



TASMANIA

*Tasmanian Industrial Commission*

Industrial Relations Act 1984

T No. **9605 of 2001**

**IN THE MATTER OF** an application by the Tasmanian Trades and Labor Council to vary all private sector awards

T Nos **9663 and 9664 of 2001**

**IN THE MATTER OF** applications by The Australasian Meat Industry Employees Union, Tasmanian Branch to increase award rates and existing allowances relating to work or conditions in the Meat Retailing Award and the Meat Processing Industry Award, respectively, in accordance with the decision of the Australian Industrial Relations Commission of May 2001 contained in Print PR002001 - Safety Net Review - Wages

**FULL BENCH:**

PRESIDENT LEARY  
COMMISSIONER IMLACH  
COMMISSIONER SHELLEY

HOBART, 13 July 2001

**TRANSCRIPT OF PROCEEDINGS**

Unedited

(WOULD PARTIES PLEASE READ THIS TRANSCRIPT CAREFULLY)  
(ANY QUERIES SHOULD BE DIRECTED TO THE COMMISSION WITHIN 14 DAYS)

**HEARING COMMENCED 2.17pm**

PRESIDENT: I've got three files here, two belonging to the AMIEU. Are they all to be joined and heard together?

MS FITZGERALD: Mm.

5 PRESIDENT: All right. Could I take appearances please.

**MS L. FITZGERALD:** LYNNE FITZGERALD from the Tasmanian Trades and Labor Council.

10 **MR P. TULLGREN:** If it please, my name is TULLGREN and I appear for the Australian Liquor Hospitality and Miscellaneous Workers Union.

**MR T. KLEYN:** President, members of the bench, TOM KLEYN and **TIM JACOBSON** appearing for the Health Services Union of Australia, Tasmania No. 1 Branch.

15 **MR P. NOONAN:** If the commission pleases, I appear on behalf of the Shop, Distributive and Allied Employees Association, Tasmanian Branch, NOONAN P.

**MR I. PATERSON:** If the commission pleases, IAN PATERSON appearing for the Australian Municipal, Administrative, Clerical and Services Union.

20 **MR R. FLANAGAN:** If it pleases the commission, FLANAGAN R., for the Australian Workers' Union, Tasmania Branch.

25 **MR M. WATSON:** May it please the commission, MARK WATSON. I appear on behalf of the Tasmanian Chamber of Commerce and Industry, the Metal Industries Association of Tasmania, and The Hop Producers' Association of Tasmania and with me is **NICK BEHRENS**.

**MRS B. RONEY:** If it pleases the commission, RONEY B.L., appearing on behalf of Tasmanian Farmers and Graziers Employers Association.

30 **MR T. PEARCE:** If the commission pleases, PEARCE T., intervening on behalf of the Minister for Industrial Relations.

**MR W.J. FITZGERALD:** If it pleases, I appear on behalf of Australian Mines and Metals Association Incorporated - FITZGERALD W.J.

35 PRESIDENT: Thank you. No other appearances? All right, we'll deal with the three applications together. Ms Fitzgerald?

MS FITZGERALD: Thank you. I would like to say at the outset that it is indeed a pleasure to appear before such a constituted bench.

PRESIDENT: It's well balanced you think?

MS FITZGERALD: Extremely well balanced - and the first time.

40 PRESIDENT: No, it's good to see.

MS FITZGERALD: That's true. I intend to address this matter as expeditiously as practicable.

PRESIDENT: I guess before you do so I have to fess up that I actually  
45 sat on the federal *Living Wage Case*. I don't know whether anyone has any objections about that?

MS FITZGERALD: Not at all.

PRESIDENT: Good.

MS FITZGERALD: Our submission will cover the ACTU claim, the  
50 considerations of the federal commission and specifically the economic conditions, the economic effects of the safety net adjustment and the needs of the low paid, the decision of the federal commission, why this commission should flow on that decision to awards in the Tasmanian jurisdiction and specifically the Tasmanian economy and the effect of a  
55 safety net adjustment, some equity matters, the needs of low paid workers in Tasmania and indeed the public interest, and finally, detail the agreed understanding reached between the TCCI and ourselves.

On 8 June the Labor Council made application to (1) increase all  
60 award rates and existing allowances relating to work or conditions in private sector awards of the Tasmanian Industrial Commission from a common operative date of on and from the beginning of the first full pay period to commence on or after 1 August 2000 in accordance with the decision of the Australian Industrial Relations Commission of May 2001 contained in Print PR 002001 Safety Net Review - Wages, and (2) to the extent necessary to effect such increases to amend the  
65 principles of the commission.

On 14 June I advised the president of the commission of an error in our application. Nice try, but we were not seeking to flow on the decision as from 1 August 2000 but from 1 August 2001 and a corrected application was forwarded and these appear as exhibit 1.

70 With regard to the ACTU's living wage claim, the Australian Council of Unions sought in exhibit 2, paragraph 2 on page 6, a \$28 per week increase in award rates of pay up to and including the equivalent of skill level classification C.10 in the Metal Engineering and Associated Industries Award 1998 Part 1 - the Metal Industry Award, and a 5.7  
75 per cent increase in award rates of pay above that level and an

appropriate adjustment in allowances consistent with past safety net decisions and the furnishing and glass industries allowances decision.

