

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

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| T No. 2399 of 1990 | IN THE MATTER OF an application by the Tasmanian Public Service Association to vary nominated public sector awards |
| T No. 2511 of 1990 | IN THE MATTER OF an application by the Federated Engine Drivers' and Firemen's Association of Australasia, Tasmanian Branch to vary the Boiler Attendants Award |
| T No. 2473 of 1990 | IN THE MATTER OF an application by the Tasmanian Public Service Association to vary the Prison Officers Award |
| T No. 2587 of 1990 | IN THE MATTER OF an application by the Tasmanian Prison Officers' Association to vary the Prison Officers Award |
| T No. 2504 of 1990 | IN THE MATTER OF an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the North West Regional Water Authority Employees Award |
| T No. 2506 of 1990 | IN THE MATTER OF an application by the Association of Professional Engineers, Australia, Tasmanian Branch to vary the Professional Engineers Award |
| T No. 2508 of 1990 | IN THE MATTER OF an application by the Hospital Employees Federation of Australia, Tasmania Branch to vary nominated public sector awards |

T No. 2516 of 1990

IN THE MATTER OF an application by
the Police Association of Tasmania
to vary the Police Award

T No. 2586 of 1990

IN THE MATTER OF an application
by the Ambulance Employees'
Association of Tasmania to vary
the Tasmanian Ambulance Service
Award

T No. 2594 of 1990

IN THE MATTER OF an application by
the United Firefighters Union,
Tasmanian Branch to vary the Fire
Brigades Award

T No. 2605 of 1990

IN THE MATTER OF an application by
the Federated Miscellaneous
Workers Union of Australia,
Tasmanian Branch to vary the
Miscellaneous Workers (Public
Sector) Award

re structural efficiency
principle

FULL BENCH

PRESIDENT
COMMISSIONER GOZZI
COMMISSIONER WATLING

Hobart 17 September 1991
Continued from 14/8/91

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: I'm sorry we're late starting this morning, gentlemen, you understand the reasons. Mr Hanlon?

MR HANLON: Thank you, Mr President. It's my intention to proceed this morning to address the commission in regard to the classification standards and levels, to provide a summary of our view of where the parties are in terms of H.10, both in terms of the definitions and three of the streams; operational, technical and clerical. Mr Jarman will address the commission on the question of professional.

To look at the history of discussions that have occurred between the government and each of the occupational stream working parties. To have a look at the issue of what matters should influence the commission in terms of our submission in terms of the government being the employer and what matters are being put to you to persuade the commission that it should adopt a structure devised by one or more organisations and have you substitute that for the government's decision.

And that broadly is the area that I intend to cover. And in moving to the summary of all streams, looking at the whole spectrum of each of the unions submissions. It's fair to say that in regard to the operational, in regard to words and the descriptions and the intent there is very little real difference between the parties. The matter in dispute of a substantial nature goes to the additional level, and that level is different from the government's submission. And in the view of the government there was no real reasons advanced as to who that level would cover, bearing in mind that both submissions are modelled on the model of the commonwealth.

And other than areas that are not relevant to state employment the government's submission follows it word for word. The other area of disagreement is in the area of promotional progression, and we do not agree with the inclusion of a provision that automatically provides in a standard as to what should happen if those standards then were reflected into all awards. It is our view that the promotion progression should be determined within the job description and within the agency or award outcome that enable you to exactly see the implications for promotional progression.

In regard to the technical stream there is agreement as to the number of levels. They may be numbered or described. We have used trainee. The TPSA have used numbers. But outside of that the number of levels are the same. The other major difference is that the detail provided in the government's descriptions is greater than that provided in the TPSA's. In the professional area there is broad agreement on descriptions between the APEA and the government. And again, the government and the APEA are based broadly on commonwealth terminology and descriptions.

In the clerical area the differences there are clearly within the number of levels. We are seeking eight - the TPSA is seeking eight, we are seeking 12. And that clearly levels 2, 5, 10 and 11 are not in the TPSA's submission, but are in ours. And in regard to the descriptions, we would say that the government's descriptions are clearer and more precise as to what is meant at each level.

If I could take you to H.10, and turning to A 1, the operational stream. And it isn't my intention to take the commission through line by line. The purpose of the exhibit has been spoken to by Mr O'Brien. The differences are identified in italics. I just want to address the major points of difference. The purpose of the exhibit was to enable the commission to have clearly before it the differences which was the intention that the commission would be in a position to identify where the parties differed following their discussions on receipt of each organisations proposals.

We say that when one looks at level 11 as to what is the purpose of it, clearly it is a level that follows the standard of 10, but to get to a position of describing 11 one needed to amend 9, put together a 10 which constitutes some elements of all three, which then enables them to have a level the equivalent of the government's 10; that one can find pieces of - in all three, so very clearly there is agreement and a clarity between the parties and as you come through 6, 7 and 8 and from 9 on it starts to digress, and the only reason it digresses is to enable you to create, in our view, an artificial eleven 11s - 11 levels.

And that we say that level 10 when the government's submission when looked at clearly shows the superior level distinguishing it from 9. When one looks across then 9, 10 and 11 and where the clauses are common it is very difficult to see that a person carrying out work in the government's first paragraph in 10 which is the same as the first paragraph in 11; that the second paragraph is the same as in TTLC's 2, and the same for the third and the same for the fourth.

One then says: Well how do you differ at 9 between the 9 of the government's submission and 10 of the TTLC's and it's there you see that combination of paragraphs. Now if 10 is the top of the Commonwealth in terms of standards, and it's top of the State Government's in terms of operational then there has to be very clear reasons as to why 9 would be different, as 9 is of a lesser standard and the only view one can give to that is one artificially creates a classification in the middle to arrive at an outcome which is only different in money terms.

The other significant area that we differ is that paragraph that appears at the bottom of each of the TTLC's level that

says: or has completed the relevant training. Now that comes out as in inclusion, if you look at level 2 and one reads level 2, beginning with the words: A person at this level - and then proceeds to the last dot point and it says - it reads:

A person at this level -

OR: has completed the relevant training identified in the appropriate industry sub-stream, or is assessed as having attained the appropriate competencies.

Each of the paragraphs above that are a description of what is required of the person. That last one is not a description of what is required - it is an explanation that if you've completed the training identified in the appropriate industry substream or is assessed as having attained the appropriate competencies - in other words it is a machinery provision which says what will happen if two other things don't occur - or one of two options.

And we see that as being included and has been included because it has been misunderstood what the standard is, not that there's not a requirement for a provision in certain substreams - to use the words that are in that paragraph - as to how one would progress, but in the classification standards there is no necessity in setting a standard at level 2 that would suggest a person could go from 2 to 3 because in the application of those standards there may in certain circumstances be no requirement for a 2 - for a 3, a 4, or a 5 in the relevant award or in the relevant occupational group.

So that we are not opposed to the provision, we just think it should not be positioned in the classification standards. We said, does not define the work, nor does it set a standard, it just says what will happen in one or two occasions. In regard to supervisor which was raised at a level 3 which was a difference between - which is on page A 2 where the government says:

This is the first level within some industry streams at which a person may be expected to take charge of staff.

Now that was challenged as an inappropriate description by the TTLC suggesting that the level was too low and in part of another submission the TTLC suggested that that was a level and referred to an AWU classification. I'd like to tender a copy of a document headed 'Position Description - Maintenance Worker Grade III'.

PRESIDENT: I believe this should be H.18, Mr Hanlon.

MR HANLON: I'll accept your judgment on that, Mr President. I apologise for the exhibit being put together with III being the front page, it really should start with 'Position Description - Maintenance Worker Grade I', and proceed through to Grade IV.

I tender this exhibit because it is the position description that currently exists for the position referred to by Mr O'Brien as classification Maintenance Worker III. It also illustrates in the government's position the sort of job description that would exist in the substream level to which the TTLC have referred. It is a current job description in the AWU public sector award.

The terms do not appear in the award but the position title, Maintenance Worker Grade I, II, III and IV do. And, these descriptions were put in, in the 4% award restructuring as part of an amalgamation of some 25 classifications into four.

And, I draw attention to that because it clearly shows why one shouldn't have regard to a classification in isolation when there were various allowances being paid, various rates drawn from different awards and they went to both leading hand rates if a person was a truck driver, a utility driver they drew a leading hand rate from the Transport Workers Award and their rate from that award. If they were paid as a powder monkey they drew their leading hand rate from the AWU Construction and Maintenance Award.

Part of the process in the maintenance gangs was to reduce those classifications into a description that reflected the actual work of maintenance gangs, the experience that was required and how one acquired that experience and the fact that the gangs worked as either one single team or part of two teams.

There were also other anomalies that had crept in where persons in this group are not entitled to phase but had overtime acquired some entitlement to phase other than lawfully. They were also paid towing allowances so that a number of individuals in terms of their actual earning rates were then judged and their rate was set and there was some absorption as they fitted into this description and for others there was an increase.

But, very clearly, we have a career structure in the maintenance gang. There's a level of progression. There are distinctions between each level and it's also a process of acquiring additional skills. If I could take you to Maintenance Worker Grade II in the second paragraph it says there:

Work under the general direction of others on allocated tasks, which may include directions of others.

And, that clearly distinguishes that the person is not supervising but may direct persons who are either Maintenance Workers II or Grade I. If I take you to Grade III in the second dot point, which says:

Supervise small work parties of Grade I and Grade II employees on tasks allocated by the A.M.C. or Foreman I.

And the procedure is that if the gang is working as a group of eight or nine the foreman is in control. If the gang splits into two then the Maintenance Worker Grade III assumes the responsibility for the supervision of that group of people. And, bearing in mind, we are talking about a district that would stretch in the southern area from Bridgewater to Geeveston and, therefore, there are many occasions when gangs do form into lesser groups than eight.

So, we would say that the commission can clearly see that there isn't any opposition to having job descriptions as they apply to distinctive work groups. There is already in existence career progressions in some areas and the government is keen to see that that position is extended into other areas of classifications that fall below the trade rate, positions previously not having access to career structures, not having access to methods for training and the right to promotion and the right to obtain wage levels that reflect the increased skill acquired.

And, by tendering that I want to clearly show that the government's position reflects both what's in the Commonwealth and what is actually happening in some parts of its operation. It does not say that every person operating at level 3 is supervising. The standard does not require that. The standard merely says: This is the first level within some industry streams at which a person may be expected to take charge of staff. And, it's in that context that that exhibit is tendered to the commission. And, it also illustrates the point that the clause for the progression in the TLC is more correctly placed, if it were suitable, into the Maintenance Worker I, II, III and IV as a means of how one would move from 'A' to 'B'.

There is no automatic progression at present, that the majority of employees are between II and III. There may be one at the bottom and one as a Grade IV. The numbers are not fixed but that generally tends to be the distribution based on experience in each of the gangs.

There was no evidence put to the commission as to why 11 and what inadequacies were there in the government's proposal of 10. We would say that in the application these standards to any award, if a position was found to be operational, not of a technical or managerial level, that it's found to be required there is nothing to prevent us returning to the commission asking for a standard to suit the particular classification that had then been established.

From the setting of standards, having regard to the scale of the physical grades in the Commonwealth, which covers some 175 different classifications, that 10 levels are found to be adequate. And, that has caused no concern to this date between the great range of organisations who are parties to those various Commonwealth awards. We have not been persuaded in any discussions that there is a requirement but, if there is, the government is quite happy to return and put a case for an additional level in operational. But, we believe, at this point that any position above 10 starts to move into administration and the management of a particular section, group or division.

PRESIDENT: Mr Hanlon, have the - has the Commonwealth finally adopted the 10 levels or is that still in a trial - in trial mode?

MR HANLON: Well, they were introduced in September. There were opportunities for review for both individual classifications. I'm not aware of any information that crosses my desk that say that they might have sought an additional level or there has been any major change to their standards. I'm not saying there may not have been alterations to individual classifications in individual enterprises. But there has not been a change to my knowledge to the standards. My comments are addressed to the standards not to the particular award outcomes.

If I could take you to the technical stream, which is D 1. I would also ask you to go to the government's submission of April the 30th at page 1 of the technical stream. And in drawing your attention to the technical stream definitions I would also say, and I think I've made reference to this before, and there's not any difference in the operational stream in definitions between the TTLC and ourselves.

We have taken up the general direction of terminology used in the commonwealth generally in all streams and tried to apply those same standards in a consistent way through each of the streams by using words of either a similar description, but in the main we've tried to stick with a constant set of definitions for the very reason that supervision is supervision. If it differs it's either going to distinguish itself either by technical or by a professional nature. And

if the supervision is general then it is supervision as would apply in any of the streams.

PRESIDENT: Are you applying that same philosophy to the other streams in terms of supervision?

MR HANLON: Well, in the terminology in the professional stream follows the wording used in the commonwealth. In the technical area it does not. We have sought to use the principles between professional and clerical - and operational, to arrive at terminology used where we've been able to identify it. And where we've not we've used ours to try and put in place some consistency.

PRESIDENT: I was particularly referring to the use of the words 'administrative supervision' and what's the other thing? General supervision.

MR HANLON: That generally denotes the fact that it's - you have some clarity in the technical and the administration areas to the sorts of supervision you're talking about in the operational. One is -

PRESIDENT: It's in the operational that I noted it.

MR HANLON: Yes. But we just have general because it applies to a great range of occupations and it is supervision in that traditional sense. We use -

PRESIDENT: But it does refer to administrative supervision in the operational stream quite a lot.

MR HANLON: Sorry?

PRESIDENT: If you go to your H.10.

MR HANLON: Yes.

PRESIDENT: I don't know that I -

MR HANLON: Sorry, the definitions don't appear in our -

PRESIDENT: I don't know that a lot turns on it, Mr Hanlon, I was just - but it just interested me that - take page A 6, in the second - the first full paragraph on the left.

MR HANLON: Yes. Well, we would see the person that is supervising that person as the person who in under the administrative stream.

PRESIDENT: Right. That's the distinction.

MR HANLON: And the definition of general supervision or administrative supervision is taken care of on page 2 -

PRESIDENT: 2 of your -

MR HANLON: Of the government's submission.

PRESIDENT: Yes. yes.

MR HANLON: And that really denotes a person who is not actually carrying out the activity and is a person who is in a supervisory role responsible for those - the administration of the activities, not the execution of them. But again, the definition is in the government's submission, it's not repeated in H.10.

But it's an agreed position between the parties in the sense that they don't differ. While they are there the only difference that occurs, and I think this just may be a typo, is on page 2 of the operation of the government's submission, there is a line in the TLC's similar definition for general that is missing, and the words missing in the third line are 'given on any unusual situation'.

PRESIDENT: Could you just stop there for a sec?

MR HANLON: Sorry?

PRESIDENT: Precisely where is this?

MR HANLON: on page 2 of the -

PRESIDENT: Yes.

MR HANLON: - operational stream -

PRESIDENT: Yes.

MR HANLON: - under the paragraph 'General Direction'.

PRESIDENT: Yes.

MR HANLON: In the third line down after the words 'guidance would be', it should read: 'given on any unusual situations. General instructions are provided,'. In the TTLC exhibit it runs on from 'would be' to 'usually'. I've just assumed the line has dropped out. I draw that to your attention. That's the only difference -

PRESIDENT: I see.

MR HANLON: - between the TTLC's position and ours.

PRESIDENT: Yes, thank you.

MR HANLON: If I could take you now back to the technical stream -

PRESIDENT: Yes, sorry, Mr Hanlon.

MR HANLON: - we have put under the words the term 'technical work' our definition as to the requirement for a person to be covered by the technical stream. I distinguish that from a trainee at this point, but for a person to enter and be paid under the technical award, we would say that that is the definition. It isn't, as was put by Mr Vines, that the scope clause says: Any employee who is paid in accordance with the technical award.

It's our intention to make the technical award - technical employees, persons who are defined by that definition and that definition in the standard would then be reflected and it does not necessarily need to be repeated in its full. It can be amended to - as the engineer's exhibit differed from the government in the professional. It can substitute the exact technical position - if it was a drafting officer, could say drafting, and delete those matters that are not.

But that is the broad definition. That is not the exact definition out of ASCA but it is as close that reflects the activities of a technical officer using the ASCA definition and we see that definition as the entry point.

COMMISSIONER GOZZI: Mr Hanlon, do you run into a technical problem when you say that you by the technical stream where the technical work definition has application as opposed to the scope of the award?

MR HANLON: Well if the scope of the award applies to employees, the fact that you are paid under it then says you're covered by it. We say the definition to be paid under the award is that you meet the test of the definition in the award as to technical work. There are a range of occupations now paid under the technical award and it was only the administrative action to pay you created the application of the award to apply to you.

COMMISSIONER GOZZI: Yes. I'm just wondering what, if any, problems arise with that proposition. As you've rightly said, Mr Vines, in his submissions, referred to the scope of the award having application to employees and you're saying that it should be limited to the definition, and I'm asking you the question: what, if any, problem arises as a consequence of that?

MR HANLON: Well the only problem - if we can refer to it as a problem - is that currently an employee is not a technical officer by definition and is not doing technical work but is paid under the existing one, then that person has to be

correctly assessed as to which is the appropriate award - or the stream for them to be classified under.

If you go on from there and say, what do you do about the income that the person is receiving, it could be more or less than they were receiving before; I just think their machinery matters, but there's only one to keep the Technical Officers Award pure is to have a definition that must be met to be paid under it. That isn't there at the moment and the scope clause, as they're written, are inappropriate and the government has taken the view that if that definition appears in a standard, then the test to be met to be paid is defined by that clause.

COMMISSIONER GOZZI: Right.

PRESIDENT: And you were saying the definition of technical work would not appear in the scope as it's written here. Could you explain that to me?

MR HANLON: Well only that I just do this off my feet. I don't have an exact clause to give to you other than that it would say that employee - this award applies to those persons as defined under the definition of technical officer in the definitions clause and there would be a definition that said that. If there was then a requirement to have some protective clause to cover persons who were doing technical work without qualifications then that's covered by a separate provision. But our intention is to keep this award for technical officers and not to be used for the paying of persons who there may not be an appropriate classification elsewhere.

PRESIDENT: Thank you.

MR HANLON: We then go on and define -

COMMISSIONER WATLING: So, it would be a case of the award would then be established in relation to technical work as defined.

