

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2757 of 1990

IN THE MATTER OF an application by
the Association of Draughting,
Supervisory and Technical
Employees, Tasmanian Branch for
the making of a new award

re Metal & Engineering Industry
(Tasmania) Award

COMMISSIONER WATLING

HOBART, 3 December 1991
Continued from 15/11/91

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: Right, that brings us to the second application which is T2757 of 1990.

MR BAKER: As with the previous matter sir, I've handed to your associate a copy of a draft dated 27.11.91 which is an outline of what we propose to make or to be the new metal and engineering award. Whereas I fully understand and appreciate that today's hearing merely deals with the scope provisions of the award, we are in fact in a position, as I have indicated to you, to give you an outline in fact of what the new award would look like.

I believe at the last hearing we did make available to you the proposed classification structure which is the new 20 level document and so today, sir, we present to you a copy of how we would see the new rewritten Mechanical Engineers and Founders Award and that, sir, we would see as the basis of the ultimate making of the new award.

But to deal with matters in context and one matter at a time, I would turn your attention, sir, to the matter at hand and that is the determination of the scope award of the proposed metal and engineering award. Since the last occasion this matter was before the commission there have been some extensive discussions between both the Tasmanian Confederation of Industries and the respondent organisations to the Mechanical Engineers and Founders Award together with a couple of other organisations who are not currently respondents to that award.

We have proposed that the scope clause be as follows and that is that:

This award is established in respect of the metal and engineering industry as defined.

PROVIDED that the terms of this award shall not be construed in any manner to limit or affect the scope clause of any other award of the Tasmanian Industrial Commission.

And then sir I would turn your attention to clause 7 - and I will come back to the savings provisions et cetera later on - Clause 7, Definition:

For the purpose of this award the Metal and Engineering industry shall mean:-

and then it commences -

Every operation process or function carried on in connection with or incidental -

and there is a correction there -

to any of the following.

Rather than it reading 'of any of the following' it should read 'to any of the following' and then we start.

1. Mechanical and Electrical engineering.
2. Smithing.
3. Boilermaking and erection and/or repairing thereof.
4. Bridge and girder fabrication.
5. Steel fabrication.
6. Welding.
7. Tool, die, gauge and mould making.
8. Sheet metal working (excluding that work which is covered by the Scope Clause of the Plumber's Award.

And I should point out here sir, that it is also our application - sorry, it's our intention to make an application in relation to the Plumber's Award insofar as the scope clause there is concerned so that these two awards are mutually exclusive of each other.

9. Metal -

COMMISSIONER WATLING: Can I just ask you about that, what does it really mean: sheet metal working excluding the work covered by the scope clause of the Plumber's Award? It means it excludes all sheet metal working.

MR EDWARDS: Not in the context of the application.

MR BAKER: Well, it does in the context of the Plumber's Award. Well, what we're proposing is that sheet metal working as covered by the definition of metal and engineering workshop other than what is proposed in the Plumber's Award which is in fact a different type of working environment.

COMMISSIONER WATLING: Yes, have they - I can't recall whether they changed the provision, the sheet metal working provision.

MR BAKER: Well, not to my recent knowledge of the award.

COMMISSIONER WATLING: Doesn't that have general application as well, by regulation?

MR EDWARDS: Yes.

MR BAKER: Yes, it does.

COMMISSIONER WATLING: So, that's what I'm saying, I'm not too sure what it means.

MR BAKER: Yes, that's been an oversight on our part and that will need to be addressed.

COMMISSIONER WATLING: I think we had some lengthy discussions about that one other occasion.

MR EDWARDS: Mr Commissioner, could we just go off the record for a second.

COMMISSIONER WATLING: We might just go off the record for a moment.

OFF THE RECORD

COMMISSIONER WATLING: Right, Mr Baker, I'll take it then we're coming back to No. 8, sheet metal working.

MR BAKER: Yes, so it might be appropriate if we sort of come back and have a look at that once we've gone through the scope clause in its entirety:

Point 9 is metal moulding.

COMMISSIONER WATLING: Just before we go on, I think there is a new appearance that needs to be -

MR BAKER: Sorry, sir.

