

PN714

MR LAWRENCE: If the Commission pleases.

PN715

The Australian Catholic Commission for Employment Relations participates in this case as it has in past safety net review cases to support the claims for award pay increases for low paid employees. It does so because of the Catholic Church's social teachings, in particular its teachings on work, wages and the family.

PN716

However, the basis of its submission is found, as it must be, in the terms of the legislation under which the Commission operates. There is a significant part of the Australian population who are in employment, but who are still doing it hard. They are often referred to as battlers. The battlers are the focus of the ACCER submission.

PN717

The particular provisions under which the Commission operates were introduced into the Workplace Relations Act in 1996. They were and still are contemporary and modern expressions of the kind of principles found in various wage decisions of this Commission and its predecessors for almost 100 years. A continuing theme throughout the period was the pursuit of a fair and living minimum wage consistent with economic circumstances.

PN718

There are various factors that suggest that this safety net review case is more important than some past cases. One of the factors is the current debate about taxation levels, a debate that necessarily involves a consideration of the ways in which Governments can best target the needs of the low paid, for example, by changes to tax thresholds and the low income tax offset, or by the introduction of earned income tax credits.

PN719

Another factor is the heightened awareness of the importance of transfer payments, particularly those that are targeted to meet the needs of the low paid and issues concerning the effective marginal rates of taxation. A third factor is the significantly heightened awareness of the implications of globalisation, of free trade agreements in particular, to impact upon employment opportunities and wages.

PN720

These factors and more present a very different social and economic context to that which confronted the Commission's predecessor almost a century ago. A

fundamental challenge to all advanced industrial societies in the early part of the 21st century is to keep their industries competitive while at the same time ensuring that their workers maintain an improved living standards.

PN721

Wages alone cannot do it and transfer payments, particularly to the low paid and to working families, are vitally important. An understanding of this big picture is a prerequisite for good public policy and for wage fixing in particular. More than that, action must follow. The extent and importance of transfer payments is illustrated in table 2.1 of the Commonwealth's submission of 11 March 2005.

PN722

It shows that in a family of four with a single breadwinner on the federal minimum wage and after tax and transfers, there is in that particular family disposable income of \$680.61, some \$213 in excess of the federal minimum wage. In order to deal with the following parts of my submission, could I ask the Commission to turn to the Commonwealth's initial submission?

PN723

This is dated 11 March 2005 and at page 4, table 2.1 appears. Now, in the light of some discussion late yesterday afternoon about the parenting payment, we thought it would be useful if we spent a little bit of time dealing with the parenting payment item. The parenting payment for the family described, for shorthand I will call it the benchmark family, is \$62.97.

PN724

As the Commission knows, that payment is subject to an income test which I will explain a bit further, but it is lost at a very high rate.

PN725

JUSTICE GIUDICE: I am sorry, lost at a very high rate?

PN726

MR LAWRENCE: Lost at a very high rate. That is, if the income went up by \$90, if this worker's income went up by \$90, that amount would be eliminated and it means that if the income reached 557.40, that's another \$90 above the federal minimum wage, there would be no parenting payment made. That 557.40 is just less than the current C10 rate, the tradesperson's rate of 561.20 and the reason why it's lost so quickly is that it reduces at the rate of 70 cents for each dollar earned. So the parenting payment is paid to the parent who stays at home and it's paid by reference to, in this example, the earnings of the breadwinner. Now, it is for that - -

PN727

JUSTICE GIUDICE: Is that to equate dollar for dollar after tax?

PN728

MR LAWRENCE: Well, even more than that. It's more than dollar for dollar because what happens is that if the breadwinner gets an extra dollar he or she pays 30 cents in tax, he or she loses the benefit of the low tax offset worth 4 cents in the dollar and then the recipient of the parenting allowance, parenting payment, loses 70 cents. So that's where you get the \$1.04 for every dollar earned and that is why we read in the newspaper articles and the editorials that an amount of an increase granted in this case will actually cost the recipients money.

PN729

It means, as one recent report indicated, that even if the Commonwealth Government proposal of \$11 was to be granted it will still be a reduction in pay and it also means that if the employers proposal is granted there will still be a reduction in pay. However, that's to be qualified by something I will say later in relation to the indexation of those amounts. But certainly if one reads the popular press one would appreciate that this is a criticism that's made of the wage fixing system and it comes about as a result of the parenting payment.

PN730

Now, what ACCER has been concerned about in relation to the parenting payment is principally who is entitled to receive it, is it one that's paid generally to families and without strings attached or has it some other origin. I have got some documents which I will tender in a moment on that issue but could I just say this before dealing with it. The issue of the effective marginal rate of taxation of \$1.04 in every dollar has been given some publicity in the context of the adjustment of award rates of pay, but it doesn't only apply there. As I said before, the parenting payment operates over the range of the federal minimum wage, 467.40 through to 557.40.

PN731

It operates below that but for the present purposes I will ignore that. And it means at face value, and I will qualify it later by referring to the CPI adjustments, but it means at face value that if a worker applies for a position in a higher classification in the workplace and receives an extra \$25, if successful in the application, then prima facie he loses money.

PN732

JUSTICE GIUDICE: It operates in relation to any increase.

PN733

MR LAWRENCE: That's right. It could be a promotion, it could even be as a result of the entering into a certified agreement or an AWA in the workplace. If you get an extra \$25 by way of entering into an AWA you will still lose money according to this approach that's been taken. But what's happened of course is that people focus on the implications of this for award adjustments. They don't focus on its broader operation in respect of people getting higher paid jobs in the workplace, enter into collective or individual agreements, or even doing more overtime in the workplace. And one can imagine a worker coming home and saying to his wife or saying to her husband, I've just had a promotion, I've got another \$25 per week, and then discussion around the dinner table as to what it's cost them.

