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AUSCRIPT

TRANSCRIPT OF PROCEEDINGS

O/N 31540

TASMANIAN INDUSTRIAL COMMISSION

**PRESIDENT P.L. LEARY
COMMISSIONER T.J. ABEY
COMMISSIONER J.P. McALPINE**

T No 12871 of 2007

**ADMINISTRATIVE AND CLERICAL EMPLOYEES,
OPERATIONAL EMPLOYEES, PROFESSIONAL
EMPLOYEES, TECHNICAL EMPLOYEES AND COMMUNITY
AND HEALTH SERVICES (PUBLIC SECTOR) AWARDS**

**Application pursuant to the provisions of
section 23(2)(b) of the Industrial Relations Act 1984
by the Minister Administering the State Service
Act 2000 to vary the above award re arbitrated
safety net adjustment**

HOBART

2.30 PM, THURSDAY, 15 MARCH 2007

**This transcript was prepared from tapes recorded
by the Tasmanian Industrial Commission**

HEARING COMMENCED

[2.34pm]

PN1

PRESIDENT LEARY: Do the two matters be joined or we hear them concurrently? I take it, it is the same parties?

PN2

MR BAKER: Yes, President, that would be our recommendation to the bench.

PN3

PRESIDENT LEARY: Which one? Join them or do we hear them concurrently?

PN4

MR BAKER: Hear them concurrently.

PN5

PRESIDENT LEARY: Okay. Well, which one do you want to deal with first?

PN6

MR BAKER: Perhaps if we probably join them I think would be a preferred way.

PN7

PRESIDENT LEARY: All right.

PN8

MR P. BAKER: One is entwined with the other.

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PRESIDENT LEARY: Yes, I thought as much. No objection to them being joined?

PN10

MR TULLGREN: We concede to that, yes.

PN11

PRESIDENT LEARY: All right, well, we will join both matters and take appearances in both please.

PN12

MR P. BAKER: I appear on behalf of the applicant and with me today is MR K. GRAY and MS J. FITTON.

PN13

MR P. TULLGREN: I appear for the Hospitality and Miscellaneous Union in both matters.

PN14

MR T. JACOBSON: I appear on behalf of the Health Services Union of Australia, Tasmanian Number 1 Branch.

PN15

MR M. JOHNSTON: I appear on behalf of the Community and Public Sector Union, State Public Service Federation of Tasmania Incorporated.

PN16

MR D. PYRKE: I appear on behalf of the Association of Professional Engineers, Scientists and Managers Australia, appearing in both matters.

PN17

MR D. WISHART: I appear for the Australian Education Union.

PN18

PRESIDENT LEARY: Thank you. That looks like it. Mr Baker?

PN19

MR BAKER: Thank you. This matter is to solve an Australian wage case.

PN20

PRESIDENT LEARY: Is it that time?

PN21

MR TULLGREN: It is reluctantly - - -

PN22

MR BAKER: President and members of the bench, this application today before you involves two things: one is the adjustment of five awards, those nominated awards, to the application of the minimum wage adjustment and the safety net adjustment as defined within the wage-fixing principles of July 2006. And, secondly, there is the issue of a review of State sector awards. As has been done in the past by yourself, President, there has been some discussion between us on occasions concerning the state, or status of various public sector awards.

PN23

PRESIDENT LEARY: Am I going to regret having raised that?

PN24

MR BAKER: No, not at all. Irrespective as to the matter that is before us today I should also touch on the fact that there is to be a new Public Sector Union's Wages Agreement that is to be signed in the next week or so which will lay the foundation for a new classification structure for State Service employees generally. That process will be ongoing through the latter part of 2007 and - - -

PN25

PRESIDENT LEARY: Is that across all Public Sector Awards?

PN26

MR BAKER: The nominated four awards principally that are there.

PN27

PRESIDENT LEARY: Just the four, okay.

PN28

MR BAKER: And that will go on into 2008. In conjunction with that process we believe that it was appropriate that we should have a look at those documents that support the current terms of employment within the State sector and that includes, on the one hand, the wages documents and on the other, awards. Now, in addition to that, as part of its process, we have also uncovered a raft of both industrial and enterprise agreements that apply within the State sector. The relevance of those documents is debateable. Some of
- - -

PN29

PRESIDENT LEARY: So they are not registered, approved, certified, or whatever?

PN30

MR BAKER: Yes, they are certified.

PN31

PRESIDENT LEARY: They are?

PN32

MR BAKER: Yes.

PN33

PRESIDENT LEARY: Right.

PN34

MR BAKER: Certified reference.

PN35

PRESIDENT LEARY: Right.

PN36

MR BAKER: And some of those documents go back 20 years. Now, as part of this tidying up exercise we intend to have a review of all of those. I should add, members of the bench, that I have had discussions with both the agencies to whom are - who are respondents via the minister to the respective awards and also in relation to the agreements and I have also spoken to, or we have had discussions with the trade unions that are represented today, that we are all committed to the process.

PN37

Now, in relation to the awards, and I will come back to the wages shortly, but in relation to the awards, under clause 13 of the wage-fixing principles, 13 indicates the Commission requires each award has to be viewed to ensure that there is consistent award formatting and I would suggest that the 29 awards that are under review here do not have consistent format; one is different from the other.

PN38

Removal of discriminatory provisions. I can indicate to the bench now that there are discriminatory provisions in those awards. Removal of obsolete, or amending inaccurate award provisions, for example, there is one provision that exists in the GCOE Award that was introduced when the Tasman Bridge went

down in the mid-70s, to cater for certain circumstances applying at the time and 32 years later it is still there.

PN39

PRESIDENT LEARY: So are you saying that it is obsolete?

PN40

MR BAKER: It is obsolete. So there are allowances like that.

PN41

COMMISSIONER McALPINE: That is assuming the bridge stays up.

PN42

PRESIDENT LEARY: I was hoping no one would suggest that.

PN43

MR BAKER: We may be required to add to it.

PN44

PRESIDENT LEARY: It may need to be increased if there is a similar incident.

PN45

MR BAKER: Well, that is the other thing of course, there really hasn't been an increase for 20 years.

PN46

PRESIDENT LEARY: No.

PN47

MR BAKER: Updating of the pays of persons bound, which a number of the organisations are actually sighting those awards no longer exist through amalgamations, etcetera. The awards are clearly not written in plain English in some - in fact, some of the clauses are literally indecipherable and they certainly, other than in some of the awards that actually have been moved to the Federal jurisdiction back into the State jurisdiction such as teachers and nurses, they do not contain facilitated provisions, nor do they include appropriate flexibility clauses.

PN48

PRESIDENT LEARY: So they have failed on every dot point in principle 13?

PN49

MR BAKER: Yes, we failed.

PN50

PRESIDENT LEARY: Very good.

