



The Hon Henry Bournes Higgins (1851–1929). President of the Commonwealth Court of Conciliation and Arbitration 1907 to 1921. He handed down the Harvester Decision, which established 7 shillings a day for an unskilled labourer as a fair and reasonable wage. It became the basis of the Australian minimum wage.

PART 2
ESTABLISHING AN AUSTRALIAN
MINIMUM WAGE

2.1 The Harvester minimum wage

Time line

- 1907 The *Harvester Decision* establishes 7 shillings a day, or 42 shillings a week, minimum wage for an unskilled labourer. A 'family' or 'living' wage is established on the basis of 'needs' of a worker to support a family of five. This applies only to one company and the decision is overturned by the High Court.
- 1908 The Commonwealth Court of Conciliation and Arbitration adopts the Harvester 7 shillings and applies it in awards for the first time. Additional amounts are paid to more skilled employees. These additional amounts become known as 'margins'. Only 20 awards are made between 1905 and 1914 by the Court so the 7 shillings has very limited coverage. Most awards are state awards with a lower minimum wage of 36 shillings a week.
- 1912–19 The Commonwealth Statistician establishes the first statistics on inflation, the 'A' Series.
- 1912 A minimum wage for some jobs performed mainly or exclusively by women, such as a fruit packer or milliner, set at 54 per cent of the male minimum wage in the *Fruit Pickers Case* and other cases. The wage is set on the basis of needs of a woman, not the need to support a family. Most women are not in the formal workforce.
- 1913 The Harvester 7 shillings is increased by the 'A' series estimate of inflation, to maintain the buying power of the minimum wage.
- 1919 Royal Commission on the Basic Wage estimates a higher minimum wage needed to meet the 'needs' of working men.
- 1920s The Harvester minimum wage of 7 shillings a day, or 42 shillings a week, as increased, is adopted by state industrial tribunals in place of lower minimum wages, often 36 shillings a week. The Harvester minimum wage is now the national minimum wage covering most Australian employees.
- 1921 *Gas Employees Case*: The Court rejects the royal commission estimated amount as unsustainable. Maintains the lower Harvester minimum wage. End of a needs-based wage?
- 1923 The Court includes a clause in awards automatically adjusting the Harvester minimum wage by amounts of inflation each three months.
- 1953 Quarterly indexation abandoned.
- 1966 *Aboriginal Stockmen's Case* removes the exemption from awards for Aboriginal stockmen. One award wage now applies to both Aboriginal and non-Aboriginal stockmen.
- 1969 *Equal Pay Case* continues separate minimum wage for women.
- 1972 *Equal Pay Case* removes separate minimum wage for women. One award wage now applies to both men and women.
- 1974 In the *National Wage Case* the Commission formally abandons a 'family wage'.
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2.1 THE HARVESTER MINIMUM WAGE

By the 1920s the minimum wage set by the Commonwealth Court of Conciliation and Arbitration applied to most of the Australian workforce. This was the minimum wage⁸³ first set in the *Harvester Decision* in 1907.

It provided the minimum that an employer could pay an employee in wages for work in the area that the minimum wage operated.

The minimum wage system provided the following:

- A minimum wage for men of 7 shillings a day or 42 shillings a week for an unskilled labourer, increased by the amount of inflation. This was the ‘basic wage’. More skilled employees received an additional amount, perhaps 3 shillings. This was called the ‘margin’.
- Women received the male basic wage if they worked in jobs in competition with men (such as a fruit picker or blacksmith). They received a lower basic wage of 54 per cent of the male wage if they worked in jobs mainly performed by women (such as a fruit packer or milliner).
- Adolescents in a job might receive the adult rate, or lower wages if they were employed as apprentices being trained, or junior employees without being trained.

How did this minimum wage system develop? It all began with a case dealing with the wages paid at HV McKay, which manufactured combine harvesters in Sunshine, then outside Melbourne. Harvesters are machines which harvest wheat and similar crops. Australia had led the way in developing agricultural machines such as these. This case became known as the *Harvester Decision*.

The *Harvester Decision*

The *Excise Tariff Act 1906* provided that the excise duties imposed by the Act on agricultural implements shall not apply to goods manufactured in Australia under conditions as to the remuneration



Factory workers at the main entrance of the Sunshine Harvester Works, 1950. The most influential early decision of the Arbitration Court was made regarding the Harvester factory.

of labour which are declared by the president of the Court to be ‘fair and reasonable’.

This was an example of Alfred Deakin’s policy of New Protection⁸⁴, under which industry would receive protection from overseas competition by way of tariffs, taxes that made imports more expensive, if workers were also protected.

Businesses could apply for an order that they paid ‘fair and reasonable wages’ under s.2. Some did. One application was made by HV McKay. The application made by HV McKay led to the most influential of the early arbitrated decisions, *ex parte H. V. McKay*⁸⁵, which became known as the *Harvester Decision*. Justice Higgins complained that the Act gave him little guidance about the level of the minimum wage, but he decided to fix fair and reasonable wages on the following basis:

I cannot think of any other standard appropriate than the normal needs of the average employee, regarded as a human being living in a civilized community ... I cannot think that an employer and a workman contract on an equal footing, or make a “fair” agreement as to wages, when the workman submits to work for a low wage to avoid starvation or pauperism (or something like it) for himself and his family; or that the agreement is “reasonable” if it does not carry a wage sufficient to ensure the workman food, shelter, clothing, frugal comfort, provision for evil days, &c., as well as reward for the special skill of an artisan if he is one.⁸⁶

Labourers at Harvester received 6 shillings a day. Justice Higgins decided that 7 shillings a day for a labourer, and 10 shillings a day for skilled tradesmen such as fitters, turners, moulders and blacksmiths, were 'fair and reasonable' wages. In his view labourers did not receive a 'fair and reasonable wage' at Harvester.

The Harvester wage was sometimes referred to as the 'living wage' or 'family wage' because the method of fixing it was an attempt at assessing the 'cost of living' of a labouring family. Justice Higgins used a family of a husband, wife, and three children for these purposes. He assessed the weekly expenditure of a labourer's home of 'about five persons' at £1 12s 5d.⁸⁷ Perhaps it was a 'myth'⁸⁸, but references to a family wage and living wage were to continue throughout the century.

It was not a new concept. In 1888 the president of the New South Wales Court of Arbitration had said that every worker should receive sufficient to enable him to lead a human life, marry, and bring up and maintain a family, and in 1890 Samuel Griffith said that workers should receive a wage adequate to maintain a reasonable standard of life. In 1891 *Rerum Novarum*, a papal encyclical, said that remuneration must be enough to support a wage earner in reasonable and frugal comfort.⁸⁹

Analysis of the *Harvester Decision*

There were difficulties with the *Harvester Decision* method, which are discussed below.

Household budgets

Firstly, it was not actually a calculation based on the observed budgets of labouring households, but of 11 tradesmen's budgets.⁹⁰ Justice Higgins had no evidence before him of labourers' budgets, although they would presumably be similar or the same. The budgets before him are summarised in Table 2.

Table 2: Household budgets presented to the *Harvester Case*, 1907 (income and expenditure in shillings)

Household	Breadwinner's expenditure					
	Ages	Occupation	Wages	Sum given to wife	Rent	Food
Bayliss, William & Mary	41/35	Baker	45–48	-	8	22.78
Bennett, Christopher & Emily	41/41	Blacksmith	54	-	12.5	22
Hannan, Joseph & Agnes	31/26	Pipe moulder	63	53	12.5	29
Keating, William & Mary	31/28	Blacksmith	54	-	7	31
Kent, Frederick & Christina	28/26	Blacksmith	54	-	10	19.5
Russell, Ted & Kate	41/34	Union secretary	-	50	12.5	27.5
Skidmore, David & Alice	50/45	Iron moulder	66	60	Home owner	34
Smith, Joseph & Fanny	39/36	Fitter	54	-	Home buyer	23.58
Smith, Charles & Mary	-	Engine driver	-	60	12.5	40.5
Tatham, George & Louisa	26/24	Iron moulder	54	-	10	20
Wilkinson, Ernest & Flora	-	Union secretary	54	-	8.5	19.75

Notes: Wages and expenditure from the *Harvester Case* transcript. 'Other' includes newspapers (six families) and in other cases school requisites, sewing machine hire, medicine, tobacco, union fees, house repairs and (Skidmore) repayments. Fred Kent went to the football 'pretty regularly'. 'Other' for Joseph and Fanny Smith includes weekly house interest payment of 11.92s.

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Fuel and light	Boots/clothes	Fares	Insurance	Other	Total	Children earnings	Number [1907]	Ultimate number	Child-bearing years
2.33	9.5	1	2	0.5	48	7.5	2	2	1890–1893
3.75	5	3	-	2.5	49.75	-	4	4	1888–1904
2.5	-	-	1.25	0.5	45.75	-	2	4	1903–1913
3	-	8	0.42	5.42	52.83	-	5	11	1900–1918
2.33	6	-	2.25	2.5	42.58	-	1	4	1906–1916
3.5	4	-	1.25	6	49.75	6	6	6	1891–1906
4.75	0.5	-	-	-	40.5	-	3	3	1887–1903
2.75	6.75	-	-	14.59	48	-	3	5	1899–1916
3.33	-	-	1.5	0.75	58.58	15	7	-	-
2.33	-	1.5	1.67	2.5	38	-	1	2	1906–1908
1.5	10	2	1.83	0.5	44.5	-	1	-	1898

Source: J Lack & C Fahey, 'The Industrialist, the Trade Unionist and the Judge: The Harvester Judgement of 1907 Revisited', *Victorian Historical Journal*, vol. 79, no. 1, June 2008.

