Industrial relations in the Australian engineering industry, 1920-1945: the Amalgamated Engineering Union and craft unionism

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This chapter examines the legal framework of industrial relations in the Australian engineering industry during the 1920s. The study is focused on the analysis of engineering awards issued by the Commonwealth Arbitration Court. The compulsory nature of the Arbitration system has given a unique character to the shaping of industrial relations in Australia, the Court's decisions determining the lawful terms of employment in detail.

As noted in the Introduction, however, the legal standard set in awards should not be taken for actual working conditions operating at the site of production. Award provisions, although detailed, did not cover all the issues concerning employment. In addition, they only decided the legal minimum. Therefore, if the employees wanted better-than-award conditions, they were free to negotiate directly with individual employers. Moreover, there were clauses in awards which allowed room for different interpretations. Because both employers and unions sought to take advantage of provisions of awards, it was in practice the case that the balance of power between the parties on the shopfloor decided the 'right' interpretation.
These reservations kept in mind, however, the analysis of awards is the indispensable starting point of the examination of industrial relations. The purpose of this thesis being to trace changes in the traditional industrial relationship, the first chapter of each part examines what happened to the traditional tradesmen-apprentices system at the legal level. From this point of view, the analysis of awards is focused on how the Court's decisions undermined, or reinforced, the conventional industrial order based on craft regulation which the craft union, the AEU, had imposed on the engineering industry. From this point of view, the investigation lays more emphasis than usual on issues like job classification.

Before proceeding to a detailed analysis of Federal engineering awards, the historical background against which the Court's decisions were delivered needs explanation.

The 1920s was a turning point for the Australian economy and society as a whole. It was in this period that the economic structure started to change from primary-industries-based to secondary-industries-oriented. While the growth of the rural sector, which had been the driving force of the development of national economy, had reached its limits by around the First World War¹, the manufacturing sector made a solid development during the 1920s, increasing the significance of its position. Such basic industries as the steel, motor assembly and electrical industries all laid the ground of their development during the 1920s.

This process of manufacturing coincided with that of urbanisation, providing city-based secondary industries with both the source of the workforce and the market for products, at the same time precipitating the spread of electric power. Symbolising this shift towards manufacturing and urbanisation was the Government's revised immigration program in the 1920s. Although the initial intention of the immigration programme was to supply manpower for land development, it turned out that the bulk of the migrants settled in city areas.

Despite the significance of this structural change that occurred during the 1920s, the development of manufacturing in this period should not be exaggerated. The change was not quantitatively drastic. Although Australian secondary industries were gradually establishing themselves, they were still in their infancy and their future development was by no means secure. Lacking in competitiveness, they were always under a serious import pressure.

It was thanks to the shortage of shipping during the first World War that manufacturing industries in Australia burgeoned to cater for the domestic market. Once the hostilities were over and the world economy returned to normal, Australian manufacturers were not confident of their future prospect and, thus, turned to the Commonwealth Government for protection.

The Commonwealth Government saw the fostering of secondary industries as among its major tasks. To put it differently, it was the task of fostering secondary industries that prompted the transference of financial, fiscal and industrial power from the State Governments to the Commonwealth. Despite federation in 1901, the power of the Commonwealth Government had been limited both constitutionally and practically until the First World War, the State Governments having maintained substantial sovereignty. In the 1920s, the fostering of secondary industries became a national interest, the responsibility for which was laid on the Commonwealth Government, with its authority being enhanced.

Among various policies taken to protect Australian secondary industries, the most important measure was raising tariff levels. From 1920, the Commonwealth Government increased tariff rates considerably and, in order to make the tariff policy more effective, established the Tariff Board in 1921.

In the tradition of the 'New Protection', the protection of employers has been regarded as justifiable only insofar as employees simultaneously guaranteed fair wages. The famous Harvester Judgement in 1907 was a classic example of this tradition. The meaning of this judgement should be understood in relation to the policy of the Commonwealth Government at the beginning of this
century; that is, so-called 'New Protection', which aimed at developing Australian secondary industries while improving working conditions. The notion of the 'fair and reasonable' Basic Wage, which an employer had to pay in order to be exempt from an excise duty, was presented in this case by the Judge of the Commonwealth Arbitration Court, Justice Higgins. He declared 7s. a day the minimum wage rate that would allow a life of 'frugal comfort' for a family of an unskilled worker with a wife and three children. It should be borne in mind, however, that in practice this minimum wage rate did not prevail until the 1920s. In fact, this Judgement was declared constitutionally invalid after staunch opposition from employers. The Harvester Judgement did not universalise the Basic Wage, but set the standard and the goal for workers to achieve.

Eventually, 'New Protection' fell well short of the ambitions of its advocates and, as mentioned, it was not until the First World War that Australian manufacturing seized the opportunity to develop. Rapid inflation and the decline of real wages during the War exacerbated workers' frustration, while their long-neglected claim for a wage increase gained public sympathy. As mentioned, the early 1920s was a time when the Commonwealth Government adopted policies to protect Australian manufacturers, which in turn generated a call for protection of the employed. It was under these circumstances that the Basic Wage of the Harvester equivalent prevailed during the 1920s, mainly through judgements by the Commonwealth Arbitration Court.

In this period, Governments' protective measures began to be applied to the rural sector as well, which had hitherto been competitive in the international market without Government intervention. Thus, was there established a system of protectionism, so-called 'protection all around'; a tripartite protection of manufacturers, pastoralists and workers. For the first time, Australian protectionism, which had remained not so much a practice as an idea, was set in motion.

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It was under these circumstances that the power and importance of the Commonwealth Arbitration Court increased during the 1920s, together with the Commonwealth Government itself. Until this period, there was a general recognition that industrial issues fell within the ambit of the State Governments with the State Arbitration Courts and the Wages Boards. The Commonwealth Arbitration Court was established in 1904 for the purpose of maintaining industrial peace and charged with the duty of resolving industrial disputes that extended beyond one State. However, unions' registration to the Commonwealth Arbitration Court was stagnant and its existence remained rather nominal until around the First World War.

There were several reasons which prompted unions' conversion from the State Courts and the Wages Boards to the Federal Court at this time. First of all, trade unions themselves were becoming national, rather than regional institutions through federation and amalgamation, the power and authority beginning to be centralised in their Federal headquarters. Second, the registration to the Arbitration Court meant official recognition of the union. Therefore, once unions started to register with the Federal Court, this process was accelerated by the movement of unions which did not wish to be outmanoeuvred by rival unions covering the same or similar classes of workers. The third and the most direct reason for turning to the Federal Court was the expectation that the Chief Judge Higgins, who seemed sympathetic toward labour, would make generous decisions. At the time unions had a choice between the State Courts or the Wages Boards and the Federal Court. It was a purely practical choice and they were able to apply, to the irritation of the employers, to whichever institutions they thought would give more favourable conditions. Thus, it was not unusual that, as was the case with the AEU itself, members in States like Queensland where better deals could be expected of State institutions than of the Federal one did not apply for Federal awards. In any event, the expectation was generally running high in the late 1910s that the Commonwealth Arbitration Court would offer better terms.

To sum up, significant structural changes were occurring during the 1920s in Australia, which was becoming more urbanised and
manufacturing-oriented. Coinciding with this trend, the power and authority of institutions were becoming concentrated at the Federal level. The Commonwealth Government, the Commonwealth Arbitration Court and the Federal bodies of trade unions all became the leading actors in industrial affairs during this period.

It was within the framework of 'protection all around' that the Commonwealth Arbitration Court practically commenced its operation in the 1920s. It should be noted that the Federal Court assumed rather contradictory roles in the process, reflecting the imperatives of the time. The fostering of manufacturing being a national concern, the Court now had to take into consideration the state of economy when making judgements, although the original task of the Court assigned at the time of its establishment was to maintain industrial peace. The 1920s was a period in which the concern for industrial peace and the economic circumstances sharply conflicted. As will be shown, the latter gained more and more weight in the prescription of awards in the course of the decade. In this respect, the AEU's award cases at the Federal Court were of particular importance, because of their direct impact on the manufacturing industry as well as the fact that award provisions for skilled engineers like fitters and turners served as a yardstick for workers across all industries.

Although the AEU decided to apply for a Federal award in 1916, it was not until 1921 that it was finally delivered. It should be kept in mind that AEU members in Queensland, where the State Court guaranteed better terms, stayed outside the jurisdiction of the Federal Court, and, in addition, Federal awards only applied to union members. Nevertheless, there is no question that provisions of Federal engineering awards which covered the bulk of skilled engineers represented the legal standard of working conditions in the industry.

To fully understand the significance of the first Federal Engineering Award prescribed by Justice Higgins, it is instructive to look into his famous Harvester Judgement in 1907 prior to the analysis of the 1921 Award. As will be shown, consistency of intention can be recognised throughout Higgins' judgements.
In the Harvester Judgement, Higgins defined the 'Basic Wage' as a 'fair and reasonable' minimum wage to be paid for an employee if the employer desired to benefit from tariff protection. As is well known, Higgins decided the minimum rate as 7s. a day which would allow an unskilled male employee to live a life of 'frugal comfort' with a wife and three children. What should be borne in mind is that the rate was set on the basis of needs. This meant that the Basic Wage should be guaranteed as the minimum regardless of economic fluctuations.