PN734

So it's important to understand that what we're dealing with in relation to parenting payments and the effective marginal rate of taxation is something that has much broader effect than merely wage adjustments. Now, the Commission might recall that last year there was in the SPRC material some material indicating what the costs of living are at various standards of living and the income of families on the minimum wage and last year the ACTU material included two items that are not in table 2.1, one of them being rent assistance - sorry, one item that was not included in table 2.1, that's rent assistance, but also included the parenting payment and the argument last year was, looking at the SPRC material, even with those amounts, those transfer payments taken into account, the living standard needed to be addressed by way of higher rates of pay.

PN735

Table 2.1 doesn't include rent assistance. So I just make that note and it may be that in the fuller examination of the circumstances it would be proper to take into account to some extent the possibility of rental assistance being granted. Now, in the week or so following the filing of our submissions on 9 March there was quite a bit of discussion in the newspapers about this parenting payment and as a result of that we started to do some research on the nature of the parenting payment and the history of it. To say the least, it's confusing. It is very difficult legislation to read. It's very difficult to reconcile various publications that have been put out, or statements, or investigations, or expert reports on the matter.

PN736

That is not to say that there aren't people who know what the truth of the matter is, but the detail of this and a proper understanding of it has escaped us. Nevertheless, we think we are in a position to be of assistance to the Commission in working through this issue and in doing so we may be in a position to prompt the Commonwealth to make a response to these matters. Could I start off by referring to an extract from the web site of the

Commonwealth Department of Family and Community Services in 2000, the year 2000.

[EXHIBIT #accr2 extract from the web site of the commonwealths department of family and community services in the year 2000](#)

PN737

MR LAWRENCE: If your Honour pleases. This document was run off a couple of weeks ago and it appears to have been made around about July 2000 and it states:

PN738

*Changes from 1 July 2000 will assist recipients of parenting payment both for sole parents and for parents with partners.*

PN739

If I just stop there. It was that terminology, parents with partners that confused us a little because we tend to think of families when we do research into these issues. But the second dot point on that page says:

PN740

*"Basic" parenting payment for partnered parents will be replaced by the new family tax benefit part B.*

PN741

And I will just stop there. That's one of the items mentioned in the Commonwealth's table 2.1 and a family tax benefit B is that amount that's payable to the spouse or the partner who stays at home in a family. It would appear from this that it was introduced in 2000 and there was some question then about the relationship between the previous parenting payment that was available and this new family tax benefit. Then further down the page, on the last dot point on the first page:

PN742

*People getting parenting payment may be able to get family tax benefit part B -*

PN743

and then it goes through two points -

PN744

*For partnered parents, no income test on the main working partner's income. For sole parents, no income test at all.*

PN745

Can I just stop for a moment.

PN746

JUSTICE GIUDICE: You have confused me, Mr Lawrence. I can't quite follow whether these are cumulative or one replaces another, or the circumstances in which that might occur.

PN747

MR LAWRENCE: Well, I can't quite answer that with any authority, your Honour, and perhaps it might become more apparent later.

PN748

JUSTICE GIUDICE: Yes.

PN749

MR LAWRENCE: But basically what they're saying is that the basic parenting payment that have been paid up until July 2000 was to be replaced by the family tax benefit part B but there would be circumstances in which people might be able to still get the parenting payment. Then over on page 2, under the table:

PN750

*Some partnered parents currently getting only basic parenting payment may still be eligible for parenting payments after 1 July 2000. This apply to parents who satisfy all four of the following criteria.*

PN751

I won't go through the dot points, but on the last page, on page 3, it concludes:

PN752

*People who satisfy all four criteria should contact Centrelink and ask for a parenting payment review form. This form seeks additional information to allow Centrelink to determine whether they can still be paid parenting payment from 1 July 2000.*

PN753

Now, what we draw from that, it may be correct, it may not be, is that the parenting payment is not a general entitlement. It's not a general payment. It's not a payment as a right so to speak for people who are in the same home and family. It suggest that it's a part of a labour market program of some kind.

Could I now take the Commission to a document that's been run off from the web site of the Family Assistance Office.

[EXHIBIT #accr3 extract from the web site of the family assistance office](#)

PN754

MR LAWRENCE: If your Honour pleases. In our substantive submissions we made reference to information that can be gained from the Family Assistance Office web site and in fact there's a calculator that one can access on that web site which enables a prospective applicant to put in information and have provided to him or her a fortnightly amount that would be paid under various headings.

PN755

The Commission will see that there are various payments that are offered by the family assistance office, family tax benefit A, family tax benefit B and several other ones which I won't read and then at about three-quarters of the way down the page:

PN756

*You may also be eligible to receive other payments such as parenting payment and the jobs education and training, the JET program, through Centrelink. To find out more, visit the Centrelink web site.*

PN757

We have visited the Centrelink web site.

PN758

JUSTICE GIUDICE: I had a feeling you were going to say that.

PN759

MR LAWRENCE: And you need to make an appointment and we haven't made an appointment yet.

PN760

VICE PRESIDENT ROSS: What, to visit the web site?

PN761

MR LAWRENCE: Sorry, your Honour?

PN762

VICE PRESIDENT ROSS: To visit the web site?

PN763

MR LAWRENCE: Yes. So, again for that reason we thought that this was a labour market program or somehow limited in its operation. As a result of that and as a result of giving further consideration to the Commonwealth's submission, we wrote a letter to the Commonwealth on 6 April and I tender a copy of that letter, if the Commission pleases.

[EXHIBIT #ACCER4 LETTER DATED 06/05/2005](#)

PN764

MR LAWRENCE: It might be convenient if I read that letter:

PN765

*In table 2.1 of the Commonwealth's submission, a parenting payment of \$62.97 per week is included within the disposable income of the family therein described, the worker with a dependent spouse and two children ...(reads)... on the basis upon which parenting payment is adjusted over time and any impact it has on the calculation of family tax benefit B.*

PN766

So the Commission will appreciate from what I said a while ago that we have had some considerations about the matter and they are encapsulated in that letter. Now, the Commonwealth has responded to that and the reply, the response is found in the Commonwealth reply submission and it might be convenient of the Commission turns to that.

