

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 9 August 1991
Continued from 5/8/91

TRANSCRIPT OF PROCEEDINGS

unedited

PRESIDENT: Before you commence, Mr Hanlon, a couple of matters. We don't proceed - intend to sit this afternoon, we will be adjourning at 1.00 for the day. The second matter, Mr Warwick, on the last occasion we were in session there was reference to the need to withdraw some applications that might have an impact on this bench. We've discovered there are quite a number of applications outstanding and we thought it might be appropriate if you could meet with Commissioner Gozzi at the adjournment and take the matter a little bit further to identify some of those issues.

MR WARWICK: More than happy to do that, sir.

PRESIDENT: Yes, thank you very much.

MR WARWICK: In relation to that other matter that Commissioner Gozzi raised, I am endeavouring to find a copy of that decision going back to 1975, but it's a - unfortunately I had to go to the government archives so it's taking some time.

PRESIDENT: Yes, thank you. Mr Hanlon?

MR HANLON: Thank you, Mr President. The situation of this application that's currently before you is not one that's seeking the additional 3%, that has already been paid. The application in its proper form ought to be for the inclusion of or establishment of new structures, classification standards and the levels within those standards. The issues that are before the commission, in addition to those such as the dollars alongside each level, the trade rate, they arose out of the commission's February the 22nd decision in response to what could be described as a suggestion from various union submissions that there were wage claims in addition to the existing rates of pay.

And the commission, in its decision of February the 22nd, drew to attention to what, in its words, were the possibility that there may be unfounded wage claims, and asked the parties to identify exactly what sums of money they believe should attach to what levels. Of course the current union submissions clearly show that there are increases and they are not limited to any section or any particular occupation or group or a particular part of the Public Service. They are across the board pay claim and it's in addition to the 3%.

They are not translation costs that arise, or increases from the broadbanding of a large number of classifications into one classification level of persons doing similar work. The situation is one whereby very clearly the public sector is seeking to establish a new base rate of \$450 to apply across the public sector. And in doing that it's endeavouring to take for the public sector paid rates area to move from \$422 to \$450 as the base rate.

It is of no matter that an agency hires people at the 450 rate or whether it hires at some level in between. The base rate in paid rates awards in the great number of awards to which there are trade-related classifications is 422. That argument has been merged with an argument that says: Look, we have the SIPS payments applying in the public sector and in the main they apply to federal awards, they apply to minimum rates awards and, yes, it is an administrative difficulty and an administrative problem.

And what we have suggested should happen is that a recommendation of the early '80s should not be applied and that proposal inserted in - is then referred to as a Crown Employees Award. Now that's not the proposal for SIPS that's actually being asked. It's not a way of coordinating those 10 or 11 federal awards in a single pay structure, it's one of using an anomaly and transferring a rate which is constituted of different parts; industry allowance, disability payments, varying tool allowances, and varying industry and disability payments. And then saying: Well, 450 is the rate because it tidies all of this.

There is nothing put to the commission that showed how that tidying exercise would be carried out. We didn't actual trade classifications with all their allowances set out and numbers described. It was left to the bench to sort out exactly what they could from 450 and one can only assume, hopefully, that the rate would have been established and any problems occurring would have been dealt later at some other subsequent hearing.

In the government's submissions we will be going to the national wage guidelines, how the claim should be viewed within those guidelines. The relationship between paid rates awards and minimum rates awards. What the bench actually said about the establishment of those minimum standards and the way they were to be translated into awards. And limits that were placed on paid rates award.

And we come to the occupational streams. We will be addressing the differences between the government submission and the TTLC and the variations on that by several of its affiliates. And we will be saying that in regard to those operational streams it is the government's right to organise its work force in the manner in which it wishes, to determine the levels to which it wishes to establish in the descriptions. It has undertaken a consultative process and it has taken on board a wide range of views.

But that the matter of who shall determine those levels we believe is the right of the government. And we'll be saying, not that the bench does not have the power but there has to be very good cause as to why the bench should substitute its

decision for that of the government in the determination of the levels and the standards.

PRESIDENT: You did say levels.

MR HANLON: Sorry, I meant classification standards in the levels. We will have something to say -

COMMISSIONER WATLING: Do you mean both?

MR HANLON: Both, yes. We will be responding to the questions that are set out in the May decision. And, I might just turn to those questions and proceed to put the government's position in regard to the situation. And, I'll address each of them in brief and then go to them in detail. At page 4, you asked the question that the extent to which existing awards are to be absorbed into or mirror both streams. The government's position is that it is premature at this time to determine what the award outcome should be. That once the standards are set then all awards that are subsequently made or amended should reflect the principles of those standards. Because there are a large number of awards, the government wishes to see a reduction in their number and, therefore, that process should be left until there is a clearer agency focus and outcome and that at this point to determine which ones should remain and which ones shouldn't will cause the parties on both sides not to know exactly what the outcome is going to be.

PRESIDENT: Excuse me, Mr Hanlon. What do you mean by clearer agency outcome, I think you said.

MR HANLON: At the present time we have four streams, standards have to be set. They have to be applied at the work place and, in turn, reflected in awards. For us to set the job descriptions for common occupations - and we're talking about like the Department of Construction. We have a range of occupations there where persons are doing similar work in different sections of the department apparently covered by different awards. And, we will be seeking -

PRESIDENT: So, are you saying that the four streams could be determined but all the existing awards remain -

MR HANLON: At this point.

PRESIDENT: - and the awards would - the existing awards would gradually be converted or adapted or whatever to conform with the stream - appropriate stream.

MR HANLON: Yes, if the 17 unions at the Department of Construction meet and resolve how the various common classifications they currently have, how they are then to be described, what work they will actually do and then reflect

that job description and that level of payment in whatever the award outcome is that will apply to the Department of Construction.

PRESIDENT: So, you're seeing different potential for different results for similar classifications in different agencies.

MR HANLON: They will be described differently. In other words, the job description of a cleaner/groundsperson will be the same job description that would apply in broad terms across the service simply being that the work of cleaners/groundspersons is common, the work of a road maintenance worker would be described in its job description. The level that each of skill and responsibility may be the same for both of those groups but their job description would be different, but they would fit into level 1 or 2, whichever the description fits of the classification standards. And, that job description would be reflected in the award outcome.

PRESIDENT: Well, why would the agency issues be so incompatible then with a generic stream?

MR HANLON: Well, it's not that they're incompatible but there are a range of matters which go to work place reform which can only be dealt with in a work place unit.

PRESIDENT: So, this is really - it's a different issue, isn't it?

MR HANLON: But the award outcome is the key in terms of your question. We would say that we would not want determined at this point that the existing awards that apply to the public sector should remain. I'm talking about

PRESIDENT: Yes, I understand that.

MR HANLON: And, I'll come to an exhibit shortly to show the width and breadth of the problem.

COMMISSIONER GOZZI: How do we accommodate special cases in that scenario that you're outlining?

MR HANLON: Well, I give my view. The special case application is only determined when someone establishes that in some way a particular classification now has a case whereby its work value is underrated and it seeks to establish that. The current applications for special case status are merely descriptions of an opening that justifies them to argue the case. Currently, there is nothing before the government in any detail, outside of the teaching area, that would lead us to know exactly what any of the parties were seeking. But I would just -

COMMISSIONER GOZZI: That's fair enough comment. What I was driving at is in the context of the full bench decisions we indicated that we would be looking at special cases in the context of these proceedings. And, you may recall the quite extensive discussions we had the last time the matter was before us about how those special cases ought to be proceeded with. And, it was the clear indication from the bench that we would be looking at classification standards being put - developed which would allow an assessment being made in those special case areas, as well as the other areas as well, but particularly the special case areas in the context of what we're talking about now to allow the transition to be made at the appropriate point for those special cases if, indeed, there is a change in the job description.

MR HANLON: Well, you may - the existing job descriptions in some areas may remain. What may alter is the acquisition of skills as how one moves through the various levels. So, there may not be a change to an individual at this point but on the acquisition of additional skills so that as the person becomes more skilled as a result of training, they move through the structure.

COMMISSIONER GOZZI: Well, simply stated, Mr Hanlon, it was my impression that we would deal with the special cases on the basis that the job description would be current, it would be matched against a classification standard and it would be slotted into the structure as we determine it as part of these proceedings, not further down the track because the gate has been opened, as you put it, for those special cases to be argued, and we have said we will deal with them in the way we have outlined. I'm not sure how that process fits into what you are saying to us now?

MR HANLON: Well, as I understood what the bench was saying, is we will establish the classification standards, and the parties then apply those standards to the various awards, or the expected award outcomes, and when those matters then come back before the commission the test of the bench is to see that the particular job description being aligned with a particular level meet the criteria in terms of responsibility, skills, etc., within it. That's how I understand the process would work.

PRESIDENT: How then would the bench be able to deal with those issues if, as you say, it is the employer's prerogative to deal with levels and class. standards?

MR HANLON: In terms of where there is a dispute between the parties. I am saying then that -

PRESIDENT: In setting the levels and class. standards? Is that what you are saying?

MR HANLON: Well, yes, well the employer has set the classification standards and levels in the public service proper from the time of the establishment. Now, there may be -

COMMISSIONER WATLING: You don't want to get into that debate, though, do we?

MR HANLON: I'm happy to do whatever the debate takes me, Mr Commissioner. I think the difference, or the difference that the commission may believe it has, it that there was a practise in Tasmania of only having a classification number and a salary, and very few actual descriptions of what people did described in each particular award.

In the blue collar area the terminology used generally tended to explain what the person did. The reality is that for many of those descriptions now on what the person is doing is not reflected in what the job description says in terms of one has an expression of 'labourer' and a rate of pay, that does not take into account the range of equipment that may be used by a person currently classified as labourer.

So that there is the need to bring those sorts of descriptions, both in terms of the title and the range of work into the various awards of the commission.

And one would only need to look at the metal workers' draft - I think it is 'Metal Workers I' - which in actual fact is the metal industries structure, designed specifically for the fabrication metal industry.

PRESIDENT: Sorry, Mr Hanlon, I was obviously at cross - I had a crossed line with you - because I thought you were saying that the levels and the classification standards were not the responsibility of this commission, they were the prerogative of the employer.

MR HANLON: Well, it is the prerogative of the employer -

PRESIDENT: But you're seeing them being in the awards?

MR HANLON: Oh, yes. It's the prerogative of the employer to establish them. If the union objects to them they can bring a matter here. The question then is, what weight should be given to the submission to the bench.

PRESIDENT: Yes, but you would see them being in the award?

MR HANLON: Yes, the job descriptions and the classification title.

PRESIDENT: Well, class. standards and, obviously, the levels.

MR HANLON: My own view about the class. standards is that looking at the size of U.10 and then saying, well, what's the relevance in a particular award where there may be a couple of hundred people when the job descriptions may go to 10 classifications but the standards are set. There is a benchmark established, and there is a reference point, and that is a reference point that will have been in your decision saying these are the standards that will apply in the setting of awards and job descriptions, and their recording in those awards. That's my understanding of how it would go.

PRESIDENT: I don't think we're

MR HANLON: I mean, in the submission on the proposed form awards would take in the conditions service section of the government's April the 30th document we do set out a standard and a proposal about how awards would be formed and structured.

So they are some of the machinery matters the parties can look at when the major substantial items are settled.

COMMISSIONER GOZZI: Yes. Well, I am a lot happier, too, now with that because I understood you to say, too, that setting the levels and the classification standards wasn't necessary a matter for this bench.

I mean, the way that I see the exercise going is that we are going to establish the levels, having regard to the standards that are put before us, and trying to rationalise where the differences are and establish a standard for the various levels in the context of the material before us; and then you would then classify within those levels, and if there is a dispute in respect of that process, well then the matter would be dealt with here.

MR HANLON: But in terms of your comments about the special case -

COMMISSIONER GOZZI: Yes, I was wondering how that could be accommodated.