MS D. MONCRIEFF: May it please the commission, Dianne Moncrieff intervening on behalf of The Building Workers' Industrial Union and the Federated Engine Drivers' and Firemen's Association.

COMMISSIONER WATLING: Right. And the purpose of your intervention is?

MS MONCRIEFF: We're opposing the making of the award sir, on the grounds that we have had meetings with the metal workers to discuss the scope clause; they haven't been satisfactorily concluded. I can only speak in this respect because I have received very - I only became aware of the hearing by way of

the building workers advising me today. I received a letter that came, not to the FEDFA's state office but to myself at 75 Tasma Street, which I have passed onto our state office regarding the scope clause which applies to this award.

I passed it onto our state office who are in turn conferring with our national office. It goes to - our problem goes to item number 47 in the scope clause which is: Engine driving in all its branches which is incidental to the metal and engineering industry. We haven't had a chance to satisfactorily conclude - I would say we have been progressing discussions with the metal workers -

COMMISSIONER WATLING: Well, can I just say then your intervention is to oppose the making of the award - that's the reason for intervening.

MS MONCRIEFF: Yes.

COMMISSIONER WATLING: Right, well you can save your arguments until the time. Any objections to the intervention? No objections, right, leave granted. Right, Mr Baker.

MR BAKER: Nine, sir, is metal moulding.

10. Diecasting.

11. Stovemaking and repairing.

12. Agricultural implement making and repairing.

That item sir, has caused Mr Edwards and myself to have some recourse to the Produce Award but it's our collective opinion that having considered the revised scope clause of that award, that the two awards would not in fact be in conflict -

COMMISSIONER WATLING: One's selling isn't it?

MR BAKER: Yes.

COMMISSIONER WATLING: And the other one is - this is making.

MR BAKER: Manufacture, yes.

COMMISSIONER WATLING: Right.

MR BAKER: 13 is:

13. Metal pressing and stamping.

14. Porcelain enamelling.

15. Manufacture of porcelain enamels, oxides, glazes and similar materials.

16. Metal machining.
17. Ironworking.
18. Iron and steel pipe making and fabrication.
19. Metal Window frame making and repairing.

This sir, was the item that we'd had some discussions with the BWIU. The current provision as it applies in the Federal Metal Industry Award and the provision that applies and has applied in the Mechanical Engineers and Founders Award since the year dot has been 'window frame making and repairing' and we have in fact considered the word 'metal window frame making and repairing' so any ambiguity about whether it's timber or metal is removed and we would submit sir, that that's proper to be covered by this award, that is, metal window frame making and/or repairing:

20. Safe and strong-room making and repairing.
21. The manufacture, erection and installation, maintenance and repair of all forms of electrical machinery, apparatus and appliances, including valve and globe manufacturing.
22. Radio, telephone and x-ray -

and if you would just like to amend the phrase, it should read 'x-ray equipment manufacturing, maintaining and repairing'.

23. Manufacture of insulation materials and articles.
24. Wet and dry battery manufacturing and repairing.

25 and 26 we would at this time, sir, seek to have those matters list on a reserved list. We're not - following discussions we believe that perhaps they don't really fit into the scope insofar as the context of this award is concerned with other awards of the commission.

COMMISSIONER WATLING: So 25 and 26 are out.

MR BAKER: Out:

27. The drawing and insulation of wire for the conducting of electricity.
28. The manufacture and repair of recording, measuring and controlling devices for electricity,

fluids, gases, heat, temperature, pressure, time etc.

29. The production by mechanical means of industrial gases (other than coal gas).

30. The making of canisters, drums and other metallic containers.

31. Galvanising, tinning and pickling.

32. Electroplateware manufacturing.

33. Electroplating of all types.

34. Processing of metals, such as sheradizing and bonderizing.

35. Lift and elevator making, repairing and maintenance.

I understand, sir, there has been a new federal award made in the lift industry which would cover virtually all those people employed within Tasmania, but there was some discussion concerning that there ought to be some sort of catch all clause in the event that, you know, there is a new manufacturer set up or a new repairer or whatever that might come into the industry so it was decided that at least in the interim that clause 35 should be, sort of, left there to sort of see how it sort of pans out over time.