80 With regard to the considerations of the federal commission, the parties provided economic material in their submissions and in their oral submissions specifically addressed the December quarter 2000 national accounts figures which show a seasonally adjusted decline in gross domestic product of 0.6 per cent.

85 The ACTU submitted as summarised on page 7, paragraphs 18 and 19, that the decline in GDP was caused by two primary factors: (1) the goods and services package by bringing forward activity in the construction sector resulting in a corresponding slump in construction figures for both the September and December quarters and impacting negatively on business cash flow and confidence, and (2) increases in interest rates in late 1999 and early 2000 directed in part to containing inflationary pressures arising from the introduction of the GST.

90 The ACTU submitted that in assessing an appropriate response to the December quarter 2000 data, the commission should look at the transitional effects of the GST on activity in the same way as other parties are urging it to look through the transitional inflationary effects of that package; have regard to the recent cuts in interest rates and recent and likely future fiscal expansion, and particularly note that its decision will take effect in the June quarter of 2001 and will not have a full impact on quarterly figures until September 2001 by which time the transitional effects of the GST should have largely washed through the system and recent monetary and fiscal stimulus will have had an opportunity to take effect, and, recognise that the ACTU claim will have a stimulatory effect on demand.

100 It is relevant to note the comments of the Governor of the Reserve Bank, Ian McFarlane, this week that GST transitional effects were passing and the economy would return to reasonable growth, an analysis that would seem to align with the ACTU's submission.

The commission formed the view on page 18, paragraph 67 that:

110 *- a degree of caution is required in light of the uncertainty arising from the most recent National Accounts data [commenting that] although Treasury and the RBA expect a timely recovery from the December quarter stalling in growth, and although transitional influences were significant contributors to the slowdown, there is some evidence of an underlying slowdown in growth. Further,*  
115 *there are risks to future activity from negative sentiment and slowing world growth.*

*The recent weakening in labour market performance reinforces the need for caution particularly in light of the requirement to have regard to the desirability of attaining a high level in*

120            *employment notwithstanding the need for some caution, we [the Commission], think that some further adjustment of the minimum wages safety net is appropriate and sustainable.*

With regard to the economic effects of a safety net adjustment, submissions to the federal commission addressed the effect of the  
125 ACTU claim and focussed on the effect of an increase in safety net award wages on the economy generally and on particular sectors with specific attention directed to employment, inflation and productivity.

The likely economic effects of the ACTU claim were addressed at two broad levels - and this is at paragraph 68:

- 130            • *the effects in aggregate terms on wages growth, inflation, employment and productivity; and*
- *the effects at the sectoral or enterprise level, recognising that the application of safety net adjustments will vary, as a result of the different incidence of enterprise bargaining and overaward payments, between and within sectors of the economy and the impact on the employment prospects of those employees benefiting from safety net adjustments.*
- 135

The commission stated that, at paragraph 69:

140            *The aggregate effects of any safety net adjustment will vary depending on the amount awarded, any conditions attaching to the adjustment and the general economic context.*

The commission further mentioned that:

145            - *economic activity declined in the December quarter 2000, with an associated weakness in employment. However aggregate wages growth has remained moderate and inflation has remained low. No party suggested that the \$15 adjustment awarded in the May 2000 decision played a role in the slower growth recorded in the last half of 2000.*

150            The national body of which the TCCI is a member, the ACCI, focussed, at paragraph 71:

              - *its submissions on the likely impact on particular employers. It submitted that the real effect of safety net increases is felt by employers subject to an actual increase in labour costs.*

155            *At the request of the Commission, the Joint Coalition Governments provided cost estimates, using their methodology, of the impact on aggregate wages growth of various safety net increases, for all sectors and the private sector.*

And that's at paragraph 80.

The commission concluded, page 22, paragraph 99:

160       - *the economic outlook as a whole suggests that the economy can  
accommodate further reasonable improvements in the safety net  
of minimum wages. The contribution to aggregate wages growth  
from the safety net adjustment we [the Commission] have  
165       decided upon will have a limited effect on economic activity,  
inflation, employment levels and productivity. In determining both  
the level and structure of safety net increases, we have had  
regard to the level of uncertainty about immediate economic  
prospects and the recent weaker labour market performance. We  
170       have also had regard to the differential impact of safety net  
increases and sought to protect employment by giving weight to  
the potentially greater employment impact of increases at the  
level of the lowest skilled classifications.*

With regard to the needs of the low paid, the federal commission by  
statute is required to consider the needs of the low paid. The objects of  
175       Part VI of the Act, subsection 88B(2) and the public interest,  
subsection 90(b).

The ACTU submitted on page 23 at paragraph 102, that:

180       - *the situation of the low paid is one of unmet needs which  
continues to feature tight finances and modest expenditure which  
is overwhelmingly directed toward the necessities of food,  
clothing, housing and utilities. There is the ever present financial  
stress which requires low paid employees to carry a level of debt  
in order to make ends meet, and to go without things and  
activities associated with full and active participation in society.*

185       The ACTU's submission relied upon statements from workers in a  
range of occupations to demonstrate the difficulties those employees  
had in affording basic necessities.