1500 farmers visit HV McKay Sunshine Harvester Works at the invitation of Mr McKay, September 1911.



W. H. V. M. KAL.
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Working class family in their 'Sunday best', Richmond, Victoria early 1900s.

Family size

The measure Higgins used, of a family with three children, seems to have been a guess or rough estimate not substantiated by statistical evidence. This led to some confusion. As the Court complained in 1931, while the state courts and wages boards had adopted the Harvester living wage, they used different family sizes. In some states it was a man, wife and two children; federally it was a man wife and three children; in New South Wales it was a man, wife and one child plus some provision for child endowment; and in Queensland the Court used productivity.⁹¹ Justice Powers in the *Gas Employees Case* of 1921 said that 1.6 children for each family was more accurate on the available statistics.⁹²

Women and single men

If the male wage was calculated on the basis of the cost of a husband supporting a wife and children, how would the wage for the husband's wife be set? Would she also receive an amount to support a husband and three children? This issue was not dealt with until the 1912 *Fruit Pickers Case*.⁹³ Women would not be paid to support a family, but would receive only a lower 'living' wage. This decision has been widely criticised. It was also inconsistent with the approach taken to single men. Would single men be paid an amount to support a wife and family which they did not have? Single men would be paid the full 'family' wage.

The market

What would be the relationship between a living wage and average wages or market rates, or the capacity of industry or a business to pay? HV McKay conceded that it had the capacity to pay fair and reasonable wages (p. 15 of transcript). Justice Higgins refused to simply adopt the average wage paid by 'reputable employers', which was then the test in Victorian state legislation for a wages board to fix wage rates. His reasons for refusing included that the lower 36 shillings set using that test did not enable sustaining food to be paid for. He did not look to the market value of the labour or the profitability of the industry, or what he called the 'higgling of the market'.⁹⁴ Higgling of the market was a phrase used by Adam

Smith and most of the early economists to refer to the constant adjustments made to prices in response to supply and demand.⁹⁵

He had regard to the fact that many public bodies paid a minimum of 7 shillings a day, including the Metropolitan Board, the Melbourne City Council, 13 municipal councils, and other similar bodies. He had regard to the 10 shillings rate paid by some employers for a fitter, such as the Victorian Railways. As Justice Higgins explained:

As will be seen from my preceding remarks, I have generally solid precedents for my standard in the actual practice of experienced employers in great undertakings; and sometimes precedents in awards and Wages Board determinations. In cases where I had not the benefit of such guidance, I have freely availed myself of the applicant's own practice, as to the proportion which he maintains between the labourer's wage and that of the several classes of artisans. I make use of this practice as a kind of check or regulator of my conclusions.

Nor would the rate increase or decrease depending on the profit level of the employer, because of the terms of the *Excise Tariff Act 1906*:

The *Customs Tariff Act 1906* imposes a heavy import duty as to stripper harvesters—£12 each. Then the Excise Tariff imposes on Australian harvesters an Excise duty of £6 each; but even this Excise duty is not to apply if the goods are manufactured under conditions as to remuneration which I (or some other of the authorities mentioned in the Act) declare to be fair and reasonable. That is all. Fair and reasonable remuneration is a condition precedent to exemption from the duty; and the remuneration of the employee is not made to depend on the profits of the employer. If the profits are nil, the fair and reasonable remuneration must be paid; and if the profits are 100 per cent, it must be paid. There is far more ground for the view that, under this section, the fair and reasonable remuneration has to be paid before profits are ascertained—that it stands on the same level as the cost of the raw material of the manufacture.⁹⁶

No social welfare system

The decision was handed down having regard to the circumstances of the time. At the time there was no government funded unemployment benefit, sickness benefit, or financial assistance to families with children. The labourer's 7 shillings a day minimum wage included 'provision for evil days, &c.', which refers to sickness and unemployment.

Origins of the 7 shillings amount

The 7 shillings a day, or 42 shillings a week, as a minimum to meet needs was not a new amount. It was a 'generous' amount for a labourer in 1907, but was the amount earned by many labourers during the boom years of the 1880s before the great depression of the 1890s reduced wages to 5 or 6 shillings a day.⁹⁷ It was higher than the average wage for unskilled men in 1907, which was probably about 33 shillings a week, although the Harvester factory was no ordinary or average employer. It was higher than the amounts usually set by wages boards, often 36 shillings or less. One wages board set 25 shillings a week for carters and drivers working a 56-hour week.⁹⁸

The daily and weekly wage

The Harvester minimum wage was 42 shillings a week, or 7 shillings a day for a 48-hour week for a labourer, usually up to 8¾ hours per day on five days, and 4¼ hours on Saturday. This was the amount that began the Australian minimum wage system. It became the 'basic wage'.

The food of a working-class family

A working-class family of five in 1907 with a household income of the unskilled labourer's full-time minimum wage of 7 shillings a day might be able to spend about 2 shillings (24 pence) a day on food if later statistics are any guide. Rent might be 16.3 per cent of income, food 28.4 per cent, clothing 12.3 per cent, fuel and light 3.4 per cent, other items 39.6 per cent.⁹⁹

What food could 2 shillings (24 pence) buy in 1907? The following table is a guide:

Table 3: Price of food, 1907

Food	Price	Food	Price
Bread	2½ pence per kilo	Butter	3 pence per 100 grams
Flour	2½ pence per kilo	Cheese	2 pence per 100 grams
Tea	3½ pence per 100 grams	Eggs	1 penny per egg
Coffee	4 pence per 100 grams	Beef (shin)	8.37 pence per kilo
Sugar	½ pence per 100 grams	Mutton (shoulder)	7.93 pence per kilo
Rice	½ pence per 100 grams	Beef (corned brisket without bone)	9.26 pence per kilo
Sago	1 penny per 100 grams	Fruit (eating)*	1½ pence per 500 grams
Jam	1 penny per 100 grams	Fruit (cooking)*	1 penny per 500 grams
Oatmeal	2½ pence per 500 grams	Cabbage or cauliflower*	2 pence each
Raisins	1½ pence per 100 grams	Marrow or pumpkin*	1 penny per 500 grams
Currants	1½ pence per 100 grams	Tomatoes or beetroot*	1½ pence per 500 grams
Potatoes	1 penny per kilo	Beans or peas*	1½ pence per 500 grams
Onions	1½ pence per kilo	Carrots, parsnips or turnips*	1½ pence per bunch
Milk	2 pence per pint	Golden syrup*	½ penny per 100 grams

Assuming an employee was continually employed, and not seasonally employed, this would enable a working man's family to maintain a sufficiently nourishing diet. Each day they could buy, for example: 1 kilo of bread, 10 grams of tea, 10 grams of sugar, 10 grams of jam, 500 grams of oatmeal, 1 kilogram of potatoes, 1 pint of milk, 100 grams of cheese, 500 grams of mutton, and 1 cabbage, and possibly have enough for some beer or a sweet suet pudding.

* The 1907 price for this food is derived from 1920 prices recorded in the Royal Commission on the Basic Wage, 23 November 1920, Professor Osborne's report, p. 68. These prices were adjusted to 1907 prices using the Retail Price Indexes by Commodity Group, Australia, 1901–1938, food and groceries, p. 213 of *Australians, Historical Statistics*, (ed.) Vamplew, Fairfax, Syme & Weldon Associates, 1987, p. 214. Pence have been rounded to single or half pence in the case of the smallest amounts, others rounded to two places.

Source: Labour and Industrial Branch Report No 1—Prices, Indexes and Cost of Living in Australia by GH Knibbs, December 1912, Appendix III. Melbourne 1907 prices used.

What sort of food would they eat? The diet included oats and porridge for breakfast, and a lot of tea, bread, potatoes, cabbage, cauliflower, dripping from roasted meat (eaten as a spread on bread), and mutton. Mrs Beeton's cookbook of 1905¹⁰⁰, published jointly in Melbourne and London, was mainly for the middle classes, but includes some recipes that would have been widely used, particularly roast mutton. It also includes:

Suet Pudding (to serve with Roast Meat): Ingredients for pudding for 6 persons—1 lb of flour, 6 oz of finely chopped suet, ½ saltspoonful of salt, ½ saltspoonful of pepper, ½ pint of water. Average cost, 5d.

Chop the suet very finely after freeing it from skin, and mix it well with the flour; add the salt and pepper (this latter ingredient may be omitted if the flavour is not liked), and make the whole into a smooth paste with the above proportion of water. Tie the pudding in a floured cloth, or put it into a buttered basin, and boil from 2½ to 3 hours. To enrich it, substitute 2 beaten eggs for some of the water, and increase the proportion of suet.

