the highest since 1974. There is broad agreement in the material put to us that after a satisfactory performance in 1980/81, the economy has begun to show clear signs of weakening activity. Employment growth has been falling and unemployment stood at 7% in February and 6.7% in March. These are the highest levels in the postwar period. After being down to single figures between December 1980 and September 1981, the inflation rate is up again. The December 1981 and March 1982 quarterly CPI figures rose to 11.3% and 10.5% respectively above the corresponding quarters a year earlier although it should be noted that 1.5% of these increases was due to government policy in respect of health charges and indirect taxes. The exchange rate has fallen steadily since last October, adding to the pressure on prices. The international competitiveness of Australian industry has declined while the balance of payments has weakened in the face of a general recession in international economic activity. Interest rates are at record levels. With the exception of the rate of investment which, although it has fallen, continues to be high, the state of the economy is well expressed by the employers *"at the moment there is not one major economic indicator pointing in the right direction"*.

A high degree of uncertainty prevails about the future of the economy and what happens to the course of wages will have a critical bearing on the economy. This is especially so in view of the determination of the Commonwealth, as submitted to us, not to relax its economic policy to accommodate excessive and inflationary wage increases. The Commonwealth repeatedly emphasized that *"any acceleration in the growth of labour costs is likely, in current circumstances, to fall primarily on reduced profitability and thus a slower employment growth and increased unemployment"*.

Both the recent movement in wages and the impact of the present claims are difficult to quantify. A new Average Weekly Earnings (All Male Employees) series has been introduced, the first of which is for the December 1981 quarter. This figure is based on a sample survey taken in the week of 23 October 1981 and is not strictly comparable with the old Average Weekly Earnings (per employed male unit). Subject to this reservation, using the latter as a base, it appears that the December quarter 1981 figure of the new series is 14.5% higher than the corresponding quarter of 1980, and is up 5.1% on the September quarter 1981.

Average Minimum Weekly Wage Rates appear to have moved at a slightly slower rate than a year ago. The January 1982 on January 1981 movement for male rates was 9.6% while the rate the year before was 9.8 per cent. The corresponding female rates were 10% and 11.9 per cent. But there may be a lag in the recording of award movements in these statistics.

If the metal industry agreement standard were flowed generally as sought by the ACTU, the overall increase in wages since the end of indexation would be 15% on the estimate of the Commonwealth and 16% on the estimate of the employers. But on the assumption that the standard sought by the ACTU would not be exceeded before December 1982, that increase would have applied over a period of some 18 months. Furthermore, the impact of the increase would also be moderated by the staggered nature of the wage adjustment in at least two instalments.

The effect on labour costs of shorter hours has to be set against this. The Commonwealth has calculated the effect of reducing standard hours from 40 to 38 on the assumption of no change in productivity. The additional cost is estimated at 5.3% if the two hours are made up by an increase in the number of employees; and at 8% if overtime is worked.

The employers estimated the increase to metal industry employers of the total package, namely, $25, $14, an assumed Supplementary Payment of $9.30 and the 38 hour week, to vary between 20% and 30%, depending on the base figure used, if the shorter time is made up by normal time; and between 23% and 33% if it is made up by overtime.

Because of the nature of the statistical material and the assumptions underlying the various calculations, we are not able to assess with much confidence the overall effect on labour costs of the ACTU's claims. However, the 15% to 16% estimate of the impact on wages and salaries may not be far off the mark if the standard sought were held and no leap-frogging occurred as a result of our acceding to the ACTU's claim. The spread of shorter hours could be expected to add to this estimate depending on the extent of offsetting cost reductions agreed to in return for the shorter hours.

These estimates must be viewed against the background of the size of the increase in wages which occurred during the year 1980/81. In that year, Average Weekly Ordinary Time Earnings rose by 4.6% in real terms. This is a large increase compared with normal national productivity movements and may have a delayed adverse effect on profitability, employment and inflation - especially in the context of the non-accommodating economic policy of the Commonwealth and the deterioration in Australia's international competitive position. This fact together with the projected increase in wages and salaries is obviously a matter of concern.

COMMUNITY MOVEMENT AND COMMUNITY STANDARD

We were presented with much statistical material, some intended to show and some to deny that a community movement of a particular order had taken place since the end of indexation. The analyses were based on substantially the same raw data but differences arose because of different categorizations and different interpretations given to the data.

In summary the ACTU sought to show:

- *"the existence of extensive and broadly based wage movements since the end of indexation and within that general development the establishment of community standard wage increases";*

- that in major industries covering both Federal and State awards the $25 base tradesman standard increase has been recognized by agreement subsequently ratified by tribunals or determined by arbitration;

- that the increases based on the standard referred to have accrued to skilled and unskilled employees, to those in key industries with high levels of demand as well as those with little bargaining power;

- that a number of wage increases which *"fall short of the community standard are of an interim nature or provide for re-opening following wage rate adjustment resulting from this national wage case or from the settlement reached in the metal industry negotiations";*

- that despite the varying amounts of wage increases *"a clearly discernible standard has emerged within that diversity . . . that standard increase is in excess of $20 per week with a figure of $25 per week at the base trades level being the most common figure";*

- that while the ACTU clearly recognized that there was a range of increases and that increases were obtained on several varying grounds, it submitted that *"within this broad development there is a definite trend, a predominant amount of increases in the order of $25 at the trades level with an increase of $14 at the trades level with respect to the mid-term adjustment."*

It is clear from the material before us that there has been a widespread movement in pay since the end of indexation. With all the qualifications that have been made about the completeness and accuracy of the figures, there is general agreement on this point. The material before us shows that nearly 75% of all employees (Appendix 1) or over 80% of all those covered by Federal and State awards, have had an increase in pay since the end of indexation. While the material generally supports the points drawn from the statistics by the ACTU as summarized above, it fails in two important respects:

(1) that the figure of $25 at the base trades level referred to as the *"most common figure"* could be said to be the established community standard; and

(2) that there is a definite trend, a predominant amount of increases in the order of $25 plus $14 mid-term adjustment at the tradesman level.

As Appendix 1 shows, a significant proportion of all employees has had increases of $20 and more: 42% on the ACTU's calculation and 35% on the Commonwealth's calculation. When adjusted for some 11% of employees who are not subject to award coverage, the figures are 47% and 39 per cent. It will also be seen that the proportion of employees in the Federal jurisdiction who have had increases of $20 and over is even higher - 59% on the ACTU's and 51% on the Commonwealth's calculation.

A survey made by the ACTU of the 60 largest Federal awards and the ten largest awards of each State, covering half of all employees, shows on the Commonwealth's analysis (Appendix 2) that 20% of awards received $20 or more plus a mid-term adjustment. On the ACTU's calculation, these awards cover about 33% of employees in that survey. This is higher than the figures shown in Appendix 1 covering all employees in the workforce.

Further figures based on the private employers' analysis of the ACTU's data and made on certain assumptions not accepted by the ACTU, show that of those employees who have had pay increases since the end of indexation, 88% have had increases of $20 or more. The ACTU's recalculation of this figure is not substantially different - 91 per cent.

The figures we have referred to relating to the incidence of increases in pay since the end of indexation, may be summarized as follows:

1. Those who have had increases in pay:

   (a) Nearly 75% of all employees

   (b) Over 80% of all employees covered by awards

2. Those who have had increases of $20 or more:

   (a) 42% of all employees (ACTU's calculation)

   35% of all employees (Commonwealth's calculation)

   (b) 47% of all employees covered by awards
   (ACTU's calculation)

   39% of all employees covered by awards
   (Commonwealth's calculation)

   (c) 59% of all employees in Federal awards
   (ACTU's calculation)

   51% of all employees in Federal awards
   (Commonwealth's calculation)

   (d) 88% of all employees who have had pay increases
   (Employers' calculation)

   91% of all employees who have had pay increases
   (ACTU's calculation)

3. Those who have had increases of $20 or more plus mid-term adjustment:

   (a) 22.6% of all employees (ACTU's calculation)

   19.5% of all employees (Commonwealth's calculation) (Appendix 1)

(b) 33% of all employees in ACTU's survey which covers 50% of all employees in the workforce. (Appendix 2)

Bearing in mind all the qualifications relating to the calculations of these figures, it is fair to conclude that a substantial proportion of employees have had increases of $20 or more, especially in the Commission's jurisdiction. But the figures do not go far enough to support with any confidence the ACTU's conclusion that $25 at the tradesman level is the *"most common figure"*. The material does not allow any generalization about the most common figure, only about a range of figures.

However, even if it is conceded on these figures that something close to $25 at the tradesman level was commonly received by those who have had pay increases, it is not clear that that figure establishes *"the community standard"*, a term which has tended to be used rather loosely in wage fixation. The ACTU has provided a number of criteria for the identification of a community standard. One of these is that the increase should be *"widespread"* in terms of award coverage and employee coverage. We do not find this criterion satisfactory. The term "*widespread*" is not at all precise. A whole range of figures can be said to fit this description. We note that the private employers defined community standard as one in which *"a large majority of uniform increases"* could be identified. On this definition, the statistical evidence clearly does not support the existence of the ACTU's community standard.

