IN THE MATTER OF APPLICATIONS BY ORGANIZATIONS OF EMPLOYEES FOR VARIATION OF AWARDS AND AGREEMENTS OF THE COURT *re* STANDARD HOURS.

STANDARD HOURS INQUIRY, 1947.

Variation of awards and agreements—Standard hours—Commonwealth Conciliation and Arbitration Act 1904-1946, *ss.* 18A (4), 18B—*Function of Court—Sincerity of workers' claims—Right of workers to greater leisure—Shortage of consumer commodities—Effect of reduction of hours on production—Capacity of industry to absorb reduction—Time of introduction of reduction—Effect on fixed incomes—Balance of trade—Foreign competition—Distribution of national dividend—Rigidity of wage system—Judgment delivered and orders made varying current awards and agreements.*

1945.
MELBOURNE, Nov. 29, 30; Dec. 17, 18:
1946.
Feb. 4; March 4; May 20, 22, 23, 27–30; June 3–6, 11–13, 18–20, 24–27:
SYDNEY, July 15–18, 22–24:
MELBOURNE, Aug. 5–8, 12–14, 19–22, 26–29; Sept. 2, 3, 9, 12, 16–19, 23–25, 30; Oct. 1–3, 7–10, 14, 23, 28–31; Nov. 13–15, 18–21; Dec. 4, 5, 9, 10:
1947.
Feb. 21, 24, 25; March 5, 17–20, 24–26, 31; April 1, 2, 9–11:
SYDNEY, April 15–18, 21–24:
MELBOURNE, April 28–30; May 1, 5–8, 12–15, 19–22, 26–29; June 17; July 14, 21–24, 28–30; Aug. 4–8, 11–13; Sept. 8.

Full Court.

On 15th October, 1945, the Printing Industry Employees Union of Australia pursuant to leave reserved by clause 39 of the award dated 18th March, 1942,[1] and known as the Commercial Printing award, made application for a reduction of the standard hours prescribed by the said award from 44 to 40 per week.

The application came on for hearing before the Full Court (Piper *C.J.*, Kelly *J.* and Foster *J.*) in Melbourne, in 29th November, 1945.

E. C. Magrath for the Printing Industry Employees Union of Australia.

W. S. Sheldon, K.C., and later *S. C. G. Wright*, of counsel, for the Printing and Allied Trades Employers Federation.

On 18th December, 1945, the hearing of the said application was adjourned *sine die*.

The matter was again listed before the Full Court (Piper *C.J.*, Kelly *J.* and Foster *J.*), in Melbourne, on 4th February, 1946.

P. D. Phillips, K.C., and *G. Gowans*, of counsel, for the Printing Industry Employees Union of Australia.

S. C. G. Wright, of counsel, for the Printing and Allied Trades Employers Federation.

F. P. Derham, solicitor, for the Victorian Chamber of Manufactures.

S. Lewis and *T. W. Smith*, of counsel, for the Attorney-General of the Commonwealth of Australia (intervening).

On the same day, the Attorney-General of the Commonwealth of Australia pursuant to section 18B (2) of the *Commonwealth Conciliation and Arbitration Act* 1904-1946 announced his intervention in the public interest. The application was thereupon adjourned *sine die* to enable other organizations of employees or persons which so desired to seek leave to intervene in the proceedings.

The matter was again listed before the Full Court (Piper *C.J.*, Kelly *J.* and Foster *J.*), in Melbourne, on 4th March, 1946, when applications for leave to intervene were made by the Australasian Council of Trade Unions, several organizations of employees and others. On the same day the matter was adjourned *sine die*.

[1] 46 C.A.R., p. 618.

Full Court.]

On 22nd April, 1946, and subsequent dates summonses were issued at the instance of the organizations of employees mentioned in the first column of schedule "A" hereto for orders varying the awards or agreements mentioned in the third column of the said schedule.

The application firstly mentioned and the applications for variations mentioned in schedule "A" together with so much of the disputes mentioned in schedule "B" as concerned standard hours were listed before the Full Court (Drake-Brockman *A.C.J.*, O'Mara *J.*, Kelly *J.*, Foster *J.* and Sugerman *J.*), in Melbourne, on 22nd May, 1946 and subsequent dates and the hearing of all the matters proceeded concurrently.

R. M. Eggleston, of counsel, for the applicant Unions generally.

P. D. Phillips, K.C. and *G. Gowans,* of counsel, for the Printing Industry Employees Union of Australia.

C. Woodward, solicitor, for the Amalgamated Printing Trades Employees Union of New South Wales.

M. MacPherson-Smith, solicitor, for the National Union of Railwaymen of Australia.

F. Condon for the Federated Millers and Mill Employees Association of Australasia.

W. M. Ryan for the Federated Process Engravers Photo-Lithographers and Photogravure Employees Association of Australia.

S. C. G. Wright, R. R. Sholl, A. P. Aird and *L. Williams,* of counsel, for employers generally.

S. Lewis and *T. W. Smith,* of counsel, for His Majesty the King in the right of the Commonwealth of Australia.

J. V. Barry, K.C., and *G. L. Dethridge,* of counsel, and later *M. J. Ashkanasy, K.C., H. Minogue* and *B. Buller-Murphy,* of counsel for His Majesty the King in the right of the States of Victoria, New South Wales and Tasmania.

D. C. Williams, of counsel, for His Majesty the King in the right of the States of South Australia and Western Australia and the South Australian Railways Commissioner.

J. McCracken for His Majesty the King in the right of the State of Queensland.

G. U. Nathan, solicitor, for respondents members of the Sheep Skin Export Packers Association and others.

W. J. Home, solicitor, for the Cities of Hobart and Launceston.

V. G. Hall for the Commissioner for Railways, New South Wales and the Commissioner for Road Transport and Tramways New South Wales.

J. A. P. Gerrard for the State Electricity Commission of Victoria.

L. C. Meagher for respondents members of the Australian Mines and Metals Association (Inc.).

J. L. Moore for Commonwealth Jam Preserving and Condiment Manufacturers Association and respondents members of the Tasmanian Master Carriers Association.

J. W. Allen for the Graziers Association of New South Wales.

V. H. Allen for the Commonwealth Railways Commissioner.

T. C. Stott for respondents members of the Australian Wheat Growers Federation.

JUDGMENT—STANDARD HOURS INQUIRY, 1947.

[*Full Court.*

On 8th September, 1947, the Full Court (Drake-Brockman *C.J.*, Foster *J.* and Sugerman *J.*) delivered the following judgment:—

History of Case.

Following a dispute in the printing industry in New South Wales, a letter was received from the Secretary of the Printing Industry Employees Union of Australia (Mr. Magrath) dated 15th October, 1945, conveying to the Registrar of the Court, his Union's decision to proceed with its claim for a shorter working week, and requesting (as laid down in clause 39 of the Commercial Printing award made by Kelly *J.* on 18th March, 1942[1]) a hearing of this claim by the Full Court.

In pursuance of this application, on 29th November, 1945, a Full Court consisting of Piper *C.J.*, Kelly *J.* and Foster *J.* sat in the matter of an application by the Printing Industry Employees Union of Australia for a variation of the Commercial Printing award in respect of standard hours of work. Mr. Magrath appeared for the Printing Industry Employees Union and Mr. Sheldon of the Bar of New South Wales for the Printing and Allied Trades Employers Federation.

On 17th December, 1945, Mr. Wright of the South Australian Bar announced his appearance in the matter, in place of Mr. Sheldon.

On the following day the Court adjourned to a date to be fixed, to enable inspections of various printing establishments to be made.

The Court resumed on 4th February, 1946, and appearances were announced by Mr. Lewis and Mr. T. W. Smith (both of the Bar of Victoria) on behalf of the Attorney General for the Commonwealth; Mr. Phillips, K.C., with Mr. Gowans (both of the Bar of Victoria) for the claimant Union; and by Mr. Derham (solicitor) on behalf of the Victorian Chamber of Manufactures.

On 4th February, 1946, Mr. Lewis announced that pursuant to section 18B (2) of the *Commonwealth Conciliation and Arbitration Act* 1904-1934, the Attorney General, on behalf of the Commonwealth, intended to intervene in the public interest in the proceedings in relation to the question of standard hours in the printing industry.

After discussion as to the effect of the intervention of the Attorney-General in these proceedings, the Court adjourned proceedings until 4th March, 1946, to give an opportunity to unions which desired to do so, to raise the general question of a 40 hour week in industry, by lodging applications for variation of awards.

On 4th March, 1946, application for leave to intervene was made on behalf of the Australasian Council of Trade Unions and thirty-seven Unions which had authorized the Australasian Council of Trade Unions to act on their behalf. Proceedings at this stage involved mainly argument in regard to the question whether the Court should proceed to deal with the *Printing Industry* case, or consider the question of standard hours in industry in general, together with the problems of

[1] 46 C.A.R., p. 618.

Full Court.]

jurisdiction which may be involved. The Court was adjourned to enable each intervenor to file in the Principal Registry and serve on each of the parties by 26th March, 1946, all necessary documents.

On 6th May, 1946, the Court heard an application on behalf of the Printing and Allied Trades Employers Federation for an order directing the Attorney-General for the Commonwealth to serve documents on the parties in accordance with the Court's direction of 4th March, 1946.

In giving judgment on this application, the Chief Judge said that the Court did not intend its direction of 4th March, 1946, to apply to the Attorney-General for the Commonwealth, and did not propose to make the order sought. At the same time the Court was of the opinion that further proceedings would probably be facilitated and expedited if the Attorney-General furnished to the parties particulars of such material as he proposed to present to the Court. On an undertaking being given on behalf of the Attorney-General that as far as possible copies of relevant material and documents would be furnished to the parties, further proceedings were adjourned.

On 22nd May, 1946, the matters came before a Full Court of five Judges, namely, Drake-Brockman *A.C.J.*, O'Mara *J.*, Kelly *J.*, Foster *J.*, and Sugerman *J.* After appearances had been announced on behalf of the various employer and employee organizations, including the Australasian Council of Trade Unions, the Australian Workers Union and many other industrial unions, the Attorney-General for the Commonwealth, the Attorneys-General for the several States and Governmental and Municipal Authorities, the Court dealt with procedural matters and the order in which evidence was to be presented.

Mr. Eggleston, on behalf of the Australasian Council of Trade Unions and the applicant unions, commenced the presentation of his case. From this point and throughout the hearing Mr. Wright and Mr. Sholl (of the Victorian Bar, who was appointed one of His Majesty's Counsel for that State during the hearing) appeared for the main bodies of employers; certain of the employers were separately represented. Except as hereinafter mentioned the hearing of the case took place in Melbourne.