Time: 2½ to 3 hours

Seasonable at any time.

Note: When there is a joint roasting or baking, this pudding may be boiled in a long shape then cut into slices a few minutes before dinner is served; these slices should be laid in the dripping-pan for a minute or two, and then browned before the fire. Most children like this accompaniment to roast meat.¹⁰¹

Finely chopped meat and breadcrumbs, currants and eggs could also be added to make a meat suet pudding. Sweet suet puddings were also made with a cup of golden syrup and 2 ounces of raisins. Suet is raw sheep or beef fat from around the kidneys.

A civilised community

Finally, should a labourer be able to support a wife and family on a labouring wage in reasonable standards of comfort? The Harvester answer was that he should be able, and that this was the answer of a 'civilised community'. This was perhaps the only real lasting contribution made by Harvester.

The Court adopts Harvester

In 1908 the new Court applied the *Harvester Decision* for the first time in making awards. It fixed the wage rates in an award on the basis of the methodology of a living wage.¹⁰² It did this although *Harvester* was decided by the Court under the *Excise Tariff Act 1906*, which had been declared invalid by the High Court.

In 1908 there were, however, few federal awards, so the 7 shillings had very limited application to the Australian workforce. In its first five years the Court made only six awards, three merchant shipping awards, one pastoral, one for employees of the BHP Company at Broken Hill and Port Pirie, and one for boot trade employees.¹⁰³ Between 1905 and 1914 the Court made only 20 awards, which covered the pastoral and maritime industries, journalists, theatre workers, builders' labourers, meat workers, and boot and shoemakers.¹⁰⁴ There were few federal awards, but many more state awards.

The Harvester minimum wage becomes the national minimum wage

At the time most awards were state awards. The minimum wage set by state wages boards was at first usually lower than the Harvester 7 shillings a day or 42 shillings a week for a labourer, often 36 shillings a week. However, by the 1920s state wages boards had adopted the higher Harvester minimum wage.¹⁰⁵

There was a federal conciliation and arbitration system, and six state conciliation and arbitration systems. New South Wales and Queensland had a system similar to the Federal Court, while Victoria, South Australia and Tasmania had established wages boards. Instead of a court dealing with all industries, a wages board was set up for each different industry, composed of a representative each of trade unions, and employers, with an independent chairman with the casting vote.

The number of awards made increased because trade unions applied for them to protect their members, although employers were not necessarily hostile. In Victoria, of the 38 wages boards established prior to 1906, 11 had been applied for by employers.¹⁰⁶

By 31 December 1915, some 663 awards or determinations were in force and 546 industrial agreements. By 31 December 1921 some 1047 awards or determinations were in force, and 1222 industrial agreements.¹⁰⁷

Most of these were state awards. It was much easier to have a state award made, because the scope for a legal challenge by employers was much less. Federally there was greater scope for legal challenges based on arguments about whether or not the ‘conciliation and arbitration’ power of the Constitution had been exceeded. Many employer challenges were successful. In 1910 Justice Higgins, driven to despair by the technicalities of the conciliation and arbitration power in the Australian Constitution, s.51(35), described the law as a bog.

The exact percentage of the Australian workforce that was covered by these awards is somewhat uncertain. One estimate is that by the 1920s this was the ‘majority of the workforce’.¹⁰⁸ Another estimate is that between 1913 and 1929 award coverage of the workforce increased from 6.7 to 58.9 per cent.¹⁰⁹

The main effect of the awards was to apply a minimum wage to most of the Australian workforce for the first time. At first awards applied the lower 36 shillings a week at the labourer level. By the 1920s these awards applied the higher Harvester minimum wage of 42 shillings a week, as increased by consumer price index adjustments.

A different minimum wage for women

The question of whether women would receive the full family wage was not decided in the *Harvester Decision*, but in the *Fruit Pickers Case* of 1912 (*The Rural Workers’ Union v. The Employers*¹¹⁰). In the *Fruit Pickers Decision* Justice Higgins established an award rate of pay of 1 shilling an hour for male and female fruit pickers. He set a separate and lower minimum wage for fruit packers of ninepence per hour, which was 75 per cent of the picker rate. All fruit packers were women.

This decision led to the setting of special lower minimum wages for women working in occupations mainly performed by women.



Grape pickers, including children, working in a South Australian vineyard in 1919.

This system of unequal pay lasted until 1972. In the *National Wage Case 1972* the Commission decided that separate award classifications for males and females should be removed.¹¹¹

The *Fruit Pickers Case* has often been discussed or criticised. For example Marilyn Lake and Farley Kelly said in *Double time: women in Victoria—150 years*:

Recognition of the role of male desertion in the spread of poverty and the abandonment of children makes efforts to establish the family wage more comprehensible. When Justice Higgins in 1907 stated that the basic wage should be sufficient to meet the needs of a man, his dependent wife and three children in ‘frugal comfort’, he meant to lock the man into the protective breadwinner role just as surely as he meant to keep the woman

in the role of housewife. Yet many men, it is clear, did not find it easy to abide by these directives to responsibility. When World War I broke out, Victorian men rushed to enlist, often without their wives' knowledge. As the Third Military District records for Victoria noted: 'As can be imagined, matrimonial troubles have caused considerable work in the Pay Office. The cases of married men enlisting as single, and enlisting under assumed names, and those making charges against their wives with the view of the escaping from the obligation to allot portion of their pay, have been many.'¹¹²

Beverley Kingston said in *My wife, my daughter and poor Mary Ann* that:

For their part, women were infected deeply by the opportunities for escape available to all female employees in Australia. The first was the ever-present hope of marriage amongst those who were unmarried. One suspects a relatively low level of employment for married women in Australia at least up until the 1930s. The high wages paid to men, the emphasis on the family in the wage structure and on children in the national value system, the suburban sprawl, and the lack of child care facilities all combined to keep married women with children at home. Married women without children were almost as anti-social as unmarried ones, especially if they preferred to work instead of trying to manage on their husbands' wages. Some employers had a definite policy of discouraging them. Only real improvidence, misfortune, or deliberate non-conformity forced married women with children back into the factory after the graduation to full-time housekeeping.¹¹³

Justice Higgins described the decision in the following terms:

The principle of the living wage has been applied to women, but with a difference, as women are not usually legally responsible for the maintenance of a family. A woman's minimum is based on the average cost of her own living to one who supports herself by her own exertions. A woman or girl with a comfortable home cannot be left to underbid in wages other women or girls who are less fortunate.¹¹⁴

What did the decision itself say about the reasoning process used to introduce a different and lower basic wage for women?

Fruit picking work

Fruit picking work was seasonal, lasting about five to seven weeks, and started at different times depending on the fruit ripening.¹¹⁵ For example, apricot picking in Mildura would begin in late November and cease in late December. Grape picking would normally take place from February to the end of March.

Justice Higgins saw the work as unskilled, light, not permanent, but temporary and seasonal in nature, and paid by the hour.¹¹⁶ He said that the cost of living was greater in Mildura and in Renmark compared with larger, less isolated cities such as Melbourne or in Adelaide, or in places not so isolated; and the cost of living was increasing. He also considered the short periods of employment, the amount of money and time needed to travel to the work, and the time employees are paid for actual work. He concluded that the award wage should be fixed at a lower unskilled rate:

I have no hesitation in saying that the minimum wage should, as to all or nearly all the operations in question, be fixed on the level of the mere living or basic wage, without any addition for skill or other exceptional qualities; but I think that regard should be had to the short periods of employment, to the expenditure of money and of time in getting to the work, to the “broken time” of the employees, to the fact that they are paid by the hours of actual work, and to the general rise of wages in the community whether affected by wages boards or awards or not.¹¹⁷

Should men and women receive the same award rate? The union submitted that there should be ‘equal pay for equal work’. Justice Higgins said that this was the first time that the Court had had to deal directly with the issue of female labour. He said that a man was under a legal obligation to support his family while a woman was not.