MR HANLON: My own - I mean, in actual fact, what we have is a claim for a salary level in excess of the current salary levels. Now, if that is the TPSAs argument, or if the predominant special case area says that's the level in terms of the work value, etc., and that's the argument they put forward, well their case stands or falls on that.

COMMISSIONER GOZZI: Yes, it stands or falls on what the job description shows, the current job description, versus the standard that is endorsed by this commission and how that translation process then marries up. In some cases there may

be a change for the employee, and in some cases there may not be a change.

MR HANLON: Well, given that the public sector proper is some 17,000 employees, and taking the nurses and the teaching occupations out of it, the majority of occupations have available to them now under the statute the right for any individual to access a review of their particular classification.

PRESIDENT: Teachers do too, don't they?

MR HANLON: Yes, but I was just setting aside there the process they have got, a particular process under way and, very clearly, that's part of an ongoing process that is under way in the public service all of the time. The argument that I would have with the TPSA in organisations covering those is the extent to which jobs and the proportion of them are continually being reviewed and having their standard maintained. The difference being, in the rest of the public sector is the only review in an occupational work-value sense is done by the commission.

COMMISSIONER GOZZI: Yes, but that's why I think it is important that we clarify the issue, and in this case the commission in an Anomalies Conference through the decision of the President has permitted the advancement of special cases for a number of award areas, and in that regard this bench said that they would be dealt with as part of these proceedings.

And that to me implies, or makes it very clear, that those special cases would be accommodated in the context of the job descriptions for the employees subject to those particular awards being updated, that the classification standards as set would then be related one to the other, and if there is a need for a change in the level that the employee had previously to now, then that person would be translated at the appropriate level.

MR HANLON: Well, I think once -

COMMISSIONER GOZZI: I mean, how could this - how else could the special cases be accommodated in these proceedings.

MR HANLON: Well, you see the special cases are not a creature of the employer; they're an application by someone who has made a judgment that some particular classification has had a change in work value. Now, the applications - and I've looked at them all - at best could be described as no more than the barest of descriptions that someone intended to pursue something.

Now, as no special case has been run that tackled the problem of, can you move the base rate classification in a work-value exercise within the guidelines. And my reading of the guidelines is that you can't. But the application of these special cases apply to every classification in the award and in some cases additional ones not covered. Now, how an organisation wishes to process that application is its choice. The government's position is, this bench is the forum in which any of those matters that they wish to run were to be dealt with.

Now, it isn't - a number of advocates have reminded me that special cases and how they should be processed were their rights and not ours, we can only respond to it. We have agreed that having set classification standards and set the rates of pay that will align with them, then there is no other value to be determined. What is outstanding then is individuals who may be doing particular activities which are currently described by one job description which are not adequately described in any appropriate one they may move from point 'A' to point 'B'.

COMMISSIONER GOZZI: But you see that process of correction, if there is to be a correction, being dealt with through the Commissioner for Review? Is that what you're saying?

MR HANLON: Well, we're talking about - I mean, we're talking about a range of people here.

COMMISSIONER GOZZI: Yes.

MR HANLON: I mean, there can't be two bites at the cherry. That if we talk about collective groups of people then this commission is the place where collective standards are set. If we're talking about individuals, then individuals have rights that are not covered here; simply that, non-unionists have the same rights as unionists. The only requirement is they be a public servant by definition under the State Service Act.

Now, those rights exist. Nothing we can say or do takes away that right. But if we set a standard for occupation acts and it meets the description and the job description is that value, then clearly, if - to use an example, if we described a job as a non-trade job at the 95% rate I'd be very surprised if there was much scope to argue that the job was worth 105%, if the person was a non-trade. So that there are going to be a number of boundaries set, such as non-technical officers, and less than a supervisory - or technical officer and less in a supervisory position would not exceed the rates of pay of technical officer.

PRESIDENT: Mr Hanlon, I think what got us into this line of discussions was your original statement, which I think we've clarified.

MR HANLON: Okay.

PRESIDENT: Which was that the classification standards and levels were the prerogative of the employer. And having - and that would have caused some concern in relation to being able to deal with the areas regarded as arguable special cases. Now, if that isn't the case and in fact levels and classification standards are going to be determined here, then there isn't the problem in relation to special cases that mr Commissioner Gozzi was concerned about.

MR HANLON: Well -

PRESIDENT: Now, I know - I think you've said -

MR HANLON: Yes. Well, I - as far as I'm concerned -

PRESIDENT: I think you said that levels and classification standards will ultimately be determined here.

MR HANLON: Well, yes, but in saying that, for the commission to intervene and change the standards which the government is proposing then there has to be good and cogent reasons. That's my - the submission that should go into that.

PRESIDENT: I accept that as a submission, Mr Hanlon.

MR HANLON: Well, I'll go on to the next question. The - there are a range of classifications in existing streams which are not appropriate to be in that stream, or it may be possible to better describe them and classify them by changing. And then the professional stream there are a number. There are a number in the technical and I will give a number of examples of those shortly.

We would say that question (c) and (d) should be as the government - that's the number of levels and the classification standards should be as set out in the government's April the 30th document. In regard to the trade rate we say that the existing rates of pay for tradespersons should stay as they are. If there are anomalies that exist between the way in which we treat one occupation as against another by the history of their particular award, then that is a matter which we would address so that a thrust of the national wage decision that an employer should not treat differently different employees. Then there is a mechanism to adjust that simply because we have arrived at the point that a paid rates award has a minimum starting rate of 422.

If there are persons in the paid rate area who have less than that then they represent to us an anomaly and would need to be looked at. The integration of SIPS payment people, again is not that you go to the top, just simply you look at what is the entry rate of starting point and then how a person is moved through in future. And it isn't one of establishing a new base rate when we already have a paid rates established figure.

COMMISSIONER WATLING: So, let me make it clear, that you're saying that the seven different tradesmen's rates that apply in the public sector should remain.

MR HANLON: Well, as currently set out, because we need to identify a range of matters like who gets a disability payment, who gets an industry allowance. There are at least four or five different sums of money involved there. There are occupations who get paid tool allowances. They are occupations who don't. Yet, one can be a carpenter employed in a variety of agencies and receive a different sum of money.

Now, I say that the existing rates remain simply because those are matters which have to be identified.

COMMISSIONER WATLING: Right. Now, if you take us to the operational services stream - and I'd might be jumping ahead here. But, you're making these comments and I - it's, sort of, making me a bit toey. I just don't know what you're really meaning, you see.

MR HANLON: Well, Mr Commissioner, I was addressing or, hopefully, the questions in shorthand and then I was going to go to exhibits to illustrate the points.

COMMISSIONER WATLING: Rightio, that's fair enough.

MR HANLON: But, I wanted the bench to be clear about - or I thought I did about our responses to the questions, right?

COMMISSIONER WATLING: Well, your, sort of - your throw away lines are getting my running because I'm not understanding what you're saying about leaving all seven different tradesmen's rates that apply in the public sector at this moment.

PRESIDENT: But, you will address that later.

MR HANLON: Well, at this point in time, this solution is not to create a base rate of 450. And, then on the argument of the TTLC, that will correct all these anomalies. I will come to an exhibit shortly that will show you it does everything but that.

COMMISSIONER WATLING: But, we are looking at streams that look at people fitting and especially in the operational services stream at 100% at tradesmen's level, are we not?

MR HANLON: Yes. I'd like to tender an exhibit -

COMMISSIONER GOZZI: You've raised a few questions in my mind too which I'm going to save up until we get to the actual issues in detail.

MR HANLON: I didn't expect not to have questions, Mr Commissioner. This exhibit is a list of classifications across agencies and with numbers of employees in each award and the total by agency. There are a small number of anomalies I've sought to merge a lot of information on to a short sheet but -

PRESIDENT: I think this is H.12.

MR HANLON: So, if I could explain the arrangement of the document and speak to it. In the left-hand column are abbreviated title for the majority of awards and agreements, some agreements registered, some not, that cover the public sector proper and one or two agencies not inside the state service, covering both federal awards and agreements and state. So, that the number alongside in the beginning of each of the columns stands for the reference number that is given by the state service. So, that each of the awards in the top part are generally agreements, then in the top one is the building trades, the drillers agreement, the ETU agreement, foreman's agreement, there's a shipping agreement.

Then that comes down to the ministerial drivers' agreement which is - and then there is a section called award free, that of persons who have not been assigned an award who turn up on the information system. There are some 22 of those. There are a number then listed private sector where, for one reason or another when the survey is done agencies use private sector rates of pay for the purposes of determining the rate. And, that can range from employing a shearer and paying the federal Pastoral Award to somebody not being aware that the building trades agreement applying to the state is the correct award as against taking the rate of pay from the state Building Trades (Private Sector) Award.

PRESIDENT: That little blank there against Min. Drivers is agreement, is it?

MR HANLON: It's not a registered agreement. It's just a - there's no number assigned to it.

PRESIDENT: Right. Oh, I see what you mean.

MR HANLON: From then on the awards are the awards of this commission and set out with their number. And, then at the bottom of the column you will see the agencies which, across that line, gives the initials of each of the agencies. The next line is the agency employee total, the awards in agencies and then there is a summary of numbers by agreement, numbers by Tasmanian awards, numbers by federal awards and others, giving an employee figure of approximately 33,000.

I should say that the information was gathered earlier in the year and it covers all sorts of casuals and -

PRESIDENT: Its a head count -

MR HANLON: It's a head count, yes.

PRESIDENT: - rather than equivalent full-time.

MR HANLON: And, the purpose of it was just to provide us with an overview of what award coverage was in the public sector. So, that we go right across to the right-hand side of the page, you will see there is a total after the last initial of an agency which has 427. So, that in the building trades agreement there are 427 employees covered by that. And, they're in two agencies, the Department of Construction and the Department of Employment, Industrial Relations and Training.

And, so in the right-hand column you've got the number of agencies: 2, number of employees and that same principle then applies down each of the columns to provide an overview of the distribution. And, when one looks at the distribution it's very clear that there are a large number of awards covering not many agencies with a very low distribution of employees. There are some 50 awards and agreements applying to only one agency. There are 10 awards apply to two. When I use the word 'award' I mean awards and/or agreements. There are four awards and/or agreements that apply to three agencies, four awards and agreements apply to four agencies and three awards and/or agreements apply to 18 agencies.

We then look at agencies such as health, roads and construction. They have 20 or more awards applying to them and that figure can be easily seen at the bottom of the table under the name of each of the agencies so that you look across and find roads and under roads there are 1,187 employees with 20 awards applying to that agency. There are seven agencies which have between 14 and 18 awards applying to them. There are four agencies which have between four and seven awards and there are another four that have between 9 and 12.

Now, it is in that context that we say that given the merger from 57 to 18 agencies, given the overall restructuring of the public sector, then as part of that ongoing process there

ought to be a review of what is the appropriate award and/or agreement coverage for the public sector.

Very clearly, that the existing coverage needs to be reformed, and we say whatever the outcome of the reform, whether the end product is registered in the federal commission or part of a federal award, or a state award, they should mirror what are the standards that apply in the Tasmanian public sector.

It is inappropriate to have a department such as Audit with 66 employees having four awards. It is also inappropriate to have in Parks & Wildlife 252 employees with 11. If one looks at departments such as DEPAC which have five applying to it, then there is the potential for agencies such as Justice, DEPAC, Audit, Treasury, which are mainly administrative, non-operational type agencies to have similar awards applying to them.

We believe that the best outcome is going to be an outcome where the job descriptions and the levels are determined within agencies according to the operational levels, the technical, the professional, and the clerical. There may be good reason for having some occupational groups retain a distinct award or agreement, but we believe that that is an assessment process and it should not be done in isolation, it would not be done simply because that's the way in which we've had all awards based on occupations before.

We say the great majority of employees who are employed by the State Government they are in the State Service, they are part of the industry of the public sector, and the outcome should be described in a way that limits the numbers. Now whether one award, or whether it is 30, we think the correct number is going to be something which needs to be identified when we've resolved a number of conditions of service which are now in contradiction, remove a number of barriers that inhibit a rational approach, and we believe that the end of the exercise is the appropriate time in which we, as a result of consulting with those unions concerned who are parties to all of these awards, covering a particular agency, then reach a point of either agreeing or disagreeing on which awards should apply to a particular agency or to a significant part of a service.