MR HANLON: Yes. There aren't any definitions in the TTLC submission going to technical officers, but as I've said earlier, we go and define direction - detailed direction, general, limited and technical, because those are the terminologies that are used in the description to decide - it's defines them. It says clearly what they are using the general principles applied in the other streams.

In regard to the levels, it is only in the trainee category that we differ in that we have six levels, one of which is a trainee. The TPSA - and I'm referring to D.1 - has six, of which a trainee is described as a level 1.

PRESIDENT: For unqualified?

MR HANLON: Yes. Well we would say that there is - also persons are currently eligible to be a trainee and who may not finish their course. There really arises incompetency based training as to whether or not that person should continue as a technical officer if they're not doing technical officers work, even though they may be two years through their traineeship. That's a matter which we haven't addressed, but it becomes a problem as to what happens to that person working along side technical officers and is not correctly classified, as they're no longer a trainee; no longer continuing their course and are not technical officers.

PRESIDENT: The TTLC's level 1 would pick that circumstance up, wouldn't it?

MR HANLON: The - ?

PRESIDENT: The TTLC's level 1 would pick up the circumstance where a person hadn't completed the training -

MR HANLON: No, it just -

PRESIDENT: - and still performing the work.

MR HANLON: - enables the person to continue in a process where you're either a trainee and what happens if you don't successfully complete what is in effect a cadetship and you're in that position because you are requiring extra qualifications. If the person then is allowed to continue in the stream, what do you do two years on, four years on, five years on, when they are no longer, by definition, a trainee.

COMMISSIONER GOZZI: Mr Hanlon, the minimum qualifications part in the government's proposal, are they in essence different to the qualifications requirement in the TTLC proposal?

MR HANLON: No, in that what we're talking about are people who are attending an outside institution for a formal diploma and they're doing it part time.

COMMISSIONER GOZZI: Yes, so the minimum qualifications requirement of eligibility -

MR HANLON: Yes.

COMMISSIONER GOZZI: - is the same as having satisfied educational standards for entry?

MR HANLON: That's correct.

COMMISSIONER GOZZI: Yes. So the unqualified aspect really is - is qualified to the extent that a minimum qualification requirement is necessary, and that requirement being able to satisfy TAFE that you have the necessary prerequisites to enter the course?

MR HANLON: Yes - well we - the persons are recruited as trainees because they meet those eligibilities - they entered the program - what difficulty occurs, I've only just highlighted this because the unqualified suggest that you can continue as an unqualified person and having had regard for what I said about the definition and leaving inside the existing employees, then if one is no longer a trainee and an organisation has a capacity for five trainees, there comes a point in time if a person doesn't continue what is their career and because they can only remain in that group doing work of a trainee.

I don't intend to compare the descriptions level by level. They do not really differ other than at the top level. We say that the work level in 5 - 6, sorry, is work that differs from our level 5. We say that technical management is not high level - high levels of managerial expertise and competence. We say that is a position that we do not have in the service at a technical level.

We have no intention of having that position and that clearly our level 5 is the highest position of a technical nature where a person is involved in the coordination of two or more significant units engaged in complex activities involving two or more technical disciplines or fields. We say the position as described in their level 6 is not a position that exists in the State Service. We see the functions required under that as either being performed by a specialist professional or by a person engaged in management.

Our general descriptions are clearer, broader in scope, and clearly put what's intended and in regard to the salary rates and I raise the salary rates simply because so you understand where ours were drawn from - they were drawn from the draughting officers scale. There are more than one technical award and more than one salaried structure.

There are some 200 employees covered by the Draughting Award as you can ascertain from Exhibit H.12 which sets out the numbers that are covered by that award. It also happens to be an award where either by administrative action as a result of decisions of the Commissioner for Review - and I say the majority so that I have not missed one - but the majority of classifications have received adjustments in the last 4 years - 4 or 5 years - from one of those two methods, so that in terms of adequacy we would say they reflect the current award, in current terms having been subject to either reclassification by administrative action or by decisions of

the Commissioner for Review. And I'll just draw your attention to the different -=

COMMISSIONER GOZZI: The current - the current award -

MR HANLON: Sorry, Draughting Award.

COMMISSIONER GOZZI: Yes, the current Draughting Award goes to 47,872 including the 2.5% with the top job being the Deputy Director of Mapping and below that is Class VI which is 40,971, so obviously you've left the deputy director.

MR HANLON: I would just check that position may be no longer be a position, that that applies in the public sector. I'll just need to take that on notice. If that is the case there's no longer that position.

COMMISSIONER GOZZI: Well it's still - it's still in the current award -

MR HANLON: Oh, well -

COMMISSIONER GOZZI: - but you're really saying that it stops at - the rates here reflect those in the current award more or less?

MR HANLON: Yes, leaving out the Deputy Director of Mapping and these are the standards that we would want and we have taken those salary rates out of that award bearing in mind we have a great number of technical classifications, but because it's a distinct group and tends to be a group that drives the technical area, then having had regard for the figures I've used then we are satisfied that that represents current value.

I just draw attention between the - the differentials between the two salary scales in page D 1, that - that there are arguments arise as to how one arrives at a value and it's common to accept that one can distinguish somewhere between a 5 and 10% distinction in money terms between levels and the government's level between the 28 and the 31 between level 1 and 2 is 10.9 and that's across a range. The difference between 2 and 3 is 9 - that's from the top to the top; 8 between 3 and 4 and 7.5 between 4 and 5.

The differentials that then exist in the TTLC document over the same levels are: 2 to 3 years 16.9; 3 to 4 is 15.8; 4 to 5 is 16.6; and 5 to 6 is 7.1. I just - having illustrated where we've drawn the rates from, what the differential, why we see those rates, those levels, and what distinguishes them in the descriptions. Having made my comments about level 6 not being a position as described in the TTLC currently envisaged as being in the technical stream, then clearly in our view the differentials as expressed in money terms do not exist between

the range of work. The range of work as described is that contained in the government's submission.

If I could take you to the clerical stream, both in the government's document and in the H.10. At page 1 of the April the 30th document, under clerical stream, definitions, again the point I made earlier about the technical and the operational applies. I would say that these definitions were developed in DPAC using the principles applied by the commonwealth, and that we applied in the professional, technical and operational.

There are no definitions in the TTLC levels, but we say that we've endeavoured to distinguish between the direct, the routine and the general. We've endeavoured to describe clerical work as it's normally performed, distinguishing that from administrative work. And then applied those descriptions in terms of our descriptions used within the levels, taking into account the distinction in responsibility and work as one worked through the levels.

The key area from the government's point of view is that we currently have 18 levels and our proposal is to reduce that to 12. And we say that that is a significant reduction in the number of levels. They have not been chosen as an arbitrary number. There was no effort made to say we'll have two-thirds of 18. They have been because there is a requirement to have that work done somewhere within an agency at that level.

Not every agency has a requirement to access all twelve, some agencies do. Some agencies only want to access some levels from amongst the twelve. And that just reflects the complexity or the nature of the organisation. If I can take you to the H.10, to page 1, there isn't a similarity of words to the same extent that exists in the other streams. What we've done is italicised certain key phrases in both groups that are similar.

So that taking the point with the trainee, the word 'basic' appears in both; from our point of view it is basic work. They were just words used to describe it. But basic, standard procedure are in themselves clear as to the level we're talking about in level 1, for both the TTLC and clerical. In level 2 we have used the term 'established guidelines'.

PRESIDENT: Before you move could I take you back to level 1
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MR HANLON: Certainly.

PRESIDENT: - for a second? You refer there to junior rates applying, does that -

MR HANLON: Currently they apply.

PRESIDENT: Yes.

MR HANLON: I intend to come to an exhibit. We do not see that in competency-based promotion where recruitment is based on a level of skill, knowledge or education that there is a role solely for junior rates as we currently know them. And I'll treat that as a separate matter. It's a matter which really goes to training, competency, national standards.

PRESIDENT: Yes. So you're not really claiming -

MR HANLON: In terms of -

PRESIDENT: - claiming junior rates there. You'll be addressing that later.

MR HANLON: No. In terms of standards we say there is a trainee. Whether the trainee comes in as a mature trainee, part of an APS program or part of some other program that reflects differences in life skills, knowledge et cetera.

PRESIDENT: Yes.

MR HANLON: But it be competency based and not age based.

PRESIDENT: Good.

MR HANLON: In level 2 we have used the term 'established guideline, instructions'. And that -

COMMISSIONER GOZZI: I'm sorry, Mr Hanlon, just before you get to level 2 again. When you say it will be competency based and not age related, that is a significant departure from the government's position with respect to junior rates. And I know that you're talking here about trainees. The government, in other proceedings, over the years has in fact pursued a course of putting in age rates - putting the age of the person next to the junior rate; so that if you had a 20-year old come in then he would get the 20-year old junior rate; or if the junior came in at 17 years of age then the junior would get the 17-year old rate.

Previously it worked by years of experience. If a junior came in, irrespective of age, the junior would be paid on the 1st year of service. Now, it seems to me that by departing from the age-related rate of pay that is a departure from what has previously been put.

MR HANLON: Well, in regard to clerical, that's true. The situation is that we're now setting standards in this exercise that will apply across streams. There are only two groups that apply - employ persons under the age of 21, and they tend to be in operational or in clerical.

In operational there's been no practice of employing juniors in a whole range of occupations, so that if you employ on the basis of competency into those then one has to employ on the basis of competency into clerical. I'm quite happy to go into the detail, but rather than get into a range of issues which go to recruitment policy et cetera, I would prefer to address that when I have an exhibit when I've finished the standards, if I could.

I don't think the government's - not shy from admitting that it is now confronted with a competency-based approach because that is a requirement as part of the national education strategy and the training in industry. So that these standards are set nationally. One then seeks to apply those standards within the industry even though in the public sector, that's state public sector, those competency standards have not yet been determined and there aren't any national standards for them.

There is a bit of a contradiction because at the moment they cannot determine the national standards because state public sectors are not national industries.

PRESIDENT: Yes, what do the Commonwealth do? What does APS do?

MR HANLON: They employ trainees. I have a paper I can address later on that. I mean they have - going to a competency-based, they're using the APS training process. There are a whole number of difficulties that then occur that - because you then go - who do they actually recruit? And the facts are that there is a wholesale abolition of positions at the APS level 1, and there's a growth at the level 3. So in actual fact what is happening is you're cutting off opportunities for trainees because of either the age to which people will apply for trainees or it is easier to recruit people at a higher level. So there's a number of -

PRESIDENT: But I know entry does occur -

MR HANLON: Yes, but at the -

PRESIDENT: - at under 21.

MR HANLON: Yes, but they're now recruited through the trainee scheme. And the commonwealth has a task force that is addressing competency based and how all those entry issues are resolved, and how the social justice questions in terms of non-adults, persons without life skills in education actually end up having access to the system. We say that levels 1 and 2 - and we have a requirement for two, and that is one of the levels to which the TTLC does not in our view.

We say there is a requirement for a position above that of trainee of a person working to establish guidelines. In regard to level 3, the TTLC used the words 'skilled clerk', we have used the term 'experienced clerical level'. And they are different words but in our view they mean the same. We have a person working under routine supervision, established guidelines and instructions. Their terminology is: established techniques and practices under routine direction.

Where we differ is under the qualifications and which says: 12 months relevant experience or training. And we do not see that requirement if one goes to competency-based assessment. We would see our level 3 as being level 2 for another factor, in that the top of the salary scale for both is the same. So that the skilled clerk, both in broad terms by description and by salary level is the same person.

If we turn to 4, we say our level 4 is the equivalent of a level 3, which is the senior clerk. We use the terminology 'supervision of a small number may be a feature', they use the terminology 'may involve supervision of lower level employees'. We use a different form of words, but we do not think that they essentially differ from what's expected of the two individuals.

Again I - the comments about the 2 years, we regard time as no longer relevant; that's it's competency-based assessment. Level 5 is another level similar to 2, where we differ from the TTLC. We see the level 5 as an essential step. It isn't a description that one can ascertain as falling either in the level 3 or in the senior clerk, which is level 4 for the TTLC. We have a requirement for that level and is described in those terms, there is work to be performed at that level.

We do not see that the next step from a senior clerk level 3, or a level 4 in the government's submission, to being level 6 or level 4 in the TTLC. We believe there is a requirement for a level 5. When one moves on to level 6 we describe it as administrative work, it is described in terms of the analysis of data and the preparation of reports, recommendations, tasks of a specialist nature. We talk about complex functions under a broad range of conditions, guidelines and procedures; some interpretation is required in order to establish select - establish and select the most appropriate approach to functions.

There's really - they are different words but they don't really differ in intent from level 4. The other factor is that the top of our level 6 and the top of level 4, again, are the same salary level. And we regard the work as similar.

COMMISSIONER GOZZI: Mr Hanlon, before you go on. The application of these classification standards to work to be assessed where it fits, in the government's view does the

classification standard have to apply in respect of all of the activities nominated in the standard or not? In other words, in determining the application of, say, level 6 or level 5 does every criteria have to apply or is there some other way that you assess it?

MR HANLON: Just excuse me. Just so I understand the question, given the fact that the standard will apply to a range activities engaged in the Public Service so that we have got departments that have within them sections dealing with accounts and finance, asset control, audit, personnel, policy planning, investigation, regulation, enquiries, so that if we're talking about a specialist department then we'd describe that work of a specialist nature in terms of level 7.

Now level 7 broadly describes the person operating at that level, that person could be operating - or carrying out a function which is quite specialist but still be one of these key job families exist - is that the point that you were -

COMMISSIONER GOZZI: Yes, I was just wondering, looking at, say, level 4 in the government's proposal and level 3 in the TTLC proposal, you talk about supervision of a small number may be a feature in the government's proposal and level 3 talks about: may involve supervision of a lower level - of lower level employees - and then we get to level in the government's proposal which says in the second sentence, that it's a supervisory level, but isn't level 4 also a supervisory level? I mean in assessing - coming to a conclusion about how these will be applied, I think it would be useful to know in some general term how these standards are intended to work.

MR HANLON: Well a person who is level 4, and if you then go to one of these job families so that you could have a personnel section where there are persons who are recording detail, who are handling records, filling in details, they can report to a person who, if you like, was one of their peers who is a level 4, but there may be two or three other people in that section who are doing the personnel records for a larger department, but they in turn would report to a person who is a level 5 who is in actual fact their supervisor as we would understand it.

In other words, absences, authority, approval, those sorts of matters, so that the person at level 4 is really the person who is experienced in the work, understands the difficult aspects of it and is in a position to direct that person in their day-to-day activities - that's how I would distinguish that having regard for the example I've used.

COMMISSIONER GOZZI: Fair enough.

PRESIDENT: While you're on level 5, Mr Hanlon, what does the expression 'the exercise of formal delegation may be required' - what does that mean? Does that - does that mean -

MR HANLON: Well there are certain positions in the -

PRESIDENT: - that that particular classification may delegate?

MR HANLON: No, that that classification is a position which has authority to do certain things under the State Service Act -

PRESIDENT: Right.

MR HANLON: - so we have a delegation and they are the person who may - whose signature would appear on the document as a person authorised to have approved, whether it's expenditure, leave, and under the State Service Act the head of the agency must delegate formally, so there is a delegation in existence for that person. I've just been advised that the delegation also can arise in any other Act other than the State Service Act.

So I was saying that level 6 is the - is a similar salary level at the top end of the scale. Going over to page 4, we see that our level 7 is the equivalent of level 5. The salary levels at the top are also common and then there's a number of descriptions in the both descriptions that are similar. We used the words 'for resource allocation and management' - they use the words 'may manage staff resources'. We talk about achievement of divisional or organisational goals, they talk about achieved priorities.

We use the terms 'high degree of efficiency', they use the term 'may provide specialist policy advice'. We also use the word 'interpretation of policy and guidelines' which again is the application of specialist policy advice.

Level 8 - again we use similar words, 'manage the operations of an organisational element', 'undertake a management function or provide consultative or administrative support and advice to a particular program or activity'. They use the term 'manage the operations of a significant work area or provide administrative policy, support, across a wide range of administrative or operational tasks'. Again the -

PRESIDENT: Again it does seem a little broader doesn't it?

MR HANLON: Well, like all these matters, you can either narrow it or broaden. We were looking to identify what we felt were common points.

PRESIDENT: Yes, but you're saying - I thought the italicised excerpts were really the areas where there were similarity, whereas in - at the end of the italic section in your level 8 to a particular - a particular program or activity, and this is - and TLC's is policy support across a range of administrative or operational tasks -

MR HANLON: Well -

PRESIDENT: - which implies something much broader.

MR HANLON: - but ours actually goes to cover the various elements within that level that we would have in the service so that we have people who were doing no more than support programs but who are working at that level, but actually could be working as individuals as part of a larger team, so that in an area like DPAC they may not have administrative tasks, they are really responsible to respond to areas of the program and they are the contact person for the application or development of that program.

So we are really talking - our attempts to identify the strands we have. My interpretation of the TLC is, is it endeavours broadly to describe the service as a whole in three or four lines. Just to look at classifications 6, 7 and 8, we say that there really is not a substantial difference in terms of the levels that we are seeking to cover.

PRESIDENT: Do you mean the TTLC's 6, 7 and 8?

MR HANLON: Sorry, the government's 6, 7 and 7 -

PRESIDENT: Right.

MR HANLON: - is the same as their 4, 5 and 6.

PRESIDENT: Yes, yes.

MR HANLON: We say that 3 is the same as 2; that's our 3. Our 4 equals their 3. So that it isn't until we get to areas 9, 10 and 11 that we see a separation between what our requirements are and those of the TTLC. And in broad terms the 9, our 9 is the top of our management scale. And that is the position where a person is managing a section. Our positions 10, 11 and 12 are positions which reflect the need for specialist and advisory persons operating at a very high level, which are a requirement of the needs of government. Persons who are involved in the execution of the planning, developing and implementing programs. Persons who are program orientated as distinct from work of an administrative nature.

It is work of administration, but it is not the task of ensuring that the machine ticks over. These are person who are responsible for planning, development and implementing

programs. 11 is a higher position than 10. This person goes to operating at a level with a direct effect on government policy and policy development commentary. Required to initiate and develop and implement systems for the effective forecasting, monitoring and control of government programs.