He started his consideration of the issue by restating the test used in the *Harvester Decision*:

Now, in fixing the minimum wage for a man, I have been forced to fix it by considerations other than those of mere earning power. I have based it, in the first instance—so far as regards the living or basic wage—on “the normal needs of the average employee regarded as a human being living in a civilized community” (see *Harvester Judgment* ...). No one has since urged that this is not a correct basis; some employers have expressly



Top: Children picking hops, Tasmania 1911–1915. **Above:** Henry Zerbe, Tilly Aumann, Rupe Zerbe (young boy) and Ted Holloway picking apples at Zerbe's Orchards in Doncaster, Victoria in 1917.

admitted that this is. I fixed the minimum in 1907 at 7s. per day by finding the sum which would meet the normal needs of an average employee, one of his normal needs being the need for domestic life. If he has a wife and children, he is under an obligation—even a legal obligation—to maintain them.¹¹⁸

He then asked how the Harvester test would be applied to a woman:

How is such a minimum applicable to the case of a woman picker? She is not, unless perhaps in very exceptional circumstances, under any such obligation. The minimum cannot be based on exceptional cases. The employer cannot be told to pay a particular employee more because she happens to have parents and brothers and sisters dependent on her; nor can he be allowed to pay her less, because she has a legacy from her grand parents, or because she boards and lodges free with her parents, and merely wants some money for dress. The State cannot ask that an employer shall, in addition to all his other anxieties, make himself familiar with the domestic necessities of every employee; nor can it afford to let a girl with a comfortable home pull down the standard of wages to be paid to less fortunate girls who have to maintain themselves. Nothing is clearer than that the "minimum rate" referred to in section 40 means the minimum rate for a class of workers, those who do work of a certain character. If blacksmiths are the class of workers, the minimum rate must be such as recognises that blacksmiths are usually men. If fruit-pickers are the class of workers, the minimum rate must be such as recognises that, up to the present at least, most of the pickers are men (although women have been usually paid less), and that men and women are fairly in competition as to that class of work. If milliners are the class of workers, the minimum rate must, I think, be such as recognises that all or nearly all milliners are women, and that men are not usually in competition with them. There has been observed for a long time a tendency to substitute women for men in industries, even in occupations which are more suited for men; and in such occupations it is often the result of women being paid lower wages than men. Fortunately for society, however, the greater number of bread winners still are men. The women are not all dragged from the homes to work while the men loaf at home; and in this case the majority even of the fruit-pickers are men.¹¹⁹

He came to the conclusion of the same minimum wage for men and women working on the same job, but a different minimum wage if the work is work performed by women:

As a result, I come to the conclusion that in the case of the pickers, men and women, being on a substantial level, should be paid on the same level of wages; and the employer will then be at liberty freely to select whichever sex and whichever person he prefers for the work. All this tends to greater efficiency in work, and to true and healthy competition—not competition as in a Dutch auction by taking lower remuneration, but competition by

making oneself more useful to the employer. But in the case of the women in the packing sheds, the position is different. I have had the advantage of seeing the women performing the lighter operations of packing at a factory; and I have no doubt that the work is essentially adapted for women with their superior deftness and suppleness of fingers. The best test is, I suppose, that if the employers had to pay the same wages to women as to men, they would always, or nearly always, employ the women; and in such work as this, even if the wages for men and for women were the same, women would be employed in preference. The position is similar as to apricot cutting (or “pitting”). I must, therefore, endeavour to find a fair minimum wage for these women, assuming that they have to find their own food, shelter, and clothing.¹²⁰

Fruit packing work

Fruit packing work included:

- wrapping fruit in paper
- trimming and laying paper in boxes
- packing fruit in cartons
- giving a neat presentation to the boxes that were to be exposed in shop windows.

This work was done almost entirely by women. What would be the minimum wage for these workers? Justice Higgins said that there was little or no evidence directly on the subject, but that most of the women were resident in the town; lodging was 17–18 shillings; there was considerable difference between males and females in the expense of dress; the work is not constant during the year (with usually big breaks from September to December, and other breaks). Pay was by the hour, so that when the women have nothing to do; they are not paid. He reviewed existing pay and concluded:

I have come to the conclusion that, under the circumstances, as the minimum for men and women pickers in competition is to be fixed at 1s. per hour, the minimum for women workers in these processes, in which men are hardly ever employed, should be fixed at 9d. per hour.¹²¹

In the *Clothing Trades Case*¹²² of 1919 Justice Higgins fixed the basic wage for women at 35 shillings a week, or 54 per cent of the male basic wage of 65 shillings. This percentage was to continue

Seasonal workers packing pineapples at the Northgate Cannery Brisbane, March 1959. Unskilled men earn 31 pounds, unskilled women 21 pounds per week.



Women putting rubber lining in helmets and moulding rubber faces for gas masks.

During WW2 women went to work in manufacturing and heavy industries. Their pay rate was set at 75% of the male rate. Prior to WW2 the female basic wage was 54% of the male rate.

until 1948–49. The additional amounts paid to more skilled employees known as ‘margins’ were also often lower for women.

The attitudes and labour force of the time

In Australia and comparable countries married women were often expected and required to resign their employment on marriage, and many women never worked outside the home. In 1911 only about 20 per cent of working age women and about 5 per cent of married women were in the formal Australian labour force.¹²³ The workforce consisted of 1 521 000 males and 373 000 females. In 1921 the labour force consisted of 1 765 000 males and 438 000 females.¹²⁴

Many in Australia and in comparable countries considered that the main work of married women should be at home supporting a family, although 9 per cent of women never married, and 19 per cent of women were childless, according to statistics for the period 1908 to 1913. The modern smaller family had already emerged, with 2.6 children being the average number of children per married woman.¹²⁵ It may be also that household tasks such as washing and cooking required more time than they do today.

The Report of the Royal Commission into the Hours and General Conditions of Female and Juvenile Labour in NSW (1911)¹²⁶ explained why married women should not work in terms that are difficult to understand today:

1. It encouraged the practice of prevention (contraception).
2. Women risked miscarriage.
3. Women had to stop breast-feeding and this led to infant mortality.
4. Their day’s energy was given up to making money to the neglect of the home.
5. It encouraged idle and extravagant men.
6. Often married women had a bad influence on single girls.

Men were expected to work. They had to work simply to eat or sustain themselves or their family. There was little support to be had from the government or anyone else during periods of

Sheep shearers working in a shed at Yandilla Station, Queensland in 1894, pictured with their manager in a hat, vest, shirt and trousers, and a tarboy in rough clothes.



unemployment or sickness, and men were often required by law to support a family. These laws were relied on by Justice Higgins in the *Fruit Pickers Decision*.

How would these attitudes be applied to award wages as the system of awards developed and gradually covered most of the workforce?

Awards provided that women who worked would receive the full family wage if they worked in jobs in competition with men. However, women often worked in female-dominated occupations, and therefore received the lower rate.¹²⁷ The award system therefore developed as a system of unequal pay.

The approach of the Court was inconsistent. Single men without a family to support received the full family wage, but single women usually did not. Most families might be supported by a man on the full family wage, but some women had to support families on their own. In 1911, 109 261 women were classified as breadwinners in the industrial class but mostly did not receive equal pay.¹²⁸



Shearers outside Canowie Station shearing shed in South Australia, around 1870. The shearers in the front row are holding partly shorn sheep and their 'shears'.

Adjusting the Harvester minimum wage by movements in the consumer price index

By 1913 Justice Higgins had decided to increase the Harvester minimum wage by movements in the consumer price index, a measure introduced by the Commonwealth Statistician in 1910–11 to estimate changes in the cost of purchasing key items such as food and clothing. Using the new index, in 1913 Higgins fixed 8 shillings and sixpence per day as the new minimum wage for three years.¹²⁹

A minimum wage for shearers of 24 shillings for each 100 sheep shorn was also introduced. This was not a weekly or daily rate, but a 'piecework' rate (i.e. payment by pieces of work), which increased with the number of sheep shorn. The Court also set minimum rates for the officers of passenger and cargo steamships.

The Court eventually acknowledged that the methodology used to set the basic wage of 7 shillings per day was not entirely satisfactory. It said that the Harvester method was 'rough'.¹³⁰ The

Court suggested that the whole issue should be examined again, with the assistance of the Commonwealth Statistician.¹³¹

The Court nevertheless continued to use the Harvester minimum wage, and sometimes adjusted it by movements in the price index, although Hancock commented that the basic wage failed to keep pace with inflation.¹³² As Justice Higgins commented in *AWU v. Adelaide Milling Company*:

It will be noticed that in taking 11s. 6d. as the basic wage for the 30 towns of the Statistician, I have followed my usual practice of starting from my finding of 7s. per day in 1907 in the Harvester case, and of applying thereto the Statistician's scientific estimate of the subsequent changes in the purchasing power of money. I still follow this practice, for no better materials for ascertaining the cost of living have yet been provided.¹³³

In 1923 the Court decided that the award wage rate set for an unskilled labourer would be increased each quarter on the basis of the Commonwealth Statistician's estimates of changes in purchasing power.¹³⁴ The Harvester 7 shillings was the original minimum wage for unskilled labourers, and it became known as the 'basic wage'. The practice of increasing the Harvester basic wage each quarter by the amount of movements in the consumer price index lasted until 1953. Awards included a clause that provided as follows:

From the 1st day of November, 1923, and from the 1st day of each succeeding three months the rates of pay shall be increased or decreased according to the change shown in the index numbers of the Commonwealth Statistician (food, groceries and rent for six capital towns) for the quarter immediately preceding each adjustment ...¹³⁵

It is worth noting that indexation meant that award wages were adjusted up or down according to whether inflation went up or down. It was not simply upwards adjustment.

Employees with recognised additional skills received the basic wage, plus an additional amount known as a 'margin'. The margin was not adjusted every quarter by inflation. The Court adjusted margins separately based on an assessment of the value of the work. Margins are discussed later.

The Royal Commission on the Basic Wage

Billy Hughes, Prime Minister from 1915–22, had strong views on industrial relations, and was willing to involve himself and impose those views. He cut across Higgins to resolve several wartime disputes and, in 1920, introduced legislation that enabled him to set up special industrial tribunals to settle particular disputes. These industrial tribunals were supposed to operate in conjunction with the Arbitration Court, but were in fact an attack on the Court and on Higgins. Higgins decided to resign in 1921 in protest.