36. Melting and smelting of metals.

37. The manufacture of bolts, nuts, screws, riverts, washers and similar articles.

38. The manufacture of bright steel bars, rods and shafting.

39. Making, manufacture, installation, maintenance and repair of jewellery, watches and clocks including cases.

This 39, sir, is as a result of another application of this commission in relation to the Watchmakers' Award and upon the making of this award the Watchmakers' Award will cease to exist so that's another one where it is waiting on the creation of this award.

COMMISSIONER WATLING: It's a thriving business in Tasmania of course.

MR BAKER: Including the repair charges, I might add.

COMMISSIONER WATLING: Yes, ever increasing.

MR BAKER: Yes:

40. Maintenance and repair of scales and machines for measuring mass and equipment.

41. Japanning, enamelling and painting of metallic articles.

42. Hand and machine engraving.

43. Badge and name-plate manufacturing, including chemical engraving.

44. Manufacture, testing and repair of water fittings.

And I think I pointed out to the commission previously that I have had discussions with the plumbers' union and indeed there's been an exchange of letters between the two unions insofar as the demarcation of that work is concerned and -

COMMISSIONER WATLING: But this is the testing -

MR BAKER: The testing and the repairing of the -

COMMISSIONER WATLING: - completion of the manufacturer.

MR BAKER: - manufactured article.

COMMISSIONER WATLING: Yes.

MR BAKER:

45. Installation of all classes and types of electrical wiring equipment and plant, and the repair and maintenance thereof.

There's been some considerable discussion between - as to the actual terminology used in point 45 as opposed to point 21 and there seems to be an almost identical phrasing of words and it's our position that perhaps 45 ought to be removed.

46. Manufacture of ceramic articles for use in the metal trades industries.

47. Engine driving in all its branches which is incidental to the metal and engineering industry.

I think it is appropriate perhaps I should pause there: which is incidental to the metal and engineering industry, and I think, sir, that really is the key phrase. I mean - we have had discussions with the FEDFA but as Ms Moncrieff indicated

perhaps those discussions did not quite resolve our position. We have attempted to sort of assure her organisation that what we really are talking about is somebody who operates a fork lift or a hand operated equipment or a crane of some description which is in the workshop which is incidental to the work. Now, I'm sure she will address -

COMMISSIONER WATLING: Like moving girders around a workshop or something?

MR BAKER: Something like that, yes. Just a small overhead crane gantry or items of that nature which is consistent with point 48 which is:

Sorting, packing, dispatching, distribution and transport in connection with any of the foregoing.

Which is, you know, the fitter or the tradesman, the draftsman or whatever pops in the ute and runs the bit around the corner. Now that's basically what we're referring to as both 47 and 48 and that, sir, brings me back to point 8.

We would propose to you that that be the new scope clause of the award with the exception of point 8 which we need to address and barring any other comments from, either Mr Long or Mr Edwards, and taking into consideration I suppose the opposition to the making of the award from the FEDFA, we would now move to the next phase of sort of programming some sort of timetable in order to deal with point 8 and then to have the scope clauses proposed, made.

COMMISSIONER WATLING: How long or how many discussions have you had with the other unions involved, and when?

MR BAKER: The last series of discussions were held approximately on the 23rd of the 10th, I think, from memory sir.

MR LONG: There has been three or four meetings all told, I think.

MR BAKER: Oh yes, there's been a series of meetings. I mean basically there have been -

COMMISSIONER WATLING: So everyone has been notified of the meetings.

MR BAKER: Oh yes, there's been no - and of course we sent out a letter advising people that the hearing was on.

MS MONCRIEFF: Not so.

MR BAKER: Whenever we had the last hearing date, we sent out a or got advice - we sent the revised scope documents out for comment.

COMMISSIONER WATLING: Right.

MS MONCRIEFF: Mr Commissioner, if I could rise to my feet now, I would simply say that the metal workers through Mr Baker certainly did send a letter which referred to the scope clause, the intended scope clause, but there was no advice in that letter or attached to that letter of any hearing dates and there was no suggestion of further meetings. It was a simple advice saying 'This is our intended scope clause'.

MR BAKER: Yes, I think Ms Moncrieff is correct, sir. That may well be quite correct actually but there was, sir, of course a notification which went out from the TIC concerning today's hearings.