The ACTU also addressed the impact of the GST on low income  
workers - paragraph 108:

190       *It submitted that tax cuts for those on lower incomes were smaller  
than those on higher incomes and argued that there is no sign  
that any other section of the community has moderated its wage  
outcomes by reason of the impact of the GST. In this respect the  
ACTU observed that an employee on the federal minimum wage  
195       received a tax cut of \$9.15 per week compared to a high income  
earner who received a tax cut of \$61.80. Accordingly, it was  
submitted by the ACTU, any suggestion that the Commission take  
into account the tax benefits or increases in family welfare in  
considering the award of a safety net wage increase should be  
200       dismissed. The ACTU also argued that the overall effect of the  
GST on low paid employees did not compensate for bracket creep  
and movements in prices.*

The state Labor Government submitted - pages 23 and 24, paragraph 109:

205       - that research suggests that earnings mobility at the bottom of  
the labour market is quite limited and that with the growth of  
part-time, casual and contract work, low paid workers are more  
likely to be entrenched into a future of low paid work. They  
submitted that research by Mitchell reveals that a larger  
210       proportion of the workforce now face lower real wages due, in  
part, to deregulation of the labour market.

The Australian Council of Social Services on page 25, paragraph 120  
said:

215       - that although there is a relationship between wage levels and  
employment growth, there is considerable debate over the likely  
magnitude of the employment response to any decline in low  
wages. Whilst [ACOSS] is concerned about the impact of wages  
on unemployment levels, it rejects any suggestion that low paid  
workers should bear a disproportionate burden of aggregate  
220       wage restraint and reiterated its previous submissions that the  
burden of wage restraint should be fairly shared. ACOSS also  
expressed the view that minimum wages should be set  
significantly above the poverty level for a single person, to provide  
a fair reward for labour and to preserve work incentives for  
225       unemployed people.

The Australian Catholic Commission of Employment Relations - at  
paragraph 122:

230       - provided submissions on behalf of Catholic organisations  
operating in the education, health and aged care and welfare  
sectors and in parish and diocesan administration. ACCER  
submitted that it considered the award system as a necessary  
feature of the Australian industrial relations system and  
supported the system as a means of establishing fair minimum  
wages and conditions of employment. It supported any increase  
235       being a flat dollar increase to award rates to provide primary  
assistance to the low paid and suggested a tapered scale of flat  
dollar increases which might provide the best balance between  
meeting the needs of the low paid and maintaining vertical  
relativities. As in previous cases ACCER did not propose any  
240       particular increase but noted:

*[T]here does not appear to be any identified evidence to suggest  
that the \$15 per week increase awarded in the Safety Net Review  
Decision 2000 has had a negative impact on the Australian  
economy.*

245       Uniting Care, at paragraph 124:

250 - provided a number of case studies to demonstrate the plight of  
the low paid. It submitted that where employers successfully  
argue the case for lower wages, they shift the responsibility for  
ensuring workers have an adequate income from themselves to  
taxpayers. It also referred to studies which concluded that many  
workers on low wages are living in poverty. Those studies looked  
at the effect of economic stress on families and in particular  
children. It submitted that, in terms of workers' needs, the  
increase sought by the ACTU seems a very moderate rise, a mere  
amelioration of the situation.  
255

With regard to the commission's decision on the ACTU wage claim, the  
federal commission stated - pages 26 and 27, paragraph 129:

260 *On a number of occasions since 1997 the Commission has drawn  
attention to the fact that adjusting the award safety net by  
uniform dollar amounts erodes relativities between award  
classifications and has the potential to cause structural problems  
and unfairness to higher paid employees.*

The commission referred to its May 2000 decision, wherein it was  
stated that:

265 *The last occasion on which the Commission awarded a  
percentage adjustment to award rates generally was in the April  
1991 National Wage Case. Since that time there have been six  
adjustments to award rates generally which have been in flat  
money amounts. Relativities have been compressed further by the  
tapering of the amount of the increase at the higher levels in 1998  
and 1999. As a consequence the rate of increase in award rates  
at the lower levels has continually exceeded the rate at the higher  
levels. Each of these decisions has given priority to the needs of  
the low paid and in relative terms the low paid have benefited  
significantly from this approach. We have decided to maintain the  
approach of granting a flat dollar increase on this occasion. We  
indicate now, however, that on the next occasion that award  
rates are reviewed we shall expect to be addressed on whether a  
return to percentage adjustment is appropriate to ensure that the  
award system provides fair wages for employees paid at the  
middle and upper award classification levels. A proper  
examination of that question will necessarily include an  
assessment of whether the reasons for percentage adjustments  
contained in the extract from the April 1997 decision which we  
have set out remain valid.*  
270  
275  
280  
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All of the major parties made submissions on the issue of relativities.