PN767

It is page 37, about the second last page of the Commonwealth's reply submission and again it might be convenient if I read it:

PN768

*Rules applying to parenting payment provide that only one person in a couple is able to receive the payment. Accordingly, in a family in which the children are in the joint care of their parents ...(reads)... preceding the indexation date. The September indexation is based on the CPI change from December to June, preceding the indexation date.*

PN769



I will just stop there. We did know that there was indexation because if you go into the material on the web site, you will know that there is indexation, but this makes it clear as to what periods are used for the adjustment of each half yearly amount:

PN770

*In calculating the rate of family tax benefit B -*

PN771

FTBB:

PN772

*- the income of the main earner is not taken into account. It is the income of the lower earner that affects how much FTBB the family will receive. The rate of FTBB applicable to the customer ...(reads)... parenting payment is a taxable income support payment, it would be included as an amount in a person's adjusted taxable income.*

PN773

Now, what I might mention here is that in last year's budget, there were as the Commission knows, substantial increases in the amounts made available to families through the family tax benefit arrangements. They were partly delivered by a change in that reduction rate which is now 20 cents in the dollar. It was prior to last year's budget 30 cents in the dollar and there was a change in the income free area as I recall it and I may be correct on this.

PN774

It was \$1835 a year prior to the budget, so clearly if somebody was in receipt of the parenting payment, which was over 1835 per year, then there would be an advantage to those people as a result of the changes, but, of course, a lot of other people were advantaged by the arrangements as well, so that makes it clear that there is a CPI adjustment, but to our mind it doesn't make it clear on the basic question of whether or not the benchmark family is entitled to receive the parenting payment as a right.

PN775

The answer would be within the Commonwealth and we will be obviously assisted as no doubt the Commission will be in due course on that matter. Could I say one thing about the CPI adjustments? The CPI adjustments work in two ways. One, they increase the amount that is payable under the parenting payment and, secondly, they adjust the threshold or the points at which there is a reduction.

PN776

Now, it is possible to do calculations as we have on the impact of the indexation of these amounts. I call them indexation. It is the application of the CPI to these figures. I haven't prepared a document for the Commission, but I don't think it is necessary at this stage, but we would be prepared to set this out in a document if the Commission would be assisted.

PN777

The amount of the parenting payment in table 2.1 is \$62.97. There is a little difficulty in this area, comparing figures, because the indexation at the end of March or during March changes the figures around and prior to the indexation of the parenting payment,

PN778

The amount that was payable, and this is an amount that was published in one of the daily newspapers drawing on the Melbourne Institute's work, and it was \$58.72 per week. It's not the amount that's in total 2.1, \$58.72 per week. If you apply indexation at the rate of 3 per cent to the variables and assume that they're applied at the one time over the year, that is, they have a 3 per cent effect over the full year, the amount that - the full claim by the ACTU, \$26.60, would reduce the parenting payment, would be \$7.04, that is, the amount originally of \$58.72 would be reduced to \$51.68.

PN779

Now, it means that applying the CPI, instead of it being a loss of the rate of \$1.04 in every dollar, it's rather less. If you didn't apply the CPI the rate or the benefit under the parenting payment would drop from \$58.72 down to \$40.10. Again, that figure was publicised in the press, again, said to be based on the Melbourne Institute figures.

PN780

JUSTICE GIUDICE: We don't take too much notice of the press, Mr Lawrence. If we did we would find we would be dealing with submissions quite different to the ones people actually make here.

PN781

MR LAWRENCE: Yes, I understand that, you Honour, but I'm just indicating the importance of taking into account the CPI.

PN782

JUSTICE GIUDICE: Yes, I understand the general point.

PN783

MR LAWRENCE: So it does mean that on our calculations, again, applying the CPI, an adjustment of 3 per cent, instead of losing under the \$26.60 these workers would be \$11.58 better off.

PN784

VICE PRESIDENT LAWLER: Just say that again, Mr Lawrence.

PN785

MR LAWRENCE: Well, at face value or without taking into account an adjustment over a 12 month period in the CPI, these workers would lose more than they gain. That's the headline figure so to speak.

PN786

VICE PRESIDENT LAWLER: That's the \$1.04 figure?

PN787

MR LAWRENCE: Yes, that's \$1.04. But if you make an adjustment to the parenting payment to reflect the CPI movements they would not be worse off, they would be, on our calculations \$11.58 better off. Now, there are some assumptions in that, of course. That figure is a bit rubbery. One is that we've just used 3 per cent for the purpose of calculating to illustrate the point. The second one is that the year, the wage year and the parenting payment year don't coincide, that is, you don't get changes to each at the same time, so that the CPI adjustment starts in March, the pay increase might come in May, there's another CPI adjustment in September, et cetera, and they don't quite coincide. And people who focus on the day after effect, that is, look at what the impact will be for the pay increase given this week, next week, will not, of course, take into account the CPI adjustment.

PN788

So we say that it follows from all of this that those who are in receipt of the parenting payment there is still a very high effective marginal rate of taxation, \$26.60 down to, we estimate on a rubbery basis \$11.58 after you take into account tax and loss of offset and loss of part of the parenting payment. But it's not as grim as might be thought at first sight. Now, there's really not a problem that arises from the adjustment of award rates. It's a more general problem associated with the phase out rates.

PN789

Everyone accepts that there are some benefits that should be means tested, income tested in particular, and whenever you have targeted benefits that are designed to obviously target people who are in need, and which are phased out over a period of time, then you will have an effective marginal rate of taxation

above the marginal rate of taxation. It has to be so. So we don't complain, and I don't think anyone complains about the notion that you have an effective marginal rate of taxation above the marginal rate of taxation. But the real question is whether that gap between the two is sensible or not.

PN790

We think that looking at the way in which the parenting payment operates with such a steep taper, basically one for one in the absence of indexation, is far too steep and needs to be attended to. But we've got that other more basic question, how many people get it and on what basis do they get it? And that's where we have the uncertainty. Can I just conclude this part of the submissions by referring to a document that I tender. This is a current document from Centrelink.