And the government at this point does not have a view to the outcome. It has, and I'll say it clearly for all those present to repeat to others, and we don't have a view as to preferred unions or preferred outcomes. We certainly do not want award coverage as it currently exists to remain which inhibits the use and application of employees simply because of the award coverage, the building they're located in, or some demarcation that has been in existence that arose out of 57 agencies. We want to reach the point where award coverage reflects the activities of the 1990s and not the 1920s.

COMMISSIONER GOZZI: So, in the context, Mr Hanlon, of structures that might be determined by this bench, are you saying that the government's position is that those structures ought to be put into existing awards alongside the structures that are currently there?

MR HANLON: Well, if that's necessary for a first step, yes. If there is a faster process that one can put them into a new award, then we are open to either of those suggestions. But we do not want to see the continuation of that number of awards. Now, bearing in mind that some of these mirror others, so the numbers are not all distinct, but what we say is there is a better method of doing it than currently exists.

COMMISSIONER GOZZI: Yes, I can just - picking up on your comment - that rationalisation of awards should take place at the end of the exercise when all these other steps have been taken. That would seem to suggest -

MR HANLON: Well, that's our preferred position.

COMMISSIONER GOZZI: That would seem to suggest that structure as determined in this exercise should go into existing awards alongside the existing structures in those awards?

MR HANLON: Well, it may, I am not opposed to that, it may not be necessary to do that if we could move to a system - I mean, if I use Metro as an example, which has got both state and federal coverage, if we established a single metro award it would not be necessary to amend all the existing awards that apply to it because there are some difficulties, for instance, the Hobart City Council Award applies in the metals area to the metro. We would not want to amend the Hobart City Council award to put our structures alongside the new City Council structures when it would be easier to make a new award which may only have the new metals structure in it as the quickest and easiest way to go.

And I think there are all those sorts of difficulties that exist. I'm in agreement with recording them, and in putting them in those awards where it is of some benefit, but if we can go to the next step and cut out the middle step, well we would be happy to go that way too.

But, it is our intention, whatever the outcome of the awards, that the conditions of service and the structures will mirror both the classification standards and the outcome of the model conditions of service committee, if I can term it that. We are interested in consolidation and a uniformity across the public sector.

I did note that the health organisations have identified that there is a preference to having a health approach in regard to

health. That has been - it is a significant group in the public sector but it's readily identifiable at this point in time. We are not opposed to that approach if the difficulties can be worked out but there may be some variation. It may be not practical to put the medical practitioners but at this point in time we would be seeking to consolidate in health but are not opposed to a health award as an outcome.

COMMISSIONER WATLING: Medical practitioners, though, are not party to this hearing, are they, or these proceedings?

MR HANLON: No, there are a number that are not party but at the end of the educational process we would want to have a look at what's happening in education and given that there are other occupational groups. The same in the TAFE area because there are persons covered by those two awards now who are not teaching professions. So, we are conscious of some of the anomalies but don't yet have a view as to how they should be resolved until we get further down the track and all the parties then see what the impact of any particular decision is going to be on members organisations, the employee and the outcome.

And, another area that occurs under the award-making process is that what will happen to juniors, apprentices and how the standards will be set and whether or not they will be set for the service as a whole or we're going to have variations because there are a number of new developments that go to non-age-based entry, competency-based standards, how people are recruited which need to be addressed across the service as a whole and then translated into an award outcome. There is currently a junior award covering both juniors and apprentices. But, there are variations across the service for a variety of reasons for apprentices and juniors.

COMMISSIONER WATLING: But, the junior award is pretty well non-operative now, though, isn't it?

MR HANLON: Well, because it applies to the state service, if a department employs a junior who doesn't - there is not a junior or an apprentice - there is not a classification then because that award does not refer to specific trades, then the appropriate apprenticeship rate would be that apprenticeship rate applying in that award.

COMMISSIONER WATLING: But, talking about the Junior Officers Award, the Junior Officers Award would cover very few people at this moment, I would say.

MR HANLON: Oh, yes, there are 18 -

COMMISSIONER WATLING: In fact, I'd hardly say you'd find any.

MR HANLON: Eighteen.

COMMISSIONER WATLING: Eighteen.

PRESIDENT: Two departments.

MR HANLON: But, again, in terms of apprentices, it applies to apprentices.

PRESIDENT: Of the junior -

MR HANLON: Yes, apprenticeship rates are set in there.

COMMISSIONER WATLING: Yes, but how many would take their apprenticeship rates from that award?

MR HANLON: Well, if there isn't a classification and, let's say, that the Department of Construction recruits an apprenticed horticultural trades person and there are not that classification in any of the existing awards that apply to it, they would automatically - and I'm talking about - it's a blue collar classification which is mainly federal awards or an agreement - it's apprenticeship rate would be taken from the Junior Employees Award.

PRESIDENT: Not from the Horticulturists?

MR HANLON: Well, the Horticulturists Award applies to the private sector.

PRESIDENT: Well, it hasn't stopped other departments from doing it, though.

COMMISSIONER WATLING: A bit inconsistent.

MR HANLON: Where they take the pay rate from does not create the legal application of the appropriate award.

PRESIDENT: No.

COMMISSIONER GOZZI: Just for clarification purposes, you're talking about junior rates and apprenticeship rates. I thought that the government and TTLC had reached agreement in respect of the operational stream to the extent of the differences which are highlighted in your document, H.10. And, in that context I thought, I must confess, that you are talking about trainee levels in the government's proposal and the TTLC proposal we canvassed last time, talking about the Australian traineeship system or some 3 months on-the-job training.

MR HANLON: Well, I have an exhibit that addresses the question of juniors and apprentices that I'll come to because it's not just a simple matter of us saying: Right, we'll have

a rate of 'X'. There are series of things such as you recruit an adult with or without skills. You can recruit a person who is straight from tenth grade, eleventh or twelfth. You then have to take into account what the strategy of the day is to retain people in school as against tracking them out and, therefore, as part of the recruitment strategy in the state it needs to have both the training processes in place, the recruitment as well as an integrated structure that does not defeat those wider public purposes.

COMMISSIONER GOZZI: So, in the context of the operational stream proposals, you have some other exhibit that you should read with this proposal?

MR HANLON: That applies to both the operational and the clerical which are the general areas of recruitment of persons who are not currently classified as ours.

I'm looking at the question of which classifications should be excluded. In the professional area there are a number of classifications currently in the admin. and clerical. That may - I just say may - be accommodated in the professional. And, they tend to be occupations such as auditors, economists, lawyers, accountants, town planners, landscape architects, persons who were accommodated there for other reasons in that award rather than - there may not have been a description of their profession in another award.

Now, whether they're in admin. and clerical or in professional, the qualification for being in the position is a professional qualification. Identify those, I don't have - some agencies want to include them, some don't, some are undecided on the matter. But, for the purposes of the commission's question, I'll identify them.

It also depends on what sort of agency focus we have. And I use the example, in the Police Department we have one legal officer. It may be appropriate to - for that person to be covered by a Legal Officers Award, on the other hand it may be possible that the rate is taken from that award, but the person appears in the Emergency Services and Police Agency Award. I use that as an indication, not about what the policy of the government is going to be towards that legal officer. But there are a range of occupations like that in agencies who are singular and not part of a professional team.

PRESIDENT: Well, what was that lovely throwaway, Mr Hanlon, about -

MR HANLON: Well, I didn't want the legal office who I cited -

PRESIDENT: - Emergency Services Agency Award or something? What -

MR HANLON: Well -

PRESIDENT: What was the purpose behind that?

MR HANLON: Well, only to identify that as an example where you have a single professional in an agency and traditionally the people have been covered in a Professional Occupational Award. It may -

PRESIDENT: Yes, but you - I thought you were implying there would be an award for that agency.

MR HANLON: Oh, but there could be in terms of an example I was giving as to how you cover the sorts of professionals that I've just referred, tend to be single professionals in agencies where the major activity, in the professional sense, can be clerical and even be engineering. But do you cover that person in an agency with the 11,000 employees or do you end up with 50 awards covering one agency. In addition -

PRESIDENT: Or four.

DEPUTY PRESIDENT: Or four.

MR HANLON: Oh, yes. Oh, yes, fewer is certainly preferable. In the non-technical area, the operational area there are a range of classifications which are currently paid by - out of the Technical Officers Award, for a variety of reasons, but the majority of whom are trade-related occupations or near trade. And, for instance, the current Drillers Agreement which those occupational classifications are very similar to classifications that exist in other awards in the operational area.

There are assistants who work for Resources and Energy and Rivers and Water who are classified as technical officers, but who would not meet the definition of technical officer that the government is proposing for the technical officer stream. We see the technical officer stream as being that. That does not mean that there is not a trainee or a - a progression, but one doesn't get coverage under the technical officers till one meets the definition.

So that Police and Emergency Services there are persons employed in garages, communications. In DASCA there are office technicians. In Primary Industry there are laboratory assistants, technical assistants, inspectors and persons employed under the Grain Elevators Award. In Education and the Arts there are teaching aides, lab. tech. assistants, assistants to librarians, there are trade classifications, attendants, picture frame makers.

So that they are the sorts of positions which we would expect to be drawn into the operational stream who do not currently meet the technical officer definition. Now, a number of those positions can have persons who are technical officers, but I'm indicating to those persons who don't have the qualification, who hold those sorts of positions and who are trade related. We would expect to see those transferred into operational.

COMMISSIONER GOZZI: Well, in that context, Mr Hanlon, the operation stream for the public sector for those type of employees would be the General Officers Award, as it's currently called.

MR HANLON: That's correct. But they're not -

COMMISSIONER GOZZI: So you would see all these people that you've referred to not be part of the structure of, say, the technical structure until such time as they have qualified for entry into that structure. Is that what you're saying?

MR HANLON: Yes. So when -

COMMISSIONER GOZZI: And they would held in the General Officers Award.

MR HANLON: Yes.

COMMISSIONER GOZZI: And at what -

MR HANLON: Some of the positions will never be in there. In other words, the occupier.

COMMISSIONER GOZZI: Yes.

MR HANLON: It is no more than a trade-based position but for other reasons it was - and those reasons could range from keeping our particular organisations at various times in the historical development of union coverage and therefore a classification was picked of technical officer and a person was paid, that then implied that there was no tradespersons employed in that section. Well, those sorts of euphemisms should be eliminated in this round and the person should be correctly assigned.

There are other occupations where there are cadetships and traineeships where a person commences, is doing basic work, and as they acquire the practical experience and their diploma they then become eligible to move into the technical stream.

COMMISSIONER GOZZI: And till they are eligible to move into that technical stream you'd pay them on the -

MR HANLON: Operational.

COMMISSIONER GOZZI: - operational trainee rate.

MR HANLON: No. Well - because we're talking about - you could have a trainee who is a post-trades person and paid as a post-trades tradesperson but they're only training to be a technical officer and they are paid in excess of the tradesman's rate but may not be paid the technical officer with the diploma qualification rate.

PRESIDENT: But again it would depend on the position they were occupying rather than the qualification, surely.

MR HANLON: Yes. Yes.

PRESIDENT: The position would require the qualification and therefore would be classified in a particular award area.

MR HANLON: Well, I -

PRESIDENT: For example, the technical employee has to have certain technical qualifications.

MR HANLON: Well, that's - you could have -

PRESIDENT: Just because somebody is in the operational stream holding a technical qualification wouldn't automatically mean they moved into the technical stream.