In 1919 the Hughes Government took another important step. The government established the Royal Commission on the Basic Wage, chaired by Commissioner Albert Piddington.¹³⁶ The royal commission concluded that the actual cost of living for a man, wife and three children under 14 in November 1920 was as follows:

Table 4: Cost of living, 1920

Town	Cost of living (Piddington Finding) ¹	Basic wage ² (4th quarter)	Average adult male employees' wage ³ (3rd quarter, 4th not available)
Melbourne	£5 16s 6d	£4 11s 0d	£4 3s 1d
Sydney	£5 17s 0d		
Brisbane	£5 6s 2d		
Newcastle	£5 15s 6d		
Adelaide	£5 16s 1d		
Perth	£5 13s 11d		
Hobart	£5 16s 11d		

Source: **1.** Australia, Royal Commission on the Basic Wage, *Report of the Royal Commission on the Basic Wage together with evidence*, p. 58; **2.** *ibid.*, Table F p. 105; **3.** *ibid.*

The royal commission also recommended that the basic wage be automatically adjusted on the basis of a Bureau of Labour Statistics estimate of changes in purchasing power reported to the Commonwealth Arbitration Court.

The royal commission report was a more thorough exercise than the *Harvester Case* had been. The commission began by asking how ‘reasonable standards of comfort’ might be ascertained. Three approaches were discussed:

1. The pauper or poverty level.
2. The minimum of subsistence level.
3. The minimum of health and comfort level.

It decided to adopt the third approach.¹³⁷ The royal commission examined evidence about rent, clothing, food, and miscellaneous items to ascertain:

1. What are reasonable standards of comfort in each of the sections—rent, clothing, food and miscellaneous.
2. What is the present cost of those standards.

The commission said that the elements of reasonable comfort in **housing** for the typical family were an allotment of sufficient size, fairly good locality, suitable arrangement and size of rooms, a sufficient number of rooms, and elementary conveniences such as a bath, copper and tubs fixed to the house. The commission decided that a five room house was necessary. Rental was for Melbourne 20s 6d per week, for Sydney 22 shillings, and so on for other capital cities.

With respect to **clothing** the commission said it had to be a good wearing quality in fabric and workmanship; fashion was ignored; it saw a need for a good standard of appearance and fit; and the articles had to be actually needed. Some common articles of women’s clothing were therefore disregarded. It was found that clothing would cost in Melbourne 29 shillings, and in Sydney 27 shillings per week.

With respect to **food**, the commission adopted 3500 calories per man per day as a requirement, and called for further research. Food should be sufficient in calories to provide warmth, energy, renew tissue and maintain weight, and to satisfy the requirements

of growing children. It adopted a list of food items ranging from bread to eggs, milk, meat, potatoes, vegetables. The cost of food in Melbourne was 46s 1½d per week, and in Sydney 46s 8¾d per week, and so on.

Finally on **miscellaneous** items the commission looked at a limited range of items including fuel and light, groceries (not food), renewals of household utensils, drapery, crockery, union and lodge dues, medicine, dentist, domestic assistance, newspapers, stationery and stamps, recreation, amusements, library, smoking, barber, fares and school requisites. The weekly amounts for Melbourne were 20s 10½d and Sydney 21s 4d, with different amounts in other capital cities.¹³⁸

The Court rejects the royal commission amounts as unsustainable

Would these amounts become the new basic wage? The Commonwealth Statistician, Mr GH Knibbs, prepared a memorandum for the Prime Minister which advised that the whole produced wealth of the country, including the profits paid to employers, would not if divided up equally, amount to the wages recommended by the royal commission. The Prime Minister requested advice from Mr Piddington on 22 November 1920. Mr Piddington advised that if his recommended level of needs were to become the level of the minimum wage, labour costs would rise about 62 per cent, export manufacturers would be ruined, and primary production would be hard hit. All secondary industries would face ruin unless there was a very large increase in tariff protection.¹³⁹

In *Federated Gas Employees Industrial Union v. Metropolitan Gas Company*¹⁴⁰ Justice Powers of the Commonwealth Conciliation and Arbitration Court refused to increase the minimum wage to the level of needs found by the royal commission. Rather than using the royal commission levels, he decided to continue the minimum wage at the level set in Harvester, as increased by the amounts of increase in the Commonwealth estimates of the cost of living.

The Court is not the steam engine that gives the necessary power to carry on the industries. It can only act as between employees and employers and the community as a governor on an engine ...¹⁴¹

For the reasons mentioned I propose to continue the fair and practicable minimum wage the Court has adopted for so many years, instead of adopting the higher standard fixed by the Royal Commission, which is not practicable at the present time as a flat rate.¹⁴²

The Arbitration Court examined the report in detail and concluded that the commission did not fix the standard of living it used on the normal current standard of living in Australia, but at a higher standard than had ever been enjoyed in Australia. To depart from the Harvester standard, the Court would need to be persuaded that the method of assessing the standard of living it adopted in earlier decisions was wrong, and that the judgments did not give a fair basic wage to unskilled workers, based on current human standards, taking into consideration the interests of employees, employer and the community. Justice Powers expressed concern that such a large increase might be inflationary and lead to unemployment. He said that he did not have a 'fairy wand' to compel employment at much higher wages or to generate the wealth to support that.¹⁴³ The Court could not, he said, order more than industries could pay, and too large an increase would cause further unemployment and misery to workers, especially those on the basic wage.¹⁴⁴ The Court therefore decided to continue the fair and practical minimum wage fixed by tribunals.

Justice Powers fixed the new Harvester minimum wage for a labourer at £4 5s, or 85 shillings.¹⁴⁵ This included an amount that became known as the 'Powers 3 shillings'. The Harvester wage adjusted for inflation came to £4 1s 6d, although Justice Powers fixed it at £4 2s. Justice Powers added 3 shillings to that amount in order to maintain the real value of the Harvester minimum wage over the next three months ('quarter') before it could be increased in line with inflation at the regular quarterly hearings of the Court. In so doing he wanted to ensure that a worker never received less than the true Harvester amount.¹⁴⁶ Thereafter the Powers 3 shillings was nearly always added to the award rate, but it was not adjusted in line with inflation.¹⁴⁷

The end of a needs-based wage

After the 1921 *Gas Employees Case*, the Court accepted that the capacity of the economy to pay, productivity, and economic measures such as Gross Domestic Product should determine the level, or the upper level, of the minimum wage, and not family needs.¹⁴⁸ As the Court said in the 1934 *Basic Wage Inquiry*:

Neither the Legislature nor this Court can effectively prescribe a general level of wages above the capacity of the country's aggregate industry.¹⁴⁹

The concept and language of a 'family wage' and 'needs' remained. The Court often suggested that child endowment should be addressed by the government, perhaps a reference to the difficulties of compensating families for the additional costs associated with children through the minimum wage. In the 1931 *Basic Wage and Wage Reduction Inquiry* the Court said:

If the basic wage system is to persist, national consideration of a system of child endowment appears to be the only method by which the wage can be equitably fixed.¹⁵⁰

It should be remembered that the social welfare 'safety net' we have today had not yet developed. There was no national system of social security support for families and children. It was not surprising therefore that the minimum wage would be used to help families with children, because this was central to the need for income for most employees, in both Australia and comparable countries. In the United States of America, Justice Brandeis of the US Supreme Court, said that he wanted the American 'standard of living' to be protected by a 'living wage'. He thought it necessary to include in the minimum wage provision for unemployment, sickness, accidents, premature death, and retirement.¹⁵¹ These are now all matters dealt with by legislation, not by the level of the minimum wage.

However, the notion of a family wage to be paid to a male having regard to his obligations to support a family could not survive the introduction of equal pay in 1972. If men and women were to receive identical award wages, how could both men and

women receive amounts calculated having regard to their need to support the same family? In the *National Wage Case Decision 1974* the Australian Conciliation and Arbitration Commission finally abandoned the old concept of a 'family wage':

The Commission has pointed out in the past that it is an industrial arbitration tribunal, not a social welfare agency. We believe that the care of family needs is principally a task for governments. For the reasons mentioned we have decided that the family component should be discarded from the minimum wage concept.¹⁵²

Margins and skilled employees

The *Harvester Decision* had determined a fair and reasonable wage for both unskilled labourers and for skilled tradespeople, or journeymen or tradesmen as they were then called. Justice Higgins fixed the rate of 7 shillings a day for an unskilled labourer and 10 shillings a day for most types of journeymen, including fitters, turners, moulders, blacksmiths, carpenters, wheelwrights, painters and engine drivers. He fixed the 10 shilling rate having regard to what these occupations were paid by a number of employers. He also fixed rates for some occupations at higher than the unskilled labourer rate of 7 shillings, but less than the journeyman rate of 10 shillings. These were skilled labourers, strikers, timber yardsmen, drillers and dressers. Pattern makers were paid more than the 10 shilling journeymen rate.

The Harvester 7 shillings for an unskilled labourer was applied in awards, and became the basic award rate. The 10 shillings for a skilled tradesperson was also influential to some extent, although it was not applied in awards as a fixed sum as the 7 shillings was. The additional rate set in awards for more skilled employees varied to some extent.

