[HIGH COURT OF AUSTRALIA.]

STEELE . . . . . APPELLANT;

AND

DEFENCE FORCES RETIREMENT BENEFITS BOARD AND ANOTHER . . } RESPONDENTS.

H. C. OF A. 1955.

MELBOURNE, *March* 9; *June* 22.

Dixon C.J., Williams, Webb, Fullagar and Kitto JJ.

Constitutional law (Cth.)—Judicial power—Statute giving right of appeal from decision of board to High Court constituted by single justice—Power of justice to state case for Full Court—Board exercising, inter alia, administrative discretions—Reading down of right of appeal to include only decisions involving claims or controversies within judicial power—Board to be "satisfied" that percentage of incapacity of pensioner has altered or that because of nature of his employment it should be varied—Issue determinable under judicial power—Interpretation of statute—The Constitution (63 & 64 *Vict. c.* 12), *s.* 76 (*ii.*)—*Defence Forces Retirement Benefits Act* 1948-1952 (*No.* 31 *of* 1948—*No.* 93 *of* 1952), *ss.* 53 (1), 83 (1)—*Acts Interpretation Act* 1901-1950 (*No.* 2 *of* 1901—*No.* 80 *of* 1950), *s.* 15A.

Section 83 (1) of the *Defence Forces Retirement Benefits Act* 1948-1952, which provides that any person aggrieved by a decision of the board set up under the Act may appeal to the High Court constituted by a single justice, is confined, by virtue of s. 15A of the *Acts Interpretation Act* 1901-1950, to such decisions of the board as involve claims or controversies falling within the judicial power. So confined the section is a valid law of the Commonwealth. The section does not prevent a single justice stating a case for the decision of a Full Court.

Section 53 (1) of the Act which provides that "the Board may from time to time, if it is satisfied that the percentage of incapacity of a pensioner classified under section fifty-one of this Act has altered, or because of the nature of his employment, should be varied, reclassify him in accordance with the altered percentage of incapacity" means that the board may make a new determination of the percentage of total incapacity of the pensioner in relation to civil employment, either because it is satisfied that the percentage of incapacity has changed or because the employment of the pensioner shows

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that, in the first instance, it was not correctly assessed and that it should be varied. The exercise of the authority given by the section is a matter which may be submitted to the judicial power.

Quaere whether once the board is satisfied of one or other of the requisite matters, there is any discretion in the board not to reclassify; and *quaere* whether, if there is, the High Court would review the exercise of the discretion as distinct from deciding whether it has miscarried in point of law.

CASE STATED.

William Kayle Steele appealed to the High Court from a decision of the Defence Forces Retirement Benefits Board. The respondents to the appeal were the board and the Commonwealth of Australia. The appeal was heard before *Taylor* J. who, on 19th January 1955, pursuant to s. 18 of the *Judiciary Act* 1903-1950 stated the following case for the opinion of a Full Court :—1. On and prior to 2nd June 1952 the appellant was a male member of the Permanent Air Force on full-time continuous service and was a " member " within the meaning of s. 51 of the *Defence Forces Retirement Benefits Act* 1948-1952. 2. On the said date he was retired from the Permanent Air Force within the meaning of the said section on the ground of physical incapacity to perform his duties. Such physical incapacity was not, in the opinion of the Defence Forces Retirement Benefits Board, constituted under the said Act, due to wilful action on his part for the purpose of obtaining pension or benefit. 3. The appellant's retirement took place prior to his attaining the retiring age for the rank held by him and thereupon the board determined the percentage of total incapacity of the appellant in relation to civil employment and in accordance therewith classified him as class B for the purposes of the said section. 4. Pursuant to the said decision of the board the appellant received a pension at the rate of £117 15s. 0d. per annum as from 3rd June 1952 and he continued to receive the said pension until it was terminated as hereinafter set forth. 5. The appellant became a member of the Permanent Air Force in the month of July 1948 and from that time until the date of his retirement he served in the said Force as an " engineering apprentice ". It was the intention of the appellant in undertaking this service to obtain training in engineering with a view, ultimately, to qualifying himself as an engineer. 6. The physical incapacity which was the cause of the appellant's retirement was the result of an injury to his right arm and wrist which occurred on 7th December 1951. This injury resulted in a permanent disability consisting of a marked limitation of the range of movement in his right elbow joint and a substantial loss of the function of pronation in the right