On 3rd June, 1946, the Court announced the following order of hearing:—

1. Applicants for reduction of hours.
2. Intervenors or respondents supporting or consenting to the application.
3. Intervenors or respondents neither supporting nor consenting to nor opposing the application.
4. Intervenors or respondents opposing the application.

On 15th July, 1946, the Full Court commenced a Sydney hearing and sat in Sydney until 24th July, 1946.

On 5th August, 1946, evidence on behalf of the unions was completed, after which Mr. Barry, K.C., with whom was Mr. G. Dethridge (both of the Bar of Victoria), opened the case for the States of Victoria, New South Wales, Tasmania and Western Australia.

On 2nd September, 1946, Mr. Barry completed the calling of his evidence, and Mr. Lewis and Mr. Smith, counsel for the Commonwealth, commenced its case.

As a result of the illness and subsequent death of O'Mara *J.* and the continued illness of Kelly *J.*, the Court, throughout October, comprised only Drake-Brockman *A.C.J.*, Foster *J.* and Sugerman *J.*

Mr. Lewis completed the case for the Commonwealth Government on 2nd October, and the case for the Queensland Government (which was conducted by Mr. McCracken, Public Service Commissioner of that State) was commenced and occupied the Court until 7th October. Submissions on behalf of the South Australian Government by Mr. Williams (of the Bar of that State) followed, and on 21st October, the case for the employers was opened by Mr. Sholl and Mr. Wright.

On 31st October, 1946, Counsel for the Commonwealth formally asked the Court to provide the means by which applications might be made immediately for an increase in the basic wage.

The Court in respect of this application restored to the list the *Basic Wage* case of 1940 which has remained unfinished, and all other applications before the Court for a review of the basic wage.

Between 26th November, 1946, and 13th December, 1946, when judgment in the *Interim Basic Wage* case[1] was delivered, evidence substantially in connexion with the *Basic Wage* case was taken, although some of the evidence tendered had a bearing also on the *Standard Hours* case.

The Court adjourned on 13th December, 1946.

The *Standard Hours* case was resumed on 10th February, 1947, but adjourned to enable a Full Court to hear a *Week-end Rates* case.[2]

On 21st February, 1947, the Acting Chief Judge made an announcement on behalf of Kelly *J.* (who had not been able, on account of illness, to sit since September, 1946) to the effect that he had decided to withdraw from the *Standard Hours* case as he was of the opinion that it would not be proper for him now to resume participation in those proceedings.

During the vacation Mr. Barry, K.C., was appointed a Judge of the Supreme Court of Victoria, and Mr. Minogue, of the Victorian Bar, who had been acting as his junior since Mr. Dethridge's appointment to the County Court Bench of that State, died. Mr. Ashkanasy, K.C., and Mr. Buller Murphy (both of the Bar of Victoria) announced their appearance for the States of New South Wales, Victoria, Tasmania and Western Australia. The adjourned hearing of the *Standard Hours* case came before the Full Court now comprising Drake-Brockman *A.C.J.*, Foster *J.* and Sugerman *J.* on 24th February, 1947.

Argument was heard as to the advisability of taking together the questions of standard hours and basic wage, and after lengthy discussions on 24th, 25th February, and 5th, 17th and 18th March, 1947, the Court, by a majority, on 19th March, 1947, decided that the *Standard Hours* case should proceed alone.

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(1) 57 C.A.R., p. 603. (2) Judgment delivered 31st March, 1947. *See* 58 C.A.R., p. 610.

Full Court.]

On 16th April, 1947, Mr. Williams announced that he was now appearing for the State of Western Australia as well as for the State of South Australia—"the State of Western Australia now no longer being in favour of the introduction of a 40 hour week at the present time."

Between 24th February, 1947, and 29th May, 1947, further evidence on behalf of employer organizations was heard and from 15th April, 1947 to 24th April, 1947 the Court sat in Sydney to hear evidence from employers.

On 29th May, 1947, the *Hours* case was adjourned *sine die* to enable the *Metal Trades Margins* case to be heard.[1]

Prolonged ill health necessitated the retirement of Piper *C.J.* from the Arbitration Court Bench, and on 16th June, 1947, Drake-Brockman *A.C.J.* was appointed Chief Judge.

On 17th June, 1947, owing to the illness of Drake-Brockman *C.J.*, the Court adjourned until 21st July, 1947, when the employers' case was continued by Mr. Sholl, K.C.

On 22nd July, 1947, Mr. Williams presented a supplementary statement on behalf of the State of Western Australia.

On the following day the supplementary case on behalf of the Commonwealth Government was commenced and concluded on 30th July, 1947.

Final addresses commenced on 4th August, 1947. Mr. Sholl, K.C. (who was followed by Mr. Aird), and Mr. Wright, respectively addressed for the employers. Mr. Williams addressed for the South Australian and Western Australian Governments and on 6th August, 1947, Mr. Lewis for the Commonwealth Government addressed. Then Mr. Ashkanasy, K.C., addressed on behalf of the States of Victoria, New South Wales and Tasmania. The unions opened their final addresses on 8th August, 1947, Mr. Woodward (solicitor) addressed on behalf of his clients, Mr. Eggleston addressed, and the address of Mr. Phillips, K.C., brought the case to a conclusion on 13th August, 1947.

Introduction.

Over 22 months have elapsed since the commencement of the case in November, 1945. The Court has had before it some 8,875 pages of transcript, has heard evidence from 225 witnesses and received almost 500 exhibits.

The immensity of the mass of material placed before this Court in the 158 sitting days occupied by the hearing of this case makes a detailed examination of it all in our reasons for judgment out of the question, if indeed it is not beyond human capacity. During this lengthy hearing, the material has been sifted and analysed before us with the most meticulous care, and we have had the benefit of that sifting and analysis as well as of our own independent continuous consideration of it. Now that the matter comes to judgment, the broad issues which finally emerge from this mass of material must be decided

(1) Judgment delivered 26th June, 1947. *See* 58 C.A.R., p. 1088.

upon an estimate of the relevant considerations and an adequate weighing of the factors which will properly determine where lie the interests of the parties and where lies the interest of society as a whole.

The Hours Claim.

The pursuit of leisure by the workers of the world has persisted through history for many centuries. But leisure did not become realizable until man was able to add to the labour of his hands and his animals the forces of nature. In the past it was enjoyed by the few who were able to command the labour of others, whether as slaves or feudal serfs. Capitalism replacing earlier social orders ushered in the machine age and made it possible to extend the boon of increased leisure—freedom from the grind of unremitting labour—to the many. From the early beginnings of this system workers sought this leisure and have slowly won it.

One hundred years ago in England a 10-hour day or a 60-hour week was enacted. In Australia 90 years ago an 8-hour day or 48-hour week was achieved in limited cases. Twenty years ago this Court awarded a 44-hour week. There is no reason to assume that the capacity of industry has ended at 44 hours.

It has been the historic role of employers to oppose the workers' claims for increased leisure. They have, as is well known, opposed in Parliament and elsewhere every step in this direction, and this case is no exception. The arguments have not much changed in 100 years. Employers have feared such changes as a threat to profits; an added obstacle to production; a limitation upon industrial expansion; and a threat to internal and international trade relations. Steadily, first in one country then in another, this opposition has been overcome, until great institutions like the International Labour Organization in the international arena, this Court in this country, and the legislatures both here and elsewhere, have declared for the desirability of added leisure.

And history has invariably proved the forebodings of employers to be unfounded.

On 30th October, 1946, this Court, having heard and considered the cases for the applicant unions, the Commonwealth and the States, and the attitude of the employer respondents, as disclosed in their opening address, made the following declaration:—

> "The Court feels that the time is opportune for an announcement that the four Judges now sitting declare their approval of the principle of a 40-hour week."

What in the light of this declaration is the problem before us and what are the factors involved? Predominantly we are to consult the interests of the parties and the national interest and welfare. The problem includes social, economic, political (in the wide sense) and international matters, and the factors involved include production and productivity, costs and prices, the state of the internal economy, the economic relationship of classes, the relative validity of the claims for

Full Court.]

leisure and for goods, the right of the people to determine these issues democratically, the relative position of the States and the Commonwealth, and the development of the great national undertakings.

The task of judgment is to estimate the weight of all the factors, and, if we cannot unravel, at least to seek some predominant pattern in the wide range of inextricably interwoven matters which have been brought before us so that the best interest of the nation both in the short and in the long run is achieved. In the course of forming such a judgment we are required to weigh the imponderable, to compare incomparables, to measure what has no measure and to reduce to certainty what is basically a matter of assumption, hypothesis and speculation. All this must be attempted in a daily flow of rapidly changing circumstances.

The Function of the Court.

The issue, as the history of the case indicates, comes to this Court as a number of industrial disputes (over 100 applications are before the Court) between many registered organizations of workers and their employers who are respondents. Some of these disputes are of long standing; others of them were created when it was known that the Court proposed to make a general investigation into standard hours. It is a commonplace of Australian industrial law that the limit of the constitutional power of the Court is to settle these disputes each within its ambit, and the ultimate judgment will in fact settle these particular disputes, and do no more. But we know, as a matter of practical fact, that it will in the long run lead to uniform standard hours throughout Australia. The responsibility of this onerous task does not properly belong to this Court. It is bound only to settle the dispute. It is something additional that State legislatures and State industrial tribunals make its decisions in these disputes the bases of industrial determinations.

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

It is clear, however, that the popular will if it could be ascertained is, in a fundamental question of this kind, a matter which this Court should not ignore, if for no other reason than that any vital frustration of it might quite well work out in lowered industrial effort and a falling productivity and production, while on the other hand, as Mr. Eggleston so often urged, the fulfilment of that will might operate as a stimulus to better effort. The facts therefore that four States (i.e.

New South Wales, Victoria, Queensland and Tasmania which include the greatest both in population and economic activity) and the Commonwealth have become parties to these proceedings and have pressed the Court to settle all these disputes by granting forthwith a 40-hour week in each case are matters of the greatest import. Is it not a legitimate conclusion that if the constitutional position were otherwise than it is in Australia, then the responsibility of making this decision would have been assumed by the Parliament as it was in New Zealand in 1936? As it is, however, no Parliament in Australia could do what New Zealand did. The Commonwealth because it has no industrial power adequate for the purpose; the States because they can legislate only for so much of their industrial field as is not covered by the decisions of this Court. Hence the legislatures remain impotent to secure the industrial uniformity so essential for ordered business and harmonious industrial relations.

