

**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

**T. No. 265 of 1985**

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**IN THE MATTER OF** applications  
by the Tasmanian Public  
Service Association and the  
Tasmanian Trades and Labor  
Council to vary salaries and  
allowances in nominated public  
and private sector awards in  
accordance with the National  
Wage Case decision of  
4 November 1985

**FULL BENCH**

PRESIDENT

DEPUTY PRESIDENT

COMMISSIONER WATLING

HOBART, 11 November 1985

**TRANSCRIPT OF PROCEEDINGS**

PRESIDENT: I will take appearances, thank you.

MR LENNON: **LENNON, P.A.**, appearing on behalf of the Tasmanian Trades and Labor Council.

MR EVANS: **EVANS, A.H.** appearing on behalf of the Tasmanian Public Service Association.

MR IMLACH: If the Commission pleases, **IMLACH, P.** appearing on behalf of The Hospital Employees' Federation of Australia Tasmanian Branch No. 1.

MR HANSCH: If the Commission pleases, **HANSCH, B.J.**, appearing on behalf of the Transport Workers' Union of Australia, Tasmanian Branch.

MR BUTLER: **BUTLER, M.G.**, appearing on behalf of the Federated Liquor and Allied Industries Employees' Union of Australia, Tasmanian Branch.

MR GRANT: If the Commission pleases, **I.G.M. GRANT**, appearing on behalf of the Royal Australian Nursing Federation, Tasmanian Branch.

MR HARRIS: If the Commission pleases, **HARRIS, G.**, appearing on behalf of the Tasmanian Prison Officers Association.

MR NIELSEN: If the Commission pleases, **NIELSEN, P.L.**, appearing on behalf of the Ambulance Employees' Association of Tasmania and The Bakery Employees and Salesmen's Federation of Australia.

MR NOONAN: If the Commission pleases, **NOONAN, P.**, appearing on behalf of the Federated Clerks' Union of Australia.

MR BAKER: If the Commission pleases, I appear on behalf of the Association of Draughting Supervisory & Technical Employees, **BAKER, B.**

MR COVE: If the Commission pleases, **COVE, M.**, appearing on behalf of the Tasmanian

MR COVE: Institute of Superintendents for Education.

MR ADAMS: If the Commission pleases, **ADAMS, R.**, appearing on behalf of the Federated Miscellaneous Workers' Union and the Printing and Kindred Industries' Union.

MR HEVEY: If the Commission pleases, **HEVEY, R.**, appearing on behalf of the Plumbers and Gasfitters' Union.

MR GLISSON: If the Commission pleases, **GLISSON, J.**, appearing on behalf of the Federated Ironworkers' Association.

MR McDERMOTT: If the Commission pleases, **McDERMOTT, G.**, appearing on behalf of the Police Association of Tasmania.

MR FORSTER: **FORSTER, J.**, appearing on behalf of the Australasian Society of Engineers, Federal Council.

MR ADAMS: If the Commission pleases, **ADAMS, G.D.**, appearing on behalf of the Amalgamated Metal Workers' Union.

MR HANLON: **HANLON, D.P.**, appearing on behalf of the Australian Workers' Union.

MR ABEY: If the Commission pleases, I appear on behalf of the Tasmanian Chamber of Industries, the Meat and Allied Trades Federation of Australia, the Forest Industries Association and the Electrolytic Zinc Company, **ABEY, T.J.** With me appears **MR T. EDWARDS.**

MR STEVENS: If the Commission pleases, **STEVENS, M.**, appearing on behalf of the controlling authorities.

MR DURKIN: If the Commission pleases, **DURKIN, D.**, appearing on behalf of the Tasmanian Farmers' and Graziers' Employers Association.

MR TAYLOR: If the Commission pleases, **TAYLOR, T.J.**, appearing on behalf of the Australian Mines and Metals Association Incorporated.

JS/JR - 11.11.85

APPEARANCES

MR BLACKBURN: If the Commission pleases, **BLACKBURN, J.G.**, appearing on behalf of the Retail Traders' Association, Tasmanian Branch.

MR SMITH: If the Commission pleases, **SMITH, A.J.**, appearing on behalf of the Master Builders' Association of Tasmania.

MR WEITNAUER: If the Commission pleases, **WEITNAUER, M.T.**, appearing on behalf of the Council of Advanced Education.

MR JARMAN: If the Commission pleases, I appear on behalf of the Minister for Industrial Relations in accordance with section 27 of the Act, **JARMAN, M.**

PRESIDENT: Gentlemen, in view of the hour and the fact that we had decided to arise at 10.55, and resume at 11.05, I wonder if there is much we can do between now and then.

Have the orders of address been established?

MR LENNON: Yes, Mr President.

PRESIDENT: Perhaps you could tell us the order in which submissions will be presented? Who will be leading off for the unions?

MR LENNON: I will be leading off, Mr President, and my colleague from the T.P.S.A., Mr Allan Evans, will be following. Then there will be submissions, as required, by my fellow trade unionists.

PRESIDENT: Then we will hear from you, Mr Jarman?