MR HANLON: I don't disagree with what you're putting to me, Mr President, given the size and the variety that exists I just don't want to be too emphatic, but the way - the way in which, say, a technical officer, you can have technical officers in water research, but you could have persons who are collecting samples who are performing operational and non-technical duties but they are studying to acquire it. Now, their base rate as a water collector may be \$21,000, as an adult working in that position. But even though it's one step on a career if they secure the diploma to move in as a technical officer. So it's not the trainee as set out in our example, it really looks at the non-skilled entry point at the lowest level of the State Service.

There are also a range of supervisors, plant inspectors, persons who are, what would be called in the operational stream traditionally as foremen, there are a range of survey assistants and there are even trainee technical foresters. So that that's the position on in regards to the non-technical, the professional and the clerical. I'm not aware of any persons who are covered in the operational who ought to be covered in any of the others. We certainly want to eliminate broad descriptions such as utility officer and get to descriptions that where similar work is performed they have similar titles and their descriptions of their work is the same.

In regard to questions C and D we say that the levels in the descriptions and the standards are as set up in the government's document. When it comes to the answers to A and B which go to the trade rate, then we do not believe the trade rate in the operational stream should be used to set standards in the clerical, professional and the technical. Those standards applying and non-operational have their own relativities. Those relativities have been established in the context of the administrative are the professional and the technical and have over many years wide attention to them in terms of their appropriateness.

In the operational stream we see clear distinction that it is covering the physical execution of work. There are wide differences in how they have been described, given the direct multiplicity of awards and the history of those awards and there's certainly great scope for the reform, the description of the various levels particularly below trade rate, and it's certainly an essential part to have adequate descriptions for all of the health activity, whether it be in the hospitals, whether it be in the services to hospitals, whether it be in the catering. The same would apply in the Department of Construction that there is a need to standardise and adequately describe common work.

PRESIDENT: But you're saying that on an basis are you?

MR HANLON: No. Well, they will be - there will be occupations - and I use a cleaner where a cleaner's functioning in the Department of Justice will have a job description the same as one functioning in DPAC, but the work of a cleaner in a hospital may form just one element of seven or eight functions which form a career structure within itself. So that the work carried out by a cleaner will be the same in terms of its description and its level and if a person is doing more than one function and they require the knowledge to do several and they're able to proceed from 80 to 85 to 90 on the basis of acquired skills then that description is going to differ from a specifically straight forward cleaner's position.

We say that the trade rate should be the establishment of the relativities in the operational group only; that there's only one issue then that remains is - in our view - is that as the trade rate 450 - does that rate fall within the guidelines? Is it open to the Commission to make the decision in terms which unions have suggested and we would say it is not.

In regard to the outstanding classification groups off the streams - the police, the ambulance - we say that as the police have said that they are not basing their application on the trade rate which was the position prior to this hearing then that matter is free to be referred to the appropriate

commissioner. The ambulance officers are not basing their case on the trade rate and that matter can be referred to their commissioner.

The government's understanding in regard to prisons is that there is currently a joint review of prison operations and that's estimated to take some 12 weeks and when that is finalised then the way in the prisons operate and what those recommendations could influence the outcome of where prison organisations and the government confer or where we may go. The only restriction the government has placed when the review is proposed was that if the resources went into the review there shouldn't be a separate application for this commission to process prison officers while the review was going on which would have made the review fruitless from the government's position. So we would expect that review to be completed and action to flow from that whatever the outcome may be from the government and the Prison Union's representatives.

In regard to the firefighters, our understanding is that they were not at this point ready to proceed. But - so in our view the issue of the prison custodial group which - where the first claim was lodged for the \$450 has, in effect, all of the parties have withdrawn from that position. So we say those streams can proceed in - in the -

PRESIDENT: Including Fire Brigades?

MR HANLON: Well, if it wishes to. I mean, it - we say it has its choice to have either been represented or not. My understanding is that they were conferring privately, withdrew from the discussions at their request, and the matter just stands adjourned at this point.

PRESIDENT: They are conferring?

MR HANLON: They were conferring in January-February, and my understanding is that they then -

PRESIDENT: With whom?

MR HANLON: - withdrew from the government or the agency. The position as we see the benchmark rate is that there are two benchmarks currently that apply. There are the minimum rates awards for tradespersons, and there are the paid rates awards applying to the public sector proper. We say they are the appropriate benchmarks. The resolution of SIPS we see as an administrative matter. Once -

PRESIDENT: Just before you move off that and no doubt you'll come to it later. How do you - are you satisfied that in the public sector there is a benchmark?

MR HANLON: Well, the majority of trades are paid at round about the 422 as a commencement rate.

PRESIDENT: Oh, you're just talking about trades type -

MR HANLON: Trade - the tradespersons rate -

PRESIDENT: - in the public sector.

MR HANLON: - in the public sector.

PRESIDENT: As just a paid rate as distinct from a minimum rate.

MR HANLON: That's correct. And the minimum rate is 383 with the addition of SIPS payments. And in the paid rates award it is annual increments taking them up to a range of figures in excess of 440. There is one occupational group - I think there are a couple actually. The issue of hairdressers and whether or not it continues to be appropriate for hairdressers to be treated differently; bookbinders and - I think they are about the two that strike me as being less - that I am aware of, that are less than the increments that take you into the 440.

COMMISSIONER GOZZI: But even in the salary area for tradesmen in the paid rates area there are examples of course, as you are aware, where the rate is higher than 440.

MR HANLON: Well -

COMMISSIONER GOZZI: I mean, the government printing area was one that was highlighted and the Port Arthur Authority was another one.

MR HANLON: Well, then the issue - we might just as well go to that issue and deal with it now, Mr Commissioner.

COMMISSIONER GOZZI: Well, I don't want to take to that, I'm just saying -

MR HANLON: No, no.

COMMISSIONER GOZZI: I don't want to divert you from what you want to put.

MR HANLON: Well, I'll tender a copy of the Department of Health trade rates.

PRESIDENT: H.13.

MR HANLON: And the purpose of this exhibit is simply to put before the commission the rates of pay that apply to tradespersons under the Hospital Employees Award public

hospitals. And that sets out that there are two levels for tradespersons and there are three increments in the first and two in the second. And level 3 is the commencement of the supervisory level.

And you will see that the rate is 422.15 to start. And annual figure of 21,952. Moving through to a top figure of 449.92 with 23,396 as the annual figure. You then -

COMMISSIONER WATLING: And when they advertise for a tradesperson I think they advertise with 5 years experience, don't they? And that's why they automatically go on to Class II 2nd year of service.

MR HANLON: I thought Mr Jarman did say yes to that last time he was here.

COMMISSIONER WATLING: I think you'll find that's right.

MR HANLON: The General Office Award is then set out, which provides all of the occupations that go to trade rates. And if you come down to the carpenters rate you will see it starts at 423.83 and goes through to 450.83. And you will see the fitters rate is 450.83 and goes to 459.75. The plumber starts at 423 through to 450. And the General Officers Award, it has evolved from the Mental Health Services Commission, they were the employer prior to 1985, the introduction of the State Services Act.

So that the history of their wages is different from the Hospital Employees Award. And if you turn the page then to St John's Park, which is a public service. It was under the control of the Public Service Board. You can see there that the maintenance fitters start at 423.83 through to 350.83. And there is a common position as you look down, with the exception of the hairdresser. So that on that exhibit you will see there are two standards that apply, and the reason there are differences is the historical position.

COMMISSIONER GOZZI: I just wonder, Mr Hanlon, in the context of the \$450, how many current employees in the system would, in fact, be on anything than near the top end of the rates that you've got before us. And also, in addition to that, the recruitment of people into the system at a rate other than the minimum rate. I mean, we've had examples here, just referred to what Mr Jarman was saying, that in the health area they recruited at 449.92.

MR HANLON:

COMMISSIONER GOZZI: So how many people actually go through that progression?

MR HANLON: I would sooner not answer that question now. The total numbers of people employed under this exhibit are 300, with some 200 under the Hospital Award - 220 approximately - and 80 under the Royal Derwent. But I'll obtain information. Mr Jarman will be making a submission to one other part and we'll take care of those

PRESIDENT: Is that truly correct? Were you saying - how many?

MR HANLON: There a total of 300 trades occupations -

PRESIDENT: Trades?

MR HANLON: Yes.

PRESIDENT: Just trades?

MR HANLON: Just trades. In other words -

PRESIDENT: Yes, which - all these -

MR HANLON: - there's classifications contained in this exhibit.

PRESIDENT: Yes, I follow.

MR HANLON: That covers the whole of the health area.

PRESIDENT: I was looking at the general officers - your H.12 - trying to add the figures up but it doesn't work because there are many other classifications in these awards which haven't been counted.

COMMISSIONER GOZZI: So how relevant is it to say that the benchmark for a paid rates area is - starts at around about \$21,000? I mean it would only be relevant if you had people that you recruit at that level. I mean if - whilst you've got that variation there my understanding is that the majority of them would be either at the top end of the range and in addition new employees are recruited at a higher level anyway.

MR HANLON: Well I think there are two things that come out in the terms of who - who you recruit; that if you were recruiting with no experience as a tradesperson then you'd start them at the base rate. If you required an experienced tradesperson capable of doing - maintaining a shift, say, in a hospital where acted on - had to act on their initiative with a wide range of experience of that type of activity then we'd start them appropriate to their experience.

I do not think there is anything different about how the trade occupations are filled in the Public Service. There is a rate of experience and a level and they fill up that position.

Excuse me, Mr Commissioner. I'll tender another exhibit now which is headed 'Wages Rates - Department of Construction Exempt Employees'.

COMMISSIONER GOZZI: Mr Hanlon, just before you look at that exhibit, before I interrupted you, you did tell us that resolution of SIPS that the government sees that as an administrative matter.

MR HANLON: Well in a sense that you apparently - if an inequity occurs it is in - at the point of recruitment of two similar people. One would commence at 383 as a classification rate and then within 6 months they moved in the first payment of SIPS.

In the public sector they commence at 422, so it's in that sense of recruiting people of the same experience at the same rate that that represents an anomaly given that there is very little recruitment of persons currently in that area covered by SIPS. The great bulk of people are all on the top of SIPS in terms of the and in that occupation

COMMISSIONER WATLING: You're suggesting they all should be recruited at 422?

MR HANLON: I didn't say that either, Mr Commissioner. I'm saying that the minimum rate for a person of similar qualifications of experience should be -

COMMISSIONER WATLING: We're talking about the tradespersons?

MR HANLON: Yes, tradespersons - should be the same; that in the sense of administration and the logic of the administration, one would not recruit at 383. If you were advertising a position it is only a quirk of history that one agency recruits outside the service and one in it and now with the reduction in agencies it can be a choice as to whether or not they're covered under award 'X' or award 'Y', whereas the policy should be the same irrespective of the award outcome.

COMMISSIONER WATLING: But if we determined that 100% was \$422 then they'd all be recruited at the base of 422.

MR HANLON: Persons of the same experience - yes.

COMMISSIONER WATLING: Just the base tradesperson?

MR HANLON: Yes.

COMMISSIONER WATLING: So are you then suggesting administratively you will then deal with SIPS?

MR HANLON: Oh, I'm saying in the sense that it isn't a work-value issue, it is really the way in which once puts in place an operational stream that says these are the standards then you would arrive at the same rate of pay for similar people. It is only the fact that the paid rates awards have had the same order of increase but it comes in a different form. There's no - I mean it's if you look at the rate of the pay they all end up between 440 and 450, so however they commence if they can be same at a for one and the thirtieth month for the other then why should they start from a different base. Of course when it's a choice, if an administrator is to start them under award 'A' or award 'B' then the policy should be clear.

Now I'm saying that you can put a circle around the SIPS employees; we could arrive at a situation of which all future employees were taken in at and over time there would not be the distinction between SIPS employees and others. And it needs to be borne in mind that part of the government strategy is to review the equity or the quality of conditions and status of all its employees. Now at some point in time that issue has to be resolved, not just on the SIPS issue but on the right to apply for positions and be treated equitably on the right to have appeals so there are a wider range of issues that are just the SIPS payment to be resolved. So it's not just an administrative stroke with the pen to say we'd fix it, you - we also need to address those equity issues.