No Government, State or Federal, either in its capacity as Government or as employer respondent opposed the claim for shorter hours; no Government has denied the Court's 30th October, 1946, declaration above quoted. Western Australia broadly leaves the matter to the Court; South Australia commends the principle of increased leisure, even shorter than 40 in appropriate circumstances and opposes only the immediate application of it. The attitude of the other four States and of the Commonwealth has already been indicated. And of the employers themselves the Full Court said also on 30th October, 1946:—

> "It is apparent that the employers do not intend disputing the above proposition as a matter of doctrine . . ." that the gravamen of the employers' case is "that circumstances are not appropriate and the time not proper for any reduction in present standards of working hours".

There is no doubt of the constitutional authority of the States to make industrial laws and to pass Standard Hours Acts within the limits we have indicated, and if authority then a duty in the appropriate circumstances. New South Wales did exercise that authority by passing the Industrial Arbitration (Forty Hours Week) Amendment Act, 1947, and postponed the operation of it. Afterwards the Government went to the electorate upon the termination of Parliament's term. There was no political change in the Government as the result of the election and the Act became operative as from 1st July, 1947. The Queensland Government, we were told during the hearing, proposes to pass a similar Act during this year.

It would, in the constitutional circumstances, be wrong for this Court to criticize the exercise by a Sovereign State of its powers, and we do not do so. But it is of course very obvious that the New South Wales Act did alter very material economic and political factors and did, during the hearing of the case, present this Court with a *fait accompli* in relation to a substantial section of its industry and to that extent did affect the freedom with which the Court might otherwise have acted. We have, as is proper, weighed these facts and they form part of the bases of our judgment.

Full Court.]

The Court is pressed by the workers and the four Governments to apply the principle enunciated by it on 30th October, 1946, fully and forthwith on the ground that this is the only adequate way of settling these disputes. For this working class claim has been and is the basis of industrial dispute and unrest and will go on being so. No realist for a minute thinks that a rejection by the Court in these cases would bring about industrial harmony or would abate for an instant the demand for the shorter week. History has shown how persistent in the past have been such claims. There is no reason to suspect that the future will differ. The claim is expressive of a world movement sanctioned by the International Labour Organization and already achieved in some countries. It is, we are assured by responsible leaders of the claimants, a claim justified at this moment by hopes held by the workers based, they say, on promises given during the war when workers ungrudgingly worked long hours; that when the war ended this desirable social reform would be achieved.

Sincerity of Workers' Claims.

An interesting difference of opinion showed itself between Mr. Clark and the employer witnesses Sir Herbert Gepp, Mr. Warner, Mr. Forster and others on the one hand, and the workers' leaders on the other. The former claimed in effect that the workers needed, and if the truth were really known, wanted a higher physical standard represented by more goods and services and not more leisure, and that the Court should keep them at work the full 44 hours or even work them longer hours (Mr. Forster), so that they, in spite of themselves, might have their share of the increased goods they could thus produce.

Mr. Eggleston, who presented the case for the claimants, throughout made the workers' position on these claims abundantly clear. He represented the great mass of trade unionists in Australia. We felt he was able to speak authoritatively for them. He assured us the workers were asking for a higher standard of living and regarded increased leisure as the first and most important instalment of that higher standard. His discussion of the economic effects and his analysis of the statistical data from the workers' point of view was the complement of the equivalent analyses by Mr. Sholl and Mr. Wright for the employers. Together these greatly assisted the Court in elucidating these difficult economic problems which arose.

We are therefore convinced of the sincerity and reality of the workers' claim for leisure, and we do not assume that their leaders misrepresented them when they, without exception, urged this claim. Nor do we assume that the workers are children who do not know what they want. Nor do we claim that we should, in the settlement of a dispute about hours, reject this claim and substitute another of our own choosing, unless to do so was the only method of safeguarding the national interest and would succeed in settling the actual disputes.

Support by Governments.

As has already been stated, the Commonwealth and four States which we have named have supported the claim.

Mr. Lewis for the Commonwealth said—

> "The Commonwealth says to the Court, through me, as its spokesman, with considered words, that after full consideration of all the material which has been placed before the Court, the Commonwealth's view is that the evidence given warrants the granting of a 40-hour week."

Mr. Ashkanasy for the States of Victoria, New South Wales and Tasmania said—

> "In their more vital character, however, they appear as sovereign Governments primarily responsible for the social well-being of their people. The Governments of the States which we represent consider that they have two duties each of which they have endeavoured to perform. One is to the Court, and that is the responsibility of assisting the Court in arriving at its decision by affording it all information peculiarly available to the States; the second is to their citizens, whose well-being appears to them to demand their active support on the application of a 40-hour week, which in their considered view is a desirable social reform, which can and should be introduced immediately."

Mr. McCracken, for Queensland, said—

> "(i) That the national economy, the buoyancy of national revenue, the high level of productivity, the favorable export trade and markets, and the present and prospective prosperity of the nation are favorable to the immediate granting by the Commonwealth Court of Conciliation and Arbitration of a standard working week of 40 hours; and
>
> (ii) That the introduction of a 40-hour week should be granted in the interests of the community and of industrial contentment and security."

We regard these as matters of first importance. The Commonwealth and States are sovereign legislatures within their respective spheres. Between them they are responsible for the welfare of the people of this country. Between them, and subject only to the awards of this Court made in settlement of disputes within its cognizance they have power to control the whole of the economic system of the nation, and in particular to make all the economic adjustments which may be consequential upon the awards of this Court. And directly and indirectly they are the largest employers in the land. Neither the States nor the Commonwealth have constitutional capacity to implement their expressed will and achieve that uniformity which they regard obviously enough as fundamental in a closely knit economy like that of Australia. The results they seek cannot be implemented independently of this Court. By statute, three States have long since sought to achieve that uniformity by requiring their local industrial tribunals to follow awards of this Court. Two of these States now before us as claimants are in reality inviting us not merely to settle in a particular way the dispute before us but also in effect to make a general law for all industry within those States.

These present claims are not claims against the community. They are, in effect, an invitation to a legislative tribunal to declare a principle, and if in the national interest, to make it law. This is a duty and a task which Mr. Sholl and Mr. Wright describe thus "it raises vast

national issues affecting the whole economic future of the continent, the interests and mutual relations of every class of citizen, the standard of living of every man, woman and child in Australia, and possibly national security itself."

They might easily have added "and the wonder is that so much is entrusted to so few in a democracy where representative Government exists."

The Court does not give up its function of settling industrial disputes, and in particular of fixing standards of wages and hours, nor does it fail "to act as a just arbiter endowed with sound business sense and economic knowledge, with justice and balance to the community as a whole", because it attaches very substantial weight to the support of the claims by the four States and the Commonwealth who, as sovereign bodies, must be assumed to have deliberately chosen their course in the light of their responsibilities to their citizens.

Employers' Arguments.

The employers have conveniently summarized their arguments as follows (compare the eleven point employers' case in 1926[1]), and we re-state them here in the form in which they were presented:—

(*a*) That a general reduction of working hours in industry would be detrimental to the interests of all sections of the community;

(*b*) that such a general reduction is economically and industrially impracticable and/or undesirable, in that—

(i) it would reduce the productivity of relevant industries;

(ii) it would accentuate existing shortages of and deficiencies in goods and services;

(iii) it would adversely affect public and private finance;

(iv) employees are already enjoying their commensurate share of the national income and attendant benefits;

(v) it would disturb the price structure, involving the relationship of costs, price controls, subsidies, profit margins and the availability of capital;

(vi) it would not in reality advantage employees working under awards of this Court;

(vii) it would have an inequitable and unfair incidence upon other sections of the community;

(viii) it would prejudice the position of Australian industries in relation to those of other countries;

(ix) no ground exists to warrant any reduction.

Other arguments were advanced by the South Australian Government, by the Graziers Association, and by certain other employers and groups of employers and in an opening address by Mr. Sholl and Mr. Wright.

[1] 24 C.A.R., at p. 869.

All the matters raised have had our earnest consideration, and most of them are discussed in this judgment. Our conclusions are arrived at only after weighing all these matters in the scales of our knowledge, experience and judgment.

Shortages.

We are told there are shortages of almost all commodities. The supplement to the address of Mr. Sholl and Mr. Wright is an impressive document containing a list of shortages of 46 pages. There is a huge building lag. Repairs, replacements, renovations and all kinds of depreciation of public and private buildings are gravely in arrear. There is a great shortage of houses. There is, and perhaps more significantly a substantial shortage of labour power in almost all industries. There are markets, internal and external, crying out for satisfaction and providing Australia with an undreamed of opportunity for laying the basis of a wide profitable foreign trade. This then, it is said, is a time for lower costs, not higher. The peoples of the old world and elsewhere too are starving and short of clothes and shelter. Hence this is not a time when we should look on at that mass distress and enjoy an added leisure. Particularly as the present hours do not, generally speaking, involve any damage to health or well-being. We are further told that production and productivity are down, that our material standards are in jeopardy, that with a huge purchasing power in their hands consumers are frustrated when supplies are denied. In short, it it is urged this is no time to let up. It is the time par excellence for more and more production. And lastly, some sections of this community, by virtue of taxation and greatly increased prices have suffered such a deprivation of real income that a further uncompensated increase in prices will work a grave social injustice upon them.

A formidable list, and to many minds an unanswerable one, but answers have been made and must be weighed—a wrong word perhaps since many of them are imponderables but at least they must be considered and adjudged. For example, how shall we estimate the economic value of industrial contentment? How shall we measure the human value of it? How far is the shorter week a step on the road to that co-operation of the forces of production which is so desirable? How shall we set the family aspects of this increased leisure against foreign trade or the claims of our people against those of other countries? Yet all these are factors which do enter into the fabric of one's mind and ultimately issue forth in judgment.

Most, if not all, of the opponents to the granting of the 40 hours immediately, based their opposition on these "shortages". Employers do not fear the increased prices—they will be passed on—as for the investor, he will still get his dividends, so says business manager Mr. Warner.

But it is urged shortages are so great and so widespread as to forbid any action which will hamper production or delay recovery.

It is clear that this is the real problem at this moment, and has given us of all the matters raised in this long hearing, the greatest concern.

Full Court.]