PN51

MR BAKER: And all of that, of course, came about - has come about over a period of time from when the four streams were introduced, or a decision was taken about the four streams in 1991 and those awards were adopted through '96/97. There were undertakings at the time that a number of awards should

have been abolished and/or others that should have been amended, or addressed.

PN52

Now, a number of those awards were abolished but, unfortunately, nothing has ever happened in relation to the others. We have indicated to the agencies and to the unions concerned we have no fixed position insofar as individual awards are concerned. However, I stress this, however, simply because the award has existed for the last 35 years and it is close to one's bosom, doesn't mean that it is going to continue into the future. Now, there will need to be a logical reason as to its ongoing application.

PN53

And, for example, the Tourism Award contains one provision that currently has application. Now, come June/July of this year the reason for that award in Burnie will cease to exist. So our position in relation to that award should be that it should be rescinded. And there are other - - -

PN54

PRESIDENT LEARY: So the people that are currently covered by it are picked up by another award?

PN55

MR BAKER: They would be picked up by another award.

PN56

PRESIDENT LEARY: Would they?

PN57

MR BAKER: Yes. And we have had in our search of these awards of where they apply we found discrepancies such as the old Metal Trades State Service Award which was to be abolished in 1997 when the Operational Employees Award came into being, there was further moves to abolish it as late as 2003 and for reasons which I can't explain, is still there, and not only that, we have actually discovered that there are some employees whose terms of employment are, in fact, bound by it.

PN58

So even 10 years later, even 10 years after the decision was taken to abolish that award it still has application. So that there are serious problems in relation to the application of these awards in the way they are applied. Some of the awards, of course, have been already dealt with, such as the Ambulance Employees Award, the Health Services Union of Australia, together with the relevant agency, have had some discussions about bringing that award up to date and including a series of previous enterprise - sorry, industrial agreements into that document.

PN59

Insofar as the industrial agreements are concerned, the application of them as far as the document is concerned, you may note that in a number of awards there is a reference to the Industrial Agreement of 1988 and we would think that by 2008 that that reference ought to be removed altogether from our awards. Those provisions that apply, or those relevant provisions that continue to apply to State Service ought to be found in an award and not in an

agreement that people, 20 years later, would struggle to remember even existed.

PN60

PRESIDENT LEARY: Does anyone still have a copy of it?

PN61

MR BAKER: Well, actually, an agency asked me the other day did I have a copy of it and, yes, we still have a copy of it - - -

PN62

PRESIDENT LEARY: Good.

PN63

MR BAKER: - - - but a well-worn copy.

PN64

PRESIDENT LEARY: Good housekeeping.

PN65

MR BAKER: So there is a lot of work to be done and insofar as these awards are concerned we will be literally, as from next week, contacting the relevant parties to the awards and suggesting that they come into our office for a chat. Just to make sure that the process remains on track and it will be our office that has initiated this, we will be tending to drive a process but we would certainly want the other oversight of the Commission so that each of the awards is properly addressed, assessed and we can move on. Now - - -

PN66

PRESIDENT LEARY: What is the end result that you are seeking to achieve; that all conditions and rates of pay, etcetera, be contained in one document; that all of these extraneous agreements that are hanging around be put to one side?

PN67

MR BAKER: All extraneous agreements are put to one side.

PN68

PRESIDENT LEARY: Yes.

PN69

MR BAKER: There are some awards that will need to be continued on such as, for example, the Miscellaneous Workers' Award because of its application. There will be separate awards like that that continue.

PN70

PRESIDENT LEARY: Sure.

PN71

MR BAKER: But awards, for example, that apply to Tourism Tasmania, the Hobart Regional Water Board and there are a few of those other awards, we need to ask a serious question about whether or not they have any application, any real application. Now, in an event where there is allowances that are peculiar to an agency, we would see one or two things happening to those;

that those allowances either should go into an enterprise agreement, or industrial agreement, that is separate to the agency, or either move - and I haven't sort of explored this option with my colleagues, we need to perhaps either move that into the General Conditions of Employment Award so that it leaves one document where all these are found, rather than again - - -

PN72

PRESIDENT LEARY: Numerous.

PN73

MR BAKER: - - - numerous bits and pieces. But that is something that we need to explore - - -

PN74

PRESIDENT LEARY: Sure.

PN75

MR BAKER: - - - with the parties.

PN76

PRESIDENT LEARY: Yes.

PN77

MR BAKER: So that is about where we are with the awards. As I said, we really want to get to a stage where we have got a proper and effective statement of the actual conditions of employment for the State Service in one document. And that one document would also include such things as a range of the ministerial directions. There are a number of those that are floating around in the ether, that we need to sort of bring into the award.

PN78

The other thing which we need also to do, in my view, is to ensure that we have a commonalty wherever possible of relative award conditions. There are clauses that are like of like. We have got too many examples where somebody has written an award clause for this occasion and then we have moved on to another occasion where there is another award clause written. It may be the same, or similar outcome but our view is that it should be - that unless there is specific requirement for it to be given there should be a commonalty of clauses through the awards. And one of the issues that we will look forward to addressing is the issue of an effective and proper parental leave provision. Our parental leave provisions are all over the place at the present time - - -

PN79

PRESIDENT LEARY: Yes.

PN80

MR BAKER: - - - and, of course, as you and I both have had the discussion, our parental leave provisions do not equate to the national standard, which is something that we all collectively need to address.

PN81

PRESIDENT LEARY: Well, while one exists anyway.

PN82

MR BAKER: Yes. Now, in respect, President, and members of the bench, in respect to the wage rates, sorry, the wage adjustments, the last time these awards, that is the five awards that are before the bench today in respect of wage adjustments were varied, were as a result of their making, which was in 1996 early '97. There has been no adjustment to those wage rates as have been outlined to you today and we say that as step one in the process of providing a proper and effective array of wages, allowances and conditions, that we should seek to place upon you to vary the five awards as the Administrative and Clerical Employees Award, the Technical Employees Award, the Professional Employees Award, the Operational Employees Award and the Community and Health Services (Public Sector) Award by including in those awards the minimum wage and safety net adjustment figures since 1997 through 2007.

PN83

PRESIDENT LEARY: So these now reflect all of the increases since - - -

PN84

MR BAKER: All of the increases.

PN85

PRESIDENT LEARY: The State Wage Case increases since that date?

PN86

MR BAKER: State Wage Case right through. Now, I do indicate that I understand I have made an error in one of the - in the Administrative and Clerical Employees Award at level 7, step 2, the salary should read \$48,548. I can actually provide - - -

PN87

PRESIDENT LEARY: Sorry, which one was it again; level 7?

PN88

MR BAKER: Level 7, step 2.

PN89

PRESIDENT LEARY: Right.

PN90

MR BAKER: Mr Johnston advises me that the figures should read, \$48,548.