COMMISSIONER GOZZI: So you're really saying that we should in this exercise ignore the impact of SIPS?

MR HANLON: Yes.

COMMISSIONER GOZZI: I thought the agreed agenda comprehended SIPS being dealt with by an inclusion in - in the appropriate award or stream.

MR HANLON: Well, we're talking about -

COMMISSIONER GOZZI: I'm sure I read that somewhere in the agenda.

MR HANLON: We're talk - yes, it's just when you do it. And I'm saying to eliminate it you don't need to establish a base rate of 450 to fix SIPS, and that is thrust argument put by the TTLIC. I am saying it's an administrative matter. The persons are employed, they're on an actual rate of pay. The moment you determine how all future employees are going to be recruited you've commenced the process of eliminating the problem.

COMMISSIONER GOZZI: So you - you would then say in respect of employees who are in receipt of SIPS that they would be held at that level till things rectify themselves? In other

words, the other rates catch up, is that what you're really saying?

MR HANLON: Well, there are some avenues that open up then, but all future groups come in at the 422. Because when we get to look at industry allowance, tool allowances, disability payments then there are some real anomalies in the system that are not apparent from the information that's currently before you. If can take you to exhibit -

PRESIDENT: H.14, Mr Hanlon.

MR HANLON: - H.14, which - and to give a picture - which is the 'Department of Construction Exempt Employees (a) By Union (b) By Weekly Salary'. And the purpose of this exhibit is it shows up exactly that group of employees, not just in the Department of Construction, but across the service as a whole who are SIPS based employees. And the exhibit has been put together in two ways. And the first one, it - under 'A', it is - I think the note on the front is incorrect.

The first one is in salary order, the first group, which is headed up 'Classification', the next column is 'Award', then the 'Weekly Rate Including Allowances', then the 'Annual Salary Including Allowances', the 'Weekly Base Rate', the 'Annual Base Rate', then 'Allowances'. And the code then lists three allowances that apply to this group of employees. And the lowest paid in the Department of Construction, or classification, I should say, is the welder, third class, metal trades, whose classification rate is 299.30, giving an annual salary of \$15,564, who received a disability payment, or the industry allowance, but the term used in metals if disability. And in the third column is the SIPS payment, which is coded 13.

And if you turn to the last of this first section, next to the yellow page, you will see a schedule of allowances. And that schedule sets out in column "I", industry allowances. And it shows a number, and that indicates which number applies to which group of employees and which industry allowance applies. So that you've got 15.20, which is the traditional construction industry allowance; 13.90 which applies to electrical; 11.90 to metals; and 12.50 to timber.

There is a variation that applies in Metro because they're on 12.90 disability payment, as against 11.90. The - in column "T", applies to tool allowances, and the code to each side each trade, and then the rate of pay for each of them. Carpenters, building trades 16, bricklayers et cetera - sorry, plasterers 13.20; bricklayers 11.50; electrical and metals 8.10; and building trades painter/signwriter 4.00. And in the column "S" is who is entitled to the SIPS payment. And because 99% of the Department of Construction are on 58.20,

58.20 has been used. So if I could take you back to the front page -

PRESIDENT: How much - what did you say, 99%?

MR HANLON: Yes. A very low turnover of labour and very few recruited.

PRESIDENT: Well, I've been looking for some - so you've put them all on the -

MR HANLON: Oh, yes.

PRESIDENT: As if they're on 58.20.

MR HANLON: These are not people, these are the classifications.

PRESIDENT: Yes. Yes, I follow.

MR HANLON: And in my estimating there are some 2,000 employees in the State Service who are affected by minimum rates and SIPS payments. The general agencies which we're talking about are Forestry, Construction, Lands, Education and Department of Industrial Relations and Training. And in broad terms I think the figures might run something like 900 in miscellaneous, 600 in Constructions, 250 in Forestry, Metro have got 370, Lands 30 and there would be 100 miscellaneous.

There are a group of persons - oh, I'll come to that shortly. So if you look at the first page of tables you will see then the impact on the weekly rate, including allowances, it produces a base rate of 19,209 for the welder third class.

PRESIDENT: So what page are we looking at?

MR HANLON: On page 2 of the exhibit, after the cover sheet.

PRESIDENT: Yes.

MR HANLON: Sorry, back to the -

PRESIDENT: After the yellow page?

MR HANLON: No, back to the front of the exhibit.

PRESIDENT: Right.

MR HANLON: The very first page.

PRESIDENT: Yes.

MR HANLON: And you will see there the lowest rate in the third column is 369.40, giving an income of 19,209 including allowances.

PRESIDENT: I think we're in the wrong - yes, sorry. Sorry, Mr Hanlon.

MR HANLON: So that if we are looking at the actual earnings that a person receives under SIPS, minimum rates, with the allowances that apply for all purposes. So as you come down that list it rises in terms of earnings, so that the variations of different disability payments and different tool allowances provide a different order.

If I can take you to page 3, the numbers are on the bottom of the page. Come down about five lines to where it says, 'Bridge C & M 1'. That's a construction and maintenance worker 1, covered under the AWU Public Sector Award. And, they are weekly employees paid according to an hourly formula. So, that if one wanted to look at civil construction in the same terms as one looks at a building worker, that is the rate of pay equivalent in the private sector for hourly paid people. And, it's confined to some 80 employees in the Department of Construction engaged in bridge building in three occupations: carpenters, steel fixers and some plant operatives. And, I draw your attention to that so you see how it fits in the picture.

If you then - if I just take you back to the second page and about six lines from the top you see the expression 'Maintenance Worker Grade 3: AWU, 425.40, 22,100'. That is the position referred to by Mr O'Brien as a person who was going to benefit or lose or be marginal, I think it was. That particular position is midway through the roads and maintenance gang system. There are four levels and grade 3 is a level that exercises supervision, the first level. There are eight persons to a gang, excluding foremen, and they have had multiskilling whereby there are seven or eight functions and each gang is constituted by a level 1, one or more level 2s and 3s and, at least, one level 4.

So, when the gang splits up the level 3 will be directing those persons assigned to him and it's part of their rate. And, there are a number of functions that - so that one would commence at C & M 1 in the maintenance and on the acquisition of certain skills would move through to 2 and then move through to 3, but it's not automatic. So, that 4 represents the leading hand, replacement for the foreman and 3 represents the alternative when the gang splits from 8 to less than.

So, that that ties in with a supervisory requirement in the department - and I use the word 'supervisory' in the first level as described in the government's U10 description. I do so merely because that was the classification selected by Mr

O'Brien. It also happens to be the one that fits in with the structure where there is a dispute between 3 and 4 as to the first level of supervision in the structure. At the bottom of page 3 you -

COMMISSIONER GOZZI: But, before you move off that, Mr Hanlon, in terms of pay, whilst you see that the first level of supervision, you attribute a rate of pay of 19,047 to it when the grade 3 takes home 22,121.

MR HANLON: For the reason being that there has been no acceptance in principle as to what happens to these various disability payments that are paid to different people in different forms which, when you set the base rate and the government has put its figures in based on 407, given the range of awards, the range of disability in industry allowances. So, part of the point I'm trying to demonstrate with this exhibit, as we go through it, is to show up that very point that, when we compare pay rates awards, some of which have no tool allowance, no disability payment in addition and then when you start to put the additions on, then a different picture emerges.

COMMISSIONER GOZZI: So, you've put that level 3 at 19,047 -

MR HANLON: Yes.

COMMISSIONER GOZZI: - based on -

MR HANLON: No industry allowance.

COMMISSIONER GOZZI: - no industry allowance.

MR HANLON: In other words, it is a straight classification rate.

COMMISSIONER GOZZI: Well, his straight classification rate here is 18,304.

MR HANLON: Yes.

COMMISSIONER GOZZI: So, what's the difference between the 19,047 and the 18,304?

MR HANLON: The difference is that he's paid SIPS with all these others so that for us to arrive at a position where we were in a position to deal with both paid rates, minimum rates and matters that were not contained in the wage classification structure we needed to strike a rate that gave us the ability that met the national bench standard for a tradesperson rate and then to view all other allowances and payments with an ability then to start talking about what is the actual rate that ought to be paid and what should be included and excluded.

So, the rate we've put forward is a rate which enables us to be no less than that established by the national wage but with an ability then to rationalise the great variety of things that occur from the great variety of awards that apply to similar people.

COMMISSIONER GOZZI: So, just unravelling all that, you've taken \$407 -

MR HANLON: Yes.

COMMISSIONER GOZZI: - and what have you done with it? Just simply again, how did you get the 19,047?

MR HANLON: Well, \$407 is the national benchmark for the tradesperson set out in the national wage decision.

COMMISSIONER GOZZI: Yes.

MR HANLON: And, an essential part of that process is to compare similar occupations -

COMMISSIONER GOZZI: Well, \$407 -

PRESIDENT: On the figures, what does the 19,000 -

COMMISSIONER GOZZI: And 47.

PRESIDENT: - 19,047.

MR HANLON: Fifty two times 407.

COMMISSIONER GOZZI: Now, well, that's 20,000, isn't it?

MR HANLON: Sorry, well, I haven't got it open in front of me.

COMMISSIONER GOZZI: That's where the arithmetic doesn't quite gel. I mean, if you said to me it was 18,304 plus SIPS, it might come out to 19,047. See, the maintenance worker grade 3 that we're talking about, the base rate -

MR HANLON: Oh, sorry.

COMMISSIONER GOZZI: - is 18,304.

MR HANLON: You were talking about 407. I didn't have the thing open in front of me. The 407 is the trade rate in the national wage decision. You are comparing a level 3 actual rate of earnings including everything with a rate of pay we've put in of level 3 based on a percentage of 407.

COMMISSIONER GOZZI: Oh, I see. And, what percentage is it?

MR HANLON: Level 3 is going to be 90.

COMMISSIONER GOZZI: 90%?

MR HANLON: Yes.

COMMISSIONER GOZZI: So this is 90% of 407?

MR HANLON: Yes. I just misunderstood the direction.

COMMISSIONER GOZZI: No, that's okay. Now 90% of 407 - how does that relate then to the 18,304 plus SIPS of \$58 a week?

MR HANLON: Well look, I can give you another exhibit. All of the percentages and all of the figures are on it and all of the current rates of pay. The purpose of H.14 was really to give you an understanding of how the rates met and it's in two parts - the first one in terms of salaries and the next one is by union break-up or award coverage, so that to enable you to have some understanding of how the overlap of awards creates different outcomes because there are different reasons as to why these allowances vary. If you want to reach one operational stream then all that needs to be on the agenda.

COMMISSIONER GOZZI: Sure, the only reason I queried it is because it seems to be that's where the difference is and where the government sees the first level of supervision and the TTLIC doesn't and I noted the disparity in pay and it's led to this -

MR HANLON: Yes.

COMMISSIONER GOZZI: - to try to and establish what the 19047 represents.

MR HANLON: In terms of the description and the level of responsibility then all I was using that point for was having had it referred - no, brought to your attention by Mr O'Brien but that actual position is as - has first line supervisory positions as a level 3 in a broadbanded multiskilled group of employees of some 204.

COMMISSIONER GOZZI: Yes. But -

MR HANLON: The exhibit I've just put forward which is -

PRESIDENT: H.15.

MR HANLON: - headed Government Proposed Salary Rates - and - on the left-hand side, and Relativities based on selected tradesperson rates, the exhibit on the right, which is - sets out what are the percentage figures using 383 the minimum rate for a tradesperson, using 407 in the second column, using 422

and using and 450, so that you've got the TTLC's claim on the right, the public sector trade rate, the 407 - national wage benchmark, and the minimum rate classification applying to tradespersons in metal and - and that clearly sets out there if you go down to the 100% figure which is 19,000 - 1900 - for the 383, 21,164 for 407, 21,944 and 23,400 for the TTLC.

