the union has caused an incorrect application and was obviously aware of the mistake.

In December 1974 a committee on the revision of labor relations law published a report, *Democracy in the Workshop,* in which it suggested several radical changes. The government has declared that a bill incorporating these recommendations will be introduced in the spring of 1976.

Labor Relations Developments in Australia, 1974

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This year will stand out as a very troubled period for Australian labor relations. The conventional statistical indicators of strike activity—the number of strikes, the number of workers involved, the number of man days lost, and the amount of wages lost—have all broken previous records. The number of working days lost in 1974 was about two and a half times the annual average for the previous five years, which was itself a period of high strike activity, and a much larger proportion of stoppages than usual concerned wage claims. For a rough comparison with other countries, it should be noted that the number of man days lost from stoppages per worker in employment was about 0.9 during 1974.

The year also witnessed a wage explosion and a rate of inflation of about the same order as occurred during the Korean War period, but with a momentum that threatens even greater acceleration of wage and price increases in 1975.

The following are the percentage increases, December 1974 in relation to the corresponding quarter of 1973: adult male weekly wage rates (federal awards), 35.0 percent; adult female weekly wage rates (federal awards), 41.5 percent; average weekly earnings, 27.7 percent; and consumer price index, 16.3 percent.

The greater increase in female rates was due to the phased implementation of equal pay awarded by the Arbitration Commission at the end of 1972, and the somewhat slower rise in average weekly earnings was due to the fall in overtime work.

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The discrepancy between wage and price movements was reflected in a very sharp decline in profitability and investment, and was accompanied by a rapid increase in the unemployment rate from 1.4 percent (seasonally adjusted) in June to 4.1 percent in December. This rate, which has continued to rise into 1975, is much higher than anything experienced since 1939.

A notable feature of labor relations in Australia since the early 1960s has been the rapid extension, in preference to compulsory arbitration, of collective bargaining and quasi-collective bargaining under the umbrella of the Australian Conciliation and Arbitration Commission. Such negotiated pay settlements have set the pace for wage adjustments generally. However, the decision in the middle of 1974 of the Prices Justification Tribunal (a body set up in 1973 by the newly returned federal Labor Government to monitor price increases, mainly of the larger companies) to disregard negotiated pay increases in excess of those determined by arbitration tribunals for purposes of warranted price increases, produced a dramatic shift from bargaining to arbitration. In the prevailing circumstances of high unemployment and with pay claims for the year largely met, this switch by employers to arbitration has not so far produced significant resistance from the unions. But the long run consequences remain to be seen.

In this connection, the Arbitration Commission's decision on quarterly wage indexation based on the consumer price index may have an important bearing. The unions' claim for automatic wage indexation in the 1974 National Wage Case was not granted by the commission largely on the grounds that it would add another "tier" to the existing three-tiered (and cumulative) "system" of wage fixation—negotiated and arbitrated industry increases, negotiated individual plant increases, and national arbitrated increases. These methods tended overall to produce inflationary pay increases. A conference of the parties, chaired by the president of the Arbitration Commission, to establish a more rational system of wage fixation to include indexation failed to reach consensus.

The unions' claim for indexation was renewed at the end of 1974 and was heard early in 1975 by the commission. At the time of writing, the commission has expressed itself in favor of indexation provided that it was part of a package of wage-fixing principles and government supporting action. These requirements

would, of course, confine arbitration and collective bargaining within certain guide lines and limit their scope. By the time next year's report is written, the viability or otherwise of these guide lines will be more apparent.

The only legislation of note enacted during 1974 was the attempt to resolve the problem of "duality" in the legal status of trade unions. Most federal or national unions (including all their state branches) are registered under the Federal Arbitration Act and so acquire corporate status. In four of the six states, the branches are registered separately in order to secure corporate status within those states. Such a situation has sometimes encouraged a union branch to defy its federal body with the consequential industrial disruption of "rival" unionism. The federal government has enacted legislation to ensure the supremacy of the federal union body over branches, but to be viable, such legislation needs to have a statutory counterpart in each of the four states. So far only one state has taken the necessary action, the other three states, possibly because of political differences, having made no move to date.

The various pieces of proposed legislation noted in last year's report have still not come to fruition because of refusal of the Senate, lacking a majority of government supporters, to approve them.

The legal limitations on the right of an employee to his job and the strength of "managerial prerogative" to "hire and fire" have been underlined by a recent decision of the High Court. An employer is bound only by the contract of employment which at most requires him to give notice (a week or whatever the actual or implied contractual basis) of employment termination. The question of "fairness" does not arise in law except, under the Federal Act, where the person dismissed can show that he has been victimized for union activity.

The attempt of a federal Arbitration Commissioner to provide for an appeal procedure against "unfair" dismissal has been found by the High Court to lack legal power. "Reinstatement" of an employee falls outside the jurisdiction of the federal tribunal because it is not deemed to be a matter pertaining to the relations of employers and employees, the person to be reinstated being an ex-employee. Furthermore, the proposed procedure in-

volves dealing with future disputes that will be local rather than interstate in scope, and this again is outside the jurisdiction of the federal tribunal whose awards cover the employer and employee. There is also the question whether the resolution of reinstatement disputes involves a judicial process that arbitrators are precluded from exercising.

These legal complications suggest that anything short of a constitutional amendment, a remote possibility in practice, would perpetuate doubts on the rights of employees to a hearing on the fairness of their dismissal.