wrist. 7. The nature and extent of the appellant's physical disability is and always has been since 2nd June 1952 precisely the same. 8. Immediately after his discharge from the Permanent Air Force the appellant secured employment as a "technician's assistant" in the Postmaster-General's Department at Melbourne and he continued in this employment for a period of two months. Being desirous, however, of obtaining appointment as a permanent officer of the Commonwealth Public Service he applied during this period to the Deputy Postmaster-General at Melbourne for re-appointment as a "junior postal officer" a position which he had held before entering the Permanent Air Force. 9. The appellant was duly re-appointed in a permanent capacity to the Commonwealth Public Service at the expiration of the period of two months referred to in the preceding paragraph and he continued in employment in such capacity until the month of September 1954 when he obtained employment on the sales staff of a manufacturing company in Melbourne. 10. Shortly before 2nd July 1953 the board purported to reclassify the appellant pursuant to s. 53 of the said Act and terminated his pension. A notification of such reclassification in the following terms was forwarded by the said board to the appellant on or about 2nd July 1953 :—"Advice has been received of your recent application for appointment in a permanent capacity to the Commonwealth Public Service and that following examination by the Commonwealth Medical Officer, your incapacity in relation to civilian employment is now less than thirty per cent. The board has accordingly determined that your classification is now class 'C' and your pension under the *Defence Forces Retirement Benefits Act* will be terminated under s. 53 on and from 25th June, 1953, a final payment of £1 18s. 10d. being made on pension payday 2nd July, 1953". 11. I am satisfied upon the evidence and the parties do not dispute that :—(a) The appellant's physical disability has in no way altered since 2nd June 1952 ; (b) the appellant has not achieved any form of manipulative dexterity enabling him to overcome his disability so far as it incapacitates him for any particular occupation ; (c) that since 2nd June 1952 the extent of the physical capacity of the appellant to perform the duties of particular occupations efficiently has remained the same and, in this sense, the percentage of his total incapacity in relation to civil employment has not altered during this period. 12. The board, however, claims that notwithstanding the matters set out in par. 11 hereof that it was entitled, pursuant to s. 53 of the said Act, to reclassify the appellant as hereinbefore set out and to terminate his pension. It does not claim that it was satisfied or that there was any evidence before

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it that the percentage of the appellant's total incapacity in relation to civil employment had, in fact, altered. On the contrary it decided to reclassify the appellant on the ground that it was satisfied that because of the nature of the appellant's employment his percentage of total incapacity should be varied pursuant to s. 53 of the said Act. 13. From the decision of the board this appeal is brought to this Court pursuant to s. 83 of the said Act. The questions stated for the consideration of a Full Court are: (1) Was it open to the board to reclassify the appellant solely on the ground that it was satisfied that because of the nature of his employment the percentage of his incapacity should be varied and notwithstanding the matters set out in par. 11 hereof; and (2) whether s. 83 of the said Act, insofar as it purports to authorize an appeal to this Court from the board's decision, is a valid enactment of the Parliament of the Commonwealth?

M. J. Ashkanasy Q.C. (with him *C. W. Harris*), for the appellant. The words "incapacity in relation to civil employment" in s. 51 of the *Defence Forces Retirement Benefits Act* 1948-1952 do not merely refer to capacity to receive a particular wage at a particular moment. The reference is to civil employment generally and that comprehends, *inter alia*, the prospects of the man concerned in the career on which he had embarked. The vital words in s. 53 (1) of the *Defence Forces Retirement Benefits Act* 1948-1952 are the concluding words "reclassify him in accordance with the altered percentage of incapacity". The physical or mental incapacity must have altered as a condition precedent to reclassification. A man may be reclassified because he has an improved percentage of capacity for civil employment but he may not be reclassified because of something extraneous to him as, for example, if he is receiving high wages in a dead-end occupation. The reference to nature of employment in s. 53 (1) is for the purpose of enabling the board to initiate an inquiry as to whether the degree of physical incapacity has altered. The nature of employment may indicate some change in the extent of invalidity or physical or mental incapacity. For example, the fact that a man classified as blind is able to take employment as a truck driver will probably show that the classification is wrong. Section 83 of the Act gives a right to have the dispute decided by the High Court. The determination of the board is only a preliminary determination. There is no question of the exercise of a discretion. The process involves interpretation of the Act, estimation, and formation of an opinion on the facts.