PN91

PRESIDENT LEARY: Instead of \$46,548?

PN92

MR BAKER: Yes, and we can supply copies of these awards to you. So in relation to step - that is the second part of the process. And the third issue is that we would seek to come back to the Commission however it is constituted in December of this year when, having gone through this process we would come to you with what we would hope to be a composite document of wages, allowances and terms of employment.

PN93

As I indicated earlier, we would like, well, we will seek to incorporate various terms of employment from various industrial agreements into the award to make it a relevant document. And we would do that, we would say to the bench that in accordance with principle 4 that we would reflect an appropriate - that we would seek to vary the award safety net by an appropriate amount to reflect an effective, and underpinning level of wages, or salaries, within the relevant awards.

PN94

PRESIDENT LEARY: So the five awards that you have given us today that have been varied to include State Wage Case decisions from 1996/97 - - -

PN95

MR BAKER: Yes?

PN96

PRESIDENT LEARY: - - - do they now, in your view, represent an appropriate safety net award for the people covered by those awards?

PN97

MR BAKER: They do at today.

PN98

PRESIDENT LEARY: Yes.

PN99

MR BAKER: Today; yes.

PN100

PRESIDENT LEARY: Yes, that is what I am saying.

PN101

MR BAKER: Yes. And then, as I have indicated, President and members of the bench, we would come to you in December of this year, having gone through the exercise, looking at where we are as far as our award, our principal is concerned, the GCOE Award, that is the General Conditions of Employment Award, have a look at that award and then we would seek to have that award reflect a proper and effective underpinning safety net that reflects wage rates, allowances and conditions of employment.

PN102

PRESIDENT LEARY: So it is maintaining minimum rates awards then, a safety net award; is that - - -

PN103

MR BAKER: Yes, there would - - -

PN104

PRESIDENT LEARY: That is what you are putting? Yes.

PN105

MR BAKER: Yes, it would still remain a minimum rates award. And subject to any questions from the bench I would conclude my remarks there and urge

that the applications, as presented to the bench, be read in accordance with the wage-fixing principles enunciated by the bench in July of '06. And we would also submit that it does not offend the public interest test at section 36 of the Act, and further, that the bench, by administrative decision, allocate the list of the 29 awards in question to various members of the Commission for overlooking the process of review.

PN106

PRESIDENT LEARY: What sort of discussions have taken place to date with the meetings, anything, or is this the beginning of the process.

PN107

MR BAKER: Well, other than we have had a preliminary discussion and Mr Tullgren and I have had some other informal chats. That is as far as it goes other than to say that we are as one, or I think I am right in what I am saying, we are as one - - -

PN108

PRESIDENT LEARY: Well, that is your submission anyway.

PN109

MR BAKER: My submission is that we are as one in taking the process for it and bringing it into some finality because we are all of the view that it is high time that these awards were addressed and, in particular, our principal award, the GCOE, which has fallen into almost total disrepair and has rapidly become a meaningless document in any regard.

PN110

COMMISSIONER ABEY: Do they get the - on the your last point about the oversight of the Commission - - -

PN111

MR BAKER: Yes?

PN112

COMMISSIONER ABEY: - - - is that to be a - do you see that as being a pro-active role, or a passive role?

PN113

MR BAKER: I see it as both, Commissioner. As I said, we in the Public Sector Management Office intend to drive the process - - -

PN114

COMMISSIONER ABEY: Yes.

PN115

MR BAKER: - - - but, unfortunately - - -

PN116

PRESIDENT LEARY: So you are going to provide all the paperwork to start with?

PN117

MR BAKER: We will provide all the paperwork but there may be occasions when we need somebody to drive us and my colleagues on the rights.

PN118

PRESIDENT LEARY: So you want the Commission to facilitate - - -

PN119

MR BAKER: Yes, thank you.

PN120

PRESIDENT LEARY: - - - some report-backs, or assistance if required?

PN121

MR BAKER: Yes. I mean, there may well be times when we reach an impasse about what should happen - - -

PN122

PRESIDENT LEARY: Sure.

PN123

MR BAKER: - - - and I think it would appropriate in those circumstances for the Commission to provide advice to the parties to how we should move something forward.

PN124

PRESIDENT LEARY: I am sure there won't be any difficulty with the Commission providing that assistance on the basis of the same amount of enthusiasm is not demonstrated for this exercise as was demonstrated for the Federal Award Simplification exercise. I say no more.

PN125

MR BAKER: I think I was a part of that.

PN126

PRESIDENT LEARY: I think we were all guilty, including the Commission. But it was very hard to get people to even turn up let alone want to sit down and discuss it, but this is your initiative it is not the Commission's initiative.

PN127

MR BAKER: No.

PN128

PRESIDENT LEARY: But we are happy to whip you into action.

PN129

MR BAKER: Well, of course, in the Federal system, of course, you wrote your own awards at the end of the day.

PN130

PRESIDENT LEARY: I believe so, yes. Now they are all non-existent. Anyway, that is another story.

PN131

MR BAKER: Thank you.

PN132

PRESIDENT LEARY: Thanks. No question?

PN133

COMMISSIONER McALPINE: No.

PN134

PRESIDENT LEARY: Mr Tullgren?

PN135

MR TULLGREN: Thank you, your Honour. Your Honour, from our point of view I can indicate to the Commission that in a prima facie way we don't take issue with the submission that has been put by my friend for the Government. Unions do recognise that the current collection of awards which apply to public sector employment however you define that term, and we say that is not relevant necessarily today.

PN136

And the collection of - ended effectively enterprise bargaining agreements that also exist has created an unusual situation in relation to identifying wages and conditions. I am not sure that I unnecessarily share the somewhat harsh view that my friend puts in relation to it. I think I would more approach it on the basis that it is perhaps like a piece of Roman-type mosaic floor that has been knocked about.

PN137

It is a bit dirty and it is a bit rough at the edges but, generally, it is a work of art which can be restored to its full beauty and effectiveness. And approaching it on that principle we certainly think there is some work to be done and some merit to returning the detailed floor to the brilliance of which it was when it was first created. Addressing some of the issues that my friend has put to you, he submits that in accordance with wage-fixing principles that all of the awards fail all of the points set out. But I must indicate that we think that that is a somewhat harsh assessment. I don't think one could take the view that
- - -

PN138

PRESIDENT LEARY: Maybe it is an ambit claim?

PN139

MR TULLGREN: Yes, well, yes, although I understand that those have started to go out of fashion.

PN140

PRESIDENT LEARY: Not in this jurisdiction necessarily just yet.

PN141

MR TULLGREN: Some of us have a great nostalgic and practical attachment to that principle as well.

PN142

PRESIDENT LEARY: Yes.

PN143

MR TULLGREN: But, clearly, I don't think it is supportable to say that all of the awards fail all of the tests, then we wouldn't have a Roman mosaic floor at all, we would simply have a collection of shards which would create even greater problems.