The most influential 'margin' was that for the metals fitter, which was set in 1907 as 3 shillings in the *Harvester Decision*, or three-sevenths of the basic wage. It was not adjusted and declined as a proportion until it was increased to about three-sevenths of the basic wage again in 1921¹⁵³, in 1937¹⁵⁴, and again in 1947.¹⁵⁵ This metal trades margin was often applied in factory trades and

occupations. In 1921 for example, the rate for an unskilled labourer was 14 shillings a day, or 84 shillings a week, and the rate for a skilled tradesperson accordingly became 20 shillings a day or 120 shillings a week.

The Australian minimum wage had several levels in most awards, which made it different to the minimum wage that developed in many other countries. The Australian minimum wage began with the base level, or basic wage, of 7 shillings for an unskilled labourer, adjusted in line with inflation. Above that were higher rates for higher skilled employees, known as ‘margins’. These margins were not adjusted for inflation, but for changes in the value of the skill. These changes were less systematic, and less predictable, than changes to the basic wage.

One description of this additional wage is:

I have given the name of the “secondary wage” to that portion of a man’s wages which remunerates him for such skill or other exceptional necessary qualifications as are required for his occupation, and as lift him above the level of the unskilled labourer.¹⁵⁶

Justice Higgins and others tried to rely on the practice and experience of employers and employees regarding these higher skilled rates of pay, but these often differed. The Court continually complained about the difficulties of fixing rates for higher skilled employees:

employers differ, employees differ, awards and determinations differ ...¹⁵⁷

to attempt to assess the value of an actor’s skill would be a hopeless task ...¹⁵⁸

No one could exactly weigh the value of this or any man’s skill, and I could have no reason for saying that any one of the sums I have named [2s, 4s, 5s a week named in other awards] is more correct than another. They are all very near each other.¹⁵⁹

There was no one formula by which the margins were fixed in awards. The Court usually looked at the rates already paid by employers, the rates fixed in various other awards, comparable rates, market value, the period of apprenticeship required to attain

the extra skill, whether the extra skill was real and substantial, and whether it was a skill or simply a 'knack', and any other factor brought to its attention.¹⁶⁰ All were an attempt to assess the value of the extra skill of an occupation. They were often unique rates for one award, not the same rate applied across all awards and derived from one rate, as the basic wage was derived from the Harvester 7 shillings.

The margins for female workers were usually much lower, but did not have a consistent pattern to them. For example, in the 1928 *Textile Workers Case* the Court fixed margins for females operating a manual screw press at 6s 6d; linkers, menders, hand knitters on flat machines, and cutting with electric cutters 4s 6d; operating steam presses, hand cutters, seamers, welters, overlockers, flatlockers, etc. other than on hand flat machine 3s; and examiners, folders, graders, sorters, winders, parcellers, ironers, sewing on buttons, making buttonholes and eyelets 2s. Male mechanics and cutting with electric cutters received a 10s margin, hand cutters 7s 6d; hand knitters and flat machines and steam pressers 6s 6d, machine knitters 5s; millmen, scourers, bleachers and shrinkers 4s; dye house labourers, operators of finishing machines and storeman or packer 3s.¹⁶¹

Unlike the basic wage, margins might be reduced or not increased if it was necessary to keep a worker in his job. The basic wage was 'sacrosanct' in the view of Justice Higgins, but the margin was not, as he said in the 1909 *Broken Hill Case*:

So long as every employee gets a living wage, I can well understand that workmen of skill might consent to work in such a case for less than their proper wages, not only to get present employment, but in order to assist an enterprise which will afford them and their comrades more opportunities for employment hereafter.¹⁶²

Statistics

Table 5: Early minimum wage rates

Year	Citation	Amount	Description
1906	(1906) 1 CAR 4	£8–£34 per month	Master of a Ship: between £21–£34 per month (varying by ship type) Chief Officers: between £10–17 per month (varying by ship type) Fourth and Fifth Officers: £8 per month
1907	(1907) 1 CAR 62	24s per 100 sheep shorn	Shearers: 24 shillings for each 100 sheep shorn
1907	(1907) 1 CAR 122	7s 6d per day	Agricultural Implement Maker Adelaide—by consent
1907	(1907) 2 CAR 1	£2.2.0 a week (7s a day)	£2.2.0 fixed as the minimum wage for a labourer. <i>The Harvester Minimum Wage</i>
1908	(1908) 2 CAR 55	£2.2.0	First minimum wage in an award— <i>The Maritime Cooks, Bakers and Butchers Award</i>
1913	(1913) 7 CAR 58	£2.10.0	Increased by applying 'A' Series Price Index to 1907 figure
1914	WWF v. CSOA—27 April	£2.11.0	Harvester and Commonwealth Statistician (4th quarter)
1914	ATTU v. PS Commissioner—1 May	£2.13.0	Harvester and Commonwealth Statistician (4th quarter)
1915	ALCA v. PS Commissioner—8 April	£3.3.6	Harvester and Commonwealth Statistician (4th quarter)
1915–16	FAMTCWU—30 July, 18 May, 12 October, 24 November	£3.1.6	Harvester and Commonwealth Statistician (4th quarter)
1917	FGFA—9 March, 8 May, 7 June, 26 June, 30 June	£3.3.0	Harvester and Commonwealth Statistician (4th quarter)
1918	APEU v. The Postmaster-General—16 October	£3.6.0	Harvester and Commonwealth Statistician (4th quarter)
1919	FTLDEU—21 March, 24 May, 10 September, 21 October, 3 October, 5 November, 25 November	£3.15.0	Harvester and Commonwealth Statistician (4th quarter)

Table 5: Early minimum wage rates (continued)

Year	Citation	Amount	Description
1920 ¹	A range of rates	£3.17.0– £4.2.0 ²	Harvester and Commonwealth Statistician (4th Quarter)
1921	(1921) 15 CAR 829	£4.5.0	Application for the £5.16.5 of the Piddington commission to be the basic wage rejected; Harvester continued
1922	(1922) 16 CAR 829	£4.10.0	3 shillings loading added, not adjustable; Automatic quarterly adjustments by the 'A' Series Price Index adopted
1931	(1931) 30 CAR 2	£3.1.1	10% cut

Note: £1 = 20 shillings. 1 shilling = 12 pence. £1, 10 shillings, and 1 pence, could be written as £1.10.1, or £1/10/1. The Australian dollar was not introduced until 1966.

Source: **1.** For the adjustments 1914–1920, *Report of the Royal Commission on the Basic Wage together with evidence*, Table F, p. 105; **2.** *ibid.*, p. 93.

Special minimum wage rates were established for steamship crews, shearers and agricultural implement makers, before the first general minimum wage provision was established in the 1907 *Harvester Decision*. The Act provided that the Court did not have the power to make awards with respect to agricultural, viticultural, horticultural, or dairying industries, but the pastoral industry was not excluded.¹⁶³

Table 6 (pp. 94–5) shows that for the period 1922 to 1930 the Harvester wage was no longer that, but was a larger amount. The Court had intended to maintain the real value buying power of the Harvester 7 shillings, but its adoption of the Commonwealth Statistician's estimates of movements in consumer prices had not achieved that result. Why is unclear, but there was continuing discussion about the accuracy of these statistics, which had only just commenced.

Harvester wage too high?

Was the Harvester minimum wage as adjusted too high? All the Western countries experienced economic difficulties in the 1920s. After a brief boom at the end of World War I, as a backlog of demand



A Sunshine 'modern' harvester.

was met, there was a worldwide recession in 1921, exacerbated by increasing restrictions on international trade. The United States of America was almost alone in having an economic boom during the 1920s. Australia had relatively strong average gross national product (GNP) growth between 1919–20 and 1928–29 of 2.7 per cent or 0.7 per cent per person, which suggests a capacity of the economy to sustain any award cost increases, although there was little growth after 1925 and unemployment increased. Australia experienced a massive decline in the 1920s in the price it could get overseas for its wool and other agricultural products.¹⁶⁴ There was an international recession in 1921, and Australia was vulnerable to the international economy, but was not the worst hit economy. Norway for example had a reduction in gross domestic product (GDP) of 11 per cent in 1921, which was only exceeded by the United Kingdom.¹⁶⁵