The ACTU argued at page 27 paragraph 130:

*- that the percentage increase it seeks above the C10 level will  
ensure that the award system provides fair wages for employees*

290            *at the middle and upper classification levels. . . . that there has*  
                 *been a significant compression of relativities in the award rate*  
                 *structure since 1991. Such a compression undermines fairness by*  
295            *diminishing the extent to which award rates properly reflect the*  
                 *relative skills and responsibilities of jobs covered by awards and*  
                 *by diminishing the extent to which award rates act as a genuine*  
                 *safety net. It also submitted that a substantial gap is emerging*  
                 *between award rates and rates generally prevailing in the*  
                 *community. The award system will not act as a genuine safety*  
300            *net if it lags so far behind the market as to be irrelevant. Unless*  
                 *minimum rates for upper and middle level classifications are*  
                 *properly maintained there is a risk that these classifications will*  
                 *cease to have practical effect and the overall structure of the*  
                 *safety net will be weakened.*

The State Labour Governments at paragraph 131:

305            *- supported the position of the ACTU arguing that adoption of the*  
                 *proposal [that is, a percentage increase be awarded above the*  
                 *C10 level] would significantly arrest the compression of*  
                 *relativities particularly at the upper classifications levels where*  
                 *compression has been more marked, with the needs of the low*  
310            *paid still being emphasised through a flat money increase to*  
                 *classifications below the skilled tradesperson level.*

The Joint Coalition Government supported a flat money increase capped at the C10 level and argued amongst other things at paragraph 132:

315            *- the role for relativities under the Act is confined to relativities*  
                 *between awards and that the labour market no longer exhibits*  
                 *the problems which prompted the establishment of the structural*  
                 *efficiency principle and the award restructuring process.*  
                 *Workplace relations are now focussed at the enterprise level and*  
320            *maintaining historical relativities is no longer relevant in the*  
                 *current labour market.*

And futher, that:

*there is no evidence to suggest that in general employees at*  
                 *workplaces are not being adequately paid for their skills or that*  
325            *the compression of relativities in awards is causing particular*  
                 *problems at workplace level.*

At paragraph 133 the ACCI, in support of its submission, that an increase be applied only to the federal minimum wage rather than all award classifications argued that:

330            *- workplace relativities are a matter for the market and will be set*  
                 *by the market.*

335 The commission thankfully, at page 28, paragraph 137, did not accept the Joint Coalition Government's submission, indicating that it has previously rejected the submission that the legislative scheme compels the conclusion that employees on higher award classification rates should generally not be eligible for award safety net increases and reaffirmed that rejection.

The commission, at paragraph 138 stated that:

340 - *it is clear from the material before us that relativities remain an important feature of the labour market in general.*

And that:

- *there is compelling inference from this material that relativities within the labour market remain important.*

The commission stated at paragraph 139 that:

345 - *skills, responsibilities and the conditions under which the work is performed remain relevant considerations in the fixation of fair minimum wages. However the form of the increase is a matter for determination on the merits of the particular case taking into account all of the relevant statutory provisions. In this case, [the commission concluded] that it would not be appropriate to award a percentage adjustment.*

350

The commission further stated that it was:

355 - *mindful of the need for caution in a period of economic uncertainty and the lack of adequate material and data regarding the likely impact of any return to percentage adjustments. However we consider that it is appropriate on this occasion that the safety net adjustment be in such a form as to address the issue of compression and the need to ensure the maintenance of a fair safety net of minimum wages for all award dependent employees.*

360

Further, on page 29, paragraph 140:

365 *On this occasion we think that it is appropriate to recognise the different impact of flat dollar increases at the different award classification levels by awarding higher amounts at the middle and upper levels.*

*. . . consistent with the obligations upon us to have regard to economic factors, including the desirability of attaining a high level of employment, and to have regard to the needs of the low paid. The adjustment will be the following:*

- 370 1. a \$13.00 per week increase in award rates up to and including \$490.00 per week;
2. a \$15.00 per week increase in award rates above \$490.00 per week up to and including \$590.00 per week; and
- 375 3. a \$17.00 per week increase in award rates above \$590.00 per week.

The commission, in dealing with amendment to the Statement of Principles, page 30, paragraph 143:

380 - decided to modify the requirement that safety net adjustments increases not be available within twelve months of the previous safety net adjustment. That modification will only apply to cases in which the parties consent and there is no cost impact arising from the adjustment. Apart from that modification implementation of the adjustment provided for in this decision will be subject to the usual conditions. The conditions are:

- 385 (a) the increases will be fully absorbable against all above-award payments;
- (b) except where specifically permitted by the Statement of Principles, the increases will be available from a date no earlier than twelve months after the increases provided for in the May 2000 decision in the award in question;
- 390 (c) the commencement of award variations to give effect to this decision will be no earlier than the date on which the award is varied, with phasing-in of increases permissible where circumstances justify it. Any application for phasing-in will be referred to the President for consideration as a special case;
- 395 (d) by consent of all parties, and where the minimum rates adjustment has been completed, award rates may be expressed as hourly rates as well as weekly rates; in the absence of consent, a claim that award rates be so expressed may be determined by arbitration; and
- 400 (e) allowances which relate to work or conditions which have not changed and service increments are to be varied; the method of adjustment is to be consistent with the Furnishing and Glass Industries Allowances Decision.
- 405

The commission considered whether the Statement of Principles should be amended to allow for more than one safety net adjustment to be awarded at the same time and decided to amend the relevant principle as follows:

410 *In awards where the variation for a safety net adjustment arising*  
*from the April 1999, May 2000 or May 2001 decision is by*  
*consent and does not result in an increase in the wage rates*  
*actually paid to employees or increase the wage costs for any*  
415 *employer, any applicable twelve months' delay between*  
*variations, may be waived.*

As to why the Tasmanian Industrial Commission should flow on the decision of the federal commission, there are a number of strong arguments as to why this should occur.