PN144

PRESIDENT LEARY: It is all very fitting on the two thousand and fifty-first anniversary of Julius Caesar's death in some way, isn't it?

PN145

MR TULLGREN: Yes.

PN146

PRESIDENT LEARY: Yes.

PN147

MR TULLGREN: And for some of us who would celebrate that and others that perhaps not we don't necessarily seek to inflict it on them all but - - -

PN148

PRESIDENT LEARY: No. So we will move on.

PN149

MR TULLGREN: But, clearly, the awards do to varying degrees, offend some of these requirements.

PN150

PRESIDENT LEARY: It would appear so.

PN151

MR TULLGREN: And there is a general acceptance that awards need to be consistent, that they need to be up to date and to reflect what is there. My friend says that the Government has no fixed position in relation to awards, however, just because an award exists it is not reason to say it remains. Well, we don't necessarily accept the full logic of that position. Some of these awards have great antiquity and a great history to them and that antiquity history simply cannot be set aside in the pursuit of perhaps one all-encompassing juggernaut agreement, or award but unions are prepared to look at those issues.

PN152

My friend has identified that one particular award which would remain, and I think my friend's - the concession is the Miscellaneous Workers (Public Sector) Award which has a very discrete coverage. And there are a number of those awards that would continue to have operation, we would submit, initially at this stage. In relation to calling up agreements it is accepted that there is a problem when you seek to call up agreements that go back to 1988.

PN153

I would suggest that perhaps the current sources of those agreements are my friend's filing cabinet, the Boblian library and the Library of Congress which hold historical documents, but that it may be difficult to summons some of these up very quickly to be able to identify them. And the problems are

somewhat compounded that some other agreements actually call up a reference in a previous agreement and so there is a need, we accept, to go through all of those and to extract all of the relevant conditions and make sure they are contained in the awards and agreements that will continue to operate.

PN154

The issue of the omnibus nature of the General Conditions of Employment Award is a matter that hasn't been the subject of any detailed discussion between the relevant parties. We understand the Government's position in relation to that. However, that, whether we agree that that is the total effective way to do it is a matter that could be the subject of some discussion but hopefully no renting - renting of clothing and gnashing of teeth. The issue of commonality of award conditions, I think the position is that there are awards where the various authorship of particular clauses cannot be identified and perhaps - - -

PN155

PRESIDENT LEARY: Probably just as well.

PN156

MR TULLGREN: Perhaps we have all been guilty time to time of writing these clauses and reflecting our understanding from the particular background of the industry where they have come from. That doesn't necessarily make them wrong but there is some utility in the proposition that if a particular condition is applied universally then the description of that application should be the same. Save and accept that in doing that you don't actually modify, remove, or alter some intention that is in the clause and I have alerted my friend to - - -

PN157

PRESIDENT LEARY: I don't think that is being suggested.

PN158

MR TULLGREN: - - - that some of those, while at first blush might not look like that but when you at them and look at the history that a clause might be written a particular way because it addresses something unique for those employees that it regulates and, therefore, we don't wish to throw the baby out with the bath water literally in relation to that.

PN159

PRESIDENT LEARY: But all of those sort of things will be highlighted during discussions.

PN160

MR TULLGREN: Yes.

PN161

PRESIDENT LEARY: Yes.

PN162

MR TULLGREN: But just so the bench is aware that these are matters, the question of parental leave, again, everyone accepts that if employees are entitled to the most relevant parental leave provisions and that they should be

expressed as plainly as possible I am heartened by my friend's commitment to expression of things in plain English. The proof of that pudding will definitely be in its eating as we go on as to how plain - - -

PN163

PRESIDENT LEARY: Well, yes.

PN164

MR TULLGREN: - - - plain English is. I might say that my friend says that some of the provisions are indecipherable. We, perhaps, tend to agree that they may be indecipherable to those that don't understand them and don't work in the area, that doesn't mean they are not written in plain English, it just means that they are written in the medium that some people understand and some that don't.

PN165

However, having said that, we accept that we are not all attached to simply writing things in the particular form of English - - -

PN166

PRESIDENT LEARY: Well, the debate about what is plain English is one that continues.

PN167

MR TULLGREN: Yes, and, your Honour, those discussions I have every day with varying degrees of success - - -

PN168

PRESIDENT LEARY: Yes, in lots of jurisdictions.

PN169

MR TULLGREN: - - - or failure. And that is something that clearly needs to be looked at. Turning to the issue of the wage adjustments, and this is perhaps the more difficult issue in this sense, the unions, in broad terms, have had discussions with Mr Baker about this particular process and the view, I think it is fair to put, of the unions without necessarily verballing anyone in that sense, is that if we are going to go through a process of updating awards, getting rid of enterprise agreements that no longer have application because you can extract from the what is still relevant in the service of another document then - and at the end of that process if you are going to have a series of awards that contain all of the changes that have been alluded to, then for those awards to be relevant they really need to contain all of the - they need to contain the relevant wages that employees are earning.

PN170

PRESIDENT LEARY: You are saying rather than a safety net?

PN171

MR TULLGREN: Yes, and that - but again, it may be the definition of safety net is in the eye of the beholder, but really is in the eye of the bench effectively because the two stage process that my friend puts is, in general terms, not necessarily opposed, but the proviso would be that because potentially the first step of that process could occur today or in the next few days, and then the

second step towards the end of the year, that there would have to be a surety that the second step which would be including the actual rates of pay - - -

PN172

PRESIDENT LEARY: So making them pay - a single document - - -

PN173

MR TULLGREN: Yes.

PN174

PRESIDENT LEARY: - - - that includes all conditions and current rates which would bring into being enterprise agreement, or industrial agreement rates as well, making it a paid rates award.

PN175

MR TULLGREN: Well, yes and no, in the sense that while the award, for instance, if we use the time-line that is being proposed there is currently in the process of being completed, a Public Sector Wage Agreement which will provide for wage increase. That wage increase operates effectively, so I am instructed, till the end of the year and there will be negotiations about the new agreement. So that, for instance, so comes 31 December, if those rates of pay were included in the award what you would have is an award that at that date had the current rates of pay. But if on 1 January there came into force a further enterprise agreement, State Wages Agreement, which provided for a further increase, there is a question about whether it is a paid rates award.

PN176

PRESIDENT LEARY: But putting to one side the current principles - - -

PN177

MR TULLGREN: Yes.

PN178

PRESIDENT LEARY: - - - if it was agreed, and the "if" is in big font, if it was agreed that the reviewed awards contain all conditions and total rates of pay, if that were the circumstance by January all you would do would be to seek to vary it, wouldn't you, to put in the agreed increase that you have got in your enterprise agreement?