Explanations of these shortages are easy enough; the war and the diversion of our resources to that supremely wasteful enterprise, the accumulated housing shortage never overtaken since the 1930 depression, progress in the conception of what constitutes adequate housing, the fall in the birth rate during the depression which now results in fewer young people of employable age which aggravates the labour shortage. The enormous increase in purchasing power in the hands of the community as revealed by Savings Bank deposits which rose from £245,600,000 at the end of 1938-1939 to £650,300,000 at the end of May, 1947, and the note issue which rose from £49,400,000 to £201,600,000 in June, 1947. The disorganization of the economy due to the transition from war to peace. The unsettlement of the workers after a war. The loss of six years in training of our labour force. The greatly increased marriage rate which took many women out of industry and put them in the market for homes. The fact that shortages are a relative matter—a relation between supply and demand—and there has been a greatly enhanced demand without a corresponding increase in supply. The wasteful results of bottlenecks and uneven flow of goods. Many other explanations of a general character were offered while each industry had its own special explanations.

There will always be shortages in the relative sense if we maintain full employment which of necessary implication postulates demands still unsatisfied, and so shortages. Whatever the figures seem to show, we in Australia are well fed, well clothed, and enjoying a relatively high standard of living, higher from the worker's point of view because there are no unemployed, and his fears of unemployment are less than ever before. In some branches production is considerably in excess of its immediate pre-war stage, and overall it certainly is so. The large number of notes in the hands of the public suggests that the whole story has not found its way into official records or been told to us.

But we are short of houses—tragically short—because here grave human distress is an immediate consequence.

We have not been able to accurately assess the real housing shortage or to measure its intensity. The estimates formulated to us have been conflicting and irreconcilable. It is like other shortages, relative. It varies from great personal gravity to a matter of merely added convenience. It is relative not only to demand but also to changing concepts of a proper standard of housing for the people.

At worst the 40-hour week will postpone for some period—not long we think—the final overtaking of this demand, and perhaps it is not altogether just that to-day's workers should be required to make good an accumulated shortage, the roots of which go far deeper than the recent war, and be refused this claim for more leisure which a future generation may win.

Other shortages, many of them part of the housing shortage, are being caught up; some have already been eliminated and in many cases pre-war production has already been exceeded.

The problem is calling forth the best efforts of governments and of private enterprise and the housing lag may well be overcome within a reasonable and rapidly accelerating period.

Mr. Seaman's (economist called by the South Australian Government) opposition to the present application of 40 hours is based almost wholly on the present shortage of "vital" commodities—housing and essential clothing. If these were safeguarded he saw no difficulty in any other element in the national economy—which in the time that has elapsed since he spoke has shown marked improvement.

It is a matter of some significance that responsible governments covering most of Australia do not regard the shortages, even housing, as a reason for either refusing or postponing this claim, and our order will be found to make provision which amongst other things will enable existing hours in housing production to be maintained so long as is necessary.

Many of the shortages discussed in employer evidence are traceable back in the last analyses to the shortage of coal. Nothing we do in this judgment will affect coal production. The miners do not work 40 hours a week and the New South Wales employees not covered by Federal awards are already working 40 hours. Dr. Coombs offered an interesting consideration that if the added burden of a 40-hour week induced management and workers to achieve better results then the shorter week would make coal supplies go further.

In addition, higher prices will reduce demand and in turn eliminate some shortages that exist on the present price level. If there were no price control then shortages would largely disappear because unhampered economic forces would adjust prices to the supply and what is now a shortage disparity would then be equilibrium, i.e., some sort of a balance between supply and demand.

We do not regard these shortages in all the present circumstances as a reason for refusing the claims now but as a reason for some special provision which we have incorporated in the order hereinafter made.

Effect on Production.

There is no problem at all if, in spite of the reduced hours, production is maintained; so much was admitted in the course of discussion. How far then will production be reduced and if reduced who will be affected and how and to what extent?

In estimating the loss of production which might be expected to follow from reduced hours, we should not lose sight of the fact that our decision will not affect production in many industries; will not affect, e.g., imported articles, coal, steel, pig iron, electric power, rural industry and many industries already enjoying 40 hours by agreement of the parties, by awards of tribunals and by State law. It will, we think, be mitigated by the elimination of this claim as a cause of industrial unrest. As realists with past experience as a guide, we know that production would suffer quite substantially by such unrest and thus the difference between what might have been produced in a 44-hour

week on a rejection of these claims, and what will be produced in a 40 hour week if they be granted, is likely, on this ground alone, to be substantially lessened.

Estimates of the loss of production have varied from the optimistic trade unionist who expressed the belief that there will be no reduction at all, other factors to which he referred taking care of the loss in working hours, to a figure in excess of the percentage of the reduction in weekly hours made by some of the more pessimistic of employers. The statisticians had their own methods, and using the same basic figures they nevertheless arrived at different conclusions. This evidence was the most impressive of it all.

Statistical Evidence.

The evidence before us on this and other matters fell into two broad classes. On the one hand we heard representatives of the trade union movement and of management in industry; on the other hand that of statisticians and economists. The former, as was to be expected, confined themselves to facts within their own experience—not necessarily their own personal observation. Each tended to view his own particular segment of industry—and it might be a very small one—as it were, through a microscope, descending in many cases to the details of particular operations in particular workshops. Such evidence is not without its value on an issue such as the present—although doubtfully of such value as to be worth the time which was spent upon it and certainly not of such value as to be worth the very much longer time which would have been necessary had there been that insistence on both the giving of evidence at first hand and complete cross-examination and rebuttal which alone can make such evidence completely reliable. But whatever value may attach to an accumulation of individual instances even when submitted to all the checks and safeguards which the law of evidence can provide it remains an accumulation of individual instances with all its inherent tendency to distract the mind from issues of principle or, perhaps more fatally and more naturally, to lead to generalizations from individual cases. Our task, in the language of Mr. Justice Holmes is "To see as far as one may, and to feel the great forces that are behind every detail—for that makes all the difference between philosophy and gossip, between great action and small". In the performance of that task we look most properly for guidance to the evidence of the statistical and economic experts. We remain aware of the inherent deficiencies of such evidence—deficiencies which have been made plain to us so repeatedly in cross-examination and address that there is no need to recapitulate them here. But such evidence approaches the matter on a broad and national scale and tells us a great deal of the great forces which are at work and of the way in which the most highly trained and experienced minds foresee their operation. And at least it tells us of the expected order of the magnitude of their operation, even though it cannot speak with certainty, otherwise than by way of assisting exposition, of precise figures and percentages. We appreciate that we are not here, in the words of the same learned Judge "to utter a happy phrase from a protected cloister" but "to think for

action upon which great interests depend". To action in one direction or another and in some form or another we are committed. From that task we cannot retire upon the ground that all the evidence might in some respect or other appear imperfect, contradictory or insufficient or opinions too diverse to act upon. We are bound to select that which is the most reliable guide to action in the present issue. "The economic and social sciences" Mr. Justice Brandeis has truly said, "are largely uncharted seas. . . . Merely to acquire the knowledge essential as a basis for the exercise of this multitude of judgments would be a formidable task; and each of the thousands of these judgments would call for some measure of prophecy . . . Man is weak and his judgment is at best fallible"[1] But he adds "To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation".[2] Our task, whichever way we view it and to whatever conclusion we come, is in the broadest and truest sense experimental. From that task, as we have already said, we cannot retreat. And, out of the great mass of material which is before us, it is by the evidence of the statisticians and the economists that we must principally guide ourselves.

We now proceed to discuss this statistical material that occupied so much of the attention of the Court. The evidence was presented and discussed by witnesses called by the Commonwealth, namely, Mr. Nimmo, Mr. Brown, Mr. Clark, Dr. Coombs, Professor Giblin and Professor Wadham; by union witnesses Mr. Fitzpatrick, Mr. Baker and Mr. Sutcliffe; and by a number of employer witnesses, a little difficult to enumerate because it was not always easy to distinguish the industrialist turned economist or to say when the business manager became statistician, but such witnesses as Mr. Seaman and Mr. Tyrer dealt with the problem statistically.

We were greatly impressed with the thoroughness and care with which all these gentlemen applied themselves to the many problems and the obvious sincerity of their work. To say that the Commonwealth evidence outweighed all others is not in any way to disparage any of the others. There are many reasons for this, some of which might be shortly stated.

First they were non-partisan and though they were called by the Commonwealth which was an intervening party, we do not think any one felt that their evidence was in any way coloured or affected by this fact. As presented by all of them it was the dispassionate and scientific (so far as the word is properly applicable in this context) discussion of difficult and intricate problems by highly qualified and sincere specialists.

Their testimony had another equally impressive character; it included that of men who were directly connected with the collection of all the statistical data which all economists must use. They were therefore in the best position to adjudge its intrinsic as well as its apparent value; they are in possession of data not yet generally available; they have access to data never available to others, and finally, and perhaps most important, all these witnesses have had and shouldered for many years the heavy responsibility

(1) *New State Ice Co. v. Liebmann*, 285 U.S. 262, at p. 310. (2) Ibid., at p. 311.

of advising governments upon cognate problems and have had the opportunity of watching their advice in action. In addition, whatever may be said of the bias of their minds, if that was revealed at all, they were all men of outstanding ability and pre-eminent in their particular spheres. The Court received the greatest help possible from their combination of ability, resources and sincerity.

The task of the statistician was to estimate the impact of the change to a standard 40-hour week on the Australian economy and to trace the effects through it. That of the economists was to interpret and evaluate those effects from all relevant angles. We have decided that we should accept the guidance of these Commonwealth witnesses but in so doing have not ignored the many criticisms, differing assumptions and counter conclusions of the economists and statisticians called by the States and employers.

Mr. Clark, specially invited by the Court to assist it, provided data and conclusions which were of considerable help; these, added to the others, are responsible for the conclusions we have arrived at.

Statistical Evidence of Effects on Production.

Mr. Nimmo worked out with elaborate care the area of the field that would be affected by such an hours reduction as is claimed. Mr. Brown attempted a mathematical measurement of it in terms of a percentage loss of production overall. His figure assuming no reduction in rural industry was not more than 5 per cent. Mr. Seaman's and Mr. Tyrer's were higher (6 per cent. and between 5¾ per cent. and 6 per cent. respectively). He then attempted by many assumptions, estimates and calculations, not generally or fully concurred in by Mr. Tyrer, to trace the effects of that lost production through the community by way of the cost price structure concluding that the overall price rise should not exceed 4 per cent. Mr. Tyrer's figure was 9 per cent. within two or three years. It is clear that the burden will hit some sections of the community only, and those sections in varying degrees. Obviously so long as the basic wage is adjustable, and on the assumption that the "C" series figures are a valid measuring rod, the basic wage section of wages and salary income will not be affected by the increased prices which will inevitably follow any fall in production, with consequent increased costs. As to the rest of the community, higher costs will be passed on to some extent by some producers subject to limitations imposed by price control which we assume will continue for some time into the future. In the end, unsheltered incomes, i.e. incomes dependent on world prices, incomes derived from enterprises in competition with imported products, fixed incomes, the unadjustable part of wages will all suffer in some measure from these increased prices.