[EXHIBIT #ACCER5 CENTRELINK GUIDE TO AUSTRALIAN GOVERNMENT PAYMENTS](#)

PN791

MR LAWRENCE: This was run off in the last day or two. It's the Centrelink Guide to Australian Government Payments, and it is apparent from the front of the page that it's issued on behalf of the Department of Family and Community Services and to other departments, relevant for the period 20 March to 30 June 2005. Perhaps before I leave the pages inside the document, the contents on the front page indicate the various kinds of payments that are available from the Commonwealth, and the two that I want to just briefly take the Commission to are Family Tax Benefit, part B of page 4, and Parenting Payment at page 6.

PN792

Now, at page 4 there's a description, Family Tax Benefit part B, basic conditions of eligibility:

PN793

*Gives extra assistance to sole parent families and to two parent families with one main income where one parent chooses to stay at home or to balance some paid work with caring for their children. The family must have a dependent child under 16 or a qualifying dependent full time student up to age 18.*

PN794

So this is the payment that we see as being available generally and as a right to the benchmark family that we're primarily concerned about. At page 6 there's reference to the parenting payment, Basic Conditions of Eligibility, it reads:

PN795

*Must have qualifying child under 16, sole and partnered parents, can be paid to only one member of a couple. When youngest qualifying child is aged 13 or over it must enter into a participation agreement allowing participation in a broad range of activities.*

PN796

Now, of course, this is applicable to sole parents and to partnered parents and, as we understand it, the parenting payment as applied to sole parents is under consideration by the Commonwealth at the moment. At the top right hand part of the page:

PN797

*Partner's income of up to \$600 per fortnight has no effect. Income over this amount reduces the rate by 70 cents for each extra dollar. A part payment may be available provided all of the following conditions are met.*

PN798

I don't need to read them. So that's it on parenting payment. And, again, it really doesn't answer that question, whether it's payable as of right, so to speak, or it's somehow connected with a labour market program or support for people who are wishing to enter the work force. But one might note that in that first part that I read out the recipient has to enter into a participation agreement if the child is aged 13 or over. So that might lead to a conclusion that there's no real requirement under 13, but it is when a child reaches 13, a system that operates on the basis that it's designed to help people re-enter the work force.

PN799

So coming back to table 2.1, we say that the parenting payment with all its difficulties and with all its consequences could be taken into account for the purposes of determining the disposable income of the benchmark family, providing it's of the same nature as the family tax benefit B. The family tax benefit B is the one we point to as being the kind of benefit that should be available to a parent who stays at home to look after children.

PN800

Now, could I just contrast the parenting payment with the family tax benefit A and B in regard to the effective marginal rate of taxation. We did this in our written submissions and we made a comment about both the parts, and the position is this. The granting of the ACTU claim in full would not affect the family's tax benefits because the maximum benefit under family tax benefit A is payable up to \$32,485 per year. Now, I interpolate, that's in respect of the federal minimum wage worker or somebody in the low paid group within the work force. And we go on. Nor would the position of the trades qualified

worker be affected. His or her annual award wage is \$29,283. It's substantially lower than the \$32,485 per year at which the reductions commence.

PN801

We say family tax benefit B, that is the amount payable to the parent working in the home, is unaffected by the salary level of the breadwinner, that is, family tax benefit B is payable for the parent who stays in the home whether the other parent is on \$25,000 or a year or \$125,000 a year. Now, could I move on and deal with the adequacy of these transfer payments. Transfer payments for the worker on the federal minimum wage with three dependants, that is a spouse and two children, can be substantial, as the Commonwealth figures indicate. But substantial as they are, family payments fall well short of meeting the needs of the worker's dependants.

PN802

Family benefits available to the low paid have not been fixed, have not been fixed on the basis they will cover the living costs of the dependants of low paid workers. ACCER has said in successive safety net review cases that in combination government family payments and a single federal minimum wage are insufficient to provide an appropriate standard of living for workers and their families. The deficiency is not limited to those on the federal minimum wage. The extent of the deficiency is unclear and there is a pressing need, in our view, for relevant research.

PN803

Now, we're mindful that the Commission had some doubts, substantial doubts about the effectiveness of the SPRC material, the material from the Social Policy Research Centre that was put before the Commission last year. The Commission will recall that there were two budgets put forward, one the low cost to budget, and the other the modest but adequate budget. And according to those budgets the disposable income of the family, the benchmark family, was inadequate on last year's figures. Those figures were based on the September quarter 2003 prices.

PN804

What we can do, of course, is to adjust them, and if one assumes a 3 per cent adjustment since the September quarter 2003, just to make it simple to give a ball park figure, we would recalculate the low cost budget at approximately \$730 per week, and the modest but adequate budget at approximately \$890 per week, and those two figures can be compared with the disposable income set out in the Commonwealth's table 2.1 of \$680.61 per week.

PN805

Now, as I said, we're conscious of what the Commission said last year about the use of that material, but we're simply trying to give a ball park figure, the shortage as we see, and the reason why we believe that the payments are

inadequate. So even if one takes into account the possibility of rental assistance, we say that the federal minimum wage plus the transfer payments are inadequate to meet the reasonable needs of working families. And, of course, in that figure of \$680.61 is that contentious amount referable to the parenting payment.

PN806

Now, AI Group has pointed to the substantial increases in family benefits over the past 12 months. It has suggested that they be taken into account in this case to reduce the amount that the Commission would order. Now, if the benchmark, if the point of reference in the case is the family, then they would say that's more reasonable to take into account the benefits that have been given over the past 12 months. ACCER is opposed to that proposal for two reasons. First, even after the increases they are insufficient. And AI Group doesn't contend, as we understand it, that they are sufficient.

PN807

There's a second reason, and that is, the benefits were not introduced, or it's not said that the benefits were introduced on the basis that they would be used to reduce wage increases otherwise available in this case. There might be an occasion when a government would introduce tax benefits and say quite clearly and up front, we are going to reduce taxation or increase family benefits or do something else, which we will rely on in a wage case to reduce the amount that would otherwise be payable.