In a more precise statement to which we have referred at the opening of this section, the ACTU said that within the broad development of pay increases *"there is a definite trend, a predominant amount of increases in the order of $25 at the trades level with an increase of $14 at the trades level with respect to the mid-term adjustment"*. On this basis, the figures above, especially those in item 3 of the summary, would not support the ACTU's submission on the community standard it identified: on the ACTU's own calculation, only 22.6% of all employees have had increases of $20 or more with mid-term adjustment.

Another criterion advanced by the ACTU for the identification of community standard relates to the explicit basis for the increase and whether it took account of general factors such as prices and productivity. The difficulty of establishing the applicability of this criterion on the material before us is illustrated by the problem of ascertaining the precise grounds for the particular increases in pay. The Commonwealth resorted to a *"mixed factors"* category (Appendix 1) and the ACTU reworked the figures and arrived at somewhat different results. But the fact that the category shows *"mixed factors"* points to the difficulty we have of identifying a community standard related only to economic increases, at $25 plus $14 for base tradesmen.

Another criterion of community standard proposed by the ACTU is that the increase did not *"contain special consideration that could be related only to a particular industry"*. To establish the applicability of this point would require a close examination of all the award adjustments, something no party was prepared to do. But even an examination of the major awards like the Metal Industry Award, shows that a package deal formed the basis of the agreement to vary the award and that the special circumstances of the industry formed an ingredient in the settlement. It is true that in the metal industry settlement prices and productivity featured in the grounds but it is not possible to isolate them from other grounds bearing in mind that a 38-hour week was part of the settlement.

A further criterion advanced by the ACTU is whether the movement involved key awards which have traditionally affected unions in making claims and accepting agreements. In the present circumstances it is true that a number of key awards, notably those in the metal and building industries, have been settled on the $25 and mid-term adjustment basis. This one condition can hardly be said to establish the existence of a community standard.

The search for a community standard on the material available has, therefore, not been conclusive and we are not prepared to recognize the existence of the specific standard sought by the ACTU. The material reveals a large variation in respect of a number of characteristics: the amount of increase awarded; the manner in which the increases were applied, some staggered over time, others not; the degree of finality of increases, some being interim, others involving a mid-term adjustment; the status of the increase in terms of paid rate and minimum rate award adjustment, overaward pay or State supplementary incremental payment schemes; the grounds on which the increases were settled, many are unspecified, some include prices, some exclude productivity, a number use a mixture of economic and non-economic factors; reduced working hours; and in the matter of further claims - some having a no further claims undertaking for the term of the award others being open-ended.

However, despite this wide diversity in the terms of settlement, significance must be attached to two outstanding features of the material before us - first, the substantial proportion of employees covered by awards who have had increases of $20 or more; and second, the large proportion of major awards which are in this category, especially the Metal Industry Award.

In respect of the second feature, the ACTU emphasized the importance not only of the quantitative aspect of the extent of wage settlements but also its qualitative aspect. As to the latter, the ACTU submitted that many of the major awards, especially those of the Commission, have a significance beyond those directly affected. By way of illustration, the ACTU referred to a list of awards and determinations, both Federal and State, which have been affected by movements in the Metal industry Award and The National Building Trades Construction Award 1975 [Print C6006] which are in a parental or other influential relationship to many awards.

The flow influence of major awards, especially the Metal Industry Award, is of course, well known and has been acknowledged by the employers and the Commonwealth. The ACTU submitted that:

> *". . . the Metal Industry Award and its predecessor, the Metal Trades Award, has historically assumed importance in wage determination and that this Award has a persuasive influence impacting upon a wide range of manufacturing industries. The quantitative impact of the Metal Industry Award covering an estimated 350,000 workers, the fact that other industries settled for interim increases pending the outcome of the metals, the subsequent agreements reached in a number of major areas which are modelled on that agreement, the reasons for decisions of this Commission which use metals as a benchmark in assessing the arguments advanced in other areas combine to demonstrate the importance of that settlement to current wage determination processes."*

In response to this submission, the employers submitted that it was clear from the data of award movements presented by the ACTU that *"the Metal Industry Award settlement has had a pervasive effect on settlements reached elsewhere"*.

Although the Commonwealth warned against elevating the metal industry settlement to benchmark status, it said:

> *"Claims are being pressed in the public sector, both federal and state, and by local government unions. Significant claims are being pressed in the power industry and in state instrumentalities. In the private sector claims for flow on of the metal industry increases are commonplace.*
>
> *" The Commonwealth is concerned to do all it can to encourage moderation of industrial disputation. The extent of sectional campaigns for wages and conditions improvements and the determination with which they are pursued is an industrial reality that the Commonwealth and the Commission cannot ignore."*

We note that in its decision ratifying the metal industry agreement, the Commission said:

> *"As to flow we think we would be unrealistic to assume that there would be no flow but we point out that we have endorsed a total package and not merely parts of it." [Print E8389 at p.17]*

Given then the strong probability of the pressure for a flow of the metal industry money settlement standard, should the Commission pursue the course argued by the employers, the Commonwealth and others for the continuation of the case by case approach without any guidance or direction from us? Or should we follow the course proposed by the ACTU of laying down the ground rules outlined above for application case by case? Or is there some intermediate course?

THE MAIN COURSES PROPOSED

The submissions before us are agreed on the current weakness of the economy, on the uncertain economic outlook and on the danger to the economy from excessive wage increases. But they differ markedly on the proper course for minimizing the danger to the economy.

As noted earlier, the ACTU claimed that the course it proposed and its timing were based on its desire *"to inhibit the emergence of a self-defeating and divisive money wage/price spiral"*. It submitted that while it disapproved of the Commonwealth's economic policy of non-accommodation to excessive wage increases, it could not alter the direction of economic policy. Such policy, it said, creates *"the environment in which we must work"*, but its approach, it contended, would *"minimize in advance the potentially harmful effects"* of the Government's non-accommodating economic policy.

To prevent an escalation of wage rates and leap-frogging, the ACTU believes that those areas which have not yet settled on a wage increase should do so uniformly and consistently with the large number of settlements based on the $25 and $14 standard and the application of *"special factors"* wherever relevant. Regardless of the outcome of this case, areas which have not been settled will be opened. The wage round will not go away. In these circumstances, the ACTU emphasized the industrial and economic case for uniformity of treatment. It was equitable and it would reduce the risk of higher settlements being reached. The ACTU submitted that so far leap-frogging had been avoided and that adoption of the course it proposed would result in lower economic costs than would otherwise occur by a further cycle of increases emerging which build on other increases and create a further justification for increases.

The ACTU said:

". . . what we have tried to do is not generate general expectations of another wage round that will occur but to generate expectations that you cannot expect to have any more than what other workers have struck in bargains over the last seven months."

The ACTU said further:

"We hold the view that adoption of the $25 and the mid-term standard would create greater certainty and quell the potential for greater disparity, less uniformity, less consistency and ultimately higher money wage increases. A relatively stable economic outcome of this wage round is possible in our view on the basis of what has occurred and what we seek as a result of this hearing. The opposite is also possible. There is potential for the much discussed wage explosion to in fact occur some time in 1982. It is the latter possibility which we believe our application will avoid if accepted by the Commission."

Accordingly, it was submitted, bearing in mind the multiplicity of tribunals involved in wage fixation, the guidance and direction of the Commission along the lines proposed by the ACTU would create greater uniformity and assist in holding the line against higher wage settlements. It would, the ACTU argued, allow the developments which have so far taken place to continue to do so in an orderly way and with the least harm to the economy.

The private employers and the Commonwealth both opposed the course proposed by the ACTU as promoting higher wage levels. The private employers argued that if the ACTU claim is acceded to the wage round would be completed very quickly and this would ensure the maximum cost impact on the economy; and that to recognize special factors such as work value and relativities, contains the potential for creating a second wage round rather than preventing it.

The Commonwealth has similar difficulties with the ACTU's claim. It submitted that the claim could not be absorbed by the economy without a serious deterioration in economic conditions. It argued that to accede to the course proposed by the ACTU would invite further claims for a catch-up and only set a minimum level upon which unions will attempt to build in connection with the large number of claims currently being made. The guidelines proposed would re-open settled matters and trigger off claims which otherwise would not be made. They would create uncertainty when certainty exists at present. Furthermore, a decision by the Commission on catch-up in the context of what is generally seen as a national wage case would, in view of the historical significance of national wage cases, generate expectations for a general wage increase.

We do not doubt the assurance given by the ACTU that it was not seeking a general wage increase, that no such increase would result from this hearing and that there was a clear understanding among its affiliates that there can be no double counting for economic increases. We find no substance in the Commonwealth's submission that if we accede to the ACTU's claim for approval of the $25 plus $14 standard, a general increase of the kind which has in the past been generated by national wage decisions would occur.

However, we are concerned about the implications of allowing *"special factors"* in the manner proposed by the ACTU as a basis for wage increases over and above the $25 plus $14 base tradesman increase sought for economic reasons. We return later to explain our difficulties with the proposed provision for special factors. But we should say now that the difficulties inherent in the unqualified application of the special factors and their potential for wage escalation well beyond the $25 plus $14 standard, lead us seriously to doubt the validity of the ACTU's conclusion that the course it proposes would *"inhibit the emergence of a self-defeating and divisive money wage/price spiral"*.

The course proposed by the employers and the Commonwealth is that we should reject the ACTU's claim and allow the case by case adjustment of awards to continue in the way it has operated since the end of indexation without any guidance or direction from the Commission. Apart from the common ground that this course would minimize labour cost increases, the grounds generally on which it should be preferred differed as between the employers and the Commonwealth.