420 Firstly, in terms of past practice and precedent. With regard to practice and precedent it is appropriate to reiterate that on no previous occasion since this commission's introduction of the current regime of Wage Fixing Principles in 1985 has the commission declined to flow-on the quantum of wage increases awarded by the federal *National Wage Case* or *Safety Net Adjustment* decisions.

425 With regard to Tasmanian economic considerations, I'm referring to exhibit number 3 which are extracts from the budget papers, particularly Chapter 2 and Chapter 1.

Firstly, with regard to Chapter 2 on page 29, it is stated that:

430 *- the Tasmanian economy has not kept pace with the very strong national economic performance over most of the 1990s, although there has been an improvement more recently across most economic indicators.*

At page 27 it is stated that:

435 *- over the past two years, (ie 1999 and 2000) Tasmania's economic performance has been characterised by:*

- 440 • *Improved rates of economic growth and solid growth in final demand*
- *Further growth in overseas merchandise exports, to record levels*
- *Higher level of both full-time and part-time employment*
- *A substantial reduction in unemployment, currently around an 11 year low, due to solid growth in employment and only modest growth in labour force participation, and*
- 445 • *A reduced rate of population decline as a result of lower levels of interstate out-migration.*

With regard to the Tasmanian labour market, on page 47, it is reported that:

450 - in terms of industry sector, the rise in employment over the past  
one to two years has been evident in most of the major sectors of  
the economy, indicative of the general improvement in business  
confidence in Tasmania.

455 Over the past year or so, gains have been recorded in agriculture,  
forestry and fishing, wholesale trade, communications services,  
the business services sector (which includes call centres), cultural  
and recreation services, and more recently retail trade.  
Improvement has also taken place in sectors characterised  
mainly by public sector employment, particularly health and  
community services.

In terms of forecasts for the year 2001-2002, on page 53 it is stated:

460 On current trends, Treasury expects that Tasmania's economic  
growth rate will be 2.3 per cent in 2001-02, a further  
improvement on the anticipated 1.8 per cent for 2000-01. This  
would represent a solid performance in a period of softer global  
and national growth, and is likely to compare well with the  
465 National performance over this period.

In 2001-2001, Treasury is forecasting employment growth of 1.3 per  
cent, or more particularly, 2,600 jobs.

At page 55 it is stated that:

470 - the anticipated 1.3 per cent rise in 2001-02 would therefore be  
the third consecutive year of constant, solid employment growth  
in Tasmania, a sign of general improvement in business  
confidence.

475 The commission should note that the Tasmanian budget was handed  
down after the federal commission's Safety Net Review decision had  
been released, thus, the anticipated rises in employment were made  
taking this decision into account.

480 Given the commission's interest in the Tasmanian economy and the  
effect of a wage increase, the competition index which is prepared by  
Treasury which is included in Chapter 1, pages 21 to 22, which  
compares the costs and benefits of undertaking business in Tasmania  
with those other states is informative and I selectively want to report  
on two indices - labour costs and payroll tax. Other indices include  
land and accommodation, electricity and fuel costs.

485 In terms of labour costs, Tasmania is the most competitive state in  
terms of labour costs and has the lowest average labour costs  
including on-costs such as workers' compensation premiums and  
payroll tax.

490 Changes to Tasmania's payroll tax regime announced in the 2001-  
2002 budget have improved the state's competitiveness in this regard  
so that Tasmania has the second lowest payroll tax index number. In  
the 2000 index, Tasmania has the second highest payroll tax number  
of all states.

495 Now I don't want you to infer that I am in fact advocating that we  
remain a low wage state or a low taxing state, I'm just simply referring  
to the Treasury document in terms of a comparison between Tasmania  
and other states.

500 In summary, the economic evidence demonstrates that the  
commission's decision last year did not adversely affect employment  
and perhaps assisted in creating greater demand for local goods and  
services. Given the Treasury forecast, the meagre increases being  
sought will not have a detrimental impact on the level of employment,  
thus the bench can be satisfied that the public interest test is met.

505 With regard to equity issues, in the past the commission has accepted  
that it would be wrong in terms of consistency, comity, equity and  
equal treatment for all Tasmanian workers to refuse the flow-on of the  
federal decision in circumstances where (1) state awards cover less  
than 27 per cent - perhaps as few as 25 per cent - of award covered  
workers in Tasmania, and (2) where no employer objection to flow on  
the increases in federal awards that apply in Tasmania. These  
510 arguments remain valid.