PN808

VICE PRESIDENT ROSS: Why is that relevant?

PN809

MR LAWRENCE: Well, it could be for this reason. That they could say that.

PN810

VICE PRESIDENT ROSS: No. I mean, why is it relevant that they didn't say that?

PN811

MR LAWRENCE: Well, it would be unfair for people who have received a parenting payment with one hand to have it taken off them or part of the benefit taken off them with another hand or by somebody else's hand. It would be just unfair. If it had not been said it was not the basis upon which they received it.

PN812

VICE PRESIDENT ROSS: But even if they did say it, it wouldn't mean that the Commission would be obliged to take it into account.

PN813

MR LAWRENCE: That's correct.

PN814

VICE PRESIDENT ROSS: So it wouldn't necessarily reduce it in any event.

PN815

MR LAWRENCE: Yes. Well, that's correct, your Honour, and that's why I was going to say that even if that was said at any stage by the Government that these matters would be taken into account they would have to come to the Commission and demonstrate why they should be taken into account. Our argument would be, for example, if there was tax relief given to the low paid two things need to be taken into account. One is that if you have a look at the tax payable by a person on the federal minimum wage, there has been an increase in the percentage over the period since the new tax system was introduced in mid 2000 and we set out the figures in the submission.

PN816

We have said that if you looked at the percentage of tax that the federal minimum wage worker earned in mid 2000 and compared it to the current tax percentage it equates to, and I haven't got the figures in front of me, about \$7.50.

PN817

VICE PRESIDENT ROSS: And that's a consequence of bracket creep?

PN818

MR LAWRENCE: Bracket creep, yes. And so we say the first \$7.50 or so in tax relief is not doing any more than making up for what's been lost in the past. But even if there was a bigger tax reduction for the low paid and the Commonwealth came along and said, well, we have brought about a \$15 a week decrease in the tax, that would simply beg the question, as the question is begged in relation to the AI Group submission, have the needs of the low paid been met. You can't take it into account unless you're satisfied that the needs of the low paid have been met.

PN819



So this is another reason why we submit that there is a need for research into the question of what is needed for low paid workers and their families, to use the shorthand, live in dignity.

PN820

VICE PRESIDENT ROSS: But how does that fit with the observations previous Full Benches have made in safety net review decisions about the tax transfer system being more targeted and perhaps a more efficient way of addressing the needs of the low paid?

PN821

MR LAWRENCE: Well, it's a combination of the two.

PN822

VICE PRESIDENT ROSS: Well, I suppose that's for the argument, but you say that even if a benefit was provided to the low paid through either a tax credit or some other form of change in the tax transfer system that we wouldn't be entitled to have regard to that unless we were satisfied that the needs of the low paid had been met. I mean how does one determine whether needs are ever met, given that just the notion of inequality is often described as a relative one.

PN823

MR LAWRENCE: Well, we're not concerned about relative inequality. We're concerned about the federal minimum wage and whether it meets the basic needs, provides basic needs. We're concerned about the minimally acceptable standard of living, and we see that as being the objective of the Act and so we don't - - -

PN824

VICE PRESIDENT ROSS: That's until one gets to the benchmark rate that for anything below that rate you can say that the needs of the low paid have not been met and up to that point one shouldn't have regard to changes in the tax transfer system, unless they're delivering an outcome which puts someone at or above that benchmark rate.

PN825

MR LAWRENCE: That would probably be too absolute a position to put because we have said in past submissions and we say it again in this submission, that we don't see this as a one off exercise. We don't see the achievement of a minimally acceptable standard of living for people on the federal minimum wage as a one step exercise. It's something that needs to be pursued step by step and in accordance with economic circumstances and so on and it may be that in a particular case the Commission would take into account benefits that were given during the 12 months as a credit on behalf of

the employer, while at the same time realising that it was still not at that point a minimally acceptable standard of living that was provided by the wages and the transfers.

PN826

We don't see this as being something that can be achieved in this case or next year, or the year after necessarily, but we see it as being a longer term process and where there will need to be a balance of a variety of considerations. But just on the question of the measuring of need, we don't see this as a relative issue. We don't see it as a - - -

PN827

VICE PRESIDENT ROSS: No.

PN828

MR LAWRENCE: References to poverty as being determined by some relationship between the federal minimum wage - - -

PN829

VICE PRESIDENT ROSS: It's some proportion of median earnings or something like that.

PN830

MR LAWRENCE: Yes. That's not what we're concerned about. Of course we realise it has to be more than a one step process because we don't know with sufficient clarity what the dollar amount of the minimally acceptable standard of living is. We went through the issue last year and the Commission would be well aware of the difficulties in measuring it. But our view last year was that the SPRC material was the best going, it was the best evidence available and even if the Commission was not prepared to act on it at that stage we still think it's the best starting point for research.

PN831

We have also made it clear I think in what we have said in the past, that we don't see this research has coming up with any magic figure, a dollar figure that's unequivocally the figure that ought to be applied. By way of example, in the United States the Federal Government has for many years published poverty levels figures and you can go on to any web site - perhaps not any web site, but in web sites in the US dealing with this and you can see what the up to date poverty levels are.

PN832

Now, there are some methodological issues associated with the calculation of those poverty levels and people debate them. Some say they under rate and

others say they over rate, but at least it's a reference point for some debate and it's the kind of reference point for public debate that we haven't got in Australia and what we propose is that particularly through the mechanism of the wage fixing system that we identify these standards of living. We don't think they need to be called poverty levels, that's probably not an appropriate term, but as we said in the submission, we think there should be some research done into what would be basic needs.

PN833

We don't like the term low cost budget as it's not appropriate that there should be a basic needs budget and another budget similar to the modest but adequate budget of the SPRC, which would be some sort of measure of a community standard, a broad community standard. So that when the Commission is actually fixing a rate of pay for the federal minimum wage earner, it would be within the parameters of the basic needs and the community standard, because after all, the legislation says that the Commission is to have regard to the needs of the low paid in the context of the Australian community.