[He referred to *Queen Victoria Memorial Hospital* v. *Thornton* (1); *Rola Co. (Australia) Pty. Ltd.* v. *The Commonwealth* (2).] The questions should be answered (1) No; (2) Yes.

A. D. G. Adam Q.C. (with him *W. H. Tredinnick*), for the respondents. The policy of the *Defence Forces Retirement Benefits Act* 1948-1952 is to compensate servicemen for the extent to which they have suffered in their earning capacity in civil employment by reason of injury during service. Its policy is not to compensate for pain and suffering or any other consequences of the injury. Frequently at the time of determination there will be no certainty as to what civil employment a man will be able to take. Section 53 should be read in a liberal way so as to permit the variation of the determination in either direction where relevant facts indicate that it should be altered. The natural meaning of s. 53 (1) is that the board may, from time to time, if it is satisfied that the percentage of incapacity of a pensioner classified under s. 51 has altered or because of the nature of his employment should be varied, alter the percentage of incapacity and, if appropriate, reclassify him in accordance with the altered percentage of incapacity. The construction contended for by the plaintiff renders the words "or because of the nature of his employment should be varied" redundant. Question (1) should be answered—Yes. We offer no argument in reference to question (2).

C. W. Harris, in reply.

Cur. adv. vult.

June 22, 1955.

THE COURT delivered the following written judgment:—

The questions for determination upon this case stated arise upon the *Defence Forces Retirement Benefits Act* 1948-1952. William Kayle Steele, who complains of a decision of the board set up by that Act, exercised the right which s. 83 purports to confer and appealed to this Court. As might be supposed, the so-called appeal from this administrative body is a proceeding in the original and not the appellate jurisdiction of the Court. Steele's case came before *Taylor* J., who after hearing evidence stated a case for the Full Court, relying upon the power conferred by s. 18 of the *Judiciary Act* 1903-1950. Two questions are raised. One concerns the interpretation of the provision applied by the board to Steele's case which he says is, upon its true construction, inapplicable. The

(1) (1953) 87 C.L.R. 144.

(2) (1944) 69 C.L.R. 185, at pp. 210, 211, 217, 218.

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other concerns the validity of the legislative attempt to confer authority upon this Court to review decisions of the board.

It appears from the facts stated that Steele was an engineering apprentice in the Permanent Air Force on full time continuous service. On 7th December 1951 he accidentally sustained an injury to his right arm and wrist which made it necessary that he should retire from the Air Force on the ground of physical incapacity to perform his duties. The incapacity consisted in a marked limitation of the range of movement in his right elbow joint and a substantial loss of the power of pronation in his right wrist. He was discharged from the Air Force on 2nd June 1952. From that time to the present there has been no change in the nature or extent of his physical disability nor in the consequent incapacity it produces for many kinds of civil employment. Upon his retirement on the ground of physical incapacity it became the duty of the board to determine the percentage of his total incapacity in relation to civil employment and to classify him in one or other of three classes according to the percentage determined. Thereupon he would become entitled to a pension according to his classification. The duty is placed upon the board by s. 51 of the Act which prescribes three classes, A, B and C. Class A comprises those incapacitated to the extent of sixty per cent or more, class B those incapacitated to an extent of at least thirty per cent and of less than sixty per cent, class C of those whose percentage of incapacity is less than thirty. The board determined Steele's percentage of incapacity and placed him in class B. The result was that he became entitled, under the provisions of s. 52 (2) (*c*) of the Act, to a pension amounting to £117 15s. 0d. per annum. Section 53 (1), however, gives the board a power in certain conditions of reclassifying a pensioner. Purporting to act under that provision the board has placed Steele in class C, with the result that under s. 53 (3) his pension has ceased. Steele says that the board's power to reclassify him never arose because the necessary conditions did not exist. Whether they did or did not exist depends upon the meaning of the sub-section, which is in the following terms:—"The Board may, from time to time, if it is satisfied that the percentage of incapacity of a pensioner classified under section fifty-one of this Act has altered, or because of the nature of his employment, should be varied, reclassify him in accordance with the altered percentage of incapacity." It is not suggested on the part of the board that Steele's percentage of incapacity in relation to civil capacity has altered. But it is claimed that under the sub-section the board may alter the classification of a pensioner "because of the nature of his employment", and