MR JARMAN: That is correct, Mr President.

MR ABEY: I will be leading for the employers, Mr President, followed by my colleague, Mr Edwards.

JS/JR - 11.11.85

APPEARANCES

PRESIDENT - LENNON - JARMAN - ABEY



MR ABEY:

Mr Stevens will be next followed by my colleagues from other employer organizations.

PRESIDENT:

Thank you very much.

We will adjourn now until 11.05. We will expect to hear from you, Mr Lennon.

...

PRESIDENT:

Mr Lennon?

MR LENNON:

Thank you, Mr President and members of the Bench.

Our application results from the recent decision of the Full Bench of the Conciliation and Arbitration Commission, where they decided to increase wage rates and appropriate allowances by 3.8 percent for all the awards in their jurisdiction, operative from 4 November this year.

Before I proceed, I would like to amend our claim slightly. I have an exhibit which adds to the list of awards to be varied in the public sector.

I believe that these awards would have been covered in the application made by the Tasmanian Public Service Association, but to remove any doubt I have added that exhibit to our claim this morning.

PRESIDENT:

Mark that, Exhibit A.

MR LENNON:

Our claim is in line with the decision of the Full Bench of the Federal Conciliation and Arbitration Commission, which is appendix 3 of our application. That decision is to increase all wage rates and appropriate allowances in all private sector and public sector awards by 3.8 percent.

JS/JR - 11.11.85

PRESIDENT - ABEY - LENNON - SUB

MR LENNON:

In support of our application, I remind the Commission of Principle 1 of the Wage Fixation Principles. I have an exhibit, which outlines Principle 1.

PRESIDENT:

Mark that, Exhibit B.

MR LENNON:

Principle 1(a) indicates:

"Subject to Principle 3, the Commission will adjust its award wages and salaries every six months in relation to the last two quarterly movements of the eight-capitals CPI unless it is persuaded to the contrary by those seeking to oppose the adjustment."

Clearly, the onus is upon others to dissuade this Commission from granting our claim in this instance.

Nevertheless, for the record, I refer the Commission to the Federal decision, which is Print G0700. I have some extracts from that decision.

PRESIDENT:

Mark that Exhibit C.

MR LENNON:

I am mindful that it is still incumbent upon this Commission to satisfy itself as to the public interest in considering this application. I have taken from the Federal decision, that part of its findings which deals with the economy.

Without reading the full text of pages 8, 9 and 10 of the decision, it is sufficient to say that the Commission, in considering the economy at some length during the submissions of the national wage case run by the A.C.T.U. in the Federal jurisdiction, became clearly of the view that the economy of this

MR LENNON:

country was continuing to grow at a rate acceptable to them. They found in the final analysis a decision in favour of the union movement and the work-force generally of this country. That decision was to increase wages and allowances by 3.8 percent.

They found that the gross non-farm national product had grown by 5 percent in 1984-85, and that came after a rise of 3.4 percent in the previous year. They found that employment had grown by 2.8 percent in 1984-85 compared with .9 of 1 percent in 1983-84, and over the year to September 1985, the growth rate was 3.2 percent. The unemployment rate had fallen from 9.6 percent in 1983-84 to 8.6 percent in 1984-85, and to September this year, it had further fallen to 8.1 percent.

Overtime worked in May 1985 was 10.8 percent higher than in May 1984. Job vacancy figures had risen significantly over the year. Retail sales have continued to grow in real terms; the June 1985 figure was 2.8 percent higher than the figure in the previous year.

On the negative side, they dealt in some detail with the devaluation of the Australian dollar. I would simply like to say, with respect to that, that we in the union movement are also concerned about the decline of the Australian dollar. We have addressed ourselves to this problem. We have reached an agreement with the Commonwealth that the effects of the devaluation should not be reflected at this national wage hearing, but should be reflected, up to a maximum of 2 percent, in the first national wage case to be held next year.

In addition, we have agreed through the A.C.T.U. to limit our productivity claim to a 3 percent

JS/JR - 11.11.85

LENNON - SUB



MR LENNON:

wage equivalent, to be implemented by way of improvements to occupational superannuation.

All of these arguments were put before the Federal Commission, who, despite strong opposition to the contrary from the employers, found no compelling circumstances for the immediate discounting to take effect with the devaluation. You will find that at the bottom of page 17, where they say:

"We have therefore come to the conclusion that the economic effect of postponing the 1.2% discounting to April 1986 is minimal and transient and will have a negligible impact on the economy's competitive advantage brought about by the devaluation."

They were inclined to accept the proposition put by the A.C.T.U., that the effect of discounting of the C.P.I. to take effect with the devaluation, should be postponed until 1986.

In addition to the statements made by the Full Bench, as to the strength of the Australian economy, (which is a consideration that they take account of when considering national wage increases) it is well to note that the Premier of this State, in his budget speech of 1985-86 had this to say in respect of the Tasmanian economy:

"Today, Tasmania leads the nation in many of the key economic indicators. There are now more Tasmanians in jobs than ever before. We are creating jobs three times faster than the rest of Australia. Last financial year, 10,500 new jobs were created, a growth rate of 6.2 per cent compared with the national average of 2 per cent.