Enough references have been given to the notion of the Basic Wage embodied in this historical judgement. Less frequently referred to, but no less important an aspect of this judgement was Higgins' role in setting margins. In the Court's principle, a margin is a portion of the wage of an employee which was added to the Basic Wage, based on the value of his skill. According to the levels of their skills, workers were classified into hierarchical categories with corresponding margins.

Higgins decisions concerning margins reflected his views on the traditional industrial order and appropriate industrial relations in the face of technological developments. It should be noted that Higgins was attentive to the changes in work practices caused by mechanisation and job specialisation developing at his time. In the Harvester Judgement, he commented on the work of moulders as follows:

I should say that the extra pace, and the monotonous repetition in the light ironmoulding fully balance the extra skill and the extra weight in the heavy work. The tax upon the muscular and nervous energy is...pretty equal at the end of the day.4
I see...no sufficient reason why, if 10s. is a fair and reasonable rate for the average journeyman fitter, it should not be fair and reasonable for the average journeyman moulder.5

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4 *Commonwealth Arbitration Report* (CAR) 1 at p. 9.
As to blacksmiths:

There has been protracted contest as to blacksmiths; but here, as in the case of the moulders, I think that far too much has been made of the difference between heavy and light work...If there is more skill, there is less pace and less monotony...The system adopted...is indicated by one witness: "...Any man kept on one class of work will become very fast, and it is profitable to the employer to keep him on that class of work...I was on stays for disc ploughs for about three weeks." The damage done on eyes and ears, and the nervous and muscular strain, [must] be at least equal.6

Clearly indicated in the above-cited remarks is Higgins' unwillingness to sub-divide the strata of tradesmen. He rejected the employers' argument that the class of tradesmen assigned to routinised operations should be classified, and accordingly paid, lower than ordinary tradesmen. Even if tradesmen's work was made repetitive by new production methods, Higgins reasoned, sufferings from repetitive work like nervous strain and the damage to the eyes would make up for the degraded skill. Thus, he granted all moulders and blacksmiths the same margin of 3s., the equivalent of fitters and turners, in addition to the Basic Wage of 7s. per day.

As well as job specialisation, Higgins was also aware of the spreading of various labour-saving machines which disposed of traditional manual operations:

The other iron machinists seemed likely to raise a formidable problem, because of the alleged differences in the skill required to work the numerous ingenious labour-saving machines--planing machine, boring machine, centering lathe, tapping machine, washer lathe, punching and shearing machine, pipe-cutter, circular cutting machine, drilling machine, bolt making machine, &c.7

Eventually he conceded all workers on these machines the same margin of 2s. per day, 1s. below tradesmen's rate, except for drillers who were awarded only 6d. above the Basic Wage. As will be shown, margins of machinists became a centre of argument in the

6 Ibid.
7 Ibid.
Court battles throughout the 1920s. It suffices here, however, to note that he prevented the class of tradesmen from collapsing by granting the across-the-board rate for workers on any machines.

His intention underlying the Harvester Judgement is most explicit in his remarks on 'improvers'. 'Improvers' here designated those young and minor workers engaged on engineering operations without being classified either as journeymen or apprentices. The Judge stated:

I gather from the evidence a tendency on the part of the employer to pick out the easiest part of an artisan's work, and to give it to lads or younger men to do, paying them less wages than the standard; and to confine the standard wage to those who do the more difficult parts. This monotonous application to the easier work is by no means conducive to efficiency in the trade, although it tends to speed in the operations...The existence of this class [i.e. improvers] is a standing menace to industrial order and industrial peace, as well as a hindrance to industrial proficiency.8

Higgins expressed his serious concern about 'improvers' as follows:

As one witness said—"Employers will take on the slightly inferior tradesmen if they ask for a little below the standard wage, and the result is that the efficient tradesman has often to walk about...Unless the efficient tradesman cuts his rates, the imperfectly-trained men are taken on..." It is this body of half-trained men, hanging on to the skirts of a trade, that is used for the purpose of pulling down the wages of men fully trained.9

While admitting he had no power to deal with these imperfectly-trained 'improvers' because of the absence of the category to classify them in, he made clear his desire that this class of workers should be removed from the industry:

I have not overlooked the consideration that an employer who wants to make sure of exemption from Excise may have considerable inducement to get rid of men who do not come

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within the classification in the Excise Standard, and may, in some cases, dismiss his half-trained "improvers".\textsuperscript{10}

Moreover, he was also concerned about unindentured apprentices, regarding them as 'another fruitful seed-ground for incompetent artisans: a reservoir from which "improvers" are drawn'.\textsuperscript{11}

It can be inferred from these comments that the underlying intention of the Harvester Judgement was, while guaranteeing the minimum wage for the unskilled, to preserve as rigidly as possible the traditional industrial order based on the apprentice-tradesman system so as to maintain industrial peace. Ideally, Higgins thought, there should be no room in the industry for those who did not fall within the traditional industrial categories, in case imperfectly trained workers undermine the status of legitimate tradesmen. While fully recognising the development of mechanisation and job specialisation at the time, he held that the conventional category of tradesmen ought to be preserved, even if the dilution of traditional skill could be recognised. The situation of machinists presented a difficult problem in this regard, because their existence caused a threat to the traditional industrial order, while at the same time it was inevitable and indispensable for the development of the industry. As will be shown this problem was to become more and more serious as time went on. Incidentally, it should be noted that the advent of machinists corresponded with that of the new industrial category, so-called 'semi-skilled'.

Higgins' intention of maintaining industrial peace by preserving the traditional status of tradesmen is even clearer in the first Federal Engineering Award he prescribed for the AEU in 1921. In general, this Award was more satisfactory to the Union than to the employers. Apart from generous wages, the Union was awarded such landmark conditions as a 44-hour week and weekly hiring, even though these gains were to last only until the following year when Judge Powers revised his predecessor's decisions. In order to grasp what was intended in this Award as a whole, however, it is

\textsuperscript{10} Ibid., p. 15.
\textsuperscript{11} Ibid., p. 16.
necessary to look beyond these salient provisions to the broader purpose the Award was designed to serve. Higgins' remarks in the judgement concerning the Basic Wage attests to the purpose. Accusing the Basic Wage Commission, which had investigated the cost of living, of confounding the Basic Wage with margins, Higgins, the father of the notion of the Basic Wage, clarified his ideas:

[T]here is...no "Basic Wage" unless a higher class of employees, entitled to higher pay, a higher standard of life, be assumed. There is no meaning in "basic" except in relation to something higher...This Court assumes that a skilled man should, as has been the uniform practice, get more for his skill or other necessary exceptional qualifications than a mere labourer--more or better commodities, and to that end more money wages. This Court takes the Basic Wage for the labourer and then adds to it the extra wage without which, under present conditions, lads will not take the trouble of mastering the difficulties of a skilled trade.  

I felt the importance of preserving the margin between the skilled and the unskilled, especially in Australia where there has been too little systematic craft training.

Higgins emphasised a clear distinction between the Basic Wage and margins to maintain a substantial wage difference between unskilled and skilled workers. It is apparent that the same intention as in his Harvester Judgement guided this Award: that is, the preservation of the status of legitimate tradesmen.

This explains his generous regard for the margins of tradesmen. Although the Basic Wage was adjusted to price fluctuations, this adjustment did not apply to margins for skill. Higgins was concerned about the narrowing wage gap between the skilled and the unskilled due to the wartime inflation:

If I adhere to the old margin of 3s. per day [for tradesman fitters and turners], then the rate of unskilled to skilled, which was 7:10 in 1907 will be 14:17 in 1921. This is not fair play to the skilled worker, or likely to induce lads to undertake the burden of learning a craft.

12 15 CAR 297 at p. 303.
13 Ibid., p. 306.
14 Ibid., p. 307.
Thus, he awarded 120s. per week to tradesmen (fitters and turners) as against 84s. for unskilled labourers (20s. per day to tradesmen and 14s. to labourers), regaining the Harvester ratio of 10s. to 7s. per day. Consequently, the margin for tradesmen was doubled from 3 to 6s. a day. Higgins' intention to secure the status of tradesmen was obvious.

With regard to the classificatory framework, Higgins again found his task difficult because of the increasing sub-divisions of a trade. For instance, there was a debate between the employers and the Union over the assessment of drop-hammer operation and angle-iron operation. The employers demanded a lower rate for drop-hammer workers than blacksmiths (tradesmen), while the Union claimed a higher rate for angle-iron workers than blacksmiths, both, respectively, arguing that less and more skill was required for their work. Both of the jobs had been traditionally regarded as part of tradesmen's (blacksmith's) work, and, for that reason, Higgins rejected the claims by both sides:

They [i.e. employers] seek to keep angle-iron work as part of the trade of the blacksmith, while they seek to cut away all drop-hammer work from the trade. The union, on its side tries to keep drop-hammer work as part of the trade, but to treat angle-iron work as if it were a higher trade...The Court is not bound by any principle of "once a craft always a craft." Yet it is surely sound to follow craft lines until it has been proved that the craft lines are obsolete; and this has not been proved as to blacksmiths.\textsuperscript{15}

I propose to treat an angle-iron smith as a blacksmith...I propose to treat a drop-hammer smith as a blacksmith...One represents higher, the other (generally) lower functions of the blacksmith.\textsuperscript{16}

He also rejected the Union's request for a higher rate for blacksmiths than fitters and turners, leaving them all in the same category of tradesmen. Moreover, he declined the Union's claim for higher-than-fitters rates for tool and gauge makers, die sinkers, fitters on marking-off tables, fitters in a power house and so on. At the same time, Higgins also rejected the employers' claim for a

\textsuperscript{15} Ibid., pp. 309-310.