that it does not matter that there has not been, since the original determination of the board, any actual change in the pensioner's percentage of incapacity in relation to civil employment. It would be enough in any given case if the nature of the employment in which the pensioner had engaged since the first determination indicated that he had not then been properly classified. About the nature of Steele's employment, since the board's original determination in his case, there is no dispute. When he was discharged from the Air Force he obtained employment in the Department of the Postmaster-General as a technician's assistant, a position he held for two months. Before entering the Permanent Air Force he had been a junior postal officer and while a technician's assistant he sought and obtained reappointment as junior postal officer in the Permanent Public Service. The board thereupon purported to reclassify him pursuant to s. 53. Apparently he was first examined by a medical officer. It was then that the board decided that he should be placed in class C, a class covering persons whose incapacity in relation to civilian employment was less than thirty per cent. This meant that s. 53 (3) and s. 52 (3) (*c*) applied to his case. The date from which his pension ceased as a result of the application of those provisions was 25th June 1953. Steele has since resigned from the public service and obtained other employment but that does not seem material for present purposes.

The question whether s. 53 (1) enabled the board to reclassify Steele because of the nature of his employment in spite of the absence of any change in his physical capacity or aptitude in relation to civil employment involves a very short point of construction. For Steele it is argued that the board cannot act on the ground of the nature of his employment unless the board is satisfied on that ground that there has been a change in the extent of his incapacity. Perhaps it would be conceded that a change in the consequential limitations which ensued would be enough if any distinction between that and the extent of the incapacity can be seen. On the other side it is said that the sub-section contemplates two distinct cases. One is a change, whether an improvement or a deterioration, in the actual capacity of the pensioner. The other is the engagement by the applicant in some employment which by its nature shows the original estimate of the extent of his incapacity to have been mistaken.

For Steele the last words of the sub-section are seized upon, viz. "reclassify him in accordance with the altered percentage of his incapacity". These words describe the power of the board, as distinct from the reasons for its exercise, and, so it is argued, it is

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limited on its very terms to giving effect to an altered percentage of incapacity. Consequently, however the board may reach the conclusion, whether directly or by reasoning from the nature of the employment secured by the pensioner, it must be satisfied that the pensioner's incapacity has altered, before the board can reclassify him. This argument gives no substantive operation to the alternative expressed by the words "because of the nature of his employment should be varied"; they become a mere redundancy. Down to the word "varied", the sub-section states in unmistakable language two sharply distinguished things, of one or other of which the board must be satisfied. One refers to a fact, namely that the extent of the incapacity has increased or diminished. The other refers to what ought to be done in view of a fact. The fact is the nature of the employment. Ought that fact to lead to a correction in the percentage of incapacity previously attributed to the pensioner? The word "should" seems to mean "ought", that is as a matter of fairness justice or propriety. If the board is satisfied in this sense that because of the nature of the employment the previous attempt to assess the percentage of incapacity was erroneous and should be corrected, that is "should be varied", then it may reclassify him in accordance with the altered percentage. Usually no doubt such a question would be brought under the board's consideration because the employment which the pensioner has obtained appears to show that his capacity is greater than was supposed in the first instance. But it is logically conceivable that a pensioner may be reduced to the pursuit of some employment so clearly inferior to any for which the board in the first instance had regarded him as fitted that the nature of his employment indicates that too low a percentage of incapacity was originally adopted. It is therefore correct to say that both alternative grounds cover a revision which will increase the assessment of his incapacity as well as one which will reduce it. But one alternative leads to an alteration in the assessment because the basic fact has altered, viz. the incapacity itself. The other leads to an alteration in the assessment because new evidence of a specific kind has come into existence of the basic fact, the new evidence consisting in the nature of the employment. That is why the word "varied" is used; the percentage of the capacity is to be "varied". No doubt the sub-section is not drafted felicitously or with logical precision. For it employs the same phrases to cover the incapacity as it exists objectively and the incapacity as it is estimated in the board's determination. But that explains the last words of the provision, "reclassify him in accordance with the altered percentage of

incapacity ". They refer to, or at all events include, the altered percentage of the incapacity as assessed. The meaning of the sub-section is that the board may make a new determination of the percentage of total incapacity of the pensioner in relation to civil employment either because it is satisfied that the percentage of incapacity has changed or because the employment of the pensioner shows that in the first instance it was not correctly assessed and that it should be varied.