So that shows if - the actual rate of pay as a base position. In terms of the 383 column you include the SIPS payment; you include an industry or disability payment; you include a tool allowance. The 407 is really a nominal rate applying as a standard with no other entitlements. 422 - there are limited access to entitlements; there is a tool allowance being paid in the health areas - just excuse me for a minute - in the hospital employees a tool allowance is paid only. In the general officers there is no other payment.

One other point that's - just to draw to your attention, the increases of 105, 110 and 115 - what's not there is the two increments of \$250 or \$460 to apply over the top of the 23,400 by the TTLC. And then it has the increases down below the 100 to 95, 90, 85, 80 - and that same example is taken across the exhibit, but you're looking at the 80% level at 407 - the national benchmark of 16931, translate that after the TTLC's claim and you're looking at 8720.

PRESIDENT: 18720.

MR HANLON: 18 - and that same comparison is made across the exhibit that you're looking at \$2,000 at the 95% figure and about 1800 at the bottom.

COMMISSIONER GOZZI: Your figure that you're proposing - the 90% figure for this particular classification - I understand how you've got it now - 90% of 407 - in the context of the maintenance worker Grade 3 whose base rate is 18304, you're proposing that that be lifted to 19047?

MR HANLON: No. Just - well just - run the example past me again so I get it right.

COMMISSIONER GOZZI: Well, the maintenance worker Grade 3 currently at the base -

MR HANLON: Yes.

COMMISSIONER GOZZI: - receives 18304 before any allowances -

MR HANLON: Yes.

COMMISSIONER GOZZI: - before SIPS and the disability allowance.

MR HANLON: Yes.

COMMISSIONER GOZZI: You're proposing to lift that employee to 19,047 without any allowances and you would build a fence around the existing employees.

MR HANLON: No, I think - our rates of pay were put in there to comply with the national benchmark for the purposes of having to address some 7 - 6 or 7,000 operational classifications -

COMMISSIONER GOZZI: Well let me come at it another way.

MR HANLON: - and to enable us to not set a standard which then when you applied different allowances for different reasons -

COMMISSIONER GOZZI: Alright.

MR HANLON: - you would then distort what we're trying to achieve which was an outcome of a paid rates award which was then comparable to it.

COMMISSIONER GOZZI: All right. What happens to the existing maintenance workers Grade 3?

MR HANLON: Well, you see we haven't yet addressed what - what is to happen if every employee was - let's - the example I've put to you is, if we use 422 as the trade rate and there is no industry allowance, there is no tool allowance, then his rate would be the percentage of that figure. But till those matters are addressed you don't know what the outcome is going to be to the particular grade.

If I could just take you through to the trades and then you'll see what we're actually talking about in terms of earnings.

PRESIDENT: H.16, Mr Hanlon.

MR HANLON: This sets out, H.16, under the carpenter and metal tradesmen (fitter), showing the actual base rate. It shows the supplementary payment of \$50.80, the industry allowance of 15.20, the tool allowance of \$16, the follow the job allowance which is a formula of 13.82, the special allowance, which I think applies more in lieu of sick leave I think it is, 7.70, giving a total of \$460.12, \$23,926.

That is the rate of pay of a carpenter applying the national standard of an hourly paid employee, employed by the Department of Construction. So that if you want to look at a rate of pay that currently the carpenter is on, then that's the figure that he is on. If you then look at the Exhibit H.15 and see that TTL in claiming 23,400, then a carpenter has a \$500 advantage.

If you look at the metal trades employee with their base of 303.80, a disability of 11.90 in the Department of Construction, a tool allowance of 8.10, with a SIPS payment of 403, 453 or 458.10 depending where they are, and after 30 months it's 462, giving a figure of \$24,024. Now, that is some \$600 in excess of the TTLC's claim. So that the argument about the 450 and the Port Arthur Authority and the Government Printer has to be seen in the context that they do not receive allowances. And both of them are paid rates awards and both of them were set in the context of their industry.

And I think there is one tradesperson employed at Port Arthur. So that to put some store in Port Arthur as the TPSA have done, distorts exactly what the situation is.

COMMISSIONER GOZZI: But it's not proposed, having regard to these examples, that SIPS - I mean, once SIPS was got rid of, if you like, into an award, then in example H.16 it's a swings and roundabout thing, having regard to the TTLC proposal. In fact on both occasions the current arrangements are better than what is proposed by the TTLC for 100% of the base rate, including SIPS.

MR HANLON: I don't know whether that's true -

COMMISSIONER GOZZI: Well -

MR HANLON: - because I -

COMMISSIONER GOZZI: Well -

MR HANLON: - haven't heard yet which tool allowance is going to apply in the building trades, which disability or industry allowance is going to apply. And the rates in Exhibit H.14 - which are set out on that last page - very clearly - if you start at a base rate of 450 and applied all of those sums of money to it, you're no longer talking about -

COMMISSIONER GOZZI: Oh, well, it wasn't my understanding that those allowances go on top of the base rate. I mean, I might be - I might be misunderstanding that. But I remember certainly Mr Clifford in the building trades and I think it was Mr Harding in the metals putting proposals. Certainly Mr Clifford I can remember putting some allowances on the table. Now, I can't recollect, I'm not sure whether my colleagues can, the allowances that were being put on the table to be absorbed in the 450.

MR HANLON: Well -

COMMISSIONER GOZZI: You see, I agree with you, if it was just 450 and all these allowances remained that's one story. And I agree with you too, that we need to know, and I thought

some comment had been made in respect to the operational services streams that some allowances were being put on the table to be included in the 450.

MR HANLON: I don't - I don't dispute the comment may have been made that some, given the scale of what I am putting to the commission. If the commission - and I am not in a position to say exactly what's going -

COMMISSIONER GOZZI: Well, we -

MR HANLON: - then what do I understand by the 450?

COMMISSIONER GOZZI: Well, let's look at Exhibit H.16. Certainly SIPS is included in the 450, so you can discount from 403 to 462 -

MR HANLON: Just before we go - my understanding, from the explanation, is the difference between the 6 and 18 is the first increment, and the difference between the 18 and the 30 is the second.

COMMISSIONER GOZZI: Well, I'm just saying to you what I understand we were at. SIPS is included in the 450. And the disability is in the 450. Or in - or some sort of industry allowance is in the 450.

PRESIDENT: Mr Clifford, just to clarify, it was follow the job was one, wasn't it?

MR CLIFFORD: Yes, Mr Commissioner, if I can just clear up a couple of points that Des has been labouring on. With the claim, to compare a labourer's classification and the argument there is no tool allowance and there's a bit of confusion as to what tool allowance will apply in the future. Tradespeople get tool allowance, non-trades don't.

The other components that are going to be absorbed from the building trades point of view into the new base rate that we are claiming will be the minimum classification rate of 356.50. The supplementary payment of \$50.80. The follow the job factor of 13.83 and special allowance of 7.70. And we'll restate again so that it can be put on record that the industry allowance and tool allowance are not seen to make up any part of the claim. They are outside of the claim.

We've identified as various time what is in claim and once again we've stressed that the 450 is very important to be adopted so that with out national sub-trade relativities we can look at a common approach within sight of the government areas to pick up the sub-trades relativities of 95, 90 and 85%. They need to be based on a 450 claim to fit in with the national relativities and wages that are being paid at the moment to those people.

And that's why we've identified the follow the job factor and the special allowance so that can convert off hourly rate to a weekly or fortnightly wages component. And we see that that's gone a fair way to absorbing the claim that's on at the moment.

PRESIDENT: But the components of your - that you've just referred to as being part of 450, add up to 430 or something, don't they?

MR CLIFFORD: About 430, yes.

PRESIDENT: 429.

MR CLIFFORD: Yes.

PRESIDENT: So, what are you saying? Does that mean that you automatically - you just convert from 429 to 450 and then add industry and -

MR CLIFFORD: Well, the industry allowance, Mr President, is paid for a special reason for outside workers.

PRESIDENT: Yes, I understand that.

MR CLIFFORD: And, so are the tool allowances, there's various differing amounts for a carpenter or a bricklayer or a painter or whatever other trades.

PRESIDENT: Yes.

MR CLIFFORD: We believe they must remain.

PRESIDENT: But, you're upping the base, aren't you? You're going from effectively what was around 430 with the industry and tool added on, to 450 with the industry and tool added on. Is that what you're saying?

MR CLIFFORD: Yes, Mr President.

COMMISSIONER WATLING: Which means the \$460.12 contained in H.6 will go to \$480.12.

MR CLIFFORD: Yes, Mr Commissioner.

COMMISSIONER WATLING: That's a \$20 increase.

MR CLIFFORD: Yes.

PRESIDENT: I understand why you're so far apart.

MR CLIFFORD: But, that's only for probably one group of people. There's others that probably won't benefit quite as

much, others will be right on the mark as far as the trades people throughout the government goes. It's not that everybody's going to be picking up the same margin. It's, as we say, a standard claim that everybody's in, that some people will pick up a slight pay rise, others will pick up nil.

COMMISSIONER GOZZI: Well, that's clarified it.

PRESIDENT: Yes, thanks, Mr Clifford.

MR HANLON: I think that my point, Mr Commissioner.

COMMISSIONER GOZZI: Yes, I'm clear. Now, just - so, we've got the building trades right. Mr Harding, he was here a moment ago. Can anybody speak in respect to the metal trades rate because it's my understanding too that disability was being talked about?

MR CLIFFORD: I'll speak on their behalf but stand corrected if I'm wrong. But, I'm pretty sure their claim is the same as ours, that it is for the -

MR HANLON: Excuse me. I think, Mr President, we should wait until they're here. I think we ought to get theirs. There's another day's hearing and they can be directed then.

PRESIDENT: I'd be happy to hear Mr Clifford on that -

MR HANLON: On the metal workers.

PRESIDENT: - on the base that if Mr Harding says something different later.

MR CLIFFORD: We're not claiming their membership or anything else like that. We're just trying to clear up the matter. As I say, I will stand corrected.

That around the tables that we've sat and discussed the claim with the unions, that it has been identified, as well for them as for us, that it is for the base and it is for the first increment of SIPS. And, that disability and tools were also seen to be outside of the claim.

COMMISSIONER WATLING: So, what's the first amount of SIPS again? Give me a -

MR O'BRIEN: 49.50.

COMMISSIONER WATLING: Right.

MR HANLON: It's in the back of the exhibit.

COMMISSIONER WATLING: Yes, I appreciate that. It's easier to ask.

PRESIDENT: So, we're looking there at a rate of 453.30 under the -

MR CLIFFORD: That would be pretty close, yes.

PRESIDENT: Yes, thank you very much. We take it that may be changed at a later time by Mr Harding if he wants to.

MR CLIFFORD: Yes, Mr President.

PRESIDENT: Mr Hanlon?

MR HANLON: The difficulty is knowing exactly what the claim is and who it applies to and what the actual base is to be because these rates do vary and, of course, it then depends on, if you look at the general officers which, in our view, arrives at a similar figure of 450 and other than the tool allowance, which is - they get a tool allowance in the hospital employees. The situation then says: Well, where they are comparing, where are they different.

The situation is not one of establishing a base rate with increments. It's one where people keep something that they believe will enable them to move a figure comparable and in the Printing Award there aren't any allowances paid. It is a total allowance and that it is correct to say that the construction allowance of \$15.20 is for workers who work outside, outdoors but the \$11.90 paid to metal workers is paid to persons who work indoors.

COMMISSIONER WATLING: So, what you're saying is in the printing area the all up rate -

MR HANLON: Of 450.

COMMISSIONER WATLING: - of 450 includes all these things.

MR HANLON: There aren't any other allowances being paid. So, that is the maximum rate of pay that they can receive as a base tradesperson.

COMMISSIONER WATLING: Yes, and if it was converted into this new system, you're saying the \$450 would be the starting point and then all these add-ons take place.