Table 6: Key economic data and indicators, 1901–1939

Year	Real basic wage ¹ %	Minimum weekly wage of male adults ² \$	Retail price indices ³ %	GDP ⁴ £m	Unemployment ⁵ %	Strikes: working days lost ⁶	Population ⁷	Workforce ⁸
1901	-	4.34	88.0	189.8	-	-	3 773 801	-
1902	-	-	92.9	199.4	-	-	-	-
1903	-	-	91.0	195.8	-	-	-	-
1904	-	-	85.8	222.0	-	-	-	1 613 000
1905	-	-	90.1	224.1	-	-	-	-
1906	-	-	90.2	239.7	-	-	-	-
1907	100.0	-	89.7	269.1	5.20	-	-	-
1908	94.3	-	95.1	272.7	3.40	-	-	-
1909	98.5	-	94.8	280.0	3.30	-	-	1 763 000
1910	100.4	4.89	97.0	313.4	3.30	-	-	-
1911	98.2	-	100.0	330.8	2.86	-	4 455 005	-
1912	93.5	-	110.1	347.3	2.44	-	-	-
1913	93.2	-	110.4	376.5	5.04	622 500	-	-
1914	95.9	-	114.0	412.1	3.27	993 200	-	2 112 000
1915	85.9	5.65	127.8	372.4	5.92	683 000	-	-
1916	88.4	-	132.4	414.1	3.49	1 644 800	-	-
1917	88.7	-	131.8	475.1	3.30	4 689 300	-	-
1918	86.6	-	136.2	491.9	3.39	539 600	-	-
1919	81.2	-	151.0	528.5	3.62	4 303 700	-	2 167 000
1920	77.4	8.98	178.5	576.9	3.39	3 587 300	-	-
1921	98.3	-	169.7	684.8	5.77	1 286 200	5 435 734	-
1922	106.4	-	160.0	659.0	6.11	858 700	-	-
1923	112.3	-	170.0	699.8	5.01	1 146 000	-	-

Table 6: Key economic data and indicators, 1901–1939 (continued)

Year	Real basic wage ¹ %	Minimum weekly wage of male adults ² \$	Retail price indices ³ %	GDP ⁴ £m	Unemployment ⁵ %	Strikes: working days lost ⁶	Population ⁷	Workforce ⁸
1924	108.2	-	168.2	726.3	4.73	918 600	-	2 346 000
1925	111.0	9.67	172.2	822.3	6.25	1 128 600	-	-
1926	112.7	-	178.6	780.3	4.93	1 310 300	-	-
1927	113.0	-	176.0	795.6	4.19	1 713 600	-	-
1928	111.0	-	179.0	798.5	6.18	777 300	-	-
1929	112.8	-	182.2	794.9	6.73	4 461 500	-	2 573 000
1930	109.6	9.67	168.3	720.5	9.78	1 511 200	-	-
1931	96.0	-	147.9	598.9	16.41	246 000	-	-
1932	97.7	-	140.3	553.4	19.74	212 300	-	-
1933	-	-	134.5	577.0	18.93	112 000	6 629 839	-
1934	-	-	138.5	619.0	15.99	370 400	-	2 700 000
1935	-	8.28	142.0	652.5	13.97	495 100	-	-
1936	-	-	146.1	712.9	10.98	497 200	-	-
1937	-	-	-	788.6	8.83	557 100	-	-
1938	-	-	-	850.1	7.46	1 338 000	-	-
1939	-	-	-	840.5	8.76	459 200	-	2 907 000

Source: I. J. Isaac, 'The economic consequences of Harvester', *Australian Economic History Review*, Vol. 48, No. 3, p. 288, Table 1 Real basic wage, [cited as K Hancock unpublished paper. He has warned that the figures before 1920 may not be accurate. Further, different awards were varied at different times it would be misleading to regard the above figures as representing movements in 'the' basic wage]; 2. W Vamplew (ed), *Australians, historical statistics*, Fairfax, Syme & Weldon Associates, 1987, p. 156—Minimum Weekly Wage of Male Adults, by Industry, Australia 1891–1980; 3. *ibid.*, p. 213—Retail Price Indexes by Commodity Group, Australia, 1901–1938; 4. *ibid.*, p. 133—Gross Domestic Product by Industry, Current Prices, Australia 1861–1939; 5. *ibid.*, p. 152–3—Unemployment, Australia 1891–1974 [cited as Average unemployed per year as a percentage of the workforce]; 6. *ibid.*, p. 165; 7. *ibid.*, p. 26; 8. *ibid.*, p. 149—Employment, private and government, and self employed, Australia.

The economist Boris Schedvin does not claim that the level of the minimum wage was a main cause of Australia's economic problems in the 1920s, which were probably to be found in the falling value of Australian agricultural exports, and other international problems. He does, however, discuss a 'widespread' view that the Australian minimum wage system operated to prevent downward moves in wages in response to economic conditions.¹⁶⁶ This may be partly a misunderstanding, because the adjustment of wages in line with inflation included adjustments downwards if inflation dropped rather than increased. Nor did Australia experience the economic and social damage of the British general strike of 1926, which began when coal mining employers sought to address their economic predicament by lowering wages. Schedvin describes the role of the Arbitration Court in the 1920s as 'maintaining a traditional standard of living'.¹⁶⁷ He also agrees with the decision of the Commonwealth Conciliation and Arbitration Court in 1931 to reduce award wages by 10 per cent in response to the Great Depression¹⁶⁸, while others disagree with the decision. Overall the question is one of some complexity, and there will always be some differences of view.

Table 7: Indicators of economic growth

	Real GNP growth %	Population growth %	Real GNP growth per person %
1861–1870	5.3	3.9	1.4
1871–1880	5.7	3.1	2.6
1881–1890	4.4	3.6	0.8
1904–05 to 1913–14	4.6	2.3	2.3
1919–20 to 1928–29	2.7	2.0	0.7
1948–49 to 1962–63	4.0	2.3	1.7

Source: CB Schedvin, *Australia and The Great Depression*, Sydney University Press, Sydney, 1970, p. 48, [cited as NG Butlin, *Australian domestic product, investment and foreign borrowing*, Cambridge University Press, Cambridge, 1962, Table 269; Report of the Committee of Economic Inquiry, May 1965, vol. II, Canberra 1966, p. 467; Demography bulletins].

Table 7 shows that substantial economic growth together with substantial population growth has been a constant feature of Australian history. The period of the 1920s was the period of the lowest economic growth, similar to other Western countries except for the United States of America.¹⁶⁹ The introduction of the Harvester minimum wage coexisted with substantial average economic growth in the 1920s, but the 1930s saw slower growth.

Harvester wage too low?

Was the Harvester minimum wage too low? Trade unions relied on the Royal Commission on the Basic Wage to argue that substantial increases in the minimum wage were necessary to enable a proper standard of living to be enjoyed by employees. The answer given in the 1921 *Gas Employees Case* by Justice Powers was to reject the royal commission findings, on the basis that the Harvester minimum wage was as high as the economy could sustain without the adverse effects of unemployment and inflation, and that the royal commission was wrong to ignore the normal standard of living of Australians in making its assessment.¹⁷⁰ Rightly or wrongly they were not entirely convinced by his conclusions.

Harvester and the economy

If Harvester had never happened, would the long-term course of the economy and the labour market have been significantly different? Isaac suggests that such arrangements are not 'capable of going against the fundamental forces in the labour market'¹⁷¹, and much of the history of arbitration includes attempts to accommodate and adjust to economic and social conditions. This is a complex issue, and different views can be taken.

A new province for law and order?

Colonial Australia was occasionally described as a 'workers' paradise', in which ordinary people were remarkably prosperous by world standards. Rank and privilege, the old phrase used to describe the

curious etiquette of deference shown by farm labourers to squires or lairds in England, Scotland and Ireland, were partly absent. Australia was less of a class-based society.

Employment in the first colony on the Australian continent, New South Wales, began with an unusual system of employment of convicts, and of soldiers. Later the more usual master/servant relationship known to Britain became the normal system. This was a direct relationship between a master and his or her servant. The relationship gradually became more complex with the development of large, complex businesses, and trade unions representing groups of workers. Collective labour disputes began to occur. Then came a recession, and the 1890s strikes.

The 1890 strikes

The small colonial societies woke up on some mornings to read news of armed groups of strikers and strike-breakers, and the colonial governments called in troops to crush strikes. There were terrible secondary effects of these disputes as supplies ran out and businesses stopped. The unions and strikers were almost completely defeated. There was alarming and lasting bitterness and humiliation amongst workers and their families. Wages were substantially reduced. Unemployment was high, not as high as in the Great Depression of the 1930s, but it was still a 'massive dislocation'.¹⁷² Many working people had lost a great deal.

Australian workers were affluent by world standards, but not by the standard of today, and it could be difficult to feed, house and clothe a family on the wages of the time. It was harder if the wages were reduced. A strong working class labour movement, with ideals and objectives had developed, and what workers considered legitimate trade union aspirations had also been defeated. Not all of them were persuaded that employers had been responding to what they considered to be economic necessity. Henry Lawson in his radical period had this comment on the 1891 shearers' strike in his poem 'Freedom on the Wallaby'¹⁷³, which includes the following lines:

Our parents toil'd to make a home,
Hard grubbin 'twas an' clearin';

They wasn't crowded much with lords
When they was pioneering,
But now that we have made the land
A garden full of promise,
Old greed must crook 'is dirty hand
And come ter take it from us.
So we must fly a rebel flag,
As others did before us,
And we must sing a rebel song
And join in rebel chorus.
We'll make the tyrants feel the sting
O' those that they would throttle;
They needn't say the fault is ours
If blood should stain the wattle.

[Note: 'Freedom on the Wallaby' means the freedom of the open road and bush, as shearers and others wandered through the Australian outback. The rebel flag refers to the Eureka flag, which contains the Southern Cross. The flag was raised at the Ballarat diggings in 1854 in a stockade set up by the diggers who were opposed to government taxing their mining operations. The Eureka Stockade was stormed by British troopers.]