And level 12 is a principal advisor to government in relationship to specific programs. And we regard those three levels as quite distinct from the management function set out in level 8 of the TTLC's position. So that the key areas that we would distinguish our proposal from theirs in terms of eight levels to 12 is in the positions of 10, 11 and 12, of being policy specialists - if I could use that shorthand term. We have a requirement for level 5 and a requirement for level 2. Other than that the descriptions and the levels are not that different between the parties.

So in clerical it comes down to a choice of the government having assessed its needs, has ascertained it has a need for 12. There's no suggestion that we have opposed broadbanding, because very clearly to go from 18 to 12 there is an acceptance that some levels were no longer necessary. But at the same time there is a requirement for those positions that I have spelled out, and the government has addressed the need. It's assessed the TPSA's proposal which was circulated to all agencies. And that really is a fundamental difference which we will address the commission on at a later point today.

There's no evidence been submitted by the TTLC to show that there isn't for these matters. In actual fact Mr Vines, to use shorthand, suggested that he did not bother to address himself to the government's position in regard to its levels and clearly confined himself solely to the reasons why the TPSA wanted 8 levels.

We believe that we have a clear need for them. There is - the distinctions are there and we believe that our management structure begins at level 10. And that is reflected in the SES, which is the creation of the management stream. And that above level 9 we then have policy specialists similar to specialists that apply in the professional stream. And they are persons who are there for their specialised knowledge, policy development and planning. If we turn to B 1 of the clerical, and the table there illustrates that point.

Where at the top of level 9 you have a dot point that reaches across and you have the equivalent of a level 10 equal to the SES level 1 manager. And the senior executive service is the management service, and the sectional manager, in our view, is level 9.

PRESIDENT: What sort of conflict do you see arising in the allocation of classifications at the higher level compared with SES?

MR HANLON: Well, the principal adviser as, say in level 12, would fit you would think into SES. No there are managers who manage divisions or sections who are in a supervisory sense level 12s would report to. In a technical sense the level 12 is a specialist - the manager may not have a requirement to even know the detail or the expertise of the level 12 person, but in a management sense level 12 report to them in terms of approval and ensuring that priorities are met and the necessary resources are made available.

PRESIDENT: Yes, thank you. Could I just take that a little further - that wouldn't preclude though would it people who carried out the functions in 10, 11 and 12, being classified in SES?

MR HANLON: It's just a different function - there are the ability to hold down a position in the SES is the ability to carry out the managerial function. There are examples of people moving from 9, 10, 11 and 12 positions into the SES. It is my intention to address the SES and what some of its characteristics are to enable the bench to see what the difference is between 9 and 12.

PRESIDENT: Yes, thank you very much.

MR HANLON: Just before I leave the clerical the - you should note that whereas I use the term 18 to 12 there are 10 levels in the - in the clerical system scale now, so that in that sense there are many more levels have gone but in the sense of the clerical award it is 18 to 12, so that it's a much wider scale than that, but the merging of keyboard clerical assistants into the clerical stream does remove a range of existing levels.

COMMISSIONER GOZZI: When did it - Mr Hanlon, when did it reduce from 21 to 18?

MR HANLON: Sorry - no, no, it was my mistake, I was just about to correct it - that someone advised me my maths were wrong. It is 21 to 12. It's been suggested to the Commission that on a number of occasions - and I use the word suggestion because it's been made by a number of people in varied levels of intensity - that in some way the government hasn't conferred. Of course a principle of conferring confer and may not like the outcome.

There seems to be a number of organisations have conferred that have misunderstood that the difference between having conferred and not like the outcome. The purpose of the negotiations were not the government to say yes to 'X' number of levels or 'X' number of streams; the purpose of conferring was to see whether or not it was possible for the parties to

discuss existing award structures and descriptions and arising out of the process four operational streams - and I use that because that's the matters that are directly before you today - was it possible to reach common outcomes.

Of course when one looks at the operational area that was the most difficult area. It involved the greatest number of organisations, federal and state regulations, as well as large and small agencies, small numbers of employees in some organisations and that made it extremely difficult.

Just about all the meetings in November and December which met in substreams, it's fair to say that most organisations at that point wanted to maintain whatever the nexus that was in existence between their current award and any federal parent. And that was understandable. Certainly nobody meeting in an industry substream is going to agree to something in isolation that may or may not damage them in the future.

It was also extremely difficult to have an operational group meeting where all operational group organisations present and to move on from that when the only common demand was for the 450 pay rate. But it was suggested on a number of occasions that - that we ought to look - the government ought to look at the Commonwealth structure, and we were aware of that; we'd been monitoring the outcomes of that since September '91 when the Commonwealth issued its translation documents, descriptions, and the way in which their physical grades had been merged into fewer levels.

And from our point of view, having taken advice, we regard, and having accepted that, and I wouldn't want to suggest in any way that we were reluctant - we saw no difficulties with looking at a mix of federal and state awards which is exactly the same situation in the Commonwealth where you have ACT decisions and Commonwealth decisions and large statutory organisations that having established some ground rules, having defined some standards, one does not need to re-invent the wheel.

So that by having then adopted that proposal, and have it included in ours, we then say that the test of our bona fides in that is for us to show the fact that we have accepted what we understood from a number of organisations was going to be acceptable to them, from 1 to 10 and in broad terms the principles of the Commonwealth apply, and our document reflects the outcome of those suggestions.

In regard to the professional, bearing in mind that the discussions in the professional were conducted with three organisations all having different needs. The professional engineers have made it clear they have always had a desire to remain different and separate. They are also an organisation that sets the benchmarks in the Commonwealth for the

professionals. We again were very conscious of what the Commonwealth had done. They had established a task force and that task force defined the professional standards and we have picked up the thrust of those standards in our submission.

Now that differs between the HSU and the TTLC or the TPSA. Now, that is a fact both by the submissions of the three organisations and the government submission. We say very clearly it shows that there was a willingness to discuss and a meeting of minds where they were possible. The fact that there was not a meeting of minds is not a criticism that can be levelled at the government; all that is is a failure of the parties to agree.

And throughout October on to - we have met on a regular basis working party dealing with the professionals. All agencies were written to on 17 October 1990 and the letter went under the heading: Award restructuring, the application of the structural efficiency principles. And they were advised of the tasks that had to be undertaken. They were also advised that the TPSA had a structure and that their views were sought on that structure.

They were asked to review all their existing positions in terms of the SEP objectives by possible awards and number that they required, the number and nature of classification structures in each award and the number of levels in each classification structure and the classification criteria applicable to each level. They were also advised what the unions had submitted to that date and copies of that were circulated to all agencies.

In regard to the occupational stream, the only submission that had to that point in time was for the percentages up to the trades rate and there were no further examples given of what would happen above the trade rate. That point was drawn to their attention and given to them and also advice that they consider any proposals that were currently on the table from any organisation that need to be taken into account where agreement was possible, details of any disagreement and the process then of reporting that back through to the PNG process.

They were also advised that the proposals from the TPSA in the professional, technical and clerical, copies were enclosed, and I quote: You are requested to consider these proposed structures which are in effect sets of draft classification criteria relating to relevant occupation categories in your agency. Given the direction of the PNG to the working group it is important for the government representatives to be comprehensively advised.

It was also drawn attention to, as I have said, to the operational group, the difficulties there. And they were then

asked in their deliberation to give consideration to the following points: Whether existing award structures were appropriate; whether union proposed classification structures and levels are adequate for your agencies needs; whether you require alternative classification structures to reflect your organisational structures; whether the union proposed classification structures will improve efficiency and productivity; whether the union proposed classification criteria have sufficient clarity to enable you to classify the positions in a consistent manner; whether the union proposed classification structures will present possibilities for amalgamating awards; whether the union proposed qualification training requirements set out in their classification criteria are appropriate; whether the union proposed structures could be implemented on a cost neutral basis and if the union proposed structures were adopted what translation options would be suitable. And there were all the necessary attachments.

Now, from the government's point of view that shows an intention not to proceed on what it wished to do but that we needed agencies to say to us: this is the claim, how does it fit in with your agency, the activities of your agency and then they responded according to the various operational groups that were set out in W.2. And they were working parties both of a management nature as well as the combined working parties. And I would like to tender an exhibit of the clerical submission which -

PRESIDENT: H.19, Mr Hanlon.

MR HANLON: This exhibit was presented to unions in this - not quite in this form, I have taken some extracts off the back of it, to unions on February 1, at the last meeting of the clerical group and it sets out an introduction and general background, the administrative and clerical stream characteristics, the proposed classification levels and the description of levels and standards and the job design process and the guidelines.

I want to take you to - the pages are unnumbered, but to page 4, headed up paragraph 2.4 - Summary of Events to Date/Anticipated Timetable. Now that sets out the number of occasions that both working parties met. The involvement of the PNG. It shows the working party on the 30th of October for clerical. If you then come down to the 12th of November where, following the advice of agencies, there was then a consultative mechanism with selective agencies to facilitate the establishment of the levels.

And it sets out those departments who were consulted. That process was an internal one during that period of time, the 12th to the 24th of December, which involved the Department of Premier and Cabinet liaising with all of those groups to reach

a common position. Bearing in mind were talking about a range of agencies and a range of activities. And at the same time there were meetings then on the 14th, the 17th and 18th to consider what that feedback was.

And of course it's not necessary that the TPSA necessarily agreed with what we were putting, but that demonstrates that there was a method and a process of involved consultation. And this document, on the next page, was put to the union on the 1st of February. And we were in the commission, I think, on the 4th. So that that demonstrates from the government's point of view that there was consultation, that there was serious consideration given to the TPSA's structure, particularly - when I say particularly, in the clerical area, which is a large area of the government service. And this demonstrates to what extent in that area that was undertaken.

And I take you to paragraph 2.5, halfway down it says:

Particular emphasis was placed on Agencies to identify their needs in relation to appropriate levels in a new award. Also critical in this process was the Agencies' reaction to the 8 level Clerical proposal by the TPSA.

The structure, descriptions and levels proposed in Section 4 reflect the feedback received. Some indicated that they has progressed significantly in the re-design of positions while others require further structural and position re-design to satisfy the structural efficiency principle.

It then goes on in 3.1, in the third paragraph, to draw attention to the overlap of the SES. And the point I made earlier that any managerial position ceased at level 9, with 10, 11 and 12 reserved for specialist policy positions. There was also a recognition on the next page, at the top paragraph, that there may be entry points for graduates above the base grade entry. And that again was - attention was drawn to the fact that that base grade entry would be tied in to the service-wide decisions in relation to graduates generally.

I just make the note there that even though it's in 3.2.1. - Junior/Trainee rates:

Level 1 is to accommodate junior and/or trainees although it is recognised that junior rates are subject to further consideration.

And the consideration that's been referred to is the consideration of competency-based entry. And just - the professional and the technical working groups also met, in the same frequency and using the same process as that adopted by the clerical. I use that previous exhibit, because that was

an exhibit - a document that was given to clerical unions on February the 1st. So it's not something that been complied for these proceedings, it formed part of our submissions on February the 1st.

I might just address that base grade entry point, I think, and finish that and I'll be finished the streams. I'd like to tender an exhibit called 'Base entry and career opportunities for unskilled persons'.

PRESIDENT: We'll mark this H.20.

MR HANLON: This exhibit was not prepared for the commission, it was prepared for an internal discussion about recruitment, competency-based training and generally how persons would be recruited into the service as part of the development of the government's training and recruitment policy. But what it does is, enable us, on page 1, to - in the left-hand column, to look at the way recruitment occurs and to - there is a requirement to look at social justice requirements. In the centre of the exhibit, it refers to clerical which either entry will be by traineeships and in-service training -

And the distance between the recruitment box and where the arrow finishes just represents those initial area that could be termed clerical and the streams beyond that then go to entry at the professional point which is the line at the top. The administration, where one moves from clerical to administrative work, the technical stream by entry by definition, the post-trade supervisory group by being competent and - in supervisory roles and the other group of employees who occupation specialised, such as police, fire, ambulance, who are recruited into a in-service training program based on entry qualifications. So that we see the - generally, the persons with non-external qualifications entering the service in either of those two streams.

Then in looking at the clerical stream, and I've attached that to the document, simply because it enables us to look at the difficulty of moving from a junior rate to a competency based approach and on the left-hand column it has the number of increments and levels up the - starting with an entry level, the traineeship then says 2 years - that just represented a particular program that was being discussed at the time. But level 1 is a traineeship that has a number of elements to it.

It takes into account that the national policy - educational policy - is that children should remain at school till Year 12. It also accepts the reality that people leave at 10 and 11. It also takes into account that we will have people of a mature age with skills and without skills who will also be seeking entry into the public sector, and that there are combination of programs which then we'd have for entry, one of which would be an induction for a specialist person, maybe of

short duration, to induct them simply into a large scale employer such as the Public Service.

There is also the APS training scheme which runs 12 months. There is also the requirement to build in a training program for Years 10, 11 and 12 to ensure that there is not a fast track method of getting to a high salary that induces children to leave earlier years than those who graduate from high school or go on to technical or further education who get a promotion for other than competency reasons.

So those sort of social justice aspects are being debated nationally; they're being debated by the Commonwealth in terms of entry, recruitment, because these are now becoming issues of concern as to how you go there, taking into account those points I've made; so that the government is moving away from junior rates - it does not have a solution to it. It has identified the problem and we see in the next phase when training becomes a high priority that there will be discussions about that with the various organisations applying standards as they're set by the Commonwealth.

If I could ask you to turn the exhibit so that the headings under the Core Competencies can be read. Level 1 in the government's view was to be way of entry or certain key subjects to be acquired and they were basic skills of communication, keyboard skills, occupational health and safety, information handling, et cetera, at a basic level. And then as one proceeded through level 1 and reached the level of competency according to the criteria of the group you were in, you would then be eligible to take a position in level 2. So that level 1 is the trainee and one would move then into the extension skills and having been -

PRESIDENT: Before you go off the core competencies, Mr Hanlon, is that - the bottom skill, is that personal skills or should it be personnel -

MR HANLON: Personnel.

PRESIDENT: But that's repeated in extension skills. I'm just wondering what it might be.

MR HANLON: It's

PRESIDENT: And it is personnel?

MR HANLON: Personal skills we're talking about - as in person.

PRESIDENT: Personal?

MR HANLON: Yes.

PRESIDENT: Yes. Good, thanks.

MR HANLON: If one then goes to extensions skills, we're now talking about the acquisition of an increase from the basic skill to reaching a point of a specialised nature - if I could put it that way - where you've developed the core skill into a subject where you, again based on competency, move through and acquire a number of those depending on the agency in which you're in - the range of activities within that agency and then reaching a point at the top of level 2 where one would see you as a competent operator at a clerical level and then going on then to specialist skills.

And if one just looks at a person who requires basic keyboard skills, then acquires standard keyboard skills, one is then in a position to elect to start to exercise opportunities in desktop publishing, just to provide an illustration of that how works. And then a person who, by this point, is moving on to a promotable position from 2 to 3, then is electing to move into areas of their particular interest and the next part of the exhibit just sets out a number of key job families across the public sector whereby a person then could move into these sorts of activities depending what their particular interest is.

That, at the present time, is the approach that's being taken in a number of industries to move people from induction through to having a career opportunity and moving through from - changing from describing people by particular tools or operations they perform such as filing, keyboard, clerical, looking into the function and the acquisition of the skill in the function.

I just tendered that to show the point about the junior rates and how that needs to integrate into levels 1 and 2 and forms part of the traineeship level 1 and level 2 to the skilled position. It also, in our view, highlights the fact that a number of submissions have been made about how one progresses through both the operational structure and the clerical using nothing more than time as a factor for promotion. And I distinguish where a person has failed to receive the training, from that comment, but that if we are going to competency based, skills based classifications that the only criteria for promotion has to be competency based.

That increments are there for service. If one then has an increment based on time for promotion then that is another way then of extending the incremental scheme across levels. It also both in the - certainly in the operational it was very difficult to ascertain exactly what was being claimed in terms of the various submission that were put because they range from the TTLCs written submission, from a week to three months to automatic for 12 months, and it is extremely difficulty from the submission to work out then how the increments

actually work for persons who would automatically progress from 80 per cent through to 95.

But, given the range of qualifications that are required, they range from powder monkeys, tickets, to drivers licence, to riggers to a whole range of things, then it is quite clear that a person could say that they are being denied access to obtaining a rigger's qualification, a powder monkeys ticket and the issue is really do we want anybody to have all of those qualifications in the classification stream. Which shows up there are some contradictions in the way in which the increments and the promotional thing have been certainly been put to the commission.

I certainly could not see how it all tied in with competency based. I am not walking away from the fact that one ought to be able to access it, but access and then having a provision for an employer who may fail to do something is quite different from having a scheme which on average should work in a certain way. I was about to move to something else and -

PRESIDENT: Yes, thank you, Mr Hanlon before you do it has been suggested we ought to allow the other parties to make some comment in relation to the manner in which some of the special case matters might be dealt with. In particular before the special case area is mentioned in our decision. Is there - can I take it there is a view in any - amongst any of the parties that there ought to be a different process adopted from that described in the decision?

MR HANLON: Well, it is - we have - there has been no suggestion made to us about the proposal you are putting.

COMMISSIONER GOZZI: Perhaps I can elaborate. It particularly came in my proceedings dealing with the ambulance service where the government position and indeed that of the union was that rather than holding up that particular award, The Tasmanian Ambulance Service Award, as indicated in the decision of the full bench, it could be processed in respect of other structural efficiency initiatives and that would not impinge on any of the matters that are currently before the full bench.

You recall that in the full bench decision, dated 1 July, we identified the Police Award, the Fire Brigades Award, the Tasmanian Ambulance Service Award and Prison Officers Award and we said that we refer those awards to individual commissioners when the benchmark figure for tradespersons have been determined. As I say, in other proceedings dealing with the Ambulance Service Award in particular the proposition was put that perhaps some of these awards could be referred to individual commissioners to deal with the structural efficiency aspects other than the agency specific matters, if you like.

MR HANLON: Well, the government's position I have already put in regard to that, Mr Commissioner.

COMMISSIONER GOZZI: The ambulance service, yes.