The private employers submitted that the unions have used industrial action to soften up governments, employers and tribunals

> *" . . . to a point where a large number of industries have granted wage increases without regard to any principle whatsoever. It is these increases which are now being used to justify the claims that there has been such a change in community standards, . . . and that everybody should hence receive an increase."*

Thus, they said, the unions had created the present disturbed situation by their own decision and their own action. They elected to take a sectional approach *"and it must be shown that they have to live with the results"*. To grant the catch-up claim, the employers said, would ensure that the trade union movement pursued the policy again and again. There would be no incentive to search for a *"more universally acceptable system"* in the longer term.

While we understand the need for such an incentive, it is not clear from the employers' submission how the continuance of an undirected case by case approach would conduce to greater economic stability or minimize wage cost increases in the immediate future - an objective which seems to us to be important in the current circumstances. The employers admitted that they were *"far less bullish about the present system than the Commonwealth"*. They also accepted the possibility that industrial action would accompany the case by case approach as it has since the end of indexation. It was a choice between two evils, they said; and the employers believed that the Commission should reject the claim and not be seen to be rewarding industrial action.

The employers submitted that to reject the ACTU's claim would be to revert to the practices of the late 1960s and early 1970s but conceded that this would *"recreate all the problems the Commission discussed on a number of occasions in national wage cases during that period"*. It would seem to us the experiences of that period should if possible be avoided rather than recreated. Nevertheless we are bound to agree with the employers' submission that since the abandonment of indexation the trade union movement has brought about the present situation by deliberate policy action. We have pointed out that as early as 1 September 1981, the unions were given the opportunity of arguing for a national wage hearing before February 1982. They declined the opportunity and proceeded on a course of sectional wage adjustments to secure economic increases. And now they say that expectations have been generated and ask for the metal industry standard, settled by agreement on the circumstances of that industry rather than the economy as a whole, to be generalized by arbitration as a prelude to a return to a more centralized system. We should also note that the settlements prior to the metal industry agreement were generally at a lower level.

In arguing for the continuance of the unguided case by case approach, the Commonwealth took a much more benign view of industrial action and the industrial prospects for the future. It submitted that the case by case approach had worked effectively and the need for the guidelines sought by the ACTU had not been established. That approach should be given the opportunity to realize its potential. The parties, it said, have expressed a preference for that approach and the Commonwealth supports it. The Commonwealth sees important industrial relations benefits: the parties assume responsibility in coming to a settlement; and the case by case approach allows an exchange of concessions between the parties and a most desirable development has been the emergence of no-claims provisions in agreements. The Commonwealth is *"encouraged by the industrial maturity evident in employers and unions agreeing on means of regulating their future affairs"*. This contrasts, the Commonwealth said, with settlements imposed on parties from above in which the employers and employees affected would have little or no opportunity to participate in decision making.

The Commonwealth submitted that:

> *". . . those on the shop floor who have participated in a rigorous decision making process, perhaps one which involved some industrial action, would feel a real sense of inequity or be aggrieved when they see that other groups of workers receive wage increases for virtually no effort. In those cases pressure for further adjustment would build up from the shop floor . . . An attempt to articulate guidelines for the community wage movement must have the consequence of re-opening completed agreements by the provision of claims for top-up, specials or a combination of both."*

The substance of this submission was denied by the ACTU which tendered a resolution of its affiliated unions in the metals and manufacturing groups condemning *"the totally unfounded assertions of those opposing the National Wage application of the ACTU that if granted the application would undermine the Metal Industry settlement"*. The metal unions also stated in the resolution that they believe that *"If the National Wage claim as outlined by the ACTU is endorsed . . . it will contribute to the maintenance of the agreement"*.

For a variety of reasons, the Commonwealth is *"cautiously optimistic"* about the future level of disputes - industrial pressures built up over a long period have been released; reaction to the abandonment of indexation was a *"once-only matter"*; and the emergence of no-claims provisions offers prospects of moderation in disputation for the life of agreements.

The Commonwealth was hopeful that its non-accommodating economic policy would prevent the unguided case by case processing of awards from producing excessive wage increases. *". . . the machinery is in place"*, it said, *"and the economic policies are in place to encourage the achievement of an industrially sound and economically responsible outcome"*. It submitted that the present industrial relations and economic environment and the present economic policy settings differed from those of 1974, the year of the wage explosion.

Currently, the Commonwealth said, the parties have elected for the sectional approach in preference to securing the main wage adjustment through National Wage cases. This contrasts with the situation in 1974 when sectional and general increases were interacting to create inflationary pressures.

While it may be that the economic environment and economic policy settings of 1974 were permissive of large wage increases, it is not clear how long the *"monetary bite"*, as the Commonwealth called it, would take to restrain wage pressures in the case by case approach. The Commonwealth stressed the importance of the learning process in industrial relations and that both unionists and employers were *"realists"* and it said:

> *". . . one would hope that all those involved in the wage determination process have now learnt from the experience of 1974 and will strive to avoid another extremely damaging wage explosion, which, in the context of the non-accommodating policy stance, can only lead . . . to reduced output and . . . increasing unemployment."*

While we accept the importance of the learning experience, we are not as sanguine as the Commonwealth about the force of learning experience in the present circumstances. We note that despite the Commonwealth's nom-accommodating economic policy settings which it said *"had been in place for some time"*, the level of wage rates has risen sharply in the various settlements which have occurred since the abandonment of wage indexation; and they have affected a variety of industries, including those which are not in a strong competitive position in relation to imports such as clothing, textiles and motor vehicles. We note also that the employers have expressed a contrary view of the efficacy of non-accommodating economic policy and the monetary bite in restraining the size of wage settlements. The employers said that union pressure had the

> *". . . potential to bring large and powerful industries to a standstill in a very short space of time and in a difficult economic climate with monetary policies screwed right down . . . The effect may well be that in order to preserve cash flows companies settle and settle quickly. In that sense the Commonwealth monetary policy may have completely the opposite effect to that effect which they think it has."*

The monetary bite nay eventually operate in the labour market but from our observations and experience of wage settlements, it could take much longer and inflict much greater economic and industrial hardship than the Commonwealth appears to assume.

It will be apparent from what we have said that each of the two courses placed before us is fraught with serious risks to the economy and industrial relations. We do not believe that on the arguments presented, there is a clear choice on industrial and labour cost grounds between the guided case by case approach espoused by the ACTU and the unguided case by case approach preferred by the employers and the Commonwealth.

We referred earlier to the difficulties inherent in the ACTU's claim on the accommodation of special factors in the application of the $25 plus $14 standard. We turn now to consider these difficulties.

SPECIAL FACTORS

The ACTU distinguishes increases on account of *"special factors"* from *"economic"* increases. The latter relate to what the ACTU has identified as the community standard of $25 plus $14 at the base tradesman level. The ACTU argued that some groups of employees should be allowed to obtain wage increases above this community standard if they can show that there are special problems calling for rectification. This was in line with the practice *"before, during and after"* the indexation period. The ACTU argued that all groups should have the option to test claims based on special factors but the obligation would be on those unions seeking an adjustment additional to the standard economic increase to justify their application.

The ACTU identified the following special factors:

- work value adjustments
- supplementary payments
- adjustment of paid rates awards
- correction of anomaly or inequity

It was submitted that these special factors represented important grounds for wage increases in addition to general economic factors in meeting equity and industrial relations demands. It was also argued that recognition of these special factors had contributed to an abatement of industrial pressures and that if the process of such rectification was halted or reviewed these pressures could re-emerge.

We now deal with each of the special factors.

Work Value

As part of its catch-up claim the ACTU asked that increases in pay since the abandonment of indexation on account of changes in work value should not be absorbed into the general community movement.

The ACTU justifies this part of its claim by reference to the conventional distinction made by the Commission between economic and non-economic cases, work value being in the latter category. It referred us to the decision of the Full Bench in the Transport Workers case of 1 September 1981 [Print E7520; (1981) 261 C.A.R. 664] and in particular the following passage at p. 6:

> *". . . to remove any doubt that may he raised . . we state the main conventions which have long provided a guide to industrial tribunals constituted under the Conciliation and Arbitration Act in non-economic cases:*
>
> *"1. The Tribunal should examine all aspects of the work, including the conditions under which it is performed, and the skill and responsibilities of those who perform it.*

"2. Under normal circumstances, the starting point is the last occasion on which the award rates were reviewed.

"3. Change of itself including evolutionary change nay not add to the value of work. If changes have occurred which significantly alter the work, the award rates may be varied.

"4. Where arguments are addressed to the Commission based on comparative wage justice or on the maintenance of relativities, particular care should be taken in the examination of such arguments to ensure that the Commission can be satisfied that they are appropriate to the assessment of changes in the award rates under review and that inappropriate comparisons are not made involving consent or paid rates awards.

" It should be stated that the treatment of work value, allowances, first awards and service increments during the period 1975-1981 reflected these conventions. In general terms it might be said the Principles then applying codified these conventions with the exception that the use of comparative wage justice was deliberately and specifically restricted.

