

The Equal Pay Case

"A MATTER OF SUCH OBVIOUS IMPORTANCE"

Article 23. Universal Declaration of Human Rights. Section 2. "Everyone, without any discrimination, has the right to equal pay for equal work."

The North Australian Workers' Union lodged an application with the Commonwealth Conciliation and Arbitration Commission early this year to vary the Cattle Station Industry (N.T.) Award 1951.

Variation of the Award was sought in the following respects:

1. By deleting from Clause 3 of the said Award the following paragraph:
"Aboriginal means an Aboriginal within the meaning of the Northern Aboriginal Ordinance, No. 9, of 1918."
2. By deleting from Clause 6 of the said Award the words "Aboriginals or domestic servants" and inserting after the word "overseers" the word "or".
3. By making such other and consequential alterations to the said Award as may be necessary.

Grounds for Application

1. Aboriginals were excluded from the Award because the Conciliation Commissioner formed the opinion that he did not have power to fix rates for Aboriginals.
2. The Commission has power to make an Award on industrial matters for employees engaged in the industry to which the Award applies.
3. The continued exclusion of aboriginals from the benefit of the Award is wholly without justification and is contrary to the principles in accordance with which the Commission acts or ought to act.
4. The immediate application of the Award to Aboriginals is necessary and just.

Heard in Melbourne

The application was heard in the Court of Conciliation and Arbitration in Melbourne before Senior Commissioner Taylor on Friday, 19th February, 1965.

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Mr. A. T. Brodney, for the N.A.W.U., told the Commission there had been widespread public disapproval of the discrimination in the Award. The Commission was the embodiment of the better thinking in the community to give effect to the rejection of discrimination.

Mr. W. E. De Vos, for the N.T. Cattle Producers Council, claimed that equal pay for the Aborigines would cost the pastoral industry about £400 for each employee a year. He said that this would total about £500,000, and claimed that this was beyond the capacity of the industry to pay.

Intervention

The Commonwealth Government sought leave to intervene in these proceedings. Mr. A. E. Woodward, appearing for the Commonwealth, gave no indication of the attitude which the Government will take in this matter.

The Association of Architects, Engineers, Surveyors and Draughtsmen sought leave to intervene on behalf of the N.A.W.U. Their representative stated that no industrial legislation could be tolerated which discriminated on the basis of race, creed or colour.

Full Bench

Mr. De Vos asked that the matter be dealt with by a full bench of the Commission on the ground that it was of such import that, in the public interest, it should be so dealt with.

The President of the Commission, Sir Richard Kirby, agreed "that the matter is of such obvious importance not only to employers and Aboriginals in the cattle station industry and in the Northern Territory generally, but also to the whole Australian community that I have no hesitation in forming the opinion that it should, in the public interest, be dealt with by a full bench and I direct accordingly."

Sir Richard would not have erred had he added that the matter is of obvious importance beyond Australia's shores. A time and place for this hearing before the full bench will be fixed in the near future.

At the hearing before the full bench Mr. De Vos will be required to submit irrefutable evi-

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dence that it is beyond the capacity of the pastoral industry to meet the extra £500,000 a year. It is certain that the Commission would accept as evidence for this statement nothing less than a full examination of the balance sheets of all the pastoralists in the N.T.

But whether the pastoralists can or cannot afford to pay is in actual fact not relevant to the question. What is relevant is whether the Australian economy as a whole can afford to pay equal wages to the Aborigines. The answer to this is unquestionably in the affirmative.

If proof is forthcoming that the industry could not afford to pay the extra wages, then the Federal Government must subsidise the pastoral industry just as it now subsidises the dairying industry. An investigation on this question, of course, would have to include an enquiry into the efficiency of the industry. There is evidence (viz., Report on the Beef Cattle Industry in Northern Australia, by J. H. Kelly—published by the Bureau of Agricultural Economics, Canberra) that the pastoral industry is not managed as efficiently as it should be.

Their Only Hope

The only hope of the pastoralists winning their case is to prove that the Aborigine is biologically inferior to other Australians, and as such is an inefficient worker who does not merit equal pay. Although Mr. De Vos did not mention this matter in court, he did mention it in an article in "The Territorian" (December, 1964), where he said, "Whilst some Aborigines are efficient by any standards, the majority are not."

The Federal Government does not agree with this statement of Mr. De Vos. An estimate of the efficiency of Aboriginal pastoral workers given by the Department of Territories is that 65% of Aborigines are efficient workers, 25% are trainable, and 10% are untrainable. Even as they stand these figures would compare favourably with the work efficiency of other Australians. It requires little imagination to predict that these figures would undergo a magical transformation if the Aborigines were paid equal wages. The pastoralists are surely not so intellectually inferior that they cannot realise that a well-paid employee will give better service than an underpaid one.

The pastoralists say that a radical change in the wage structure will lead to a reduction of numbers employed at a time when the object should be to maintain the highest level of employment of Aborigines. This is a hypocritical and unfair threat. The pastoralists know just as experts in this sphere know that the pastoral industry in the Territory would collapse without Aboriginal labour.

From every point of view the Aborigines must

receive equal pay for equal work — from a political, moral, scientific, legal, medical, Christian and trade union viewpoint.

It is just from a political viewpoint in that their equality is recognised in the sphere of politics. Aborigines have the right to vote at Federal elections, therefore wage equality also surely is their right.

This application for equal pay is just from a moral viewpoint. Article 1 of the Declaration of the Human Rights states: "All human beings are born free and equal in dignity and rights . . . and should act towards one another in a spirit of brotherhood".

Scientists would agree that wage equality is a natural consequence of biological equality. A group of scientific experts under the auspices of UNESCO made the pronouncement sixteen years ago that in their opinion "according to present knowledge there is no proof that the groups of mankind differ in their innate characteristics whether in respect of intelligence or temperament —and that scientific evidence indicates that the range of mental capacities in all ethnic groups is much the same". As biological equals Aborigines matriculate in a stockman's profession at a very early age.

It would seem that legally the Arbitration Commission cannot withhold the benefits of this Award from Aborigines. Apparently there is no pronouncement in the Arbitration Act which gives them power to do this. Mr. Brodney indicated before the Arbitration Commission that he was firmly of the opinion that it had the power to grant equal wages to Aborigines. If as a result of some legal blunder the Commission has not this power, and if all other aspects of the question point to the justice of equal wages, then surely the department which dispenses justice must modernise its thoughts on this matter.

The problem of the health of Aborigines will not be solved until their economic status is raised. Poverty is not conducive to good health. No one can practice adequate hygiene, buy medicines, or consult doctors on £2/8/3 per week.

Better education for Aborigines will remain a pious wish until wage equality for them prevails. Satisfactory education for Aboriginal children at the moment is an unattainable luxury.

Christianity cannot countenance differential treatment based on race or skin colour. And the Trade Unions say, "There must be an end to wage discrimination". This resolution on Aborigines was adopted by the 1963 Congress of the Australian Council of Trade Unions. Both the North Australian Workers' Union and the Australian Workers' Union are firm in their conviction that discrimination shall not operate under their respective Awards.