MR HANLON: We - well, we had said that those nominated to a special commissioner - to their industry commissioner, if I can put it that way, but as none of them were - to my knowledge were part of the trades rate that there was no impediment to those matters proceeding and in particular the ambulance officers and the government had agreed on their position. And I think even in - maybe in the May hearing I asked could a date be set so that from the government's point of view we are happy for the ambulance officers to proceed with their commissioner and do not see them in any way impinging on this matter.

And my understanding, from what has been put to us by those other organisations, that we are agreed that they be assigned to their commissioner and the initiative for when they proceed is in the hands of the respective organisations. In regard to the prison officers, I did place a condition on that as they had engaged in a review with the Department of Community Services of all prisons and that was to take some 12 or 14 weeks and we said: well, that should be allowed to be completed, as it is a joint exercise, prior to any exercise coming to this commission.

So that if there was agreement about changes and structures, et cetera, that work would have been completed. So, outside of that it is really in the hands of those organisations. We are happy to cooperate, as I have illustrated.

PRESIDENT: Would you see fire and - fire services and police as being in a similar category?

MR HANLON: Well, yes because the police have said they are not part of the 4.50 claim and the -

PRESIDENT: You do not have any objection to that.

MR HANLON: We have been advised - no. The police have - the firefighters have advised that they have withdrawn some time ago from the trade rate. I mean, I stand corrected on that. So, operate on that basis my submission previously was that they could be referred, any initiative after that came from individual organisations in terms of salaries and structures.

PRESIDENT: Is there a view about that from the other side?

MR O'BRIEN: I think the individual organisations ought to put a view. We wouldn't be seeking to stand in the way of organisations to putting their case.

PRESIDENT: You mean in these proceedings or - ?

MR O'BRIEN: No, in separate proceedings.

PRESIDENT: Yes.

MR MAZENGARB: Mr President, if I may, by way of clarification. The decision of the 1st of July that you referred to previously indicates that these referrals, the four awards that we're talking about, will occur once the benchmarks for tradesperson has been determined. Do I now understand that the bench is indicating those four referrals can proceed without that determination of a benchmark figure?

PRESIDENT: Well, we're getting responses from the organisations to the effect that the benchmark's irrelevant in those areas.

MR MAZENGARB: Well with regard - obviously, sir -

PRESIDENT: Now that's something we haven't finally made a decision on, as to whether or not we're going to change from the position set out in the July decision.

MR MAZENGARB: Yes, sir. As you are aware, the Public Service Association isn't a respondent to some of those awards and before I make any further comment, I'd like to hear what the Prison Officers Association has to say with regard to the Prison Officers Award.

PRESIDENT: We might take the matter further after the luncheon break, that you may consider those - the issues during that time and we will too, so we'll adjourn to 2.15.

LUNCHEON ADJOURNMENT

PRESIDENT: Mr Kadziolka?

MR KADZIOLKA: Mr President.

PRESIDENT: Are you able to make it to the microphone?

MR KADZIOLKA: Yes, I'm here, thank you. I've gained quite a skill on standing in one leg for extended periods of time.

PRESIDENT: Well we could make an exception and allow you to remain seated if you wanted to.

MR KADZIOLKA: No, no, that's fine. Actually I've only got a very short submission. Thank you.

COMMISSIONER WATLING: There's no truth in the rumour that you got this complaint from the second 3 per cent? What's it going to cost you for the next three?

MR KADZIOLKA: Actually one of the advocates for the union side asked if this was an attempt to get some sympathy from the bench, and my -

COMMISSIONER GOZZI: Well it's worked.

MR KADZIOLKA: - immediate thought was our organisation's well and truly past that.

PRESIDENT: A good try anyway.

MR KADZIOLKA: Mr President members of the bench, the association reiterates its previous submissions that it does not want Tasmanian police tied to tradespersons' rates because it believes it to be inappropriate. In our special case, we will be seeking to establish the AFP benchmarks as our rates. Notwithstanding this, we will, if appropriate, address relativities with tradespersons. I must indicate that the association believes that the commencement point for police should be higher than any base tradesperson's rate established. At this point in time we are prepared to commence our case with inspections addressing the work-value area immediately.

In relation to SEP matters, the executive committee is currently considering taking part in a joint structure review with police management so, therefore, at this point in time that may be - that SEP component may be delayed for a short time.

PRESIDENT: Sorry, would you clarify that last bit, Mr Kadziolka? I -

MR KADZIOLKA: So at this point in time the SEP component of our case may be delayed, but I would say it would only be for a very short period of time. So -

PRESIDENT: That is because the executive hasn't yet determined whether to take part -

MR KADZIOLKA: That is because -

PRESIDENT: - in the discussions?

MR KADZIOLKA: I beg your pardon. That is because the review will take time obviously.

PRESIDENT: Yes. Right.

MR KADZIOLKA: In short, Mr President members of the bench, the association is eager to go ahead with its special case prior to the establishment of a tradesperson's rate.

PRESIDENT: I understand -

MR KADZIOLKA: If the commission pleases.

PRESIDENT: I understand that submission. Mr Hughes?

MR HUGHES: A bit of a hard act to follow, Mr President. I don't know how I can get any sympathy.

MR O'BRIEN: Stand on one leg.

MR HUGHES: Mr President members of the bench, as was mentioned before, we are currently involved in an operational review with the Corrective Services Department. As the government has already stated, that is expected to take between 12 and 14 weeks. We are prepared -

PRESIDENT: When did it commence, Mr Hughes?

MR HUGHES: Two weeks ago, sir. We're prepared to wait to the end of that operational review before progressing with the special case. However, we believe that the tradesmen's benchmark decision may have an influence on our special case and we would hope that that decision would be handed down before the end of our operational review or shortly after, therefore, it wouldn't unduly delay the special case.

PRESIDENT: I follow.

MR HUGHES: If the commission pleases.

PRESIDENT: Yes. Thanks, Mr Hughes.

MR NIELSEN: Mr President, on behalf of the Ambulance Employees' Association, we have no special case, but we have had a fair amount of negotiations with the Tasmanian Ambulance Service within that agency. We have arrived at, under award restructuring, at various agreed matters. We have some issues in dispute before the commissioner - before Commissioner Gozzi and it was indicated there by both parties that a desire, if possible, to proceed with those matters on award restructuring because they have some influences on the matters that have been in dispute, and we would desire, with no disrespect to the full bench, if that opportunity was given to us to proceed and finalise our award restructuring under the SEP principles.

PRESIDENT: Would that contemplate changes in rates of pay?

MR NIELSEN: No, Mr Commissioner - Mr President.

PRESIDENT: So that might not be dependent on the benchmark?

MR NIELSEN: I don't think the benchmark will have a great or any influence on our matters before the agency.

PRESIDENT: Yes. Thank you.

MR NIELSEN: Thanks, Mr President.

PRESIDENT: Anyone else on that matter? No? Well we've taken - we'll take on board what's been put to us this afternoon and inform everybody in due course what process shall apply. Yes, Mr Hanlon.

MR HANLON: Just prior to lunch I was about to move to another matter and in doing so and that is to put in context the argument that the government believes - that supports the position that it put this morning - that its classification standards should be adopted and having looked at the processes of consultation now want to move to what are some of the obligations on agencies or heads of agencies in terms of they having the obligation to run their agency, and having the obligation to run it in accordance with both the statute and the parameters that are set by the government of the day.

And following on the restructuring of the public sector from 57 to 18 agencies, there were a number of matters then put in place that were complementary to that and they ranged from the SES to the Financial Audit Act, and reforms of the statutory authorities in terms of their audit requirements and there was a model developed called 'The Model Agency' for the Public Sector. And a range of these issues whereas some of them large some of them small and in varying levels of impact on heads of agencies do require now that there be a focus in those heads - on those heads - of agencies to manage their agency in accordance with parameters set down either by policy or by impact of the budget process.

It is a requirement of the head of agency that they design the organisation; they determine the functions that are carried within it; they determine the tasks; they identify the delegations; they identify the levels of accountability and they distinguish subordinate from superior positions; and they introduce the relevant decision-making processes. And to assist the commission to get an overview of that in terms of the requirements of an agency I tender a copy of 'The Model Agency'.

PRESIDENT: This exhibit is H.21.

MR HANLON: And I'd, in doing so, in many ways the purpose of this publication is quite the opposite of what a number of the applications that unions have made to the government in regard to their claims of structural efficiency, and I'd ask you to

turn to page 4 under the preface there, which in rather unusual Public Service terms, it states that:

In reading a mystery novel, the temptation to go straight to the last page to discover "who dunnit" is avoided by those who enjoy the process of following the intricacies of the plot and its tensions. This paper is no work of 'fiction', so its reading will not be spoiled by glancing at its final paragraph.

And my comparison with the number of the claims, it would have helped us if we'd have known what the end was rather than we're only prepared to talk about the title of the book.

PRESIDENT: We're suffering in almost the same problem, Mr Hanlon.

MR HANLON: Well, it - maybe you could give me the cure, Mr President. The -

COMMISSIONER GOZZI: We intend to.

MR HANLON: - situation that - where - is before us here is that the last paragraph it sets out the purpose and it says, in the last sentence in the last paragraph:

Rather, its purpose is to provide direction for Tasmanian public sector reform into the 1990's, building on the experience of others. In turn, the value of the model to others will be enhanced by the Tasmanian experience.

And the purpose is that this isn't a manual says that if you follow these steps you'll have a model agency; its purpose is to provide a framework in which agencies can undertake the necessary planning, the management of resources and the review and evaluation of past performance.

The paper also at page 7 identifies the reforms that were envisaged and seek to promote an understanding of how these are interrelated and mutually supportive. In brief, are the model public sector agency or function.

It goes on in the second paragraph to describe what is the model agency, and it's important for the bench that I draw your attention to that because it - it - in the second line says:

For example, some have a statutory basis (which may constrain their operations), others do not; some have an essentially service delivery role while others have an entrepreneurial role. These differences will be reflected in the degree and

manner in which various management initiatives are used. Hence it is not appropriate to give a precise prescription or recipe for the model agency, but it is meaningful to identify the essential ingredients and how they interact, as a conceptual framework to guide reform action and the planning of change.

And I would just add that each agency has its own culture, history, and organisational structure. And a head of agency when answering the questions that were directed by DPAC to it was required to have regard for those matters.

At page 10 it deals with the issue of work organisation in terms of that their social structures, personal social needs and the need to create the right environment and then it goes on to talk about the principles that need to be applied by managers and they're set down in dot points.

It goes on in the next paragraph to deal with accountability and the key area is in the two dot points in the centre of 2.7 which talk about let the managers manage and make the managers accountable. And those two principles are the requirements of heads of agencies who are charged with the task in statutory terms to do that and also how they then in turn will carry out their obligations to have their fellow managers carry out their delegations. And it is seeking to introduce the concept of accountability and to make that accountability meaningful and the responsibility resting for the efficiency and effectiveness of the agency with that management team.

If I could take you to page 17, which deals with the corporate plan, and each agency is required to have a corporate plan and is required to apply that corporate plan in terms of its budget strategy. And there under paragraph 3.1.3 it talks about the need to have a clear link between that plan and the government's policy objectives, its priorities, the relevant legislation required to identify the business of the agency, clients, stakeholders and the agency's program. And in turn it is approved by the minister and supported by the senior management.

And at page 18 it is described as being useful for the decision making and priority setting, for resource allocation, defining the scope of the management tools, the information plan, the financial plan and the management information service. The last paragraph deals with two concepts. In the first it deals with the strategy, that is, what strategy is going to be applied. And in the last paragraph it deals with the requirement of an operational plan. They are not abstract concepts, they are matters which agency heads are required to have an apply.

At page 23 it then deals, in paragraph 3.2, with the management of the resources and in 3.2.1. with the designing of the organisational structure. And it seeks then in the description to integrate the structure and the strategy and the role of corporate services in providing an organisational unit which supports the agency's program. It talks on about the need then that the structure can be regionalised, self managing units, the appropriate delegation in decision making, the organisation network.

Again, all of these matters are conditional on the style of the agency that is established; whether it is an entrepreneurial or statutory based or a service based one. Twenty four talks about the need to apply the corporate plan and from our perspective it sets out what managers are required to do in terms of priorities and resource allocation. It also goes on to deal with job descriptions, role statements and performance appraisals and they have a link to the corporate plan and the requirement that each person's job is - each person understands how their job contributes to the achievement of the agency's objectives.

And in the last paragraph, the clear relationship between the agency's programs and its organisational structure. Accountability for the delivery system program is clear and such accountability is accompanied by the requisite authority for resource allocation and other decision making. We say that they are not minor matters, they are the matters that directed agency heads into arriving at their needs in terms of levels, jobs descriptions and the level of authority that they require and the delegation necessary in each of those standards.

I just refer you to page 38 simply because that is a heading that shows the key areas that have been - progress has been made to date and also identifies some of the challenges. I do not intend to go to them but there are a number of organisational developments that have arisen out of the model agency that go to future strategies for both training, for both performance appraisal and for the need to integrate much more closely the legislative requirements set out in here as well as the human resource ones.

PRESIDENT: Before you leave that document, Mr Hanlon, it is really not terribly relevant to the case, but can you tell me what stakeholders are?

MR HANLON: Well, from the commission's point of view, where the people who appear before the commission, if you are talking about roads and transport, then the stakeholders can vary from -

PRESIDENT: Would not they be the clients?

MR HANLON: Well, there are various ways of describing that.

PRESIDENT: Well, the two terms are used -

MR HANONL: Well, some people - you can take the public -

PRESIDENT: - separately.

MR HANLON: - as being users of the bus service in terms of clients, the taxis owners association who require a licence could be perceived as being stakeholders.

PRESIDENT: Yes.

MR HANLON: In other words those persons who are affected directly by the decisions of the agency as against those persons who are indirectly.

PRESIDENT: Yes, all right. I am not - I still do not understand the real distinction that -

MR HANLON: Well, I will attempt -

PRESIDENT: As I say, I do not think it particularly matters. It has just always interested me and I thought you might have been able to help me.

MR HANLON: Well, I am a part of several task force and there are stakeholders and client holders and that is the only definition that I can use to distinguish the two sorts of groups of people we meet. I think it depends on the influence or the impact that the agency has on the two groups.

PRESIDENT: I thought it might have meant who put up the funding.

MR HANLON: Well, for most stake -

MR: The taxpayer.

MR HANLON: The taxpayer is a funder. I, as I said, viewed it in terms of the importance that the agency has in the stakeholders organisation.

PRESIDENT: Thank you.

MR HANLON: We believe it has relevance to this case because it clearly sets out in a concise form what agency is required to do, what the head of an agency is required to do, and how that fits in with the structure of the organisation and who determines the structure and the functions. Now, it is an abstract exercise carried on by somebody in industrial relations to determine just what the job description is. It may be the task of the person to carry out the direction, but

the needs of the agency are determined by the head and their managerial group and that's clearly spelt out within the model agency.

PRESIDENT: Yes, that's helpful. Thanks, Mr Hanlon.

MR HANLON: I did mention this morning that I was going to make some reference to the Senior Executive Service and how it fitted in, particularly when erected above the clerical scale, and I tender a copy of an extract from the Senior Executive Service Manual.

COMMISSIONER GOZZI: Mr Hanlon, just before you get into that part of your presentation. This document, the model agency, encapsulates the principles and the themes arising from the comprehensive public sector restructuring that was undertaken, particularly in the broad context, 54 departments and agencies down to 18. Now, how will this impact ultimately in respect of the obligations that heads of agencies have in developing agency specific items for consideration as part of this exercise, part of the SEP program?

MR HANLON: Well a number of them are already contained within the government's April the 30th document.

COMMISSIONER GOZZI: Yes.

MR HANLON: Those matters that were - there are some matters that are service wide and others that are agency specific. Some matters are seen by agency heads as more important than others.

COMMISSIONER GOZZI: Okay. Well I was hoping you'd focus on those matters in the 30th of April document. Is - can we take that document now to be exhaustive or are there more items to come forward?

MR HANLON: Well there are two things about that. I wasn't aware that there was any beginning or end to workplace reform.

COMMISSIONER GOZZI: No, but in the context of these proceedings, we asked for agenda items. I'm just wondering where that exercise now is.

MR HANLON: Well that exercise was of the conditions of service - if I can just find my exhibit - and if we go to conditions of service and at page 2 of that document in item number 6, in talking about how the conditions of service will be dealt with. Item 6 - or item 5 having said how the process of conditions of service - then went on to say:

This process will also enable agency specific agenda items that affect a particular condition or

a series of conditions to be dealt with concurrently.

And having raised the matter with me, Mr Commissioner, there was an yesterday of the Conditions of Service which - between the various unions and the government, if I can put it that way, and that arose under two requirements: (1) that this bench said that the parties should meet as set out in its decision and a number of its expressions, and that the public sector wage bench of which the president was not a member, there was also a requirement that arising out of a TPSA letter where they sought discussions and made suggestions that the conditions of service would be an appropriate one to discuss facilitative provisions, the government wrote to the TTLC and back to the TPSA seeking a meeting yesterday on the 16th of September and at that meeting a proposal was put forward to unions that: (1) the conditions of service, as such, there ought to be a committee established in a formal way. They worked through that process and that there be an agreed series of regular dates and that it would have the potential to subcommittee to work through minor variations.

Second, that we would - they would consider facilitative provisions and what they meant to various public sector unions of which a number of examples were provided by the government to those organisations present in line with the source of matters referred to on page 21 of the public sector decision and the sorts of matters referred in the national wage bench decision.

And third, which leads me to the point that you were at, that there a number of agency specific matters that go to agencies which we would like to resolve and that to provide an opportunity for an agency focus. A number of these do not necessarily or may not necessarily go to conditions of service and to provide that focus, a suggestion was put forward that the 18 agencies in broad terms would be divided into two groups, leaving out the ambulance, the police and the fire for this purpose - at this point I - that the two groups are identifiable in the public sector are those agencies that are large, multiunion, in some instances multiaward, that - without getting the list exactly right - health, education, roads and transport, et cetera, and that they would meet separately and deal with agency matters, if the agency had matters that it wanted to deal with in those headings and that the remaining agencies, DPAC, justice, et cetera, which represent the public sector as we traditionally refer to it and are mainly - and are, I think exclusively TPSA, and that we were suggesting that that be an appropriate forum for dealing with a number of these impediments to the efficient operation of agencies to enable there to be an agency focus, to allow agencies to get some benefit from the removal of a number of these impediments and it provides a mechanism whereby we address those matters which are part of the

conditions submission, but can deal with without waiting for the end of it and it's in a process that gives an agency focus to the outcome.