" The following passage from the National Wage decision of 18 September 1975 is equally relevant to present circumstances:

"We must emphasise that changes in work by themselves may not lead to changes in the value of the work. The change should constitute a significant net addition to work requirements to warrant a wage increase. Thus, for example, the use of new equipment may call for more responsibility but if on balance, it also requires less skill and reduces mental and physical fatigue, no increase in work value may be involved in the change.'[Print C2700; (1975) 171 C.A.R. 79]

"Similarly in the National Wage decision of 28 March 1980 the following comment is still appropriate:

'New equipment or a new method of organizing work or a new product or service, or the need to retrain employees to cope with these innovations do not in themselves constitute evidence of increased work value. The innovation should also make the work in question on balance significantly more demanding because of the nature of the work, skill and responsibility required or the conditions under which the work is performed.' [Print E2370; (1980) 235 C.A.R. 246]

We affirm the criteria expressed in the above quotation. The distinction between an economic increase and a work value increase is, of course, well founded in convention. But in the circumstances of the developments in the last six months and the catch-up claim before us, our concern about this special factor is twofold.

First, "*community movements*" which include increases for economic reasons may play a part in the determination of the money value of changes in work. Thus unless such economic increases can be identified and discounted in work value increases awarded following the end of indexation, an element of double counting is likely to occur. In the circumstances of the widespread and sizeable increases in pay which have taken place since July 1981, the double counting could be substantial.

The second concern we have relates to a problem to which the Commission has alluded in a number of national wage decisions since the work value round in the period 1978 to 1980, namely, the distribution of an economic (productivity) increase under the guise of a work value increase where an across the board increase is made in an award. To deal with this problem, the Commission amended the principle dealing with changes in work value, Principle 7(a), in March 1980 [ibid] by strictly controlling the application of *"averaging"* and across the board increases. Any proposed alteration in rates of all or a substantial proportion of classifications or employees covered by an award was required to be processed by the Anomalies Conference. The alteration could not be made unless the Anomalies Conference found the existence of a special and extraordinary problem.

For both the above reasons, therefore, the proposed non-absorption of wage increases on account of work value could constitute a source of double counting. But this would not be the end of the story. The consequential change in relativities between awards would then be said to have created anomalies or inequities. And the rectification of such anomalies or inequities would produce a flow-on to many awards.

Thus, in the absence of the control mechanism available within the indexation package, what superficially appears to be a reasonable enough claim, may have the potential for widespread increases in addition to the economic increase represented by the community standard sought by the ACTU. To this must be added the scope provided for consequential leap-frogging.

We return to this problem in our concluding section.

What we have discussed here relates to general wage increases in an award on account of work value changes and not to adjustment of particular classifications. As to future applications, we note that the metal industry settlement provides for no further claims during its term of twelve months. This comprehends all work value claims except those specifically reserved.

Supplementary Payments

The ACTU asked the Commission to treat the issue of supplementary payments as a special factor in *"appropriate areas"* consistent with the metal industry package. Such payments would be available in addition to the economic increase said by the ACTU to have been established at the community standard of $25 plus 14 dollars. The ACTU explained that the purpose of supplementary payments was to achieve a more egalitarian structure within certain industries where differential overaward payments prevailed. It maintained that where agreement was not possible arbitration should be available to determine supplementary payments claims.

The private employers opposed the insertion of supplementary payments into awards except by consent and stated that even then they should be included only when there would be negligible increases in actual rates.

In support of its claim, reference was made by the ACTU to the history of supplementary payments in the metal industry and it was said that they had already been inserted in some other awards, for example the Carpenters' and Joiners', Food Preservers' and Metal Industry (Engine Drivers and Firemen's) awards, that they were currently being considered in other areas, for example Manufacturing Grocers and Clothing Trades awards and that their inclusion was deferred for future consideration in others, for example the Textile, Footwear and Rope and Cordage awards. Our attention was also drawn to various State awards in New South Wales and Western Australia which included similar provisions, sometimes by arbitration. In addition reliance was placed by the ACTU on the decision of the Industrial Relations Commission of Victoria in which it was decided to include supplementary payments in various State awards in the metal trades area. However that decision was made against the background of the Federal Metal Industry Award which applied to a large number of employees in Victoria.

As far as we are aware, in all cases in the Federal sphere where supplementary payments have been included in awards it has been done by consent or the parties have agreed in principle that supplementary payments should be included. Some reliance was placed by the ACTU on a decision given by Maddern J. on 26 March 1982 concerning the Manufacturing Grocers' Consolidated Award 1975 [Print E9292] in which the employers opposed the introduction of overaward payments. We point out however, that while his Honour did not dismiss the claim he expressed *"serious doubts as to whether the provision of supplementary payments is the appropriate method for dealing with the problems . . ."* and said that it would be unfortunate to determine the application *"without full knowledge of all the relevant facts, including the level of over-award payments made to employees covered by this agreement"*.

He then merely proceeded to convene a conference *"in an attempt to reach agreement as to the nature of the material required, the procedure for obtaining that material and the role the Commission should play, if any, in the collection of that material"*.

The State Public Services Federation and the Australian Public Service Federation relied on the existence of supplementary payments in the Metal Industry and other awards in assessing the quantum of the present community movement. We reject this view particularly as those payments have been substantially absorbed in existing overaward payments.

The ACTU argued that the granting of supplementary payments was a move towards paid rates awards and that therefore consideration of claims for supplementary payments should be treated in a similar way to claims for increases in paid rates awards. We think the analogy is more appropriate when paid rates awards are first made rather than when increases are made to existing paid rates awards. It is well known that the Commission has approved of paid rates awards only when they have the consent of the parties.

In its decision in the Wage Fixing Principles Case of September 1978 [Print D8400; (1978) 211 C.A.R. 268] the Commission said this in respect of the making of paid rates awards:

"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."

To our knowledge, this approach has also been followed in all cases of supplementary payments in Federal awards. Such payments do not form part of the arbitrated standards of the Commission and they have been introduced on a case by case approach by agreement. It should be clear that only consenting respondents should be bound by any agreement on the introduction of supplementary payments. Furthermore, on the material submitted to us we consider that the development of supplementary payments has been orderly and satisfactory to the parties concerned and that they have been introduced at negligible increased costs. We are concerned that the ACTU's proposal would create expectations for supplementary payments to be awarded against employer opposition even in cases where the impact of cost increases on certain employers is significant. We believe that especially in the current economic climate the present practice should not be disturbed.

Adjustment of Paid Rates Awards

The ACTU submitted that the community standard applies equally to true paid rates awards as to minimum rates awards. Thus on this submission, if a paid rates award has been increased since July 1981 on the basis of fair comparability with market rates, it would be proper to increase such an award by the full amount of the $25 plus $14 economic increase established by the ACTU's community standard. This approach hides a number of difficulties. If a community standard is applied to a paid rates award without careful inquiry as to the grounds for the increase, it would give rise to double counting and its attendant potential for leap-frogging.

Where a paid rates award is adjusted from time to time on the basis of market surveys relating like with like and in relevant localities, there can be no ground for any further adjustment for a *"community standard"*. The appropriate community standard for the range of occupations under consideration would be implicit in the market survey at the time it was taken. Thus the principle of *"fair comparability"* which may form the rationale for market surveys, may itself constitute in part or in whole an economic adjustment.

What should happen by way of award variation in the light of the results of a properly conducted survey may depend on a number of factors. It is not a mechanical exercise as the Full Bench said in the Australian Public Service Clerks Case:

"In reaching our decision . . . we have considered the market as a whole, as disclosed by each of the surveys, the criticisms of them, the previous relative positions of these salaries compared with those paid by other major employers of clerical labour, the nature and scope of previous arbitral assessments of this work and the internal relationships which now exist within the APS and the various authorities. [Print E8347 at p13]

We note that the ACTU has said that it does not support double counting in respect of market surveys and its community standard. It further said that if it is contended that some previous increase *"included part of the community standard it should be so justified, either by agreement or by a clear decision to that effect"*.

The CPA also admitted that a market survey may include a mix of economic and work value factors and that the mix would be a matter for argument in any future adjustment.

Leaving aside for the moment our reservations on the identification of a community standard, it seems to us that even if such a standard were established, where periodic market surveys form the basis of pay adjustments, and the last adjustment was based on a market survey conducted in the early post indexation days, the community standard may be used as no more than a rough check on the acceptability of the next market survey. As the ACTU has admitted, if the last adjustment was based on a market survey taken in February, the market test might include all the community standard.

Since the preponderance of determinations prescribing paid rates lies in the public sector it is relevant to quote the Commonwealth's policy in respect of its own employees. This was stated as being

> *". . . to ensure that wages and conditions in Commonwealth employment do not lead the market. The wages and conditions of its own employees will be maintained in a reasonably competitive position consistent with the need for wage moderation."*

The employers described a recent market survey in the Australian Public Service as *"the proper way to go about . . . making an assessment of what is a genuine paid rates award . . . it is permissible in those awards to survey the market and to match the market for comparable work"*.

From what we have said it will be apparent that we do not see paid rates awards as constituting a special factor in the sense that those who had am adjustment in wages in a paid rates award should now be entitled to a further adjustment on account of an economic increase identified by the ACTU's community standard of $25 plus 14 dollars. Rather, we believe that for those paid rates awards which are adjusted on the basis of market surveys, the practice should continue.

Any relevant *"community movements"* would be picked up in such surveys and form part of the total considerations for pay adjustment.