\textsuperscript{16} Ibid., p. 311.
lower rate for brass finishers than fitters on the grounds that they were all fitters. All of these judgements indicate his unwillingness to tamper with the traditional classificatory framework. On this matter, Higgins candidly expressed his concern about the threat to the tradesmen's position which might be caused by such subdivisions:

A rate is fixed for a class of workers [i.e. blacksmiths], and then there arises a temptation to select the easiest functions of the class, put unskilled men to perform those functions, and ask for a lower rate for them. If the court yields to this practice it will be encouraging the manufacture of imperfect tradesmen... 17

This [sub-division of brass finishers] is another instance of the tendencies to evade the legitimate minimum rate for a legitimate trade, complete in itself, by "breaking up" the trade, by separating such functions as can be learnt speedily, and treating those who perform these functions as if they constituted a separate class, a class for which a lower minimum is appropriate. The employers get by this device not only greater speed—often four or five times as much output—but also the advantage of lower wages. Labourers and others are, of course, only too glad to get some extra wages by taking machine work without learning the trade; but, in my opinion, it is the duty of the Court not to sanction a system which tends to eliminate from industry complete and competent tradesmen, and to create a class of men fit for little else than a particular machine, and monotonous repetition. I propose to award for brass finishers the same minimum rate as for fitters. 18

The problems with machinists perplexed the Judge even more. In his view, machinists, who had not served an apprenticeship, did not have the same skills and qualifications as tradesmen. However, they had already held an indispensable position in the production process because of the 'speed' and 'greater output' their machines produced. Higgins admitted the difficulty of handling the issue:

In recent years the work done by fitters and turners (in particular) has been greatly aided in output in speed and in finish by diverse ingenious machines worked by "machinists"—"operatives"—men not having the full craftsman's training, but placed by the employers, as to pay and position, somewhere between the tradesman and the labourer. These "machinists"

17 Ibid., pp. 308-309.
18 Ibid., p. 318.
are largely selected from tradesmen's assistants or from labourers, or from lads who go to the work straight from school. By confining their energies to some one particular machine, they attain exceptional speed. The employer gets a greater output; and yet the machinists are generally paid less than the fitter.19

Higgins had to establish a new principle to cope with this new class of workers who were adding to its numbers and importance but stood outside the traditional apprentices-tradesmen system. Here the Judge faced a set of crucial questions: Should or could this class of workers be eliminated? If not, what should be the proper relationship between tradesmen and machinists? How should the skill of machinists be assessed? The treatment of machinists presented a particularly difficult problems for Higgins because, in spite of his consistent intention of protecting tradesmen, he had to admit that the technological progress and the dilution of skill were inevitable, even if not necessarily desirable in terms of social morality:

I recognise also that it is useless to fight against this intense specialization under the pressure of modern competition--however injurious such specialization may be to the employee as a men, however much it tends to monotony, to a sense of servitude to the machine, to industrial discontent.20

Moreover, it should not be neglected that, despite his intention of preserving the traditional industrial order, the growth of production was no less an important issue for the Judge:

It is a hard thing for a craftsman to feel that he is being displaced in his functions...But such considerations must not outweigh the needs and the interests of the community...I shall not take the responsibility of doing anything to discourage devices designed for the increase of the volume and speed of production.21

19 Ibid., p. 312.
20 Ibid., p. 314.
21 Ibid., pp. 314-315.
This consideration for the growth of production which was regarded as in the interest of the community led him to the positive evaluation of the 'skill' of machinists:

I quite recognise that men who have specialized on one or more machines have not the all-round skill and adaptability of fully-trained fitters; but is it not another kind of skill to be able to use the machines with such increased speed, giving an output so much greater than others can give?.22

Conventionally, only the craft-type, all-round skill, which was acquired and monopolised by tradesmen through an apprenticeship, was regarded as 'skill'. Higgins, however, now conceded that such attribution to machinists as 'increased speed' and 'greater output' could also be justified as comprising 'skill', even though this skill is different from the traditional kind.

Higgins was caught between two incompatible imperatives: the increase in output and the preservation of the traditional industrial order. Both of his concerns, which gave his Award a contradictory nature, have to be emphasised. While showing a keen interest in the growth of production and a positive appreciation of the new kind of skill, the Judge was concerned, when eventually setting margins for machinists, about the threat to the status of genuine tradesmen. If the Court prescribed lower rates for machinists than tradesmen, Higgins thought, it might lead to the replacement of tradesmen by machinists:

[I]f the Court prescribe lower wages for the mere machinist it is practically putting pressure on the employer to choose the man who gets the lower wages, the man who is not a serviceable all-round craftsman. It is loading the dice against the craftsman.23

The best way to prevent the replacement of tradesmen was, according to Higgins, to set the same rate for machinists as tradesmen. If the wages were the same, the Judge inferred, employers would prefer to employ legitimate and competent tradesmen rather than mere machine operatives:

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22 Ibid., p. 314.
23 Ibid.
[I]t may be fair to prescribe that the minimum rate shall be the same for the fitter as for the machinist—"the operative"—and it may conduce to the general good that imperfect tradesmen be not preferred to full tradesmen because the wages of the former are lower...The best way to discourage the manufacture of imperfect tradesmen, and to prevent slavery to the machine, is to prescribe for them [i.e. machinists] the same minimum rate as for the full tradesman.24

Eventually, Higgins divided machinists into three classes, awarding the tradesmen's rate only to the 'first class machinists'. However, he admitted candidly that he had been ready to grant for all machinists the same margin as tradesmen and that it was only the nature of the log that prevented him from doing so:

But the nature of the log in this case does not call for a final solution of this difficult problem. For the union under the pressure of existing practice, asks for lower minimum rates for drillers, screwers, &c., than for fitters and other tradesmen...I cannot exceed the claim. The division of the machinists into three grades, which will be found in the award, is based upon the consent of the union.25

In any event, such principal machinists as millers, grinders (using the same precision tools as fitters), borers, and drillers (using the cutter bar) were all categorised as 'first class machinists' and ranked equally to tradesmen. In reasoning this decision, Higgins drew attention to the fact that their operations originated from tradesmen's work:

The work to be done by the machine is work which, but for the machine, would have to be done by the craftsman with the old tools, the hammer, chisel, vice, &c...every fitter ought to be able to work the machines as part of his trade...[T]he original trade of blacksmith and millwright has been split up into the trades of turner, fitter, blacksmith, moulder, patternmaker; and the turner and the fitter should, admittedly get the same rate as the millwright. Then the turner's functions have been practically all committed to men on lathe, screwing machines, &c.; and the functions to the planing, shaping, slotting, vertical

24 Ibid., p. 315.
25 Ibid.
and ratchet drilling, plain milling, gear cutting, oxy-acetylene cutting machines.\(^{26}\)

Then, Higgins set lower margins than tradesmen for the 'second class machinists' (gear cutter not using milling machine, lapper or grinder not using the same precision tools) and the 'third class machinists' (driller not using cutter bar, screwer, machinist making nuts, bolts or dog spikes). From the employers' point of view, however, margins for machinists as a whole were too generous. The ironic dilemma was that Higgins intentionally set the rates for machinists relatively high to safeguard tradesmen and, consequently, narrowed the wage gap between tradesmen and machinists.

The wages and margins finally determined in the Award are shown in Table 1.1 below.

Table 1.1 Wages and Margins Prescribed in the 1921 Engineering Award\(^ {27}\)

<table>
<thead>
<tr>
<th>Position</th>
<th>Wage</th>
<th>Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Labourer</td>
<td>84</td>
<td>nil.</td>
</tr>
<tr>
<td>Tradesmen's Helper</td>
<td>90</td>
<td>6</td>
</tr>
<tr>
<td>Casting Dresser</td>
<td>96</td>
<td>12</td>
</tr>
<tr>
<td>3rd Class Machinist</td>
<td>102</td>
<td>18</td>
</tr>
<tr>
<td>Motor Attendant</td>
<td>102</td>
<td>18</td>
</tr>
<tr>
<td>2nd Class Machinist</td>
<td>108</td>
<td>24</td>
</tr>
<tr>
<td>Switchboard Attendant</td>
<td>108</td>
<td>24</td>
</tr>
<tr>
<td>Electrical Wireman or Lineman</td>
<td>111</td>
<td>27</td>
</tr>
<tr>
<td>Furnaceman(iron or brass)</td>
<td>111</td>
<td>27</td>
</tr>
<tr>
<td>1st Class Machinist</td>
<td>120</td>
<td>36</td>
</tr>
<tr>
<td>Tradesman</td>
<td>120</td>
<td>36</td>
</tr>
<tr>
<td>Scientific Instrument Maker</td>
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<td>36</td>
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<tr>
<td>Oxy-acetylene Welder</td>
<td>126</td>
<td>42</td>
</tr>
<tr>
<td>Electrical Welder</td>
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<td>42</td>
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<td>54</td>
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<td>Shift Engineer</td>
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<td>60</td>
</tr>
<tr>
<td>Roll-Turner</td>
<td>150</td>
<td>66</td>
</tr>
</tbody>
</table>

\(^{26}\) Ibid., p. 312.

