



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

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DEPUTY PRESIDENT ASBURY
COMMISSIONER HAMPTON
PROFESSOR RICHARDSON
MR COLE
MR GIBBS**

C2017/1

s.285 - Annual wage review

**Annual wage review
(C2017/1)**

Melbourne

10.02 AM, THURSDAY, 18 MAY 2017

Continued from 17/05/2017

PN925

JUSTICE ROSS: Could I have the appearances, please?

PN926

MS A MATHESON: Yes. If it pleases, Matheson, initial A, for the Australian Chamber of Commerce and Industry, appearing together with my colleagues, Mr Carr, initial A, and Mr Barklamb, initial S.

PN927

JUSTICE ROSS: Thanks, Mr Matheson.

PN928

MR B LAWRENCE: If the Commission pleases, Lawrence, initial B. I appear with Father Frank Brennan for the Australian Catholic Council for Employment Relations.

PN929

JUSTICE ROSS: Thank you. Have you had discussion about who goes first?

PN930

MS MATHESON: Thank you, your Honour, we might.

PN931

JUSTICE ROSS: All right.

PN932

MR BARKLAMB: Thank you, your Honour. I have a short opening to make on behalf of the Chamber, followed by Ms Matheson. The Australian Chamber thanks the expert panel for the opportunity to participate in these consultations as a part of the 2016/17 annual wage review.

PN933

We wish to start this morning by recalling the basis on which the Chamber appears in these reviews. We represent those businesses who must pay increased minimum wage obligations arising from your considerations, and whose aggregated decision making on job creation on investment and prices combines to determine not only Australia's macro-economic performance but also the prices, service availability and living standards of all Australians including those in receipt of minimum wages. This is particularly true of smaller businesses many of whom are immediately impacted by minimum wage increases, and many of whom are doing it tough.

PN934

The expert panel will be aware, from our written submissions, the Australian Chamber is recommending a cautious and restrained approach to uprating minimum wages in this review, and that you award an increase in minimum award wages no greater than 1.2 per cent. We argue that the economic labour market and other considerations the panel has regard to properly considered should lead you to award an increase in 2017 but to do so within the parameters we commend to you.

PN935

We rely on our two written submissions in support of this position and wish this morning to briefly address some key elements relevant to the panel's consideration of the statutory objectives underpinning this review.

PN936

The expert panel is required to take into consideration the performance and competitiveness of our national economy including productivity, business competitiveness and viability and inflation and employment growth. On the surface the rate of unemployment appears stable, however closer analysis of the labour market should present cause for concern and cause for caution and restraint in uprating minimum wages.

PN937

Growth in private sector wages sits at 1.7 per cent and is at its slowest pace on record. This is attributable to both structural adjustment in our economy following the mining boom and/or mining investment boom, if I recall my employer's way of clarifying that, mining investment boom, and to ongoing spare capacity in our labour market. This ongoing spare capacity is also driving higher levels of unemployment and underemployment amongst vulnerable groups such as young people and the long-term unemployed as they compete for labour market opportunities.

PN938

Low growth in wages is also taking place in the context of low inflation. Subdued business investment and productivity growth that still falls well short of the sustained stronger productivity of previous decades and well short of the levels of productivity we need to make Australia a more competitive destination for investment.

PN939

PROFESSOR RICHARDSON: Could I interrupt just for a second at that point. So what would that level of productivity be that you think we ought to be achieving or that we have in recent decades that compare with the present?

PN940

MR BARKLAMB: Thank you, Professor. I don't have that figure to hand at the moment. I'll defer to my economic colleagues to take that one.

PN941

MR CARR: Sorry, Professor, what you're asking, I just want to get it clear in my mind as to what you're asking. My apologies. What you think the productivity should be?

PN942

PROFESSOR RICHARDSON: No, no, no, this reference to the relatively low productivity rate - - -

PN943

MR CARR: Yes.

PN944

PROFESSOR RICHARDSON: I would just be interested to know compared with what?

PN945

MR CARR: Compared with history.

PN946

PROFESSOR RICHARDSON: There were two propositions put, one was what we need.

PN947

MR CARR: Yes.

PN948

PROFESSOR RICHARDSON: The other is what we've had in the past, and I'd just be interested if there was an ability to quantify either of those.

PN949

MR CARR: We need a rate of productivity growth where we can sustain wage growth. Everyone wants a strong economy with high profits and strong wage growth. We want prosperity. Everyone wants that. What we're arguing is that productivity growth is very low, and - - -

PN950

PROFESSOR RICHARDSON: What would you say it is?

PN951

MR CARR: .9 on multi-factor productivity.

PN952

PROFESSOR RICHARDSON: And labour productivity?

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MR CARR: 1 point something. 1.9, I guess. I'll have to - - -

PN954

PROFESSOR RICHARDSON: Yes. No, it's all right. It's around 2 per cent.

PN955

MR CARR: Yes. So we look at multi-factor productivity primarily because it's a broader measure of productivity. Labour productivity is a partial factor. It's useful, but it doesn't give the full picture of productivity growth. We want the pie, the whole pie to grow, and that involves capital and labour, and, you know, obviously if that is growing at a good rate, then business can then afford, subject to their budget constraint, to pay higher wages.

PN956

PROFESSOR RICHARDSON: The question, so what was the past levels of productivity that you thought were appropriate?

PN957

MR CARR: Historical averages would be a good indicator. I'd have to refer to the statistical appendix. Yes.

PN958

PROFESSOR RICHARDSON: Yes. All right. You didn't have anything else in mind?

PN959

MR BARKLAMB: Professor, there's probably two points that we can make, and we can come back to this perhaps through additional written material; there's a comparator to our own historical performance, but perhaps more credibly comparators to our competitors, and international markets with the influence of such considerations on the investment attractiveness of our country and the like. So that's what we'll perhaps go away and have a look at to answer your question.

PN960

VICE PRESIDENT HATCHER: But I think low productivity growth is a feature of OECD economies generally. It's not something unique for Australia.

PN961

MR BARKLAMB: Indeed, Vice President. There certainly are some global trends, and a number of trends do need to be understood in their global context. My recollection, and we will take this away, and I certainly know from looking at resource industry productivity, for example, that the slowing here was more dramatic than competing countries like Canada. So we can go away and have a look at these things in more detail, and attempt to answer that question for you. We were trying to make - - -

PN962

PROFESSOR RICHARDSON: Sorry, while you're doing that, can I just refer you to the Productivity Commission's observation that if there's a rise in labour productivity workers can reasonably expect a rise in wages?

PN963

MR CARR: Yes. Yes, absolutely. Can I answer that?

PN964

MR BARKLAMB: Yes, absolutely.

PN965

PROFESSOR RICHARDSON: So that's labour productivity I'm looking to, not multi-factor.

PN966

MR CARR: The issue that we've got productivity in general in Australia, and particularly the notional pick up in productivity, is that it's driven by, as is growth more generally, exports. It's confined to the mining sector. So labour productivity or productivity in general is giving a misleading picture of productivity growth. It's actually lower outside of the mining sector. So if you extrapolate – not extrapolate but if you extract that out, then the productivity

picture is much, much, much weaker and we're seeing in profitability in sectors outside of mining as well, particularly retail.

PN967

VICE PRESIDENT HATCHER: So is there a non-mining sector labour productivity figure?

PN968

MR CARR: Not that we have available, no, sorry.

PN969

MR BARKLAMB: Vice President, we might be able to assist you though - - -

PN970

PROFESSOR RICHARDSON: The latest statistical report has productivity by industry.

PN971

MR BARKLAMB: You might be aware, Members of the panel, of the Productivity Commission's inquiry into productivity that was kicked off last year.

PN972

PROFESSOR RICHARDSON: Yes.

PN973

MR BARKLAMB: There was a background paper to that. We certainly can consent, not only to provide that to you, but without our comments on that. But my recollection of reading that is it presented a particularly stark picture of our productivity performance, and considerable areas of concern. I can't lead you further. I don't have it with me at the moment, but we'd be pleased to introduce that into evidence in the matter, and we think it may go to a number of the things that you raised.

PN974

PROFESSOR RICHARDSON: But if you do this extra work and you do wish to pursue the point that it's multi-factor productivity that matters rather than labour productivity, could you develop that argument as to why it should be multi-factor productivity and not labour productivity when we're talking about wages?

PN975

MR CARR: Yes, certainly. Can I just quickly – we think both are useful. I'm not for one second saying that labour productivity isn't a useful measure. It's a good starting point. What our broader point is for both labour productivity and multi-factor productivity is that the overall broad aggregates are being boosted by this export boom that we've got going on; LNG, et cetera, and it's not reflective of actual individual efficiency or productivity. It's more a reflection of the fact that the mining sector is exporting a lot of staff and they're not employing a lot of people. They never generally do. So that would be our point on that, but - - -

PN976

JUSTICE ROSS: But to the extent that you're going to file more material, you'll need to do it quickly, Mr Barklamb. You're aware of our statutory timeframes, so it would need to be by close of business Monday. So you'll need to - - -

PN977

MR BARKLAMB: Thank you, your Honour. We are indebted for that. We will – whatever - - -

PN978

JUSTICE ROSS: Because others may wish to comment, et cetera, and we'd need to publish that.

PN979

MR CARR: Yes.

PN980

PROFESSOR RICHARDSON: I might - - -

PN981

JUSTICE ROSS: I'd rather finish the review in some sort of time period that meets the statutory objective.

PN982

MR CARR: Understood.

PN983

MR BARKLAMB: Excellent. We can act with expedition with whatever is canvassed today that's not included the materials or our materials.

PN984

PROFESSOR RICHARDSON: I might just draw your attention to the latest statistical report; the latest update of the statistical report. It has some productivity data.

PN985

JUSTICE ROSS: Yes.

PN986

MR BARKLAMB: Yes.

PN987

JUSTICE ROSS: While you were interrupted, Mr Barklamb, you mentioned the inflation environment as well. I take it you accept that a consequence of, if we were to grant, or to come down with a decision which was consistent with your proposal, then that would result in a real wage decrease for those on modern award minimum wages and on the national minimum wage?

PN988

MS MATHESON: Your Honour, I might answer that one if I could.

PN989

JUSTICE ROSS: Sure.

PN990

MS MATHESON: When you look at the subindices around the inflation there are particular, I suppose, factors that are playing into that increase in recent inflation. I mean, it has generated an uptick in the last quarter. We do accept that, but a further drill down would indicate that there's a role to be played by the increase in utilities prices, which we would say are disproportionately impacting businesses relative to consumers. If you look at the competition, in the retail sector it is helping to keep the costs of household consumption really relatively contained.