These conclusions of the economists are of course based on the assumption that there will be the fall in production consequent on a 1/11th loss in the working hours of some workers, estimated as we have said by Mr. Brown at 5 per cent.

There were many suggestions made during the hearing that the estimated fall would either not take place at all, would be quickly overtaken, or would be much less than the estimates of the experts. The experience of the Court and also the statistics (particularly some provided by Mr. Clark) lead us to the view that the fall in production will be less than feared by employer witnesses and will be fairly rapidly overtaken.

Time for Introduction.

Employers have urged that the time for this admittedly desirable social change is not now; no alternative time was suggested unless we recall that some of their witnesses suggested that a time of depression and unemployment would be the most advisable time and then as a device for spreading employment—an idea already exploded—or again not until shortages were overtaken which obviously could not occur if full employment is maintained, or again until international disparities of hours, wages and conditions no longer exist, which is never likely to occur. So that their "not now" might mean "not ever".

All criteria of an active virile progressive economy are present to-day. Our population has increased and all are working. Our sources of power are taxed to their limit and that limit higher than ever before. Business is showing a continuous unsatisfied demand for products of all kinds. Orders sufficient to maintain activity at the highest levels are booked for years ahead over a wide range of industry. Many industrial undertakings are expanding their capital to a total extent of millions of pounds and prospectuses indicated very good prospects. Oversea companies are finding in Australia increasing opportunity for further extention and development of their enterprises, while the reports of local companies are generally optimistic. The profit rate continues at high levels and substantially above the relation to gilt edge securities usually expected.

There are, of course, the depressive factors of industrial unrest, disorganization and reduced output which seem to follow war and periods of re-adjustment, but these, though bad enough, are not abnormally so. They show signs of some abatement.

It seems to us as it seemed to this Court when it dealt with this problem in 1926 so clear as to be beyond any cavil that the appropriate time to add burdens to industry or, from another angle, to give ourselves added benefits, is when industry is booming and when nature is bountiful. All the economists of both sides agree that never in our history have all the factors been so favorable, nor is it easy to conceive them ever being more favorable.

Business interests are not worse off because there continues to be an unsatisfied demand both internally and oversea, however much they may feel aggrieved by the inability to meet this demand, and when pressed in cross examination managers agreed that they could better cope with an added burden when business was booming than when curtailment was necessary in an incipient depression.

Full Court.]

Capacity of Industry to Absorb.

War-time conditions had very great physical and psychological effects upon industry; both management and workers were affected. Managerial laxity arose out of cost plus methods, the continued existence of a sellers' market and the necessity of production "at all costs". Easy profit and such factors greatly affected factory discipline for which management is responsible. And the National Security (Man Power) Regulations under which labour was controlled and directed, the security of jobs, the long hours and high wages which resulted from much overtime and full family work, tended also to affect the output per man hour of the workers. Laxities then permitted are now grown into habits, but they can be overcome. It is easy to believe that the minutes lost by late arrival and early knocking off, by early stopping and late starting at the morning, midday and afternoon breaks, by unnecessary absences, by lax work and inattention at machines, might, if recovered by a mutual determination to do better, very substantially mitigate and perhaps even obviate loss of production. Forty hours work might easily equal 44 hours of the kind of work and management we have in our actual experience witnessed. Reasonable discipline therefore is essential and unions and employers owe a duty to the community to secure it.

The Court's order in this case establishes a new industrial relation and implies that a full 40 hours should be worked in every case, less only prescribed or agreed upon remissions. Awards should be drawn to give full effect to this and to make clear that pro rata reductions of pay may be made for unauthorized omissions.

Another matter constantly referred to during the hearing was the dampening effect on the effort of both employer and employee of taxation which robbed, it was urged, both sides in industry of the fruits of their labour and made that extra effort just not worth while. Already taxation has been somewhat reduced and further modifications may quite well relieve the situation. This is a matter of course beyond the Court's jurisdiction.

We believe the resiliency of industry to be very great. Nothing, not even reduced working hours has for long interfered with the steady upward trend in productivity over the long period, measured, we are told, at about 2 per cent. per annum, but varying somewhat from time to time and in different countries.

We see in the net gains made by Australian industry not only in mechanization, equipment, building and resources, but also in technical knowledge and skill, a potential which must, with the will to use them, make possible great advances.

The age of science is hardly begun and what was possible in the past will surely be bettered in the future. Every department of science is coming to the aid of production; biology, and the amazing promises it makes in the plant and animal world; chemistry, particularly as applied to metals and plastics; physics, in its wider realm providing the bases of new unheard-of resources of which the atom bomb is only one example. These things must in time work through our industry rendering the need for man hours less and less.

There is still another factor the value of which is not yet appreciated, but it will be. For the first time in the history of capitalism we have "full employment" and what is more important, the promise that it will be continued indefinitely. Professor Giblin tells us that we have learned the techniques necessary to prevent major depressions and *a fortiori* minor ones so that there must come into industry both for the worker and the manager, a new outlook. In the past the worker was kept at high pressure by the cudgel of unemployment or the carrot of incentives. He feared that he would ultimately work himself out of a job and into a condition wherein while he starved he was told there was over-production. Naturally, this spectre haunted him as his greatest fear and he resisted incentives and resented the threat. When the new doctrine is absorbed by employer and employee, when the employer realizes he has lost his cudgel, and when the worker realizes there is no need to fear unemployment, then we may be assured that well-planned and safely-guarded incentive systems will not only not be resisted but will be welcomed. Australian management will not be slow to realize these possibilities and Australian workmen not slow to respond. Some employers told us what our own experience has taught us, that, given incentive systems, Australian industry could take the 40-hour step in its stride.

So that we conclude that the loss of production may quite well be less than anticipated, might easily be mitigated, and might be rapidly caught up as indeed New Zealand's experience confirms when, after a 40-hour week was implemented in 1936, its production and productivity both increased.

Fixed Incomes.

Fixed incomes will suffer by the rise in prices if the price rise is as anticipated by the economists. Some consequences of this sort are inevitable in any major economic changes; they occurred when twenty years ago this Court fixed standard hours at 44 where they had been 48. The depression had an opposite effect on them; their real value rose then as prices fell. This is one of the many relevant factors that are beyond the Court's control to regulate or mitigate but, as Professor Giblin indicated, this position can be controlled by the adjustment of taxation as it was in the 1930 depression.

State Instrumentalities.

The burden of added cost will affect all State instrumentalities, particularly State Railways and Tramways; in fact the price and wage rises which have taken place have already done so, and to such extent that in some cases the added costs have been taken up in increased charges for the services provided. Some of these undertakings had passed through a period of financial prosperity during the war, but were now showing substantial deficits which would not be overcome without an adjustment of freights and fares. Nor should it be overlooked that the depreciation of money in effect amounted to a reduction of freights and fares, so that an increase of them is in fact restoring their real level.

Full Court.]

It is clear that whether or not 40 hours is granted most if not all will have to fall into line or show balance sheet losses. On the other hand, some of these undertakings such as the Victorian State Electricity Commission, Melbourne and Metropolitan Tramways Board; Victorian Country Roads Board, Melbourne Harbour Trust, Melbourne and Metropolitan Board of Works, and others, indicated that they would be able to handle the financial burden without undue difficulty.

Should the Court add further burdens to these great undertakings? This is, of course, purely a matter of high State policy to be determined not only on economic grounds but by considering many other factors affecting the well-being of the community from the widest view point. If the community desires any change which adds to costs, it must be prepared to bear them, and it will do so if it thinks the benefits outweigh the burdens. These undertakings can be made to pay if, as a matter of policy, it is decided to raise the charges sufficiently. If they lose money now, it is because that is the policy determined by those responsible for safeguarding the public interest, and the loss must be borne by other devices from Government revenue.

The Court must assume the Australian Government has, by its support of these claims, in effect informed the Court that it is not alarmed about the financial burden which it is fully aware a favorable decision would impose upon these public undertakings. In this regard South Australia and Western Australia do not differ from Tasmania and other States, since in the last analysis budgetary equilibrium will be maintained by grants from the Commonwealth which is now the taxing authority.

If we are satisfied that the national economy can stand the burden, then it seems to us proper that the States and Commonwealth should be left to work out their own financial policy.

If on the other hand the added costs leads to greater efficiency and economy then the community is advantaged.

We were, at one stage in these proceedings, before the attitude of the Commonwealth was made as clear as it is now, gravely concerned about the burden which a 40-hour week would impose upon all these governmental and quasi-governmental undertakings, but the position has been greatly eased by the final statement made by Mr. Lewis for the Commonwealth and quoted herein.

Rural Industry.

The impact will affect other incomes and particularly rural incomes, they are unsheltered producers and are to be the main bearers of any cost increases occasioned, but the added costs of a 40-hour week which will affect rural industry and which cannot be passed on will, on the figures which we accept, and on the opinions of the economists which have most impressed us, be comfortably carried because of the very greatly enhanced prices of rural products, prices which look like being maintained for a substantial period of years. In addition, the first year of impact will be cushioned further by a most bountiful season which, as we write, seems now assured.

We have passed through a drought, but are now in a period of great productivity covering almost the whole of Australia. The great losses that occurred in our sheep population will receive a great recoupment by a good lambing; our wheat areas have reported bounteous rains with good harvest prospects.

Professor Wadham said —

> "If it is desirable that the change should be made from the point of view of rural industry, not only is the present time a suitable one, but it is difficult to foresee a more favorable one."

Professor Wadham also expressed a hope that the increased costs might be a spur to greater efficiency in our rural industries (of which efficiency he spoke in somewhat disparaging terms). That hope may not be realized—at least for quite a long time—because of the counterbalancing effect of the high and ascending prices of rural products.

The dampening effect of added costs, elsewhere referred to, upon the incipient boom with its rising land values (which Dr. Coombs and Mr. Clark feared) may not eventuate if export prices continue to rise out of proportion to added costs, so that other steps may have to be devised to stay it.

The rise in oversea prices is shown by the following table:—

EXPORT AND IMPORT PRICES.

(1936-1937 to 1938-1939 = 1000.)