PN179

MR TULLGREN: You would but, potentially, one of the things is that when you read the current State Wage principles - - -

PN180

PRESIDENT LEARY: That is why I said, "putting to one side".

PN181

MR TULLGREN: Yes. If they are able to be non-addressed, or to be put aside and the method of that might have - - -

PN182

PRESIDENT LEARY: I didn't say "not address them", I was - but the hypothetical exercise I was just putting them to one side.

PN183

MR TULLGREN: That if they weren't there, or they had been put to one side and, for instance, the parties agreed that what the rate that the awards would contain were the total rates of pay and the terms and conditions of employment, including allowances and so on, then that would allow, not only for the inclusion of all of the current differential between rates of pay reflecting all of the State wage adjustments and also the difference between that and the enterprise agreements, for instance, my friend, Mr Johnston, has prepared a chart which I am - we don't, unless he seeks to put it in as an exhibit, put to you, but to give you some indication of, for instance, in the Technical Employees Award that if - the current salary for a level 1 is about 32 - is \$32,411.

PN184

When you put in all the proposed safety net adjustments it would bring the salary to 30.904 but employees would still be being paid - - -

PN185

PRESIDENT LEARY: It goes down.

PN186

MR TULLGREN: - - - \$1500 over those rates and as you go up the scale, for instance, at the top of the technical range the difference, if you followed that process, is \$9000 and that is magnified in the Administrative and Clerical Award and in the Professional Award equally. So that what we say - we approach it on the basis of saying that the award should reflect what the rates of pay are but also that it - there is an acceptance that when the awards will continue to be varied both for the safety net and to reflect the recently expired, as it goes on, State Wages Agreements otherwise in 10 years, if we still have wage-fixing and something similar to this the same argument about trying to fix up 10 years worth of back adjustments and - - -

PN187

PRESIDENT LEARY: If the logic of what you are saying is accepted you wouldn't then have State Wage Agreements you would just be seeking to vary awards, wouldn't you?

PN188

MR TULLGREN: Well, look, I am not in a - - -

PN189

PRESIDENT LEARY: Back like the good old days; remember those?

PN190

MR TULLGREN: Yes, yes, I mean, some of us hark back to the days when there were awards and just straight over-award payments - - -

PN191

PRESIDENT LEARY: Yes.

PN192

MR TULLGREN: - - - when life was so much easier and - - -

PN193

PRESIDENT LEARY: But let us not get emotional about it.

PN194

MR TULLGREN: But, you know, some of us are married to nostalgia that we can't summon that up. But what you want to raise is an issue that might have to be addressed as the flow-on.

PN195

PRESIDENT LEARY: Yes.

PN196

MR TULLGREN: I mean, I can see that there are issues about, for instance, how you would address particular conditions, or particular arrangements that may be introduced and then subsequently refined, but it is not a matter that - raised on this side of the table or I think my learned friends turned to, but it is an issue that may have to be addressed. But we clearly want to make sure that at the end of the process what you have got is a series of awards that reflect the conditions and the wages save for any additional enterprise agreement that may have been made but that they continue to be rolled in.

PN197

Now, what we would suggest, that the implication of what we put in that case is that if the Commission was minded to accept in general what we have put is to making a decision that - is making a decision that that recognised that it will be - that adjustment of wages in the awards would be in two parts. The first a State Wage adjustments and, secondly, all the enterprise agreements, because we see this as a package and that unless all of the relevant parts, constituent parts are there then we would be disadvantaged in just having awards varied for the safety net adjustment but leaving effectively, employees being paid thousands of dollars more, and the awards not reflecting it.

PN198

PRESIDENT LEARY: Yes.

PN199

MR TULLGREN: But that they have tidied up to reflect everything else - - -

PN200

PRESIDENT LEARY: That then would possibly require a change to the principles, would it not? Is there any reason why a case can't be run on that basis?

PN201

MR TULLGREN: Look, that is not a matter that we have discussed but my own respectful submission is that I think that is the, with abundant caution, that would be the better way - - -

PN202

PRESIDENT LEARY: That might be a way to go.

PN203

MR TULLGREN: - - - to proceed and that would be to - however, the difficulty that that raises, I think, is that once the Commission seeks to review

the State Wage principles everyone who has an interest in their ongoing operation appears and it may well be that, for instance - - -

PN204

PRESIDENT LEARY: If those numbers were somewhat diminished.

PN205

MR TULLGREN: Well, every man and his dog - - -

PN206

PRESIDENT LEARY: The last 12 months.

PN207

MR TULLGREN: Every man and his dog would appear and I think that there would be some who wouldn't - would be concerned about any adjustment to the principles - - -

PN208

PRESIDENT LEARY: Yes.

PN209

MR TULLGREN: - - - to reflect what occurs in the public sector affecting then - - -

PN210

PRESIDENT LEARY: Yes, I agree with you and it is something that I - sort off the top of my head because I don't have a view one way or the other at the moment, but I am sure that between the lot of you there is some creative thinking that can be developed. As to some way if that is what you want to do - - -

PN211

MR TULLGREN: Yes.

PN212

PRESIDENT LEARY: - - - to get around it that doesn't have an impact on the private sector awards.

PN213

MR TULLGREN: I think that that is something that should be addressed.

PN214

PRESIDENT LEARY: It is worth thinking about.

PN215

MR TULLGREN: And perhaps in relation to the role of the Commission in driving the process the Full Bench might, after a respectful period of time, and by that I mean, perhaps only a couple of weeks, actually convene a conference for the parties here to actually discuss that and see what ideas have emerged as the method of perhaps addressing that so that the concern of those outside the public sector can be assuaged, really.

PN216

PRESIDENT LEARY: Yes. Considering that the principles initially flowed from the Federal Commission principles which are now irrelevant and don't exist any longer.

PN217

MR TULLGREN: Yes.

PN218

PRESIDENT LEARY: There is no reason why we have to maintain them.

PN219

MR TULLGREN: No.

PN220

PRESIDENT LEARY: But there is no reason why we have to get rid of them either. But the principles are there to try and address what the parties require.

PN221

MR TULLGREN: Yes.

PN222

PRESIDENT LEARY: So, maybe between the lot of you, while we are thinking about it, you can do likewise.

PN223

MR TULLGREN: Yes, I think that that certainly would be the case because, clearly, at the moment there would be an argument to say that while you could vary the awards in terms of the Government's application, going the step further and varying them in December would be contrary to the principles and we clearly don't want to be caught, and my friends may have alluded to this concern that we have.

PN224

PRESIDENT LEARY: Well, there is a bit of time between now and December.

PN225

MR TULLGREN: There is. It just seems to me that if we are going to go down this process of effectively considering this issue of the principles, their variation, that today's application could be adjourned to - but only for a couple of weeks and I haven't clearly put this - - -

PN226

PRESIDENT LEARY: Well, no one is disadvantaged.