PN991

JUSTICE ROSS: That sort of takes us down the argument that's advanced by other parties that the basket within the CPI which is most likely to impact on the low paid is different to the overall basket, and they've developed the contrary argument that in fact the CPI impact on the low paid is greater than the reported figures. I understand what is said in your submission and in others about the impact of energy prices on business and that's a broad contextual consideration that we'd taken into account, but on any view of it it's certainly not going to be a real wage increase, and it looks like a real wage decrease.

PN992

MS MATHESON: It may have that perception at face value, your Honour, but if you look at, again, the drill down on the factors that are driving that CPI, even things like, for example, rental is - - -

PN993

JUSTICE ROSS: Low paid people pay rent.

PN994

MS MATHESON: Rent is – yes, and we would suggest they do.

PN995

JUSTICE ROSS: And they pay for utilities; for heating, for cooking, et cetera. Why aren't they relevant to - - -

PN996

MS MATHESON: But rental inflation is at a 20-year low. The other point that we would make is things like education, pharmaceuticals, so other things that I suppose are more relevant to the low paid than they are, say, for business, are still demonstrating low levels of inflation.

PN997

JUSTICE ROSS: What about food?

PN998

MS MATHESON: Food: we do accept that there has been some up-tick in the cost of things like fruit and vegetables.

PN999

JUSTICE ROSS: Food and the cost of energy has gone up, and low paid people rely on both of those.

PN1000

MR CARR: Can I make a point on that, sorry. On energy, we absolutely accept that prices are very high and punitive on low - on everyone, business included. We would argue that that's a policy failure.

PN1001

JUSTICE ROSS: That might be right, but so what?

PN1002

MR CARR: Because it's better addressed through other policies, not the minimum wage.

PN1003

JUSTICE ROSS: Yes, but we're not in a position to predict what the outcome of those policies would be.

PN1004

MR CARR: No, we wouldn't, but we would argue that the potential for dis-employment if an increase in the minimum wage is such that - - -

PN1005

JUSTICE ROSS: I understand that argument, but that's a different argument. I'm looking here at the effect on the real wages of the low paid. I understand the proposition you put, and it's a proposition reflected in your submission, that too high an increase would push low paid employees into unemployment - - -

PN1006

MR CARR: Yes.

PN1007

JUSTICE ROSS: Which would increase their increase in inequality and their - - -

PN1008

MR CARR: Reduce their capacity to pay energy prices as well.

PN1009

JUSTICE ROSS: And at least meet their needs, et cetera. No, I understand that point, but my point is that implicit in your submission is the proposition that there would be a real wage reduction for low paid employees.

PN1010

MR CARR: That is a national phenomenon as well, so it's not outside the bounds of what we're seeing nationally, so I'm not - - -

PN1011

JUSTICE ROSS: The recent wage growth data, you mean?

PN1012

MR CARR: Yes, if you accept the inflation figures. We do have some concerns about whether inflation is actually as high as it was in the last quarter. There are some seasonal impacts which impact nearly every March quarter, and the ABS should be conducting a re-weighting of the basket, which would also act to reduce

inflationary pressures. We don't have a quantitative estimate of that because the ABS advise that it varies too much to really give an accurate picture.

PN1013

But look, the general point stands that real wage reductions, they have occurred in the past, and I think previous decisions have seen the real wage decline, and it's a question of whether that's appropriate for the broader macro-environment, and we think - unfortunately, we think it is.

PN1014

JUSTICE ROSS: Will that have any negative effect on consumer sentiment and consumer demand?

PN1015

MR CARR: It depends on whether you think that consumers are more responsive to nominal changes or real changes. I can accept arguments to both. I think nominal is probably - has a bigger impact on sentiment. I'm not really sure if, you know, at the retail level people are really talking about their real wage, so I think it's the nominal change.

PN1016

For us the issue is: what's the greater social evil - if you want to use that word, I can't think of a better one at the moment - unemployment or lower wage growth? Wages are more flexible; unfortunately, unemployment isn't. Once it's entrenched it's very hard - we know, historically - to reduce, it takes many, many, many years; whereas wages can respond much more rapidly according to the macroeconomic circumstances.

PN1017

All we're urging is look at the uncertainty in the economy, look at the risks that the economy faces, and be cautious. That's all we're encouraging the panel - the Commission to do for the economic circumstances that we have right now. I mean, it could be different - - -

PN1018

VICE PRESIDENT HATCHER: So just to follow up on my question, if a very low wage increase, which is a real wage reduction, has a negative effect on consumer sentiment and on actual consumer demand, that may itself have employment effects, or not?

PN1019

MR CARR: I think it would be more nominal effects that we would be looking at, to be honest. I would have to refer to some empirical studies, but my initial instinct would be that it would be nominal because I don't think that the average person on the street, consumer answering those surveys, really has an understanding of real wages or the real nominal economy.

PN1020

PROFESSOR RICHARDSON: They understand their household budget.

PN1021

MR CARR: Absolutely, they understand their household budget, but they will have a much less - a much, much smaller budget if they're unemployed.

PN1022

MR BARKLAMB: I might make just two points, perhaps, your Honour, if that's all right, and I'm not sure whether this is of assistance or not. The position we advance to you this year is in the context of above inflation increases in years past. This is not a single year minimum wage review, which - I further recall that the Bench has given us clear signals that the various statutory considerations in the Act are balanced, that there's not a mechanistic formula to the setting of minimum wages, which would imply that indexation is not the lowest possible outcome in these matters.

PN1023

JUSTICE ROSS: No, we accept that.

PN1024

MR BARKLAMB: The other thing, just perhaps to go to the Vice President's question about confidence; firstly confidence, but secondly an impact on economy and demand from a moderation, as we put it, in the outcome in this here. It's not 1975. The decision you reach in this matter is not as centralised as it once was, where it was a switch which was clicked in our economy which had that macro level of increase and impact which might go to that sort of principle.

PN1025

Part of what we consider in these matters, and part of the arguments you will receive from others is that you've got a lot of scope to increase minimum wages without affecting macro-indicators. One of my union colleagues many years ago used to refer to it as a table of zeros, that they would calculate virtually a zero macroeconomic impact from any decision you would make.

PN1026

We're not conceding that point, but if you do follow that thinking, equally in a decentralised system where we're talking about a more localised effect and impact and benefit from minimum wages, it cannot be the case, then, that you can assume you would have an economy-wide impact on confidence and on purchasing power. So the limits of the bite of your decision on the labour market cut both ways in respect of that. So perhaps with that I will give it back to Ms Matheson.

PN1027

I apologise, while I'm on my feet, I had an opening, but I feel, perhaps reading the tenor of our discussions and the questions from the Bench, I think we're perhaps just best to continue with the questions you've prepared for us, and then if we need to return to any of our points in opening, we can do so at the end.

PN1028

JUSTICE ROSS: Sure. Ms Matheson.

PN1029

MS MATHESON: Your Honour, it was just a subtle point I wanted to make about the reality that minimum wage increases do not necessarily translate to

income in all circumstances due to the operation of the tax and transfer system. So in the event that you do have people that are recipients of social welfare benefits, the increase in the minimum wage may actually have the effect of reducing sums received through that mechanism, so there will be - - -

PN1030

JUSTICE ROSS: But it wouldn't reduce their total income.

PN1031

MS MATHESON: Wouldn't reduce their total income, that's correct.

PN1032

JUSTICE ROSS: And when you bear in mind that on the Commonwealth's figures over 57 per cent of the low paid are single adult wage earners - - -

PN1033

MS MATHESON: Household people. Yes, I acknowledge that submission.

PN1034

JUSTICE ROSS: Who don't get any benefit from the tax transfer system or from the transfer system, it's a direct benefit to them.

PN1035

MS MATHESON: Yes, I did acknowledge that, and I will accept that submission of the government.

PN1036

JUSTICE ROSS: Thank you. Keep going.

PN1037

MR BARKLAMB: You do wish me to keep going?

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JUSTICE ROSS: Yes, absolutely.

PN1039

MR BARKLAMB: We therefore maintain - and this is picking up on some of the things we've discussed - that the current low inflationary environment is relevant to the assessment of the needs of the low-paid and support moderation, we say, in the level of minimum wage increase that should be awarded. We also maintained that an adequate living standard is dependent on having sufficient paid work, and it's the absence of paid work that is creating the greatest risks of social exclusion in our content to society.

PN1040

The expert panel is required to weigh up the various considerations in the Act - general objectives point I just went to with your Honour - the minimum wage objectives, and the modern awards objective. While it is important that all statutory considerations are appropriately taken into account in each review, particular considerations may need to be given greater weight in prevailing circumstances in particular years. This is consistent with the panel's ongoing

message to parties that there is no formula. I'm sorry, I'm going to take to my own points.

PN1041

Employers have a very firm view on how this assessment should be undertaken on this occasion and the conclusion we say you should reach, which we put to the panel in writing and which we look forward to reinforcing in due course. In the current review we encourage the panel to attach significant weight to the need to establish and maintain a safety net of fair minimum wages and to promoting social inclusion through workforce participation.

PN1042

While aggregate levels of unemployment have shown some improvement since 2015/16, this has been supported by lower levels of private sector wage growth; that is, macro-level wage restraint across the economy. Given persistently high levels of youth unemployment, increasing long-term unemployment and underemployment, we urge the panel to give greater weight to the needs of those with the most marginal attachment to the labour market on this occasion.

PN1043

JUSTICE ROSS: Can I just deal with the long term unemployed issue. The research suggests that the factors going to the circumstances of long term unemployed and re-engaging with employment are complex and don't appear to have too much to do with the level of minimum wages. It's the productivity issue, the lack of engagement, the training, all of those factors suggest that if you were to link the productivity of some long term unemployed to wages, you'd end up with a very low minimum wage. How do you see minimum wages as being the way of addressing the long term unemployed? It seems to me on the material it's a much more complicated issue than just the wage rate.

PN1044

MR BARKLAMB: There is absolutely - in each part of our labour market, to use the less human way of putting it, there is supply and demand and there are clearly skills, employability and orientation concerns for many of the long term unemployed labour market disengagement. What we're concerned about, to put it fairly simply, is the price of job creation and the price of additional hours. Recording that additional hours, additional jobs that are offered to those who are most employable creates a demand back on the long term unemployed. We saw, and my colleagues can pull me up if I'm wrong here, but we saw in the mid-2000s from my recollection, unemployment dipped quite low and we started to get into the - to make some serious inroads into the long term unemployed on that occasion. We did indeed see, Your Honour, some perverse productivity effects coming through at that time.