MR LENNON:

We are leading Australia in building new homes, again three times the national average.

No other State has recovered so strongly; no other State has done so well."

They are the views the the Premier of this State. They are to be found on page 3 of his budget speech, 1985-86, tabled in the House of Assembly, Wednesday 18 September, 1985.

Whilst we may not agree with the totality of his statements, we do agree that, in general terms, there are no compelling circumstances, relating to the economy of Tasmania, that should dissuade this Bench from granting the flow-on of the 3.8 percent national wage rise at this time.

We shall consider the unemployment figures specifically. I have two exhibits which I will pass up together.

PRESIDENT:

Which one will you deal with first?

MR LENNON:

Catalogue No. 6202.0.

PRESIDENT:

Mark Catalogue No. 6202.0 Exhibit D. The Monthly Summary of Statistics becomes Exhibit E.

MR LENNON:

Thank you, Mr President. If we look at Exhibit D., it shows that the unemployment rate in Tasmania was 9.9 percent at September 1985. This does not compare too favourably, as we are all aware, with the national average of 8 percent, seasonally adjusted to 8.1 percent.

It does, however, indicate that if we compared the unemployment rate in Tasmania in September 1985 with the rate for the same period last year, it has declined marginally by about .5 of 1 percent. It has declined marginally as well, compared to the percentage rate which was applying in Tasmania two years ago in October

JS/JR - 11.11.85

LENNON - SUB

MR LENNON:

1983. When the Principles came into being in October 1983 we had an unemployment rate in excess of 10 percent.

In considering the unemployment rate in Tasmania, I believe that it is appropriate to look at page 1 of Exhibit E. In October 1983 we had a total labour force of 186,000 in the State. If you look at the second column of Table 10, which is on the second page of the exhibit, you will see that in October 1983, we had 39,400 persons, or 21.2 percent of the work-force, employed in the government employee sector - the State sector.

In March 1985 there were 201,200 persons employed in the work-force in Tasmania. Out of this number 39,000 persons or 19.4 percent of the work-force, were State Government employees.

If we were to maintain the relative percentage, that is 21.2 percent of the work-force, then there should have been 42,650 State Government employees employed in this State as at March 1985.

If we then took the total labour force of 201,200, the total number employed would have been 187,000 and unemployed, 14,200. That would have given us an unemployment figure of 7.05 percent as at March 1985, compared with the actual percentage of 8.9 percent.

Clearly, as at March 1985, the high percentage of unemployment in this State, compared with the national average, could be attributed to a certain extent to government cabinet decision-making, and not to the general effects of the economy such as wage increases et cetera. It is a direct result, in my view, of a government policy to cut down the

MR LENNON:

size of the public sector work-force in this State compared with the overall work-force.

If we were to transfer the figures even further, to September 1985, where we have the total work-force of 199,500, which is down .85 of 1 percent on March, and if we were to reduce the public sector by the same percentage, which would equal the reduction of 36 persons, then the total labour force employed would have been 183,400. This is compared with a total, including those seeking employment as well as those employed, of 199,500, which would give us a total of 16,100 persons unemployed. That would equal an unemployment rate of just over 8.07 percent, which would be right on the national average, instead of 9.9 percent.

I think, in considering and in analysing the unemployment rate in Tasmania at present, that one should be mindful that the unemployment rate is so high as a direct result of government policy. It is a direct result of a policy to reduce the public sector work-force in this State disproportionately, compared to what it was two years ago, when these Principles came into being. The union movement was asked to give a commitment to the economic recovery of this State. This commitment was to hold back on extra claims, and to co-operate with the improvement of the economy, in return for centralized wage fixation.

We have stuck by our commitment. In the two years since we gave that commitment, we have seen a downgrading of the public sector work-force. This, I believe, (at least on examination of the raw figures) shows that it has been almost singularly responsible for the Tasmanian unemployment rate being way above the national average at this stage.

JS/JR - 11.11.85

LENNON - SUB



MR LENNON:

We do not disagree totally with the government policy. However, even if it had been halved, and slowed down, the effects it would have had on the persons employed in this State would have been rather dramatic.

A decision not to grant our claim, as I think I indicated at the last hearing, would create an amount of injustice. I think that in your decision on job protection and termination, you indicated that the number of persons employed in State and in Federal awards in this State, was about the same. There was, from your own figures, a slightly higher number of people employed under State awards. Nevertheless, a significant number of people in this State are employed under Federal awards. The decision has already been made to grant those people an increase of 3.8 percent.

To deny the increase to persons employed under State awards, would create undue and unnecessary pressure. If you were not persuaded by exceptional and compelling circumstances, which we believe do not exist, it would create unnecessary pressure upon the work-force of this State.

I believe that the union movement in this State has abided by the commitments that it gave in 1983, almost without exception over the two years. This has had great bearing upon the level of recovery that we have seen not only in this State, but across the nation generally.