515 I'm advised by a number of unions, including the TWU, the ASU,  
APESMA, AWU and the CFMEU, that federal awards having  
application in Tasmania have been varied to incorporate the safety net  
adjustment without opposition from employers or employer  
organisations.

PRESIDENT: I can confirm that.

520 MS FITZGERALD: Thank you. In terms of the economic incapacity  
principle, I will just mention briefly that if an employer can clearly  
demonstrate that an increase in labour costs would cause serious or  
extreme economic adversity and result in job losses at the enterprise  
level, an application to reduce, postpone or phase-in the increase can  
be made in accordance with the economic incapacity principle. And I  
restate that despite criticisms by employers that I'm not aware of any  
application being made last year.

525 With regard to the public interest and particularly the needs of the low  
paid, whilst the federal commission has explicit responsibilities with  
respect to the needs of the low paid, this commission has accepted our  
argument that the needs of the low paid is a matter the commission  
takes into account in considering the public interest.

530 Despite the federal Minister for Industrial Relations recent rejection of the evidence of a *working poor*, there is indeed conclusive evidence that earnings inequality has increased and that many low paid working people cannot properly participate in their communities and that their life is one of struggle to make ends meet.

535 The ACTU relied upon the significant body of anecdotal and statistical evidence that demonstrates a growing number of working poor in Australia. In the report *Financial Disadvantage in Australia - 1999: The Unlucky Australians*, the Smith Family, in conjunction with the National Centre for Social and Economic Modelling, found that one in  
540 five poor Australians now live in a family where wages and salary are the main source of income, thus being part of the growing number of working poor.

The ABS statistics relied upon by the ACTU, including the ABS household expenditure survey data, shows just how modestly people  
545 on low pay have to live and just how stressful life is for the low paid. More than three quarters of low paid households, where employee income is the primary source of income, are just breaking even or spending in excess of their income. About 32,000 such households went without meals due to the shortage of money.

550 The witness evidence provided show that life for the low paid is a struggle. While the circumstances differed individual to individual, the key theme which emerges from the witness evidence is that living on low award rates does not guarantee any real level of comfort. It means scraping to make ends meet on a weekly basis, juggling bills in order  
555 to make payment, borrowing (often from friends or family) for significant purchases - and significant purchases may well be a washing machine - and going without things like holidays and entertainment.

Safety net increases arising from the four previous ACTU *Living Wage*  
560 cases have assisted the low paid.

In the past we have indicated the relevance of safety net increases to Tasmanian workers - workers who rely solely on increases in award rates to secure a wage increase - workers who, because of their lack of bargaining power, are unable to secure a fair and reasonable increase  
565 through workplace bargaining.

The ABS survey of employee earnings and hours conducted in May 2000 found that Tasmania had the highest proportion of employees paid by awards only at 31.8 per cent and the lowest average weekly total earnings.

570 In concluding, we have made application to flow-on the increases from a common operative date of 1 August 2001 and we have done that for the following reasons:

Firstly, 12 months will have elapsed since awards were last varied for the safety net adjustment.

575 If the commission decides to flow on the increases, it is equitable to ensure that all eligible workers receive the increase not later than 12 months after the last adjustment and that matters outside their control do not delay the application of the increase.

580 And it is administratively effective and efficient both for the commission and the parties for a common operative date with orders being issued by the commission.

585 In concluding, we state the ACTU claim was for \$28.00. The federal commission received substantial written submissions that were supplemented by submissions relating to the December quarter national account figures which were significantly affected by the Goods and Services Tax.

590 We were disappointed with the increases awarded, however acknowledged the influence of the December quarter figures and the federal government's submission. A disappointment, and indeed, the disappointment of low paid workers does not prevent us arguing the case for the need to flow on these small increases to Tasmanian awards.

595 I have submitted that the Tasmanian Treasury's description of the Tasmanian economy and its forecast for 2001-2002 which indicate that the Tasmanian economy is stronger than it has been in the past. Employers have not imposed the increases in wages in federal awards and we request that the commission decide, as it has in the past, to vary state private sector awards to reflect the decision of the federal commission from a common operative date of 1 August 2001.

600 A Memorandum of Understanding has been reached between the TCCI and the Labor Council and this is at exhibit 4, and I will read this. The memorandum states:

605 1. *Wage rates in private sector awards be increased by the safety net adjustment of \$13.00 for wages up to \$490.00 per week, \$15.00 for wages over \$490.00 and up to \$590.00 per week, and \$17.00 for wages over \$590.00 per week, including junior, apprentice and trainee rates (on a proportionate basis) as from the first full pay period to commence on or after 1 August 2001.*

610 *The safety net adjustment to be reduced to the extent of any overaward payment currently being paid by the employer.*

2. *Wage rates in private sector awards will only increase by the safety net adjustment as from the first full pay period on or after 1 August 2001 where*

- 615
- *existing wage rates have been varied to include the arbitrated safety net adjustment arising out of the August 2000 State Wage Case, and*
  - *a period of 12 months has elapsed since the wage rates in the award were increased to reflect the safety net adjustment arising out of the August 2000 State Wage Case.*
- 620

625 *In awards where the variation for a safety net adjustment arising from the August 1999, August 2000 or August 2001 State Wage Case decisions is by consent and does not result in an increase in the wage rates actually paid to employees or increase the wage costs of any employer, an applicable 12 months delay between variations may be waived.*

- 630 3. *Existing allowances relating to work or conditions be increased by 3.05% as from the first full pay period on or after 1 August 2001.*

I am happy to take any questions and urge the commission to make a decision on this matter in an expedient fashion. Thank you.