PN1045

JUSTICE ROSS: But you could sort of follow that but if you've got a choice between someone who's recently unemployed versus someone who's long term unemployed and whose productivity maybe less for the range of reasons, a rational employer would choose the more recently unemployed. So you're going to perhaps need to go through that. It's a bit like indigenous unemployment, it's a significant social issue but the reasons are many and varied, one of which is the

absence of industry and work in the relevant geographical locations. The range of other aspects of social disadvantage in relation to indigenous employees.

PN1046

MR BARKLAMB: Your Honour, I'm less comfortable with the indigenous employment which is something I'm not expert upon but the idea or the concept that long term unemployment and those most marginalised in our labour market are in that circumstance for a very complex range of reasons, which are very difficult to redress through the whole range of policy levers of the state. We would absolutely acknowledge that, and we - indeed as an organisation we spend a lot of time on employability on skills, on labour market assistance. The other half of us you don't see in these forums.

PN1047

JUSTICE ROSS: Because I supposed we've seen where there have been government subsidies provided which has the effect of a much lower wage rate, and yet we still have a persistent long term unemployment problem.

PN1048

MR BARKLAMB: But, your Honour, absolutely. Even outside particular - well, not even outside. We do however maintain a fairly simple point that for an employer the price of job creation and the price of additional hours is very significant. There is a simple point within a more complex range of - and indeed your Honours only have one lever in this matter. So we'd want to underscore that point. Now I think as we're talking about the unemployed and the long term unemployed and youth unemployment, we recently had cause to look at youth unemployment data by region in the last couple of days. There are some absolutely alarming figures coming out of some areas of regional Australia.

PN1049

Now your Honour is quite right, the price lever is not going to put more business into those areas. It's not going to put more development and more infrastructure et cetera into those areas. However the price lever being excessive certainly is not going to do anything for the capacity of businesses in those regions to be able to create jobs and offer additional hours to those they have. Mr Carr may wish to add - - -

PN1050

MR CARR: Just a couple of points if I may, your Honour. Absolutely concede those points, absolutely. In my personal life I help disadvantaged people and I can see it firsthand and it's not always - you know, there are other issues at stake here complicating that.

PN1051

What we would argue though, however, is that with successful government programs to address some of the complicating factors leading to long term unemployment, with that individual then trying to re-enter the labour market a high minimum wage would be a significant barrier to their employment, because you quite rightly point out, that a rational employer is going to look at, you know, someone who's got lower productivity, higher productivity and you know do the balancing act. A minimum wage which is attractive to an employer can offset

some of that low productivity, increases the chances that a long term unemployed person once - - -

PN1052

JUSTICE ROSS: Why would it do that?

PN1053

MR CARR: Because they're cheaper.

PN1054

JUSTICE ROSS: But you'd still make the rational decision whatever the wage rate is, and pick the more productive worker.

PN1055

MR CARR: I would disagree with that because you would - if you've got a budget constraint as a firm - sorry respectfully disagree with that.

PN1056

JUSTICE ROSS: Yes. No, that's all right.

PN1057

MR CARR: My apologies.

PN1058

JUSTICE ROSS: No, no, that's fine.

PN1059

MR CARR: Because the - what was my point. Yes, because if you're subject to a budget constraint as a firm, you may not have the option or the luxury of doing the calculation in your head of productivity of an individual worker and - - -

PN1060

JUSTICE ROSS: I'm just struggling how - just if we take it from the perspective of economic theory for a moment.

PN1061

MR CARR: Yes, sure.

PN1062

JUSTICE ROSS: That a firm needs to employ an additional person.

PN1063

MR CARR: Yes.

PN1064

JUSTICE ROSS: Has the capacity to do so and has a choice at the given minimum wage rate, between a more productive and a less productive employee. Now if we take out altruism and we're just looking at it purely as economics and the profit maximising view of the firm, why would they pick the long term unemployed?

PN1065

MR CARR: All else being equal.

PN1066

JUSTICE ROSS: Yes.

PN1067

MR CARR: I see what you're saying. Yes, in that scenario perhaps - - -

PN1068

JUSTICE ROSS: Well, then how is the minimum wage rate going to effect that decision about whether or not they employ the recently unemployed or the long term?

PN1069

MR CARR: Because a high - well I would argue perhaps, you know, that a high productivity employee won't be going for minimum wage jobs. They would be going for - - -

PN1070

JUSTICE ROSS: That's a relative issue.

PN1071

MR BARKLAMB: In a labour market with a higher level of demand, a higher productivity worker who can secure additional reward may well be seeking employment over a minimum wage level. The other thing to recall, I mentioned the experience 10 or more years ago when we had the unemployment with a 4 in front of it. We started to see a level of labour demand which was, as I said, eating into the long term unemployed. We were starting to make serious inroads in that. Just my observations of your Honour's - - -

PN1072

JUSTICE ROSS: That sort of makes the point, doesn't it, that you need to - the unemployment rate needs to fall to a level before employers make the decision to engage the long term unemployed, because they're running out of choices. But once they've got a choice they'll go for the others.

PN1073

MR BARKLAMB: Yes, but this - but our argument to you is that this process is not remote from that. The consideration that the expert panel reaches is the minimum price of job creation.

PN1074

JUSTICE ROSS: How is it going to - how is it going to help the long term unemployed, whatever we do, because it will still be - you will still have above that 4 and on your own submission, you don't start to erode the long term unemployed, the proportion in that category, until unemployment drops to a certain level.

PN1075

MR CARR: If I may address that point, your Honour. The unemployment rate is historically looking all right at the moment. What we're arguing is that there are

segments of that labour market who aren't okay. Now if you've got a tight labour market or a, you know, healthy labour market or a healthy unemployment rate people who are productive aren't really in the market for the minimum wage, so what we would say is, you know, they're going up the value chain and that draws employers to look at other options including the long term unemployed. You're absolutely right that in a high - if they're got a choice, in a high unemployment world they're not going to, and that's why we as an organisation are active in trying to reduce the unemployment rate. We think it's a huge social problem and its effects are long lasting.

PN1076

Now the net minimum wage is crucial to pricing in entry level long term unemployed but some people who may not be long term unemployed, but the pool of long term unemployed have got a better chance in a tight labour market than if there's too much spare capacity. Now at the moment there is spare capacity, we would like that capacity to be reduced, which is why we urging the panel to please consider a modest, very small wage increase.

PN1077

MR BARKLAMB: Your Honour, I'm not sure my opening is actually going to be - what little of it remains is actually going to be that useful at this point. I think perhaps it would be more productive for us to respond to questions and points of emphasis.

PN1078

JUSTICE ROSS: Sure. Just going back to the productivity issue. If you have the statistical report at table 2.4.

PN1079

MR CARR: 2.4, yes.

PN1080

JUSTICE ROSS: Just having regard to what you said about the contribution of mining productivity. I notice there's a - - -

PN1081

MR CARR: Sorry?

PN1082

JUSTICE ROSS: Do you have that table? So it gives the productivity change for labour and multi-factor productivity for the last five years on a sectoral basis.

PN1083

MR CARR: Yes, it does.

PN1084

JUSTICE ROSS: Having regard to what you were saying about what might be contribution of mining before, I'm just wondering why there's such a high figure, high positive figure for mining for labour productivity but a negative contribution for multi-factor productivity?

PN1085

MR CARR: I ultimately will have to take that on notice. What I would suggest though is that that labour productivity - I mean multi-factor productivity takes into account efficiency, so maybe it's at that efficiency level. I mean you've had - let's go through this. So you've had employment - my apologies, sorry. So you've had employment decline and output increase, there's your labour productivity strong growth. Multi-factor productivity, it's a complicated measure and it's a residual ultimately. So without having analysed it, I'm guessing there's some sort of efficiency problem there or some efficiency of capital use.

PN1086

MR BARKLAMB: The other point and we'd have to think about this further is that in our mining industry broadly described, we're reaching the end of the completion of some of the most significant projects built globally ever, and the productivity efficiency and throughput of that is accelerating towards the end of the projects where the capital was sunk early. Now I don't know that that may perhaps explain some of the significance - - -

PN1087

JUSTICE ROSS: So they've been built and now we're starting to take things out of the ground so you'd expect productivity to increase as a result.

PN1088

MR BARKLAMB: Yes. And the labour forces are downscaling markedly.

PN1089

JUSTICE ROSS: Yes.

PN1090

MR CARR: But that wouldn't be as a result of - - -

PN1091

JUSTICE ROSS: No.

PN1092

MR COLE: I just wanted to mention the international studies on the employment effect of the increase of the minimum wages. We've been talking very micro here about individuals and how a particular individual would be preferred over another individual to be hired, but I think the - we have in the past been fairly reluctant to put too much weight on what happens overseas. But there's been an enormous amount of research done, particularly in the United States and the United Kingdom, on what are the effects of increasing the minimum wage, and a little bit in Australia, not much in Australia.

PN1093

What we see in the US is a system that hardly deserves that name because there are minimum wages at the federal level, there are minimum wages at the state level and there are minimum wages and the municipal level, and they are typically adjusted very infrequently and by large amounts. Those large amounts might be phased in over three, four or even five years but when we're talking about increases from \$9 an hour to \$15 an hour, you can see that even a four year phase

in period you've got large increases in minimum wages. That system is so different to our system that we're not proposing in any way to rely on that for ours as we think these matters through.

PN1094

The UK is different. They have a minimum wage that started - well, 17 years ago, in 1999, and they have annual reviews and they have increases in wages that I think they probably would describe as modest but which are significantly higher than ours. They have - they've averaged - the average over the 17 year period is 4 per cent a year and the government has sponsored research from the best brains that it could find, to seek out to find whether these increases in the minimum wage have an employment effect. The conclusion overall is that they don't. They don't have an employment effect, although there are some small pockets of part-time workers who - where it looks as if there might be a loss that's recovered in other areas where there hasn't been - where there's been growth rather than loss. I just wonder whether you think about those macro - that sort of macro information.

PN1095

I might just also mention Germany because Germany is the country that has most recently introduced the minimum wage at 8.5 Euros per hour, and I mention Germany in particular because economists were almost universally condemning them to introduce the minimum wage, predicting that hundreds of thousands and maybe a million jobs will be lost as a result of the minimum wage. It's two years ago since it was implemented and unemployment in Germany is now down to the lowest level it's been since the early 1990s, and people are now reviewing and sort of wondering whether there is any employment effect of increasing minimum wages. You're anxious to come and correct me.

PN1096

MS MATHESON: May I? Thank you. I might just respond to I suppose the UK and the German system because I do think that - - -

PN1097

MR COLE: Could you pull the microphone a little bit please?