This disposes of the first question in the case stated, which should be answered that if the board was satisfied by reason of the nature of Steele's employment that the percentage of his incapacity had not been correctly determined and that it should now be varied, it was open to the board solely on that ground to reclassify him notwithstanding the matters set out in par. 11 of the case stated, which is the paragraph negativing any actual change in the percentage of incapacity since the first determination of the board.

It becomes necessary now to turn to the second question, which relates to the jurisdiction of the Court to entertain the so-called appeal. The jurisdiction is given by a proviso to s. 83 (1). The principal part of the sub-section is expressed crudely if briefly. It is confined to the statement that any dispute under the Act shall be determined in the first place by the board. There is nothing to enlighten one as to the identity of the parties to a dispute, the kind of issue forming a dispute or the process by which a dispute is to be determined. An inspection of the Act suggests that as the board is the party on whom all claims will be made the dispute will always be with it or its servants and the other party will be a person asserting rights as a pensioner or prospective pensioner or claiming rights under one. If so the first part of the sub-section seems to mean little more than that it will be for the board in the first place to allow or disallow a claim or otherwise to exercise *in invitos* the powers conferred upon it. The words " in the first place " seem to be introductory only to the proviso giving an " appeal " to this Court. The proviso is as follows :—" Provided that any person aggrieved by a decision of the Board may appeal to the High Court constituted by a single justice of that Court." The constitutional power relied upon for the enactment of this provision is to be found in s. 76 (ii.) of the Constitution, the power to confer original jurisdiction on the High Court in any matter arising under any laws made by the Parliament. In so far as rights enforceable against the Commonwealth or against the board as representing the Commonwealth are given by the Act no doubt a matter may arise within s. 75 (iii.). No doubt too, the board or its members may in a proper

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case be the objects of any of the three remedies placed within the authority of the Court by s. 75 (v.). But those provisions of the Constitution confer jurisdiction upon the Court directly and the proviso to s. 83 of the Act depends upon a power in the legislature to confer it by an enactment. It is to s. 76 (ii.) of the Constitution that we must look for such a power. For obviously controversies which s. 83 of the Act contemplates must arise under the Act as a law made by the Parliament and except by some unexpected chance they will not involve any of the other three kinds of matters which s. 76 enumerates.

The difficulty is that the matters arising under any law made by the Parliament to which s. 76 (ii.) refers must be of a kind falling under judicial power. What for this purpose is comprised within the word " matter " is described in the joint judgment *In re Judiciary and Navigation Acts* (1). It will suffice to quote the following passages :—". . . we do not think that the word ' matter ' in s. 76 means a legal proceeding, but rather the subject matter for determination in a legal proceeding. In our opinion there can be no matter within the meaning of the section unless there is some immediate right, duty or liability to be established by the determination of the Court . . . (In *State of South Australia* v. *State of Victoria* (2)) *Isaacs* J. said that the expression ' matters ' used with reference to the Judicature, and applying equally to individuals and States, includes and is confined to claims resting upon an alleged violation of some positive law to which the parties are alike subject, and which therefore governs their relations, and constitutes the measure of their respective rights and duties . . . All these opinions indicate that a matter under the judicature provisions of the Constitution must involve some right or privilege or protection given by law, or the prevention, redress or punishment of some act inhibited by law. The adjudication of the Court may be sought in proceedings *inter partes* or *ex parte*, or, if the Courts had the requisite jurisdiction, even in those administrative proceedings with reference to the custody, residence and management of the affairs of infants or lunatics " (3).

The foregoing must be read with the discussion in *Reg.* v. *Davison* (4) of the subject matter of judicial power and what may be incidental to its exercise. But what is a bare administrative function cannot be committed to a court. Such a function cannot be committed to a court so to speak in gross as opposed to a thing

(1) (1921) 29 C.L.R. 257.
(2) (1911) 12 C.L.R. 667.
(3) (1921) 29 C.L.R. 257, at pp. 265-267.
(4) (1954) 90 C.L.R. 353.

appurtenant to the performance of a principal judicial duty to which it is an accessory. This is shown by *Queen Victoria Memorial Hospital* v. *Thornton* (1) a case in which occasion was taken to enumerate the more recent authorities treating of judicial power (2).