MR LENNON:

The guidelines have proved successful in that regard. We say that there is no compelling reason that the 3.8 percent should not be passed on, as a matter of urgency, to employees covered under the State awards. We would ask that the operative date for any increase to this grant, be the same as in the Federal decision, that is the first pay period on or after 4 November 1985.

I have not got anything further to add at this stage Mr President.

PRESIDENT:

Mr Lennon, I imagine that there is a number of orders and agreements that contain wage rates. How should we view those?

MR LENNON:

We would ask that agreements as well as awards be passed on, and be given the 3.8 percent increase.

MR EVANS:

Mr President and other members of the Bench, I support in totality the submissions of my friend Mr Lennon. I believe that the Commission has before it today, one overriding principle to consider in determining what its attitude will be. That is, whether or not there is any good reason, in the public interest, that this Commission should not follow a decision by the Full Bench of the Conciliation and Arbitration Commission, in making its determination in what is euphemistically called 'the National Wage Case'.

Some two years ago the Commission adopted a decision and a set of Principles which have, I think, in the main, contributed to the higher level of industrial stability which has occurred in this State. In Tasmania, the then Industrial Boards and the Public Service Board followed similar lines. Their decisions replicated, as much as was possible, with particular regard to the State attributes, that decision. We are now coming to the

JS/ZB - 11.11.85

PRESIDENT - LENNON - EVANS

MR EVANS:

last stage of that decision which applied the Principles for two years. I believe that it is incumbent upon this Commission to have regard to what has occurred over the previous two years. In respect of the Principles, there has been substantial compliance by the union movement, but more particularly, in my submission, in respect of the public sector. Albeit at times, there has been a great deal of concern in particular elements of the public sector about levels of wage rates, they have complied with the Principles. They have sought to conduct any applications for variation of wages and allowances in accordance with the Principles.

I think that this is contributory to the remarks which my friend Mr Lennon quoted from the budget speech of the Treasurer of this State, of 1985/86. I think that it has also been recognized by that Government that there is an expectation that the Principles will continue for some time. It is to be expected that the method of determining wages that has been encompassed by the Principles will also continue.

In that same speech to the Parliament in his 1985/86 budget speech, the Treasurer said on page 25:

"This year, the cost of salaries and wages which are a direct charge on Consolidated Revenue, is estimated to increase by 4.4 percent, from \$509 million in 1984-85 to \$531.6 million. In addition, provision has had to be made for possible future increases arising from the National Wages Cases to be heard by the Arbitration Commission this month and in the first half of 1986.

An amount of \$22 million has been set aside in the Treasurer's Reserve to cover

MR EVANS:

future wage increases and  
increases in other costs."

There is clearly an expectation on the part of the Government that they will have to meet increases to the salaries of their employees. This will be due to decisions, not only of the Conciliation and Arbitration Commission but more particularly, in respect of their own employees, decisions of this Commission. I am not suggesting that they are pre-empting any of your decisions. I think that it is recognised that, in Tasmania, it is only fair and only equitable that decisions which apply on a national basis to other public sector employees will also apply to Tasmanian public sector employees.

I believe that to do other than follow the decisions of the national wage case, with the variations necessary to take account of local circumstances, (I am more particularly referring to the anomalies and inequities procedures, and the mechanisms that you need to have to ensure that they are carried out) would present a great injustice to a significant number of public sector employees in this State.

I would also like to draw the Commission's attention to the need for the Commission, when it makes a decision, to do so in a relatively short space of time. There had been an expectation, when the original decision was brought down some two years ago, that the cases would be heard in August in respect of the particular quarters we are looking at. We are now into November and the State Commission has been able to consider the submission that we are making, and whether or not it will make any adjustments to wages. That presents a very great difficulty in terms of the time span needed, for such a large organization as the public sector in Tasmania, to make the necessary

JS/ZB - 11.11.85

EVANS - SUB



MR EVANS:

adjustments to the method and payment of wages, if they are to be adjusted.

I would respectfully urge the Commission to make a decision in a relatively short space of time. This will mean that all of the necessary procedures which will follow from such a decision, if it does adopt the national wage case decision, can be put in place fairly quickly. Hopefully this Commission will assist some of the employees in this State to get a nice Christmas present.

PRESIDENT:

Thank you Mr Evans.

Any employee organizations wishing to support this submission?

MR IMLACH:

If the Commission pleases, I support the submissions made by Mr Lennon and Mr Evans.

PRESIDENT:

Thank you Mr Imlach.

MR HANSCH:

If the Commission pleases, I wish to support the submissions made by our previous members.

PRESIDENT:

Thank you Mr Hansch.

MR BUTLER:

Sir, I would also like to support the submissions put forward.

PRESIDENT:

Thank you Mr Butler.

MR McIVER:

Sir, the Association of Tasmanian Further Education Staff also supports the submissions.

PRESIDENT:

Thank you.

JS/ZB - 11.11.85

PRESIDENT - IMLACH - HANSCH - BUTLER  
- McIVER - EVANS



MR BAKER:

Sir, the Association would also like to endorse the comments made by the principal advocates on behalf of the unions.

PRESIDENT:

Yes, thank you Mr Baker.