PN1098

MS MATHESON: Sorry. In the UK system it may be too early to fully appreciate the effects because they are going through their transitional period with respect to the UK living wage. One of the points I would make is that even though they have introduced a living wage, I have to punch in this calculation again but I understand on the purchasing parity basis, it is still lower than our baseline national minimum wage in Australia.

PN1099

MR COLE: Yes.

PN1100

JUSTICE ROSS: Sorry, Ms Matheson, are you referring to the most recent announcement? You're not referring to the - - -

PN1101

MS MATHESON: No, not the 17 year legacy of the national minimum wage.

PN1102

JUSTICE ROSS: Yes, it's the more recent than the fixing of the target issue that - when you says it's too - - -

PN1103

MS MATHESON: Yes, yes, that's correct.

PN1104

JUSTICE ROSS: Yes, I follow.

PN1105

MS MATHESON: The other point I would make is that it also does carve out some vulnerable cohorts if you like, so apprentices and youth as well. There is some recognition that a wage that perhaps is too - set at a price that is beyond their productive rate could in fact price those people out of the market.

PN1106

On the German example as well, my understanding is that the national minimum wage doesn't also kick in until someone has served six months in the role to enable them to qualify I think for that wage if they've been, for example, out of the labour market for some time as well. So there is some recognition that vulnerable cohorts could be impacted by minimum wage fixation, at least within those two systems.

PN1107

The other factor and I think the government addressed this quite comprehensibly in their submission, but we have one of the most unique wage setting systems in the world whereas, you know, the impact of this decision does flow right through to what are not low paid workers but some fairly high paid workers - I think it was around the \$160,000 being the base wage for some of those more - - -

PN1108

MR COLE: We all know about the pilots.

PN1109

MS MATHESON: The pilots, those classifications, and that - - -

PN1110

JUSTICE ROSS: They aren't that many pilots.

PN1111

MS MATHESON: That's right. But there may be, based on their submission, quite a high portion of award reliant people who are earning beyond that two thirds of median earnings within the wage structure as well. That is a point of distinction between our system and the UK, and the German and indeed the US system as well. So it is still, in our view, difficult to draw comparisons or broad comparisons with the international research.

PN1112

JUSTICE ROSS: Accepting the difference that we go up the structure, if you like, whereas they deal with the base, and this was a point that I think the Commonwealth had conceded in the consultations.

PN1113

MS MATHESON: Yes.

PN1114

JUSTICE ROSS: The employment effect, the adverse employment effect of an increase in minimum wages if it's too occur, you would expect it would be more likely to occur in the groups you've been talking about. That is the entrance to the labour market, the unskilled. It's at that lower end of the wages spectrum where you would expect to see those sorts of effects.

PN1115

MS MATHESON: Yes, yes, that's our understanding, your Honour.

PN1116

JUSTICE ROSS: Yes.

PN1117

MS MATHESON: The other point that I would make, in our system people who are low paid, most of them don't stay low paid for very long and that's also addressed - - -

PN1118

JUSTICE ROSS: That's a transitional - - -

PN1119

MS MATHESON: That's a transitional rate, so a stepping stone effect we say should be considered.

PN1120

JUSTICE ROSS: Yes. I think that's - the Commonwealth has a significant part of its submission dealing with those transitional issues.

PN1121

MS MATHESON: Yes. Yes, your Honour.

PN1122

JUSTICE ROSS: Thank you, Ms Matheson.

PN1123

MR BARKLAMB: That was quite a complex question and multi-layered question which is very useful. I tempted to flippantly say if I never hear the words Card and Krueger again we'll happily do a deal but you asked about the relevance of international minimum wage research. It is often distinguishable from our circumstances, and the challenge for us, and for you as decision-makers, is to think about what relevance some of the signals in that research and the effects they purport to show can have to our unique circumstances - and unique was the word my friend Ms Matheson used.

PN1124

It really does - you can distinguish almost each of the international systems you ran through from our own. One of the points I would really strongly make is you inherit a legacy of Harvester, Piddington, World War II wage controls, the ritual of annual minimum wage cases, indexation, wage causes three \$8 reviews, structural adjustments; and you're not coming to this judgement - the rates you inherited as a legacy, to which you are now considering adding, were not set from scratch.

PN1125

The UK in particular - and I imagine, Germany, although I'm not so familiar with circumstance - were very cautious, and deliberately cautious, in setting their initial rate, so their scope to make four per cent increases year on year may have been higher.

PN1126

I'm not an expert in the UK, I certainly know their labour market is very different in London than the rest of the United Kingdom, and that's one of the key challenges they have in minimum wage setting, but an observation that a minimum wage can be introduced and uprated significantly in other countries is probably of little use to the consideration in making this matter, as a generalisation.

PN1127

We look at particular research on its merits. I'm not standing here today saying international research for all time is not relevant to this matter, we may introduce it herself at some point.

PN1128

JUSTICE ROSS: Indeed, you have.

PN1129

MR BARKLAMB: And, indeed, we have.

PN1130

JUSTICE ROSS: And I think each party introduces the research that supports their particular point of view.

PN1131

MR BARKLAMB: It's one of the characteristics of this matter. I think we need to be very cautious at looking at those other countries and their relevance. I just make an observation - this is not to be trite - but I would suggest we have more minimum wages in Australia than the entirety of the US; federal, state and local.

PN1132

MR GIBBS: Can I just follow up with a part observation, but question. I've only been doing these for three years, but have been following this for 30 or 40. If you go back a decade or two, the proposition that putting up wages would cost jobs was just not challenged; now it's challenged based on empirical studies in other countries the response is "we are different".

PN1133

MR BARKLAMB: I might have an initial go at it, I will hand over to my colleague, Mr Carr. A lot of what you may have been observing 30 or 40 years ago was - I think I recall a time where you were highly centralised, your decision was a clear switch in the economy.

PN1134

JUSTICE ROSS: The bite and the effect of the decisions was much greater than it is at the moment. I think that everyone would acknowledge that.

PN1135

MR BARKLAMB: Your Honour comprehends the point I'm trying to make there quite clearly. We now have a localised effect, so the particular impact on the demand and capacity to create jobs is the shop owner, the restaurant owner, the small business person that's paying minimum wages; it's on their individual decision-making. I mentioned before that one of my colleagues from the ACTU used to trot out what he would like to call the table of zeros to show no macroeconomic impact from these decisions, or what he put it to say it was no macroeconomic impact.

PN1136

What we're coming to you saying is that it is the decision-making capacities of those who pay minimal wages and fair scope to create jobs that you should have regard to. There has been a change in the bite of the lever that you pull. The international research is there, it shows some things, which I think I've just indicated to you I think are very substantially confined to the individual countries concerned.

PN1137

I would also - and I'm not going to attempt to study for you, but my understanding of the international research was that we had it dually; so for every Card and Kruger there was the one in New Zealand on the youth minimum wages, so there were balanced research. I probably couldn't resume my seat and say to you that the international research shows a consensus that pulling the minimum wage lever never has an impact on jobs, that wouldn't be accurate.

PN1138

MR COLE: I just say that none of us believe that there is no limit on how much you can increase wages without having an employment effect. We talked in our decisions over the last couple of years at least about modest increases and avoiding excessive increases, which will have an impact. We're not characterising it as absolutely never have an impact, we would just like to find out where modest ends and excess starts, and that's the thing that we need to look at.

PN1139

I wanted to mention - just following up from Steve's point, which I think is a very nice point - the Productivity Commission started out doing its research, which is probably the biggest tempted we've had at doing some research in Australia recently - started out with the expectation of finding a negative employment effect. They couldn't find it. I mean, they really couldn't find it.

PN1140

MR CARR: If I may address that question. I think it depends when you do the study, because I think - and we would agree that it is often not clear, depending on the economic circumstances of the day, that a wage increase would; because if it can be absorbed by the budgets of, you know, the collective companies out there, then there won't - there will be maybe not even any effect, but it depends on the circumstances of the day.

PN1141

So for instance, if you're in 2006, 2007 in Australia, low unemployment rate, four point whatever it was per cent, and you conducted that study, I doubt you would have found that there would have been much of an employment effect; but if he did it in, say, 1991 - 1990-91, you know, the recession - there probably would have been a much larger effect. It would be more visible, I guess, is what I'm trying to say. It's a visibility of the effect, and it's not always apparent.

PN1142

I guess what we're arguing is that the economic circumstances of today, that effect would be much more visible, and certainly that's the greater risk.

PN1143

MR COLE: The UK experience has been through all the different macroeconomic situations. The global financial crisis hurt them a lot, so they've done this through a period - through enough years for us to be through at least a couple of full cycles.

PN1144

MR BARKLAMB: I haven't seen the report, and I will absolutely look at it after today, but I wonder if perhaps the time period that they're looking at is either too long, they're not looking at particular aspects of the cycle, and that those impacts net out. I don't know.

PN1145

MR COLE: Well, if you haven't read it.

PN1146

MR CARR: I don't know.

PN1147

MR BARKLAMB: Perhaps I might raise to my feet just briefly again to make the point of - remake the point I made earlier. When the then - I think they abolished them when they are abolished the Congos, but I will have to go and look at it - when the then Low Pay Commission set the minimum wage in the first place they were deliberately very, very cautious and set it low.

PN1148

JUSTICE ROSS: You mean in the UK.

PN1149

MR BARKLAMB: In the UK in 1999.

PN1150

MR COLE: It started out a long way below our minimum wage. The second year, they actually have the biggest increase they've ever had, 10 per cent.

PN1151

MR BARKLAMB: With respect, it wasn't that they set below a minimum wage, it was that they set out deliberately at a low estimate against the market rates.

PN1152

JUSTICE ROSS: So the bite was low, is it?

PN1153

MR BARKLAMB: The bite was low, so the capacity to make 4 per cent increases year on year or 10 per cent increases had an effect which was entirely distinguishable from where we find ourselves today.

PN1154

VICE PRESIDENT HATCHER: Mr Carr, when you were responding to Mr Cole's question, the original question was about the productivity Commission report.

PN1155

MR CARR: Yes.

PN1156

VICE PRESIDENT HATCHER: Was that general comment about "depends when you measure it" a criticism directed at the Productivity Commission?

PN1157

MR CARR: No, certainly not, no.

PN1158

VICE PRESIDENT HATCHER: Then why shouldn't we rely upon the conclusion that Mr Cole referred to?

PN1159

MR CARR: I was more making the general point that it depends on the economic circumstances of the day, and that it is sometimes easy - and I'm certainly not dismissing the report or criticising it in any way, but having studied econometrics I can understand how things can get - lose visibility - impacts can lose visibility. And my broader point that there are economic circumstances where a wage increase can be absorbed and there are economic circumstances where they cannot.