The wide language in which s. 83 (1) of the Act is expressed occasions some difficulty. It appears to apply to every decision of the board. If "decision" means only the determination of a claim or of some asserted right or liability according to an ascertainable standard of fact or law or by reference to some objective test even if the test involves a discretionary judgment or assessment, the proviso would not necessarily go beyond s. 76 (ii.) of the Constitution. The board, however, possesses many purely administrative discretions and some of these seem to be governed by nothing but standards of administrative convenience and general fairness: cf. ss. 26 (2), 37, 58 (2), 62 and 63. If s. 83 (1) means to give a right of resort to the High Court in such cases so that the discretion exercised by the board may be reconsidered, it may go beyond power. The difficulty which is thus created is, however, met by the rule of construction which s. 15A of the *Acts Interpretation Act* 1901-1950 reinforces and strengthens. The operation of s. 83 (1) may be confined by the rule of construction to such "decisions" as do involve what for brevity may be described as claims or controversies falling within the judicial power. It is therefore enough in this case to examine s. 53 for the purpose of seeing whether an exercise of the authority which it entrusts to the board is a matter which may be submitted to the judicial power. The question turns on the character of the two conditions, one or other of which must be fulfilled before the board's authority to reclassify a pensioner arises. The board must be satisfied that the percentage of incapacity has altered or it must be satisfied that because of the nature of his employment the percentage of incapacity assessed should be varied. The first of these submits an issue depending entirely on an objective matter of fact and there could be no reason why it should not be determined under the judicial power. The second involves two things, viz. (1) the ascertainment and consideration of the nature of the pensioner's employment, and (2) a decision whether because of the nature of the employment it is fair, right or proper to alter the assessment of the extent of incapacity as mistaken. The first of these two things clearly does not go outside the scope of judicial power. Nor is there any real reason why the second should be considered to do so. No doubt it involves what

(1) (1953) 87 C.L.R. 144.

(2) (1953) 87 C.L.R., at p. 150.

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may be considered a discretionary judgment. But it is a judgment based upon an ascertainment of facts and governed by standards which if indefinite are not undefined and are by no means foreign to the judicial function. If the board is satisfied of one or other of these facts, its power of reclassification arises. It then can only reclassify according to a defined standard. It is true that because of the use of the word "may" in conferring the authority upon the board, the sub-section does not make it clear whether once the board is satisfied of one or other of the requisite matters, the authority must be exercised and the pensioner reclassified or there is still a discretion left to the board. If a discretion does remain in the board, it may be that the discretion cannot be exercised anew by the Court under the proviso to s. 83 (1). But we are familiar under the tax legislation of the Commonwealth with "appeals" to the original jurisdiction of the Court in which the discretion of the Commissioner of Taxation is not reviewed and is only examined for the purpose of deciding whether it has miscarried in point of law. It would be no cause for surprise if under the proviso to s. 83 (1) the same situation arose. At all events, the possibility of s. 53 (1) bearing a construction which allows a final discretion to the board after it is satisfied of one of the requisite alternative conditions can be no reason for treating the existence of the requisite conditions as outside the scope of the judicial power.

It follows that the second question in the case stated should be answered that s. 83 of the Act in so far as it purports to authorize an appeal to this Court from the board's decision in this case is a valid enactment of the Parliament of the Commonwealth.

There is one further matter that should be mentioned. Section 83 (1) says that the appeal shall be heard by the High Court constituted by a single justice. It does not seem inconsistent with this provision for the justice to state a case raising specific matters of law for the decision of the Full Court as has been done in the present instance.

Questions in the case stated answered as follows :—

Question 1. *If, by reason of the appellant's employment, the respondent board was satisfied that the percentage of his incapacity had not been correctly determined and that it should now be varied, it was open to the respondent board solely on that ground to reclassify him, notwithstanding the matters set out in par.* 11 *of the case stated.*

Question 2. *Section* 83 *of the Defence Forces Retirement Benefits Act* 1948-1952 *in so far as it purports to authorize an appeal to this Court from the decision of the respondent board in this case is a valid enactment of the Parliament of the Commonwealth.*

Costs of the case stated reserved for the judge disposing of the appeal.

Solicitors for the appellant, *Selwyn Gerity & Robinson.*

Solicitor for the respondents, *D. D. Bell*, Crown Solicitor for the Commonwealth of Australia.

R. D. B.