COMMISSIONER WATLING: How did you convene your meetings of the unions?

MR BAKER: Well I just - I have a list which I prepared which was the current list of respondent organisations to the Mechanical Engineers and Founders Award and on top of that I have also added the BWIU, the FEDFA - I think that's it - and whenever we dealt with something, I just sent out a document - sorry, a letter - advising what the situation was. Like for example in the -

COMMISSIONER WATLING: Well for example, I notice that you forwarded a courtesy copy to the commission here and I've got one dated the 4th September. It says: To Union Secretaries - it's addressed - Metal and Engineering Award, please find enclosed a copy of the latest draft on the scope clause for your consideration. A meeting of all proposed respondents will be convened on Friday the 20th September at 10 a.m. At MEWU office. Signed yourself.

MR BAKER: Well, that meeting didn't occur. It was actually held on the 24th September and at that meeting, from memory, was the BWIU, the FEDFA, the FIA - as they were at that stage - and ourselves - oh, and the clerks -

MS MONCRIEFF: The plumbers and FCU -

MR BAKER: And the plumbers arrived late. And arising out of that meeting, we prepared the draft that you have had today. I then had discussions with Mr Edwards twice, three times, concerning the proposal -

COMMISSIONER WATLING: So did any organisation contact you after you sent them that document?

MR BAKER: No. No, I have had no further contact with any of the unions since the meeting of the 24th of September.

COMMISSIONER WATLING: Good, right. Right, anything further you want to put to me?

MR BAKER: Well, no sir, other than - I think this matter arose last year as a step to restructure the then Mechanical Engineers and Founders Award mainly through two basic problems: one was the limitations involved in the scope award and, secondly, the almost antiqueness of some of the provisions that were contained in that award. That's been done insofar as the wage rates are concerned and the classification structure and there has been an ongoing commitment both - particularly from us and from FIMEE insofar as the creation of the new metals award and we have pursued that course of action over the last year

And we are of the opinion that the new award would more than adequately go to resolve a number of issues which have been raised in this commission before where you can go into some workshops around the town - small workshops - and they are covered by three and four different awards. The creation of this award would in fact remove those requirements from the employers to sort of observe several different awards covering a similar occupation and that certainly is consistent with the thrust of decisions of the national bench of the conciliation and arbitration - I'm sorry, the Industrial Relations Commission and indeed of this commission as well. So barring any other questions that you may have, I will sort of conclude my remarks there.

COMMISSIONER WATLING: Good, thank you. Mr Long.

MR LONG: No, I've got nothing further to add sir.

COMMISSIONER WATLING: So is your organisation supporting the making of the award?

MR LONG: Yes, sir.

COMMISSIONER WATLING: In the terms outlined by Mr Baker?

MR LONG: Yes, sir.

COMMISSIONER WATLING: Right, thank you. Ms Moncrieff.

MS MONCRIEFF: Yes, Mr Commissioner, I'll -

COMMISSIONER WATLING: We might try and get you closer to a microphone.

MS MONCRIEFF: I'll slightly amend my original intervention by way of explanation. As stated previously I've had instant

advice of this and I've just rushed in - and literally rushed in. I would qualify the position of the BWIU whom I'm intervening for. What was the old Founder's Award - as I understand it - which now becomes the Metal and Engineering Industry Award, the BWIU in fact are not opposed to, have no problem with it. We have been through the discussions as indicated by Mr Baker and they are not opposed to the making of this award. The concern is with the on-site award.

COMMISSIONER WATLING: Right, well that was adjourned prior to you attending.

MS MONCRIEFF: Attending - well, my apologies sir, I wasn't aware of that. With the FEDFA, we do have concerns with 'engine driving in all its branches'. Whilst it goes on to say 'which is incidental to the metal and engineering industry' sir, we have been involved for many years in the metal and engineering industry. Understanding the processes that are taking place in this commission with the making of awards that you have been most careful in explaining to myself and other officials on the development of these awards, I'm aware that this is an award of the employer and as such I would have to amend my previous statements and say that in that context we are not opposed but we do have problems with the coverage of people in there which I believe would have to be addressed by way of interest and pursuing the course of interest in this award. So I can only say again sir, my apologies. It is mainly the building and construction ones in which our concerns were.