Now that proposition is under consideration by the affiliates of the TTLC. And, to go on from there, we have said that we would prefer that there be a representative group not 30-odd organisations arriving in whatever occasion they decided to have an interest. We were - did not see the committee as being the decision maker, but the recommending what was achieved by way of negotiation referred back to affiliates for a decision making process in an orderly manner. And that there be some view expressed as to agency specific items.

Now, there were six organisations present at yesterday's meeting. Now, certainly we would prefer a committee to deal with the conditions of service, but we certainly expect there to be an adequate response in terms of the facilitative clauses. That's not a matter that's before this bench, but clearly we expect some submission to be put to us as to the type, range. And they fall into two classes: that the facilitative clause itself, whereby annual leave can be split et cetera, which we would see in being accommodated as the conditions of service go. And then there are those general facilitative provisions which generally assist in, to the example that's given, where employees may in consultation within parameters have flexibility about an agreed standard as to how it applies.

Now, that matter is back to the TTLC. Their representative at the meeting has assured us that within 2 weeks there will be a response. They've taken on board the points that I've made. But that's how we see the agency items which are capable of giving a return to agencies from impediments which are, either by custom and practice or by - well, I think custom and practice generally covers it. In other words, where we have principles that are applied and they're applied in a way which are an impediment either to the use or the way in which labour is used.

So that's the proposal of the government in line to the conditions of service. There are a number of varied views as to the likelihood of success or failure and who should participate. But we await the TTLC's response. In regard to facilitative clauses, if that process does not proceed we will return to that bench for guidance and assistance. If they're conditions of service or the agency specific items, well, we'll access this bench.

COMMISSIONER GOZZI: Thank you.

MR HANLON: I don't know whether we -

PRESIDENT: There's a set of exhibits there, thanks. It's H.22, Mr Hanlon.

MR HANLON: The purpose of this extract of the SES manual is just to provide the bench with a broad outline of the purpose of the SES service. And in paragraph 2.1 on page 2 of the exhibit, it sets out the principle of it. It's to apply to senior managers. It will generally not include specialists who do not have a senior managerial role. And therefore, in principle, the managerial positions are in the SES.

Paragraph 2.1.2 sets out the objectives of the SES. And they've set the objectives. And set out in the first dot points and the achievements that may be accessed are set out in this next section. And in 3, the last paragraph of the page, it sets out the management committee which is appointed under the secretary of the Department of Premier and Cabinet. And that is the position of the person who heads of agencies are required to meet the tests set out by that person holding that office. And as part of the mechanism of the introduction you will see that the committee is vested that officer.

COMMISSIONER GOZZI: What point was that in, Mr Hanlon?

MR HANLON: Three, where it goes to the secretary to the Department of Premier and Cabinet, Treasury and Finance, the Commissioner for Public Employment -

PRESIDENT: That's at the - well, it's 2 - it's the end of 2.1.2.

MR HANLON: Yes. Sorry, I - the 3 I referred to was the page number, I'm sorry, Mr President.

PRESIDENT: Yes, I was wondering. I was lost with that.

MR HANLON: And that sets out - and just - the comment has been raised on a number of occasions, the committee was established and the secretary of the TPSA is a member. It simply is that at the point of time of establishment there were only members of the TPSA, to my knowledge, who had been appointed members of the SES.

There is legislation currently before the parliament to make a legislative provision for the SES. And in that legislation it provides for the TTLC to have a nominee on the committee. There is no intention now or in the future to deny access to persons or members of other organisations who are eligible and have been appointed to the SES.

COMMISSIONER WATLING: So the TTLC representative will represent all unions within the public sector.

MR HANLON: Well, other than that there is a requirement that the TTLC have a nominee. How and in what form that power will be exercised or passed to the TTLC -

COMMISSIONER GOZZI: Of course - well, I'll let that one go through to the keeper for the time being.

PRESIDENT: Yes, I've got a couple of questions I'll let go too.

MR HANLON: The roles and responsibility of the committee are on 2.2 page 4. And we will see that the process there is one of a requirement to consult with departments regarding departmental structures, the inclusion or exclusion of positions, the classification of positions and the development of SES arrangements.

And, on an initial establishment of an organisational structure in a department, the Premier's approval is required which is contained on page 5. There are other requirements where the premier must be advised but they follow in the original establishment. The Premier plays no further role in it.

PRESIDENT: Is that, Premier, as Minister administering the State Service Act or, Premier?

MR HANLON: I would say that as the Premier simply because the SES applies to other departments than the one administered by Minister administering the State Service Act. But, seeing that the head of agency - I think, it's under section 18 - has overriding control of all heads of agencies and structures. It's an area of administrative law I'm not familiar with but the premier of the day is also the minister administering the State Service so that from the purposes of our discussion not much turns on it.

And, you'll see in page 7, in the third dot point, that there's a requirement that positions descriptions have been approved and, in particular, any criteria or mandatory qualifications in addition to the core have been approved by the SES committee.

So, that it isn't just a question of wanting a position, the position must meet a certain core test and if there are certain essentials required, then the position is either an SES position or it isn't. It isn't a question of saying: We'd like this position in. Certain positions are described in certain terms according to the organisational structure and then they're assessed as being either in the SES or not. And, the major distinction is whether it's a specialised or a managerial position. Which brings us to the point of classifications of 10 and 11 in the administrative structure.

COMMISSIONER GOZZI: And, of course, on that point in the clerical structure the TTLC proposal envisages that those positions be encompassed within the award, particularly if we look at the - is that the way you see it? I suppose that's the best way of putting it.

MR HANLON: Well, there was a couple of questions in that question.

COMMISSIONER GOZZI: Yes, that's right.

MR HANLON: The question of award-making requires someone to make an application.

COMMISSIONER GOZZI: No, but -

MR HANLON: Currently -

COMMISSIONER GOZZI: Well, let me just tell what I'm thinking of in respect to what you've just said. The TTLC clerical stream - no, well, I've asked the question myself if I'm looking at the right one. They both peak at the same level. Whilst the number of levels are different, the rates of pay peak at the same level.

MR HANLON: Approximately, but there is quite a difference between the position.

COMMISSIONER GOZZI: Well, near enough to.

MR HANLON: I don't think there is any - we have no disagreement with specialist positions being covered by the administrative classification standards. We say that managerial positions above nine are positions which meet the criteria of the SES service.

COMMISSIONER GOZZI: Yes.

MR HANLON: And, in effect, the submission that I'm putting to you is the SES criteria, is the classification standard for the SES. How that's then reflected in whatever instruments are used, is another matter. But, we are saying that there are standards, there are standards set but there is a barrier in the administrative section when one passes from a sectional manager or a specialist to the management of the service as a whole.

COMMISSIONER GOZZI: Nine, 10 and 11 and your proposal can be within the clerical award or certain positions at that level can be within the SES stream.

MR HANLON: Well, they're equivalent salary level at the SES 1.

COMMISSIONER GOZZI: Yes.

MR HANLON: They are not equivalent positions in that their functions are different.

COMMISSIONER GOZZI: Well, in the way that you described it this morning you could have a level 10, a policy position, in the SES.

MR HANLON: No, you would have a manager at - sorry, we have specialist policy people but you would have an SES person whose function is significantly managerial -

COMMISSIONER GOZZI: Yes.

MR HANLON: - would be in the SES, maybe at the same level but as a person who is a specialist policy maker. And the SES would be the person who, in the same division, would supervise the work of the equivalent salary position.

Section 3 deals with the organisation structures and the classification and the requirements of that. Paragraph 3.2 sets down the assessment criteria and that then runs through under a series of paragraphs on decision-making, accountability, knowledge, experience and interpersonal skills, on paragraph 3.2. 3.2.3 is creativity and judgment and then, finally, there's a criteria that it must meet the national wages/state wage guidelines and it must also be compared with the other SES positions. And, they're the general headings that make out the classification standard.

Paragraph 3.3 broadly sets out the inclusions/exclusions and the range of factors which must be taken into account. It deals with borderline cases and then it goes on to talk about the scope at 3.3.1, the scope of managerial responsibility/accountability and then a number of factors that are taken in to account that distinguish a specialist from a managerial position in the way in which resources are deployed. And, that normally specialists may have a budget but it's a budget solely for their specialisation rather than for a section or a division.

We go on to deal with physical resources, the technology systems, the managerial skill, the complexity of the position in the organisation environment, the scope of influence in political and organisational terms, and comparisons with similar positions. And we say they are different in nature in terms of the way in which they're laid out. They clearly show there are standards to be met. There is a positive vetting process and they are capable of being assessed against that criteria that clearly will distinguish a policy person from managerial.

PRESIDENT: Policy as distinct from specialist?

MR HANLON: Well, we have - we have people who are specialist in terms of legislation, people who are specialist in terms of environmental law -

PRESIDENT: Yes.

MR HANLON: - welfare, as well as people with position papers accessing other experts. I have included in the extract to you a section on organisation and structures, simply because, if you go to the end of that section, there is a description on a premier at page 15 which is about three from the end. A bit more than that. That's paragraph 3.6.1 which deals with the premier's involvement. That the original approval and any variation to it.

The role of the committee in terms of how they must cope with that. And then on the end of it there are three samples of - four samples of structures which show different organisational structures applying to - that could apply to an agency that produce different outcomes. But they show where each of the levels in the SES would fit in in such a structure. And if you turn to 3.B the Hierarchical Structure, you will see there a structure which has SES positions and professional, as it's termed there, in the same salary level, same position in the hierarchy, but they're not members of the SES.

And the same applies to the last extract, and in particular you will see there where Attachment 3.D where the Corporate Services is an SES position in a small agency, but all those persons who work within Corporate Services are not members of the SES nor is there one position in one other part of the structure. In other words, indicating where specialists are not performing managerial functions, but at the same level as managers.

And that, members of the commission, merely seeks to put a standard that applies to that group in the context of existing classifications that are before you arising out of existing awards. So that there isn't an area that does not have standards. There may currently be different outcomes in terms of one is covered by an agreement, the others in their classification standards are covered by awards.

I'd now like to move to a number of decisions of the High Court and the Conciliation and Arbitration Commission which have gone to deal with matters of managerial prerogative. And in saying that we are not putting to the commission that the commission does not have the power to make a decision about classification standards. We are putting it in the context that - that there has to be good and cogent reasons why the commission should supplement the government's position for that of the unions. And in those terms we are saying that the reasons must be advanced, must show in some way that the

effect of the government's choice in some way is detrimental to employees who may be required to work in accordance with the requirements of those classification standards.

COMMISSIONER GOZZI: Do we need to get all that type of information? I mean, the very reason that we're here is to resolve the differences between the government in its proposals, which I now assume are the government's proposals, and the documentation H.10, and those of the unions. Now, in resolving that difference, aren't we required to act in accordance with the provisions of the Industrial Relations Act? I mean, that's really the only criteria. I mean, we all understand management prerogative, but I'm simply asking: Is it necessary in the context of these proceedings?

MR HANLON: From the government's point of view this is an essential point, because the parties are not in agreement and therefore in award restructuring the issue then becomes, having not reached agreement, having consulted, then where does the ultimate responsibility lie for the determination of what heads of agencies require to be put in place for them to carry out their statutory obligations? And in -

COMMISSIONER GOZZI: Well, in that context, Mr Hanlon, I would have thought it now rests with the commission.

MR HANLON: Well, that may be your view, Mr Commissioner, but from the government's point of view we wish to draw your attention to a number of decisions which clearly go the principle, and from that principle the way in which members of the Australian Industrial Relations Commission then determine matters arising out of either decision making or structures or the reorganisation of its administrative framework.

And it's the government's submission that there are no decisions that I can find where on organisation structures, classification streams and I'm talking in total terms, that it has substituted the view of the employer for the submission of a union. And therefore that is an essential part. The TPSA's claim to you is that their four classification streams should be the four that apply.

And we also have a number of choices between various unions in different parts of the stream, and it would be our submission that therefore this is a matter which needs a framework put to the commission which is not to say that you do not have that power but the test that should be met when exercising it. And, in saying that that really then goes to the submissions of the TTLC that would be necessary and of a sufficient quality to persuade the commission that it should impose its decision over that suggested by the government.

And, it's in that context that I wish to make a submission, taking on board this discussion in terms of setting the

framework. I certainly wish to refer you to a number of the Conciliation and Arbitration Commission and at least one decision of the High Court. I tender a copy of the Australian Industrial Law Review, Volume 29, Item No. 15 of 29 July 1987.

PRESIDENT: H.23, Mr Hanlon.

MR HANLON: This decision went to an application involving the coal industry tribunal and the effect of managerial decisions, the relevance to industrial disputes and the broad scope given to industrial matters.

I don't intend to refer the commission, other than to the second page of the exhibit and to the left-hand column under the heading: Industrial matters. And, the purpose of this is that it describes both the current feeling of the High Court as well as, I think, the first comment ever made on the subject to what extent industrial matters intrudes on managerial decision-making.

And under the heading: Industrial matter - sorry, if I could take you to 'Managerial decisions and industrial disputes' - I'm sorry - which sets out:

In reaching this conclusion -

and they saying that whether or not the matter fell within paragraphs 1 and 2 -

- we reject the suggestion, based on the remarks of Barwick C.J. in Melbourne and Metropolitan Tramways Board, at pp. 451-452, that managerial decisions stand wholly outside the area of industrial disputes and industrial matters. There is no basis for making such an implication. It is an implication which is so imprecise as to be incapable of yielding any satisfactory criterion of jurisdiction: see Federated Clerks Union, at pp. 490-491. Indeed, the difficulty of making such an implication is accentuated by the fact that the extended definition of "industrial matters" proceeds on the footing that many management decisions are capable of generating an industrial dispute.

These considerations indicate that the objection voiced by O'Connor J. in Clancy to the regulation and control of business enterprises by industrial tribunals is not a matter that goes to the jurisdiction of the tribunals. Rather it is an argument why an industrial tribunal should exercise caution before it makes an award in settlement of a dispute where that award amounts to a substantial interference with the autonomy of management to

decide how the business enterprise shall be efficiently conducted. The evident importance of arming such tribunals with power to settle industrial disputes capable of disrupting industry is a powerful reason for refusing to read down the wide and general definition of "industrial matters" in the Commonwealth and State Acts by reference to any notion of managerial prerogatives as such.

We clearly see it's in that context that we're saying to the commission that the test to be met has to be one where in exercising that caution, should the bench decide that it has to have good and valid reasons based on causes identified by the TTLC submissions, that in some way the classification standard as submitted by the government are in some way detrimental to the employees.

And, in saying that, it is clear that having followed a number models set elsewhere that have met that test, then the exceptions need to be identified and have supporting argument to persuade the commission that it should venture into that areas without due course.

COMMISSIONER GOZZI: I suppose, Mr Hanlon, the only comment I'd like to make in respect of that is that more recent High Court decisions have very specifically dealt with the issue of management prerogative to the extent that the decisions of management, a lot of matters that have been hitherto regarded as management prerogative are, in fact, deemed to be industrial in nature and quite properly within the province of industrial tribunals to consider.

MR HANLON: I don't think there is anything in the quotation there - and it goes from Clancy which was the 1904 decision of Volume 1 of the Commonwealth Law Report and the number of references it traces there is all of the key decisions that are there. And, that it says that it isn't whether or not industrial matter and an industrial dispute and what that definition is, is whether or not there is some action flowing from management, then has to be corrected by the commission.

And, it's that correction has to have cause before one ventures into it. And, all I am drawing the bench's decision to, because my understanding is that in terms of managerial prerogative this decision of 1987 went to whether or not vacancies should be filled, have existed and who had the final choice and whether or not an order should have been issued. I wasn't too interested in the actual particular case. It was the fact that the passage went across about an 80 year period and set the distinction that needed to be made and, therefore, the test that any union seeking to substitute - to persuade the commission that it should make a decision needed to have broad and strong reasons why the commission should venture

into that area. I'd like to tender a second decision, this is Print G9823.

PRESIDENT: H.24.

MR HANLON: This is a decision of Commissioner Smith, Canberra, 9th of November. And the headnote there identifies that it was dealing with engineers and with federal government administration. The matter involved professional engineers covered by one award and administrative persons covered by another, and a change in the organisational structure led to a dispute as to which was the appropriate award to be covered. And the commission had to determine whether or not it should interfere with management decision as to how it should reorganise one of its departments.

And the department was the Department of Industry, Research and Development branch of the Department of Industry, Technology and Commerce. And that it was an assessment process and therefore management determined it could equally be done by policy specialists, some of whom may be engineers and some of whom may not. And on the right-hand side of the column is the argument in the second paragraph, which dealt with the establishment of an appropriate career structure. That's on page 1 of the exhibit, the second paragraph, at 'b'.

It then went on to detail part of the argument at paragraph 'g'. A changed structure not only meant that his members were having opportunities for career progression reduced, but the number of jobs which were previously designated for engineers had been changed to clerical administrative. Mr Janssen then submitted that the change to the administrative arrangements did not warrant such an approach to be taken by the department.

And the commission should recognise the proposed change would not be efficient, would not achieve the objectives sought by the government and would prejudice strongly the interests of his members. Now on page 2 of my exhibit, page 4 of the actual decision, there were the issues for consideration. And the opening line there is:

Essentially the matter before the Commission revolves around the concept of management prerogatives.

And I don't intend to go to the matters that went to the consideration of it, but at paragraph 'd', under the heading 'Conclusion' on the right-hand column, which is - begins with the words:

If it were the Commission's function to manage and to direct the activities of an enterprise then some of the points made by Mr Janssen in this connection

may be relevant. However this is not the Commission's role. The Commission's role in this area is as Mr Blackford aptly put: "to protect and not to manage". The Commission cannot set about managing the activities of any business unit or for that matter a Government department. The success or failure of an enterprise or any government initiative rests with the managers in that area and not the Commission.