PN834

So we say those two measures provide the range and if economic circumstances are good we would argue that the federal minimum wage worker should move up the range between the two. If the circumstances are not so good they would drop back and perhaps in a particular year when things were difficult they would drop back. But unless you have got the data, unless you have got the research, you don't know what you're working with and everyone knows that you only have to talk to people in the street, you cannot live, a family of four cannot live on \$467.40 a week and then even when the man in the street has told that, well, they're on social welfare payments, they still say you cannot live on 680, a family cannot live on \$680 a week.

PN835

So what we're trying to do, what we've been pressing for a couple of years is for research in this area so that at least we know the parameters. Now, we think that knowing the basic needs of Australian families would be very good for Government generally,

PN836

The SPRC low cost budget was originally established on the basis to assist Social Security, the payment of Social Security amounts and that seemed to us to be a useful thing to have, would be a reference point for Government, but in wage fixing, we would say that the amount that should be given to a worker should be something above basic needs because there has to be a reward for work, there has to be an incentive to work, so there is the basic needs, basically lined up with or to perform the function of a reference point for Social Security purposes, a payment for people who work would be in excess of that, that is if one member of the family was working, there should be recognition.

PN837

We say that - we tried to draw this out. Perhaps we were a little too subtle in it, that the low paid are just as entitled to rewards for working and are just as much entitled to incentives for working as the high paid and we made the point again, I think perhaps too subtly, that the arguments that are going on - we put this in the submission, the arguments that we hear in the community now about the marginal rate of taxation, 47 cents, being too high, should be reduced to some say 42 per cent, 40 per cent and others say 30.

PN838

We say that is misplaced thinking when you have got a marginal rate of taxation for people who are on the minimum wage of 30 per cent or more, so we are very concerned about these matters and we see everything being related to everything else, if I can put that in a nutshell and what I said earlier was this. We refer to the big picture. What is the big picture?

PN839

What is the big issue confronting this country and, in fact, all advanced industrial societies? It is how to live with globalisation and the imperatives that come with it and the way in which we see it being done is not only through the wage packet, but through wages and transfers.

PN840

You have to appreciate the relationship between all of these aspects and policy has to follow and we make the criticism of some people who identify these needs, that when it comes to budget time, when the budget bids are put in, when the lobbying is undertaken, that they don't put forward those views.

PN841

Now, I think I have probably covered in the last few minutes some of the points that I was going to deal with in the course of this submission, but could I just make the point that a worker on the federal minimum wage presently pays tax of \$64.49 per week or \$1.70 per hour. This means \$1.70 of the hourly wage of \$12.30 is paid in tax, net hourly rate \$10.60.

PN842

ACCER has referred to the tax burden on the low paid at paragraph 62 to 68 of the submission. In particular at paragraph 68 we have said because of the relationship between wage levels of low paid workers and their needs, income tax levied on low paid workers may be seen as a tax on employment, if there is a connection between wage and employment levels.

PN843

There is a moral and economic case to reduce income tax on low income workers. As we note at paragraph 64, low paid workers may be taxed into poverty. In ACCER's view, there is insufficient attention on the tax burden that falls on low paid workers. Any reduction in tax for these workers would have positive economic benefit because the adjustment of a wage based on an assessment of needs may then be less than it otherwise would be. In ACCER's view, there is a strong economic case in support of tax relief for the low paid.

PN844

Now, the Commonwealth referred to this question of whether there are more efficient means of dealing with the needs of the low paid than simply increasing award wages and at paragraph R4.1 in the Commonwealth's reply submission, it said this:

PN845

*The Commonwealth remains of the view that SNAs are a poor means of addressing the needs of the low paid. Moreover, they are often counter-productive and hurt the very people that they attempt to assist.*

PN846

Now, the second sentence might relate to the employment impact that the Commonwealth has been concerned about, but it really does emphasise the importance of the Commonwealth in addressing these matters through the budget. Now, we may presume that the Commonwealth would say that safety net adjustments are a blunt instrument. That is a term that has been used in the past.

PN847

However, that instrument is affected by the kind and extent of transfer payments available to the low paid. Targeted transfer payments sharpen the effectiveness of safety net adjustments. That is, if the Commonwealth through transfer payments targets the areas of greatest need, then the criticism that safety net adjustments are blunt instruments is removed. Now, these are matters which - - -

PN848

VICE PRESIDENT ROSS: Does it remove it entirely, though, because isn't the argument that there are those on award minimum wages who live in high income household units and so by providing a safety net adjustment to those people, it doesn't necessarily go to those in most need? Isn't that the basis of the argument, or one of the arguments that are put?

PN849

MR LAWRENCE: That is really a variation of an argument that has been used for 100 years, the original basic wage as fixed on the basis of the needs of the family and everyone knew at that time that there were many people that weren't in a family or with family responsibilities. There has always been an element of advantage, if you like to put it that way, advantage to those who are not in a family relationship.

PN850

We spend a paragraph in our submissions dealing with people who are not in family situations and we pointed out that there are significant demands on people who are outside families that don't perhaps occur so much in families, so we don't want to suggest that they are without other needs, but if it got to the point where the transfer payments in favour of families were so substantial that all costs of dependents were being met, then there might be a question as to whether or not the failure to adjust the safety net amount would be prejudicial to those outside families, but another point which may be made in relation to your comment, your Honour, is that what do you do, what is the basis upon which you should fix or anyone should fix a wage when you know that the husband or the wife of a doctor is working in a supermarket?

PN851

Do you fix that rate of pay on the basis that having regard to needs, the doctor or the millionaire, even, would be able to support that person? It has never been part of our wage fixing and I don't think it is part of any wage fixing anywhere in the world, to my knowledge, that the rate of pay is fixed by reference to people who might not need to work or might not have demands placed upon them to support themselves and others.

PN852

We say that the point of reference should be the family. In other systems, it might be a single person that is the point of reference. We say in the Australian context, it should be the family and we have given a couple of reasons as to why that should be so in our substantive submissions.