However, there is a further problem in relation to those paid rates awards for which no relevant market survey is possible. No reasonably comparable work may exist for purposes of a like with like survey. The ACTU's approach on this matter appears to be in connection with a question it posed *". . . is there a market?"*. The answer it gave was:

> *"If the basis of negotiation was based on general criteria which has not taken into account the $25 standard, then prima facie the standard would apply."*

This matter was not debated and we are not clear what is to be comprehended by *"general criteria"* which would not be in whole or part *"economic"* in character either directly or as a result of a crude comparative wage justice flow.

It will be evident that as in the case of work value discussed above, the adjustment of paid rates as a *"special factor"* may not be free from the economic element. Indeed it could be dominated by it. To concede the ACTU's claim for a distinction between an economic increase inherent in the community standard and a non-economic increase in paid rates movements could create the potential for double counting and leap-frogging, the very outcome which the ACTU says it is anxious to avoid. To guard against such an outcome calls for a rigorous control mechanism which is not provided for under the ACTU's proposal.

The need for such control is further underlined by a number of factors in the adjustment of paid rates awards which could be a source of a cumulative and unending series of pay increases. The first relates to the interaction between paid rates and minimum rates. We note, for example, that *"movements in wage rates and conditions of employment in other industries"* were one of the four factors justifying the package in the metal industry settlement of December 1981. The increases in the other areas were not identified. But if the metal industry settlement was influenced in part by increases in paid rates awards, and if those same paid rates awards were later adjusted because the metal industry and other minimum rates awards had been increased, continuous leap-frogging could ensue.

A further source of concern is in relation to the nature of market surveys. Surveys, particularly those which do not disclose the details of the areas surveyed and the methods of weighting used, can be manipulated to support the desired result or something close to it.

Furthermore, the adjustment of market survey results to produce appropriate internal relativities based on historical considerations, may be transmitted *"externally"* to other surveys related to those classifications. These adjustments may set in train other internal or external relativity adjustments. And so on.

Finally, there are circumstances, as the employers have pointed out, where the adjustment of paid rates occurs on the basis of increases in market rates rather than on a like with like comparison of total market rates. We agree with the employers that to the extent that comparisons are based on increases, significant potential for leap-frogging is created in the paid rates area.

Unless these factors are taken into account in the adjustment of paid rates such exercises have the potential to create as many problems as they solve.

Correction of Anomaly or Inequity

In reference to this special factor, the ACTU asks that increases which have resulted from the correction of inequities or anomalies under the indexation principles should be distinguished from the economic increase proposed under the $25 plus $14 community standard. Thus awards which had been adjusted as a result of the Anomalies Conference proceedings directly or subsequently by a Full Bench on the basis of an anomaly or inequity, should be entitled to the full amount of the economic increase. Not to allow such an adjustment, the ACTU argued, would re-establish the anomaly or inequity which had been corrected.

This non-economic ground for wage increases was touched on only briefly by the ACTU and largely ignored by others. Reference was made to the observations of the Full Bench in the Northern Territory Shops decision of 9 October 1981 [Print E7751; (1981) 264 C.A.R. 385] which were approved by the Full Bench in the Oil Industry case on 30 October 1981 [Print E7938 at p.4] in these terms:

> "*The parties accept that there are basic principles of the Commission in relation to the resolution of anomalies and inequities, principles which were essentially codified in the Indexation Guidelines. We share the view of the Full Bench in the recent Northern Territory Shops case when it said 'those tests are still relevant to any comparative wage justice exercise as they represent much of the conventional wisdom which was applied prior to the permissive era of the early 1970's'.*"

It appears then that the ACTU does not seek to apply in connection with this special factor, the broader concept of comparative wage justice which is permitted by most State tribunals. We do not see double counting arising from this special factor provided, of course, that the inequity or anomaly was processed under the above principles and provided also the unions do not use the treatment accorded to this special factor as a springboard for increases in other awards. The absence of the kind of control mechanism which applied during the indexation period increases the risk of misinterpretation, misunderstanding and an extension of this exception to claims not properly founded on this special factor.

We should point out that in the GMH/Ford Case [Print E8897], the awards in question were paid rates awards which were corrected under the anomalies procedure of the Indexation Principles by a market survey. The case was characterized as an "*anomaly*" because it properly fell within the Principles. Following the abandonment of the Principles, these awards were further adjusted by the Full Bench on 22 December 1981 [Print E8473] by the consent of the parties. It was not referred to as an anomaly but was processed essentially in the same way as the earlier anomaly case i.e. by the market survey approach of comparing like with like in relevant localities. This case underlines the point we made above in connection with paid rates awards as a special factor, namely, that such awards should not be treated as a special factor but should continue to be adjusted on the market survey procedure.

OTHER COURSES

New South Wales

The course proposed by New South Wales was outlined earlier. The essence of the New South Wales submission was that:

- As a matter of principle, full quarterly indexation is desirable.
- The proper base to which CPI movements should be applied is the minimum wage, "*as a first priority for the lower wage earner*".
- The amount resulting from the application of the CPI to the minimum wage should be awarded to all classifications.

- More immediately, Federal awards should be adjusted by a flat amount based on the application of the movements of the CPI for the quarters ending June, September and December 1981 to the minimum wage. It would be necessary to discount for double counting for wage increases on economic grounds in those awards which have had increases since the abandonment of indexation.

- At intervals of no longer than two years, consideration should be given on a national basis to other matters including the state of the economy, relativities and working conditions, and appropriate adjustments made.

The ACTU submitted that whatever merit the New South Wales proposal may have in the longer term, it was not appropriate in the current circumstances and would not resolve the problems raised in these proceedings. To impose the flat amount suggested by New South Wales when extensive wage increases of the order of $25 and $14 had occurred, it said, would be *"inequitable and exacerbate industrial tensions"*. Furthermore, it did not believe that the minimum wage is the proper basis upon which to adjust pay rates. This, it said, had been acknowledged in the recent decision of the Industrial Commission of New South Wales, and the experience in other State jurisdictions had shown it not to be a viable method of adjustment. Further, such an approach would distort relativities, it would not protect all real wage rates and it would not necessarily be the best way to protect even the low income earner.

The CPA rejected the New South Wales proposal which it regarded as *"unworkable"* because of its effects on relativities.

The proposal also found no favour with the employers who described it as a return to the pre-1953 system of flat money increases to the basic wage. The employers argued that it was not valid to adjust for price movement on the basis of the minimum wage rather than the total wage; that the pressure for relativities to be restored would result in the total wage being adjusted by the same extent; and that the proposed arrangement had the potential for higher increases in pay than would result from a system in which wage adjustments followed overall reviews of the economy.

We agree with the ACTU that whatever merits the New South Wales proposal may have in the longer term, in the present circumstances we do not believe that the proposal is workable. Moreover, having only recently abandoned the indexation package we do not believe that we should now return without adequate consensus to what is effectively another indexation package and one which is opposed by the unions and employers.

The Private Employers

The private employers submitted that, if contrary to their strong opposition to the claims, the Commission were disposed to grant some part of the catch-up claim to employees who have not participated in the wage round, the cost of any grant should be minimized. To this end, the increase should apply proportionately up to the fitter and thereafter a flat amount equivalent to the fitter's increase should apply to higher classifications generally; and consideration of the special factors should not apply at all in relation to the increases obtained since last July. But as to future adjustments based on special factors, the employers said that in respect of these factors the Commission can *"use its ordinary powers in proper circumstances to award a wage increase if there is a claim on the merits that is justified"*.

The ACTU and the CPA both rejected this proposal. Indeed, both rejected a course which adopted the metal industry standard including the mid-term adjustment if special factors were not allowed. The ACTU said:

> *". . . the granting of $25 and $14 without recognition of the special problems, the existence and legitimacy of which have not been denied in these proceedings, would be inappropriate and we would in no way support a decision along these lines in preference to the continuation of the unfettered case by case approach despite all the inherent dangers we perceive in such an alternative."*

The CPA said that the Commission should recognize the $25 plus $14 or equivalent community standard and that:

> "*In addition . . . the Commission should determine from the special factors in respect of some awards which relate to increases granted of a non-economic nature which should not preclude or inhibit consideration of further increases related to the community standard. This has been our primary position. If the Commission were minded not to adopt this course of action we submit that the Commission should make no decision."*

It will be apparent from the reasons we advance later in favour of the course we have decided to take, why we do not accede to the employers' proposal.

PRODUCTIVITY BARGAINING

This concept was debated in connection with reduction of working hours. The ACTU emphasized that it did not seek to have a general test case on hours and that it remained committed to an industry by industry examination of hours. It said it was also committed to the use of productivity bargaining

> "*both as a primary reason to reduce hours and as a secondary factor to ensure that even if hours are reduced primarily because of other reasons both employers and employees should, where possible, attempt to minimize cost increases"*.

The ACTU detailed a number of industries in which hours have been reduced in recent agreements from 40 to 38, and, in a few cases, to 37.5 and thirty-five. Discussions are going on in a number of awards, and in others, hours are a reserved matter.

The ACTU submitted, among other things; that the Commission should accept productivity bargaining, that the process of hours reduction should where practicable involve standardization of hours and that national productivity *"is relevant in the context of a package similar to that of the Metal Industry Award"*.