The Commission does have a settled principle that it will not intervene in the decisions of management unless they can be demonstrated to have been harsh, unjust or unreasonable. This approach has been constantly maintained in decisions of the Commission and the Public Service Arbitrator.

The action by the Department does not assume that character and therefore against all of the submissions and the evidence, the Commission concludes that the application made by the POA should be dismissed.

And in terms of this case we say that it goes to a choice between whether or not it should be an engineering award or a clerical. It goes to a decision by a department as to how it was going to be reorganised. There's no suggestion that there were no consultations, but there could only be only outcome, that is finally the decision by management as to which way to reorganise. And the commission, having heard the evidence, determined it was not prepared to venture into an alternative approach on the strength of the submissions put by the POA.

COMMISSIONER GOZZI: Mr Hanlon, again, just for the record, I'd like to indicate that from my point of view the analogy that you draw is in error, in my opinion, to the extent that no commissioner I'm aware of has ever held differently to what was said in this particular decision, when it comes to the managing of a business. And quite clearly it is not the function of the commission to manage. It's a function of the commission to assess whether or not an employer has acted harshly or unjustly in the circumstance.

Only then, if it concludes that the employer has, will it intervene. However, in this particular case we're not dealing with that, what we're dealing with here is determining the difference in proposals, the difference in the structure as put forward and, in my opinion, that doesn't impinge on management prerogative. What impinges on management prerogative at the end of the day is how management - how the employer classifies and deploys people within those structures. So I see quite a distinct difference between the commission not interfering or not managing, compared to what we're about here.

MR HANLON: Well, I would just read to you part 3, functions and power of the secretary of the Tasmanian State Service Act. And under -

COMMISSIONER GOZZI: Well, I'm aware of those.

MR HANLON: Well, for the benefit - you expressed an opinion, Mr Commissioner, and this application is one of an application to substitute the view of the TPSA for the view of the head of agency. And that's what the application is about.

COMMISSIONER GOZZI: Well, it's a submission. Well, it's a submission that's been put.

MR HANLON: Well, then I'm then entitled to put a submission to the commission that illustrates the fact of what the impact submission is.

COMMISSIONER GOZZI: I'm not saying that you're not entitled to, Mr Hanlon, I'm just simply saying that from my point I don't agree.

MR HANLON: Well, I'm not certain what it is you don't agree with.

COMMISSIONER GOZZI: Well, the way -

MR HANLON: Whether they have the right to ask you to submit their decision which -

COMMISSIONER GOZZI: Anyway, look -

MR HANLON: - if it goes to the operation of the business, whereas if they are of the view it doesn't go to the operation, and I'm of the view it does, then I clearly need to put the case that says this does go to the operation of the business. Having taken into account and consulted, then there comes a point where the ultimate decision is made. And in saying that I'm drawing attention as to what the true intention of the application is about.

Because in terms of the TPSA and the government we're talking about the substitution of three streams for the government's proposals which arise out of the basis of consultation. There are no amendments to the TPSA's claim as a result of those consultations.

So, it is very clearly that form of application. And, therefore, it's necessary to draw the bench's attention to what the government's view is of who is the ultimate authority and if that authority can be shown to have been harsh or unreasonable, then the bench is entitled to correct it. As

part of my submission, I'm endeavouring to show that in terms of -

COMMISSIONER GOZZI: I realise what you're showing. I'm quite satisfied with what you've said. If you feel you need to put some more in response to what I've said, but I do understand what you've put.

MR HANLON: Well, rather than canvas what you actually meant, all I can say, Mr Commissioner, is I'm of the impression that, to put it another way, that you are of the opinion that it is a valid submission to argue that their classification standards, as a matter of right, is capable of being substituted by the commission for the government's decision. And, I'm saying that application can only succeed if the test that there is something about the government's submission which would lead the commission to believe that the outcomes of it would be harsh and unreasonable or of a nature that would be detrimental to the employees.

COMMISSIONER GOZZI: Yes, I understand that.

MR HANLON: Because I was just going to draw your attention to 18(c) which is the secretary or the functions of the secretary develop uniform classification standards and procedures where practicable. It doesn't mean that the commission doesn't have an influence on them but it is a statutory obligation for him or her to so develop. And, having had them developed as a result of the consultative process, they're the matters that are before you. And, in terms of running the business then the test that needs to be met is something that persuades you to substitute your view for the secretary's based on something tangible. That's my submission

There were two decisions that went to Tasmania arising out of two health matters that went to both the right of the minister to so make decisions and to have a head of agency devise a system which was suitable for that agency. And, I tender a copy of both of those.

PRESIDENT: We might have to wait until we've got somebody to hand it up unless you want to -

COMMISSIONER WATLING: Bring it up yourself.

MR HANLON: I'm quite prepared to act in that capacity.

COMMISSIONER GOZZI: Multiskilling, Mr Hanlon.

MR HANLON: As a member of the TPSA I feel fully equipped to substitute if -

COMMISSIONER GOZZI: Can we have a copy too?

PRESIDENT: We'll mark this -

MR HANLON: It just shows you, Mr President, that in the absence of the appropriate associate, I've distributed the second lot. You've got the first lot. I think you've got J0322.

PRESIDENT: That's correct.

MR HANLON: Print number.

PRESIDENT: Yes.

MR HANLON: And, the second one is -

PRESIDENT: We'll mark that one H.25.

MR HANLON: And, the second one is J8402.

PRESIDENT: We haven't got that one yet.

MR HANLON: I'm about to tender it. The others have got that.

PRESIDENT: It just shows you how the system breaks down when you don't have the appropriate structures in place.

COMMISSIONER WATLING: Or adequate training for the multiskilling.

MR HANLON: I didn't want to comment about my colleagues at the bench.

PRESIDENT: So, this one, J8402, is Exhibit H.26.

MR HANLON: Yes. And, could we deal with 25 first. And, this is a matter that went to Commissioner Turbet, state public sector, for career structure implementation and it went to the introduction of a new staff structure of five levels and associated salaries into Tasmania's public hospital systems.

And, it involved an original application and subsequently a second application had to be made and they were joined. And, it was at page 4, it deals with the introduction of an agreement for the introduction of a state career structure committee and the tasks of the committee were set out then on page 5 and the second dot point, it says:

Determine the appropriate classification within the new structure for a position or group of positions.

And five dot points up from the bottom, beginning with the word 'review':

Review and determine performance appraisal procedures and standard job descriptions for the new structure.

And the final dot point:

Report through the head of Agency to the Minister.

PRESIDENT: What was the first one of those dot points on five you mentioned, Mr Hanlon?

MR HANLON: Sorry?

PRESIDENT: Was it: Determine the appropriate classification within the new structure?

MR HANLON: Yes for the transfer. And, the report of the committee - and I just highlighted those aspects of it. They go to matters that are before this commission. And, as a result of the recommendation of the committee, the government then rejected the committee's report and that matter then came back before Commissioner Brown and the matter then went - passed to Commissioner Turbet at a later stage.

And, the last paragraph on page 5 dealt with the issue that the fact that:

... the unions' confident belief that the Government had no alternative but to return to the State Career Structure Committee seems to have meant that they would not budge from its recommendations until the committee had the matter remitted to it. However, because of the steadfast refusal of past and present Governments to do so, the unions publicly appear now to be inflexible in the face of adversity, and unable to answer the criticism levelled at costings.

And, I quote that passage just to show what was at stake, as to whether or not the committee's recommendations have to be handled - had to be accepted because they'd been made.

And, as a result of that the matter came on before Commissioner Turbet which, in the bottom of that paragraph, the second last paragraph, it says:

The ANF holds that the agreement of 3 August 1988 between the Government, ANF and HEF places the control of the implementation of the new structure in the hands of the State Career Structure

Committee and that control means determining the number of nurses to be employed at each work site and the classification of each nurse within the new five level structure. The Department absolutely rejects this view asserting that it is the Department's responsibility to manage the hospitals and other health care establishments, including staffing and classification issues and that the role of the State Career Structure Committee is one of advising and oversighting - certainly not one of executing managerial prerogatives.

It then goes on to say:

This impasse between the Federations on one hand and the Department on the other must be overcome before any progress is possible. There can be no doubt that the ultimate responsibility for the administration of public health services is held by the Minister or Ministers of State holding relevant Government appointments. Specific authorities to manage are delegated by Minister/s to appropriate Departmental officers who can seek the assistance of committees and consultants; they can be advised, they can consult, but they cannot delegate to committees or consultants their decision making authority.

It then goes on, on page 7 to say that they rejected the advice of the minister. In the last sentence:

In these circumstances it is obviously a proper exercise of ministerial authority to reject the Committee's recommendations and to seek and act upon further departmental advice. I find the Minister's position to be entirely appropriate.

And, in page 8, in summary, Commissioner Turbet said:

The Minister's authority in rejecting the staffing and classification report of the State Career Structure Committee is supported.

Now, in similar terms, we did consult. We did take note. Agencies were asked to consult on all proposals. Having taken on board those proposals then the decision now is, this is the position which the government believes it can live with. And, in earlier proceedings we clearly demonstrated that we took on board suggestions. It was not one of: Well, we've heard you; we are the employer and, therefore, we will do as we see fit.

COMMISSIONER GOZZI: Again, Mr Hanlon, I feel compelled to say that the analogy, again, is not a correct analogy. In this matter we are not dealing with where people fit within

the structure. We are determining the structures. There is a fundamental difference between what is canvassed in this decision and what we're doing here, in my opinion.

MR HANLON: I don't think it really matters, Mr Commissioner, whether we're dealing here with the classifications and where they fit in. We're dealing with the situation where, having consulted, a decision is made and then -

COMMISSIONER GOZZI: Look, I understand, Mr Hanlon. You don't have to explain it to me again. I'm just putting it on the record that, from my part, I disagree with the analogy and no doubt if it becomes appropriate I will have an opportunity to make my comments either to my colleagues who might have a different view. I feel very strongly about the analogy that you're drawing, that it is incorrect, and that's why I'm saying it.

And, certainly, from my point of view, if necessary, I'll put that in a decision because I do believe, quite strongly, that the analogies that are being drawn here are totally inappropriate. In respect of where people fit in the structure, what you say is totally correct. In fact, we've canvassed that issue on many, many occasions in this commission and, indeed, in these proceedings we covered it at the outset - maybe not the outset but some time ago - about going to the issue of translations where, I think, the position of the government was that it would deal with the issue of translations in that context that this type of submission might be appropriate.

I don't regard it as a matter of management prerogative in the context you're bringing it forward when the very basis of structures are being put before this commission for determination. And, I don't personally feel constrained in the way that you seek to constrain the commission from determining those issues on the basis that there has to be a manifest error present in the proposal of the government for the commission to endorse some other career structure. I don't hold to that view and I make my view known to you.

MR HANLON: Well they're not my words - the manifest error -

COMMISSIONER GOZZI: Well, whatever.

MR HANLON: - my argument is that cause has to be shown and the evidence required to be shown is not whether or not you think you have the power or I think you don't, the test to be met is, does the submission -

COMMISSIONER GOZZI: Look, I realise that, Mr Hanlon, I mean I'm -

MR HANLON: Well then I really don't -

COMMISSIONER GOZZI: - I'm just simply putting to you that from my point of view I don't agree with what the analogy you're drawing between this exercise on the one hand and what we're doing here on the other.

MR HANLON: Well I think as you said, Mr Commissioner, you've got the right to make your comments.

COMMISSIONER GOZZI: Yes.

MR HANLON: I don't know whether it leads us anywhere having commenced the process of saying, I wish to deal with it, you then indicated you understood where the authorities were coming from and then I took that on board and I wanted to put a position to the bench that put the context, and in doing that it doesn't matter whether we talk about the structure or the standards - it's having consulted, having taken on board as to whether or not there is sufficient evidence having illustrated that by decisions - whether we agree on the analogy or not the principle of saying that the Minister has the authority, that even though there are committees in place the outcome still rests with ministers in terms of the authority unless there can be shown to be some cause, and those who must show cause are those who allege that there is something wrong with the proposed structure, otherwise there is no point in at any time us, having consulted with the TPSA, that at the end of the exercise there has not been one accommodation in their proposal from where they commenced.

The second exhibit J8402, which deals again with the nurses' matter, which I would like to take you to page 9 of the decision which deals with Tasmanian rates, where Mr Watson - this is at the foot of page 9 - where:

Mr Watson, for the Minister administering the Tasmanian State Service Act told us that the Tasmanian Government was in the process of altering the management of health services. The movement was 'towards a model of regional management of health services'. Mr Watson said 'we may have a director of nursing who was responsible for surgery across a region or responsibility for aged care across a region or responsible for medical across a region ...'. The Government supported the proposal that there be a minimum rate only for DONs and ADONs. Mr Watson stated:

When we have determined roles for nursing positions in the new structures we will assess the work of each position in work value terms having regard to a number of factors, for example, salaries for health professionals in the same regional

management structure, salaries for SES positions ..., salaries for positions within clerical streams including human resource managers' and, if deemed appropriate, salaries paid in other states and territories.

That was the broad outline of the department's submission, and at page 10 the bench went on:

We are unwilling, for reasons previously stated, to fix only a single rate. At the same time, we have no wish to constrain the Tasmanian Government in its choice of method for the delivery of health services. This strengthens our view that the proper course at this stage, is to allow the Minister's representatives and the unions to negotiate about salary gradings (subject to the Commission's approval of outcomes) without our giving prior approval to any formula which might or might not suit Tasmanian circumstances. When the proposed review occurs, the applicability to Tasmania of a formula or criteria which may be appropriate to other States can be considered.

And clearly there was being stated that the department had a right to organise and set its structure, not that it wasn't before the commission, not that the commission did not have an influence upon the matter, but that it had the right to determine how it was going to deliver it.

COMMISSIONER GOZZI: And again, Mr Hanlon, I disagree.

MR HANLON: Well, Mr Commissioner -

COMMISSIONER GOZZI: It's quite clear - well look, I'm just putting it to you -

MR HANLON: - I think you're going to get your chance to disagree. I don't know what it adds to either mine or your submission -

COMMISSIONER GOZZI: Well I think -

MR HANLON: - for us to debate it.

COMMISSIONER GOZZI: - I think what I'm trying to do, Mr Hanlon, is not argue with you, but hopefully that you might take on board what I'm saying to you - after all this is a full bench proceedings and after all I am the second member on this bench, and I'm saying to you in the context of what you're putting I have a fundamental difficulty of allowing you to put your submission uninterrupted - I'm just simply saying to you, for the record, you might want to reflect on it, that as far as I am concerned in all the cases the structures had

already been determined and it's where people fit within the structures is at issue and on that point there is no difference of opinion between what you're putting and my - my opinion.

However, the issue of the structure and the questions going to that were determined matters. They were determined in the nursing industry, firstly in Tasmania by a full bench of this commission and then subsequently by a full bench of the federal commission. The issue of structures wasn't constrained to management prerogative, it was a matter of submissions put to the - to the respective tribunals - and these issues here go simply to where people fit within the structure and that is completely a different matter -

MR HANLON: Well -

COMMISSIONER GOZZI: - in my opinion.

MR HANLON: - I mean we can either have the debate, but very clearly, whether a position is an SES position was not a matter ever determined by the Federal Commission; it was never determined whether or not there would be a regional delivery of it; once those matters are determined - I mean there are a number of elements to it - I don't think it adds to it the fact that you hold a different view to myself, and the fact that we hold a different view should not inhibit me in any way from putting my view, but clearly -

COMMISSIONER GOZZI: Well, the significance of it, Mr Hanlon, as far as I'm concerned is that in some way not only trying to constrain the commission by management prerogative by the arguments and decisions you're putting, but you're also in effect saying, because other parties to the proceedings to your negotiations haven't agreed with you, therefore the persuasive point of view ought to be, all other things being equal, the employer's point of view. And I'm saying that fundamentally I have a difficulty with that.

MR HANLON: But that's not my submission at all.

COMMISSIONER GOZZI: Oh well, that's what I'm understanding it.

MR HANLON: No, well, it's - my submission was that the person who is the applicant - the onus is on that applicant to prove to the commission that there is sufficient grounds for them to establish that what they alleged there is something about our case that is wrong. Now there has to be some cause otherwise, that is, the fundamental role of any advocate is to put a case that demonstrates that there is some cause for it. Our position is that we put a proposal to them and they disagree with it.

Now for it to get to the commission that becomes the dispute and they need to establish that there are sufficient grounds to justify it and our position is, not that the commission can't make the decisions, but that the test to be met is a severe one for the commission to venture into that territory. Not that you don't have the power; not that it's not a decision within your power to make or that commissions haven't made it. Mr President, I'll pass to Mr Jarman.

PRESIDENT: Yes, thank you, Mr Hanlon. Mr Jarman?

MR JARMAN: Mr President, members of the commission, my role in this case is to put the commission a submission going to a number of matters which have arisen as a consequence of the unions' claims and their submissions which stand to impact directly on the Department of Health's operations.

Along with the Department of Education, the two agencies account for 50% of the public sector budget. The next significant component in the public sector budget is our net set - net debt servicing component which is running at 12%. The bulk of the special case applications before this commission will have a direct effect on the health agency and if the claims are granted there will be a significant impact on the department's budget - a budget which this year will see a significant reduction in real terms - a reduction of \$20 million plus \$7.1/2 million overrun from last year.

And to just dwell briefly on the matter the agency has to find some \$20 million worth of savings this financial year - the other 7.1/2 million hopefully will be recouped through asset sales.

During the hearing of this matter Mr Hanlon and I raised several points about the special case applications, due mainly to a statement in the commission's interim decision which says that arguable special case claims relating to awards to be covered by the four occupational streams will be dealt with during the consideration of the classification standards and levels to be inserted in those occupational streams.

From our earlier submissions and from questions from the bench it became clear that both Mr Vines and Mr Warwick were of the opinion that they were going to be given the opportunity at having a further crack at salary levels during the translation phase. That is, they perceived that even though the structures and salary points will be set, we presume that is, as a result of this proceeding, they would be entitled to challenge those findings through their special case applications.