PN853

So we're not at all phased by an argument that a low paid worker might live in the mansion of a millionaire. Now, some of the matters that I have dealt with today are matters that would not, at least at this stage, cause the Commission to be diverted unduly, but they may arise in the context of the budget when we resume in May. If they do then we'll address the Commission further on their implications.

PN854

We just make some general comments about this matter. The combination of the wage packet on the public purse to the low paid and their families and they confuse some in regard to the respective responsibilities of employers, the Commission and the government. The fact that government has a wider role in providing for the needs of the low paid does not mean that wage justice is only to be addressed through the budget.

PN855

It would be wrong to see the question of fairness as the function of government and not the Commission. Both the Commission and the Commonwealth have roles to play. In our submission the role of work and the working relationship remains central to social relationships. At paragraph 61 of our submissions we refer to the change from protectionism and wage fixing a century ago, and to the transfer of costs from Australians as consumers to Australians as tax payers. We concluded:

PN856

*The substantial part of the cost of supporting workers and their dependants has moved from the employer to the tax payer, from the wage packet to the public purse. However, the obligation to pay a just wage with appropriate recognition for transfer payments remains with the employer.*

PN857

The employer's continuing obligation to pay a just wage continues to be regulated by the Commission under its statutory charter. The Commission has a particular obligation in regard to the making of safety net awards. Section 88B(2) is introduced by a command. The Commission:

PN858

*Must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained.*

PN859

Under section 88B(2)(a) the Commission is to have regard to the need - and we emphasise the word need - for, and not the desirability of fair minimum standards. Importantly the object is fair minimum standards, not bare minimum standards. There must be some appreciation, as I indicated earlier, of the living standards generally prevailing in the Australian community for this to be carried out.

PN860

Now, something on needs. A matter that ACCER has stressed over the years is that a needs based pay rate such as the federal minimum wage should be based on a proper assessment of need. A recent history of ACCER's involvement in

this issue was set out in its submissions and does not need to be repeated, however, there are several points to be made. First, the needs to be identified are the needs of the family. The basis for ACCER's position on this aspect was set out in the submissions.

PN861

ACCER submits that the family should be able to be supported by a single income, and the second parent should not be obliged to undertake employed work in order to achieve what is a minimally acceptable standard of living for Australian families. In assessing the needs of the family the Commission is obliged to take into account the number of children ordinarily in Australia families. ACCER submits that it should be based on two children.

PN862

In complying with this obligation the Commission may take into account the taxation and other benefits received by the families. At paragraphs 49 to 51 of ACCER's submissions various submissions are put to the effect that the family responsibility provisions of the Act require a family wage to be fixed. The Commission is also required by the Act to have regard to and not act inconsistently with what may be described as the family responsibilities/obligations.

PN863

We note that none of the other parties have responded to this, but we regard those provisions of the Act, the family responsibilities/obligations in the Workplace Relations Act as fundamental, and we ask through the Commission that they respond to that matter. At paragraph 79 of ACCER's submissions it has asked the parties to state their positions in relation to the issue, and we ask the Commission that, given the importance of this matter that the Commission ensures that they do respond. In effect we are asking them the question, should the minimum wage be a family wage? And we ask that question of employers, the ACTU and the governments.

PN864

We should, however, note that ACOSS has addressed part of these matters independently of ACCER's request. At page 12 of its submission, in dealing with a benchmark for wage fixation it says:

PN865

*The benchmark should be based on the needs of a single person rather than a family.*

PN866

At the same page there is a footnote that reads:



PN867

*This implies that the wages system and the social security system should together be responsible for ensuring that families do not fall into poverty.*

PN868

ACCER cannot understand the basis upon which ACOSS adopts the single person test when it is so clearly the case that the social security system does not fully provide for the needs of dependants. The shortfall is substantial. The living costs of dependent family members is illustrated in research data referred to in the ACTU's submission at paragraph 7.68 and following. Adjusting those figures by 7 per cent to reflect the approximate price movement since June 2002, the extra annual costs for the family are in the range of \$18,854 to \$22,583, the lower figure being the low cost budget and the higher being the modest but adequate budget, and it's apparent that the transfer payments do not meet the gap between the federal minimum wage and those extra costs.

PN869

More importantly, the ACOSS position is not consistent with the terms of the Act. There is nothing in the terms of the Act that would lead one to the conclusion that the needs should be limited to the needs of the single person and, of course, the family responsibilities provisions cannot be ignored. Now to deal with research. In order to have regard to the needs of the low paid the Commission is required to identify the needs of the low paid. It is important to note, however, that the needs of the worker and the worker's family do not limit the amount that may be awarded under section 88B(2), and I've touched on this earlier. Whether and to what extent a fair and reasonable wage exceeds that which is required for the minimally acceptable needs of the family will depend upon the macroeconomic matters set out in section 88B(2)(b).

PN870

Pay increases may be granted without proper identification of the needs of the low paid. We interpolate, this has been the case in the past. But the achievement of a fair and just wage requires that it be done. ACCER proposes to undertake further research. The legislation requires the Commission to fix safety nets of wages and conditions of employment in the context of the living standards generally prevailing in the Australian community and to have regard to, amongst other matters, the needs of the low paid. ACCER proposes that there be two measures of costs of living in Australia, basic needs of modest but adequate.

PN871

These two measures would provide the parameters within which a fair minimum wage would be achieved. The material provided by SPRC is the best starting point for this purpose. Further research should be directed to

reviewing and updating both budget standards, however, this process should permit any party to contribute its view on methodological issues. The Commission should provide the parties, in our submission, with its views on the way in which the identification of the needs of the low paid might be better identified, including the kind of research that the parties may undertake.