PN227

MR TULLGREN: Yes, that - well, my view would be that no one would be disadvantaged and if the principles can be managed and the issue can be done then the variation of the principle, or a recognition as well as this application, could be dealt with consecutively, that would then mean that the application would be in two parts.

PN228

Firstly, to vary for the safety net adjustment, the State Wage adjustments and in December to roll in all of the public sector wage increases, so that it was one decision that recognised it would be done in two parts. But that would follow any consequential variation to the State Wage principles to, in fact, allow that to occur. Now, it is perhaps - it is the most cautious, with respect, approach to the issue because it is not the intention of anyone to get caught in some argument.

PN229

PRESIDENT LEARY: No.

PN230

MR TULLGREN: And, as your Honour would know, and perhaps my friend, Mr Baker, myself, and I think Commissioner Abey would, in the days when you had a robust Federal system and there were discussions about how these principles applied, that this became a mire which you could simply disappear in. It left a great group and mire for dead when it came to dealing with these issues.

PN231

PRESIDENT LEARY: It did quite often.

PN232

MR TULLGREN: And we do want to avoid that.

PN233

PRESIDENT LEARY: Yes. Well, we are now operating in a totally new world. What happens in the Federal Commission, if anything, is irrelevant any longer. Our legislation doesn't refer to any of these new bodies and we don't have to rely on those either. So what, in my view, and the other two members have their own views, no doubt, my view is that what we should be looking at is something that suits what we want here.

PN234

COMMISSIONER ABEY: I concur wholeheartedly.

PN235

MR TULLGREN: Yes, and thank you, Commissioner, I mean, that is our view. I think it is how you get to that - - -

PN236

PRESIDENT LEARY: That is right.

PN237

MR TULLGREN: - - - particularly in view that the public sector position is different in relation to awards being updated than in the private sector. And also because in the public sector what you effectively have is one enterprise agreement which covers the vast bulk of employees, save that there are separate agreements for nurses and firemen and prison officers and a number of others, but that you have really got - - -

PN238

PRESIDENT LEARY: Yes, well, there is a bit of transitional stuff that will have to be dealt with.

PN239

COMMISSIONER ABEY: Well, the other major - the major difference between the public and private sector is, in the case of the public sector you know with precision who the employer is - - -

PN240

MR TULLGREN: Yes.

PN241

COMMISSIONER ABEY: - - - whereas in the private sector it could be anyone of hundreds of thousands perhaps, even.

PN242

MR TULLGREN: Yes, that is true.

PN243

COMMISSIONER ABEY: And that does, in my view, put them in a different category.

PN244

MR TULLGREN: Yes, we would agree with that. There is certainly more - a bit more assurity and clarity in relation to those issues and also that the employer knows that it has one agreement effectively, because the minister administering the Act is a party to the agreement, so he is the - he is the de facto, the nominal employer if not the de facto employer. So that he is making an agreement on behalf of everyone, and rolling those rates in is different.

PN245

I mean, this is to be distinguished, I think, from what was the most interesting application in the private sector, I think, in relation to Zinifex some years ago to try to have enterprise agreements rates - - -

PN246

PRESIDENT LEARY: Yes.

PN247

MR TULLGREN: - - - if they rolled into the award by a particular method which the Commission didn't smile upon as a proposition, but for reasons which we - - -

PN248

PRESIDENT LEARY: Yes, it is a totally different set of circumstances to this.

PN249

MR TULLGREN: Yes, but that is why it is distinguishable as you go forward. So, I mean, I apologise for being somewhat long-winded about it but we felt that it was necessary to alert the Commission that while we are supportive there are concerns we have and that they really do go to how the principles could be construed as operating. But we think that, based on what

the Commission said that there is certainly a way forward, there is just this question about perhaps adjourning this application till after the conference to see what - - -

PN250

PRESIDENT LEARY: Have you raised this with Mr Baker at all?

PN251

MR TULLGREN: No - - -

PN252

PRESIDENT LEARY: No.

PN253

MR TULLGREN: - - - not the adjournment because it only came as a result of the discussion.

PN254

PRESIDENT LEARY: No, no - - -

PN255

MR TULLGREN: But the other issues - - -

PN256

PRESIDENT LEARY: You have?

PN257

MR TULLGREN: - - - we have alluded - I have had discussions with Mr Baker about - - -

PN258

PRESIDENT LEARY: All right, yes.

PN259

MR TULLGREN: - - - about these and expressed concern that we didn't want to get caught between two stools, effectively, so we are supportive of the proposition, the propositions he put. We perhaps don't necessarily take as harsh a view. And I think that perhaps what we need to move away from is perhaps the maxim - the maximum that has applied, which is the one that applies most effectively, Trinity College and Cambridge, and one that I fully subscribe to and that is: a little change is good but no change is better. We have no moved to a position where that is clearly not the way to go in relation to this - - -

PN260

PRESIDENT LEARY: That is very refreshing.

PN261

MR TULLGREN: - - - so we do support the approach with the qualifications we have put. The Commission please.

PN262

PRESIDENT LEARY: All right, thank you. Just before I hear from the other unions, do you have a position on that?

PN263

MR BAKER: Yes.

PN264

PRESIDENT LEARY: I mean, obviously you were aware that that was the union's position.

PN265

MR BAKER: Well, yes, I discussed it with Mr Tullgren previously.

PN266

PRESIDENT LEARY: Yes. Do you have any in principle objections to the sort of discussion that we have had that we look at some way of maybe addressing that?

PN267

MR BAKER: I think, well, one of the reasons why - there were two. One is I suggested that we sort of do it in December and there were two reasons for that. One is the fact that there will be - - -

PN268

PRESIDENT LEARY: It is Christmas.

PN269

MR BAKER: Well, it will be Christmas, and there will be a further adjustment as far as the generality is concerned in the State Service.

PN270

PRESIDENT LEARY: Yes.

PN271

MR BAKER: The other issue, of course, is the issue of the principles and that would allow us a period of some time to formulate how we would address that matter.

PN272

PRESIDENT LEARY: Would you have a problem with perhaps looking at public sector separately?

PN273

MR BAKER: Yes, I mean, however we phrase that.

PN274

PRESIDENT LEARY: Yes.

PN275

MR BAKER: I mean, that would give us sufficient time to arrive at the position whereby we could maintain a Bill of Rights Award, and I think that is important. I need to put that on the record. Our view is that the award will need to continue as a minimum rates award.

PN276

PRESIDENT LEARY: For what reason?

PN277

MR BAKER: Well, that is - - -

PN278

PRESIDENT LEARY: You don't have to tell me if you don't know at this stage.

PN279

MR BAKER: I think there is the current position of the Government.

PN280

PRESIDENT LEARY: All right, well, there has to be a reason for maintaining minimum rates. Forgetting the past, we are now flying solo.

PN281

MR BAKER: I understand that.