Mr Vines, when pushed on this point from the bench, replied that he didn't have a problem with the process envisaged by the commission in its interim decision, provided that the

rates struck were appropriate and took into consideration all of the existing work value. He said some other things as well which may have been accepted by the bench, from our side they certainly weren't. It's a pity we don't have a copy of the transcript so that we can quote him directly and accurately. To the case in point we are -

PRESIDENT: What day was that, Mr Jarman?

MR JARMAN: I have received, Mr President, two sets of transcript from I think the first or second day of this proceeding, but I haven't received any other transcript.

COMMISSIONER WATLING: Government cuts.

COMMISSIONER GOZZI: We should - I think we're more up to date than that.

PRESIDENT: I think -

MR JARMAN: Well, emanating from this commission -

PRESIDENT: I think we're up to much further than that.

MR JARMAN: Well, all I can say, Mr President, is that I don't have copies of that transcript. And perhaps I can arrange to get some copies and we'll be only too happy to quote Mr Vines.

PRESIDENT: Yes.

MR JARMAN: If I could return to my submission, to the case in point we are concerned about the lack of detail present in this proceeding. The national wage case August 1989 structural efficiency principle states that all structural efficiency exercises should incorporate all past work-value considerations. This point has, as I have already stated, been mentioned by Mr Vines. If it is such a valid point and is fundamental to the structural efficiency principle award restructuring exercise why don't we have work-value evidence before us?

We have no idea as to whether an increase in work-value terms is warranted in this matter, when there is not one real piece of evidence before us. On the other hand, we do have a lot of comparative data. What are we to assume from that? We have a lot of words representing classification guidelines exhibits, we have Mr Vines and Mr Warwick's views of the world with respect to the type of awards we should have and their number. But we don't have one decent shred of work-value evidence to support their claims for new award rates.

We would argue that they have not made out their case for work-value adjustments, particularly in the special case

areas. We would also put to this commission the following: as we have no work-value evidence before us how do we know what, if anything at all, has been taken into account when you reach your decision on rates? If there is to be some consideration of work value what record would we have of what has been counted or not counted as the case may be?

This holds real concerns for us. For instance, how do we assess work-value evidentially benchmarks in future work-value cases? The commission has suggested that the parties, once the new awards are in place, should work out where positions are to be translated in the various scales and has indicated that should there be disagreement it is prepared to determine matters going to translation. Does the commission expect that where there are differences, and let's face it there are bound to be, that the parties will run their own mini work-value cases?

If so, what criteria is to be used? How will consistency of approach between agencies and unions be ensured? With respect to the commission, these points need to be clarified so that the parties know exactly what their roles and responsibilities are going to be when the decision is finally handed down. I would like now to move to the HSUA's claim for a \$450 per week starting rate for trades employees in the public health sector.

We understand this claim is supported by the TPSA as they also have coverage in the trades area. It is interesting to note that whilst Mr Warwick was prepared to push for a \$450 per week 100% benchmark the same position adopted by the Trades and Labor Council he was, to say the least, very selective in his comments. His position was that as the hospital employees and general officers awards are paid rates awards that - and his argument was that the reference to lower benchmarks would not be appropriate, that the \$407 per week metal trades benchmark is irrelevant as far as the paid rates award concept is concerned.

What both he and Mr Vines conveniently glossed over was the fact that public sector awards for trades employees reflect minimum and maximum rates. Trades employees under the Hospital Employees Award have a 5-year incremental range, and under the General Officers Award a 6-year range. What HSUA claim seeks to do is remove that incremental progression and start trades employees at a level which would give those at the start of the incremental range an increase in the order of \$28 per week. We would ask: where is there the justification for such an increase? If I could at this stage tender an exhibit.

PRESIDENT: Would you object to this being marked J.1, Mr Jarman.

MR JARMAN: Ye, that's fine, Mr President.

PRESIDENT: I don't think there are any other 'Js'.

MR JARMAN: If I could direct your attention, Mr President, I apologise that the pages aren't numbered, but it is the second page of the exhibit, and it's headed up 'Department of Health Trades Staff'. What we've sought to demonstrate here is the numbers of trade staff employed at various public health institutions throughout the state.

It gives the number of qualified trade staff, the apprentices, the total of trade staff and it gives an indication of all of those tradesperson who are not on the top of the incremental range. And if you can direct your attention to the St John's Park statistics you will see that there are 36 trades employees who are not on the top of the incremental range. At mersey there are two.

COMMISSIONER WATLING: And they're under the General Officers Award?

MR JARMAN: They're under the General Officers Award, commissioner.

COMMISSIONER WATLING: Yes. That's a 6-year scale.

MR JARMAN: That's correct. At Mersey and Burnie there are two employees in both locations and not on the top of the incremental range. Launceston General Hospital there are 17 trades employees, some of them casuals, who are not on the top of the incremental range. There are 6 employees at Royal Hobart who are not on the top of the incremental range. And there is only one at royal Derwent, which has not reached the top of the incremental range.

However, all of those employees under the HSUA proposal would receive an immediate increase. If such a proposition, as put by the HSUA, were to be considered -

COMMISSIONER WATLING: Can I just clarify that for the sake of the record? You're really meaning all of those who aren't on top of the incremental scale now will get an increase.

MR JARMAN: Would move to \$450 per week under the claim made by the HSUA and the TTLC.

COMMISSIONER WATLING: Right. And it's \$28 at the 1st year rung?

MR JARMAN: That's correct.

COMMISSIONER WATLING: Yes. Ranging up to what? What's the - say, for example, someone is on the 4th year range here -

MR JARMAN: I don't have those figures with me. It's \$28 at the 1st year range, as you quite rightly suggest, and the majority of them would go through to approximately \$450 a week at the top of the range.

COMMISSIONER WATLING: Right.

MR JARMAN: If such a proposition were to be considered what would it include by way of allowances? As far as we're concerned the Public Service Board struck the rates for trades employees in the Public Service on the basis that they were all up rates. Rates which included components for service, or experience and for disability. And it is the last matter to which I now wish to refer.

No mention has been made, as I understand it, by the Trades and Labor Council in specific terms as to the application of disability or industry allowances. If we are to have a paid rates situation applying to trades employees then this issue must be addressed, as we see distinct differences in terms of conditions applying between trades employees working in the public health sector and trades employees working for the Department of Construction.

MR : A difference in the rate too.

MR JARMAN: The Department of Construction employs tradespersons in a multiplicity of situations. For instance, they work on bridge gangs, housing development, maintenance work on government buildings and on new construction work. The work performed by tradespersons in the health sector is mainly confined to one site, that is, the hospital at which they are employed. The nature of the work is by and large maintenance work with some minor works - new minor works being undertaken.

There is limited movement of tradespersons where a large teaching hospital assumes the responsibility for managing a number of the smaller hospitals. Nevertheless trades employees working in the public health sector have all the comforts of home. With the exception of the work performed by gardeners, the majority of trades work is undertaken in workshops which have heating, or within the hospital itself.

Trades employees have access to the staff cafeteria in the hospital and meals at subsidised rates. They also have access to regularly clean toilets and other amenities. In addition, they normally at the same site every day and are able to park their cars on hospital grounds. When you compare this with work undertaken by trades employees working for construction the difference becomes obvious. Work on new construction on greenfield sites means exposure to weather and site conditions, portable toilets and amenity sheds, cut lunch, cut

lunches or the inconvenience of driving to the nearest shop to buy lunch.

In addition, these employees are required to move from site to site and not necessarily within the metropolitan area. For instance, bridge gangs. What we say is, that when the rolled up rate is struck for tradespersons there must be some consideration given to the disability or industry allowance factor which differs markedly, in our view, between the health and construction industries.

Before we move the tradesperson classification we would make the following comment: if the bench considers that \$450 per week is appropriate as a 100% benchmark level, then there will of course be ramifications for levels 1 to 4 in the operational services stream.

In the hospital area, cleaners, attendants, drivers, catering maids, et cetera, have their own salary points and/or incremental ranges under the Hospitals Award. To include a SIPS payment in the 100% benchmark will have the effect of inflating the rates for these classifications if levels 1 to 4 are established by pro rata percentage of the 100% benchmark rate. There is merit in the proposition that the first year salary rate of \$422 for a tradesperson in the health sector -

COMMISSIONER GOZZI: 422 did you say?

MR JARMAN: 422, yes - a tradesperson in the health sector should be the accepted 100% benchmark rate.

COMMISSIONER WATLING: That's without the 2.5?

MR JARMAN: The 2.5 would - would be added to that 422. It removes the inflationary aspects which would be involved by including the first level of SIPS payment. We do not consider it to be appropriate that the salaries to a small number of trades qualified persons in one department should establish a benchmark that can be used to establish salary relativities across four occupational streams, particularly when you consider that the salaries applicable to those employees contain over-award payments.

We would prefer to see the Department of Construction trades employees set to one side in this exercise. The benchmark rate should not be determined on the fact that they are paid differently to other trades employees in the public sector. In our submission the bench must strike the rate it considers to be appropriate, having regard to the fact that the minimum trades employee benchmark rate in the metal industry has been set \$407 per week.

We repeat, that the commission should not be swayed by the unions' argument that a paid rate benchmark of \$450 is

reasonable having regard to the fact that it absorbs the first level of SIPS payments. As we have indicated such a figure has ramifications for other classification levels above and below the 100% benchmark.

If we could move now to the operational services stream guidelines: as far as those guidelines are concerned the - in the Department of Health we've had a number of discussions with unions as to how they may apply in the public sector. We have also had discussions with the Department of Premier and Cabinet and our points of view have been taken into consideration in the government's proposed classification guidelines with the operational stream.

As indicated by the advocate for the Tasmanian Trades and Labor Council, there is not a significant difference between the government and union classification proposals for the operational services streams. We believe that if the government's proposal is adopted, we can with the work already done with the unions adapt those guidelines to suit the health industry.

Turning to the professional stream, we unfortunately have to state that we do not have the same level of agreement in this area. It is clear from a reading of the proposed professional classification guidelines that the approaches taken by the government and the APEA are similar.

PRESIDENT: Sorry, would you mind repeating that sentence?

MR JARMAN: Yes - it's clear from a reading of those guidelines that the approaches taken by the government and the APEA are similar.

PRESIDENT: That's what Mr Hanlon said.

MR JARMAN: Yes - and I certainly support his views. The commission should also note that when looking at the classification guidelines prepared by the government that there is a consistency of approach with the type of language used, and if I could stretch your attention to -

COMMISSIONER WATLING: C 1 is it? C 2?

MR JARMAN: H.10 I would like to draw your attention to, if the commission pleases.

COMMISSIONER WATLING: C.10?

MR JARMAN: H.10.

COMMISSIONER GOZZI: Page of the April document is it?

MR JARMAN: Yes. The award restructuring comparison of government and TTL structure and salary proposals.

PRESIDENT: Yes, H.10 is the exhibit - what page?

MR JARMAN: Oh, I beg your pardon - C 2. I don't intend to take the commission word for word through this. I'm aware that other advocates have already done that but I would just indicate that when you read the guidelines set down by the Tasmanian Government and then compare them with those established by the APEA there is some similarity in approach; there is also a similarity in the use of certain words. If you look at level 1 under the Tasmanian Government classification standard and I quote:

A Professional Practitioner, initially under close professional supervision as to method of approach and requirements, performs normal professional work under general professional guidance, and with professional development may perform novel, complex or critical professional work under professional supervision.

And then over the page the standards refer to:

Professional supervision of less experienced Professional Officers together with general supervision over technical and other personnel.

And if you read through the APEA classification guidelines you see similar comments and similar terminology is used. And I would like to draw the commission's attention, however, to the TPSA/HEF approach and looking at their particular for professionals, we can see that they have started off with a graduate as opposed to the APEA and the government's approach in having a level 1 employee, and when we get to level 5 in the TPSA/HEF stream, it really compares, in our view, to level 4 in the Tasmanian Government and APEA standards. If I could just demonstrate, under level 4 under the Tasmanian Government guidelines, we state, and I quote:

Under broad policy control and direction [a level 4 practitioner] is

a senior Professional Manager; or

a senior Professional Specialist.

The work requires the exercise of a high degree of independence in the determination of overall strategies, priorities, work standards and the allocation of resources. Judgements made at this level form the basis of advice to senior levels within a department and are often critical to the

achievement of overall objectives of a departmental program or organisational unit. Work is monitored against broad objectives and has a high corporate impact.

Over the page in the same column:

A senior Professional Manager at this level leads, directs and co-ordinates a major function or work area in an agency involving a considerable variety of activities and organised on a geographical (including State-wide) or functional basis. Relative to other Senior Professional Officer positions, senior Professional Managers at this level have usually significant responsibility for the human, physical and financial resources under their control, and the work may also include extensive co-ordination of projects involving unusually large number of professional and other staff engaged in field, laboratory, clinical, production or construction work.

And I there end the quote. If you look now at level 5 in the TPSA/HEF guidelines you will see, and I quote, that a:

Level 5 practitioner is a senior manager or an eminent specialist.

Function Senior Manager: The management of a major professional work unit engaged in strategic and complex activities or programmes (which may include co-ordination of a number of sub units engaged in inter-related activities) involving significant professional, economic and administrative policy issues at the corporate level.

And down the bottom, when we go to qualifications for a senior manager, and I quote:

Senior Manger: Management skills and extensive experience in the management of human and material resources and demonstrated capacity to conceptualise. Develop and review major professional, economic and administrative policies at the corporate level.

It is our submission, if the commission pleases, that there is no difference between our level 4 and the level 5 standard created by the HSUA and the TPSA. There is, however, some difference in the suggested salary rates. I seek your indulgence. If I could tender a further exhibit, Mr President.

PRESIDENT: Exhibit J.2.

MR JARMAN: This particular exhibit demonstrates that there are some significant differences in the - or between the salary points arranged by the government in its preferred career stream for professionals and the salary points arranged by the APEA, the TPSA and the HSUA in their preferred career streams. We believe that it's self-explanatory. At far as the government is concerned, it has endeavoured to balance its career stream. We do notice, however, in the career streams proposed by the APEA and the TPSA and the HSUA that there are some significant movements in percentage terms between the salary points.

Moving on with the professional stream. Over the past five years or so, there have been a number of work-value cases run before this commission for health professionals. The outcomes of those cases have not clarified the picture as to the appropriate classifications structures and rates for health professionals, but rather, we say, have confused the situation. At the outset, we would like to make it clear that we do not see a generic professional stream covering medical practitioners or dental officers as far as the operations of the Department of Health are concerned.

In both profession, we submit, it should be dealt with in their own right. And of course Commissioner Watling is aware that that is happening with respect to salary - salaried medical practitioners. The Department of Health is concerned about the proposals for level 1 in the professional stream because of the way in which professionals in the health sector are currently progressed through their respective career ranges. And I would have to say that it's not a factor which is isolated to the health sector, it is in fact an arrangement which is state service wide.

COMMISSIONER GOZZI: Are you talking there, Mr Jarman, about the qualification entry differences?

MR JARMAN: Well, I'm talking about the automatic progression that applies to health professionals and other professionals in the state service where they have been able to enter Class I as a graduate and progress through to Class II Grade 1, Grade 2 and in some cases Class III, Grade 1 in the various professional awards. And I make no apologies for saying to this commission that the old Public Service Board has a lot to answer for.

There was and still is under the awards a right for professionals in the state service to progress to a certain level through the award. However, there was a practice endorsed by the Public Service Board that health professionals could go beyond the award stipulated points by administrative progression. And unfortunately the proposal that the government's put on its professional stream is really

suffering from that administrative progression. Because it would be our position that the top of level 1 should be nowhere near as high as the rates being suggested by the unions, and for that matter by the government. But unfortunately, to an extent we're locked in. However, we'll come -

PRESIDENT: When you say - what do you mean when you say 'we are locked'?

MR JARMAN: Well, obviously the Health Department, Mr President, is only one agency and the government had to circulate all agencies to get some form of consensus on an appropriate professional career stream. And the career stream that it has proposed is an agreed position by the various agencies employing health professionals in the state service.

If I could direct your attention to the next page, that's the page after the 'Department of Health Trades Staff' in J.1. Here you will see a list of health professionals and their level 1 rates of pay; that is as far as the starting point is concerned and the finishing point in Class I. Also listed for your information is the number of increments currently in Class I for the particular profession.

And you will see looking at those rates that there is a huge disparity between some of them. If you take, for instance, radiographers and they have a starting point of \$23,035 and at the top of Class I they finish at \$27,276. Compare that with therapists who are allowed to progress in Class I up to the top of Grade 2, they have a starting rate of \$23,890 and are able to progress through until they reach \$34,168 per annum. And I would also add that these rates do not include the recent 2.5% increase awarded by this commission.

I would draw the commission's attention to nurses in level 1, they have an 8-year incremental range. Their starting point is \$24,000 and at the top of the range \$32,400 per annum. Again, those rates are affected by or should be affected by the 2.5%. I'd like now, if I could, to tender some further exhibits.

COMMISSIONER WATLING: Can I just say, with the therapists, though they - they don't get to Grade 2 unless they pass certain criteria though, do they?

MR JARMAN: That wasn't my understanding, but I stand corrected. I thought they were able to progress through to the top of Grade 2.

COMMISSIONER WATLING: Well, there was a major work-value case associated with that and -

MR JARMAN: That's correct.

COMMISSIONER WATLING: - the practice was, prior to the work-value case, that there was automatic progression through, right through.

MR JARMAN: Yes.

COMMISSIONER WATLING: But it wasn't after that work-value case, it - it may be in practice automatic, but certainly the bench did try to come to grips with the problem and say: Well look, you only get there if you fit a certain level.

PRESIDENT: Exhibit J.3, I beleive.

MR JARMAN: There are two sheets, Mr President.

PRESIDENT: Do you want to deal with them - right, well -

MR JARMAN: Oh, we'll deal with them together, but -

PRESIDENT: Well, we'll mark - which one do you want to deal with first?

MR JARMAN: Radiographers.

PRESIDENT: Radiographers are J.3, and pharmacists - or pharmists -

MR JARMAN: J.4.

PRESIDENT: J.4.

MR JARMAN: I don't appear to have enough exhibits and I'll have to arrange to get the parties some at a later time. Mr Hanlon might be assisting me, I think.

PRESIDENT: How many have got them? We'll go off the record for a second?

OFF THE RECORD

PRESIDENT: Yes, thanks, Mr Jarman.