—	Export Prices.	Import Prices.	Terms of Trade.
1938–39	834	1,014	823
1945—			
September quarter	1,345	2,021	666
December quarter	1,406	2,016	697
1946—			
March quarter	1,527	2,016	757
June quarter	1,559	2,082	748
September quarter	1,720	2,153	800
December quarter	2,012	2,277	884
1947—			
January	2,147		
February	2,216	2,335	..
March	2,277		
April	2,316	..	..
May	2,336	..	..
June	2,378(*a*)	..	..

(*a*) Preliminary.

While oversea prices have risen as is shown in the foregoing table, the primary producers' costs have not risen in the same proportion.

Mr. Brown in his evidence took oversea prices as they were at the time he wrote. Mr. Tyrer postulated they would fall to 80 per cent. above pre-war levels—an assumption which appears superficially reasonable but which is purely speculative. Mr. Seaman made no such

guess. Mr. Clark expected them to be maintained for ten or fifteen years. Dr. Coombs and Professor Giblin pointed to factors oversea which made them look reasonably stable.

At the date of his preparing his evidence, Mr. Tyrer found oversea prices up 95 per cent. on pre-war prices, and made a deduction of 15 per cent. for certain reasons which seemed proper to him (arrears of maintenance, etc., etc.) and then upon that basis calculated the ultimate capacity of rural incomes to stand the burden of a 40-hour week. Mr. Brown showed that if Mr. Tyrer had written three months later than he did when oversea prices had risen a further 14 per cent. above 1946-1947 levels and he had still used either the 15 per cent. (or more accurately 13 per cent.) of the higher amount then these later figures would provide him with such a surplus as to make the 40-hour week easily supportable. Mr. Tyrer conceded this but suggested other uses for the surplus, as for example, stabilization funds etc., etc. The evidence provided other indications of primary producer prosperity but in forming our conclusions we have not been forgetful of the pessimistic evidence given by representatives of many sections of primary production and in particular sugar, wool, wheat, canned fruit, jams, dried fruits and fruit growing.

A further indication of the buoyancy of our economy is to be found in our oversea debt position. Not only have we accumulated London funds exceeding £200 million but we have financed our war effort without external borrowing; we have made a gift to Great Britain of £25 million; we have redeemed part of our London indebtedness to the extent of over £90 million, and we have refloated some of our existing oversea loans at lower interest rates. By these factors and the higher oversea prices for our commodities we are enabled to service our foreign debt with much less effort.

Rural workers' hours are not affected by the judgment though it is pointed out that ultimately they may be adjusted to fall more closely into line. This view is taken by Professor Wadham who agrees that marked disparity in wages and conditions between country and city may lead to an exodus from country work to the cities. We do not ignore these considerations and they are weighed in our general judgment.

Foreign Competition.

We have encountered great difficulty in reaching positive conclusion in relation to foreign competition and the possible effect of increased costs upon our capacity to meet it. However, Mr. Brown stated—

> "Wage rates have risen by 66 per cent. in the United Kingdom and 75 per cent. in the United States of America since 1939 as against 37 per cent. (including the recent increase in the basic wage) in Australia. As compared with pre-war, Australia now has a differential advantage in wage rates of about 20 per cent. with the United Kingdom and 25 per cent. with the United States of America. Our advantage with the United States of America is further increased by about 20 per cent. by the depreciation of the Australian pound against dollars. Latest figures for Canada show an increase of 42 per cent. in wage rates to 1945. Wholesale prices have risen by 83 per cent. in the United Kingdom, 91 per cent. in the United

States of America, and 63 per cent. in Canada as compared with 45 per cent. in Australia. Retail prices and rents have risen by about the same amount (25 per cent. to 30 per cent.) in Australia, the United Kingdom and Canada, but have risen by 57 per cent. in the United States of America."

This is an encouraging feature for Australia. For the rest, however, the picture is somewhat blurred. The evidence shows a world in confusion, a very real war-devastated Europe; a Great Britain in a financial position over the dollar-sterling relation as to be beyond prediction with any resources at our present disposal; an America with greatly increased costs, a 40-hour week and dollar shortage difficulties which must affect her potentiality as a trade rival. Japan is not yet at peace. China is not yet industrially awake and in monetary confusion. India has a new political organization and internal economic problems that look like occupying its resources for a long time. For these reasons it is almost impossible to estimate the effect of our decision upon Australia's foreign trade prospects. It is certain that Australian prices will be increased but we are confident not to such an extent as to jeopardize such foreign trade as her present resources including man power would enable her to undertake. We are also reminded that in other aspects increased prices in Australia are not an unmitigated evil. We have the opinion of the economists that having regard to our rate of exchange and the relative international value of our money it may be desirable to increase prices in Australia.

We have noticed the disparity of working hours in other countries, shorter in United States of America and New Zealand and at least nominally shorter in France; falling steadily in England; longer in Sweden and Denmark, Holland, Belgium, with Russia almost an unknown quantity. Nothing that we have concluded from our study of these matters has suggested to us that we should refuse to make the order which follows.

Australia has a huge unsatisfied internal market for most commodities and is not with its present shortage of man-power able yet to undertake both the satisfaction of its internal market and a full foreign trade. While the great expansion of our industrial undertakings already referred to makes it clear that foreign competition is not thought by industrialists to be a present menace.

Balance of Trade.

During the course of this case Professor Giblin said—

"The abnormal flow of imports is due to war-time shortages of goods for both consumption and investment, associated with a surplus of savings in the community. . . .

If the present flow of imports continues at anything like its present rate for a few months, the alternatives will be to pay for the excess out of accumulated reserves or to put a deliberate restriction on imports. . . .

Our reserves, however, are mostly in the form of sterling balances. I should say, built up during the war. War-time accumulations of sterling are not freely available, pending current negotiations on their use. . . .

We must then expect deliberate restriction of imports in the near future. That will be a matter for political decision".

Full Court.]

It is clear from this that he anticipated two things, first the possibility of the partial and perhaps the total "freezing" of sterling balances in London, and second the possibility of some adverse trade balance rendering necessary the exercise of governmental control over imports of a kind with which we are already familiar in Australia. This would, of course, have some important effects in this country depriving us of goods that might otherwise have been available, and having an adverse effect upon the inflationary position in Australia.

The necessity of restricting imports and controlling them may be accentuated and prolonged by an increased or continued shortage of the so-called "hard" currency—United States of America dollars. We have noted these factors, they are part of our basic considerations.

Distribution of National Dividend.

In 1937 this Court considered the problem of the basic wage, and while not altering the rate, did add "loadings". Mr. Wright strongly urged that the redistribution then made of the national dividend represented the Court's considered opinion of the optimum relationships of the sections of the community affected.

Mr. Wright said—

> "Might I revert to what I have described as the vitally important question of the period of time, and why we advocate the period 1936 or 1937 or thereabouts as the logical starting point for the Court. It is a fact, as Professor Giblin put it to the Court, that in the year 1937 this Court struck a balance which in my submission must be regarded by the Court as the correct balance at that time between the various interests in the economy."

We do not give our assent to this proposition. No earlier Court can so constrain a future one. In any case, we do not agree that any such proposition was decided; at most the Court decided that in the then circumstances the economy would be advantaged by the order then made, and that the disputes before them should be settled by those orders and that the economy could stand the wage increases allowed.

It was urged that the workers' share of the national dividend having thus been fixed in 1937 by the Full Court, and as it should be assumed that it was the Court's view of a just apportionment then by reason of subsequent beneficial awards including increased basic wage, increased annual leave and sick pay, increased marginal rates, week-end rates and female rates and other benefits, the workers have obtained more than their share of any increased productivity since that time.

We are of opinion that there is no "just" division between capitalists and workers or between the various sections of the community, nor if there was is there any means of ascertaining it. The Court's principle, often acted upon, that industry should pay the highest wage compatible with its continued prosperity, is in contradiction of it.

Savings.

The national income should be divided into two parts—one part consumed—one part saved; from another angle the national income is

divided between rentiers (rent interest and profit) and salary and wage-earners. Rentiers as such perform no useful social function but part of savings comes from their incomes, and at one stage in history most of it did so. Savings now, however, some also from salaries and wages via the banking system and from taxation. The taxing authorities in fact use part of the tax proceeds for capital goods and buildings.

It is pointed out, however, that investors are unlikely to invest their savings in capital goods necessary to achieve social and economic progress if the burdens on industry are so great as to prevent profits being made or to make them so low or so precarious as not to be attractive to them. We are alert to this and have considered fully the significance of the many factors (e.g. the lowered interest rate and the lowered rate on gilt edge securities, the increasing use of national credit and national savings for capital development and the independence the community feels of them by reason of its banking activity and its war-time experience). The order we make will not, we are confident, jeopardize in any reasonable future, the community's capacity to make adequate savings.

Rigidity of our Wage System.

Mr. Phillips in the course of his address emphasized what Professor Giblin had earlier pointed out, namely, that our system of wage fixation and the rigid method of adjustment to cost of living both up and down prevented the operation of economic forces which elsewhere brings about some economic equilibrium and calls for regular revision by the wage-fixing authority in order to maintain some reasonable relationship between all sections of the community, and that the great enhancement of rural incomes at the present time due to oversea prices and terms of trade calls for such a revision now. In addition, Dr. Coombs indicated other considerations of social importance which indicated that an increase of costs to rural industries was called for in the present circumstances. He referred particularly to the necessity of putting a brake upon rising land values and the dampening down of boom conditions.

We should not overlook that the workers themselves will in respect of the unadjustable part of their wages and salaries bear a very substantial part of the increased costs of the 40-hour week as they have done and are still doing during the period of rising prices.

Effect of Decision.

Mr. Brown wrote in his supplementary evidence: "Under present circumstances the effective factors limiting redistribution of real income are the pressure of rising prices on fixed incomes and the phychological reactions to a too rapidly rising price level." This was criticized on the ground that it was an "economic opinion" and Mr. Brown was a statistician. Mr. Brown has university qualificationns as an economist and what is more important, background, association, responsibility and experience of a constant day to day practice.

Full Court.]

Opinion coming from that source certainly helped to relieve the heavy responsibility which the Court has felt throughout the long hearing, but did not dissipate it.

If it is true that the limiting factors are the two he mentioned above, then the economy, we are satisfied, will have little to fear on either of these scores from the Court's decision. The price rise will not be psychologically disturbing and fixed incomes, though heavily affected, will not be catastrophically so and can be readily protected as we have indicated.

Easing in the Burden.