PN282

PRESIDENT LEARY: Yes, and I know what the principles require although they haven't been complied with, but nevertheless.

PN283

MR BAKER: Yes, well, there are exceptions to the rules but - - -

PN284

PRESIDENT LEARY: Always are.

PN285

MR BAKER: Yes.

PN286

PRESIDENT LEARY: Yes. But as a means to doing what you are talking about, and that is having maybe a single document that reflects everything, is there an objection to it perhaps becoming a paid rates, or a total package rather than having a safety net award with agreements on top, or over-award payments, or call them whatever you like, is that a philosophical difficulty?

PN287

MR BAKER: No.

PN288

PRESIDENT LEARY: Is it an administrative difficulty?

PN289

MR BAKER: No, I don't, I mean, I - - -

PN290

PRESIDENT LEARY: Or is it one, because of the principles?

PN291

MR BAKER: Well, I have no instructions on it.

PN292

PRESIDENT LEARY: No.

PN293

MR BAKER: My own personal view was that we would do this in two stages and then we would, I presume, you know, current thinking I suppose, maintain a position whereby the rate in the award was the previously expired EBA rate, so that it remained one step - - -

PN294

PRESIDENT LEARY: Well, that is almost what Mr Tullgren is talking about.

PN295

MR BAKER: Well, I understand that is what Mr Tullgren is talking about.

PN296

PRESIDENT LEARY: Yes. So, is it maybe that there is agreement in principle as to what you want as an end result?

PN297

MR BAKER: Yes, I don't think - - -

PN298

PRESIDENT LEARY: There are some hurdles to get over because of the principles?

PN299

MR BAKER: Yes.

PN300

PRESIDENT LEARY: Yes, that is fine.

PN301

MR BAKER: I don't think there is any disagreement between Mr Tullgren and myself.

PN302

PRESIDENT LEARY: Good.

PN303

MR BAKER: There may be some disagreement how we get there but - and I accept - - -

PN304

PRESIDENT LEARY: Well, we are here to drive the bus.

PN305

MR BAKER: Well, that is right. Well, that was my point. I notice Mr Tullgren didn't address that point.

PN306

PRESIDENT LEARY: What, who is driving?

PN307

MR TULLGREN: I implicitly thought that that was a rattling good idea. I am not going to in any way challenge that.

PN308

PRESIDENT LEARY: All right. Okay, thank you. That clarifies in my mind what your position is.

PN309

MR TULLGREN: Your Honour, can I just be heard on one matter? I don't want to seem picky if it not the case, but my friend says the current thinking in the Government is that the award should be minimum rates awards and I can understand how they come to that, however, the logical conclusion to this process is that awards would not, at the end of it if it all occurred, the minimum rates award in the terms that I suspect the Government has formulated its policy on and, having heard my friend, and I understand he is a little disadvantaged that this has just come up is, as it has to us on this side, but perhaps an adjournment for a couple of weeks would allow there to be some consideration by the Government about what it is. Because if we are moving towards effectively saying a total rate - awards reflect the total rates, or the expired, the total expired rate, then that is introducing a new concept - - -

PN310

PRESIDENT LEARY: Yes.

PN311

MR TULLGREN: - - - which is entirely different than a minimum rates award and has some significant differences from the old concept of paid rates awards so that - - -

PN312

PRESIDENT LEARY: But not true paid rates awards.

PN313

MR TULLGREN: Yes.

PN314

PRESIDENT LEARY: So we could be playing around with descriptions here.

PN315

MR TULLGREN: Well, that is true, but I think that all sides need to be clear because if we are working towards saying that you should have perhaps an amending principle, or an additional principle, or a variant to do this then we all have to have a shared understanding, at least at the bar table, before we come to you in conference and more formally, to say, well, this is what we mean by this. Because if you are going to introduce a new concept, which is potential, I am sure the bench would like to know what it is that the parties are putting to them that it means - - -

PN316

PRESIDENT LEARY: It is usually helpful.

PN317

MR TULLGREN: - - - because it has to be reduced to writing. So that is why I suggest a short adjournment of a couple of weeks to do this on the basis that the Commission would set it down for a conference, the onus is on everyone

on this table to deal with this issue and working out some proposal and come back and say, "Well, this is where we are at", and then perhaps the Commission could provide some assistance if there are difficulties, if not, indicate the way of going forward. But this is not a device to just attempt to have this thing adjourned for some - - -

PN318

PRESIDENT LEARY: No, it won't be.

PN319

MR TULLGREN: My own view, with respect, is that if this matter was adjourned for two or three weeks that would require the parties to focus a great deal of attention on this policy; my friend would get from the Government some instructions about how they see it; and then that would inform the discussion and the drafting that may arise, and also to take into account, because the policy would then have to take into account, I suspect, all employees of the Government, or the Crown, whatever manifestation in Tasmania such as teachers, nurses, and so on, prison officers, police, who are all in the system, to make sure that there are no exclusions or, if there are, they are specifically identified and the reasons why.

PN320

PRESIDENT LEARY: It seems to me that there is not much difference between you as to what sort of an end result you want. There are certainly some difficulties as to how you get there because of the current set-up.

PN321

MR BAKER: Yes. But I just will say, first of all - in respect of the current wage-fixing principles the Government expressed the view at the last State adjustment that it was fully supportive of the existing principles. We were one of the few parties that actually did express a desire that they continue. I would certainly not like to be at the cornerstone of pulling them apart outside of the current methodology we have got in the setting of them.

PN322

PRESIDENT LEARY: No one is suggesting that. All that is being suggest is that - - -

PN323

MR BAKER: No, no, I understand that. I just - - -

PN324

PRESIDENT LEARY: Maybe there needs to be some consideration?

PN325

MR BAKER: Well, yes, and perhaps that whenever the next minimum wage case is held that that may be in the appropriate form. I mean, I understand that there was to be a discussion now, was it two years ago - - -

PN326

PRESIDENT LEARY: Yes, nobody wanted to talk about it.

PN327

MR BAKER: No, no, there was a conference set down and I don't think anybody turned up so - they have continued on. I take Mr Tullgren's point that, you know, we have existed in an environment in which we have, I suppose, become comfortable and knowledgeable in and that has dictated the way in which we have thought about things previously to this point and it may well be that Mr Tullgren and others and myself need to sit down and have a look at exactly how we are going to achieve what we want to achieve and - - -

PN328

PRESIDENT LEARY: Well, I think that is really all that is being suggested.

PN329

MR BAKER: Well, I think that is right, and I think we are only going to go around in circles here. We know where we want to be and we know what we want to do, the only issue is how we get there.

PN330

PRESIDENT LEARY: We will help you if you need it.

PN331

MR BAKER: And I think the other thing, of course, is that the current four streams, however we address them now, may not be there this time next year. So that is also an issue for us.