MR JARMAN: If I can just draw your attention to Exhibit J.3, and we used the current award rates in the left-hand column and the current salary, an average, and we then move across to the next column which demonstrates the government proposal. The government salary average is a representation of the professional career stream proposal as it would apply to radiographers, and we have had regard for the number of radiographers, of course, that we currently employ in the health agency at various classification levels.

The third column across represents the costings emanating from the TPSA-HSU professional career stream proposal if it were applied to the radiographers in the health agency as they currently are classified. And the rest is just a translation. It is a point to point translation, but you will see at the bottom that if we are to move to a generic career stream for professionals and cover radiographers by that stream, then there is a cost to the health agency in the order of three quarters of a million dollars. If we were to pick up the HSU-TPSA proposal we are looking at \$1 million.

The same exercise has been done with respect to pharmacists - not 'pharmists' as suggested by the exhibit. The costs there are still significant. The cost to the Health Department if the government's stream is implemented is in the order of \$420,000, and if the unions' proposal is picked up then we are looking at a cost of around about \$570,000.

I'm going back, if I can, for the moment to J.2. When you look at the figures for health professionals at level 1, in the state service you can see that the lowest starting point is \$23,052 which, of course, is now adjusted by the 2.5%, up to a highest point of \$34,168, which is also subject to adjustment.

PRESIDENT: For the record, Mr Jarman, wouldn't it be the radiographers with the lowest rate?

MR JARMAN: Yes, 23,035, I beg your pardon, not 52,

PRESIDENT: There's not much in it.

MR JARMAN: No, there certainly isn't. The government's proposal - because of what happens in other departments - is that level 1 should extend to a salary point of \$36,953. Obviously this situation provides problems, expensive problems for the Department of Health.

When regard is had for the nurses' award we can see that there is an identifiable career structure with five classification levels, and a registered nurse level 1 starts off on a salary of \$32,400 and progresses over an 8-year incremental range, and finishes on a salary of, as I have indicated, \$32,400, and nurses stay at that 8-year level until they are able to obtain a promotable position.

We consider that a similar provision should apply to all health professionals, and that is a common career range should be available which stops at about the \$32,500 mark. Progression thereafter should be by promotion.

If, however, the commission wishes to extend the level 1 career range to \$36,953 to accommodate other departments in

the stat service, then we say that a barrier should be placed at the \$32,500 mark for health professionals, and to exceed this barrier health professionals must be able to satisfy the department that they have obtained the necessary experience and skill levels to progress beyond that barrier.

PRESIDENT: That's a similar arrangement to what the old Public Service Board had in place, isn't it?

MR JARMAN: Yes, Mr President, that is so. The only point that I would make in these submissions is that we would police it.

COMMISSIONER GOZZI: And so that would contemplate a savings provision, wouldn't it, for these classifications in Exhibit J.1?

MR JARMAN: Yes.

COMMISSIONER GOZZI: Over and above 32,400?

MR JARMAN: Indeed, we would go further, we would suggest that additional incremental barriers be inserted above the \$32,500 point with the proviso that health professionals must satisfy certain criteria before progressing to the next point.

We cannot stress strongly enough to this commission that this proposal is going to be very expensive for the Department of Health, and as far as the unions' proposal is concerned it is clearly not ambit, but rather in orbit, and out of the question financially.

As to the proposed number of levels in the professional stream we would put the following: groups like nuclear medicine technologists, podiatrists and dieticians are represented by very persons in the public health sector. In most cases two classification levels should be sufficient. For others, like hospital scientists -

PRESIDENT: When you say - sorry, to interrupt you there, Mr Jarman. When you say in most cases two levels would be sufficient, do you mean other than nuclear medical technologists, podiatrists and dieticians?

MR JARMAN: No. No, what I'm saying is that nuclear medical technologists, podiatrists and dieticians represent very few positions in the public health sector. For instance, we might only have two dieticians at the Royal Hobart Hospital. You might have a level 1 and a level 2. In other words, a career range dietician and a senior dietician, and that might be the extent of it. Whereas when we move to other professional groups we have much larger numbers and there would be a requirement to employ professionals in positions in senior positions and in management positions.

PRESIDENT: Yes. So really you're saying, you only need the two Class II levels for the three groups you've mentioned.

MR JARMAN: That's correct.

PRESIDENT: But in other cases there might be a need for more levels.

MR JARMAN: That's correct. Yes, sir.

PRESIDENT: But certainly not in respect of those three -

MR JARMAN: Not in respect of those three.

PRESIDENT: - other professional groups.

MR JARMAN: That's correct.

PRESIDENT:

COMMISSIONER GOZZI: In fact then those two levels would be, where? Would they necessarily -

MR JARMAN: We would say levels 1 and 2.

COMMISSIONER GOZZI: Just 1 and 2?

MR JARMAN: Yes.

COMMISSIONER GOZZI: Well, as you rightly point out, there was a significant work-value case in respect of podiatrists and dieticians, which put in place a structure - really, at the end of the day I think it was a consent structure to give them some progression within the award. You would say that's not now necessary.

MR JARMAN: Well, I'm not saying that progression isn't necessary, I'm saying that -

COMMISSIONER GOZZI: Well, the extent of the structure -

MR JARMAN: Yes, I'm saying that progression through five levels isn't necessary. There may be progression from level 1 to level 2 -

COMMISSIONER GOZZI: Through these barriers and so on.

MR JARMAN: Yes.

PRESIDENT: But that would simply be up to the employer to have a job which fitted into level 3, 4 or 5.

MR JARMAN: That's correct.

PRESIDENT: And if it didn't then there wouldn't be any appointments to -

MR JARMAN: That's correct.

PRESIDENT: - those three levels.

MR JARMAN: If we were to employ, for instance, a podiatrist - one podiatrist in a hospital it may be because of the responsibilities involved with that position that we would classify it at level 2.

COMMISSIONER GOZZI: But couldn't you just simply do that in any event when you classify -

MR JARMAN: Oh, yes.

COMMISSIONER GOZZI: Yes.

MR JARMAN: That's not a problem. I mean, if we have a generic stream obviously we will design our positions so they fit in the various levels, and we will appoint people to those positions at what we consider to be appropriate levels. All I'm saying to the commission here and now is because we only have very few people in those particular professional groups that we would not see a need to design positions for them at levels 3, 4 and 5.

COMMISSIONER GOZZI: Yes. And of course if you had a totally generic professional award you would just classify them in that award according to classification standard wouldn't you.

MR JARMAN: That's correct, yes.

COMMISSIONER GOZZI: So the number of levels, in effect, would not really be a matter of concern.

MR JARMAN: That's correct.

COMMISSIONER WATLING: Well, see in the current award for dieticians they've got a base career level and then a management level and nothing in between. But for physiotherapists we've got a base career level, then some levels in between for sole therapists and then we've got a management level.

MR JARMAN: That's correct.

COMMISSIONER WATLING: As I say, I - but it would be a matter of looking at a classification within those generic streams, I take it.

MR JARMAN: That's correct. And what we would say is that for other groups like hospital scientists, social workers, welfare officers, pharmacists, radiologists four classification levels should be sufficient. We would emphasise that the problems we envisaged at level 1 involving costs will also be evident in levels 2, 3 and 4. I think we demonstrated that in the exhibits J.3 and J.4.

The costs at these levels will also be significant. For instance, a Class II therapist current earns \$36,953 per annum on the second and top increment. The government's proposal, because of what happens elsewhere, is that the salary range be 38,348 to \$39,735 per annum for a level 2, Grade 1 professional. So you can see by that that there is a sizeable increase to be applied if these proposals are picked up.

PRESIDENT: Is that accommodated to work value?

MR JARMAN: What work value, Mr President?

PRESIDENT: Exactly.

MR JARMAN: Exactly.

PRESIDENT: So what does it represent? What does the increase represent?

MR JARMAN: The increase? Well, we've asked that question already, we don't have the answer. And I guess that at the end of my submission I will address the commission on the two proposals and the salary points sought. However, it certainly doesn't get away from the fact that there is a desire on behalf of the union movement to treat this exercise as another wage grab.

PRESIDENT: Could I - can I put this in a perspective to help me then? The increases to the Class II level for therapists, for example -

MR JARMAN: yes.

PRESIDENT: - you arrived at those figures based on what, going rates or -

MR JARMAN: Well, what currently applies, Mr President, in the state service - and this is where we have the difficulty -

PRESIDENT: What currently applies in the state service?

MR JARMAN: Yes, what currently applies in the state service. These point - these salary points that are used have application to salary levels currently in state service awards.

PRESIDENT: Oh, but not applying to therapists -

MR JARMAN: No, no.

PRESIDENT: - at the moment?

MR JARMAN: I mean this is where we get back to this consensus thing.

PRESIDENT: This is - you're doing a comparative exercise?

MR JARMAN: That's right, and as we are trying to work towards a generically based award system we have to settle on a particular salary point, and while we're trying to maintain salary points that exist currently in the state service we all know that different salary points apply, as we've demonstrated today, to health professionals working in the same agency. So it's very difficult to - to bring together a group like that to form one salary point for a generic award. So some are going to gain, others probably won't move at all - at least we would say that they shouldn't move at all.

PRESIDENT: I understand most of the submission.

MR JARMAN: I'm sure you do. The costs here are going to amount for an agency with - which is expected over 1991 and '92 to absorb massive budget cuts. At levels 3 and 4 the department see the need - sees the need - for distinctive salary points, and can I say before I get into a debate with Commissioner Gozzi about grades, levels, salary points, curbs, channels, guttering, whatever, we really don't give a continental what we call them, we're just saying that we like - we would like three distinct salary points at both levels 3 and 4.

And the reason that we say that we need those three distinct salary points is because using generic classification guidelines we find it quite easy to classify managers under a particular level - that's the easy part, but it becomes more difficult when you have several managers working in the same sort of area at that level but their work may - places different demands on them and we see a need for some fine tuning in those areas. And perhaps if I could explain in better detail what I mean.

If we look at J.1 and move to the next page after the Class I salary points - and this page is headed up - Hospital Scientists - if you look at that particular exhibit you see in the Royal Hobart Hospital where work is performed by hospital scientists, the following services are provided: Haematology, clinical chemistry, clinical chemistry, anatomical pathology, microbiology, endocrinology, forensic, electron microscopy.

And in the Launceston General Hospital the services aren't quite as extensive - we have Haematology, microbiology, histopathology, clinical chemistry. And the North West Regional Hospital -

PRESIDENT: The same but in a different order.

MR JARMAN: - the same services, yes. Now, if you move to the next page you'll see that: Under the National Association of Testing Authorities guidelines the above hospitals are classified as follows: the Royal Hobart Hospital has a category 2 laboratory; the Launceston General Hospital and North West Regional Hospital have category 1 laboratories.

And we move to staffing levels and at the Royal Hobart Hospital we have 54 scientists, 13 technical assistants. Launceston General Hospital - 40 scientists, 2 technical assistants. North West Regional Hospital - 13 scientists, 7.1/2 technical assistants.

PRESIDENT: Will - will that situation remain the same under the regionalisation?

MR JARMAN: I think that there would not be much change to that situation under a regionalisation. There might be some rationalisations but by and large our biggest laboratory - hospital laboratory will be maintained at Royal Hobart Hospital. The - the next page of the exhibit just takes you through the standards which establish the various categories for laboratories.

If we move over to the next - next part of the exhibit which is headed up - Proposed Classification Criteria - and if I could take the commission to page 3 of that particular part of the exhibit and direct your attention to Class III Grade 1, and by way of explanation this particular document was put together to assist in the classification of therapists, and if you look at Class III Grade 1 -

COMMISSIONER GOZZI: Whereabouts are we looking at?

MR JARMAN: Page 3 of the exhibit headed up: Proposed Classification Criteria -

COMMISSIONER GOZZI: Oh, right.

MR JARMAN: And under Class III Grade 1 the classification recommends that the person in that position be in charge of a small department and a small number of staff - that person would have a responsibility of staffing, patient allocations, standards of care, equipment use, standard, supply and maintenance, et cetera, answerability for standards of patient care by all staff. Example of positions - in charge therapist Mersey General Hospital.

And then 2., a Class III Grade 1 classification level could apply to a deputy in charge of a medium sized department with more than one section, because with a charge therapist, a person in that position would be responsible for staffing selection allocation, patient allocation to staff, standards of treatment by all staff, equipment use, supply and maintenance, et cetera.

And I'm not going to take the commission through the rest of these position descriptions and then just direct - to direct your attention to the fact that these classification standards, if you like have been set up so that people can be classified at Class III but in different grades because of the job that they do, the responsibilities that they have. And you will see that under Class III there are in fact three grades proposed.

And, because of the particular problem we have in the Health Department with three distinct regions, more often than not we find that there are three classification - or perhaps if I can go back a step - there are similar classifications warranted for health professional positions, but there are often different salary points required within the classification level because of the differences, the identifiable differences, that apply to each particular position at that level.

COMMISSIONER GOZZI: Mr Jarman, I'm just really trying to get up to speed with your submissions. I think where I am having a problem is that the proposal that the government has before us provides a framework for a structure. Now, why wouldn't the Health Department simply determine classification standards for the people that it has in the professional area, and let's assume for a moment those classification standards could be agreed with the appropriate unions, and then classify - as is a management prerogative - within the structure? And you already have within the proposal before us the salary points or, certainly the levels that you require. I mean, levels 3 and 4 you said you wanted at least three salary points, distinct salary points.

MR JARMAN: Yes, well, I think you have probably jumped the gun on me a little bit, Commissioner, because I was coming to that point. We're not wedded to the idea of two grades at levels 3 and 4. We would see just levels 3 and 4 containing three salary points in each.

COMMISSIONER GOZZI: Well, yes, okay. So, you see a departure from what's before us in H.10 -

MR JARMAN: That's correct.

COMMISSIONER GOZZI: I suppose the follow-up question then is, to get it clear, the Health Department is here representing - as agent for the employer, being the Minister for -

MR JARMAN: That's correct.

COMMISSIONER GOZZI: - Public Administration - for the Minister administering the State Service Act. So, are we now receiving in respect of professional career stream a view that the minister has, administering the State Service Act, in respect of the Health Department?

MR JARMAN: I'm here to put a submission to this commission on professionals, as indicated by Mr Hanlon.

COMMISSIONER GOZZI: Right.

MR JARMAN: I've indicated that there has been some consensus reached between various government agencies as to what the professional stream should look like, and you have that before you in H.10. What I'm saying to you, Commissioner, is that with respect to the Health Department because it has some identifiable problems with classifying health professionals at levels 3 and 4. As far as health agency is concerned, we want to make some changes to that stream at those levels.

COMMISSIONER GOZZI: So, for the remainder of the professional area, it is as per H.10, and you seek to have it modified -

MR JARMAN: That's correct, yes.

COMMISSIONER GOZZI: - for the health area in the way that you are outlining?

MR JARMAN: That's correct.

COMMISSIONER GOZZI: And, so talking about level 3 and 4, when you talk about three distinct salary points at level 3 and 4 you are really saying one salary point at each level -

MR JARMAN: Yes.

COMMISSIONER GOZZI: - with promotable, or incremental -

MR JARMAN: No, we are saying one salary point. So, if you appoint -

COMMISSIONER GOZZI: One salary point?

MR JARMAN: That's right. If you appoint a manager to look after the laboratory at the North-West Regional Hospital you would classify that person at level 3 and at the particular salary point that you have designed.

PRESIDENT: Probably Grade 1.

MR JARMAN: Yes, Grade 1.

PRESIDENT: And, say, for example, that northern region level 3 Grade 2, and the southern region Grade 3?

MR JARMAN: Correct.

PRESIDENT: I understand what you are saying.

COMMISSIONER GOZZI: Thank you, Mr Jarman.

COMMISSIONER WATLING: So, if we are looking at a stream then for health and a stream then for the rest of the public sector in the professional area, aren't we going to end up with some problems?

MR JARMAN: Well, I don't think so, Commissioner. Not if the commission is prepared to pick up on our submissions going to the number of awards that should or should not apply in the health area.

COMMISSIONER WATLING: Right. Now, what is concerning me a little is that we're really getting two submissions in relation to professional stream, though.

MR JARMAN: Oh, well, I don't -

COMMISSIONER WATLING: You're saying, do something for health and then something for the other professionals.

MR JARMAN: I don't think that's the case. We're still saying that we are prepared to put into place an award - a professional stream with four or five levels - and all we are saying is that with respect to health professionals we see a slight modification to levels 3 and 4. We're not suggesting for one moment that we would move away from the sort of salary range suggested in the government's proposal. We would be prepared to use those salary points for levels 3 and 4.

PRESIDENT: But there would have to be another -

MR JARMAN: Yes, there would have to be -

PRESIDENT: - line with a notional salary point put in 3 and 4.

MR JARMAN: Yes, there would have to be, yes, there would have to be some averaging there, but we would work within those parameters.

COMMISSIONER GOZZI: So, just then to finalise that. At level 3 you want three or one salary point? You said, three distinct salary points at level 3 and 4.

MR JARMAN: Yes. I want three in level 3, and three in level 4.

COMMISSIONER GOZZI: Yes. Okay. Okay, right.

MR JARMAN: We have had arguments before, and consistently, between professionals about their comparative classification levels, and we acknowledge that there are differences between positions, and the structure should be flexible enough to accommodate such differences, and we've just made submissions on that point.

And we say that there are differences because in particular positions the person occupying the position has responsibility for managing a budget, has a responsibility for supervising a number of staff, has a responsibility for ensuring that a range of services are provided may have a responsibility for using and managing sophisticated technology and equipment, and we say all of those components can differ between positions and must be taken into consideration when striking an appropriate classification level.

PRESIDENT: Mr Jarman, what's the prognostication on your part - when you might conclude?

MR JARMAN: Well, I can probably finish in about a quarter of an hour, if that's any help to the commission.

PRESIDENT: That is helpful, because I think we'll -

MR JARMAN: Apparently my colleagues wish to consult with me about a couple - on a couple of issues. Perhaps it might be better if we hold it over to the next day's proceedings.

PRESIDENT: Yes. I think that's a reasonable place to do that, Mr Jarman. We'll adjourn now then until - I believe it's the 23rd of September at 10.30.

HEARING ADJOURNED