Labour relations had become a great social problem. Colonial parliaments occasionally responded by providing some limited and apparently unsuccessful voluntary conciliation and arbitration of industrial disputes. The criminal law sought to protect the physical safety of people, and also applied to many trade union activities during disputes which did not affect personal safety. There was no obligation to meet and negotiate or argue about claims about wages and conditions. Strikes and lock-outs could simply continue until workers and their families could not go on, or until the employer went bankrupt. High unemployment meant that strike-breakers could be and were found. Despite the threat of punishment through the criminal law there was some violence and threats of violence.

The reformers respond to the great strikes

Reformers such as Charles Kingston and Alfred Deakin found a lot of support in the 1901 and 1903 elections when they said that they wanted a future without this new type of social and economic division and damage. They thought that the 'barbarous expedient' of strikes and lock-outs should be ended or discouraged. They said that they wanted some rough justice in the workplace, so that it was

not entirely the victor from a brutal strike or lock-out, union or employer, who imposed terms and conditions of employment. They were supported by most major political groups.

Their ideas led to one of the most important early Acts of the new Australian Parliament after Federation in 1901. This was the *Commonwealth Conciliation and Arbitration Act 1904*, which provided for:

- compulsory conciliation and arbitration of inter-state industrial disputes by the Commonwealth Court of Conciliation and Arbitration
- a limited prohibition of industrial action
- encouragement of trade unions.

The Court makes awards

The new Court settled disputes between employers and trade unions, in part by handing down binding awards. These awards developed into a national minimum wage system by the 1920s, beginning with the Harvester 7 shillings a day for an unskilled labourer in 1907. Leave entitlements and other conditions gradually developed as society became more sophisticated and recognised the needs of workers balanced by the capacity of the economy to pay, and in the case of maternity leave and equal pay, as social attitudes changed.

Arbitrated decisions of the Court provided a standard on key issues such as the amount of the minimum wage, the amount of annual leave, and hours of work. Sick leave was only rarely the subject of arbitration. Most provisions of awards were agreed in conciliation, but arbitration was always available if conciliation failed. Both employers and unions were aware of this, and acted accordingly.

Conciliation is an often informal process under which the employer and union concerned discuss and exchange their views on wages and conditions, and other issues, and reach full agreement, part agreement, or no agreement at all. The result depends often on the attitudes, policies or values of the individual people involved, the state of the general economy and the market, and other matters. Conciliation discussions on a new award can be a long and involved process. The many successful conciliation discussions are nearly

always lost to history, because they were not even partly recorded beyond the results in an award, and the participants are now dead.

Many of the early important cases were very hard fought, and the union and employer were in considerable disagreement. Some of the most important early decisions of the Court were challenged in the High Court by employers, on the basis that the Court erred in law or on some other ground. Employers were successful in challenging the *Harvester Decision* of 1907¹⁷⁴, which established the 7 shillings a day minimum wage for unskilled labourers, and partly successful in challenging the *Boot Trades Decision*¹⁷⁵, which set wage rates for factory hands in the boot manufacturing industry. However, Foenander says that after 1910 this hostility began to lessen as employers began to find the Court to be of assistance, and sometimes even contrived an inter-state dispute to get a hearing.¹⁷⁶ For example in 1910 the South Australian fruit growers pleaded with the Court for a compulsory conference to prevent a strike that was about to spread from Renmark to Mildura¹⁷⁷, and a similar application in 1910 led to a settlement when negotiations had broken down in the inter-state shipping sector.¹⁷⁸

Women often had the protection of a minimum wage, unlike some of their sisters in the United States or the United Kingdom, and benefitted from a husband's 'family' wage, but they did not receive the same minimum wage as men until 1972. There were early campaigns for equal pay, but these were unsuccessful.

The Court limits industrial action

Kingston, Deakin and others wanted to limit the effects of industrial action by providing another means for trade unions to achieve legitimate claims in the workplace. Employers could be brought to the bar of the Court to answer trade union claims, because the settlement procedures were compulsory. However, industrial action continued to occur. While there was never a repeat of the extreme divisions of the 1890s, there were periods of severe industrial action. For example, the strike waves of 1916–20 and of 1928–30 saw the highest number of days lost to industrial action recorded in Australia. In 1916 some workers on the waterfront had become radicalised and rejected the arbitration system, their own union

leaders, the political system, and the objectives of their employers. There was a general strike in New South Wales in 1917.

Justice Higgins refused to hear applications if the union was on strike, but the prohibitions in the Act on strikes were limited. The prohibition on strikes under the Act only applied to those extending beyond the limits of any one state. Justice Higgins refused to impose a penalty on the 1916 waterfront strikers, because the strike did not extend beyond Victoria, and the men had not breached the award.¹⁷⁹

Later in the 1920s the new Attorney-General in the Nationalist Government, John Latham, was determined to enforce the requirement to pursue claims by arbitration rather than by strikes and lock-outs and introduced a range of prohibitions on strikes. A disastrous six week waterside workers' strike that began on 10 September 1928 led to four summonses being issued against the Waterside Workers' Federation under the new laws. On 22 September the police magistrate found the federation guilty, and fined it the maximum penalty of £1000 for breaching the Act and repudiating an arbitrated award of the Court. The federation also had to pay costs of £31 10s.¹⁸⁰

The new Scullin Labor Government removed penalties against strikes in 1930. Since that time penalties against strikes in the Act have often been a matter of considerable disagreement between employers and unions, and between political parties. The Act now provides for a limited ability of trade unions and employers to take 'protected action', that is, to initiate a strike or a lock-out in support of a claim for a new enterprise agreement without a penalty being imposed.¹⁸¹ Awards provide a minimum safety net, and procedures require the tribunal to direct that strikes or lock-outs that are not protected stop or not occur.

The Act encourages trade unions

One of the most significant changes introduced by the new province was in relation to trade unions. Trade unions became legitimate bodies, recognised and encouraged by law, and they were established, developed and were registered under the Act. In the 1890s unionism itself could be discouraged by an employer, and the action of a union in representing its members could be challenged,

often successfully. After the 1904 Act both would be difficult or not be possible. Between 1912 and 1930 trade union membership rose from 433 220 to 855 800 men and women¹⁸², from under a quarter to about a third of the workforce. Most accounts see the relatively favourable legislative environment for trade unions as assisting this growth.

The overall effect of the Act

Finally, what did the new province for law and order amount to? One not unrepresentative view is that the Court ameliorated class conflict by giving trade union concerns about the wages and conditions of workers some official standing and recognition¹⁸³, although there was always criticism of the extent to which this was done. Employers understandably wanted fewer trade union claims granted, and trade unions understandably wanted more. Another assessment seems relevant to many periods of Australian history:

This [Act] was to have profound effects on the social structure, because of the encouragement it gave to trade union development on a national scale; on the economic structure, because of its consequences for wages and hours fixation; and on politics, because of the periodical party crises caused by attempts to alter the system.¹⁸⁴

*The new province for law and order*¹⁸⁵ is an assessment of the first 100 years of operation of the conciliation and arbitration system introduced by the 1904 Act. It discusses these issues more extensively.

Conclusion

Until 1921 the Commonwealth Court of Conciliation and Arbitration set the level of the minimum wage by assessing the cost of living for a labourer and his family, not the value of work or of the production of industry and the capacity of industry to pay award increases. After 1921 the Court was concerned with maintaining the modern ‘steam engine’ of Australian industry.¹⁸⁶ However, references to a ‘family wage’, a ‘living wage’, and to the needs of ordinary workers and their families persisted, a reminder that award adjustments were made for a purpose.

Summary

1. A 'fair and reasonable wage' of 7 shillings a day at the unskilled labourer level was fixed in *ex parte H.V. McKay*, the *Harvester Decision*, mainly on the basis of a 'rough' estimate of the needs of a man, his wife and three children.
2. The Harvester 7 shillings a day was adopted by the Commonwealth Court of Conciliation and Arbitration as the first minimum wage in 1908.
3. The minimum wage became known as the 'basic wage', and additional amounts known as 'margins' were paid to more skilled employees.
4. In 1912 the government instituted the first measure of inflation, the 'A' Series, which covered only groceries, dairy products, meat and house rents, to enable the Court to adjust the Harvester minimum wage to maintain its buying power. The *Harvester Decision* thus led to the development of basic statistical measures by the Australian Government.
5. Between 1923 and 1953 the Harvester unskilled labourer's wage was adjusted every quarter by the Court by the amount of the Commonwealth Statistician's estimate of inflation. Margins were adjusted having regard to the value of the work.
6. The minimum wage, or basic wage, applied to most of the Australian workforce by the 1920s.
7. In 1919 the Royal Commission on the Basic Wage examined again the question of the needs of a man, his wife and family.
8. In 1921 the Commonwealth Court of Conciliation and Arbitration rejected an application to adopt the level of needs assessed by the royal commission as the new minimum wage, stating that it was not 'practicable'.
9. The Court was set up to prevent and settle a very limited range of disputes, inter-state disputes. By the 1930s it had become a central part of Australian social and economic life, varying the minimum wage in a coordinated manner, and having regard to national economic developments, as well as settling disputes.