PN332

PRESIDENT LEARY: All right. Now, Mr Jacobson? Mr Johnston?

PN333

MR JOHNSTON: Madam President, Commissioners, if it pleases the Commission, look, I won't re-tread any of the paths we have wandered down so far, however, suffice it to say at this stage that, given the preclusion of any move towards a realistic and relevant safety net in terms of what is being currently paid we would be reluctant to consent on this matter at this stage unless we had a surety that we could come back and revisit and get those rates in there in the shorter term. So obviously with that in mind we would - we support the call for an adjournment to get the positions and everything in order.

PN334

PRESIDENT LEARY: Okay.

PN335

MR JOHNSTON: Thank you. Nice and brief.

PN336

PRESIDENT LEARY: Thank you. Mr Pyrke?

PN337

MR JACOBSON: I will go next.

PN338

PRESIDENT LEARY: Now you are confusing me.

PN339

MR JACOBSON: I think we will have to go first. I just took the Chair. Again, if it please the Commission, look, just one other matter I think that we would throw into the mix as well, and I think if we be up front from our perspective in terms of one of the immediate imperatives that we have to resolving this issue, and obviously on behalf of our members that we have in terms of resolving the issue around the actual rates paid, and certainly putting those rates into an instrument that has surety, or provides some surety for employees, is built upon our concerns around the effect of the outcome of the next Federal election and the effect of work choices.

PN340

PRESIDENT LEARY: We have no control over that.

PN341

MR JACOBSON: No, well, that is right, but I am just making a point. I am just making a point but, obviously, and whichever, you know, whether it is a conservative, or progressive party that wins the election no one is clear in terms of what the industrial landscape either in this State, or nationally, will look like.

PN342

And I think from all of our perspectives there is some recognition that what we need to do is get out act in order, get our house in order; ensure that as much as possible that we can get all our conditions and salaries into a document that has perhaps, or potentially some continuity for employees and provides some security for them. And I guess - but I would also concur with the submissions made by my colleagues on this side of the bench with respect to this matter.

PN343

PRESIDENT LEARY: Okay. Thank you. Now, Mr Pyrke?

PN344

MR PYRKE: Madam President. President, and members of the bench, my organisation has been a party to the discussions which preceded today's hearing and we certainly agree with the broad proposition that there is some housework that needs to be - housekeeping which needs to be done. I take Mr Tullgren's point about perhaps the extent of the housekeeping is a bit overstated but certainly, we certainly support the idea that we are going to a common destination.

PN345

Given what has been discussed today, which is the need to explore ways of making the updated awards reflect the actual rates, or paid rates, or whatever language you want to use, I take the point that there is a range of ways of describing them, I certainly do support the call for an adjournment and that will give us a chance to come back to you with a more considered opinion on how we can take that forward.

PN346

PRESIDENT LEARY: Okay.

PN347

MR PYRKE: If the Commission pleases.

PN348

PRESIDENT LEARY: Good, thank you. Mr Wishart?

PN349

MR WISHART: Madam President, members of the bench, I support the call for an adjournment. I think we need to do this in the short term rather than the long term. I don't see the point in putting something off just because we want to put it off for a while. I think if we are going to get this done we are actually better off to do it over a reasonably short period so things actually get done rather than just get put off.

PN350

I want to have a little bit of a dip at being properly prepared to come here today. I don't like being unprepared. I am absolutely under-prepared to come here today because despite - I had one conversation with Mr Baker where I was promised that I would get more information and three emails later nothing had arrived and I feel totally unprepared for being here today and I don't like to do that, so I, in the future, would like to get the relevant information prior to the day. Thank you.

PN351

PRESIDENT LEARY: All right. I hope Mr Baker takes note of that. Did you want to add anything else, Mr Baker? It is not compulsory.

PN352

MR BAKER: No, I just say that I apologise to Mr Wishart for not providing the information. I understood it had been supplied to the AEU.

PN353

PRESIDENT LEARY: Okay. Mr Wishart can follow that up but in future you will just make sure everybody has copies of whatever relevant information they need.

PN354

MR BAKER: I understood it had been supplied to all of the unions.

PN355

PRESIDENT LEARY: Yes, okay. Do you want to do it the week before? Easter sort of comes around about the time we are talking about; do you want to do it before Easter, or do you want to do it after Easter?

PN356

MR TULLGREN: Can I just indicate that if it is in the week that leads up to Easter I am going to be interstate for some of those days.

PN357

COMMISSIONER McALPINE: So we will do it then.

PN358

PRESIDENT LEARY: Yes. Sorry.

PN359

MR TULLGREN: I can understand why that really comes naturally to some people and I won't be overly offended if you want to proceed and my colleagues want proceed in my absence.

PN360

PRESIDENT LEARY: I have some difficulty that week, so the week after Commissioner Abey is on leave so do you want to leave it - I think we looked at about 19 April; does that give you enough time - it gives you enough time, I guess, to talk about the things you need to talk about. If we list it for report some time on that day and then if we need we can have some conference, or
- - -

PN361

MR BAKER: Could we make it in the afternoon? I have a meeting in the morning.

PN362

PRESIDENT LEARY: Yes. No, that is fine. We will make it in the afternoon. I am not too sure of the time because I think I might have another matter. Make it in the afternoon of the 19th. We will confirm the date with you in due course. It will be around about that time, mid-April we will be looking at. All right. We will adjourn on the basis that - yes?

PN363

COMMISSIONER McALPINE: Sorry, just before we adjourn, it really is the matter of process. It is pretty evident that there is a number of ideas and issues and positions that are looking at: how does this affect me; how doesn't it? Can I suggest that, coming to the conference that possibly before then for want of a better word, that maybe you develop some form of model which - against which you can test whether it is - whether it be the agreements, or the awards, so at least we are coming from a consistent base each time.

PN364

And if the model is incorrect then it can be adjusted. From what I have been hearing this morning, people are launching off at different levels of understanding of what is going on, so if between you, you agree on a basic model from which to work and if that has to be adjusted it has to be adjusted. At least we won't be arguing over interpretations. Is that reasonable?

PN365

MR BAKER: Yes, I think that is an excellent idea, I mean, we have had a preliminary discussion about the awards and that was sort of a light-hearted discussion if I can use that expression.

PN366

COMMISSIONER McALPINE: Yes.

PN367

MR BAKER: So perhaps if we can come organised - - -

PN368

PRESIDENT LEARY: With something, yes.

PN369

MR BAKER: We can have a look at that - in a more serious vein and take it from there.

PN370

COMMISSIONER McALPINE: Yes.

PN371

PRESIDENT LEARY: That sounds like a good idea. All right, well, we will adjourn both of the applications and we won't deal with the variations on this occasion, to a date to be fixed somewhere around about 19 or 20 April. Thank you.

ADJOURNED ACCORDINGLY

[3.42pm]