MR GRANT:

The Royal Australian Nursing Federation supports the submissions. We would like to put forward our appreciation of the Commission moving with some expedition with regard to these proceedings.

I would also like to endorse something said by Mr Evans in relation to the public sector, and the payment of any increase. There was a difference in the payment arrangements. In our case nurses are employed in the public sector, in the private sector and also in the Public Service proper. The payment arrangements were quite different and occurred at different times. The delay - and I will call it undue delay - that occurred in the Public Service Board area proper, occurred because of some confusion as to approval from the Public Service Board, and the Public Service Board having Treasury approval.

We would invite the Commission to make some observation about payment, and when payments shall be effected. I find it difficult to understand how employers in the private sector and in public hospitals should be able to pay many weeks before the Public Service Board itself.

PRESIDENT:

You are referring to implementation and instructions, or lack of them?

MR GRANT:

Yes I am. Thank you.

PRESIDENT:

Yes Mr Hanlon.

JS/ZB - 11.11.85

PRESIDENT - GRANT - BAKER

MR HANLON:

I also support the position of Mr Lennon and Mr Evans. In doing so, I also support the position about the payment in the public sector. There is an acceptance that the Commission has issued an order binding on all of the awards. It seems that there is still a belief that one has to wait for publication in the Gazette. That is the view held within some departments. That may not be the view held by the Board or by the office of Industrial Relations. It is still, however, the view held in some of the smaller Government departments and offices.

I wish to make some comments about the opposition there has been in the Federal jurisdiction, particularly in the rural sector. I wish to foreshadow (not knowing exactly what form the employers' case will take) that I may wish to make comments in reply to what the rural sector may put in regard to the Tasmanian situation. I think that any representations that are made should have to address the question of subsection (7) of section 35 of the Act. This clearly refers to an application, as is before the Commission today, that is an application different in nature to an ordinary variation to the award. This application was initiated because the Australian Commission has moved and affected employees covered by Federal awards in this State.

Subsection (8) says that the Full Bench may be subject to such conditions as it considers appropriate and as are specified in the order; the order that you may issue arising out of the application.

It then provides, in subsection (9), for who may appear and to what extent. The application may be made either by the Tasmanian Chamber of Industries or by an organization with more than five awards.

JS/ZB - 11.11.85

HANLON

MR HANLON:

That then leaves only one application for an intervener and that is the right to be heard in regard to the application mentioned in subsection (7). The issue then is that the person must have sufficient interest. Subsection (10) says:

"An application under paragraph (a) of sub-section (9) made by an organization lastly referred to in that paragraph shall not be heard unless the President, having regard to the subject-matter of the application, considers that the hearing of that application would not prejudice the orderly conduct of industrial relations in Tasmania."

It seems to me that the application made by any employer is restrictive to a comment on the application made by an employer Association, or the Trades and Labor Council, or somebody who has an interest in more than five awards. It is not open to any organization to come along with an application other than a position of either supporting the application or opposing it. It is not open to an organization to argue an alternative case. I make those points so that any employers who wish to put in an application, will address those points. I then may, depending on the thrust of the application, respond to it.

PRESIDENT:

Thank you Mr Hanlon.

MR HARRIS:

Mr President, I would just like to say on behalf of the organizations that we represent that we support the thrust of the application made by the Secretary of the Trades and Labor Council, and the Federal Secretary of the T.P.S.A.

PRESIDENT:

Thank you Mr Harris.

MR NIELSEN:

Mr President, the Federated Ironworkers' Association also

JS/ZB - 11.11.85

PRESIDENT - HANLON - HARRIS - NIELSEN



MR NIELSEN: supports the application and the submissions put forward by Mr Lennon and Mr Evans.

PRESIDENT: Thank you Mr Nielsen.

MR ADAMS: Sir, I would also like to give my support to the submissions put by Mr Lennon and Mr Evans.

PRESIDENT: Thank you. Now Mr Jarman.

MR JARMAN: Thank you Mr President.

I am indebted to Mr Lennon and to Mr Evans for mentioning, this morning, that the applications before this Commission are being dealt with under the Principles. Practically speaking, the Principles which have been in operation within this jurisdiction, are being observed. Theoretically, we are of the belief that those Principles expired on 6 October 1985. We are unaware of any conscious decision by this Commission to make a statement on the continuance of those Principles.

We believe, as we sought in the Federal Commission, that this Commission should make a statement about the continuance of the Principles, prior to hearing the remainder of this matter today.

I would like to make some quotes from the national wage case transcript. The Commission would no doubt be aware that, leading into the national wage case, there was considerable debate as to how certain matters should be dealt with. There were three distinct matters before the Federal Commission; the case for productivity; a review of the Principles; and a claim for a 3.8 percent wage increase based on the movement in the Consumer Price Index.

If I could refer the Commission to page 37 of the national wage case



MR JARMAN:

transcript.

MR LENNON:

Excuse me, I wonder if you have copies of this.

MR JARMAN:

I do not, but I would be prepared to have this read into the transcript.