635 PRESIDENT: Just in respect to the only change that was made to the principles, and that is, removing the 12 months delay, is that going to affect any of the awards? If they were all varied on the last occasion, are there some still lagging?

MS FITZGERALD: Yes, there are some that weren't varied last time, yes.

PRESIDENT: Okay. All right, so that's a case of sorting those out.

640 MS FITZGERALD: So there about two or three that will be affected.

PRESIDENT: All right. Thank you. We'll mark your document **EXHIBIT UT.1.**

MS FITZGERALD: Thank you very much.

645 PRESIDENT: Anyone else from the applicant's side wish to make any comment? No? Mr Watson?

MR WATSON: Thank you, president. President and members of the bench, I'd just like to table an exhibit first of all, if I can.

PRESIDENT: **EXHIBIT TCCI.1.**

650 MR WATSON: President, the document that you have before you is basically the submission that we intend to make to you today. It also includes further background information which actually backs up the submission that I'm about to make to you.

655 The Tasmanian economy in the aggregate has continued to improve since the last *State Wage Case* decision albeit the rate of growth has tapered significantly.

660 The last two years without doubt can be described as sound in the Tasmanian economy. Positive progress was made in most areas with the state embarking on bridging the substantial gap between its own and national economic performances that has characterised for the last decade.

The TCCI is of the view that this improvement has arisen primarily due to the continuing strong performance of the national economy, the resurgence of Tasmania's export destinations and a majority government within Tasmania which has boosted confidence.

665 Despite this positive progress, the current *State Wage Case* decision is being framed against a state backdrop that has softened in line with the national economy in the past six months.

670 Now as can be demonstrated by the table at the bottom of the page in page 1, quite strong growth was achieved in the 1999/2000 financial year although this performance has not been matched in the 2000/2001 financial year.

675 According to the Reserve Bank of Australia, the softening of the national economy was largely attributed to a post-Olympics plateauing and a downturn caused by pulling forward of housing activity related to the GST.

680 With the Reserve Bank of Australia now firmly of the belief that these one-offs are behind the national economy, and easing of the monetary policy and initiatives to boost the housing industry, the stalling of the national and subsequently the Tasmanian economy is hopefully anticipated to be temporary.

This prediction has been further boosted by the recent expansionary state budget that would facilitate business growth into the future.

685 On this basis, president and members of the bench, the TCCI does not oppose nor do we wish to delay the implementation of the wage claim on the grounds of the economic climate within Tasmania.

Now the document that Ms Fitzgerald referred to in exhibit UT.1 is the position that we don't oppose in relation to this claim. Just a couple of things that I wish to address you on.

690 First of all, I take it that that document which is the understanding of the parties will actually be reflected in the newly issued Wage Fixing Principles which will come out with this decision.

695 Secondly, just in relation to paragraph one, where it talks about the safety net adjustment be reduced to the extent of any overaward payment currently paid by the employer, we did meet about this yesterday and it's certainly the understanding that that also includes any increases subject to enterprise bargaining that may be subject to registered agreements in the commission unless they contain a specific provision that says that the full safety net adjustment will be flowed on.

700 PRESIDENT: I'm sorry, just pass that by me again. I wasn't concentrating.

MR WATSON: In paragraph one, that second paragraph -

PRESIDENT: That's the normal absorption provision.

705 MR WATSON: That's right - but just to clarify, there are overaward payments obviously -

PRESIDENT: Certainly.

710 MR WATSON: - and there are payments that are included in the agreements through enterprise bargaining and registered with the commission that would also come into that category except if the agreement has a specific provision saying that the full safety net will be passed onto employees. Obviously that is not covered by that paragraph. So that's really just for clarification.

PRESIDENT: Well, I guess anything in an enterprise agreement that's over the safety net award is an overaward payment.

715 MR WATSON: Well, that's fine as long as we have that understanding.

PRESIDENT: That's my understanding. I think Ms Fitzgerald agrees with that.

MR WATSON: Yes, that's right.

720 PRESIDENT: All right, thank you.

MR WATSON: If it pleases.

PRESIDENT: Okay. Operative date - the first full pay period - 1 August.

MR WATSON: That's right, president.

725 PRESIDENT: Right. Thank you. Mr Pearce?

MR PEARCE: Thank you, president and members of the bench.

MS FITZGERALD: Now Tony's going to put the cat among the pigeons ..[inaudible].. ACTU claim.

730 MR PEARCE: Hope springs eternal. The position of the Tasmanian Government is that it respectfully urges this commission to adopt in full the form and quantum of wage increases determined by a full bench of the Australian Commission in its 2 May 2001 Safety Net Review Wages decision.