The employers expressed strong opposition to productivity bargaining and asked that the Commission should reaffirm what it said in its 7 April 1981 National Wage decision. The Commission said in that decision:

"The issue now is whether limited productivity bargaining can co-exist in a centralized system against the background of a general campaign for shorter working hours. Industrial reality suggests not. It is a fact of industrial life that while a small number of special cases of the kind which have been properly processed can be accommodated within a centralized system, a general extension will create expectations that the benefits should flow regardless of whether the conditions laid down for the operation of productivity bargaining are met. The scope to meet the strict conditions laid down will vary widely from establishment to establishment and industry to industry and will be particularly difficult to satisfy in an industry with a large number of employers who are affected by a great diversity of organizational and technological arrangements and work practices. Despite the limitations which exist for meeting the negligible cost criterion in much of industry, each instance of limited productivity bargaining is seen as a breakthrough for shorter working hours generally.

" Recent experience shows that negotiations have been preceded by protracted industrial action in an attempt to force employers to engage in productivity bargaining. The mere setting up of 'joint working parties' to investigate the prospects of labour cost savings may in itself generate expectations which may be impossible to resist regardless of whether the requirements of productivity bargaining are met. Further, quite apart from the dangers of double counting and the difficulties of distinguishing special from normal productivity gains in many cases, we are concerned that by including productivity bargaining within the Principles, we would be legitimizing a proliferation of contrived arrangements which cannot be effectively tested and monitored, Such a development could lead to discounting which would reduce the scope for realising the full potential of our Principles, impose an unfair burden on those who complied and may seriously threaten the survival of the system. The concern we express later about loose applications of Principle 7(a) and consequential cost increases, are magnified many times in respect of productivity bargaining.

" We believe therefore that whilst exercises of this nature before the Commission should be completed, there should be no further productivity bargaining for the duration of the package we now propose unless in a Final Review, a national wage bench determines otherwise.[Print E6000B; (1981) 254 C.A.R. 341]

In furtherance of that policy, the employers argued, the Commission ought to make it plain that it will not ratify agreements for reduced hours where that reduction is based on productivity bargaining. They submitted that productivity bargaining is "wrong in principle', and that it *"cuts across the concept of national productivity"*.

The employers submitted that the standard of hours set by the Commission should not be reduced

". . . except by a decision of the Full Bench and that those standards will be set after investigation of the national economy. What productivity bargaining does is to allow a device to be created which undermines that scheme by allowing a particular reduction to take place in a particular area and thereby creating pressure for the flow and spread of that reduction throughout other areas."

The employers contrasted a reduction of hours based on productivity bargaining with the reduction of hours effected by the metal industry agreement in which a 38-hour week was secured as part of a package which included higher wages. The ratification of this agreement, they said, was based on a proper examination by a Full Bench of *"the facts of the whole of a package"*, and not *"just one component which may or may not have the potential to spread and not a component based on what we say is an exercise wrong in principle . . ."*.

The Commonwealth submitted that it remained opposed to reductions in hours because they would increase unit labour costs and generate inflationary pressures. In relation to the shorter hours settlements in the metal and building industries, the Commonwealth said that while it did not endorse these settlements

> *". . . it does recognize that the package settlements contain favourable features such as the no claims provision in the Metal Industry Agreement which may be beneficial to industries, particularly those which have been frequently troubled by industrial dislocation."*

We find anomalous the implicit acceptance particularly by the employers of a reduction in hours as part of a package typified by the metal industry settlement on the one hand, and strong disapproval of a reduction in hours achieved by productivity bargaining on the other. It should be clear that shorter hours settlements, however based, are required to be ratified by a Full Bench pursuant to section 31 of the Act. We do not see any special merit in a shorter hours settlement achieved as part of a package including wage increases but without specific cost offsets. Productivity bargaining offers at least in theory the prospect of shorter hours being achieved with negligible cost increases by creating additional productivity.

Nevertheless, what the Commission said in its April 1981 decision in relation to contrived arrangements, difficulty of proper testing and monitoring and expectations of flow regardless of appropriate cost reductions, still applies. It follows also that although productivity bargaining may generate extra productivity which would otherwise not have occurred, if double counting is to be avoided, national productivity measures must nevertheless be discounted for productivity already distributed in productivity bargaining based settlements. The difficulty of a proper assessment of a discounting factor has not been adequately debated before us.

We have drawn attention to some of the pitfalls of productivity bargaining. The strictures on the use of productivity bargaining were expressly related to the total indexation package. This package was abandoned in the middle of last year. In view of that we do not believe that we should, as the employers put it, *"outlaw"* it. Applications on hours whether based on productivity offsets or on other considerations will, in accordance with section 31, continue to be processed by Full Benches pursuant to their statutory obligations in line with practice since the abandonment of indexation.

However, we must point out that we have not been shown how the disparities in approach and result which have emerged in relation to reductions of hours can co-exist with a system based on national distribution of economic gains. Such disparities run counter to the ACTU's expressed objective of equal and simultaneous treatment of wage earners.

If a return to a centralized system is contemplated in the foreseeable future it seems to us there needs to be a pause and an accounting of where the hours exercise is leading. What has happened so far has been overwhelmingly by consent. The Commission's arbitrated standard is 40 hours per week and as such is not in question. We doubt that there has been a proper assessment of the economic and industrial relations implications of allowing that standard to be whittled away by a combination of (a) industry package deals which rely on a distribution of national productivity gains and (b) productivity bargaining at establishment level. We are concerned that unless there is some attempt to rationalize the present approach to reductions in hours, and some debate as to whether any further reductions should occur at least for the foreseeable future, an orderly centralized system may move out of reach by default.

RETURN TO CENTRALIZATION

The ACTU repeatedly stressed its longstanding priority and commitment to a centralized system based on full indexation. It said that it had not sought the abandonment of the indexation system. It had embarked on an award by award approach since then, it said, because it was *"the only viable option within the parameters set down by this Commission"*. It now seeks a return to a centralized system. The time, it suggested, was opportune for paving the way for a return to such a system. The developments since the end of indexation had removed a number of pressure points which had built up during the indexation period. The developments have been *"relatively orderly and co-ordinated"* and have represented reasonable settlements in the context of the economic factors including prices and productivity movements. Its claim, the ACTU said, seeks to cement these developments and establish a basis upon which indexation could be re-established and that it should be done before the factors which are conducive to the introduction of such a system are lost.

The essential element in cementing the developments which had occurred, it argued, was to ensure that further wage developments are in line with the standards which have been established. Unless uniform standards are adopted now, it saw little hope of recreating the conditions suitable for the re-introduction of a centralized system of wage fixation. And it believed that the course it proposed offered the best chance of maintaining an environment in which discussion as to an alternative system could proceed.

The ACTU submitted that the unions were capable of finishing the current round but it could not guarantee the same consistency as would result from the Commission's guidance in the matter. It therefore seeks recognition from the Commission of the community standard the ACTU has identified in these proceedings and the special factors which must be considered in applying that standard award by award.

The ACTU emphasized that the establishment of an acceptable basis is a necessary condition for a return to a centralized system. It said:

> *". . . we see little purpose in pursuing our longer term objective of a centralized system unless endeavours are made to consolidate trends with respect to wage increases to ensure greater uniformity and consistency combined with a means of resolving industrial pressures. Such an approach is needed in order that useful discussions can take place over longer term procedures. If the Commission is not persuaded to adopt our approach to catch-up then we see a much reduced chance of uniform increases emerging out of negotiations to be held this year."*

Coupled with the ACTU's catch-up claim is the request for assistance and support from the Commission to explore the feasibility of reaching consensus over a new centralized system. It said further that because *"we accept that pre-conditions need to be met and commitment needs to be forthcoming that we are not arguing on the basis of hasty submissions or propositions"*.

In reply to the employers' submission, the ACTU made it clear that it was not putting forward *"full quarterly automatic indexation"* as the necessary outcome of the conference. It was, however, necessary for full indexation i.e. the maintenance of real wages, to be the basis of a centralized system. And it sought the Commission's support on this objective. In the absence of such support, the ACTU would be willing to enter into direct negotiations with the Confederation of Australian Industry on the private sector and with the Federal Government on the public sector. Its State branches would negotiate with the State Governments in respect of State public sectors.

The ACTU's call for a conference was supported in varying degrees by the CPA, the SPSF, the APSF, Victoria, Queensland, Western Australia, Tasmania and the Northern Territory. The employers, the Commonwealth, New South Wales and South Australia rejected the call for a conference.

The employers' rejection of the call for a conference was qualified as to timing. They argued that to try and find a rational alternative was not a practical course in the current environment because of the pattern of behaviour of the unions in the last six months. To pursue it now, they said, would court further disobedience and lack of responsibility. Now was not the time to *"investigate any proposed new centralized or more structured system for wage determination"*. And further:

> *". . . the approach adopted by the ACTU must be allowed to run its course and after the dust has settled, as it were, then it may be that the parties will be in a position to more properly and rationally investigate the hope of an alternative system with some hope of compliance so that the fruits of national growth may be distributed in a fair and equitable manner."*

The employers saw perhaps August or September of this year as the time by which the dust might have settled.

The Commonwealth was more absolute in its rejection of the call for a conference. It based its position mainly on the benefits to be derived from continuing the recent case by case wage development which it said should be given the opportunity to realize its potential. In respect of the money sums obtained, even the applicants, the Commonwealth submitted, were unable to point to *"any inadequacy in the manner in which the case by case approach is disposing of their claims"*. It said further that there is a lack of commitment in any of the parties to approach this Commission and seek a restoration of the centralized system. The Commonwealth was also concerned that a call for a conference would generate expectations which in the current circumstances cannot be realized.