The advocate for the Federation of Australian Industry has the following to say :

"My clients strongly believe that the time for a review of the principles has now arrived and for that reason this case should commence the inquiry into the existing principles so that a new package may be ready to be put in place when the current principles expire. In our respectful submission it would be most undesirable for the current principles to expire without new principles being put in place as uncertainty and confusion would be the inevitable result.

We put it to the commission that this hearing should mark the commencement of the process of review of the principles and we remind the commission of the wording of the commitment given in most no extra claims provisions which expressly refers to two years. If it is felt by the commission that further conferences are desirable between the parties in relation to new principles before proceeding to formal hearing, then my clients are more than prepared to participate in such confidences but they emphasise that such confidences should be seen as part of the proceedings commenced here today."

MR JARMAN:

Tasmania has the following to say on the question of the Principles. I quote from page 58-59 of transcript:

"Tasmania submits that a hiatus should not be allowed to occur, subsequent to the determination of the existing principles. It is our preferred position that a review of the current principles be carried out prior to dealing with any other matters. We are however cognisant of the fact that any review of the principles may not be determined prior to 6 October. On that assumption, we would support an extension of the current principles, providing that the unions are willing to give undertakings to adhere to the existing principles during an extension of their operation."

I make a further quote from page 62 of transcript. The advocate for the A.C.T.U. had the following to say:

"Your Honour, there are two issues involved; one is extension of the principles, and that is a matter for the commission; in relation to the commitment, affiliates have made their commitment to the commission's principles on an individual basis as required by the commission and it is not appropriate for the ACTU on a collective basis to extend that commitment. The commitment has been given to the commission's principles which provide for the CPI application within the period of the commitment and the application, in our submission, should be

MR JARMAN:

dealt with against those specific commitments. It is not a matter for the ACTU to, on a collective basis, extend commitments; it is not consistent with the current basis of the principles."

If I could then take the Commission to page 115 of the national wage case transcript and this was a decision made by the Full Bench on 5 September 1985. No doubt the Commission is aware of this particular statement, however I believe it bears repeating:

"The issue to be determined is whether the three applications before us should be heard jointly or separately; and if separately, whether the present principles should continue to apply pending the outcome of the review of the principles.

Although the three matters have certain economic considerations in common, they raise a variety of different and complex issues. In relation to some of the issues connected with the productivity claim and the review of the principles, conferences might be the appropriate way of dealing initially with them. It follows that it could take considerable time for these matters to be fully heard and properly decided."

On page 116 of transcript:

"We have therefore decided that in order to comply with the terms and spirit of the principles, we should first hear and determine the application for a 3.8 per cent national wage increase.

MR JARMAN:

However, this course of proceeding should not be seen as denying the inter-relationship between the three matters before us."

Then on page 117 of transcript:

"In all the circumstances it is inevitable that there will be a time gap between the expiry of the present system and the outcome of the review of the principles. The actions of the parties in this period will have a material effect on the outcome of the review and on the future of a centralised system of wage fixation. Concern was generally expressed that no hiatus should develop in the operation of wage-fixing principles in a way which might prejudice the outcome of the review, and that to avoid such a situation the present principles should continue to apply until the commission has made its decision on the review of the system."

If I could take the Commission to page 119 of transcript and make a further quote. The Commission went on to say:

"We endorse the view expressed by ACPA that an extension of the 'no extra claims' undertaking to the



MR JARMAN:

interim period `would be a reasonable expectation, to ensure that the review is not prejudiced by actions which violate the requirements of a centralized system.' On all the above considerations, we have decided that the 3.8 per cent claim based on the CPI should proceed immediately and that the present principles will continue to operate pending the outcome of the review."

**PAGE 25 MISSING**

MR JARMAN:

within which the commission's wage fixing package operates, emphasize the medium and longer term considerations relevant to this case and consider the current claims in the context of what is necessary for the maintenance of a viable centralized system over time."

If I could just make one last quote on that particular matter. Again, to page 384 of transcript, Mr Deputy President Isaac had the following to say:

"On the question of no extra claims undertakings, Mr Merkel, can it be assumed from what you put to us that if we grant or accede to the approach that you are suggesting, namely, full indexation on this occasion with a clear understanding that there would be 2 per cent, or indeed, more, depending on the way in which the devaluation situation develops, that prior to the review of the principles an undertaking will be sought on the granting of the CPI adjustment in the way it was done on the last occasion?"

Mr Merkel had the following to say:

"We would submit that that would be consistent with our approach. We say that of course we have a starting point of continuance of the principles and with it a continuance of the commitment that has already been granted in respect of those principles by the unions, but we would see it as consistent with the agreement if the commission thought it appropriate for a reaffirmation of the commitment to ensure that there could be no hiatus in that regard."

JS/CW - 11.11.85

JARMAN - SUB



MR JARMAN:

Again, on page 386, Mr Merkel said:

"Yes. We see no reason at all why the commitment ought not to be sought and indeed, in the principles review case we will certainly be submitting to the commission that the commitment provision has worked and has worked well and ought to be continued, so within that context we see no reason why it would not or should not apply during the hiatus period."