For a long time it was considered that it would be necessary to steady the effect of the impact by "letting the clutch in gently". The metaphor is not very happy but the idea is easily appreciated, and Mr. Sholl's and Mr. Wright's address indicated a multitude of methods by which that might be achieved.

The Court has decided, rather than adopt any of these methods, to implement the 40-hour week as from January, 1948.

If the original *Printers'* case is taken into account the case has taken almost 22 months to hear, and it is now more than two years since hostilities ceased. That is a very substantial period during which wise management was able to make provisions against the possibility of this decision, just as it did against the time when men and women would return from war and need to be rehabilitated into industry. True, there was no reason to assume that the Court would grant the 40 hours claim rather than refuse it, but foreseeing managers are not so foolish to be caught napping in the face of these two alternatives. The New South Wales Act is already in operation and greatly affects industrial relations in the greatest State, and repercussions are being felt in other States, particularly in respect of Federal unions. Queensland legislation is, we were told, promised at the end of the year, adding to the embarrassment of management over an area even still wider. All these matters point to a *uno ictu* application of the shorter week.

Then again, transition from war to peace has been achieved in Australia more rapidly, smoothly and effectively than had been imagined by the most optimistic administrators, and industry has been able to get into its stride much earlier than was thought possible.

Uniformity of standard hours, while not vital, is of first rate importance, and is pressed for by claimants and by many respondents, and particularly by the Commonwealth and State Governments which are affected by the operation of any State Act prescribing the shorter hours.

Therefore we fix a future date for the commencement of the new hours giving about three months in which final adjustments both in the many awards and in industry itself may be made.

Further, the uniformity will leave no heart burnings and no rankling dissatisfaction in the workers' minds, and will lay the foundation of a better and more settled relation between the two parties in industry.

It will not add to employers' difficulties, which will have to be met on any method sooner or later, nor will it, we think, have substantial adverse effects upon the economy which are not more than counterbalanced by the advantages we foresee.

Lastly, much adverse comment has been made upon the duration of this case, but it has not been an unmixed evil. It has enabled such a case to be presented as has never been equalled in Australia, or perhaps elsewhere; it has provided a period for post-war transition and adjustment. It has enabled statisticians and economists to evaluate much more accurately and to estimate post-war trends both within and without Australia. It has provided a period in which assumptions and estimates of experts were able to be checked by later and fuller statistics and to establish habits and controls which have enabled us to prevent a possibly dangerous inflation and so to reduce to safe proportions any inflationary effects which will follow from the implementation of a 40-hour week. Such controls were adequate for the economy during much more threatening periods when the "gap" was of very grave proportions. The pressure is not now to be feared even if added to by such effects as will flow from this decision.

Period of Adjustment.

We are conscious, however, that in order to assist the economy through the period of adjustment which will follow upon the implementation of this decision some flexibility in the length of the working week will in some instances be necessary for some time. An absolute rigidity might well hamper a swift and orderly transition by the creation of temporary bottlenecks thus resulting in undue prolongation of the period of shortage, and by rendering difficult or impossible such redistribution of man-power resources as the introduction of a standard working week of 40 hours may necessitate. The exigencies of continuous shift work may in particular require the working of somewhat longer hours than 40 for some time to come. It is for such reasons as these and not in any spirit of compromise or evading the real issue as suggested by Mr. Wright in his address that we propose to introduce into our order certain provisions with respect to the working of overtime. The nature, operation, extent and duration of those provisions will be apparent from the terms which appear hereafter and need not be repeated here. In order to make the system perfectly flexible we have not sought in our order to distinguish between one award and another or one industry and another. Indeed the complexities of the matter are such that it would not be possible to frame any adequate *a priori* distinction between industry and industry and it is our intention that the working of a reasonable amount of overtime should continue so long as necessary and as occasion arises, not merely in individual industries but also in particular sections of industries or even in individual establishments and workshops. It is our intention that the determination of what is reasonable both as to the occasion and as to the duration provision shall in each instance be left to the appropriate Judge or Conciliation Commissioner.

Full Court.]

Conclusion.

What the Court has done in this decision is, as the employers have indicated, to make a major social judgment which will have very great and important consequences. A decision the other way would also be an important social judgment. It has involved tremendous preparation. We have had all the assistance with which the best minds could provide us. For the use we make of it, ours is the responsibility, and it is trite to admit that we feel it very heavily. One comfort however remains, that is, if experience shows that we have erred, and contrary to our best judgment the economy does suffer, or, if because of unforeseen world conditions unanticipated results threaten us, then the Court can take such necessary steps as will best protect and preserve our community against any such untoward possibilities.

Nothing in this judgment is to be taken as a reason or an argument for the reduction of standard hours in industries where the weekly hours are already forty or less. These industries call for special consideration which has not been undertaken in these proceedings.

Our task is finished; the future will be watched with concern and interest; the economy is in a period of transition and of major change and development. This Court has, in its recent decision on wages and conditions, varied greatly the benefits and burdens of wage payers and wage receivers and the play of economic forces. Perhaps this decision completes what can safely be done for the time being and for the immediate future; the economy must now be allowed to digest and assimilate all these changes and will of course be closely and continuously under observation by the Court and by the office of Economic and Industrial Research to be set up in terms of section 81AA of the *Commonwealth Conciliation and Arbitration Act* 1904-1947.

ORDER.

We proceed to state the terms of the orders which we make in the cases before us. The formal order will in each instance be settled by the Registrar. Where the application before us is for a variation of the terms of an existing award, whether by summons to vary or pursuant to a reference in the award of the question of hours to the Full Court or its reservation for the Full Court, our order is an order to vary the existing award. Where the matter comes before us as a new dispute or as part of a new dispute, our order will take the form of a variation of the current award.

1. In the several industries whose awards or disputes are before us in these proceedings the standard hours of work where fixed at 44 per week are reduced to 40 per week.

2. Where the standard hours of work in any industry now before the Court are not expressly fixed at 44 per week but the provisions of the relevant award in itself, or as varied or affected by the orders of any other competent tribunal, are based upon the Court's hitherto existing standard of 44 hours per week, all variations are made which are necessary to the end that the award should henceforth be based upon the Court's new standard of 40 hours per week. We refer in particular to the maritime industries now before the Court.

3. Where in any industry now before the Court the standard hours of work in the industry are fixed at 44 hours of work but in any particular occupation or occupations within the industry hours of work are at present fixed at more than 44 or less than 44 or are left to the agreement of the parties or are otherwise not fixed, no alteration is effected by our present order. Where in such a case the hours of work in any particular occupation or occupations are at present fixed at 40 or less, our judgment and this order are not to be regarded as affording any foundation or justification for an application for a reduction of such hours. In all other such cases the questions whether any, and if so what, differentiation is to be made in respect of an occupation within the industry are left to the determination of the Judge or Conciliation Commissioner in charge of the particular industry. This judgment will then be regarded as a prima facie ground for reduction of the hours fixed but, in determining whether such reduction should be made, and the extent thereof if made, account will also be taken of any special circumstances which resulted in the particular fixation of hours or the absence of a fixation of hours.

4. Where by any provision of an award any wage-rate or condition of employment is fixed by reference to standard hours of work of 44 per week, the award is varied in such respects as are necessary to adapt the provisions to standard hours of 40 per week. We refer in particular, but without limiting the generality of this paragraph, to the basic wage, loadings and margins expressed or required to be ascertained on an hourly basis, piece work rates fixed or required to be ascertained by reference to the output of earnings of an employee of average capacity in 44 hours, and provisions as to annual leave and sick leave. But this paragraph has no relation to rates which although expressed on an hourly basis have no relation to the standard of 44 hours per week as the basis of their fixation.

5. Where hours are at present fixed solely or alternatively at some multiple of 44 to be worked in some number of weeks greater than one, the corresponding multiple of 40 is substituted for the present multiple of 44. But the maximum number of hours which under any such provision may be worked in one week, or in any number of weeks less than the full multiple, is not hereby varied. And all such provisions are left to be further considered by the Judge or Conciliation Commissioner in charge of the industry after hearing the parties on the question of the number of weeks over which hours may be spread so as to give an average of 40 and the maximum hours which may be worked in any one week or number of weeks less than such full number.

6. The above paragraphs are intended to deal with the reduction of standard hours of work from 44 per week to 40 per week and with other variations which are consequential thereon. Should the Registrar be in doubt whether any variation sought by any party in settling the formal order is merely consequential the order may be otherwise drawn up but that particular part of the dispute shall be left to the determination, after hearing the parties, of the Judge or Conciliation Commissioner in charge of the industry.

Full Court.]

7. In each award affected by the above paragraphs there shall be inserted provisions:—

(i) empowering an employer to require any employee to work reasonable overtime at overtime rates and providing that the employee shall work overtime in accordance with such requirement;

(ii) providing that no organization, party to the award, shall in any way, whether directly or indirectly, be a party to or concerned in any ban, limitation or restriction upon the working of overtime in accordance with the requirements of such provision;

(iii) providing that such provision shall remain in operation only until otherwise determined by the Judge or Conciliation Commissioner in charge of the industry.

But nothing in this paragraph is to affect the operation of any existing clause of an award providing for compulsory overtime.

8. Question of the hours and days during and on which the standard hours hereby prescribed are to be worked and all questions of meal breaks and other breaks in the continuity of work are not dealt with by the Court but are left to be determined by the Judge or Conciliation Commissioner in charge of the industry. Where an award provides that the present standard 44 hours per week are to be worked in specified numbers of hours on specified days such specified numbers of hours shall be regarded as maxima and the awards varied accordingly pending final determination as above the hours and days during and on which the standard hours hereby prescribed are to be worked.

9. The orders hereby made are to come into operation at the beginning of the first pay period to commence in January, 1948.

SCHEDULE "A".