PN1160

We would argue that we are in an economic circumstance where certainly anything other than a very modest increase would be more visible. I think Ms Matheson would like to say something.

PN1161

MS MATHESON: I did just want to (indistinct) in, if it's okay, on the Productivity Commission report. One of the findings they did make is they felt

that there would be employees that would be disproportionately impacted if there was an increase in minimum wages that was too high. I think the dilemma that you're referring to was the Goldilocks dilemma - I think, in their terms - what is the amount that is just right?

PN1162

To your Honour's earlier arguments, in a perfectly functioning labour market when you're going through a period of adjustment you will see people moving across - and we are seeing that to some extent, so population in Perth, for example, is bleeding, and we are seeing an increase in the capital cities in Melbourne and Sydney where there is stronger economic performance.

PN1163

But that level of adjustment isn't happening, we would say, uniformly across the country, which is why we are getting some fairly high levels of youth unemployment and regional areas, and the point that we would make is that whenever a rate is set above a person's productive capacity it is naturally going to drive some investment decisions on the part of the employer concerned if there is, you know, the capacity to substitute labour with capital that may be an economic decision that – not one that is made lightly, but a decision that may need to be made. I think the international system, to some extent, do recognise that, as do our own through things like apprenticeship and youth wages which do provide for some level of discounting, but to your point I think there is no perfect calculation or computation of the right rate, and that may vary based on the economic cycle from year to year which is why the expert panel is required to use its judgment to consider the prevailing circumstances as we approach this review.

PN1164

But we would say that there is evidence emerging in the labour market that is suggesting that those vulnerable groups are being impacted. The recent uptick in underemployment is of concern. Youth unemployment, if we could get it back down to the 8 per cent mark I think is an aspiration that everyone should work towards, but it is persistently high at above the 13 per cent mark, but in part that will be driven by competition from those who are moving out of industries where they might have had less marginal attachment to the labour market. They may be more productive and are taking some of those low paid jobs, and we do concede that. But in regional areas in particular it is a more complex consideration. That's all I'd - - -

PN1165

MR CARR: Could I just quickly make a point as well? I was having a discussion with a colleague last week and they made a valid observation that the very high levels of underemployment and underutilisation indeed could suggest that the minimum wage is already too high.

PN1166

PROFESSOR RICHARDSON: Could I take you up on that point?

PN1167

MR CARR: Absolutely.

PN1168

PROFESSOR RICHARDSON: I mean, the underemployment is, of course, potentially a very significant issue, and I'm not sure who I'm speaking to here, but the Reserve Bank has recently done some research on underemployment and I don't know if you've seen it in an article published in 2017, March, I think, a bulletin, and they point out that the ABS measures underemployed people, you have to be part time basically, and says, "Do you want more hours?"

PN1169

MR CARR: Yes.

PN1170

PROFESSOR RICHARDSON: Then if you do you get added to the unemployment, to reduce underemployment. The Reserve Bank points out that the hours that people want, if they're part time, the extra hours, are considerably less than the extra hours that an unemployed person wants, so if you look at the excess hours that are available, they're rather less than are indicated by the underemployment rate. They also point out that when you measure unemployment people have to be actively looking for work before they get counted as unemployed. Underemployed people do not have to actively be looking for more hours. They can just say, "I'd like more", but not do anything about it.

PN1171

MR CARR: Yes.

PN1172

PROFESSOR RICHARDSON: When you take those into account, and you do it on an hours basis, there has actually been no increase in underemployment relative to unemployment.

PN1173

MR CARR: But- sorry.

PN1174

PROFESSOR RICHARDSON: So using this as a measure of sort of labour market slack, I think needs a little closer attention to what's going on underneath.

PN1175

MR CARR: Yes.

PN1176

PROFESSOR RICHARDSON: I think that's quite an important point.

PN1177

MR CARR: I absolutely agree, and - - -

PN1178

PROFESSOR RICHARDSON: If I could go to the youth unemployment as well, a lot of that is amongst full-time students.

PN1179

MR CARR: Right.

PN1180

PROFESSOR RICHARDSON: That's where most of the gripe has been. So that has a difference of meaning to it than, you know, people that have left school at 16 and can't get any work.

PN1181

MR CARR: Sure. On the issue of underemployment I, you know, absolutely agree and it does need to be – you know, further research in that area is very welcome and I've done it myself, however the RBA don't argue, and don't imply in any of their work that there is no excess capacity in the labour market.

PN1182

PROFESSOR RICHARDSON: No, no, not at all.

PN1183

MR CARR: That's the - - -

PN1184

PROFESSOR RICHARDSON: It's just the meaning; the interpretation we've placed on the headline version on underemployment I think is misleading.

PN1185

MR CARR: Yes, and we would concede to a point. I guess it's a question of degree. So are we talking a couple of decimal points? We would absolutely concede that, but if we're talking about a material change in levels of underemployment, we would dispute that, and we think that when you look at a broad – and the reason we would, with respect, Professor, is that when we look at a broad array of indicators that are all consistent, that there is a significant amount of spare capacity in the labour market, so we can – and I concede your points, and they're valid, and I've made some of them myself in research which I've written, but I don't think it changes, or is significant enough to change the general picture in the context of all of the other broad indicators that we're looking at.

PN1186

PROFESSOR RICHARDSON: No. The crucial point is that the unemployment rate tells you most of what you need to know.

PN1187

MR CARR: It can.

PN1188

PROFESSOR RICHARDSON: But the changes in underemployment are not adding much to your understanding of excess supply in the labour market.

PN1189

MR CARR: We would caution against looking at any one indicator of the labour market as definitive particularly because of problems that the ABS has had in compiling their statistics, so, you know, that's why we look at a broad array. The unemployment rate – and I make this point just as a mathematical truism, not

because – or, you know, are we relying in the declining participation rate as in any way, shape or form supporting our case, but if you want to just look at the mathematics the .2, I think it is, reduction in participation, if we held that steady, the unemployment rate would be 6.2 per cent roughly, could be higher. So we can't really look in isolation just at the unemployment rate particularly if there's an army of underemployed people.

PN1190

What I think a low unemployment rate tells you is that during this transition from the mining/investment boom, through the GFC, we've had sufficient flexibility in the wage rates, and, I mean, part of the reason why the unemployment rate is so low is because wage growth is so weak at a record low. We're not sitting here saying this is a wonderful state of affairs. Our members, you know, they rely on consumers earning an income to spend just looking at it from pure self-interest, but this is our reality, and we would argue that the unemployment rate would be markedly higher if the wage rates were punitive, because of firms facing that budget constraint, they would have no option but to lay staff off.

PN1191

DEPUTY PRESIDENT ASBURY: That same article, though, also suggests that the underemployment rate might be linked to the low wages growth as well, and that's actually people saying, "Because I'm not earning enough I need more hours", that it might be the other way around, the relationship.

PN1192

MR CARR: Yes. That could be a valid point, but it's better wanting more hours than just wanting a job that we would argue.

PN1193

JUSTICE ROSS: Ms Matheson?

PN1194

PROFESSOR RICHARDSON: I'd like to make just – sorry.

PN1195

MS MATHESON: Sorry, just quickly. The other factor in this is looking at the changes in employment and hours worked on an industry specific basis. So one of the concerns that we have with the trends that we're seeing in the retail sector, for example, where we are seeing a contraction in the work offered, which is concerning to us, given that they do – you know, as a general proposition offer many of the opportunities together with accommodation and food services for that cohort, so I just wanted to make that point as well.

PN1196

VICE PRESIDENT HATCHER: What's driving that? I mean, it's been observed in the United States there's been a massive loss of retail jobs caused by technology and online retailing. Is that what's happening here?

PN1197

MS MATHESON: Yes. Your Honour, we would say that the competitive pressures created by the digital online environment are certainly contributing to

that factor. Yes, it's one of a complex mix of factors, but, yes, that is a relevant consideration.

PN1198

MR BARKLAMB: You've seen, and this is not necessarily related to that, but we've seen high profile closures in retail and further threats of them in recent days, so our retail members would want us to pass on to the Bench very strongly, it's a very difficult time to be a retailer.

PN1199

JUSTICE ROSS: I suppose we've seen entries and exits into retailing. A number of overseas entities have entered the retail market.

PN1200

MR BARKLAMB: Yes. That's correct.

PN1201

JUSTICE ROSS: It's a bit like in restaurants, you do see sweeps in and sweeps out of entities in those sectors.

PN1202

PROFESSOR RICHARDSON: May I just ask a question unrelated to our immediate past discussions, and I'm not sure who I'm addressing here, but in their submission, AiG – no, no, I know their names, but I'm not sure which one is best placed to respond – the AiG submission included a chart which is based on their own surveys of business activity and they included also the NAB survey, and they put it in the one chart, and the Reserve Bank has identified these as being pretty reliable surveys, so we pay attention to them, and both sets of surveys, the NAB and the AiG surveys are indicating that business confidence and expectations about the future are relatively high. Well above zero in terms of the numbers that expect improved performance over reduced performance. I'd just like you to comment on that in the context of the position that you've put to us that things are really rather grim.

PN1203

MR CARR: If I may, Professor. For a start we're actually looking at the broader economy and think we're doing quite well relative to the GFC, relative to the mining transition et cetera. So we're not saying things are grim and there are causes and grounds for optimism. All we're saying is that there's so much to their capacity in the economy that now is not the time for anything other than a very small increase in wages, because we don't want to rock the boat, we don't want unemployment - you know, if housing comes off, there are so many risks in the economy. If housing comes off et cetera, the decision that you may will lead to higher unemployment further down the track.

PN1204

On the issue of business conditions, we think that's great, our members think it's great. What RBA research has shown and what I think the experience of the post-GFC world has shown is that business conditions, reported business conditions and confidence are very sensitive to the news cycle. If you look at the last few years we've had, you know, we've had the GFC and we had the European debt

crisis, we've had people talking about a recession in every single year of the Australian growth profile. All of this weighs - it's one of the reasons why we think that business investment is so low, it's because large institutions like the IMF have been saying year in, year out, there's a recession, there's a problem, blah, blah, blah, and so that weighs on confidence.

PN1205

This is probably the first year or last year actually was probably the first year where these big institutions, where the big news flow wasn't about recession, wasn't about doom and gloom, it was about a bit of hope. So we're seeing the business surveys respond to that. However, when we talk to our members within that, there's a lot of variation. For instance, you know, retail we know is not doing very well, so that's not capturing the, you know, patchwork I guess nature of our economy. So we think it's wonderful and a fantastic development that business conditions in aggregate are rising and confidence is rising. We think it's probably jumped ahead of their current reality and you'll note that in the volatility of a lot of those theories. They do have a habit of turning very quickly. Long may it last but despite that, we do think that the spare capacity in the economy doesn't warrant anything other than a very small increase in - sorry, my colleague's just handed me something to look at. Maybe my colleague can address it.