\(^{27}\) Ibid., pp. 332-333.
Definitions: 28

"Tradesmen" includes a fitter, turner, millwright, smith (iron, brass or copper), brass finisher or moulder or coremaker, motor mechanic, plumber.

"Fitter" includes either an electrical fitter, a fitter on water meters, a pipe fitter, a tool and gauge maker, or a die sinker.

"Motor Mechanic" means an employee engaged in making, repairing, altering, assembling or testing the metal parts of motor cars or other motor vehicles.

"First Class Machinists" includes a miller (general or universal), gear cutter using milling machine, driller using cutter bar, lapper or grinder using the same precision tools as fitters or turners, planer, shaper, slotter, borer, or turners, planer, shaper, slotter, borer.

"Second Class Machinists" includes gear cutter not using milling machine, lapper or grinder not using the same precision tools as fitters or turners.

"Third Class Machinists" includes a driller not using cutter bar, screw, machinist making nuts, bolts or dog spikes.

"Tradesmen's Helper" includes a striker, moulders' or fitters' assistant, furnaceman's assistant, or pig iron breeder.

"Motor Attendant" means an employee engaged in stopping or starting motors, replacing motor fuses, or oiling or cleaning motors.

To emphasise the point, the central feature of Higgins' job classification was the broad category of 'tradesmen', which reflected his intention of preserving the traditional industrial order.

Thus, it was logical that Higgins also had a serious concern about apprentices. For the purpose of producing perfect and competent tradesmen, he thought, proper regulations for the training of lads were necessary, lest they be exploited and used only as cheap labour. In this respect, he accused, as he had done in the Harvester Judgement, employers of abusing 'improvers', i.e. unindentured minors:

28 Ibid., pp. 343-344.
I mean to do nothing to encourage the deadly system of "improvers"...The practice of many employers is to keep the improvers on repetition work without teaching them any work.29

In order to prevent 'the deadly system' from prevailing, Higgins decided to set the level of wages for apprentices relatively high:

I propose to prescribe wages for apprentices such as will enable poor parents to give their boys a place in these crafts, without tempting them to put the lads when they leave school into some "dead-end" labouring occupation. I found in several successive South Australian and other determinations and awards that the wages for "improvers," to whom the employers are not bound to teach a trade, are substantially higher than for apprentices, in the earlier years. This system tends to induce impecunious parents to sacrifice their boys' career for the sake of a little more ready money. Instead of the 30s. per week claimed for the 1st year, I prescribe 17s. 6s.; but for the last year the full rate claimed, 70s. I should like to be in a position to make it something higher in the last year...30

In terms of social morality, Higgins was critical of the system in which minors were thrown into a "dead-end" career only for the sake of immediate money.

As to the issue of limiting the number of apprentices, Higgins was again anxious for the creation and the protection of perfect and competent tradesmen:

If there are too many apprentices in proportion to journeymen, the apprentice cannot be properly trained; as between competing employers, the man with many apprentices has often an advantage over the man who has few; and the fully trained tradesman, with family responsibility, tends to be displaced by lads who are employed because they are cheaper...There must be some limitation. It is clear that where there is no limitation the power to use apprentices--as well as boy labour (unapprenticed)--is abused.31

29 Ibid., p. 325.
30 Ibid., p. 326.
31 Ibid., pp. 325-326.
Eventually, Higgins determined that the proportion of apprentices to tradesmen should not exceed 1:3. Although it fell short of the Union's claim for 1:4, it can still be regarded as a favourable decision for the Union. In addition, the following trades were allowed to take apprentices: patternmaker, coppersmith, blacksmith, brass finisher, brass moulder, brass coremaker, fitter, electrical fitter, turner, motor mechanic, plumber, and roll-turner.32 What should be noted is that Higgins did not allow an apprenticeship for machinists. He stated, 'I do not allow apprenticeship to the occupation of "machinists." The lad should be a full fitter or turner'.33 Higgins did not regard machining as a desirable trade for lads, who should be trained as all-round tradesmen. Thus, on the issue of apprentices as well, Higgins' intention to preserve the traditional industrial order was persistent.

As to other provisions of the Award, Higgins practically prohibited piecework by necessitating the consent of the Union if this method of payment was to be introduced. It should be borne in mind, however, that Higgins made this decision only because of the difficulty of safeguarding the workers' rights and he was not necessarily against piecework.34 Emphasising the distinction between the 'repairing' and the 'making' section of the industry, he stated that piecework should be applicable to the latter:

In making metal articles (as distinguished from repair work) the employers are in competition with other countries; and, the more speed, the less the price at which the employers can supply the public in Australia. So long as the rights of the employees are duly safeguarded, there is no reason why, for the making, as distinguished from the repairing, of articles which are required in great numbers, the employer should be prevented from having piece-work rates.35

In Higgins' reasoning, the 'making' section deserved a special treatment because of its exposition to fierce overseas competition.

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32 Ibid., p. 334.
33 Ibid., p. 327.
34 Ibid., p. 330.
Higgins himself had a keen interest in developing Australian manufacturing under severe import pressure:

I appreciate and even sympathise with the objections of this union to piece-work; but the union has now the opportunity of trying piece-work under fair regulations, and of relieving our Australian engineering of the reproach that it is practically all "jobbing" or repairing, and not constructive...[P]iece-work, on proper conditions, ought not to be stubbornly rejected, and...[I]t may be possible to...make Australia, with its iron deposits, and in particular the Newcastle district with its flux and coal in abundance, a great centre for constructive engineering. It is the greater output of Great Britain and America, and the up-to-date machinery and equipment--not lower wages or better men--that prevent Australia from supplying with engineering products herself and South Africa and countries around the Pacific.36

As stated above, for the purpose of stimulating manufacturing which was distinguished from repairing by its repetitive character, piecework was a device worthy of a serious consideration for Higgins.

Referring to other features of the Award, the Union won a 44-hour week as is well known. It was a considerable achievement, considering that even a 48-hour week was still not prevalent in many other industries in Australia. However, no less significant a decision, although less notable in the shadow of the monumental 44 hours, was the overtime rates set at time-and-a-half for the first four hours and double thereafter, much more generous rates than the employers sought. In a practical sense, the overtime rates were more important than the reduction of the standard working hours, because as early as in the following year Justice Powers revised the Award and regressed the standard working hours to 48, while the overtime rates were left unchanged despite the employers' opposition.

The AEU was satisfied with almost all aspects of this first Federal Engineering Award, except that it could not attain the preference of Union members in employment. Incidentally, Queensland State

36 Ibid., pp. 330-331.
awards guaranteed union preference, which was one of the reasons the Queensland members of the AEU stuck to the State Arbitration.

To sum up, the underlying intention of the first Federal Engineering Award was to maintain industrial peace by preserving the traditional industrial order based on the tradesmen-apprentices system. This intention was most salient in his decisions on classification and the wage ratio between the skilled and the unskilled. This does not mean, however, that Higgins neglected economic conditions. On the contrary, he had a serious concern about the fragility of Australian manufacturing. Nevertheless, when caught between the contradictory imperatives of developing the industry and keeping the industrial order, the liberal moralist weighed the latter. Thus, although the Court was beginning to take economic factors into account when making judgements, it at this stage still stuck to its original role of keeping industrial peace. The Award with such intention was favourable, in general, for the Union side.

Leaving the first Federal Engineering Award as his parting gift, Justice Higgins resigned from the Commonwealth Arbitration Court in 1921 as a result of his discord with Prime Minister Hughes. The controversial Prime Minister sought to hold industrial matters under the direct control of the Commonwealth Government and tried to attain administrative supremacy over the Arbitration Court, which led to Higgins' resignation in protest. His industrial ambition being unfulfilled, eventually, Hughes himself was ousted from office in January, 1923.

Bruce took over the prime ministership of another conservative Government, which was to rule the Commonwealth for the bulk of the 1920s until 1928. According to the Bruce Government, which branded itself as the guardian of 'Law and Order', the Commonwealth Arbitration Court was considered to be the apparatus to achieve one of its major electoral promises, that is, industrial peace. Unlike his predecessor, Bruce tried to control the

37 This fundamental concern for industrial order characterised his view on industrial relations in general. See H. Higgins, A New Province for Law and Order, (Dawsons, London, 1968), Chapter I and II.
Court indirectly through the appointments of judges, while the authority of the Court was being enhanced.

As mentioned, the legal grounds of Federal awards were consolidated in this period. During the 1920 Engineers Case, Federal awards were endowed with the power to bind the employees at State establishments. In the 1926 Cowburn Case, Federal awards' supremacy over State awards and legislation was confirmed. Thus, although the Commonwealth Arbitration Court was still unable to make a common rule, that is, its awards were only applicable to union members, it was an irresistible trend that supremacy of industrial tribunals was shifting from the State to the Federal sphere.