MR HANLON: Well, yes, for this particular group of people. The argument is that not what should be the differential between indoors and outdoors, as a separate sum of money, but that those who receive an industry allowance - and bearing in mind everybody is in the public sector - that where the differences are going to be can be seen as different between indoors and out but it's very difficult to see that a person working in one part of the public service will get 450 as

their total payment and other people will then receive \$11.90, varying levels of tool allowance - I don't think the tool allowance in the hospitals is the same as the tool allowance elsewhere for a similar position - so that you end up with not having established a base rate at all. What you've done is devised a mechanism for an increase but we haven't provided any equity. We certainly don't have any rational base rate. We certainly don't have the situation where people doing similar work are paid the same rate of pay.

Is the argument then going to be that everybody is entitled to \$11.90 as the disability industry allowance paid to indoor employees, because it doesn't apply to the miscellaneous workers group - and there's some 900 of those and there are range of those who work outdoors, so that those people who are cutting the grass at the botanical gardens, Parliament House, get the disability payment, but those who are cutting the grass at schools don't.

Now these are issues that are fundamental to any suggestion of establishing a single base rate and that's why the government's position was to adopt the national benchmark knowing that no employee at a trade rate was paid at that figure, but it would enable all of the considerations that needed to be taken into account such as the allowances we're talking about to be looked at and assessed to reach a point where they could be accommodated, because there are also other payments such as in charge of plant which are paid to operators who operate equipment above Plant Level 4 - above 3. So if you look at H.14 and I tender a second part of the exhibit to page 3 and about - these are in salary order by union-defined initials but it represents the particular award coverage. So if you go to Mechanical Equipment 3, which is \$420 and the rate of the next piece of Mechanical Equipment 4, is 432 in the first column the Mechanical Equipment Operator 4, receives the in charge of plant allowance which is approximately \$20 which is paid for all purposes of the award.

Now I'm questioning the allowance but just showing you that allowance but just showing you that allowance is paid to persons who carry out running maintenance on their equipment. But very clearly when making comparisons that then has to be applied to that as to what the earning outcome of it is.

PRESIDENT: Is -

MR HANLON: 424.60 is the one - sorry, 420 is the rate to which it doesn't apply.

PRESIDENT: Yes.

MR HANLON: 432 is the rate at which it applies first.

PRESIDENT: I thought you said it was \$20.

MR HANLON: It is - on top of that.

PRESIDENT: Oh, on top of 432?

MR HANLON: As an all-purpose payment, yes.

PRESIDENT: Yes. I can understand that.

COMMISSIONER WATLING: Can I take you to Exhibit H.13 and you've - you've shown us that in the hospitals - Public Hospitals Award - the base rate here is 422.15.

MR HANLON: Yes.

COMMISSIONER WATLING: Right. Now if for example we were to pick up your proposal on the operational stream, where would this particular tradesperson fit it at level 5?

MR HANLON: Well the particular outcome that we would say is that the rate that the person is currently on is rate - level 5 - \$422 - that is the current paid rate being paid to a base tradesperson. Under the guidelines there has been no change to that person's position.

COMMISSIONER WATLING: Right, but you're claiming at level 5 407.

MR HANLON: Yes, but the very reason - and we have to deal with paid rates awards and minimum rates awards and there is no common ground at establishing what is their base rate, because of these allowances which apply to some and not others.

COMMISSIONER WATLING: Yes, alright. Now where would you actually slot this person in there?

MR HANLON: Well at 422 it would be level 5.

COMMISSIONER WATLING: Right, but you've got four levels in level 5.

MR HANLON: Yes, but they represent those four levels - the 105, the 110 and 115 and they represent the post-trade qualifications which do not form part of the structure for every person in operational. They are only open to trade - qualified tradespersons who've undertaken the additional study.

COMMISSIONER WATLING: Right, but you still haven't told me where he fits in in level 5.

MR HANLON: Well -

COMMISSIONER WATLING: Where does the 21 -

MR HANLON: - you're asking me to look at the government's exhibit.

COMMISSIONER WATLING: Yes.

MR HANLON: Right, and I'm saying, and I'll try and say it clearly -

COMMISSIONER WATLING: Well let's go -

MR HANLON: - the exhibit is -

COMMISSIONER WATLING: It's \$21.952 at the base isn't it?

MR HANLON: Yes.

COMMISSIONER WATLING: Right?

MR HANLON: Well I think, Mr Commissioner, there needs to be some acceptance that the exhibit and the rates set out there is a notional rate for a tradesperson when you apply the actual rate that a person is currently in the situation one needs to look at all the allowances to arrive at what is a common position and I'm putting to you that the actual rate of pay and the paid rates in the public sector proper is \$422. If you want to then compare what should a rate of pay be for a person under minimum rates -

COMMISSIONER WATLING: I'm not doing that. I'm - I just want you to just tell me if your claim was implemented tomorrow, where would someone at the Royal Hobart Hospital place the person currently on \$522.15?

MR HANLON: Mr Commissioner, our claim is that the current rates should apply - that's our claim.

COMMISSIONER WATLING: Well if we're setting new - where does the translation take place then?

MR HANLON: Well the bench isn't setting new rates in the view of the government.

COMMISSIONER WATLING: Well - well -

MR HANLON: The position is that -

COMMISSIONER WATLING: - maybe that's wrong. Let me get it clear then. Where is the person going to be translated to if we were to adopt your proposal?

MR HANLON: That person would be at level 5.

COMMISSIONER WATLING: Right, in your level 5 there are four levels.

MR HANLON: Yes.

COMMISSIONER WATLING: Which of the four levels of level 5 would that person be -

MR HANLON: But you see the other levels, Mr Commissioner are not levels to which a person has access unless they qualify with post-trade qualifications.

COMMISSIONER WATLING: So - well, answer this question. Does the person on \$422 take a decrease in pay if we put him on level 5 through the making of this decision?

MR HANLON: Maybe I'm not following what you're saying. If you just -

COMMISSIONER WATLING: Yes, I think we're way off the beam.

COMMISSIONER GOZZI: I think, Mr Hanlon, that the point is that the tradesman in Exhibit H.13, who's currently on 465.85, who is a tradesperson, would fit at your 115 level -

MR HANLON: That's a supervisor, in actual fact, Mr Commissioner, 465.

COMMISSIONER GOZZI: Yes, but I thought we'd established that you're advertising for trades people at that level, for the base trades person at that level. In fact -

MR HANLON: Well, I thought I answered the President. If you want to talk in specific terms about the hospital industry, Mr Jarman will be making a submission about that. My understanding of how it works is that there are two levels of tradespersons, level 3 and above are supervisors or foremen. And, in response from a question from the bench, they do recruit people at higher levels than the base level. But, the person who is appointed to a position above the base level has to have minimum experience to get appointed at that position.

COMMISSIONER GOZZI: But, a tradesperson currently - and, I think this is what Commissioner Watling was asking you - would progress through from 422.15, as I understand it, to 465.85.

COMMISSIONER WATLING: No, to 449.92

COMMISSIONER GOZZI: Oh, 449.92, rather. Right?

MR HANLON: That's correct.

COMMISSIONER GOZZI: Now, that person at 449 is on 23,396, and 23,396 translates to where - where do you translate that person to?

MR HANLON: But, you're comparing two things that are not the same, Mr Commissioner. The figures set there are based on an existing incremental scheme. We are not saying that we want to abolish the existing incremental scheme.

PRESIDENT: You're not saying you want to abolish it?

MR HANLON: No. Our situation in terms of the government's document sets out three levels based on post-trade. They weren't meant to indicate -

PRESIDENT: So, that could -

MR HANLON: - an automatic incremental process.

PRESIDENT: Right. Could I stop you there? So, if you look at your - the salary rates that you've got in your claim, at the second point in the level 5, in operational, you've got a rate of 22,222.

MR HANLON: Yes.

PRESIDENT: The first point, which would be the tradesmen's rate, is 21,164.

MR HANLON: Mm.

PRESIDENT: Are you saying you wouldn't - you're not opposing an incremental system. How many increments are you going to put in between 21,164 and 22,222?

MR HANLON: We are not proposing to put an increment - in terms of that exhibit to you, that represented the notional position in terms of the trade rate and how, at a notional rate of 407, you would apply 105, 110 and 115 for post-trade qualifications.

What the government wanted to be in a position to do, was to settle these outstanding matters about comparisons of unlike occupational groups, to try and reach a figure where we would say: This is the minimum figure which trades would be on. They would maintain the incremental step and they would still have access to achieving allowances that represent the difference between 100 and 105, 105 and 110, for the post-trade qualification.

In exactly the same way as the TTLC has suggested to you, that their base rate of 450, when you get through your two increments to 460 you would not base your 105 figure on the 460, you base it on the base trade rate of 450.

PRESIDENT: I don't have a problem with that. I'm just trying to work out what your level 5 in operational really means and how it could apply in terms of trades classifications.

MR HANLON: You could only resolve a common trade rate in operational if you address the question of the allowances. Because if the -

PRESIDENT: Yes, but, I mean, leaving that aside -

MR HANLON: I don't think you can, Mr Commissioner.

PRESIDENT: - where do you go from 21,164 in your level 5?

MR HANLON: Well, that depends whether you're talking about current minimum rates people or you're talking about paid rates people. We are saying that the existing paid rates are the rates that will apply.

If you want to correct the question of minimum rates and bring them into line with paid rates, then the approach to take is to look at the paid rates and bring the others to match it.

PRESIDENT: Well, we're just looking at paid rates here, aren't we, at the moment?

MR HANLON: Well, you see, there are a couple of things we'll get to when we get through the explanation of the numbers. We'll get to the guidelines as to how this application passes through them. And, we're talking about significant pay increases. Now, we're not talking about rounding up the bookbinder from 415 to 422 or establishing a common entry point for everybody at 422 which, in effect, would mean no change from the government's general employing position. We're talking about taking everybody to 450 -

COMMISSIONER WATLING: Well, you still haven't answered my question. The bloke on 422 or the person on 422.15, which is 21,952, do they drop down to 21,146?

MR HANLON: No, Mr Commissioner.

COMMISSIONER WATLING: Right. Where would they go? They would retain the higher rate of pay, would they?

MR HANLON: No, they're going to be on level - you see, what you're doing is directing questions to me and our position is that their rates of pay stay the same.

COMMISSIONER GOZZI: But, they don't stay the same, Mr Hanlon. Your proposal before us -

COMMISSIONER WATLING: claim.

COMMISSIONER GOZZI: - is different. Your proposal mirrors the \$407 proposal.

MR HANLON: The claim isn't that at all. You asked us what rates of pay should apply -

COMMISSIONER GOZZI: Well?

MR HANLON: And, we have said that rate of pay but it's not the earnings rate. The 422 in the hospital is the earnings rate. The 462 is the earnings rate for the metal worker at 30 months.

COMMISSIONER GOZZI: Can I just say to you, look, the way I understand it -

COMMISSIONER WATLING: Excluding tool allowance.

MR HANLON: No, 462 includes it.

COMMISSIONER WATLING: \$422.15, which is -

MR HANLON: No, sorry, I said 462 for the existing metal tradesperson on the minimum rates.

COMMISSIONER WATLING: I'm not even talking about that. I'm talking about Exhibit H.13 which I have been for the last 15 minutes. The \$422.15 doesn't contain the tool allowance.

MR HANLON: No. The H.13 was tendered as the actual rates of pay being talked about because to date there isn't anything being referred to about the rate. So, that two sets of rates were put on a single sheet and put to you. It wasn't intended to add the tool allowance. The group of employees who receive the tool allowance, I've already indicated that they receive it. What I've been trying to demonstrate is there isn't a single position being put to you about other allowances.

Our position is the existing rates should remain. If in award outcome terms and in the translation we reach the position of saying we want to work - move to all weekly employment having increments based on a paid rate paid to 422 then the existing paid rate that's being paid to 330-odd employees is the rate around which other percentages are established. Any other position - we're advocating a pay increase and at this point in time for what purpose and what justification. If we offered it the bench would be saying to the government, 'What's the justification for exceeding it'?

PRESIDENT: I think we follow your concern about the potential for increases arising of the reclassification - follow that - and the new streams and what have you, but

you've proposed four streams in your document which was submitted on the 30th of April.