The Commission has from time to time during the period of indexation emphasized the benefits, both industrial and economic, to be gained from a centralized and orderly system of wage fixation which gave high priority to the maintenance of real wages of all wage and salary earners, the weak and the strong. But it also emphasized repeatedly that such a system imposed obligations on all participants - unions, employers and governments, and called for their commitment to the system and its principles. It ultimately abandoned the system because the necessary degree of commitment for the system's survival was no longer forthcoming.

We consider in the final section whether there has been any material change since July 1981 but we note that the ACTU itself has said that:

> *". . . without some positive indication that major groups are prepared to discuss the future of wage fixation in the terms we have outlined, then we will accept the futility of pursuing our longer term goal within the auspices of this Commission . . ."*

THE WAY AHEAD

The ambit of the issues before us appears on its face to be narrow and not difficult to bridge. There is much common ground between the unions, the employers and the Commonwealth. All want the case by case approach which has developed since the end of indexation to continue. All are anxious to avoid a repetition of the 1974 experience. All are conscious of the economy's current difficulties and the uncertain future which lies ahead.

But there are important differences. The unions want us to lay down ground rules, to give guidance to the parties and tribunals generally, to ensure that agreement and arbitrated standards are kept consistent and uniform - at the metal industry settlement standard. They are also anxious to return, by the end of this year if possible, to a centralized system based on indexation. The ground rules they propose are intended to provide a *"conducive environment"* for such a return.

The employers and the Commonwealth want the case by case approach to continue as it has since July 1981, unaided and unfettered by anything we might say; and they do not want a return to a centralized system yet. They are aware of the pressure to flow the metal industry settlement generally. But they want that pressure to be met or accommodated case by case and without any guidance from us in the terms sought by the ACTU.

The parties argued that fundamental differences existed between the approaches they proposed and that significant differences in economic and industrial consequences would ensue from them. But it may well be that the immediate effects of the differences between the parties are not as great as was suggested. As we have indicated, it is far from clear which course will produce better economic and industrial results. In the circumstances we have decided that, at this stage, we should not place our weight behind either of the above courses. Instead, we should try to chart a course which will not impair an ultimate move in one direction or another. The passage of more time should provide the basis for a firmer conclusion on the merits of the respective cases put to us.

the question of initiating a conference to discuss a return to a centralized system, it is clear, on the ACTU's own submission, that it would be futile for us to call a conference at this stage in the face of rejection by two major parties to such a conference. But equally we should not close the door to such an event. To do so at this stage could well ensure the indefinite continuation of the present unstructured system of large sectional wage increases. This might pre-empt even the granting of any national wage adjustment on the pattern of the years before 1975. The abandonment of a long-standing feature of the Australian industrial scene would be a momentous step but we should emphasize that we are not averse in principle to a less centralized and less structured system of wage fixation. That may well be the best course in the public interest if the conditions necessary for the operation of a successful centralized system do not exist. In its National Wage decision of 27 June 1979 [Print E267; (1979) 223 C.A.R. 729] the Commission said that it

> *". . . has no vested interest in indexation or any other system of wage fixation. In accordance with its statutory obligations, it seeks to apply that system which provides a viable balance between industrial and economic consideration."*

We affirm that statement. We also note that in the 1974 National Wage Case [Print C769; (1974) 157 C.A.R. 293] which resulted in the last national wage increase before the indexation package was introduced, the Commission made it clear that in the light of the then prevailing scale of industry increases, the expectation of national wage increases in the future could no longer be warranted as a matter of course.

On this occasion debate on the future of wage fixation was not confined to two alternative centralized systems, namely, one highly structured and based on indexation, the other more loosely knit, with claims based on prices and productivity being processed centrally in annual national wage cases but other claims being negotiated or arbitrated on a case by case basis. Recent developments, particularly since the demise of indexation, suggest that another system may emerge which would see the abandonment of claims for national adjustments based on national movements in prices and productivity. Such a system is consistent with the behaviour of some unions and employers and is inherent in the Commonwealth approach. Further, the ACTU said in this case that a rejection of its objectives may not lead to a resumption of the pre-indexation national wage applications.

The Commission is reluctant to introduce a new form of wage regulation unless it has a reasonable chance of success. In the last decade the community has suffered the consequences of failure in both systems of centralized wage fixation described above. In each case, the ultimate failure of the system was due to the inability of the major participating groups to exercise the degree of collective responsibility required.

We agree with the ACTU that *"Australia's wage fixation has centred on the principle of collective responsibility"*. The reason why this feature distinguishes the Australian approach from the statutory or voluntary schemes in other countries is described by the ACTU in this way:

> *"Decisions made on a sectional basis impinge on a wide range of areas given firm interrelationships between industries and classifications. . . .*

" We do not have a system of collective bargaining based on the process of individual agreements based on individual responsibility. Our bargaining is within the conciliation and arbitration system and as such is based upon collective, not individual responsibility. It is our view that for any system of wage fixation to work the parties must accept that system and bear responsibility for its working."

The terms "*consensus*" and "*commitment*" which were much used during the period of indexation are concepts related to that of collective responsibility. In commenting on the Commission's decision to abandon indexation, the ACTU acknowledged:

"It is true that a system based on consensus requires all parties to give a commitment, including trade unions."

The commitment required was the exercise of collective responsibility by governments, unions, employers and tribunals to bring about conformity with a set of rules specifically formulated to give priority to the maintenance of real wages.

While the breakdown in commitment extended to all groups, it was by no means universal. Probably the majority complied with the Principles and would do so again. But the fact that the majority of employers and employees would prefer the discipline needed to support the effective operation of some centralized system may not be enough. Given what the ACTU calls the "*firm interrelationships between industries and classifications*" single breaches of collective responsibility may become pervasive. The very act of breaching guidelines or rules is contagious.

Recent experience suggests that the degree of collective responsibility required to support a centralized system of any kind may no longer be forthcoming. We must emphasize that this comment is not confined to the trade union movement. Each group must bear some blame.

Does it follow that we should be looking for a decentralized system because such a system makes the least call on collective responsibility, consensus and commitment by governments, unions, employers and tribunals? If there is to be a move in this direction the consequences would need to be fully understood. National movements in prices and productivity would cease to have the same relevance. Capacity to pay would have a new meaning - it would be the ability of the individual establishment to pay that would be relevant. The role of comparative wage justice would therefore be substantially downgraded.

Decentralization could also result in greater emphasis being given to State and country differentials in wages and conditions. It would follow that the ACTU's preference for simultaneous and equitable treatment of wage earners would be replaced by irregular and differential increases. In those circumstances the wage level below which no worker could be employed would take on a new importance. Indeed the Commission may be called upon to break with tradition and involve itself more actively in facilitating the decentralization process. The result could be to bring the tribunal's dispute settling role closer to the work place where that role originated. Furthermore the current practice where ratification of an agreement by the Commission is sufficient authorization for a price increase by the consenting employer, could well require review.

It may be that circumstances are pointing the future of wage fixation in this new direction. But we do not believe that we should set the course for a more decentralized and less structured system in which even national wage adjustments may no longer feature, until all the participants in the system have had further time to reflect on the implications of such a course. On the submissions made in these proceedings, we do not believe that the employers have expressed themselves unequivocally against some kind of centralized system. Indeed the employers have said that "*There has been a centralized system of wage and salary determination in this country for almost 50 years and the reality is . . . that the system will not materially change"*. We are less certain that a material change may not occur if national wage adjustments are abandoned, a prospect which the ACTU has clearly indicated is likely.

As we have indicated earlier, the Commonwealth does not appear to be concerned about the prospect of a less structured system. In commenting on the Commonwealth's submission New South Wales said:

> *". . . if this Commission approves an unstructured industry by industry procedure, it seems to be assumed that the State systems will also unstructure their present centralized wage fixation system. The immediate history, and I am referring to this case [decision of the Industrial Commission of New South Wales on 22 December 1981] and also to the Western Australian and Queensland position, was the tribunals have continued certainly at this stage to index State award wages . . . It is a potential source of great disparity . . . within the State and beyond the State ... and it is not unusual, of course, for variations in State awards and improvements in conditions and/or wages in State awards to flow-on to Federal awards."*

> And later it said:

> *". . . the State supports the continuation of an orderly system of wage fixation nationally in accordance again with the long established principles in this country providing wage justice for all employees in Australia. We again press upon this Commission the need to preserve the comity of relationship of wage fixation on economic grounds between State awards and Federal awards."*

We have noted that both Victoria and Tasmania have expressed support for a return to a centralized system.

In all the circumstances we believe that we have an obligation to keep the door open a little longer on the matter of a conference to explore the prospects and conditions for a return to a centralized system. The Commission will therefore review the issue again in August. The events between now and then should establish more clearly what the appropriate course should be.

This leads us to the other part of the ACTU's claim - recognition and direction by us that the $25 plus $14 metal industry base tradesman settlement, which it designated as the community standard, should be applied as an economic increase in award by award variations. Attached to this benchmark is the claim on special factors which we have discussed in some detail. We have indicated our difficulty both with the identification of a community standard and with risks of double counting and leap-frogging inherent in the unqualified application of special factors. And accordingly we are not prepared to give guidance or direction in the specific terms of the package sought by the ACTU.