In 1922, only a year after Higgins' first Engineering Award, Justice Powers made some important revisions to his predecessor's Award. A 44-hour week, increased margins and the generous treatment of apprentices were the major problems which, according to Powers, needed to be rectified.38 Powers thought that the previous Award was a deviation from the traditional principle of the Court and that Higgins's generous decisions were only possible thanks to the prosperous economic conditions at the time:

I have no hesitation in holding that I am bound to deal with this and other applications on the principles and practices laid down for the guidance of unions and employers and acted upon for so many years, except where they have been proved to be erroneous, and not on any new practice in an award made just before the late President's resignation in special circumstances, and in exceptional and prosperous times...If I refused to bring this award into line with other awards of the Court I would be bound in justice to alter all the other existing awards of this Court, and I am satisfied it is not an opportune time to do so when unemployment is causing trouble to the people generally, to returned soldiers and to all Governments.39

Emphasising the current economic predicament and his respect for the Court's tradition, Powers amended Higgins' Award. His decisions

38 16 CAR 231 at p. 232.
39 Ibid., p. 233.
largely reflected the employers' case that the Australian engineering industry would remain only with the capacity of mere repairing and would not develop into manufacturing without necessary corrections to the previous Award:

The respondents [i.e. the employers] contend that if the hours, rates and conditions imposed on them by the award are continued during the present industrial depression the respondents engaged in the engineering industry and in industries employing engineers cannot possibly continue manufacturing goods as heretofore; but will be confined to what is called jobbing and repair work, which must be done in Australia in any case...40

Despite his questioning of a 44-hour week, Powers refrained from deciding working hours in this Engineering Award, on the grounds that such an important judgement was beyond the discretion of one Judge. Thus, he passed this matter to the Full Court, which eventually ordered the reversion to a 48-hour week.

With regard to wages, Powers reduced margins to a significant extent. Table 1.2 below shows the new margins compared to the previous ones set by Higgins.

40 Ibid., p. 237.
Table 1.2 Margins Prescribed in the 1922 Engineering Award

<table>
<thead>
<tr>
<th></th>
<th>1922</th>
<th>1921</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Powers</td>
<td>Higgins</td>
</tr>
<tr>
<td>General Labourer</td>
<td>nil.</td>
<td>nil.</td>
</tr>
<tr>
<td>Tradesmen's Helper</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Casting Dresser(brass)</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>Casting Dresser(iron)</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>Motor Attendant</td>
<td>9</td>
<td>18</td>
</tr>
<tr>
<td>3rd Class Machinist</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>Furnaceman(brass)</td>
<td>12</td>
<td>27</td>
</tr>
<tr>
<td>Switchboard Attendant</td>
<td>12</td>
<td>24</td>
</tr>
<tr>
<td>2nd Class Machinist</td>
<td>16</td>
<td>24</td>
</tr>
<tr>
<td>Furnaceman(iron)</td>
<td>16</td>
<td>27</td>
</tr>
<tr>
<td>Electrical Wireman or Lineman</td>
<td>18</td>
<td>27</td>
</tr>
<tr>
<td>1st Class Machinist</td>
<td>24</td>
<td>36</td>
</tr>
<tr>
<td>Tradesman</td>
<td>24</td>
<td>36</td>
</tr>
<tr>
<td>Scientific Instrument Maker</td>
<td>24</td>
<td>36</td>
</tr>
<tr>
<td>Oxy-acetylene Welder</td>
<td>28</td>
<td>42</td>
</tr>
<tr>
<td>Electrical Welder</td>
<td>28</td>
<td>42</td>
</tr>
<tr>
<td>Patternmaker</td>
<td>30</td>
<td>45</td>
</tr>
<tr>
<td>Forger</td>
<td>36</td>
<td>54</td>
</tr>
<tr>
<td>Roll-Turner</td>
<td>56</td>
<td>66</td>
</tr>
</tbody>
</table>

Despite the considerable cut in margins, it should be noted that Powers had no intention of altering the classificatory framework itself that Higgins had established in the previous Award. As the Judge himself stated:

I have the greatest objection to alter classifications fixed by this Court. Generally speaking, they are in line with those previously agreed to by employers and employees as fair...I did not feel inclined to make any alteration in the classification unless I was convinced beyond question that the classification was not suitable for the employees in the engineering industry in Australia at the present time.\(^4\)\(^2\)

\(^4\)\(^1\) Ibid., p. 282.
\(^4\)\(^2\) Ibid., p. 253.
Although Powers did not change the classificatory framework in any fundamental fashion, he did make some amendments within the existing framework. For instance, he demoted some classes of workers to lower categories. As can be seen in the above table, 'casting dressers (brass)', 'motor attendants', 'switchboard attendants' and 'furnacemen' were degraded. More importantly, Powers narrowed the definition of tradesmen, omitting brass finishers, moulders and coremakers from the compass of tradesmen. He also relegated brass finishers (except first class brass finishers), moulders and coremakers (iron) to the category of 'second class machinists' and coremakers (brass) to that of 'third class machinists'.

As in the previous case, the Union demanded higher rates for angle-iron smiths and coppersmiths, and the employers demanded lower rates for drophammer smiths and oliverhammer smiths than ordinary tradesman smiths, and both of the claims were again turned down. Powers' only alterations were with regard to implement smiths, coachsmiths, bedstead smiths and tool sharpeners. The differences between the definitions of 'tradesmen' and 'machinists' by Powers and those by Higgins were as follows:43

Higgins: 'Tradesmen' includes a fitter, turner, millwright, smith (iron, brass or copper), brass finisher or moulder or coremaker, motor mechanic and plumber.

Powers: 'Tradesmen' includes a fitter, turner, millwright, smith (but does not include implement smith, coachsmith, bedstead smith, or tool sharpener), engineer or other first class brass finisher, motor mechanic, plumber.

Higgins: 'Second Class Machinist' includes gear cutter not using milling machine, lapper or grinder not using the same precision tools as fitters or turners.

Powers: 'Second Class Machinist' includes gear cutter not using milling machine, lapper or grinder not using the same precision tools as fitters or turners, brass-finishers not engineering or other first class brass-finishers, moulders, coremakers (iron), pipe fitter (not on high pressure steam works, high pressure, air ammonia and hydraulic work).

43 15 CAR 297 at pp. 343-344 and 16 CAR 231 at pp. 297-298.
Higgins: 'Third Class Machinist' includes a driller not using cutter bar, screwer, machinist making nuts, bolts or dog spikes.
Powers: 'Third Class Machinist' includes a driller not using cutter bar, screwer, machinist making nuts, bolts or dog spikes, coremaker(brass).

The relegation of some classes of tradesmen to machinists reflected the deepening division of labour due to mechanisation.

These modifications to the classificatory framework were, however, less significant than the considerable wage cuts. For instance, Powers reduced the margin of tradesmen by 2s. a day; from 36s. to 24s. a week. Combined with the simultaneous curtailment in the Basic Wage from 84s. to 77s. a week, the total wage of tradesmen decreased from 120s. to 101s. a week, and so did the proportion of the margin to the total wage from 30 per cent (the equivalent to the Harvester ratio) to 24 per cent. Powers justified his 2s. shedding of tradesmen's margin by referring to the fact that tradesmen's margin granted by Higgins had been 2s. higher than the Union claimed in the original log. Of course, the Union was not at all content with the Judge's reasoning that he still satisfied the Union's initial request, in spite of his trimming of the extra 2s.^44

As can be seen in the above table, Powers' reduction of margins was sizeable and uniform. Underlying this cut was Powers' concern about the current state of the national economy. On this point, he was totally in line with the employers:

[I]n this case the evidence submitted to the Court proves beyond doubt that the rates awarded [in Higgins judgement] cannot now be paid by the manufacturing industries; and that they cannot profitably, or at all, carry on against the foreign competition in 1922, and pay the rates fixed by the award and the other conditions of the award, and the extra cost of material necessary in their industries.^45

[^44] As to this argument, see T. Sheridan, op. cit., p. 77.
[^45] 16 CAR 231 at p. 266.
It should be noted that Powers was concerned not only about 'the capacity to pay' but also, and more emphatically, about the competitiveness of Australian manufacturing:

It was contended by the union that the unemployment was all caused because of the depression and not because goods which could be manufactured here were being imported. This was shown to be incorrect...[T]hey [i.e. the employers] were receiving orders and were selling the goods they used to manufacture, but they imported them because they could not pay the award rates and manufacture them at a price they could sell them at in competition with the importations.46

In line with the employers, Powers argued that the current economic recession derived from the lack of competitiveness of Australian manufacturing. Therefore, it was imperative for him to make Australian manufacturing, distinguished from repairing, more competitive with overseas rivals by slashing margins:

The deduction of 2s. a day [of the margin for tradesmen] or the proportionate parts of it for the extra marginal rates based on the cost of living increase since 1907 (and not on any increased skill or value of the margin for skill in the engineering industry in Australia) must be made to enable the industries in Australia to compete with importations and obtain contracts in future.47

To further justify his decision on margins, Powers accused Higgins of setting margins not on the value of the skill but on the cost of living:

It is clear the late President did allow the extra 2s. a day on the ground of the increased cost of living since 1907, not the increased value of skill in 1921, and to carry out his promise to give increased margins according to the cost of living when he thought it could fairly be done.48

It must, however, be recognised that for seven years before the war the margins were not increased in proportion to the increased cost of living in this or in any other country, but according to the proved value of the skill necessary at the time