PN1206

MS MATHESON: Sorry. Professor, I'm just going to make the point though in the ABS Capital Expenditure Survey, the RBA did also note that the broader base pickup in non-mining investment was likely to take some time yet. So if we do look at, you know, the decline in mining investment and the pickup across the broader economy it hasn't yet lifted to the level that we would say represents the adjustment that we need to be seen to sustain the prosperity that we were seeing in previous decades.

PN1207

MR CARR: Sorry, could I just quickly add to that that we would also use that as evidence that the lift in conditions and confidence isn't necessarily reflecting in their actions just yet. It will, it will if it lasts but not just yet.

PN1208

JUSTICE ROSS: Just to test my understanding of your position, you're not putting that the economy has deteriorated since last year or it's particularly grim at the moment. You acknowledge that there's a pickup in confidence but that that confidence hasn't yet translated into business investment that can provide sustainable growth. Your second point seemed to be that within that overall cohort of rising business confidence there are sectoral considerations which have a difference experience, and you also point to the under-utilisation or the capacity issue in the employment market.

PN1209

MR CARR: Yes, your Honour.

PN1210

JUSTICE ROSS: Yes, right.

PN1211

MR CARR: Correct, your Honour. We would say that, you know, our members and the Australian Chamber as an institution want broad based economic growth. It's against our interests and those of our members to not have it, we're not seeing it right now and that patchwork, as you correctly note your Honour, effect. The aggregates are high - some of the aggregates are hiding this patchwork effect, not to forget that GDP growth, while we're saying it's doing well, that's in context of where we've come from. It's still very much below trend.

PN1212

JUSTICE ROSS: I'm not sure about the trend anymore.

PN1213

MR CARR: Well, the 2.75.

PN1214

JUSTICE ROSS: Well, you know, there's an active debate about whether the long term trend is the right trend and whether we're in a different world now, both here and overseas.

PN1215

MR CARR: Your Honour, we would happily have a beer with you and discuss secular stagnation because I strongly disagree with it. I think that - but we'll leave that for another day perhaps.

PN1216

JUSTICE ROSS: Perhaps after the decision.

PN1217

MR CARR: Yes, that's right.

PN1218

VICE PRESIDENT HATCHER: A rising proportion of new jobs being created are part-time jobs or jobs with part-time hours. What's that telling us about the labour market?

PN1219

MR CARR: That's a very complicated question because there are some structural and potentially cyclical effects at work here. Some of the structural effects are people choosing to work part-time hours, including more men and that's for family reasons. We also have, you know, and I'm interested in this. This is an area of research - I'm not offering this as part of our submission but this is just an interesting discussion. The wealth effect from strong house price growth in Sydney and Melbourne, there's a cohort of individuals - from memory I think it was from 50 to 60-something, who obviously have benefitted quite well from the appreciation of house prices. We are seeing participation rates for that cohort dropping off sharply. My own view is that that's to do with the wealth effect, because they can. But a significant proportion are also opting to work part-time.

PN1220

There's also marital breakup, a lot of other effects there. Some of it is cyclical as well in the sense that a - well, sorry, another structural trend would be technological disruption where a full-time job may morph into a part-time job as well. Some of it is cyclical where we believe that the budget restraint is restraining employers from having a position as a full-time position, and that they've only got the resources for a part-time position. They need that work but they only need it - can only afford to have it on a part-time basis. So look, a lot of confusing factors at work there. We wouldn't offer the lift in part-time growth or over-emphasise it in our submission to you.

PN1221

JUSTICE ROSS: Was there anything else you wanted to add?

PN1222

MR BARKLAMB: No, your Honour. Thank you for - we thank the panel for the opportunity.

PN1223

JUSTICE ROSS: No problem. Do you want a moment, Mr Lawrence or are you ready to go?

PN1224

MR LAWRENCE: I'm ready to go, your Honour. We would like to introduce our submissions with a reference to the historical context of the setting of minimum wage rates in Australia, in particular to the fact that this is the 110th year of the Harvester case. It is an anniversary that should be marked in this annual wage review because the Fair Work Commission is the successor to the court which decided that case.

PN1225

For 110 years this tribunal and its direct predecessors have had to consider the fairness of minimum wage rates. This is a history worth commemorating. There is probably no tribunal in the world that can trace its involvement in this kind of work to an earlier date. Three days ago in Melbourne the Fair Work Commission marked this anniversary with a shortened re-enactment of the Harvester hearings. The publicity of that event, described as Harvester revisited, stated:

PN1226

2017 marks the 110th anniversary of the historic Harvester case, a key decision leading to the introduction of Australia's first minimum wage in the 1920s. In honour of this anniversary the Fair Work Commission is presenting a mock hearing in which the Harvester case will be revisited. The event seeks to acknowledge the importance of the Harvester case and demonstrate how principles from that historic decision continue to influence the Commission today.

PN1227

I'll come back to those concluding words about the influence that Harvester has had.

PN1228

The mock hearing was held in the Supreme Court of Victoria building in William Street, Melbourne. The very building in which the Commonwealth Court of Conciliation and Arbitration sat in October and November 1907 to hear and determine Harvester. The court was then constituted by the President, Mr Henry Bournes Higgins J, a judge of the High Court of Australia. The re-enactment of Harvester was the Fair Work Commission's contribution to Melbourne's annual law week program.

PN1229

It might be noted that there was no shortage of resource material for the mock hearing, the Harvester transcript runs to 703 pages. The evidentiary basis of the case was very substantial. It is true that Harvester continues to inform our current wages system. The legislation under which this annual wage review is conducted, the Fair Work Act 2009, was publically launched by a speech entitled, "Introducing Australia's new workplace relations system," and the National Press Club on 17 September 2008.

PN1230

The then Deputy Prime Minister, the honourable Julia Gillard, started her speech with the following, and I quote:

PN1231

The signature values of nations are often defined by the circumstances of their birth. This is as true for Australia as for other countries. And for us there's one value above all others that we identify with as truly our own. It's the value that emerged out of the circumstances of Federation, which coincided with the industrial turbulence of the late nineteenth and early twentieth centuries. That value is fairness. Or as we like to put it: 'the fair go'. It inspired us to establish a society that aimed to give every citizen a decent standard of living. And it led us in 1907 to establish the principle of the living wage.

PN1232

The campaigns around Australia for the setting of a living wage to protect workers had been underway for more than a decade before Harvester and a range of minimum wage rates had been set in some industries, but it was the intellectual rigour and the evidentiary basis of the judgement of Higgins J in a case about what constituted fair and reasonable wages that gave meaning to the term and provided the basis upon which minimum wage rates were set in later minimum wage disputes.

PN1233

The object of the living wage principle is to give workers a decent standard of living; a decent standard of living for themselves and their families. Before saying more about Harvester we would like to return to this very week in May 1907 when the third Thursday of the month was 16 May, not 18 May, as it is today. A short walking distance to the north-west of where this Commission is now sitting in William Street, east Sydney, the State court of Arbitration was then sitting in Chancery Square, an area now known as Hyde Park Barracks.

PN1234

The Court of Arbitration, presided over by a judge of the Supreme Court of New South Wales, Mr Heydon J, was hearing a claim - a wage claim by the Shop Assistants union in a case entitled, *Shop Assistants Union v Mark Foy and the Master Retailers Association*. Over several weeks the court heard evidence about the wages paid to shop workers and the adequacy of those wages. The proceedings were reported in the law reports section of the Sydney morning Herald. The reports contained a recitation of the submissions and evidence, including exchanges between counsel and witnesses.

PN1235

On Tuesday, 18 May 1907 the paper reported that William Lowe, who was the founder of one of Sydney's iconic retailers, W Lowe and Co, had given evidence in support of the claim. He was a major employer at that time. The paper reported that Mr Lowe had deposed that he employed about 130 hands in manufacturing goods, and between 40 and 50 people in his shops in George and Oxford streets. The paper also reported an exchange in Mr Lowe's cross-examination, and I quote: Mr Kalanick, who was appearing for the respondents, he asked this question:

PN1236

In what capacity do you come here, as an employer or as an employee?---I come here as an employer, and also as a man who wants to give a living wage.

PN1237

In reply to Mr Kalanick witnesses said that if the claims of the union were upheld it would mean an increase of about 6 pound a week in his wages sheet. And the report continues, Mr Kalanick:

PN1238

Are you not in competition with Mark Foy and other houses?---Yes, but I would like the court to know that I am not giving evidence to harm employers. I am here to assist the employees in getting a decent living wage.

PN1239

That's the end of the report. In the same week as this significant case was being heard by the State Court of Arbitration, the Commonwealth Court of Conciliation and Arbitration was also sitting in Sydney, just another short walk away from here, this time to the south at the Darlinghurst Courthouse. At this time the President of the Court was Mr O'Connor J, another member of the High Court.

PN1240

The law list in the Sydney Morning Herald of Thursday, 16 May 1907 advised that there were five applications made under the Excise Tariff Act to be heard that day. This is the same legislation and the same kind of applications that were heard and determined by Higgins J six months later after his appointment as the new President of the Court.

PN1241

The decisions in the five applications were reported in the Sydney Morning Herald of 17 May 1907. For various reasons none of them involved a contest and

a decision as to what would be fair and reasonable wages. In relation to the application by Meadowbank Manufacturing Co the paper reported:

PN1242

Mr Pedon Steele, on behalf of the Meadowbank Manufacturing Company, applied under the Excise Tariff Act for a declaration that the rates of wages paid were fair and reasonable. The object was to secure exemption from the clause requiring inspection by a customs officer. An affidavit by Ernest Samuel Trigg on behalf of the company was read. He also gave evidence stating that the company employed 250 to 270 men under union conditions.

PN1243

And I interpolate to emphasise that, they were employed under union conditions. The report continues:

PN1244

The matter would have been brought before the State Arbitration Court but for the fact that there was no dispute. He put in an agreement by the client engineering company in Richie Bros and their employees which he said would have been the basis of the common rule. His Honour said he was perfectly satisfied that the rates were fair and reasonable and would remain in force so long as the schedule of wages embodied in the order was paid, or until further order.

PN1245

Mr O'Connor J sat in Adelaide in the following month to deal with similar applications, but none was a contest that required him to determine a fair and reasonable wage. The Darlinghurst Courthouse was the courthouse in which the High Court of Australia sat when in Sydney, as it was doing in this week in 1907. At that time, with Melbourne as the national capital, it might be said that the High Court was in Sydney on circuit.