COMMISSIONER WATLING: Yes, well that's been adjourned. That's the previous one that's been adjourned sine die but this one - there's no doubt in my mind that if one is looking at the industry of the employer, that that work is carried on by the industry - within the industry of the employer.

MS MONCRIEFF: Yes.

COMMISSIONER WATLING: Your real question may be who has the members -

MS MONCRIEFF: It does lie to coverage of people within the industry.

COMMISSIONER WATLING: - and therefore - as opposed to whether it accurately describes the industry of the employer.

MS MONCRIEFF: Yes. So sir, I withdraw my objection. I would place on the record that we will be pursuing discussions with both the metal workers and making representations in this commission with a degree of gusto.

COMMISSIONER WATLING: Yes, but the time of the interest has been dealt with.

MS MONCRIEFF: Yes, in that time frame, if it pleases the commission.

COMMISSIONER WATLING: Good, thank you. Well Mr Edwards, there doesn't seem to be any opposition now to the making of the title and scope of this award.

MR EDWARDS: Not from the union parties Mr Commissioner.

COMMISSIONER WATLING: Yes, that's right, that's why I said -

MR BAKER: If you do and I'll dong you.

MR EDWARDS: I'll reserve my right to be a little mischievous Mr Commissioner. Commissioner, the TCI and MIAT position in respect of the draft that is currently before the commission which I just note commissioner we didn't identify it - was it your intention to identify it?

COMMISSIONER WATLING: No, no. I've marked it MEWU.1.

MR EDWARDS: Thank you commissioner.

COMMISSIONER WATLING: Sorry.

MR EDWARDS: Commissioner, as Mr Baker has indicated towards the conclusion of his submissions, he has had a number of discussions with myself in respect of the terminology to be used in the scope and definitions parts, particularly of the - if I can use the generic term - off-site award and we have no objection in principle to the form of words that now find its way into MEWU.1 as has been amended this morning by Mr Baker. It would appear to me that there are a couple of areas in which concern had previously been expressed, most of which have now, I believe, been sorted out with the exception of item 8 which again, like Mr Baker, I'll come back to it if I might commissioner.

COMMISSIONER WATLING: Yes, right.

MR EDWARDS: Item 12: I would confirm the submission of Mr Baker that we had reason to consult the Produce Award after observations made in this commission by, I think it was, Mr Strickland, in the last conference we had in respect of this scope clause and we could find no conflict -

COMMISSIONER WATLING: And he immediately consulted myself.

MR EDWARDS: Yes, it caused everyone a bit of concern I think Mr Commissioner. But in consulting that scope clause and indeed the amendments that had been made by the parties to that award, we can find no conflict between that award and

this proposed award. I think the variation made at item number 19 by the insertion of the word 'metal' before 'window frame making and repairing' quite adequately addresses the concerns that had previously been raised in that area. Not that I considered them to have been reasonable concerns. I think the wording that was there previously was quite adequate. Nevertheless to put it beyond doubt the introduction of the word 'metal' certainly causes me no concern.

In respect of item 21 and from Mr Baker's edification - this is not a backflip because I did indicate that I would make some observations in respect of item 21 - wherein I had some initial concerns that the term 'installation' as used in that phrase in item 21 could have been read in isolation so you were talking about the installation of all forms of electrical machinery, apparatus and appliances and that caused me some concern over potential conflict with the word 'undertaken under the electrical engineers' award'.

I, in looking at it since that time am of the view that that is not the case, that the words 'erection and installation' must be read together because it is 'erection and installation' with a comma after the word 'manufacture' and after the word 'installation' and that has served to satisfy my concerns in that area

But I do make the comment on the record that the words 'erection and installation' really do have to be read together, they cannot be read separately. The variation made at item 22 by Mr Baker during his submission by insertion of the word 'equipment' after 'x-ray' I concur with and I think it is absolutely necessary to make item 22 make any sense because I don't think we're trying to cover the manufacture of x-rays, rather the manufacture of machines that might create x-rays.

COMMISSIONER WATLING: What's the radio, telephone x-ray - what does radio - it starts off with radio, is that the manufacture of radio?