MR HANLON: Yes.

PRESIDENT: In it you've got - in the operational area - 10 levels, the fifth level containing four rates. You've just said that that relates to 105 - the three additional are 105, 110, 115%, that leaves me having some difficulty marrying your - your April 30th submission because for level 5 in your class. standards you say that that's the trades related rate.

MR HANLON: Correct.

PRESIDENT: Level 5 is -

MR HANLON: Yes.

PRESIDENT: - there's nothing there about other technical qualifications. In fact - or any other qualifications - it's simply goes to the person working under general supervision performing trade work, requiring equivalent - or requiring an equivalent level of skills.

MR HANLON: But there's no -

PRESIDENT: There's no suggestion that there is any other requirement there than to be a trades related or equivalent person.

MR HANLON: But there's not a - the - I think what you're doing is looking at the class standard, but we're actually talking about one specific occupation - that of a tradesperson - and in the class standard it doesn't then spell out what their post-trade qualification is. That will come in the job description that says if a person has a job description which includes -

PRESIDENT: So you're - but you're - okay, that doesn't matter. Come back to level 5 in your - in the summary page and you've got the first rate of 21,164, and are you saying that that is the rate for a tradesman?

MR HANLON: No. Well -

PRESIDENT: Or would be or could be in an ideal world?

MR HANLON: No, because the 21,000 is the -

PRESIDENT: Well what does it mean?

MR HANLON: - is the \$407 that the national wage has said will be the minimum standard to be paid. They the went on to talk about any sums of money in addition to that will be

recorded as a different allowance. Now we are not in a position to say to you, given the great variety of existing rates of pay that the government was paying, that we could put in there and say, these are the rates that we expect you to be paying, because our position is the existing rates.

If we want to draw them into a single pay structure then we need to address these other matters that I'm drawing attention to. It's not that we want to pay someone the notional figure of 407 - we want to ensure that if we arrive at a rate of pay, that every person on that rate of pay is receiving the same for the same - the position. If they're not any additions they get have to be distinguishable.

PRESIDENT: Yes, so in the ideal world they'd be on 21,164 plus the little bits of allowances that you're saying you can't identify, or you'd like to be able to identify and remove them.

MR HANLON: Well, they can't be earning any less. You see the lowest trade rate a person currently earns is that of a bookbinder at 415, actual rate of pay, no allowances. The next lowest rate is 422. What makes it difficult to compare is the person on 383 as a tradesperson to start and then 6 months after when they receive their \$49, go out to 420.

Now, it has to be resolved as to whether or not there's going to be one starting rate, and if there's one starting rate what does it include? One can distinguish the tool allowance which is paid to persons who use their own tools. One can distinguish an indoor workers from an outdoor worker. But there cannot be a situation where two indoor workers are paid different sums of money simply because one keeps an allowance -

PRESIDENT: I understand those sorts of concerns.

MR HANLON: Well, I don't know what more I can say about the 407 figure, other than to comply with the requirement to set the wages we have set out what the national standard was for the purpose of complying with a percentage formula to show in an operational stream. Because the sums of money, in terms of the classification standard, are not necessarily in terms of distinguishing the levels.

PRESIDENT: Commissioner Watling would have a dreadful time trying to put people in their appropriate slots I think, I certainly would.

COMMISSIONER WATLING: Are you saying then that the people who are under paid rates awards will have as their base 422.15?

MR HANLON: Well, we -

COMMISSIONER WATLING: And people who are under minimum rates will have 407?

MR HANLON: Well, just - I think what's happening, Mr Commissioner, is we are here not because we have a position to put to you, but it was put to you in February that the unions wanted to have their case arbitrated. Now that's the situation. And there was sums of money floating about and the commission needed to be advised of them. So we put in a structure that embraced the fact that we would have some 30 or 40 awards with different rates of pay in them.

Now, having set it out in that way we don't need to address the question of the alignment of the various level 5s that exist up until the time that you then say, a level 5 is going to be 422. Because, to date, unless we can show that there is some reason for a level 5 to change in terms of its responsibility, and in some way it differs from the 407 other than the existing market rate, we are locked into 422 in the paid rates sector.

COMMISSIONER WATLING: So, say we go ahead then and put 422 at level 5.

MR HANLON: Yes.

COMMISSIONER WATLING: And so it will start then at level 5, instead of being 21,164 it will be 21,952?

COMMISSIONER GOZZI: 44.

COMMISSIONER WATLING: Now, that means then the person employed at the hospital, under the Hospitals Award, would start at the base rate of - or start on level 5.

MR HANLON: Yes.

COMMISSIONER WATLING: And there'd be no lowering or no increasing of pay at the base level?

MR HANLON: Well, the person is on an increment now and the increments are in existence.

COMMISSIONER WATLING: Well, you told me and I know -

MR HANLON: Yes.

COMMISSIONER WATLING: - that the base level for the tradesman in the public hospital starts at the first year of service. Right?

MR HANLON: Yes.

COMMISSIONER WATLING: And you've told us a number of occasions this morning we're talking about the base.

MR HANLON: Yes.

COMMISSIONER WATLING: Right? Now, I'm being consistent and I'm still talking about the base, which is 21,952. So I just get a little confused when we see in your document the base at level 5 as being 21,164. Now, I recognise there's a difference between the paid rates area and the hospitals, it's what's loosely called the paid rates area as opposed to the minimum rates area. It might be argued, but - anyway some people argue it's minimum rates award area in the metals and the building area. Now, I was just taking the document that you presented, in response to our request, where the tradesman would come in. And, I was just trying to do an exercise to see how it converted with your claim

MR HANLON: Well, you see, it isn't a claim. Having asked me for an explanation of it there isn't anything else to be said other than how did I arrive at the 407 and why and that - because if you look at the national wage decision and that national wage decision says in terms of minimum wages, those sums of money in addition to 407 are to be set out as a different allowance.

Now, once you look at that concept and then say, how do we then approach the fact that we've overaward payments, we have paid rates awards and how then do we display it. Now, it was just as simple as that. There isn't anything to it in terms of an individual.

COMMISSIONER GOZZI: I think this is where the problem comes in, Mr Hanlon. From my point of view, I assumed and I'm sure the other members did as well, that what you had in Exhibit H.10 when you did the comparison in response to our direction that respective positions be put, I assumed that that was the position that the government was pursuing. In other words, the operational stream, those classification standards for those rates of pay. But, what you're really saying, what, I think, you're really saying is that the government's position is that the existing structures - the existing rates ought to be maintained.

MR HANLON: The existing rates, yes.

COMMISSIONER GOZZI: Yes. I don't see how it helps us in reaching a conclusion in this matter because we're heading down the track of looking at operational streams, the four occupational streams which I had understood the government had also accepted that proposal and the differences related to what goes into those occupational streams. I don't think it helps us to advance this case at all if the commission want to

endorse an operational stream for you to say: Well, the government's position is to maintain existing rates.

MR HANLON: Just so that there's no - our description in levels - and I'll reread the transcript from where we first put the exhibit in and what was said about the matter - are exactly 10 levels and 10 descriptions using a similar format as the commonwealth. And, the paid rates awards that we pay in the hospitals section are similar to the Commonwealth rates.

Now, there are 173 different classification levels that went into this level which the union movement has accepted. So, that I don't have any difficulty at all in defending the existing paid rates awards as meeting some objective test.

COMMISSIONER GOZZI: Yes, I understand that. But, the problem comes in, Mr Hanlon, that you're saying that the response to the TTLC proposal isn't really the government's position. That's what I understand you to be saying to us this morning because if you take -

MR HANLON: Well, no, because the situation is, it's not the TTLC's proposal I have to respond to. I have to be within the guidelines and the guidelines say, where you have sums of money paid in addition in minimum rates award, they must be expressed other than as the 407.

Now, having taken that as the position and saying: Right, the guidelines say nothing more than 6% in this round. There must be new structures put in place. You can as an administrative mechanism, without altering the value of the earnings to the persons, say the base rate now will be 'X' made up previously of this, that and the other and equated to 422.

Now, that's a different exercise that we would have gone through in explaining why we want a certain structure in place than the exercise we go through defending why we shouldn't lift salaries by \$30.

COMMISSIONER GOZZI: So, you're saying that, really, the public sector per se isn't subject to a special case, is therefore locked into a 6% situation, irrespective of structural efficiencies which might produce a different outcome.

MR HANLON: The only special cases are those that were nominated.

COMMISSIONER GOZZI: Yes. But, that's what you're really putting to us, that because the ceiling, if you like, hasn't been exposed in respect to the public sector, then structural efficiencies can't take you above the 6%. And, ipso facto, the existing rates ought to be maintained.

MR HANLON: Without course. Now, in the sense of once work place reform where one looks at who does what -

COMMISSIONER GOZZI: Yes. Well, that's where the difference comes in because I thought that we are looking on the one hand at structural efficiencies in the context of the occupational streams and looking at structural efficiencies in the context of agency-specific items which go to work practices. And, I thought that we were looking at structural efficiencies in the context of looking at conditions across the board for the public sector. And, I thought all of those elements together would create a position whereby, in certain circumstances, the 6% ceiling, if you like, would be acceded. And, that is not uncommon in respect of structural efficiencies that have been implemented in various awards where the second instalment has been awarded but there has been an ongoing analysis of award, career paths and so on and so forth and the outcome in a lot of cases has been in excess of 6%.

MR HANLON: But, if you examine where they're in excess of 6% - and we need to distinguish very clearly between the public service and minimum rates awards which are part of some national standard - and then when you apply reform in the work place at which it applies, you can come out with a different outcome because of the changes that have gone on, justify what you're going to do and that forms the justification. That's not the process which the government is having applied to it by this claim.

COMMISSIONER GOZZI: No, you see - and, I think, this is where the difficulty comes in. In preparing your response to the full bench decision which asked for a comparison, it appears now that the government didn't address itself to putting in place structures which might comprehend structural efficiency which might flow as a consequence of these proceedings.

What it appears that you have done is put in a response based on the \$407 tradespersons figure which now, in trying to rationalise the arguments, really hasn't got a part to play at all because it just doesn't marry up with anything that you're putting to us at the moment.

MR HANLON: But, nor does any figure in any of the minimum rates award have a role to play. You either consider minimum rates awards on their own and you consider paid rates awards on their own. It's very difficult to consider the both of them together because there are different rules apply and there are different factors that exist that add to the earnings.

COMMISSIONER GOZZI: But, in the context of these proceedings where we are, in effect, looking to make four new awards, I

would have thought that the government would have had a view as to what should happen with those minimum rates awards and the allowances that go with them in the context of what the levels would be so that there would be a salaried level, if you like, that would apply across the public sector in the operational area. And, from your perspective, I assume, you'd be arguing that some of these allowances, if not all of them, ought to be included in that rate, whatever that rate - whatever those rates are.

MR HANLON: It is only today, Mr Commissioner, that we heard in very clear terms what was to happen from the building industry about the allowances. The government's position has been since the claim was first put on it in October of last year what impact this would have on allowances and which allowances and in what form.

Now, there is no way that you can talk - each organisation finds it very easy to talk about its occupational award. From our perspective, given the range of them, you couldn't settle one of them without knowing, because nobody wanted to be first, in case these additional allowances are kept. I mean, even though the building trades say they want to keep the follow the job, why should they keep the follow the job? What's the concept that that has to do with weekly employment?

MR CLIFFORD: Excuse me, Mr - commissioners, I don't think we've ever said that we intend to keep the follow the job.

PRESIDENT: I thought you indicated that was prepared to be absorbed.

MR CLIFFORD: Yes, that's right.

PRESIDENT: Yes. Well, I really regret having to wind up the -

MR HANLON: There's no charge, Mr President, I'm happy to take my seat.

PRESIDENT: - the submissions at this stage, for reasons which aren't related to your submission, Mr Hanlon. We'll adjourn now until - I think it's August the 14th, isn't it, at 10.30.

HEARING ADJOURNED