Tasmania, in its submissions, had the following to say in reply to a question from the Bench on commitment, on page 441:

"May it please the commission: Tasmania's position with respect to the current principles and the extension of those principles, we did say in submissions leading into this matter that we supported an extension of the existing principles to overcome any hiatus that may otherwise have occurred. We also said at that time that it was our preferred position that further commitments or renewed commitments be made by the unions on any wage increase coming from this matter. If the commission pleases."

Our respectful submission: We believe that it is appropriate that this Bench make a decision on whether or not there is to be a continuance of the Principles, as they were when established in September 1983. We also believe, as did the Full Bench in the Conciliation and Arbitration Commission, that further commitments will be required from the employee organizations. These commitments will be required if they seek to have the 3.8 percent increase included in awards operative within their jurisdiction.

JS/CW - 11.11.85

JARMAN - SUB

MR JARMAN:

I will have other comments to make about the wage claim. I have made a submission requesting this Bench to make a decision on a matter which we consider to be important.

PRESIDENT:

Thank you, Mr Jarman. Mr Lennon, we invite you to comment on Mr Jarman's submission regarding an extension of the Principles either during the hiatus period, or to overcome any hiatus period, between the time that the existing Principles lapsed and the commencement, if there is to be a commencement, of any revised Principles.

MR LENNON:

Mr President, I believe that the attitude of the trade union movement has been a responsible attitude in the circumstances. The expiration of the Principles on 6 October did not herald the state of union claims throughout industry in this State, or in any other State. I was waiting anxiously for Mr Jarman, on behalf of the Government, to provide evidence that the union movement had abandoned the Principles. I did not hear any such evidence, nor did I hear of any indication from the Full Bench of the Conciliation and Arbitration Commission that any evidence was in front of them. There was no evidence that would lead them to the belief that the union movement had considered that the Principles had expired, and therefore that we were back to the 'old days'.

I believe that the union movement, in this instance, is prepared to act in a responsible manner during the hiatus period, as you describe it. That is the time between the expiration of the set of Principles which we have had for the last two years, and the establishment of a new set of Principles. Our final attitude will have to depend on any decision that the Commission might make with respect to our claim.

**PAGE 29 MISSING**



MR EVANS:

whilst there is a review. Whether that review is conducted expeditiously, or not, is another issue. It is quite clear that there is going to be a review of the Principles, by the Conciliation and Arbitration Commission and one would expect, following that, by this Commission.

Therefore, I think that it is important that the Commission recognizes the obligation of all the parties to the Principles. If there is some hiatus envisaged, then I do not really see that it can be overcome in any other way than by the Commission extending the Principles for the period of time when it concedes there might be a hiatus.

The union movement, for its part, has had a decision placed before it. It has not yet totally considered its position, but I think that it is moving very strongly towards a particular position. It certainly did not have any difficulty in proceeding with the case when the National Wage Bench in September 1985 extended the Principles. I do not think that I would be about to leave the room if this Commission were to decide to extend the Principles for some limited period of time.

PRESIDENT:

Thank you. Mr Imlach?

MR IMLACH:

Mr President, members of the Bench, I submit that it is not necessary for this Commission to answer Mr Jarman's question at this stage.

I would submit that we have a case here - the final case in the present two-year term - that ought to be decided.

I would expect that this Commission will extend the Principles until after the review. In my submission, that would be part of the decision of this Commission.

JS/CW - 11.11.85

EVANS - IMLACH

MR IMLACH:

In that context, I am quite confident (I speak for my own branch) that the unions will be ready to commit themselves, as was required in the national decision.

In that context, I do not see any problem with proceeding. Mr Jarman's question will be answered at the end of proceedings, when the decision is given.

PRESIDENT:

Thank you, Mr Imlach. Mr Hanlon?

MR HANLON:

I would like to take up the point raised by Mr Imlach.

It seems to me that what has been raised here this morning is really a procedural matter. The application that is before you is very clear - it seeks the flow-on of the 3.8 percent increase. What is now being put in terms of seeking an adjournment is for some other application. That is not an application which is before us in a form. It is not something that is being sought in specific terms to which we can respond.

Section 35 provides that you exercise your discretion in this area; subsection (8) provides that your order may spell out the terms of that decision.

As Mr Imlach has pointed out, while you are reaching your decision as to whether or not the applications that are before you should be granted, the parties could appear before you to put submissions as to how that order should occur. It may follow the suggestion at page 22 which sets out, about the commitment, whether the commitment is exactly the same in terms of that commitment, or whether the Tasmanian commitment follows the previous one where the parties wrote in, without the effect of a forcible amendment to each of the awards. I think that the success of the Tasmanian guidelines is that it did not require the formal order in each

MR HANLON:

award, and that the parties did stand by their letters of commitment. We are now under the Industrial Relations Act 1984. We have the protection of the Commission as of subsection (8). It would be my submission that the application should proceed.

At the point when the decision is made, the parties that wish to enter submissions about the form which the order should take, should then appear before you and make those submissions in the context of your decision.