PN1246

By Wednesday, 15 May 1907 a public notice appeared in the Sydney Morning Herald announcing that a free public lecture entitled The Struggle For Existence was to be delivered that night by Mr Higgins J at the Chatswood Town Hall. The paper carried a report of the lecture on the following day.

PN1247

Justice Higgins was used to public lectures. Prior to his appointment to the High Court he had been a leading silk at the Victorian bar, a member of the Victorian Commonwealth Parliaments, and a former Attorney General of the Commonwealth. He was born in Ireland and came to Melbourne as a 19-year-old.

PN1248

Following his appointment to the High Court in October 1906 the Catholic Press, published in Sydney, recorded that he:

PN1249

Has long been recognised as the first equity lawyer in Adelaide. It has been the practice of leading lawyers in Sydney to refer important cases to him for his opinion.

PN1250

It also reported that a prominent but unnamed Sydney lawyer had said that:

PN1251

A better man could not be found in the whole of Australia, certainly not in Sydney, where our Bar is very weak.

PN1252

The writer of the article noted the last part had been "added sadly". No doubt there are many, possibly some in this hearing room, who would claim that times have changed in this regard over the past 110 years.

PN1253

It could be that an education and practice in equity conditions the legal mind better to understand fairness in the resolution of industrial relations between unequal parties

PN1254

It might be thought by those who do not know more about Henry Bournes Higgins; that the Catholic press was trumpeting the standing of one of its own. Not so. Higgins J was the Protestant son of a Protestant clergyman. The paper described him as the, and I quote, "most popular Irishman in Australia", and "the idol of the Irish people of Australia". It claimed that, "Ireland has no more patriotic son".

PN1255

The Commonwealth Court of Conciliation and Arbitration was established by the Conciliation and Arbitration Act 1904. Justice Michael Kirby, one of Higgins J successors on the High Court, and also a member of a predecessor of this particular tribunal we're in now, commemorated the centenary of that legislation in the paper entitled Industrial Conciliation and Arbitration in Australia, A Centenary Reflection. In referring to those early years he wrote:

PN1256

In a recent talk, claiming that a hundred years of conciliation and arbitration was 'more than enough' a critic linked me and what he called my 'present-day absurd perspectives' with Justice Henry Bournes Higgins. Little did he know that I could not have been more flattered.

PN1257

In fact Higgins, like myself, traced his origins to Protestant Ireland. He was brought up in the Church of Ireland and educated by the Wesleyans. But he was greatly influenced (doubtless through his religious upbringing) by notions that we would now describe as based on fundamental human rights. In the 1890s Higgins embraced ideas that had been propounded in 1891 by Pope Leo XIII in his encyclical Rerum Novarum. As you will understand, it is no small thing for a person with such an Ulster background to adopt papal ideas.

PN1258

Higgins saw conciliation and arbitration of industrial disputes as an idea inextricably linked to concepts of civil rights and basic human dignity. Civil rights was the language of the English common law. Basic human dignity was the language of Rerum Novarum.

PN1259

Higgins' considerable intellect and sense of history helped him and his supporters to create what was described as "... an antipodean amalgam of Catholic social thought, the ideas of the Fabians, Sidney and Beatrice Webb and North American progressivism". It was this potent mixture that was to provide the intellectual under-pinning of the movement towards federal conciliation and arbitration in Australia. We forget the truth when we pretend that the national arbitral tribunal of this country was a mere agency of economics. From conception down to the present, it has been an agency of something more important - industrial equity, a "fair go all round" or, as many would now describe it, human rights.

PN1260

This connection was taken up by another son of a clergyman, former Prime Minister Bob Hawke, in the inaugural Bishop Manning lecture in October 2010. Not only had Mr Hawke been the ACTU's industrial advocate in major wage cases, and its president, his thesis at Oxford University was on the history of the basic wage from its colonial antecedents until 1953. Mr Hawke set the scene by referring to the debates of the constitutional conventions. In April 1891 delegates from the colonies meeting in Sydney for the first of three conventions to draft a constitution for the proposed new nation, the Commonwealth of Australia, defeated a proposal to include a federal power in regard to conciliation and arbitration.

PN1261

Just a few weeks later, on 15 May 1891 Pope Leo XIII promulgated the papal encyclical Rerum Novarum which was to become a bedrock of the Church's teaching on social justice. Most significantly Rerum Novarum profoundly influenced the thinking of Henry Bournes Higgins, a major advocate for the inclusion of a federal conciliation and arbitration power and later the President of the Commonwealth Conciliation and Arbitration Court, who formulated the concept of the basic wage in the 1907 Harvester case. The incongruity of this influence was widely remarked upon by Justice Michael Kirby in a 2004 lecture commemorating the centenary of the establishment of the Conciliation and Arbitration Court.

PN1262

But the logic, the humanity and the compassion of Rerum Novarum sat squarely with the embryonic arguments that Higgins had used at the Sydney convention, and these were arguments now bolstered by the intellectual and institutional weight of Rerum Novarum that he was able to use with ultimate success at the 1898 Melbourne convention.

PN1263

As I have said my friends this ground breaking philosophy of Rerum Novarum deeply influenced the thinking and arguments of Higgins, who, with Kingston from South Australia, finally won the day at the 1898 third and last constitutional convention by narrowly, 22 to 19, securing the inclusion of the power for the Commonwealth to legislate for conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limit of anyone's State.

PN1264

But even more remarkable was the way in which, over the next eight years, this conjunction of Ulsterman and Pope did so much to shape the social fabric of the evolving Australian nation. No Bill in the history of the Federal Parliament has had a more tumultuous passage than that introduced in 7 July 1903 to create the Commonwealth Court of Conciliation and Arbitration. Seventeen months and eight days elapsed before the Bill received the Royal assent on 15 December 1904, during that period one Minister resigned, two Governments fell, and it was steered through the Parliament under four different Prime Ministers.

PN1265

It was three years later, however, in the 1907 Harvester case that witnessed the ultimate fusion of the philosophy of the Pope and the philosophy and practice of the Ulsterman. Higgins 42 shillings became known as the basic wage, and was inserted in all Federal awards as the foundational element of the whole award structure. The basic wage retains its important role for almost 50 years until the introduction in 1965 of the total wage.

PN1266

That's the end of the quote from the former Prime Minister.

PN1267

The Commonwealth Court of Conciliation and Arbitration has been established to deal with interstate industrial disputes in accordance with the powers conferred by the constitution. The Excise Tariff Act of 1906 invested it with another function with the central question being whether an applicant under the Act was paying fair and reasonable wages. Harvester differed from earlier cases of this kind because, having found that the wages being paid were not fair and reasonable, Higgins J then decided what would be fair and reasonable wages for the unskilled and skilled workers employed by the applicant.

PN1268

Because of that statutory test the Harvester judgment had no need to use the term, living wage, however Higgins J's reasoning on what was a fair and reasonable wage for unskilled workers, came to be regarded as the living wage, and the basis upon which the court would arbitrate in settlement of industrial disputes. This continued, even though the High Court ruled in 1908 that the Excise Tariff Act was beyond the constitutional power of the Commonwealth and invalid. The living wage, which emerged from Harvester survived the ruling and became the basic wage.

PN1269

None of the people participating in the cases in the State Court of Arbitration case or the Commonwealth Court of Conciliation and Arbitration in the third week of May 1907 could have appreciated that in a 110 years in a hearing room between the two courts a national wage tribunal would be considering the minimum wage rates for skilled and unskilled workers with its decision having a direct impact on the wages and living standards of more than 20 per cent of the Australian workforce and having an indirect effect on a similar proportion through the negotiation of collective and individual employment agreements.

PN1270

We must recognise the immense workload and responsibility placed on this Commission. We should also recognise the fact that this kind of task is left to an independent statutory body. The Commission's functions are sometimes called quasi-judicial, but in relation to wage setting, they can be fairly described as judicial in nature. This kind of system is much more preferable than a wage setting system that depends on the decisions of the legislative and/or the executive branches of government.

PN1271

We should emphasise however the changes that have taken place in our understanding of the rights of workers. There is a connecting line from the living wage, as it emerged from Harvester, to currently recognise human rights. In our submission of 29 March 2017 we have outlined the connection between the pursuit through the living wage principle and the development of an articulation of human rights to decent wages, recognised in the universal declaration of human rights in 1948, and the international covenant on economic, social and cultural rights in 1966.

PN1272

Having ratified that agreement, that covenant, Australia is bound to enact legislation that gives reasonable and proportional effect to the right under Article 7(a) of the covenant:

PN1273

To the enjoyment of just and favourable conditions of work which ensure in particular remuneration which provides all workers as a minimum with fair wages and a decent standard of living for themselves and their families.

PN1274

The Fair Work Act 2009 now recognises the same kind of logical distinction identified by Higgins J:

PN1275

A wage set by reference to the inherent human dignity of workers and their families and the right to a wage that provides a decent standard of living for workers and their families.

PN1276

In addition to that:

PN1277

If the worker is possess of further skills and responsibilities he or she has a claim in justice to a wage that guarantees fair remuneration for those skills and responsibilities.

PN1278

The basic wage was absorbed into the total award rates in 1965 but re-emerged in 1997 as the federal minimum wage albeit that at that time it called out for the Harvester test, living wage test, to be applied afresh. The Fair Work Act 2009 established the national minimum wage, the general minimum wage entitlement across Australia.

PN1279

We refer again to the publicity for the mock hearing held earlier this week. The current legislation is very much informed by Harvester but, as we have argued in our submissions, the enduring principles of Harvester and our modern understanding of human rights have not been applied to the full extent appropriate.

PN1280

That's what I wanted to say by way of introduction and it's said for two reasons; one, to recognise this year and to acknowledge the importance that the role that this tribunal plays in the life of Australia, and thirdly to set up a framework by which the Commission can understand the way in which we've put the submissions.

PN1281

Can I just say by way of general introduction to the remaining comments that I want to make, the principal reason why the Australian Catholic Council for Employment Relations comes to these hearings and has been coming to these hearings for a number of years is our concern about the living standards of low paid workers and their families. In particular, the fact that children are living in poverty in working families.

PN1282

If children were not living in poverty in working families we may not be here or we may not have the same role, or seek to have the same role that we have had over recent years. There's no doubt that many thousands of children in Australia are living in poverty in wage-dependent families. Even when there is a full-time worker in the family. Also we know that low wages are a primary or major reason at least for this situation. Wage increases targeted at the lowest paid workers will improve the lives of these children. No such targeted action has been taken by this Commission in the past six decisions to address this state of affairs. We ask this question and we ask it without any disrespect being intended to this Commission, but we ask it because we think a lot of low paid workers and their families who are living in poverty would like us to ask this question, and the question is; how many children have to live in poverty before the Fair Work Commission take appropriate action to relieve this poverty?