46 Ibid., p. 266.
47 Ibid., p. 274.
48 Ibid., p. 264.
the award was made. In all awards, except one, up to the date of the award in question, no margin for skill was increased according to the increased cost of living before or during or after the war, or any marginal rate reduced.\textsuperscript{49}

Thus, according to Powers, Higgins did not follow the Court's traditional principle of 'margins for skill':

To show that it [i.e. Higgins increase in margins] was not on account of increased skill I note that the learned Judge [Higgins] found that less skill was necessary in many cases but more specialization...\textsuperscript{50} [The learned Judge [i.e. Higgins], in summing up his remarks on "specialization" said--"...[S]hall the specialists be paid less than the general tradesman? The employer gets more speed and more output; why should he be allowed in addition to reduce wages." The only answer I think is that he can only give what the work is worth,...because that is being done by all his competitors in all other countries; and if he could not get the best machinery available, and pay only what the work is worth, he could not employ any men at all, skilled or unskilled, or specialists. There are other machines at work elsewhere equally good and better as to output and finish, and the operatives are paid lower rates than employers paid in Australia before the award.\textsuperscript{51}

As shown, Powers decided that neither 'more speed' nor 'more output' constituted 'skill'; therefore, when the job was simplified by mechanisation, the margin should be reduced accordingly. It should be noted that in Powers' reasoning, the Court's traditional principle as to margins, the industry's capacity to pay and the necessity to raise competitiveness were all interwoven:

A mass of evidence has been submitted to me...to show that the rates awarded in June last year cannot now be paid by any of the manufacturing industries at the present time, because the rates for all engineering and other classes of work in America, England, France, and Belgium have been reduced to a very great extent since June last year, and rates for margins are now much

\textsuperscript{49} Ibid., p. 270.  
\textsuperscript{50} Ibid., p. 265.  
\textsuperscript{51} Ibid.
below what was proved to be the margins in June, in 1921, in those countries.\textsuperscript{52}

Finally, the Judge concluded:

The effect of restoring the fitters and turners' wage (and others correspondingly) to the generally recognised value of their work above the labourers' wage (7s. 4d. a week more than the margin for skill allowed in England) would be, so far as I can see, a great burden off the industries affected without injustice to anyone, and it would allow manufacturers to compete to some extent with importations.\textsuperscript{53}

Powers' intention of fostering Australian manufacturing was consistent with regard to other provisions of the Award. Speaking of the standard working hours, although he handed over the final judgement to the full Court as mentioned, he did not conceal his sympathy with the employers' case that Higgins broke with the conventional work practice by awarding a 44-hour week, blunting the competitive edge of Australian manufacturing:

The respondents [i.e. the employers] ask the Court to fix 48 hours...on the following...grounds--1. That 48 hours are the standard hours in the industries in which they are employed by the very great majority of the respondents. 2. That the respondents cannot compete with foreign competition if 44 hours a week are conceded by the Court..., and they claim that as a result of the award in question (1) it has been impossible for any of the respondents to continue to get orders as they did previously; (2) that they have all had to dismiss many employees for want of work; and (3) that the number dispensed with must shortly be increased. The evidence in support of the claim is very voluminous.\textsuperscript{54}

On the matter of piecework as well, Powers urged the Union to open itself to this system which, he thought, would encourage the development of Australian manufacturing, even though he did refrain from conferring the employers the right to impose this method:

\textsuperscript{52} Ibid., p. 264.
\textsuperscript{53} Ibid., p. 272.
\textsuperscript{54} Ibid., p. 238.
If the industries here are to compete in the world's market, piece-work rates will have to be accepted, within a reasonable time, for the benefit of employers and employees and the public...I regard piece-work under proper restrictions as absolutely necessary during the present depression to enable employers to carry on manufacturing, and a benefit to the employees at any time under existing conditions."\(^{55}\)

Thus, taking a step further from Higgins' attitude towards piecework, Powers endowed the Court with the power to enforce payment by results, although this did not lead to the actual imposition of piecework.

With regard to an apprenticeship, however, Powers' attitude was rather complicated. In spite of the employers' complaint of the relatively high wage for apprentices in the final year, he maintained the rate Higgins had set, even though he did reduce the wages of some other years on account of the fall in the cost of living. Weekly wages of apprentices prescribed are shown in Table 1.3 below.

Table 1.3 Weekly Wages of Apprentices Prescribed in the 1921 and the 1922 Engineering Award\(^{56}\)

<table>
<thead>
<tr>
<th>Year</th>
<th>1922</th>
<th>1921</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Year</td>
<td>17s. 6d.</td>
<td>17s. 6d.</td>
</tr>
<tr>
<td>Second Year</td>
<td>23s.</td>
<td>25s.</td>
</tr>
<tr>
<td>Third Year</td>
<td>37s.</td>
<td>40s.</td>
</tr>
<tr>
<td>Fourth Year</td>
<td>55s.</td>
<td>60s.</td>
</tr>
<tr>
<td>Fifth Year</td>
<td>70s.</td>
<td>70s.</td>
</tr>
</tbody>
</table>

In spite of this wage reduction, it should not be overlooked that Powers was at the same time concerned about the abuse and exploitation of apprentices. From this point of view, he obliged the attendance of tradesmen when apprentices worked overtime and preserved the right of apprentices to attend technical school during work time. He also maintained the ratio of apprentices to tradesmen.

\(^{55}\) Ibid., p. 246.

\(^{56}\) 15 CAR 297 at p. 334 and 16 CAR 231 at p. 291.
as 1:3, quelling the employers' demand for 1:1. In all, Powers inherited Higgins' intention to curb the employers' practice of using apprentices as cheap labour and produce competent and legitimate tradesmen.

To sum up, Powers' judgement reflected his serious concern about the prospect of the Australian engineering industry. Import substitution being a national imperative, it was a mandate for Powers to help improve the competitiveness of Australian manufacturing. Until then, the Australian engineering industry had been mostly confined to 'repairing', and the survival of the industry itself was recognised to rest on the development of 'manufacturing'. While Powers deemed it necessary to meet such economic requirements, he also felt bound to the traditional principles of the Court. Powers' basic intention was not to nullify his predecessor's Award but to preserve it with minimum inevitable modifications. Thus, his revisions of the previous Award were mainly confined to the reduction of wages, while the existing framework of industrial relations itself being unquestioned.

In 1924, Powers renewed his 1922 Engineering Award. Basically, this Award was a minor revision of his own previous Award. Among the few changes was the diversification the classificatory framework. In this new Award, Powers added to the subdivisions of job categories. The classifications and margins in the 1924 Award compared to the 1922 one are shown in Table 1.4 below.
Table 1.4  Margins Prescribed in the 1924 Engineering Award

<table>
<thead>
<tr>
<th>Occupation</th>
<th>1924</th>
<th>1922</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Labourer</td>
<td>nil.</td>
<td>nil.</td>
</tr>
<tr>
<td>Tradesmen's Helper</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Casting Dresser</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Motor Attendant</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>3rd Class Machinist</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Furnaceman(brass)</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Switchboard Attendant</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Whetstone Grinder</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>2nd Class Machinist</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Furnaceman(iron)</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Electro-Plater(whilst doing second class work)</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>Electrical Wireman or Lineman</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Annealer</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>Case Hardener</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>1st Class Machinist</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Tradesman</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Fitter</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>Electrical Fitter</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>Toolmaker of machine tools</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Toolsmith making machine tools(not including Tool Sharpener)</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Die-sinker</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Gauge-maker</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Fitter--Special No. 1</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Angle-iron Smith</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Oxy-acetylene Welder</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Electrical Welder</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Electrical Fitter on special maintenance work other than in workshop</td>
<td>28</td>
<td></td>
</tr>
<tr>
<td>Fitter--Special No. 2</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Patternmaker</td>
<td>33</td>
<td>30</td>
</tr>
<tr>
<td>Forger(when forging and/or faggoting)</td>
<td>36</td>
<td>36</td>
</tr>
</tbody>
</table>

57 20 CAR 982 at pp. 983-984.
Together with the subdivisions, the definition of 'tradesmen' was also diversified and specified. In the previous Award, 'tradesmen' consisted of fitter, turner, millwright, smith (iron, brass or copper), engineer and other first-class brassfinisher, motor mechanic, plumber. In the 1924 Award, 'tradesmen' consisted of fitter, turner (wheel), millwright, motor mechanic, motor cycle mechanic, scientific instrument maker, plumber, tube brazer (railways, Victoria), engineering or other first-class brassfinisher, smith (iron, brass or copper), motor tester and tuner combined, locksmith, scalemaker and/or adjuster, safe maker, electro-plater (while doing first class work), glazer and whetstone grinder. This diversification reflected the deepening division of labour as well as the legal necessity to specific as minutely as possible.

It also should be noted that higher classes of 'fitters', that is, 'electrical fitters', 'fitters-special no. 1' and 'fitters-special no. 2' were added to the ordinary class of 'fitters'. 'Electrical fitter' was defined as 'an employee engaged in making, repairing and altering, assembling, or testing electrical instruments or apparatus'. 'Fitters-special no. 1' was defined as 'fitters on turbine blading, fitters on marking-off table if chiefly engaged on that work and fitters engaged outside workshops on the overhaul and maintenance of interlocking gear'. 'Fitters-special no. 2' was defined as 'fitters in railway running sheds and fitters in large power houses not employed in the workshop'. In addition, 'toolmakers' and 'die-sinkers', who made original moulds, dies and fixtures for quantity production, were also separated from and ranked higher than ordinary fitters. Indicated by the creation of these higher classes of fitters is that the development of job specialisation did not necessarily lead to the dilution and devaluation of skill. It also produced classes of workers who acquired higher skills than ordinary tradesmen and the Union was able to have such higher skills recognised by the Court.