PRESIDENT:

Thank you, Mr Hanlon. Mr Abey?

MR ABEY:

Very briefly, Mr President, I support, without equivocation, Mr Jarman's submission to the extent that it is necessary for this Commission to make a statement to the effect that (a) the Principles shall extend and, (b) that there has been no hiatus.

But I guess I am really a simple country boy at heart; we have been operating under the impression that tacitly, at least, the Principles have continued.

I do not know if anyone is suggesting anything different to this. Mr Lennon and Mr Evans have been very careful with the words that they have used.

I put the position quite simply: The Principles and the commitment to the Principles either exist as of today, or they do not.

The fact that this application rests on one of those Principles, in my submission, suggests that the unions, unequivocally, support that the Wage Fixation Principles have continued during this so-called hiatus period.

I would ask Mr Lennon to state that unequivocally. If anyone here today is suggesting that we have had a

JS/CW - 11.11.85

HANLON - ABEY



MR ABEY:

hiatus period then, technically, they could be conceived to be correct. If they do suggest that, then they are saying that for the past month or so we have not had any Principles. If that is the case, then we do not have the Principles today either, and we do not have a Principle 1 upon which this application rests.

I think that this should not be turned into a major issue. I would simply ask Mr Lennon to state in clear, unequivocal terms whether or not, on behalf of the trade union movement, he accepts that, tacitly at least, the Principles and the attendant commitments have remained in place since 6 October.

MR TAYLOR:

Mr President, I think that I should rise to support Mr Abey. Technically, whether we like it or not, this tribunal has been following in the footsteps of the Commonwealth Conciliation and Arbitration Commission, in the form of a centralized wage fixation system.

That tribunal has been faced with making a decision. They have had to consider the three points that Mr Jarman has brought to your attention. They have had to consider the residue of the passing on of the consumer price-type index increases, i.e. the 3.8%.

The matter of reviewing the Principles and whether or not those Principles should continue has come under their consideration, as has the productivity case which is set to face us in the future.

Here in Tasmania we have not addressed those matters, which the Federal tribunal has done. The Federal tribunal has decided to allow a breathing space in which a review of those Principles can take place. It will seek a continuance of those Wage Fixation Principles and call upon a commitment for that to take place.

JS/CW - 11.11.85

ABEY - TAYLOR

MR TAYLOR:

Whilst the application has not been made to this tribunal, I think that it will be like night following day, when the Federal tribunal does consider, and presumably makes a decision with regard to the continuation of the Principles, then this tribunal will be called upon to do likewise.

In the light of that, it is appropriate that we should see the matter as it is. We should have the unions do somewhat as Mr Jarman has asked. That is to agree to a continuation in the terms of the Fixation Principles for a period of six months, as the Federal tribunal has done. Hopefully, within that time span this Commission can look at the future of wage fixation in Tasmania, following the Federal Commission's decision on that matter.

PRESIDENT:

Thank you, Mr Taylor. Mr Evans?

MR EVANS:

Thank you, Mr President. The submissions that have been made perplex me somewhat. I have the feeling that the cart is before the horse.

You have before you an application from my organization, and from the Tasmanian Trades and Labor Council, which seeks an increase in salary rates and allowances to take account of movements in the March and June quarters of the Consumer Price Index.

Now what we are having put to us is that you should somehow or other introduce a new application; that we should do something before that.

I would respectfully suggest that the proper course for Mr Jarman and his colleagues to follow is either to support the application, with the qualification that it only be granted if we meet certain circumstances, or

MR EVANS:

to oppose the application on the grounds that they are putting forward. At this stage, to introduce what they are introducing, I think, is to put the cart before the horse.

I think Mr Hanlon put it quite admirably when he suggested that there is an application, and it is up to the parties, who are seeking to oppose, to argue against the form of the orders. They can perhaps short-circuit that by saying that they will support the application, provided that certain qualifications are met. If that is put to us then I am sure that we will consider it. At the moment we are being asked to give qualifications before we know what the end result will be.

PRESIDENT:

Yes. Mr Lennon?

MR LENNON:

I agree with Mr Evans, Mr President. I think that the whole thing is getting out of control. We certainly did not come to this hearing in the belief that we were not operating under a set of Principles. Nobody from our side today has given any indication that we considered ourselves to be in that position. I think that if employer organizations and Government representatives are going to come to this hearing today to suggest that we have thought this, in some magnanimous way, then I believe that it is incumbent upon them to provide evidence for that suggestion. No evidence has been presented by Mr Jarman, or by anybody else who has supported him in the last 20 minutes, to suggest that the union movement in any way, shape or form, has regarded the Principles as being expired because of the delay in the decision of the national wage case.

I believe that the whole issue is out of control. I believe that it is not an issue, as such, that needs to be addressed now. It can be adequately



MR LENNON:

addressed when you give your decision.

I am sure that if this Commission determines on following a course similar to that of the Full Bench, nationally, then the union movement will be in a position to consider it. I do not think that we should be put into a position of considering something in the climate of the unknown which we are in at the moment.

PRESIDENT:

Thank you, Mr Lennon.