735 Were the bench so to do, it would of course be giving full effect to the accommodation achieved between the Trades and Labor Council and the Chamber of Commerce and Industry as reflected in the Memorandum of Understanding per exhibit TTLC.4.

740 In the course of the *State Wage Case 2000*, Mr Willingham on behalf of the government - quote - *warmly endorsed the agreement achieved between the Trades and Labor Council and the TCCI*. It is a sentiment that the government expresses again on this occasion.

Briefly, but for the record, the Tasmanian Government did appear before that Australian full bench and in so doing was involved in the development and presentation of the joint Labor states submission.

745 The position advanced by the joint Labor states was one of support for the ACTU claim on the basis of good national economic performance during 2000 and favourable forecasts for 2001 and for equity considerations in relation to those persons reliant upon award wages whose position relevant to those on agreements would decline in the absence of a genuine increase.  
750

In the alternative it was submitted that the commission should grant the maximum wage increase consistent with the evidence and do everything possible to address the needs of the low paid.

755 Incorporated into the written submissions of the joint Labor states was data in respect to the economic performance and outlook of each state as measured by reference to key economic indicators including growth, consumption, dwelling investment, trade performance, the labour market, population, wages and inflation, and indeed, president, this must sound a bit like an echo for you today.

760 PRESIDENT: A feeling of deja vu, yes.

MR PEARCE: Those criteria, or at least some, have been updated in the submissions of the Trades and Labor Council to reflect more contemporary developments, forecasts and outlooks as contained in the Tasmanian Budget Papers 2001.

765 In turning to look at some aspects of the full bench decision, I quote from paragraph 67, notwithstanding the need for some caution, we

think that some further adjustment of the minimum wages safety net is appropriate and sustainable. At 86:

770 *We consider that the safety net adjustment we have decided upon will have very limited impact on aggregate wages growth.*

At 87 - in part:

775 *- any effect on inflation would be minimal because wages form only part of total costs. Further, measures taken to offset the impact of the increases through productivity improvement would also limit the impact.*

At 99 - in part:

*The contribution to aggregate wages growth from the safety net adjustment we have decided upon will have a limited effect on economic activity, inflation, employment levels and productivity.*

780 The full bench in fulsome manner addressed issues associated with the low paid and on this occasion concluded - and I quote from paragraph 126 in part:

785 *The evidence presented in this case again revealed that employees on low wages do experience difficulties making ends meet and in affording what are generally considered by the broader community as basic necessities.*

And further on:

790 *We acknowledge that the material does indicate that people on low incomes face particular difficulties and that is one of the factors which we have taken into account.*

795 I interpose the amendment to the bench for with regard to the low pay, the major concern of the government is, as expressed in consecutive *State Wage Cases* and again today, is to ensure equity for the low paid and for those who have been unable to access increases by means other than award variations reflecting the safety net.

In returning to our consideration of the full bench decision, regarding appropriate form and quantum of increase, the full bench, at paragraph 140 stated in part:

800 *The amount and form of the increases are an appropriate outcome to the ACTU's claim. The form of adjustment is appropriate for reasons of fairness and as a measure towards avoiding the further compression of relativities between job classifications. Furthermore the result is consistent with the obligations upon us to have regard to economic factors, including the desirability of*

805            *attaining a high level of employment, and to have regard to the  
                 needs of the low paid.*

The Tasmanian Government endorses all of those foregoing full bench findings in the context of these proceedings.

810            President and members of the bench, it is our view that the provisions of section 36 which you are bound to take into account would not, in our view, be offended by meeting the terms of the application before you.

815            There is no evidence before you with particular regard to what we characterise as a moderate level of safety net increases that have flowed into the award system post 1992 that such increases of themselves have acted to the detriment of employment, unemployment or inflation in this time.

820            Having regard to that experience over time, there appears to be nothing to suggest that the granting of the increase sought in the application before you today will alter that experience relative to those three economic indicators.

If it please the commission, those are the submissions of the Minister.

PRESIDENT: Thank you, Mr Pearce. Ms ..[inaudible].. do you wish to say anything? No? Mr Fitzgerald - nothing?

825            All right, we'll adjourn for a couple of minutes. Please don't go.

**SHORT ADJOURNMENT 3.10pm**

**HEARING RESUMED 3.23pm**

830            PRESIDENT: Could I tell you that the commission is once again very pleased to see that there is an understanding between the parties. We will issue a written decision in due course but we indicate to you that we will endorse the Memorandum of Understanding made between the TLC and the TCCI and endorsed by the government. The operative date for the increases that flow will be the first pay period on or after 1 August 2001 and the commission will be issuing the orders.

835            Could I just ask, perhaps the Trades and Labor Council if they can give us some indication of the awards that are lagging behind and also we've noted - and that's all we're saying - that the increase for the allowances has been rounded up to 3.05 per cent. Correct?

MS FITZGERALD: Thank you.

840            PRESIDENT: All right, thank you.

**HEARING CONCLUDED 3.24pm**