With regard to 'machinists', on the other hand, lower classes of machinists were added to. Although the definition of 'first class
Second Class Machinists
1922: gear cutters not using milling machine, lappers and grinders not using the same precision tools as fitters or turners, brass-finishers not engineering or other first class brass-finishers, moulders, coremakers(iron), pipe fitters(not on high pressure steam works, high pressure, air, ammonia and hydraulic work). 1924: the above workers, plus key-seaters and/or drillers, rail planers, springsmith's machinists(railways).

Third Class Machinists
1922: drillers not using cutter bar, screwers, machinists making nuts, bolts or dog spikes, coremakers(brass). 1924: the above workers, plus drillers(plain or twist), hydraulic and/or power press machinists, metal sawyers, sheet metal or coppersmith's machinists, blacksmith's machinists--also springsmith's machinists not on railways, tapping machinists, and punching and shearing machinists.

The diversification and multiplication of lower classes of machinists was a result of ongoing mechanisation and division of labour. It should be noted, however, that these additions to lower classes of machinists had little to do with the core engineering operations like fitting and turning. In fact, the wages of the operators of such basic engineering machines as the milling, shaping, planing and slotting machines remained equal to that of tradesman fitters and turners.

To sum up, in the face of the incessant development of mechanisation and job specialisation, Powers was faced in this case with a difficult task of reconciling ever diverging trades with the conventional classificatory framework. On this issue, both aspects of his judgement should be noted. On the one hand, he supplemented some new classes of work. On the other hand, the amounts of margins themselves were scarcely changed. He tried to cram newly emerging trades into the traditional framework, creating new categories only when necessary. As a result, the definitions of trades became detailed and swollen. He confirmed the polarisation of workers by, on the one hand, creating higher classes of tradesmen than before and, on the other hand, multiplying lower classes.
grades of machinists. However, his unwillingness to tamper with the established classificatory framework was again consistent in this judgement. Powers' halfway attitude in coping with mechanisation and job specialisation only added to confusion, satisfying neither the employers nor the employed. As will be shown, the task of carrying out a more fundamental reform to classification was to be left to his successor, Justice Beeby.

As to Powers' judgement on an apprenticeship, no major alterations were made to the previous Award, except for the trades allowed for an apprenticeship. In the 1922 Award, apprentices were allowed to be engaged in the following trades: fitters, electrical fitters, turners, blacksmiths, coppersmiths, patternmakers, brass finishers, brass moulders, brass coremakers, motor mechanics, plumbers and roll-turners. In the 1924 Award, the following trades were added: first class machinist, die-sinkers, scientific instrument makers, scale makers, safe makers, locksmiths, motor-cycle mechanics, electrical or oxy-acetylene welders and electroplaters. (Brass coremakers and roll-turners were omitted.)\(^6\) The alterations imply the extension of the compass of 'tradesmen'.

It is worth noting that an apprenticeship was admitted to 'first class machinists' for the first time in this Award. This was a significant decision, considering Higgins' tenacious refusal to regard mere machining as an apprenticeship trade like fitting and turning. It indicates that the distinction between genuine tradesmen like fitters and turners and (first class) machinists was becoming more and more blurred. Apart from this, however, other provisions concerning apprentices like their wages and the proportion of apprentices to tradesmen remained unchanged. Nor were there any significant changes to other major provisions of the Award. A 48-hour week was maintained together with the contentious overtime rate and weekly hiring.

As a whole, there were no radical changes in this Award. The classificatory framework was diversified. However, newly emerging operations were only cramped into the conventional framework and

there was no fundamental challenge to the traditional industrial hierarchy itself. Caught between the need to cope with ongoing mechanisation and job specialisation and the respect for the Court's traditional principles, Powers fell into a rather unshapely eclecticism, which failed to serve properly both the development of manufacturing and the appeasement of workers' discontent.

As well known, a 44-hour week and piecework were the most contentious industrial issues during the 1920s not only for engineering workers but for the Australian labour movement as a whole. It was Justice Beeby who settled these matters for engineers. Beeby was appointed to the Commonwealth Arbitration Court in 1926 and took over the handling of engineering disputes from Powers. In contrast to the rather conservative approach of his predecessor, Beeby took the initiative in implementing an industrial reform with his own idea of desirable industrial relations. In fact, his decisions on working hours and piecework were part of his plan to reform existing industrial relations.

In 1927, the full Court decided, against fierce opposition from employers, the reduction of the standard working hours from 48 to 44 hours. Following this decision, Justice Beeby delivered his first Engineering Award in July. It was in this 1927 Award that Beeby disclosed his whole reform scheme. At the beginning of the Award, the Judge gave, as the basis of his decisions, his perception of the economic situation of the industry since the First World War. What he emphasised was again the fragility of Australian manufacturing exposed to severe import pressure:

Up till the year 1914 the engineering section of the metal trades industry...was confined mainly to repair work and renewals. Except in the making of stoves and agricultural implements, the manufacturing section of the industry had not made much progress. During the latter years of the war, however, the sudden cessation of imports led to a more definite move towards direct manufacture of machinery and other steel products...In the year 1920-1921, the industry was in a very prosperous condition. Being free for the time being from serious overseas competition workshops were able successfully to undertake manufacture and the production of high-grade machinery, which a few years previously had been considered
entirely beyond the capacity of Australian plant or Australian workmen. But in 1921-1922 owing to the restoration of shipping and the partial recovery of British and European iron and steel industries, overseas competition seriously disturbed local enterprise...It soon became apparent that, notwithstanding the measure of tariff protection then afforded, local manufacturers were seriously prejudiced by the dumping of goods from European countries desperately striving to re-establish their markets. But in 1923-1924 the dumping of goods became less marked and the output of factories recovered to almost that of the year 1920-1921 and reached a still higher level in 1924-1925. That recovery, however, was largely contributed to by the phenomenal increase in the use of motor vehicles. Some of the trade secured by local establishments during the war and post-war periods was purely the result of the cessation of imports. As soon as England, America, and some continental nations were able to resume manufacture and find shipping facilities for their products, they regained markets by reason of the cheapness of their products.62

Under these circumstances, Beeby thought, tariff protection and the Governments' preference in tendering to local industries alone were not sufficient to develop domestic production.63 As a more fundamental remedy, Beeby insisted, it was crucial for Australian manufacturing to enhance its competitiveness by substantial cost reduction:

[M]any steel products which can and should be manufactured locally are being imported...I have formed a very definite opinion that the higher grades of the industry cannot expand, or even hold their present position, without reduction of producing costs. Putting aside for a moment the production of raw material and manufacture which has been fostered by tariff or other protection, profits of the industry are not high. In many individual cases they are distinctly low. In many directions trade is being steadily lost on account of the difference between foreign and local producing cost.64

It was with this sense of an imminent crisis that Beeby called for 'reorganization' of the industry:

63 Ibid., pp. 372-373.
64 Ibid., p. 372.
With the plants now available in Australia, the industry with some reorganization of methods of both employers and employers can successfully undertake the production of much machinery and iron and steel products now imported".65

In order to carry out this 'reorganization', Beeby thought, both sides had to change their attitudes. First, he advised the employers to embark on 'quantitative production' instead of adhering to the age-old belief in 'lower wages and longer hours':

There is much unnecessary competition between employers. Many plants with their separate overhead charges are making small quantities of the same product, when concentration in one workshop would greatly reduce costs. Many employers still adhere to the old theory that lower normal wages and longer working hours necessarily mean lower producing cost. It is only in some of the more recently established factories that employers have concentrated attention more on quantitative production than on the earnings of individuals.66

Then, Beeby told the Union to stop opposing payment by results and cooperate in an attempt to improve competitiveness of the industry:

The employees...have not paid sufficient attention to the precarious position of certain section of the industry. They have not sufficiently considered the possibility of reducing labour costs without reducing earning power or conditions. They must face the important fact...that in order to maintain some important section of the industry, and provide for its future expansion, some means of reducing labour costs must be devised. Employers are not alone to blame for the lack of cooperation which now prevails.67

Thus, although both Higgins and Powers had inserted in their awards a provision which had practically prohibited piecework, Beeby lifted any legal obstacle to it.68 In an Award provision, Beeby

65 Ibid., p. 367.
66 Ibid., p. 373.
67 Ibid.
68 Beeby had long been a strong advocate for payment by results even before he was appointed as the Arbitration Judge. See G. S. Beeby, 'The Artificial Regulation of Wages in Australia', Economic Journal, vol. 25, no. 99, 1915.
gave employers the right to introduce the bonus system with the condition
that such system should guarantee the minimum wage rate at least 10 per cent higher than the ordinary Award rate. After six months of the operation of the Award, the Unions' prohibition of piecework was to be regarded as a breach of the Award. It should be noted that Beeby regarded piecework and a 44-hour week as trade-off. By reasoning that piecework would offset the extra costs due to the reduction in working hours, the Judge placated the employers resentful of a 44-hour week.69

Despite his thrust for piecework, however, it was not the Judge's intention to cause any detriment to tradesmen:

> I feel certain that the unions' opposition [to piecework]...arises from a suspicion and distrust and fear that such a system will lead to the degradation of their craft.70
>
> If, in the opinion of the employees' union any rate or method of remuneration works unjustly and tends to lower the standard of the craft, similar application [to those about the rates and methods of the piecework system] may be made to this Court.71

In Beeby's idea, piecework was connected to the innovation of the production method; namely, mechanisation and job specialisation which was making engineering operations standardised. It was only on this technical basis that piecework became workable and suitable. In other words, piecework would not work where job standardisation did not proceed thoroughly enough. This point will be tested in the following chapters.