However, we do not believe that simply to dismiss the claim as proposed by the employers and the Commonwealth would be the best course in the public interest. We have made reference to the unguided and undirected circumstances of the 1974 wage explosion and as we have indicated, we are not as hopeful as the Commonwealth that its non-accommodating economic policy will have much impact on the size of wage settlements in the critical few months ahead when agreements and awards are re-opened for further adjustment. The Commonwealth has pointed to the existence of a "*momentum*" for the resolution of claims on a case by case basis and it asks that this momentum should be recognized. The existence of this momentum is undeniable. During these proceedings, exhibits showing the incidence of wage movements had to be updated many times because of new settlements. Many of these settlements have been consistent with the metal industry standard. The question at issue is not whether there are sectional claims in the pipeline but whether their settlement will go beyond the metal industry standard and set in train pressures for re-openings and new agreements and awards for settlement also at a higher level.

While we have decided not to accede to the unions' request for a direction to extend the metal industry standard generally and to apply the special factors in the way sought by the ACTU, we have also decided that we should not close the door at this stage to an exploration of the prospects for a return to a centralized system. The prospects will depend to a great extent on what happens to wages in the next few months and whether the participants in the industrial relations process can avoid any leap-frogging of labour costs in an unfavourable economic climate. These circumstances persuade us to make a number of pertinent points on the conditions necessary to prevent such an outcome.

(1) We have indicated that the operation of the "*market*" has established a level of increases which is uncomfortably high in the present economic circumstances. An extension of the metal industry standard generally would result in a substantial increase in labour costs at a difficult time for the economy. This situation would be aggravated if those who have already had an increase by way of award or overaward payment since the end of indexation obtain an increase of the metal industry standard on top of it.

In saying this, we are not suggesting that those who have had no increase should not be entitled to a review. But it must be borne in mind that the application of the metal industry standard would bear more heavily on some industries than others and it would be wise for the parties to give serious consideration to the circumstances of particular industries in order to decide what standard should apply and if so, how it should apply. We note, for example, that some increases were staggered over time; and in relation to the mid-term adjustment, the date of operation was varied to suit particular cases. It would follow that in those areas which have already been adjusted in excess of the first instalment of the metal industry standard, the mid-term adjustment should be correspondingly less than that obtained in the metal industry, and indeed there may be grounds for no mid-term adjustment at all.

Any application for an adjustment which would result in an increase above the metal industry standard, even if the capacity of the particular industry can sustain it, would open up the prospects of further wage escalation. As a safeguard against such a prospect it would be prudent for any application or agreement for an increase above the metal industry standard to be considered by a Full Bench.

It should be noted that the metal industry standard of $25 was applied to the base tradesman. The majority of employees covered by the Metal Industry Award secured lesser increases, the increase for the process worker being $20.60. Similarly, the $14 mid-term adjustment related to the base tradesman, the process worker receiving an increase of $11.50. We note that the $25 subsequently extended to the base fitter in the oil industry awards, which are paid rates awards, was 8.7 per cent. This 8.7% was then applied to all the other classifications in those awards.

(2) We regard the provision in the Metal Industry Award that there should be no further claims in the Award during the calendar year 1982 as important in two senses which have a bearing on labour cost: it is not only a deterrent to any further increase in wages, it also establishes an expectation of a reduction in industrial disputes during the term of the award. The viability of no further claims provisions should be given every opportunity to be tested. What we have said in (1) above is in part to ensure that that provision is not unduly strained. Further, we are of the view that any claim settled on the basis of the metal industry standard should be awarded on a firm undertaking given by the unions concerned that no further claims will be made for the duration of the award.

The Metal Industry Award also contains a provision for settling *"special, anomalous or extraordinary"* problems which may be found to exist within particular establishments. In the absence of agreement, such problems may ultimately be resolved by reference to the Commission. We regard the inclusion of such a provision as also desirable.

(3) We have drawn attention to our concern about the problems inherent in the unqualified application of the ACTU's special factors and we will not repeat them. However, we believe that any adjustments in relation to these special factors should guard carefully against double counting of economic increases. In claims based on special factors, the Commission will not necessarily accept the grounds relied on to justify any increase. This is consistent with the ACTU's own objective as submitted to us. We have said that the absence of a control mechanism of the kind which existed during the indexation period in the form of an Anomalies Conference, increases the risk that such double counting will escape careful scrutiny and thus open up the possibility of leap-frogging. To reduce this risk, we believe that subject to the statutory powers of the President, any claim of general application in an award which relies on special factors should be argued before a Full Bench.

The conduct of wage claims in the next few months will he critical not only for the economy but for the future of the processes of wage determination in this country. It will be an opportunity in particular for the ACTU and its affiliates to establish by their actions their preference for a centralized system. The views we have expressed above are intended to provide more time and a more appropriate environment in which all parties may decide whether the future of wage determination should be set on a course of greater centralization or the opposite. We would hope that each participant in these proceedings will take the opportunity of re-examining its position in the light of our decision. As the Commission said in the January 1981 National Wage decision *"Ideal solutions as seen by each side must be adjusted for what is economically necessary and industrially workable*". [Print E5000; (1981) 250 C.A.R. 79]

In view of our expressed attitude to the unions' claims, we adjourn these proceedings to a date to be fixed to review the future of wage fixing procedures raised in this case. On 17 August 1982 the President will hold a conference to discuss the programme.

APPENDIX 1

ANALYSIS OF RECENT WAGE MOVEMENTS

(Based on ACTU Exhibit M2, which does not include later material updating it, and on Exhibit M19 being the ACTU's reworking of Commonwealth Exhibit CW12)

In percentages

Category of Increase	Federal Jurisdictions		State Jurisdictions		Total Employees	
	A	B	A	B	A	B
Industry Level Increases						
Fair Comparability	15.6	23.0	2.1	2.0	7.1	9.9
Work Value/ "Traditional"	1.5	16.5	3.7	4.0	2.4	8.3
Mixed Factors						
(a) $20 or more plus further adjustment	38.9	34.5	15.1	12.4	22.6	19.5
(b) $20 per week or more	19.8	16.5	22.7	17.5	19.1	15.2
(c) Less than $20 per week	2.9	2.6	3.1	2.6	2.6	2.3
	78.5	77.2*	46.6	38.4	53.8	49.2*
GENERAL INCREASES AWARDED BY STATE TRIBUNALS						
Western Australia ($6.30 per week)					3.8	
Queensland ($6.30 per week)					6.2	
New South Wales (4.3%)					10.2	
TOTAL			40.1		20.2	
GRAND TOTAL	78.5	77.2*	86.7	88.4	74.0	74.4
TOTAL EMPLOYEES AUSTRALIA	100.0	100.0	100.0	100.0	100.0	100.0

A = Percentages estimated by ACTU
B = Percentages estimated by Commonwealth
* Because some increases have been allocated to more than one category, to avoid double counting the total is less than the sum of the individual items.

APPENDIX 2

ANALYSIS OF 127 FEDERAL AND STATE AWARDS

(Based on Exhibits CW14 and M20)

A. Level of Increase	Number*	Percentage*	Percentage of Total Employees covered in 127 Awards**
$20 or more plus mid-term adjustment e.g. Metal Industry Award	26	20.4	33.1
Increase of $20 or more e.g. Transport Workers Award 1972	59	46.5	58.2
Less than $20 e.g. Club Employees (State) Award NSW	42	33.1	8.7
	127	100.0	100.0
B. Grounds of Increase			
Fair comparability e.g. Telecom Technical Trades Staff (Salaried and Specific Conditions of Employment) Award 1978	29	22.8	
Work Value etc. e.g. Public Hospital Nurses (State) Award NSW	6	4.7	
Mixed Factors e.g. Metal Industry	92	72.5	
	127	100.0	
C. Status			
Consent	77	60.6	
Arbitrated	41	32.3	
Both	9	7.1	
	127	100.0	

* Calculated by the Commonwealth
** Calculated by the ACTU

Appearances:

J. Marsh and W. Kelty for The Federated Storemen and Packers Union of Australia and others.
S.O. Green, J. Vines and S. Austin for The Association of Professional Engineers, Australia.
C.G. Polites for the South Australian Employers Federation and others.
J. Fristacky, E.R. Cole and A.J. Glazebrook for the Public Service Board.
G. Griffiths with A. Rowlands, of counsel, for the Minister of State for Industrial Relations (intervening).
C.J. Dimond, C. Cullen and B. Hungerford for Her Majesty the Queen in right of the State of New South Wales (intervening).
P.V. Thomas and B.D. Lawrence (from 7 April 1982) for Her Majesty the Queen in right of the State of Victoria (intervening).
J.W. Johnston for Her Majesty the Queen in right of the State of Queensland (intervening).
M.F. Gray and B. Shillubeer for Her Majesty the Queen in right of the State of South Australia (intervening).
M.P. Orrell and G.M. Overman for Her Majesty the Queen in right of the State of Western Australia (intervening).
J. Jackson for the Northern Territory of Australia (intervening).
A.W. Pearce for Her Majesty the Queen in right of the State of Tasmania.
P. Tilbrook for The State Public Service Federation (intervening) and with T. Wallace for the Australian Public Service Federation (intervening).

Dates and place of hearing:

1982.
Melbourne,
February 23;
March 10-12, 16-19, 23, 25, 26, 30, 31;
April 6-8.