MR EDWARDS: I would see radio applying to the word 'manufacturing'. So its 'radio, telephone and x-ray equipment manufacturing'. Maybe it could have been reversed and it should say the 'manufacture of' -

COMMISSIONER WATLING: Manufacture of - well, shall we have a look at that because it is not altogether clear. If you start off with the word 'radio,'.

MR EDWARDS: I would have no objection to that change. Mr Baker, being the applicant, may wish to comment.

COMMISSIONER WATLING: So we have a look at the words
'manufacture -

MR EDWARDS: 'Manufacture of'.

COMMISSIONER WATLING: - of radio, telephone and x-ray
equipment'.

MR EDWARDS: You would have to take 'manufacturing,
maintaining and repairing' all back to the beginning, I think,
wouldn't you commissioner?

COMMISSIONER WATLING: Yes.

MR EDWARDS: So it would then read 'Manufacture' - or
'Manufacturing, maintaining and repairing radio, television
and x-ray equipment'.

MR BAKER: 'Telephone'.

COMMISSIONER WATLING: It's certainly easier to understand.

MR EDWARDS: It is, commissioner.

COMMISSIONER WATLING: Mr Baker, is that agreed?

MR BAKER: No problems, sir.

COMMISSIONER WATLING: Right, it's agreed then.

MR EDWARDS: Commissioner, Mr Baker has sought to set aside
items 25 and 26 and for the sake of getting something up and
running, I think that's a sensible course and we would support
that and Mr Baker has sought to place that on a perceived
reserved list. We would have no objection at all in saying to
Mr Baker, as far as we are concerned, if he wishes to come and
further discuss those two issues with us, we would be more
than happy to entertain those discussions.

COMMISSIONER WATLING: But for the sake of this application
it is out.

MR EDWARDS: Correct. In respect of the observation by Mr
Baker in respect of item number 39 - which is the jewellery,
watches and clocks - my understanding is the same as Mr
Baker's that there has been an application made to this
commission the result of which would be that the Watchmakers'
Award would cease to exist upon the making of this award and
therefore we would have no objection to that.

Mr Baker also made reference to item numbers 45 and 21 being
virtually identical. I would submit that they are covering
the same area and would not need to be duplicated in the way
they appear to be at the moment and in that regard Mr Baker

said that he was considering removing item 45. I would like to go a little stronger.

COMMISSIONER WATLING: I've actually put 'out' alongside it.

MR BAKER: It's out.

COMMISSIONER WATLING: And I notice Mr Baker is nodding as well, so -

MR EDWARDS: That's now agreed then sir, that item 45 would be removed; 47 in the terms in which it's expressed, I believe is totally appropriate, as is item 48. Having said all that commissioner, it would be our submission that the award insofar as title and scope including the definition - if that's possible under the rules of the commission, I'm not certain whether it is or not -

COMMISSIONER WATLING: Well, certainly I'll include it in my decision.

MR EDWARDS: That would be fine commissioner - can be made with the only outstanding issue being, as I understand it, item number 8 which would appear to me to be one that needs to be resolved by way of some form of timetabling. It would be my view, subject to what we may be able to discuss in a moment perhaps off the record, in respect of scheduling of hearings, given that Mr Baker has undertaken to make an application to vary the Plumbers Award although I would caution both Mr Baker and, I guess, to some extent, the commission that upon receipt of that application I would have to consult people on it before it could be brought on.

But I would be prepared to move fairly expeditiously on that and before Christmas if at all possible and that would depend on the application being made and us being able to slip a hearing in which would be, I guess, a relisting of this particular matter and a listing of the plumbers' matter - we may be able to dispose of them both at the same time. If that's not possible, due to time constraints, then I would be suggesting that the operative dates for the creation of the scope clause in this particular award should be, say, about the 15th February, given that Mr Baker has already indicated that certainly he's away and I'm away and Mr Long is away in the early part of 1992 and that would give us then sufficient opportunity to deal with the plumbers' matter.

I'm really in the hands of the commission which way you would prefer to do it. Obviously for everyone it's best to get it out of the way as quickly as we can.