In any event, together with a 44-hour week and piecework, the remaining gist of Beeby's industrial reform was the reconstruction of the classificatory framework based on the separation of the manufacturing and general engineering sections of the industry.72

As well known, it was in his so-called Metal Trades Award in 1930 that the new classificatory framework was finally established.

69 Ibid., p. 375.
70 Ibid.
71 Ibid., p. 377.
72 Ibid., p. 374.
However, it should be noted that reclassification was part of the comprehensive scheme of Beeby’s industrial reform which had been designed by the late 1920s as an answer to the imperatives of the decade.

The controversial decision in the Award besides the legitimation of piecework was the permission for daily hiring. As shown, Higgins established weekly hiring in his 1921 Award and this decision was supported by Powers. Beeby, however, accepting the employers’ complaints of the inconvenience with weekly hiring due to the fluctuation in orders and the abuse of payment for sick leave, gave the employers the right to choose between weekly and daily hiring, with a provision guaranteeing 5s. a week extra as a compensation in case of daily hiring73.

As can be understood, Beeby’s reform plan aimed at a radical restructure of the conventional industrial order. Fully acknowledging the Union’s opposition to his scheme, however, Beeby desired this industrial reform to be undertaken with voluntary cooperation between the employers and the employed:

No carefully thought out proposals for a better organization of the industry have ever been put before them. Employers and their managers...admitted that they had made no serious effort by means of shop committees or industrial councils to get into closer contact with them...[N]o concerted effort has ever been made to establish a permanent line of communication.74

It is unfortunate that in Australia this industry has not evolved a more harmonious industrial relationship. Suspicion, mistrust, and misunderstanding have stood in the way of voluntary agreements...It is known that expansion of the industry depends largely on capacity to meet competition of countries whose labour cost is much lower than ours...Means of reducing costs of production must be found, and they can be found, if management and workmen can only be induced to come into closer relationship.75

73 Ibid., p. 378.
74 Ibid., pp. 373-374.
75 Ibid., pp. 372-373.
In this spirit of industrial harmony, Beeby proposed to set up a Joint Committee of the parties to voluntarily carry out the reform:

If the employers' delegates merely come for the purpose of reducing wages, or if the employees fail to adopt a spirit of compromise the effort will end ignominiously. If both sides approach the problem of re-organization with a sympathetic desire to maintain and improve accepted industrial standards, and at the same time to secure increased output and a reduction of labour cost, this Court may be relieved of the difficult task of finally determining the conflicting claim of the two factions. I have therefore included in the award every possible provision for the formation of Joint Committees.76

As mentioned, the purpose of the Award Beeby issued in July 1927 was to give a direction of the intended industrial reform rather than to prescribe practical provisions in detail. In the expectation that the implementation of the reform would be proceeded with voluntarily by concerning parties, the Judge made the Award provisional for six months to allow time to negotiate for the employers and the Union.

In reality, however, no cooperative effort emerged. On the contrary, the employers simply took advantage of the Award and reverted to daily hiring in a high-handed manner, fiercely exasperating both the Union and the Judge. Beeby severely criticised the employers' attitude:

I indicated in the judgement that the purpose of the variation was to allow employers who had real grievances against the weekly hiring system to change over to daily hiring. I never anticipated that a section of employers would flaunt the order of the Court as an industrial victory, and seek to bring about a serious change of conditions in many factories in which the change was entirely uncalled for...I did not think they would simply seize hold of the advantage conceded and involve the industry in unnecessary turmoil by disregarding the spirit of the award...[I]f subsequent events could have been anticipated, I would not have done so...The spirit in which associated employers accepted the recent judgement and award, their failure to heed the Court's warning, and to understanding and adapt themselves to their country's distinctive industrial

76 Ibid., p. 374.
concept, was the real cause of the disturbances which followed the last award.77

Having realised the impossibility of voluntary cooperation for the reform, Beeby delivered a revised award in September, which restored weekly hiring with some reservation about exemption.

A 44-hour week was maintained, even though transitional measures were adopted to alleviate the employers' grievances. Thus, for hours worked in excess of 44 to 48 hours, overtime rates would not be paid until the end of September 1927; the overtime rate for the four hours would be time and a quarter for the next three months. It was only after that period that the normal Award overtime rate of time and a half would be paid for the first four hours after 44 hours and double time thereafter.

With regard to an apprenticeship, the following trades were now allowed to take minors as apprentices: "(a) Patternmaking in wood; or (b) Blacksmithing; or (c) Coppersmithing; or (d) Mechanical engineering, i.e., one or more of the following:—(1) fitting and turning; (2) fitting and machining other than turning; or (3) turning and other machining".78 It should be noted from these wordings that skilled engineers were becoming more and more regarded as 'mechanical' engineers and, accordingly, the emphasis in the training of apprentices were shifting towards machining.

At the same time, however, Beeby was concerned about the abuse of apprentices and added the following provision to prevent the employers from using them as cheap labour without giving them a proper training:

A minor shall not be regarded as having entered the said trades—(1) merely because he works upon but does not set up purely automatic machines used for the production of repetition work, i.e., machines which, after the job has been fixed, require no hand adjustment until the operation is finished; or (2) merely because he is a learner of single machine processes in the said trades; or (3) merely because he is engaged

77 Ibid., p. 385.
78 25 CAR 388 at p. 401.
in specialized processes for the manufacture of metallic articles.\textsuperscript{79}

Behind this provision lay the fact that the employers were seeking cheap labour to put on those operations simplified by mechanisation and specialisation. It should be borne in mind that Beeby, although fully aware of the employers' need, did not intend to make apprentices the source of cheap labour for such work. In fact, he maintained the proportion of apprentices to a tradesman as 3:1, rejecting the employers' demand to loosen it.

As to the most crucial and contentious issue of reclassification, he decided to defer the decision for six months to gain time for negotiation. Eventually, new lengthy hearings commenced following the decision and it was not until 1930 that the new classificatory framework was established in the Metal Trades Award in 1930.

To sum up the characteristic of the Federal engineering awards in the 1920s, the emphasis of the Judges' intentions gradually shifted from the Court's original purpose of keeping industrial peace to the economic imperative of the time, that is, the fostering of manufacturing.\textsuperscript{80} For this purpose, the Court intensified its interference with conventional work practices. Beeby's reform plan in particular ran directly counter to the Union's traditional policies in many aspects.

It should be noted, however, that, despite this change in the Court's attitude, the concern for industrial peace never disappeared and the tradesmen-apprentices system itself was not challenged. Tradesmen were always treated with sufficient respect by all Judges for the purpose of maintaining industrial order. Even Beeby's controversial reform plan did not aim at the complete destruction of the tradesmen-apprentices system. In fact, Beeby

\textsuperscript{79} Ibid., pp. 401-402.

\textsuperscript{80} Bennett emphasises this change in the Court's principle in L. Bennett, 'The Federal Conciliation and Arbitration Court in the Late 1920s', \textit{Labour History}, no. 57, 1989. It should be noted, however, that, as demonstrated, Higgins did have economic concerns and, as will be shown, Beeby did not aim at the complete destruction of the traditional industrial relations for the sake of economic development.
referred to his intended reconstruction of the classificatory framework as "reclassification of labour which without reducing the status or earning power of tradesmen will cheapen production".81

With regard to the Commonwealth Arbitration Court itself, the Bruce Government succeeded in 1928 in passing a bill which gave the Court the power to supervise unions' internal affairs. Now, unions were to be penalised for the breaches of awards and for wild cat strikes, while employers were given the right to lock employees out. For the Bruce Government, this was a demonstration of its policy to maintain industrial peace by enhancing the authority of the Commonwealth Arbitration Court.

It should be noted, however, that eventually this policy failed to achieve its aim. In the face of a series of great strikes in the late 1920s, i.e., the watersiders', the timber workers' and the miners' strikes, the new Act proved useless for bringing about a peaceful settlement. Eventually, these strikes were terminated by force.

Amid the industrial turmoil, Bruce gambled on all or nothing; between the total concentration of power on the Federal Court at the expense of the State tribunals and the abolition of the Federal Court. When Premiers of the States rejected the former plan, Bruce had no choice but to proceed with the latter one, which led to his Party splitting, and a subsequent general election. The existence of the Federal Court being at stake, the electorate chose the Court and deserted the Prime Minister, who not only lost the election but his own seat. Scullin went into office with his Labor Party in 1929 to take on an already deteriorating economy.

81 25 CAR 388 at p. 401.