PN872

Now, just something briefly associated with that on the adversarial approach. ACCER submits there is a need for a less adversarial approach than that adopted by the parties in recent years. We refer just briefly to what was said in our submissions in 2003, paragraph 19 of our submissions:

PN873

*In its safety net review submission of February 2000, ACCER called for the AIRC to establish a set of criteria for determining the needs of the low paid and to provide a context in which the maintenance of minimum wages could be established. ACCER contended that the establishment of principles upon which adjustments to minimum wages could be made should replace the current adversarial approach. At the same time ACOSS made a similar submission.*

PN874

As we see it, none of the other parties sought a less adversarial approach. ACCER submits:

PN875

*The Commission can and should seek to elicit the evidence it believes it would enable it to identify the needs of the low paid. If it considers that further relevant evidence or information could be obtained it would be entitled to inform the parties what further evidence or information it desires.*

PN876

As we have noted in our principal submissions, the Commission has available to it a range of inquisitorial and investigatory procedures. Its procedures permit it to provide direction on further research into the needs of the low paid or any other relevant matter. Now, there are other areas of research that readily come to mind, one being the relationship between wages and employment levels and the economic impact of income tax on the low paid. Another would concern measures for assisting low paid workers to move beyond the trap of low skills, uncertain employment and taxation and welfare barriers.

PN877

The federal minimum wage must meet the needs of the worker and his or her family. It should be sufficient to enable one parent to be in the paid workforce

and the other to work in the home and for them to be able to support two children and achieve the minimally acceptable standard of living. In ACCER's submission the current federal minimum wage is insufficient. It's for that reason that ACCER supports an increase of \$26.60 in the federal minimum wage. In the adjustment of other award rates of pay the primary beneficiary should be those in the lower paid classifications of the award system.

PN878

The low paid are the most in need of a substantial increase in wages. ACCER submits that employees in the higher classifications should not be excluded from any pay increase. ACCI in its submissions in reply, paragraphs R9.28 to R9.31, has misunderstood our submission in this regard. It's contended by ACCI in those paragraphs that we support the capping of increases at the trades level. That's not the case and it will be apparent if the Commission reads what we have said, that we weren't supporting capping.

PN879

Now, in support of our position in relation to increases beyond the trades level and more generally we say three things first, award employees should not be prejudiced because they do not have a bargain. We don't know why they have a bargain and they shouldn't be prejudiced because they don't have a bargain in the form of a certified agreement or an Australian Workplace Agreement. Secondly, the Act encourages bargaining. It doesn't penalise those who fail to secure a bargain and that's an important point. There's a tendency in some submissions to regard the encouragement that's in the Act as an obligation.

PN880

The third point we make is that a safety net award by its nature is unlikely to inhibit productivity and so in that sense if one is concerned with maximising productivity it should be pointed out that a safety net award is not of its nature one that inhibits productivity. Now, just some other matters if I might deal with them quickly. ACCI has referred to features of employment in Catholic organisations at paragraphs R9.31 to R9.38 of its reply submissions. After reading those paragraphs ACCER told ACCI that these paragraphs are not based on any evidence before the Commission, they are erroneous and irrelevant and that they are not helpful to the Commission. ACCI will be commenting on this matter during its submissions and we do not need to add anything to the comments that I have just made about the nature of those submissions.

PN881

ACCI has also dealt with what it calls the effective minimum wage. Their argument is that virtually no-one, or very few people, are on the federal minimum wage. Their argument is that virtually no-one or very few people are on the federal minimum wage and that the effective minimum wage in Australia is in excess of the federal minimum wage. Those paragraphs are in

the initial submission and in the reply. I just want to refer to one paragraph in the reply. It's paragraph R4.66. And it reads:

PN882

*That said, the ACTU effectively concede our point without fully understanding it. What ACCI undertook was an analysis of how pervasive the federal minimum ...(reads)... with the gaining of skills and experience.*

PN883

And what we say is that when one reads all of the ACCI material that the number who are covered by federal minimum wage as opposed to a higher classification is limited. Now, we don't have any embarrassment in the fact that there are few people covered by the federal minimum wage, a limited number. We say that nevertheless their position ought to be addressed and indeed that if it be the fact as ACCI contend, it demonstrates that an increase in the federal minimum wage of \$26.60 would be economically responsible.

PN884

We would however make two comments about the ACCI material. One is that one would need to look fairly carefully at the classifications to see if the minimum classifications in awards are loaded up for some other feature in the awards. For example, if there's an unusually broad spread of hours it may be that that is reflected in the minimum wage rate in the award. So that's an important matter. The second point that we raise in relation to that is this, that what is the position of the other parties, the employer, AIG and the Commonwealth in particular, in regard to the extent of employment at the federal minimum wage level or at classifications below the C13 rate?

PN885

We invite them through the Commission to respond to that because it's relevant to the question of costs and we think it should be known at this stage if the material is available, the extent to which federal minimum wage is applied in practice. Now, could I conclude by referring to something that was said yesterday afternoon by the ACTU. The ACTU yesterday afternoon referred to its desire to see the recognition of the dignity of work and workers. I ask the Commission to contrast that with the submissions on behalf of ACCI in their initial submissions. These are at paragraph 8.20 and following.

PN886

They deal with what was said by the States in relation to the dignity of the low paid and it reads:

PN887

*ACCI has a number of concerns about this argument, (a), what is meant by dignity here, how is it defined, how is it measured, how do we know whether it goes up or down.*

PN888

And I move on through the paragraph:

PN889

*We do not know the strength of any relationship between pay and dignity. We need to know why they are claiming to operationalise dignity in this context and it's hardly surprising that low income earners ...(reads)... to addressing dignity.*

PN890

ACCER's submissions made various references to dignity. Workers are treated with dignity and respect when they are treated fairly. An important aspect of fair treatment is the wage that is paid to workers. ACCER submits that giving full effect to the statutory obligation to fix a safety net of fair minimum wages and conditions will both recognise and enhance the dignity of Australian award employees. If the Commission pleases.

PN891

JUSTICE GIUDICE: Thank you, Mr Lawrence. We will adjourn for a few moments.

**<SHORT ADJOURNMENT [11.36AM]  
<RESUMED [11.51AM]**