Applicant.	No. of application.	Short title and date of award or agreement.
Amalgamated Engineering Union ..	80/46	
Federated Moulders (Metals) Union of Australia	275/46	
Boilermakers Society of Australia ..	121/46	
Sheet Metal Working Agricultural Implement and Stovemaking Industrial Union of Australia	135/46	Metal Trades Award. 5.12.1941
Electrical Trades Union of Australia	139/46	
Blacksmiths Society of Australasia ..	153/46	
Australasian Society of Engineers ..	169/46	
Federated Ironworkers Association of Australia	218/46	
Australasian Society of Engineers ..	170/46	New South Wales Railways (Tradesmen and Machinists in the Iron Trades) Award. 26.11.1935
Federated Ironworkers Association of Australia	225/46	South Australian Railways (Metal Trades Grades) Award. 22.6.1936

SCHEDULE "A"—*continued.*

Applicant.	No. of application.	Short title and date of award or agreement.
Vehicle Builders Employees Federation of Australia	161/46	New South Wales Railways (Coachmaking Trades) Award. 26.11.1935
Federated Ironworkers Association of Australia	224/46	Victorian Railways (Metal Trades Grades) Award. 27.4.1937
Federated Ironworkers Association of Australia	226/46	New South Wales Railways (Ironworkers Assistants) Award. 26.11.1935
Amalgamated Engineering Union ..	85/46	
Sheet Metal Working Agricultural Implement and Stovemaking Industrial Union of Australia	136/46	
	116/46	
Vehicle Builders Employees Federation of Australia	117/46	Motor Body and Coachbuilding Award. 15.12.1939
	152/46	
Australasian Society of Engineers ..	220/46	
Federated Ironworkers Association of Australia		
Sheet Metal Working Agricultural Implement and Stovemaking Industrial Union of Australia	133/46	Oven and Stove Making Award. 27.3.1939
Amalgamated Engineering Union ..	83/46	
Sheet Metal Working Agricultural Implement and Stovemaking Industrial Union of Australia	137/46	
Vehicle Builders Employees Federation of Australia	151/46	Aircraft Industry Award. 4.8.1938
Australasian Society of Engineers ..		
Federated Ironworkers Association of Australia	219/46	
Sheet Metal Working Agricultural Implement and Stovemaking Industrial Union of Australia	138/46	Agricultural Implement Making Award. 7.4.1936
Federated Ironworkers Association of Australia	221/46	
Vehicle Builders Employees Federation of Australia	150/46	New South Wales Tramways Daily Paid Grades (other than traffic) Award. 26.9.1935
Australasian Society of Engineers ..		
Federated Ironworkers Association of Australia	227/46	
Federated Ironworkers Association of Australia	223/46	Naval Dockyard Employees (Williamstown) Award. 13.7.1943
Federated Ironworkers Association of Australia	222/46	H.M.A. Naval Establishments (New South Wales) Award. 22.5.1942
Manufacturing Grocers Employees Federation of Australia	76/46	Manufacturing Grocers (South Australia) Award. 6.10.1944

Full Court.]

SCHEDULE "A"—*continued.*

Applicant.	No. of application.	Short title and date of award or agreement.
Manufacturing Grocers Employees Federation of Australia	77/46	Manufacturing Grocers (Victoria) Award. 10.7.1943
Food Preservers Union of Australia	79/46	Food Preservers Award. 27.9.1943
Federated Gas Employees Industrial Union	92/46	Gas Industry (Victoria, Tasmania and Mount Gambier) Award. 15.12.1942
Federated Gas Employees Industrial Union	93/46	Gas Industry Employees (New South Wales) Award. 11.9.1942
Federated Gas Employees Industrial Union	503/46	Gas Industry (South Australian Gas Co.) Agreement. 3.10.1938
Australian Leather and Allied Trades Employees Federation	96/46	Glue and Gelatine Workers Award. 26.11.1945
Australian Leather and Allied Trades Employees Federation	97/46	Tanning Award. 2.4.1940
Australian Leather and Allied Trades Employees Federation	98/46	Tanning (Sheep and Lamb Skins) Award. 7.9.1945
Australian Leather and Allied Trades Employees Federation	99/46	Saddlery Award. 2.10.1939
Building Workers Industrial Union of Australia	104/46	Ship Carpenters and Joiners Award. 25.9.1942
Transport Workers Union of Australia	112/46	Road Transport Workers (Oil Stores) Award. 17.11.1941
Transport Workers Union of Australia	113/46	Road Transport Workers (Milk Carters, Victoria) Award. 3.11.1939
Transport Workers Union of Australia	114/46	Road Transport Workers (General and Wharf Draggers) Award. (General). 23.12.1940
Transport Workers Union of Australia	115/46	Road Transport Workers (Milk Carters, South Australia) Award. 24.1.1945
Australian Leather and Allied Trades Employees Federation	123/46	Fire Proof Tank Manufacturing Award. 2.10.1943
Federated Confectioners Association of Australia	132/46	Confectioners Award. 21.1.1941
Federated Rubber and Allied Workers Union of Australia	143/46	Rubber Workers Award. 2.11.1938
Federated Storemen and Packers Union of Australia	144/46	Storemen and Packers (Wool, &c., Stores) Award. 20.10.1943

SCHEDULE "A"—*continued.*

Applicant.	No. of application.	Short title and date of award or agreement.
Federated Storemen and Packers Union of Australia	145/46	Storemen and Packers (General) Award. 15.10.1940
Federated Storemen and Packers Union of Australia	184/46	Storemen and Packers (Oil Stores) Award. 4.12.1945
Australian Workers Union ..	146/46	Flax Industry. 24.4.1942
Australian Timber Workers Union ..	154/46	Timber Workers Award. 9.12.1941
Federated Artificial Fertilizer and Chemical Workers Union of Australia	155/46	Artificial Fertilizers and Chemical Workers Award. 12.5.1941
Federated Felt Hatting Employees Union of Australia	156/46	Felt Hatting Award. 29.4.1942
Australian Boot Trade Employees Federation	157/46	Boot Trade Award. 19.6.1941
Australian Textile Workers Union ..	158/46	Textile Workers (Knitting Section) Award. 28.4.1943
Australian Textile Workers Union ..	159/46	Textile Workers (Woollen and Worsted Section) Award. 3.7.1947
Australian Federated Union of Locomotive Enginemen	160/46	Locomotive Enginemen (Victoria, South Australia and Tasmania) Award. 30.4.1941
Australian Federated Union of Locomotive Enginemen	162/46	Locomotive Enginemen (New South Wales) Award. 12.2.1943
Australian Workers Union ..	163/46	Gold and Metalliferous Mining Award. 20.12.1940
Operative Stonemasons Society of Australia	166/46	Stonemasons (Victoria and South Australia) Award. 4.11.1938
Amalgamated Clothing and Allied Trades Union of Australia	171/46	Clothing (Dressmaking Section) Award. 8.11.1940
Amalgamated Clothing and Allied Trades Union of Australia	172/46	Clothing (Tailoring Section) Award 8.11.1940
Australasian Meat Industry Employees Union	179/46	Meat Industry (Clerks and Cashiers) Award. 23.12.1940
Australasian Meat Industry Employees Union	178/46	Meat Industry Award. 19.5.1939
Wool and Basil Workers Federation of Australia	177/46	Wool and Basil Workers Award. 21.9.1943

Full Court.]

SCHEDULE "A"—*continued.*

Applicant.	No. of application.	Short title and date of award or agreement.
Federated Engine Drivers and Firemen's Association of Australasia	185/46	Engine Drivers and Firemen's Award. 26.7.1940
Federated Millers and Mill Employees Association of Australasia	145/45	Millers and Mill Employees Award. 29.10.1937
Australasian Meat Industry Employees Union	180/46	Ham and Bacon Industry Award. 10.5.1946
Federated Shipwrights and Ship Constructors Association of Australia	190/46	Shipwrights and Ship Constructors Award. 24.3.1938
Federated Ship Painters and Dockers Union of Australia	191/46	Ship Painters and Dockers Award. 21.3.1940
North Australian Workers Union ..	213/46	Gold and Metalliferous Mining—Northern Territory—Award. 23.1.1935
North Australian Workers Union ..	214/46	Commonwealth Railways—Northern Territory—Award. 23.1.1935
North Australian Workers Union ..	212/46	Works and Services—Northern Territory—Award. 23.1.1935
Printing Industry Employees Union of Australia	252/45	Printing Industry (Commercial) Award. 18.3.1942
Federated Liquor and Allied Trades Employees Union of Australasia	116/47	Liquor Trades (Aerated Waters, Victoria) Award. 31.3.1942
Federated Liquor and Allied Trades Employees Union of Australasia	117/47	Liquor Trades (Hotels, Victoria) Agreement. 17.12.1928
Federated Liquor and Allied Trades Employees Union of Australasia	118/47	Liquor Trades (Hotels, Tasmania) Award. 13.2.1931
Federated Liquor and Allied Trades Employees Union of Australasia	119/47	Liquor Trades (Aerated Waters, New South Wales) Award. 31.3.1942
Federated Liquor and Allied Trades Employees Union of Australasia	120/47	Liquor Trades (Marine Stores, New South Wales) Award. 6.8.1936
Federated Liquor and Allied Trades Employees Union of Australasia	121/47	Liquor Trades (Marine Stores, Tasmania) Award. 2.4.1940
Federated Liquor and Allied Trades Employees Union of Australasia	122/47	Liquor Trades (Hotels, New South Wales) Award. 17.12.1928
Federated Liquor and Allied Trades Employees Union of Australasia	123/47	Liquor Trades (Yeast and Vinegar Section) Award. 13.5.1935
Federated Liquor and Allied Trades Employees Union of Australasia	124/47	Liquor Trades (Wine and Spirit Stores, New South Wales) Award 17.12.1928
Australian Workers Union ..	37/47	Pastoral Industry Award

SCHEDULE "B".

Applicant.	Dispute No.	Industry.
Australian Boot Trades Employees Federation	100/1945	Boot Trade Industry
Amalgamated Society of Carpenters and Joiners of Australia	6/1945	Carpentry and Joinery Industry
Waterside Workers Federation of Australia	86/1940 142/1946	Stevedoring Industry
Amalgamated Engineering Union ..	17/1941 82/1946	Railways and Tramways Industry (Metal Trades Grades)
Sheet Metal Working Industrial Union of Australia	321/1941 134/1946	Railways and Tramways Industry (Metal Trades Grades)
Australian Railways Union ..	173/1946	Railways and Tramways Industry
Seamens Union of Australia ..	199/1946	Maritime Industry
Australian Institute of Marine and Power Engineers	174/1946	Maritime Industry
Merchant Service Guild of Australasia	175/1946	Maritime Industry
Marine Cooks Bakers and Butchers Association of Australasia	205/1946	Maritime Industry
Boilermakers Society of Australia ..	237/1946	Railways and Tramways Industry
Federation of Salaried Officers of Railways Commissioners	282/1946	Railways and Tramways Industry
Federated Municipal and Shire Council Employees Union of Australia	56/1946	Local Government Industry
Australian Boot Trades Employees Federation	183/1946	Boot Trade Industry (Wood Heel and Last Section)
Australian Rope and Cordage Workers Union	204/1946	Rope and Cordage Industry
Australian Federated Union of Locomotive Enginemen	265/1945	Railways Industry