COMMISSIONER WATLING: I'm just thinking aloud here, another alternative may be to leave No. 8 in - sheet metal working - and then with the additional words excluding that work which

appears in the definition of Plumber's work et cetera and we're going to have to include a provision in this order to make sure that at this stage employers are referred back to mechanical engineers and founders. We could also -

MR EDWARDS: It is picked up by clause 5, commissioner, of the draft.

COMMISSIONER WATLING: Right. We could also include the Plumbers Award.

MR EDWARDS: Yes.

COMMISSIONER WATLING: Right. And then they would be referred back to the Plumbers Award as well as the Mechanical Engineers and Founders Award until that clause is removed.

MR EDWARDS: In that regard, commissioner, just teasing that concept out, if I could perhaps take the commission to clause 5 of MEWU.1 wherein Mr Baker did say, I think he was coming back to clause 5 - obviously in the heat of the moment it was overlooked:

THAT until the making of this award has been finalised in respect of wage rates and conditions of employment or until this proviso has been deleted, employers falling within the Scope of this award, shall, where appropriate classification appear therein, observe the Mechanical Engineers and Founders Award -

and I guess we could just add there 'and/or', I suppose, 'and/or the Plumbers Award in all respects'. I would have no objection to that commissioner. It would seem to me to adequately cater for the situation. Having said all that commissioner, I would now indicate that we have no objection whatever to the making of the new award in respect of title and scope.

COMMISSIONER WATLING: Right, thank you.

MR BAKER: Perhaps if I could just seek some clarification from you, sir.

COMMISSIONER WATLING: Yes.

MR BAKER: In relation to item 8 -

COMMISSIONER WATLING: We might just have to - we might just go off the record and have a look at the words that we're going to end up with in item 8.

OFF THE RECORD

COMMISSIONER WATLING: Mr Baker, I understand there's an agreement on how clause 8 should read in the interim.

MR BAKER: Yes, sir. In relation to point 8, we would suggest to you, sir, that it should simply read: Sheet metal working. And then the full stop is inserted and the brackets: (excluding that work which is covered by the Scope Clause of the Plumber's Award), be removed and then if I draw your attention to clause 5 - the proposed clause 5, the savings provision - we would now suggest to you that it should read in the following terms:

PROVIDED THAT until the making of this award has been finalised in respect to wage rates and conditions of employment or until this proviso has been deleted, employers falling within the Scope of this Award, shall, where appropriate classifications appear therein, observe the Mechanical Engineers and Founders Award and/or the Plumbers Award in all respects.

Sir, it would be our intention to make an application to this commission to give effect to what is sought in this award by varying the Plumbers Award insofar as its scope and definitions clauses are concerned so that the area of sheet metal working is clearly delineated between the two awards of plumbers and metal and engineering work and it will be our intention to make that application to this commission as soon as possible. I believe sir, that clears the last impediment to the making of the award in the manner which has been outlined to you today.

COMMISSIONER WATLING: Good, thank you. Any further submissions? No further submissions. Well, I can indicate to the parties that I will hand down a written decision in due course but this is part of an ongoing program to restructure the Mechanical Engineers and Founders Award and whilst we've completed a number of amendments in the Mechanical Engineers and Founders Award, there was a need if we were going to stick to the program - the restructuring program - to establish this new award known as the Metal and Engineering Industry Award and to that extent I endorse the application before me this morning.

It will be made in the terms set out when one looks at the title and the scope; the order will also contain an operative date plus a savings division and a savings provision within that area. I indicate to you that the decision will clearly point out the definition of the industry and the areas to be covered within this award even though it won't fall in definitions clause at this stage but the parties will be left

in no doubt as to the precise industry that we're talking about.

I'll try and get that decision out as soon as possible and the application will still remain open because there will be a need for organisations who believe they have an interest in this award to make application, and after dealing with that matter we will then proceed to look at the contents of this award. I would have to say that, prima facie I don't see it varying in any great detail from that which now applies in the Mechanical Engineers and Founders Award but there may be some minor alterations that have to take place.

We did have a major discussion as to the contents of the Mechanical Engineers and Founders Award including who would be covered within that area and I note also that it even went to appeal. So I don't really anticipate arguing all these matters afresh but then again I suppose I'm in the hands of the parties. This matter is now concluded but the application will remain open for further consideration on contents and wage repeats. Thank you.

HEARING CONCLUDED