PN1283

Now that may seem a little blunt and out of place but it's the sort of question that we believe ordinary workers would want to ask, and it would have been the

question that Higgins J and all of those others who shaped the system that we now benefit from would have addressed when they were considering these issues 110 years ago. Could I add this, that one of the things that stands out about the Harvester case in the transcript and the re-hearing, the mock re-hearing is that leaving aside all that Henry Bourne Higgins, J knew about the people who elected him to parliament in some of the poorest areas of Melbourne, when he had a judicial function to exercise, he looked the people in the eye. He had them in front of him. There was face to face contact with the people who really depended upon him, critically depending upon him for the standard of living that they could have and the standard of living that their children would have. If we were to list some regrets about what's happened in the course of the 110 years, we would suggest that the lack of face to face encounter with the people who are most affected by the decisions of this Commission is the most regrettable or is one of the most regrettable features.

PN1284

I don't know that there's a simple answer to that, to how you go about it. We certainly need statistics. We need macroeconomic statistics, we need statistics covering the whole of society. We need a better idea of the extent of poverty, the economic impact of changes but one must be careful not be diverted by macroeconomic measurements when the real question is how people are to be treated and what sort of living standard they're to receive as a result of decisions of this tribunal.

PN1285

VICE PRESIDENT HATCHER: Mr Lawrence, do you accept that perhaps the primary cause of household poverty is unemployment?

PN1286

MR LAWRENCE: I don't accept that it's the primary cause. There was a comment in one of the decisions a few years ago, this Commission's decision, where it was to the effect that more people living in poverty were in employment than being unemployed. Now I'd have to go back to the precise terms. This issue, and it's an important issue Vice President, one of the arguments that's always used is that it will cost jobs. Increasing wages to what would be a decent level or a living wage would cost jobs.

PN1287

This society, our society has got an obligation to provide a decent standard of living. At the moment, the national minimum wage attracts income tax at the rate of about 10 per cent, it's 9. Something as I recall it. It's in our submissions anyway. If wages are relevant to the level of job opportunities in this country, then rather than cut the living standards of those who are in work, rather than keep them living in poverty, the way to tackle it is to attack the other costs that fall on employers that might - might, and this needs to be demonstrated - have some adverse impact on employment.

PN1288

So there's an obvious argument for reducing the income tax on the minimum wages.

PN1289

VICE PRESIDENT HATCHER: That might all be true but they're matters beyond our control. We have to operate within the paradigm that applies at any given time which includes the tax transfer system, the cost of living et cetera. In that context it's necessary is it not to take into account what, if any, employment effects will occur depending upon increases at various levels.

PN1290

MR LAWRENCE: The legislation certainly has a reference to the proportion of social inclusion which raises that for consideration but - - -

PN1291

VICE PRESIDENT HATCHER: It's not going to do any good for poverty if very large wage increases lead to increased unemployment.

PN1292

MR LAWRENCE: No, we're not saying - we're not putting forward very large wage increases. We're saying that the wages should be set to provide a decent standard of living for people. That doesn't necessarily involve in any particular year very large wage increases. We've proposed wage increases this year certainly behind the amount claimed by the ACTU, they're still substantial, about \$30 generally and a bit extra for the national minimum wage, but we say they would not be excessive. We've proposed a phased approach to ensuring decent living standards and we'd say that the step that we propose this year is modest, it won't have unacceptable economic impact. If the Commission was to agree with us this year, we would be making another claim next year which would then have to be run in the context of the economic circumstances et cetera, of 2018.

PN1293

VICE PRESIDENT HATCHER: It's clear the case you're running, the problems you've identified isn't solved by a single \$30 increase. It would require increases of that order over a considerable period of time.

PN1294

MR LAWRENCE: Yes.

PN1295

VICE PRESIDENT HATCHER: So once you add up the cumulative effect they are - they do become large wage increases.

PN1296

MR LAWRENCE: What we have said is that over a period of - we've identified the base rate for cleaners as the target point for the national minimum wage. That's \$40, or we would like \$40 a week more than the national minimum wage and we've said that that - we should progress to that in a phased way. This year we have proposed that the step is a very modest step because we are seeking the national minimum wage to move to \$710 per week, but it's still only - less than \$7 more than the increase that we're seeking in award increases. So it's a modest increase and as you know from the evidence which was discussed yesterday, there's a very limited number of workers in receipt of the national minimum wage

or the award equivalent, 160,000 I think the figure was. But it's a very small amount.

PN1297

If you are to address the question of poverty among wage dependent families, many of whom are on a wage in excess of the national minimum wage, then you have to work out some way of doing it. Our answer is, our proposal is, well you start from the bottom up. You start moving up the national minimum wage, you review it each year, you don't lock yourself in, we haven't proposed that the Commission should lock itself into any particular increase in successive years. But you look at it step by step and we'll make out a case if you were to agree to an adjustment to the national minimum wage, we'd make out a case next year for that extra increase in the national minimum wage.

PN1298

We say that looking at all the material that we've got, making the decision that - a decision about what's required for a decent standard of living, we need to get to the base rate for cleaners at least. There's be some opposition to that, we'll deal with it on the way through if the Commission are prepared to walk this path tentatively without committing itself to the end point, but we expect that by next year, at least next year, that we'll have more data particularly from the Social Policy Research Centre on the question of the needs of the low paid, and we will then have a better idea of whether our aim of the base rate for cleaners is an appropriate one or not.

PN1299

Just on that, could I say that - - -

PN1300

PROFESSOR RICHARDSON: Mr Lawrence, could I just ask one question about the base rate for cleaners as a target. Is that basically just a convenient objective for you or do you actually have any reason to suppose that cleaners are not in poverty, or have an acceptable standard of living?

PN1301

MR LAWRENCE: No, we certainly - we've looked at the figures and we agree that - our view is that the base rate for a cleaner leaves workers in poverty. We're not saying that - we see this as an interim step. How much further we go will depend on some other matters including that Social Policy Research Centre material but certainly we wouldn't argue that that's sufficient, that would be sufficient. But we're prepared to have a debate about that at some stage.

PN1302

Father Brennan who appears with me today is the Chief Executive Officer of Catholic Social Services in Australia, which is one of the participating partners with the Social Policy Research Centre at the University of New South Wales looking at the budget standards review, and the advice that we have is that that material could be or should be available late July or early August of this year.

PN1303

JUSTICE ROSS: So it will inform next year's review - - -

PN1304

MR LAWRENCE: Yes, and we referred to this research in our submissions. At that stage we didn't have a time - the kind of time that I've just mentioned, and our proposal is that there be some initiative taken in relation to a discussion or a review of that material, so that it's not at the end of March of next year that the material first becomes available for considering of the parties.

PN1305

JUSTICE ROSS: I suppose that depends on when it becomes available publically.

PN1306

MR LAWRENCE: Yes, yes, but if it's available early August then I anticipate that we will make an application or somebody else might make an application, either separately or in conjunction with us, for you, the President, to list the matter for consultations, and we've set out the process in the - in our submissions.

PN1307

JUSTICE ROSS: I guess we'll await the publication of the material and any application that follows.

PN1308

MR LAWRENCE: Yes. Yes. If the Commission pleases, there are a number of questions that we have posed in the submissions. It's not necessary for me to go to them because the Commission has read them and I can't simply by repeating them make them any different to what's there in the written form. We do urge the Commission to address the issues that are raised in those questions.

PN1309

I should mention the policy proposal that we made in relation to the restoration of relative living standards. This is in the later submission, the post-budget submission and it's in the concluding paragraphs. We accept the decision that the Commission made in relation to medium term target application but we say that it would be appropriate for two things to happen. One, for the Commission to acknowledge the - acknowledge once again the longer term impact that declining relative wages have had on living standards, and secondly to simply say that subject to a proper consideration of all of the relevant factors, we intend to restore those living - those relative living standards. Doing that, as I say, would be a path that would be determined by a year to year analysis of the relevant factors.

PN1310

JUSTICE ROSS: When you say "restoring relative living standards", that means you've got some date and point in mind that we should go back to?

PN1311

MR LAWRENCE: We would say that 1997 would be it, but as we've pointed out in our submissions, there were some difficulties with the figure that was established - the level that was established for the Federal minimum wage in 1997. Your Honour the President will perhaps be more aware of that than the rest of us. But we don't regard that as being the gold standard, we don't regard - as I indicated before, we don't regard that as being fully in compliance with the

objective of Harvester, the principle of Harvester, but it's certainly an interim target that can be properly taken and pursued.

PN1312

JUSTICE ROSS: Can I just make an observation about the broad structure of your submission, and perhaps you might take it into account in next year. Speaking for myself, I find it quite difficult to follow, the sort of constant swapping between the attachments and what's in the main body. It would be easier to follow if it simply sets out what the proposition is that you're seeking and then the argument, rather than a recitation of what has been put before, et cetera.

PN1313

It would provide more focus for us if it set the proposition out and then the argument, rather than you go to the attachments, some of which are relied on and some of which are not. You have to winnow your way through that. It's ultimately a matter for you how you present the material, but for myself, I don't think I should have to read something five or six times before I get an understanding of it.

PN1314

MR LAWRENCE: Yes. I understand that, your Honour. In fact, a short time ago when I was thinking about what I would say today, I had actually thought about that. Can I just explain that what we decided to do a few years ago, 2014, was to make use of the submissions - - -

PN1315

JUSTICE ROSS: No, I understand the e-book, but yes.

PN1316

MR LAWRENCE: I'm giving where we're going - where I hope we will go next year - we turn the submissions into an e-book, and instead of the eight chapters of the attachment following the submission, we put the submission as chapter 9 of the e-book. It has got bigger. We thought in the first place it would be useful for a number of people, particularly Catholic organisations, to know what the issues are and how we're dealing with it, but we've now got to the point where, as I counted over 300 pages, I realised that it is big.

PN1317

Our proposal is to - our hope is to separate the two - separate the e-book and that basic information which is in the eight chapters of attachment from the submission so that I hope that next year we will have a shorter submission without an attachment. And for anyone who's interested in the data, the attachment will be online, it will be updated in conjunction with Catholic Social Services Australia from time to time.

PN1318

It will be a separate publication. I appreciate the difficulties that the Commission has had with our submission in the last couple of years.

PN1319

JUSTICE ROSS: Any questions?

PN1320

MR LAWRENCE: Thank you. If the Commission pleases.

PN1321

JUSTICE ROSS: Thank you very much for your attendance this morning. We will conclude the consultations.

ADJOURNED INDEFINITELY

[11.59 AM]